



Children's
Rights
● Research



Artwork: "My rights are where my home is" – by Marine Sargsyan, Republic of Artsakh (Nagorno-Karabakh)

BORN IN A NON-EXISTENT PLACE?

Towards inclusive global rights protection
for children living in de facto states

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01 INTRODUCTION

It is often said that human rights are universal. In this spirit, the UN Convention on the Rights of the Child (hereafter: UNCRC) bestows rights upon all children worldwide, without discrimination of any kind, irrespective of the child's race, language, religion, national, ethnic or social origin¹. Similarly, the UN Sustainable Development Goals (SDGs) are supposed to "leave no one behind". However, there is one key category of children who are systematically excluded from

international legal protection: **children living in de facto states**. Perhaps one of the most vulnerable groups in the world, children living in de facto states often receive little (if any) attention in international bi-lateral and multilateral fora, including from the UN Committee on the Rights of the Child (hereafter: CRC), due to the fact that they fall beyond the state-centric structure of the international community.

De facto states, as defined in this report, are political entities that possess all four criteria for statehood as laid down in the Montevideo convention: (1) a permanent population, (2) a defined territory, (3) a government, and (4) the capacity to enter into relations with other states², who have declared independence, yet who are not a member state of the United Nations.

At present, de facto states of which children are nationals include at least:

- Pridnestrovian Moldovan Republic (Transnistria)
- Republic of Abkhazia
- Republic of Artsakh (Nagorno-Karabakh)
- Republic of China (Taiwan)
- Republic of Kosovo
- Republic of Somaliland
- Republic of South Ossetia
- Sahrawi Arab Democratic Republic
- State of Palestine
- Turkish Republic of Northern Cyprus

In total it concerns roughly nine million children.³ The territories of these states are the object of political and, often, armed conflict, created and sustained by adults. The resulting political instability gravely affects children, as exemplified by this remark from a child we interviewed in the Turkish Republic of Northern Cyprus:

'It hurts when I am growing [up] because all dreams that you have are limited [...] you can't really evolve roots because something might come up, like a [political] solution that will change the whole game'.

This report aims to inform the international community, and particularly the CRC, of the fact that these children are excluded from international legal protection, and offer suggestions for how they could be included in the (near) future. In doing so, we wish to ensure that this otherwise invisible group of children from de facto states become visible to the international community.

The report is the result of a five year study on the development rights of children living in de facto States, conducted at Maastricht University (the Netherlands) with partners in several de facto States,⁴ as well as the International Conference on Realising Children's Development Rights in De Facto States, which took place on 17-18 January 2024 in the Turkish Republic of Northern Cyprus, involving experts on children's rights in de facto states from around the world.

02 LEGAL ISSUES

The UN High Commissioner for Human Rights, Volker Türk, recently said that human rights are universal.⁵ The UNCRC has near-universal ratification, and its content may be considered customary international law.⁶ However, is the universality of children's rights a legal fact that applies to all children, including to those living in de facto states?

Application of international human rights law to de facto states

To determine whether international human rights law applies, we primarily look at treaties and conventions (hereafter: treaties) made by states. These treaties bestow rights upon "every human being".⁷ Nevertheless, the obligation to protect these rights falls on the state parties who have ratified these treaties. It is generally assumed that de facto states cannot ratify treaties. The state is responsible for all human rights violations within their jurisdiction. Jurisdiction is primarily territorial, except in extra-territorial circumstances.⁸ Non-state actors, including some de facto states, are treated as subjects to the jurisdiction of a state and are not expected to carry out human rights obligations - instead, the state is held responsible. For example, the UNCRC imposes legal obligations on state parties and is applicable within their jurisdiction.⁹ This means that the rights enshrined in the UNCRC should be respected, protected, and fulfilled by the member states. Those entities that are not members of the UNCRC are not under any legal obligation vis-à-vis the UNCRC. Since de facto states have generally been understood as not allowed to ratify the CRC, international law is (recognised) state centric and it does not protect children in de facto states.

Current UN children's rights monitoring for children in de facto states

Under international law, most territories of de facto states formally fall under the jurisdiction of a state that has ratified the UNCRC. For example, the Turkish Republic of Northern Cyprus (TRNC) falls under the jurisdiction of the Republic of Cyprus (RoC), and the Republic of China (Taiwan) falls under the jurisdiction of the People's Republic of China (PRC). However, this formal legal situation does not represent the reality on the ground. As a result, when UN committees ask these recognised states to report on children in de facto states, the monitoring process becomes an empty exercise. Within the reporting cycle, recognised states are commonly asked to provide information on children's rights in (their associated) de facto states, in response to which they argue that they lack effective control and cannot obtain the necessary information.¹⁰

In other cases, the recognised state claims the de facto state as an integral part of their state, so that no data is shared that is specific to the de facto state.¹¹ When the CRC and other human rights bodies hold these recognised states responsible, as, for example, is the case with Somalia (held responsible for Somaliland),¹² recommendations are based upon a legal fiction, since the governments of these recognised states have no effective control over the de facto state, and therefore these recommendations have no impact on children's lives. If anything, this practice sends a message of impunity for de facto governments and other actors who are not held responsible for children's rights violations in these cases.

A common practice under international law is to assign legal responsibility for human rights violations to the political actor that has effective control.¹³ Unfortunately, where UN human rights monitoring is concerned, this approach is usually not implemented effectively. For example, while it is somewhat accepted from the Republic of Cyprus that they cannot monitor children's rights in the TRNC,¹⁴ neither the TRNC government nor Turkey, which is sometimes understood to have effective control, are asked to provide this information instead. In general, while most de facto governments are considered to have effective control over the respective territories, none of them (with the exception of Palestine) are asked to report to the UN human rights bodies.

For some other territories the jurisdiction is unclear even from a formal international legal perspective. For example, one wonders, who is responsible for children's rights violations in the Western Sahara (the territory claimed by the Sahrawi Arab Democratic Republic, but also by Morocco)?

