

The International Framework of Children's Rights Fosters Discrimination against Young People

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“The right to have rights, or the right of every individual to belong to humanity, should be guaranteed by humanity itself. It is by no means certain whether this is possible.”¹

— Hannah Arendt

INTRODUCTION

This Article explores in a comparative manner how discrimination is built into the international framework of children's rights and examines the consequences of these problems for children in vulnerable situations, people whom human rights are supposed to protect.

I. INHERENT DISCRIMINATION IN THE INTERNATIONAL FRAMEWORK OF CHILDREN'S RIGHTS

From its inception, the international framework of children's rights was understood as inclusive, a framework through which young people are supposed to be able to call on their governments to implement rights.² Nevertheless, a closer look reveals that age discrimination is built into the framework.³ After reviewing the international framework, this Article investigates problems young people face when engaging the framework, then presents a potential mechanism that vulnerable children can employ to exercise their rights.

The international framework of children's rights consists of the U.N. Convention on the Rights of the Child (“CRC”)⁴ and its Optional Proto-

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1. HANNAH ARENDT, *THE ORIGINS OF TOTALITARIANISM* 298 (1951).

2. See generally Jonathan Todres & Shani M. King, *Introduction* to *THE OXFORD HANDBOOK OF CHILDREN'S RIGHTS LAW* (Jonathan Todres & Shani M. King eds., 2020).

3. See generally Brian Gran, *An International Framework of Children's Rights*, 13 *ANN. REV. L. & SOC. SCI.* 79 (2017).

4. Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3 [hereinafter CRC].

cols, the U.N. Committee on the Rights of the Child (“CRC Committee”), the policies and procedures the CRC Committee uses to enforce the Convention, including its individual communications procedure, and other U.N. instruments, bodies, and procedures. National governments are part of this framework through CRC ratification, which commits those governments to implement the CRC domestically and adhere to U.N. Committee procedures.⁵ Ratification requires national governments to make known the CRC and its principles to everyone living in their respective countries.⁶

Famously, the CRC is the most widely-ratified of the U.N. human rights treaties, with 196 states parties and all but one U.N. member state (the United States) having ratified the Convention.⁷ Accompanying the CRC are three Optional Protocols: The Optional Protocol on the sale of children, child prostitution, and child pornography,⁸ the Optional Protocol on the involvement of children in armed conflict,⁹ and the Optional Protocol on a communications procedure.¹⁰ These Optional Protocols are distinct treaties that the CRC urges member parties to ratify.¹¹ As of January 27, 2023, 173 states have ratified the Optional Protocol on armed conflict, 178 member parties have ratified the Optional Protocol on child trafficking, and 50 member parties have ratified the Optional Protocol on the communications procedure.¹² Because the U.S. Government has ratified the Optional Protocols on armed conflict and child trafficking, it can ratify the Optional Protocol on the communications procedure.¹³ Ratifying the third protocol indicates that a member party is willing to be subject to an individual complaint about the member party’s implementation of the Convention and Optional Protocols on armed conflict and child trafficking.¹⁴ The individual

5. See Wouter Vandenhoe, *The Committee on the Rights of the Child—Size Matters Sometimes, Somewhat: A Comment*, 14 J. HUM. RTS. PRAC. 101, 102, n.2 (2022). See generally BRIAN GRAN, *THE SOCIOLOGY OF CHILDREN’S RIGHTS* 24 (2021).

6. See Committee on the Rights of the Child [hereinafter CRC Committee], General comment no. 5 (2003): General measures of implementation of the Convention on the Rights of the Child, U.N. Doc. CRC/GC/2003/5, ¶ 2 (Nov. 27, 2003).

7. See *Convention on the Rights of the Child*, UNICEF (last accessed Jan. 27, 2023), <https://www.unicef.org/child-rights-convention> [<https://perma.cc/5WL2-XCA2>].

8. Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, 25 May 2000, 2171 U.N.T.S. 227.

9. Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, 25 May 2000, 2173 U.N.T.S. 222.

10. G.A. Res. 66/138, Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure (Dec. 19, 2011) [hereinafter CRC Optional Protocol]; see also *Committee on the Rights of the Child*, OFF. U.N. HIGH COMM’R. HUM. RTS. (last accessed Jan. 27, 2023), <https://www.ohchr.org/en/treaty-bodies/crc> [<https://perma.cc/6XMY-XCV7>].

11. See General comment no. 5, *supra* note 6, ¶ 17; *Convention on the Elimination of All Forms of Discrimination against Women: What is an Optional Protocol?*, U.N. ENTITY FOR GENDER EQUAL. & THE EMPowerMENT OF WOMEN (last accessed Oct. 16, 2022), <https://www.un.org/womenwatch/daw/cedaw/protocol/whatis.htm> [<https://perma.cc/JW2D-AQCY>].

12. See *Status of Ratification Interactive Dashboard*, OFF. U.N. HIGH COMM’R. HUM. RTS. (last accessed Oct. 16, 2022), <https://indicators.ohchr.org/> [<https://perma.cc/L8HJ-TK8D>].

13. See CRC Optional Protocol, *supra* note 10, Art. 18.

14. *Id.* Art. 5.

communications procedure limits the ability to bring collective complaints.¹⁵

For example, Greta Thunberg and sixteen young people, ages eight to seventeen, used the individual communications procedure to complain that national governments that have ratified the CRC have failed to protect young people's rights and interests around climate change.¹⁶ On September 23, 2019, Thunberg scolded world leaders for their inaction and false promises on tackling climate change. Speaking during the 2019 Climate Action Summit in exasperation, Thunberg asked world leaders, "How dare you?" and exclaimed, "This is all wrong!" She complained that world leaders were stealing young people's futures as ecosystems collapse.¹⁷ Shortly after her speech, Thunberg and her colleagues filed their complaint through the CRC individual communications procedure. The joint complaint Thunberg and colleagues filed is considered a "landmark" use of the CRC individual communications procedure and has received widespread media attention.¹⁸ Nearly two years later, the CRC Committee sidestepped the group's concerns and concluded that individual members of the group should take their complaints to national courts—effectively taking away the international agency that was promised to children in the original act.¹⁹ The CRC Committee's decision shifts the young people's complaint from an institution intentionally organized to hear and respond to children's rights concerns to national courts where young people must rely on adults to advance their rights and interests. The Committee's insistence on turning to national courts ignores the fact that Thunberg and colleagues will likely age out of being able to use the CRC individual communications procedure. The U.N. Committee's response to Thunberg and colleagues is

15. See SONJA C. GROVER, CHILDREN DEFENDING THEIR HUMAN RIGHTS THROUGH THE CRC COMPLAINTS PROCEDURE 23 (2015).

16. See CRC Committee, Sacchi et al. v. Argentina, U.N. Doc. CRC/C/88/D/104/2019, ¶ 1.1 (Oct. 8, 2021); 16 Children, Including Greta Thunberg, File Landmark Complaint to the United Nations Committee on the Rights of the Child, UNICEF (Sept. 23, 2019), <https://www.unicef.org/press-releases/16-children-including-greta-thunberg-file-landmark-complaint-united-nations> [<https://perma.cc/DH5X-CMSN>]; Jonathan Josefsson & John Wall, *Empowered inclusion: theorizing global justice for children and youth*, 17 GLOBALIZATIONS 1047–48 (2020).

17. Bill Chappell, 'This Is All Wrong,' Greta Thunberg Tells World Leaders at U.N. Climate Session, NPR (Sept. 23, 2019), <https://www.npr.org/2019/09/23/763389015/this-is-all-wrong-greta-thunberg-tells-world-leaders-at-u-n-climate-session> [<https://perma.cc/5LFY-4BLQ>].

18. See 16 Children, Including Greta Thunberg, *supra* note 16; see also Drew Kann, *Greta Thunberg and 15 other children filed a complaint against five countries over the climate crisis*, CNN (Sept. 23, 2019), <https://www.cnn.com/2019/09/23/world/united-nations-greta-thunberg-children-climate-change-human-rights-complaint/index.html> [<https://perma.cc/GP2Q-KBRJ>]; Rebecca Klar, *Greta Thunberg, 15 other children file complaint saying world leaders not acting on climate change*, THE HILL (Sept. 23, 2019), <https://thehill.com/policy/energy-environment/462615-greta-thunberg-15-children-file-complaint-over-world-leaders> [<https://perma.cc/VXL3-NM9M>]; Chappell, *supra* note 17.