In the monitoring processes by UN human rights bodies, we see great inconsistencies in how de facto states - even similar cases - are treated. For example, the CRC asks Morocco, the state that has effective control, to report on "children living in Western Sahara",¹⁵ but no such information is requested from either Turkey or the Republic of Cyprus regarding children in the TRNC.¹⁶ No information is requested from the PRC about children's rights in the Republic of China (Taiwan),¹⁷ presumably because the PRC has no effective control over those areas, whereas Georgia is asked to report on Abkhazia and South-Ossetia ("Please provide information on health-care programmes in Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia, which remain outside the effective control of the State

party").¹⁸ In the case of Somaliland, both the reporting state (Somalia) and the CRC discuss Somaliland as though Somalia has full control.¹⁹ When comparing the latest CRC monitoring to previous cycles, as well as when comparing how de facto states are (not) discussed among different UN Human Rights Bodies, many more inconsistencies emerge.²⁰

In general, however, the children's rights situations in de facto states are not monitored at the international (UN) level. No relevant government or shadow reports are submitted. Children's rights are subject to violation with impunity - not only by de facto governments, but also by other actors. Think for example of when Azerbaijan blocked all supplies, including food, to the Republic of Artsakh between December 2022 and September 2023,²¹ or when armed groups and the Somaliland government shelled Las Anod hospitals, including the maternity ward, in 2023.²² In our experience, this impunity resulting from the exclusion from the international community is tangible: people who are mistreated in a de facto state are immediately aware of their extreme vulnerability; it is seared in their identity. If treated unfairly, there is no higher authority to turn to, to claim justice. In addition, oftentimes, children's rights violations in de facto states go completely unnoticed. On top of that, because of the politically fragile situation, children in de facto states are constantly subjected to political and, often, armed conflict. All these factors together create a perfect cocktail for severe children's rights violations. Unfortunately, the current situation of UN Human Rights bodies like the CRC is such that their policies - unintentionally - enable these violations, rather than prevent them.

03 POSSIBLE SOLUTIONS

Inclusive rights protection for children living in de facto states ought to be based on two children's rights principles: first, a primary consideration in all actions concerning children should be the best interests of the child, and second, non-discrimination.²³ From this perspective, it is unacceptable that children living in de facto states do not receive the same rights protection as children who are living in recognised states. The intention here is not to solve the complex

political conflicts surrounding de facto states; we do not aim to voice an opinion about who or what constitutes a legitimate government, or which state should be recognised, etc. The only interest here is to ensure that all children are included in international human rights protection mechanisms. With this in mind, as long as de facto states exist and their associated conflicts remain unresolved, we recommend a number of solutions:

1 **Appoint a UN Special Rapporteur on children's rights (or: on human rights, including children's rights) in de facto states.**

This rapporteur could work with the CRC and other UN human rights bodies towards a more inclusive rights protection of children living in de facto states. They could also provide independent expertise and empirical evidence regarding the current situation of children's rights in de facto states. As part of their mandate, this expert should regularly consult with children living in de facto states.

2 **Include de facto states in UN children's rights monitoring and reporting.**²⁴

Ideally, de facto states are included as full political entities under the UNCRC. Either they could be included as States Parties, or, alternatively, the reporting cycle for de facto states could form a sub-part of the reporting state of a recognised state. We list two possible approaches, in order of preference:

A. **Inviting de facto states to sign and ratify the UNCRC:**

It is already legally possible for non-state entities to sign and ratify the UNCRC. There are three different legal pathways to make this possible:

- i. **An invitation from the UNGA to ratify:** Under art. 81 of the Vienna Convention on the Law of Treaties, a State can be invited by the UNGA to become a party to the convention. To be politically feasible, it would have to be voiced clearly that this invitation does not amount to recognition of statehood (standard formulations are available), but that it concerns only an approach that is in the best interest of children.
- ii. An invitation from the UNGA to become a **"non-member observer State"** akin to Palestine and the Holy See, allowing them the option of ratification.
- iii. **Applying directly:** Under art. 81 of the Vienna Convention on the Law of Treaties, States that are members of "any of the specialised agencies"²⁵ can ratify conventions. Currently this would be an option only for Kosovo, which is already a member of the IMF, so they should be able to ratify the UNCRC.

B. Inviting relevant (other) states to include reporting on children's rights in de facto

states: if option a does not work, the rights of children living in de facto states could be discussed as part of the reporting by a recognised state. Ideally, the de facto state would be included under a separate section, or annex, added to the report of the recognised state. In such a case, the de facto state would be the author of these sections, and Civil Society Organisations (CSOs) would be invited to report on children's rights in the de facto state in reply to the "annex" part of the recognised state's report. In some sense, this would mean two reporting countries in one "State". In relation to current de facto states, we believe these would be the best options:

- i. The **Sahrawi Arab Democratic Republic** could be included under Algeria
- ii. The **Turkish Republic of Northern Cyprus** could be included under Turkey. The Republic of Cyprus would also be an option but since their relations are less friendly, this is less likely to lead to positive collaboration, fruitful discussion etc.
- iii. The **Republic of Artsakh** could be included under Armenia ²⁶
- iv. **Abkhazia**, the **Pridnestrovian Moldovan Republic (Transnistria)** and the **Republic of South Ossetia** could be included under Russia

For three other de facto states (Kosovo, Taiwan and Somaliland) by comparison such a solution would be very complicated, because relations between the de facto state and the recognised state that legally would be the logical party to designate as the recognised reporting state are hostile (Serbia, PRC and Somalia, respectively). As an alternative solution, we suggest that these de facto states could be invited to suggest friendly recognised member states, who would be amenable to including the de facto states reporting as an annex to their own. It may also be possible to accept reports from CSOs and UN agencies in these three de facto states and then issue special recommendations as an annex to the recognised member state.

3 Develop an approach for the consistent and equitable treatment of de facto states by UN Human Rights bodies.

As discussed under section 2, presently it is unclear who is being held responsible for the protection of children's rights in de facto states. This issue is addressed inconsistently between different de facto states as well as between different UN human rights bodies. We recommend the "Palestine model" to be applied to all de facto states: all state actors who have some effective control (in this case Palestine and Israel) should be asked to report on the children's rights situation in the the areas under their (partial) control (in this case the OPT). Under this model all actors are held responsible, whereby the degree of responsibility is assigned relative to the amount of control the given government has over a certain children's rights issue. Another point of inconsistency is the current use of language in relation to de facto states: for example, the Republic of Cyprus insists that when the Turkish Republic of Northern Cyprus is discussed, that this name be used with quotation marks ("Turkish Republic of Northern Cyprus"). This approach is usually adopted by UN agencies, but it is not applied to other de facto states (e.g. we have no knowledge of UN bodies writing "Somaliland" rather than Somaliland). Another example would be the use of the term occupation, which is used by the UN in relation to Israel/Palestine

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(OPT) but not in relation to Morocco/Western Sahara/the Sahrawi Arab Democratic Republic. Western Sahara is categorised as “non-self-governing territory”, and the area under Moroccan control is referred to as located West of the Berm.²⁷ To avoid strong political opposition to this project of inclusion, we recommend that the use of language be discussed thoroughly and decisions be made consciously, as best amenable to all member states. Many seemingly neutral or factual terms may constitute political statements or be construed as such.

4 **Send a message.** Publish a statement affirming that all children have rights, including children living in de facto states, and that the protection of their rights is a priority to the Committee / UN human rights bodies. For these children, to be considered worthy of consideration by the Committee would in itself be a very positive and emotional development.²⁸ Many feel that the international community has abandoned them, or does not even know about them. Simply to be mentioned and recognised as rights-holders would be a first positive

step. Children from de facto states, whom we asked what this message should look like, recommend that this message is about ensuring the universality of children’s rights, that children living in de facto states are not left behind because their state is not recognised. It would be powerful to hear their countries named by a UN official. In terms of which form, they mentioned a preference for videos, reels or shorts, where someone tells them that they want to protect the rights of children living in their respective countries. This could be shared via social media.

04 CONTACT DETAILS & AUTHORS >

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LITERATURE

All references used for writing this report are given in footnotes. Below we present some additional recommended reading.

On Children's Rights in de facto states generally:

A diversity of publications, including blogs, vlogs and articles, are available on the website of this research project: www.childrensrightsresearch.com. A book publication is expected for 2025.

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ANNEX 1:

DE FACTO STATES AND THEIR CHILDREN'S RIGHTS ISSUES: SOME EXAMPLES

Below, we present 5 de facto states: we briefly describe these states, their historic and political situation, and the children's rights situation in these states.

1. REPUBLIC OF ARTSAKH (NAGORNO KARABAKH)



Nagorno Karabakh is a de facto state located between Armenia and Azerbaijan. It stopped its de facto existence in January 2024 following the 44-day-war of 2020,³⁰ when Azerbaijan took control over one-third of the territory of Artsakh.³¹ This war came after ten months of blockade of the Lachin corridor (the only road connecting Artsakh to Armenia), establishing an illegal checkpoint at the border between Armenia and Artsakh, a full-scale attack on the population of Artsakh in the remaining territory in September 2023 followed by the full exodus of the Armenian population of 120,000 ethnic Armenians within a week.³² The UN Security Council had three resolutions of 1993 on Nagorno

Karabakh,³³ thus establishing the Minsk group of peaceful settlement of the conflict and guiding international law principles, out of which two were the most disputable and mutually exclusive between Armenia and Azerbaijan- the territorial integrity and the rights to self-determination.

CHILDRENS' RIGHTS SITUATION

Throughout the last 3 years of escalation of the conflict in Nagorno Karabakh which was never peaceful and frequent ceasefire violations were present, the recent escalations recorded massive and grave violations of human rights. It had the greatest toll on children and the violation of their rights in Artsakh.

One of the main directions of the demography promotion policy in Artsakh was the encouragement of large families with multiple children, due to which the number of children growing up in these families increased during the last ten years.³⁴ As of September 2021, one fourth of the remaining population (30,000) were children. This made the poverty rate grow, and with low capacities of parents, especially mothers and in case of father's absence due to military engagement, bombardment or incidents, extreme poverty, malnutrition, and child death became a major issue at the emergency times of the conflict and after the exodus.

The first targets and victims of the 44-day-war of 2020 were civilians and children. However, neither the scale nor the gravity of mass violations are comparable to those taken place after the blockade. Due to the blockade, essential supplies of gas and electricity were cut in the middle of the harsh winter season, leaving children to suffer from extreme cold. As a result, healthcare,³⁵ kindergartens and schools were paralysed, thereby threatening the right to life, education, and healthcare. All people, including children, did not have access to food, medicine, necessary medical care, and any attempt to travel to Armenia

for immediate healthcare purposes was fraught with danger, up to being kidnapped by Azerbaijani soldiers (as it was in case Vagif Khachatryan,³⁶ accompanied by Red Cross International and, three students³⁷ who wanted to travel to Armenia escorted by Russian peacekeepers, and were taken by Azerbaijani at the checkpoint without any reasons at different times of the blockade). Malnutrition caused human sufferings such as stillbirth, infant deaths, death of pregnant woman and children with chronic diseases or disabilities. Since October 2023, the whole displaced population of Artsakh lives in ArmeMinisnia.³⁸ The situation of Artsakh children is uncertain, both legally and in practice. Their basic human rights are guaranteed by the Armenian government, including the right to housing, education, healthcare, rehabilitation. However, their legal status (refugees or citizens?) is unclear, and their right to identity is currently being violated, since many of these children have lost their homes and their country, in addition to trauma they experienced because of the armed conflict. The government of Artsakh in exile still functions and strives for the protection and promotion of the rights of people of Artsakh.