19. See CRC Committee, Sacchi et al. v. Argentina, U.N. Doc. CRC/C/88/D/104/2019, ¶ 10.21 (Oct. 8, 2021).

ironic; it undermines the Convention's objective of providing legal protections to young people.²⁰

The International Bill of Human Rights ("IBHR") articulates rights available to every person, including young people. The IBHR consists of the Universal Declaration of Human Rights ("UDHR"), the International Covenant on Civil and Political Rights ("ICCPR"), and the International Covenant on Economic, Social and Cultural Rights ("ICESCR").²¹ The UDHR, ICCPR, and ICESCR are distinct instruments. When a U.N. member state voted for the UDHR, they indicated their agreement with the Declaration's principles. When a U.N. member state ratifies the ICCPR and the ICESCR, they indicate their promises to implement the Covenants' contents domestically.²² As of January 27, 2023, 173 U.N. member states have ratified the ICCPR and 171 U.N. member states have ratified the ICESCR.²³ As their names indicate, the ICCPR articulates civil and political rights, and the ICESCR articulates economic, social, and cultural rights. The IBHR articulates rights belonging to every person—regardless of age.

Despite the application of the IBHR to every human, including children, the U.N. adopted the CRC in 1989 and then initiated the steps needed to establish the CRC Committee and its procedures to further bolster the protection offered to young people.²⁴ This near universal ratification does seem to demonstrate widespread commitment to the rights and interests of children.²⁵ Nevertheless, why establish a separate international framework of children's rights, given that the IBHR applies to young people? If the IBHR was adopted, why is the CRC needed? The CRC acknowledges that "particular care" should be extended to young people and that young people need "special safeguards."²⁶ Yet the ICCPR and ICESCR also acknowledge and incorporate these concerns. ICCPR Article 24 states: "Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State."²⁷ ICESCR Article 10 states: "Special mea-

20. See CRC, *supra* note 4, Preamble.

21. See *The Foundation of International Human Rights Law*, UNITED NATIONS (last accessed Oct. 16, 2022), <https://www.un.org/en/about-us/udhr/foundation-of-international-human-rights-law> [https://perma.cc/TG7D-JMNE].

22. See *Glossary*, UNITED NATIONS TREATY COLLECTION (last accessed Aug. 17, 2023), https://treaties.un.org/pages/overview.aspx?path=overview/glossary/page1_en.xml#ratification. [https://perma.cc/M7VN-TSYH]; *Glossary of technical terms related to the treaty bodies*, OFF. U.N. HIGH COMM'R HUM. RTS. (last accessed Aug. 17, 2023), <https://www.ohchr.org/en/treaty-bodies/glossary-technical-terms-related-treaty-bodies#treaty> [https://perma.cc/NEP5-WZR3].

23. See *Status of Ratification Interactive Dashboard*, *supra* note 12.

24. See CRC, *supra* note 4, Art. 43.

25. See generally LUISA BLANCHFIELD, CONG. RSCH. SERV., R40484, THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD 4, 15 (2013).

26. CRC, *supra* note 4, Preamble.

27. International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171 [hereinafter ICCPR].

asures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions.”²⁸ Rather than insist that children, like every person, are able to exercise their rights through the ICCPR and the ICESCR, the U.N. and its member states established an international framework for children’s rights.²⁹ This framework not only may be unnecessary, but may be used to discriminate against young people. Although the IBHR declares that human rights should prevent discrimination,³⁰ establishing the international framework of children’s rights indicates that children and their rights are different from other people and their rights.