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2. THE STATE OF PALESTINE

The State of Palestine, situated in the Middle East, comprises the West Bank, including East Jerusalem, and the Gaza Strip. The Occupied Palestinian Territory (oPt) has been a focal point of international attention and contention for decades. These territories, recognised by much of the international community as part of a future Palestinian state, have been under Israeli occupation since the Six-Day War in 1967. The prolonged occupation of the West Bank and East Jerusalem and the non-fully recognized state status of Gaza has resulted in complex socio-political, economic, and humanitarian challenges that continue to shape the lives of the millions of Palestinians living in these areas. Despite efforts to resolve the conflict and establish an independent Palestinian state, the situation remains precarious.³⁹ Ongoing tensions and violence exacerbate the plight of Palestinian children.⁴⁰

Life in the OPT is characterised by a myriad of challenges stemming from the occupation's restrictions and the ongoing military attacks. Palestinians living in these areas face limitations to their freedom of movement, with checkpoints, barriers, and separation barriers dividing communities and impeding daily activities. The presence of Israeli settlements, considered illegal under international law, further exacerbates tensions, leading to (further) land confiscation, displacement, and restricted access to natural resources. Restrictions on control over population registries and air space (e.g. where freedom of movement or communication rights are concerned) also remain at issue.⁴¹ These in turn result in limited financial and job opportunities rendering them, as in the case of other de facto states, dependent

on (other) states economically, and in the Palestinian situation, in particular, on Israel and its associated settlements.⁴² By very rough estimates one out of every 425 members of the Palestinian de facto state population are also in Israeli prisons.⁴³ Regardless of their crimes, and whether held as political prisoners, without any charges brought against them, or otherwise, the net result is lost income, often from family “breadwinners” and a break-up of the family structure (typically, Palestinian children growing up separated from their fathers and other children, namely their older brothers),⁴⁴ thereby adversely impacting child development.⁴⁵

Palestinians in the OPTs endure systemic discrimination and human rights abuses, including arbitrary arrests, detention without trial, and excessive use of force by Israeli security forces (army and police). The lack of accountability for these violations perpetuates a cycle of impunity and undermines prospects for peace and reconciliation between Israel and Palestine. Moreover, while criminal liability as a minor under both Israeli civilian and military law begins from age 12, implementation may differ, subjecting Palestinian children to harsher penalties at an earlier age.⁴⁶

THE CONTEXT

After the Oslo Accords in the 1990s, the Palestinian Authority (PA) was established as an interim governing body on an arguable roadmap towards independent statehood. The agreement provided for limited self-governing powers in parts of the West Bank and Gaza Strip (Areas “A” and “B”, offering “full” and shared control, under wider Israeli

state control). The PA, in turn, administers civil affairs and provides basic services to the Palestinian population in both areas, in addition to security services in the former, effectively functioning as a de facto government.

The Palestinian Authority, despite lacking formal control, is recognized by a majority of UN member states and holds observer status in global bodies like the UN and the Arab League. Many countries have established diplomatic ties, acknowledging it as the legitimate representative of the Palestinian people. In the West Bank, institutions and infrastructure for governance, including security forces and public services, have been developed. Though operating under Israeli occupation and reliant on international aid, these efforts contribute to the de facto statehood of Palestinian territories.⁴⁷

THE CHILDREN'S RIGHTS SITUATION

The State of Palestine ratified the convention of the UNCRC, in 2014. The decision came after Israel failed to release a fourth and final group of Palestinian prisoners as previously agreed. Prior to the resumption of negotiations between the two sides in July 2013, the Palestine Liberation Organization (PLO) agreed to postpone joining international bodies in exchange for the release of 104 Palestinians prisoners jailed before the Oslo Accords.

Children in Palestine, particularly in Gaza, currently face dire conditions due to Israeli military actions. They shared harrowing experiences during a recent conference, describing constant threats, loss of lives, and

homelessness due to airstrikes and incursions. Communication and basic services are cut off, exacerbating the humanitarian crisis. Palestinian children in the West Bank and East Jerusalem also endure daily challenges under occupation, including restrictions, arrests, and detention, with severe conditions and violations of their rights documented. Despite endorsed laws, child protection systems lack funding and capacity, relying heavily on external aid. Informal dispute resolution further undermines comprehensive services. Limited diversionary mechanisms lead to punitive measures, perpetuating vulnerabilities. Despite challenges, Palestinian children continue to advocate for their rights, urging international support for human rights and justice.

CHILDREN'S RIGHTS PROTECTION

The state of Palestine is committed and the first responsible authority to provide protection for children's rights in Palestine. The Ministry of Social Development is the main governmental body responsible for providing children with protection services and enhancing their access to basic rights. Despite the accession to the UNCRC in 2014, the Palestinian authorities, nevertheless, remain unable to provide children with full access to their rights. The main reason behind this lack of control is due to the occupation and the division of the Palestinian land, as clarified above. However, several local and international human rights CSOs and NGOs also provide protective services for Palestinian children, like Defense for Children International-Palestine (DCIP), the Higher Commissioner for Human Rights, UNICEF, Save the Children, and so forth.



Photograph captured during the event of the International Day of Solidarity with Palestinian Children.

A MESSAGE FROM PALESTINIAN CHILDREN:

On the occasion of the Palestinian Child Rights Day (April 5th), marked as the International Day of Solidarity with Palestinian Children, children from the Palestinian Child Council shared this message, imploring they be seen:

“The suffering of the Palestinians, including children, has been documented with thousands of photos and videos, stacked in files that many have not and will not read. Everyone has seen what is happening, but no one cared. There is no need to describe the scene in Gaza; we believe everything has become clear. It is exhausting to document our deaths and the deaths of children who are still in their cradles. Are you still searching for evidence?! Isn't all this data enough to be a clear indication of the occupier's crimes? Each number represents a unique life, with dreams and goals that should have been achieved.

As children, we only wish for the war to stop, to seek the truth, even if it requires a personal visit to the scene. Moreover, what is happening in the West Bank with continuous killings, incursions, and assassinations negatively affects the rights and lives of children. There is no longer any sense of security in Palestine.

We, the Palestinian Child Council members, demand an end to the genocide in Gaza and granting of all Palestinian children their right to live safely. We also demand securing treatment for all the injured, rebuilding everything destroyed by the occupation, ensuring their basic rights to education, healthcare, providing food, and delivering aid to them. Palestinian children should live like all other children in the world, with all their rights being implemented, starting with achieving security and peace for them.”

3. SAHRAWI ARAB DEMOCRATIC REPUBLIC

The Sahrawi Arab Democratic Republic (SADR) is a de facto state located in northwest Africa. Its government claims the territory of the Western Sahara (WS) which is classified by the United Nations as a “Non-Self-Governing Territory”⁴⁹. However, it controls only a small eastern part of the WS, in addition to five refugee camps located near Tindouf (Algeria)⁵⁰. Western Sahara (WS), a former Spanish colony, entered a decolonisation project. Claims of historical ownership were made by Morocco and Mauritania to the International Court of Justice, which were declined.⁵¹ The subsequent war caused the displacement of tens of thousands of Sahrawi to the Algerian desert, creating refugee camps that still exist today. A ceasefire plan was proposed and approved by the UN, with a referendum that would offer the Sahrawi the choice between independence and integration. However, this referendum may never take place “due to conflicting global



and local political interests”.⁵² Meanwhile, a large part of WS remains under the control of Moroccan authorities.⁵³

The three different areas related to the SADR: the Moroccan-controlled part of WS, the SADR-controlled part of WS, and the Tindouf refugee camps in Algeria, all present very different children’s rights situations. Therefore, all three situations are described separately below:

- According to the UNHCR’s estimation, about 60.000 Sahrawi children live in **SADR refugee camps**. They depend on decreasing humanitarian help, under challenging climate conditions. Access to healthcare is very limited, medical facilities and other resources, scarce, and nutrition presenting a major problem.⁵⁴ A second point of concern is the right to education, access to which presents a major problem. Lack of finances lead to overcrowded classrooms, absence of teachers, and a deficit of essential resources. School systems are all but absent after the primary grade levels.⁵⁵ And consequently, those enrolled may drop out. Opportunities are limited, particularly for children who require disability accommodations.
- In theory and in law, children in **Moroccan Controlled WS** are free to express themselves. However, the main children’s rights issue in this area is the right to freedom of expression. Parents, teachers, community members and the state all contribute to limiting these children’s freedom. Moroccan authorities create a general culture of unfreedom through laws, which are enforced through formal and informal measures.⁵⁶ Additionally, in MCWS “children are subjected to the worst forms of child labour, as well as commercial sexual exploitation”.⁵⁷
- Unfortunately, no studies have been conducted on children’s rights in the **SADR controlled area of WS**; access is limited.⁵⁸ Families live semi-nomadic lifestyles within this relatively unbuilt-up part of the territory where infrastructure like telecommunication are limited. It is unclear how many children live there, and what their situation is.⁵⁹

The international legal system sets out that the state which refugees reside in must guarantee them the same rights as provided to its own nationals. Algeria however, delegated all control and with that, responsibility over the Sahrawi refugee camps to the Polisario Front (the politico-military organisation of the Sahrawi people, striving to end Moroccan control). Most basic resources are brought in on trucks, with primary donors including the Algerian government, and the UNHCR.⁶⁰ The EU provides for the organisation of the camps and attempts to develop economic initiatives. In addition, historically, several educational cooperation programmes have taken place in Spain, Italy, Germany, Cuba and Algeria, to “advance the national cause, as they build

cultural and political bridges of solidarity between the Sahrawi and other peoples’.⁶¹ The Kingdom of Morocco claims the territory of Western Sahara and administers it under the same constitution, laws, and structures as those in place throughout the rest of Morocco/ internationally recognised Morocco. Moreover, Morocco has ratified all key international conventions concerning children’s rights protection. The government annexed Western Sahara where Sahrawi “Hassani” citizens live side by side with other citizens of Morocco. However, the scope of government social programs are insufficient as they do not fully address children exploited through domestic work and commercial sexual exploitation.⁶²



Photo: A Sahrawi child plays with a car tire, in one of the Sahrawi-run refugee camps, surrounding Tindouf, Algeria. / Doodle: Drawing made by a Sahrawi teen depicting a map of WS with the SADR flag inside of it, neighbouring SADR military forces and surrounded by tanks on both sides. “Sahara Libre” written above the drawing translates from the Spanish into “Free Sahara”.

4. SOMALILAND

The Republic of Somaliland is a de facto state located in the horn of Africa, comprising the territory that was called the British Somaliland Protectorate in the colonial era. Initially, after decolonisation, Somalia and Somaliland entered into a union. However, after civil war erupted in the 1980s, with bombardments in cities in Somaliland. Somaliland unilaterally re-declared sovereignty and independence, thereby annulling the 1960 reunification of Somalia and Somaliland in 1960. Despite the effects of the civil war, Somaliland established peace-building processes and a way forward after the bombardments. Through peaceful dialogue and the guidance of elders and leaders, Somaliland established its constitution in 2001, rebuilt infrastructure, and has seen relative peace and stability since. However, the de jure attachment to Somalia under international law has stagnated the country in establishing laws that protect the civil and political rights of citizens and foreign individuals, as well as severely limited the opportunities for development cooperation. Legal instruments used in the country are often from Somalia and outdated, since they were written in 1960. Despite all its attributes as an independent state, a state that is unrecognised internationally and connected intricately to Somalia, means that decisions regarding protections for children are relegated to the Somalia representative on the world stage.

CHILDREN'S RIGHTS IN SOMALILAND

Current legal frameworks are not updated to the present-day situation in Somaliland. On the local level, Somaliland's pluralist legal system (combining tribal law (Xeer), religious law (Sharia) and state law), has alienated children and their rights, a situation further exacerbated by the lack of recognition. In court, children are tried as adults if they are accused of petty crimes or if they are disobeying their parents, which could land them in jail. The juvenile justice system in practice in the country criminalises children, and thus children are subjected to adult jails, often denied resources, mental health services, and other rehabilitative services they need.⁶³ Other challenges include a lack of legal representation, leading to the child being detained and a lack of resources to procure legal representation, making the problem even worse by detaining the child even further, thus creating obstacles and challenges for the family during the hearing process for release. The judicial system has limited capacity, therefore the safety of the child is not guaranteed, and is often abused while in detention with adult perpetrators, as there is no separate holding facility for minors while in detention. It was only recently in October 2022 that Somaliland passed a landmark Child Rights Protection ACT (CPA).⁶⁴ The bill was established to safeguard and protect children from abuse and neglect. Knowledge of their rights is another challenge that prevents children from getting full protection at the national level. Exercising their rights, Somaliland children's voices are seeking more educational opportunities, including a better and more updated curriculum that aligns with the changing world for better opportunities in life and a way out of poverty.