While the framework aspires to assure dignity and rights for every young person and reduce discrimination among young people,³¹ it allows adults to discriminate against young people and their interests, including the exercise of their rights. This Article demonstrates that the international framework of children’s rights is built on discrimination and that it fails young people when they most need their rights.³² Current practices treat young people as neither full members of the societies in which they live nor entitled to exercise rights as societal members.³³ Adults are expected to serve as young people’s representatives to their societies and build and maintain institutional mechanisms that ensure young people can exercise rights.³⁴ Given that the international framework of children’s rights does not extend all human rights to young people,³⁵ young people face barriers to changing this framework.³⁶

28. International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3 [hereinafter ICESCR].

29. See Michael Freeman, *Children's rights as human rights: Reading the UNCRC*, in THE PALGRAVE HANDBOOK OF CHILDHOOD STUDIES 377, 382–84 (2009); John Wall, *Theorizing children's global citizenship: Reconstructionism and the politics of deep interdependence*, 9 GLOB. STUD. CHILDHOOD 5, 9 (2019).

30. See G.A. Res. 217 (III) A, Universal Declaration of Human Rights Art. 7 (Dec. 10, 1948); ICCPR, *supra* note 27, Art. 26; ICESCR, *supra* note 28, Art. 2. *But see* Rosalie Silberman Abella, *The Arc of the Moral Universe Is Long, But. . .*, 34 CANADIAN J.L. & SOC'Y / LA REVUE CANADIENNE DROIT ET SOCIÉTÉ 1, 5 (2019) (contending that, through human rights, each individual possesses the same right to be free from group-identity discrimination).

31. See CRC, *supra* note 4, Preamble, Arts. 2, 23, 28, 37, 39, 40.

32. See Deena Haydon, *Children's Rights: The Effective Implementation of Rights-based Standards*, in VULNERABLE CHILDREN AND THE LAW: INTERNATIONAL EVIDENCE FOR IMPROVING CHILD WELFARE, CHILD PROTECTION AND CHILDREN'S RIGHTS 23, 23, 25 (Rosemary Sheehan, Helen Rhoades & Nicky Stanley eds., 2012).

33. See Cynthia Price Cohen, *The United Nations convention on the rights of the child: A feminist landmark*, 3 WM. & MARY J. WOMEN & L. 29, 41–45 (1997); Alexander A. Boni-Saenz, *Age, Equality, and Vulnerability*, 21 THEORETICAL INQUIRIES L. 161, 162, 167–68 (2020); JONATHAN HERRING, VULNERABILITY, CHILDHOOD AND THE LAW 42–44 (2018). To take an example, rarely do young people possess the right to vote, and many girls cannot exercise their rights to education in the same way as boys. See generally RECONCEPTUALIZING CHILDREN'S RIGHTS IN INTERNATIONAL DEVELOPMENT (Karl Hanson & Olga Nieuwenhuys eds., 2013).

34. See Martha Minow, *Rights for the Next Generation: A Feminist Approach to Children's Rights*, 9 HARV. WOMEN'S L.J. 1, 18 (1986).

35. See BRIAN GRAN, THE SOCIOLOGY OF CHILDREN'S RIGHTS 95, 170 (2021) (discussing the right to vote and the right to science, neither of which are explicitly extended to children).

36. See generally *id.*

II. RELIANCE ON ADULTS

Discrimination against young people arises from a dilemma built into the children's rights framework: young people rely on adults to implement their rights.³⁷ Young people's reliance on adults is a feature of Aristotle's notion of the state.³⁸ In *Politics*, Aristotle describes the state, its components, and how it works. The state consists of communities, and communities consist of households. The household revolves around male citizens: husbands and their wives, fathers and their children, and owners and slaves. Fathers, according to Aristotle, are expected to protect their children as royal rulers protect their subjects. If the male citizen fails to protect his children, the state, composed of male citizens, will intercede on behalf of young people, so they can live as they should under their father's royal rule.³⁹ Of course, while Aristotle's notion of the state continues to shape contemporary approaches to governance, we recognize that the state often does not intervene to assure that young people can exercise their rights.⁴⁰ Aristotle's conception has led to state structures organized around false expectations of the utility of rights for some social groups, such as children.⁴¹

Rather than establish a community in which young people, like adults, are endowed with human rights, the international framework of children's rights places young people outside this community. The international children's rights framework encourages adults to view children and their rights as distinct from adults and their human rights, thereby preventing treatment of young people as equal members of this community who are endowed with human rights. Placing young people outside the human rights community, of course, fosters difference between adults, as humans, and children. This denial of equal membership, which prompts young people to rely on adults to exercise their rights, is built into the international framework. This reliance can range from (1) a parent or caretaker who ensures their child can exercise their rights, (2) to adults who establish institutional mechanisms necessary to a young person exercising their rights, (3) to adults responsible for maintaining and managing institutional mechanisms central to the international framework of children's rights, (4) to adults taking all measures necessary to implement the rights articulated in the CRC.⁴² This reliance is problematic when adults fail to protect or hinder the implementation of children's rights. It reveals structural discrimination

37. See Bronagh Byrne & Laura Lundy, *Children's rights-based childhood policy: A six-P framework*, 23 INT'L J. HUM. RTS. 357, 357 (2019).