5. TURKISH REPUBLIC OF NORTHERN CYPRUS (TRNC)



The Turkish Republic of Northern Cyprus (TRNC) is located on the northeastern side of the Cyprus island, covering 36% of the land, bordered by the Republic of Cyprus to the south, and is recognized only by Turkey.⁶⁵

The complicated history of Cyprus is characterised by conflicts between the Greek and Turkish Cypriot populations during the British Rule in Cyprus. Cyprus gained its independence in 1960; but tensions were still high among Cypriots. Cyprus was de facto divided in 1974⁶⁶ when Turkey militarily intervened in response to a coup d'état that sought Greek annexation of the island. In 1983, with the help of Turkey, the TRNC was declared by a unilateral declaration of independence, which was announced as 'legally invalid'⁶⁷ by the UN Security Council Resolutions No. 541⁶⁸ and 550.⁶⁹ Except for Turkey, TRNC is not recognized globally.

CHILDREN'S RIGHTS SITUATION

There are numerous obstacles to children's rights in the TRNC, which influence their development and well-being. The primary problems include a lack of access to high-quality education, citizenship, insufficient healthcare, and susceptibility to many types of exploitation and abuse. At a recent Maastricht University conference in TRNC on children's rights, attendees from TRNC voiced concerns about the standard of education, the accessibility to a recognized citizenship, accessibility of leisure activities, and the need for more opportunities for meaningful engagement in decision-making processes. Children stressed how important it is to have their opinions heard and taken into consideration when decisions are being made that affect their rights and welfare.

Some examples about educational issues in TRNC:

- Children in the TRNC are dismissed from government schools at noon since they do not provide full-day education. But many parents work until the late afternoon, which means that kids are left alone at the most crucial times of the day. This problem is made worse by the lack of after-school care centres, which puts working parents under financial and mental pressure and jeopardises the security and wellbeing of the children.
- The unrecognised status of the TRNC on the global stage restricts opportunities for children to engage in international activities and educational exchanges. Governmental schools in the TRNC are only accredited in Turkey, limiting children's mobility and access to educational opportunities abroad. Accreditation, which can only come with a possible solution to the Cyprus conflict, would enable children to participate in international events and exchanges.

Some examples about citizenship issues in TRNC: ⁷⁰

While all Cypriots, whether Turkish Cypriot or Greek Cypriot, are entitled to Republic of Cyprus citizenship, children born from mixed marriages from one Cypriot parent and one foreigner parent in the TRNC face a unique challenge. Due to the circumstances of their foreigner parents, particularly if one parent entered the island from the TRNC, in other words 'illegally', these children cannot acquire their right to Republic of Cyprus citizenship. This exclusion stems from the ongoing Cyprus conflict and has significant implications for the children's access to national and European Union (EU) rights. As a result of their inability to obtain Republic of Cyprus citizenship, children from mixed marriages in the TRNC are deprived of the same educational and travel opportunities afforded to other Cypriot children. Some children born in the TRNC to mixed-married parents even face the risk of becoming stateless due to their denial of Republic of Cyprus citizenship.

CHILDREN'S RIGHTS PROTECTION

In the Turkish Republic of Northern Cyprus (TRNC), the government holds primary duty for guaranteeing the preservation and advancement of children's rights. Because it is a de facto state, the Turkish Republic of Northern Cyprus (TRNC) has significant challenges when it comes to being included in UN human rights reports. The TRNC is not represented in UN agencies tasked with monitoring and reporting on human rights violations since it is only recognised by Turkey. As a result, the TRNC's human rights status, including those pertaining to children's

rights, may not get enough consideration or examination in the international arena. Furthermore, Turkey is held accountable by the European Court of Human Rights (ECHR) for human rights abuses taking place in the TRNC. This is related to the famous *Loizidou v. Turkey*⁷¹ and *Cyprus v. Turkey*⁷² cases.



Image: Turkish Cypriot middle and high schoolers, protesting against TRNC Ministry of Education

ANNEX 2:

AN OVERVIEW OF CURRENT HUMAN RIGHTS MONITORING OF CHILDREN'S RIGHTS IN DE FACTO STATES BY THE CRC

De facto state	Reporting state	Reporting cycle	CRC position	Reporting state position
SADR	Morocco	2012-2014	Asks Morocco for information on children in Western Sahara and holds Morocco responsible	Considers Western Sahara (not mentioned) integral part of Morocco
SADR	Algeria	2009-2012	Discusses Sahrawi refugees in refugee camps in Algeria as partial responsibility of Algeria	SADR camps are under SADR government authority. Mentions their assistance to Sahrawi refugee camps
TRNC	Republic of Cyprus	2018-2022	No mention	TRNC is an occupied area of the RoC, occupied by Turkey. RoC does not have effective control and cannot report. Does mention Turkish Cypriot children in RoC schools, and peacebuilding activity
TRNC	Turkey	2019-2023	No mention	No mention
Palestine	Israel	2019-2023	Asks information about children in OPT, and Palestinian children. Holds Israel partially responsible.	CRC does not apply to West Bank; no mention of children in Gaza, nor specifically of East-Jerusalem
Palestine	Palestine	2018-2020	Discusses the rights of children living in the entire territory of the State of Palestine as (partial) responsibility of the State of Palestine.	Reports on Palestinian children, in large part holds Israel responsible for violations
Somaliland	Somalia	2019-2022	Discusses Somaliland as Federal Member State of Somalia	Somaliland is integral part of Somalia (Federal Member State)
Taiwan	People's Republic of China	2010-2013	No mention	Taiwan is an integral part (province) of PRC
Kosovo	Serbia	2015-2017	Encourages United Nations Mission in Kosovo (UNMIK) to provide information	Kosovo is a Serbian province, Serbia does not have effective control (UNMIK does). Reports on children in Kosovo.