38. See ARISTOTLE, *POLITICS* 49–50 (H.W.C. Davis ed., Benjamin Jowlett trans., Clarendon Press 1905).

39. See *id.* at 49.

40. See MARTHA MINOW, *MAKING ALL THE DIFFERENCE* 276–77, 279 (1991).

41. See Daniela Gobetti, *Humankind as a system: private and public agency at the origins of modern liberalism*, in *PUBLIC AND PRIVATE THOUGHT AND PRACTICE* 103, 104 (Jeff Weintraub & Krishan Kumar eds., 1997).

42. See CRC, *supra* note 4, Art. 5.

shaping the exercise of young people's rights, which can place children in harm's way. This reliance dilemma exposes young people to failures of parents and caretakers, national governments, and community and society.

We witness this reliance dilemma and its consequences every day; it affects nearly all rights to which children are entitled.⁴³ Problems resulting from this circumstance are revealed when a young person's interests seem in opposition to adults' interests, when young people face danger and great hardship, when institutional mechanisms purportedly designed to enable young people to exercise their rights instead fail to facilitate those rights, and situations when young people and their rights are ignored. Currently, these problems are part and parcel of everyday life in two camps and a center in North East Syria where young people live: Al-Hol, Al-Roj, and the Houri Center. An examination of these camps and center reveals how discrimination inherent to the children's rights framework leads to problems for young people, as well as potential solutions.

III. DISCRIMINATION AGAINST VULNERABLE CHILDREN

The Al-Hol and Al-Roj camps are located in the Al-Hasakeh protectorate in Syria.⁴⁴ The Houri Center is based in Tal Marouf, Syria.⁴⁵ People living in these camps and center are neither prisoners nor internally displaced. Their statuses are undetermined and unclear. Camp residents come from over sixty countries.⁴⁶ For example, boys living at the Houri Center are from Algeria, France, Germany, Morocco, Trinidad, and Russia, among other nations.⁴⁷

Living in the camps and center presents two problems afflicting young people and their rights, as well as a potential challenge. Simply put, the first problem for children's rights is living in the camps and the center where, every day, children face desperate circumstances and concerns for

43. See MINOW, *supra* note 40, at 288.

44. See REACH, *Camp Profile - Al Hol, Al-Hasakeh governorate, Syria, September 2021*, RELIEFWEB 1, 1 (Oct. 28, 2021), <https://reliefweb.int/report/syrian-arab-republic/camp-profile-al-hol-al-hasakeh-governorate-syria-september-2021> [<https://perma.cc/PU7Q-5AGQ>]; REACH, *Camp Profile: Roj, Al-Hasakeh governorate, Syria, May 2022*, RELIEFWEB 1, 1 (Sep. 2, 2022), <https://reliefweb.int/report/syrian-arab-republic/camp-profile-roj-al-hasakeh-governorate-syria-may-2022> [<https://perma.cc/B2EF-S5A2>].

45. See Bel Trew, *Trapped and traumatised: Thousands of foreign children languish in Syrian camps with no hope of going home*, THE INDEPENDENT (Jan. 9, 2022), <https://www.independent.co.uk/independent-premium/world/syria-camps-foreign-children-isis-b1988200.html> [<https://perma.cc/UVU8-GADF>].

46. See Save the Children, *North east Syria: Rise in killings 'terrifying' children in Al Hol camp, says Save the Children*, RELIEFWEB (June 29, 2022), <https://reliefweb.int/report/syrian-arab-republic/north-east-syria-rise-killings-terrifying-children-al-hol-camp-says-save-children> [<https://perma.cc/M4JF-9PF9>].