De facto state	Reporting state	Reporting cycle	CRC position	Reporting state position
Abkhazia	Georgia	2014-2017	Georgia has no effective control, welcomes its positive efforts, is concerned about children's rights issues (does not mention responsible party)	Abkhazia and South-Ossetia are occupied by Russia. Georgia has no effective control. Reports on children's rights issues in these areas in detail.
South-Ossetia	Georgia	2014-2017	Georgia has no effective control, is asked to provide information. CRC is concerned about children's rights issues in the occupied regions, does not mention responsible party	Abkhazia and South-Ossetia are occupied by Russia. Georgia has no effective control. Reports on children's rights issues in these areas in detail.
Abkhazia	Russia	2019-2024	No mention	No mention
South-Ossetia	Russia	2019-2024	No mention	No mention
Nagorno-Karabakh	Azerbaijan	2020-2023	Asks specific information about children's rights in relation to the "Nagorno-Karabakh conflict", does not seem to hold Azerbaijan responsible	The region is occupied by Armenia, Azerbaijan has no effective control
Nagorno-Karabakh	Armenia	2010-2013	No mention (in 2024 the CRC asks Armenia to provide information about "refugee children from Nagorno-Karabakh")	Mentions activities in Armenia to support children from Artsakh
Transnistria	Moldova	2016-2017	Moldova has no effective control and is not responsible. Not asked to report.	Moldova has no effective control, Transnistria is under control of self-proclaimed Transnistrian authorities
Transnistria	Russia		No mention	No mention

SOURCES

- ¹ UN Convention on the Rights of the Child 1989, art. 2.
- ² Montevideo Convention on the Rights and Duties of States 1933, art. 1.
- ³ This is based on a rough and quite low estimate based on debated population figures. Where no percentage was available, we used 25% of the population.
- ⁴ The project includes case studies in Moroccan-controlled Western Sahara, the Sahrawi refugee camps in Algeria, Israel/Palestine (the West Bank) and Somaliland, and works with partners in all these areas.
- ⁵ UNHCR, 'Opening Speech of Volker Turk on the 55th session of the Human Rights Council'. United Nations (26 February 2024), <https://www.ohchr.org/en/statements-and-speeches/2024/02/opening-human-rights-council-turk-launches-new-human-rights>, accessed 18 March 2024.
- ⁶ William A. Schabas, *The Customary International Law of Human Rights* (Oxford: Oxford University Press 2021) 8.
- ⁷ Christian Tomuschat, *Human Rights: Between Idealism and Realism* (2nd edn, New York: Oxford University Press 2008) 69.
- ⁸ F. Coomans, 'The Extraterritorial Scope of the International Covenant on Economic, Social and Cultural Rights in the Work of the United Nations Committee on Economic, Social and Cultural Rights', *Human Rights Law Review*, 11/1 (2011) 5; M. Milanovic, *Extraterritorial Application of Human Rights Treaties Law, Principles, and Policy* (Oxford: Oxford University Press, 2011) 8; C.W. Henderson, *Understanding International Law* (West Sussex: Wiley-Blackwell, 2010) 141.
- ⁹ United Nations Convention on the Rights of the Child, art. 2
- ¹⁰ CRC/C/CYP/5-6, para. 3; CRC/C/CYP/3-4, para. 2; CRC/C/SR.915, para. 67; ;CRC/C/OPSC/GEO/CO/1, para. 7.
- ¹¹ CRC/C/SOM/1, para 2; CRC/C/93/Add.3, para. 5.
- ¹² CRC/C/SOM/CO/1.
- ¹³ A. Oloo & W. Vandenhole, 'Enforcement of extraterritorial human rights obligations in the African human rights system', in M. Gibney et al., *The Routledge Handbook on Extraterritorial Human Rights Obligations* (Oxon: Routledge, 2022), 143.
- ¹⁴ CRC/C/15Add.205, para 5.
- ¹⁵ CRC/C/MAR/CO/3-4, para. 72.
- ¹⁶ The TRNC has never been mentioned in any communication between the CRC and Turkey. In 2003, the Committee concluded in its reporting cycle on the Republic of Cyprus, that " the State party, as a consequence of events that occurred in 1974 and that resulted in the occupation of part of the territory of Cyprus, is not in a position to exercise control over all of its territory and consequently cannot ensure the application of the Convention in areas not under its control. However, it remains a matter of concern to the Committee that no information on children living in the occupied territories could be provided." (CRC/C/15 Add.205, para. 5). In 2012, the committee only made remarks regarding Turkish Cypriot children living in southern Cyprus (territory under control of the Republic of Cyprus) (CRC/C/CYP/CO/3-4, paras. 21, 22, 45 and 45). In 2022, Turkish Cypriot children from the TRNC were not mentioned at all (CRC/C/CYP/CO/5-6).
- ¹⁷ Taiwan has never been mentioned by the CRC in any reply or discussion with the PRC, even though the PRC occasionally mentions Taiwan in its reporting (e.g. CRC/C/CHN/3-4, para. 10; CRC/C/83/Add.915 July 2005, paras. 17, 68).
- ¹⁸ CRC/C/GEO/QPR/5-6, para. 23, also para. 26 on education.
- ¹⁹ CRC/C/SOM/1; CRC/C/SOM/CO/1.

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- ²⁰ See Annex 2 for a summarised analysis of the latest CRC cycles. See also: www.childrensrightsresearch.com for a more extensive overview of human rights reporting in relation to de facto states, in cycles by different UN human rights bodies.
- ²¹ Amnesty International, 'Azerbaijan: Blockade of Lachin corridor putting thousands of lives in peril must be immediately lifted' (9 February 2023), <https://www.amnesty.org/en/latest/news/2023/02/azerbaijan-blockade-of-lachin-corridor-putting-thousands-of-lives-in-peril-must-be-immediately-lifted/>, accessed 29 April 2024.
- ²² Médecins Sans Frontières, 'Extreme violence in Las Anod forces MSF to close activities' (24 July 2023), <https://www.msf.org/extreme-violence-las-anod-forces-msf-close-activities>, accessed 29 April 2024.
- ²³ 1989 UN Convention on the Rights of the Child, art. 2 and 3.
- ²⁴ Please note in the future, the solutions presented here could also apply to situations where the peoples in question are living under the control of armed separatist groups or other forms of alternative governance not considered or amounting to de facto states (especially when the situation is prolonged). For example, the Kurdistan region of Iraq (including Kurdish governed refugee camps), areas under the control of Al-Shabaab in Somalia, or the Palestinian refugee camps in Lebanon (governed by Palestinians).
- ²⁵ These include the IMF, World Bank, WHO. All organisations are listed here: <https://www.un.org/en/about-us/specialized-agencies>.
- ²⁶ For example, Armenia facilitated the Republic of Artsakh submitting an initial voluntary report on the ICCPR in the 2019 UPR process. See: A/HRC/40/G/3.
- ²⁷ "Berm" refers to the sand wall that divides the two sides of Western Sahara.
- ²⁸ See also our experiences in doing research with children in de facto states: E.g. M.J. Hopman, Looking at Law Through Children's Eyes (Cambridge: Intersentia, 2021); Y. Warshel, 'Conducting ethical research with children inside and/or displaced by conflict zones', NEOS: A Publication of the American Anthropology Association Anthropology of Children and Youth Interest Group (Child and Youth Displacement), 10/2 (2018), 8-10.
- ²⁹ <https://thebluntpost.com/faq-artsakh-a-k-a-nagorno-karabakh-separating-facts-from-fiction/map/>, accessed 29 April 2024.
- ³⁰ C. Edwards, 'Nagorno-Karabakh will cease to exist from next year. How did this happen?', CNN (28 September 2023), <https://edition.cnn.com/2023/09/28/europe/nagorno-karabakh-officially-dissolve-intl/index.html>, accessed 29 April 2024.
- ³¹ A. Mahmoudian, 'Azerbaijan Control of Nagorno-Karabakh: Geopolitical Implications for Iran, Russia and Turkey', Gulf International Forum (14 October 2023), <https://gulif.org/azerbaijan-control-of-nagorno-karabakh-geopolitical-implications-for-iran-russia-and-turkey/>, accessed 2 April 2024.
- ³² Radio Liberty, 'Mass Evacuation Of Karabakh Armenians "Complete"' (25 September 2023), <https://www.azatutyun.am/a/32618189.html>, accessed 29 April 2024.
- ³³ UN Security Council Resolution 822, 1993.
- ³⁴ Human Rights Ombudsman Office of the Republic of Artsakh, Ad hoc Report on Child Rights, p. 34.
- ³⁵ Council of Europe, 'Movement along the Lachin Corridor should be restored as a matter of urgency to prevent a deterioration of the humanitarian situation in Nagorno-Karabakh' (12 December 2023), <https://www.coe.int/en/web/commissioner/-/movement-along-the-lachin-corridor-should-be-restored-as-a-matter-of-urgency-to-prevent-a-deterioration-of-the-humanitarian-situation-in-nagorno-karabakh>, accessed 29 April 2024.
- ³⁶ M. Berikyan, 'Azerbaijan kidnaps Nagorno-Karabakh civilian being evacuated by Red Cross', Civilnet (30 July 2023), <https://www.civilnet.am/en/news/746016/azerbaijan-kidnaps-nagorno-karabakh-civilian-being-evacuated-by-red-cross/>, accessed 29 April 2024.
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- ³⁷ M. Dovich, 'Azerbaijan detains 3 Karabakh students as they try to enter Armenia', Civilnet (28 August 2023), <https://www.civilnet.am/en/news/748352/azerbaijan-kidnaps-3-karabakh-students-as-they-try-to-enter-armenia/>, accessed 29 April 2024.
- ³⁸ Ministry of Territorial Administration of the Republic of Armenia: 99.2 percent of forcibly displaced persons from Nagorno Karabakh have been registered, <https://www.civilnet.am/en/news/748352/azerbaijan-kidnaps-3-karabakh-students-as-they-try-to-enter-armenia/>, (October 6, 2023)
- ³⁹ Y. Warshel, *Experiencing the Israeli-Palestinian conflict: Children, peace communication and Socialization* (Cambridge: Cambridge University Press, 2021).
- ⁴⁰ Y. Warshel, *Experiencing the Israeli-Palestinian conflict*.
- ⁴¹ Y. Warshel, *Experiencing the Israeli-Palestinian conflict*.
- ⁴² L. Farsakh, L., *Palestinian labor migration to Israel: Labor, land, and occupation* (New York: Routledge, 2005).
- ⁴³ Y. Warshel, *Experiencing the Israeli-Palestinian conflict*.
- ⁴⁴ K. Abu-Baker, 'Analysis of support groups: Participation of Palestinian widows and mourners in support groups to relieve the psychological and social pressures resulting from loss', in K. Abu-Baker, ed., *Women, armed conflict and loss: The mental health of Palestinian women in the Occupied Territories* (Jerusalem: Women's Studies Centre, 2005).
- ⁴⁵ Y. Warshel, *Experiencing the Israeli-Palestinian conflict*.
- ⁴⁶ Y. Warshel, 'Conducting ethical research with children inside and/or displaced by conflict zones', *NEOS: A Publication of the American Anthropology Association Anthropology of Children and Youth Interest Group*(Child and Youth Displacement), 10/2 (2018).
- ⁴⁷ *The Palestinian Exodus 1948-1998*. Edited by Ghada Karmi and Eugene Cotran, Ithaca Press, 1999, 239)
- ⁴⁸ Map No. 3691 Rev. 88 UNITED NATIONS September 2019. UN Geospatial, 2019. 'Map No. 3691 Rev. 88 UNITED NATIONS/ Western Sahara' Office of information and Communication Technology Geospatial Information Section. <https://www.un.org/geospatial/content/western-sahara-1>
- ⁴⁹ United Nations, 'The United Nations and Decolonization: Western Sahara', <https://www.un.org/dppa/decolonization/en/nsgt/western-sahara>, accessed 29 August 2023.
- ⁵⁰ Warshel, Y., 'Why "peace" between Morocco and Israel matters for Western Sahara but not for the Israeli-Palestinian conflict', *African Conflict & Peacebuilding Review*, 11/2 (2021), 121-134. doi: 10.2979/africonfpeacrevi.11.2.07
- ⁵¹ International Court of Justice. 1975. *Western Sahara (Advisory Opinion)*. <https://www.icj-cij.org/public/files/case-related/61/061-19751016-ADV-01-00-EN.pdf>.
- ⁵² M.J. Hopman, 'The child's right to freedom of expression in Moroccan-controlled Western Sahara', *The International Journal of Human Rights*, 27/3 (2023), <https://doi.org/10.1080/13642987.2022.2142210>.
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- ⁵⁷ U.S. Department of Labor's (USDOL), '2022 Findings on the Worst Forms of Child Labor' <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/western-sahara>
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