47. See *Syria: Repatriations Lag for Foreigners with Alleged ISIS Ties*, HUM. RTS. WATCH (Dec. 15, 2022), <https://www.hrw.org/news/2022/12/15/syria-repatriations-lag-foreigners-alleged-isis-ties> [<https://perma.cc/QF6T-T54T>].

their futures.⁴⁸ The second problem for children's rights is trying to exit the camps and the center. An anticipated challenge facing young people and their rights is what will happen if and when they return to their home societies.

Living in the camps and center exposes a problem for children's rights and the obstacles embedded in the children's rights framework. The reason these children live in the camps and the center is not due to what they have done or failed to do. The young people have been displaced in the camps and the Hourri Center because of their relationship to an Islamic State ("IS") member. The young people cannot depart the camps and the Hourri Center because their governments refuse reintegration into their home communities. Living in the camps and the Hourri Center, young people encounter the nonexistence or failure of institutional rights mechanisms that are meant to assure their rights. While the country of citizenship of every young person living in the camp has ratified the CRC, the CRC framework has limited utility to young people living in Al-Hol, Al-Roj, and the Hourri Center.⁴⁹ In contrast, the non-signatory United States has attempted to repatriate U.S. residents.⁵⁰ Young people struggle to turn to organizations through which they can exercise their rights to health (CRC Article 24), education (Article 28), nutrition (Article 24), and living conditions necessary to their development (Article 27). While all camp residents experience poor healthcare and malnutrition, these problems are especially detrimental to young people's growth and development. Young people experience violations of freedoms from economic exploitation (Article 32) when they are forced to participate in underground economies rather than attend school. Some boys are separated from their parents and siblings and sent to the Hourri Center, violating Article 9. Dangers due to fires and flooding are common. Violence (Article 19), including shootings, is frequent. From 2019 to 2021, at least 1014 people were reported to have been killed or died from malnutrition, hypothermia, and other causes. In November, two girls who lived in the Al-Hol camp were raped, stabbed, and murdered.⁵¹ This horrible menagerie of rights violations, dangers, and unhealthy environments far away from families and friends produces social isolation.

The failure of the international framework of children's rights is evident in assuming that all adults serve as young people's representatives and have their best interests in mind. Boys living in the Hourri Center are separated

48. See Daniel Gorevan & Kathryn Achilles, *When am I Going to Start to Live?*, SAVE THE CHILDREN 3, 11–12 (Sep. 27, 2021), https://resourcecentre.savethechildren.net/pdf/when_am_i_going_to_start_to_live_final_0.pdf [<https://perma.cc/PGG8-T8H5>].

49. See *Status of Ratification Interactive Dashboard*, *supra* note 12.

50. Gorevan & Achilles, *supra* note 48, at 22.

51. *Syria: UN Human Rights Chief condemns brutal killing of two girls, alarmed by sharp rise in violence at Al-Hol camp*, OFF. U.N. HIGH COMM'R HUM. RTS. (Nov. 18, 2022), <https://www.ohchr.org/en/press-releases/2022/11/syria-un-human-rights-chief-condemns-brutal-killing-two-girls-alarmed-sharp> [<https://perma.cc/5NCN-YJWX>].

from their parents, caretakers, and families living in the Al-Hol camp and sent to the center to undergo programs to prevent their radicalization, violating their rights to be with parents and family.⁵² Several young people who live in Al-Hol and Al-Roj do not have parents in the camps. While leaders of a handful of national governments have welcomed orphans to their home societies, some national governments have not. In their home societies, leaders of governments who are responsible for maintaining and managing institutional mechanisms central to the international framework of children's rights fail to do their jobs and ignore promises they have made to ensure that young people can exercise their rights.

Young people struggle to exercise their rights for purposes of exiting the camps and the Hour Center. The CRC Committee has called on the national governments of France and Finland to repatriate their children, and, for the children they do not repatriate, "to take additional measures . . . to mitigate the risks to the lives, survival and development of the child victims while they remain in the north-eastern Syrian Arab Republic."⁵³ These cases arose from adult relatives living in France and Finland who brought complaints for repatriation of their grandchildren and niece through the CRC individual communications procedure.⁵⁴ Of the countries to which boys belong in the Hour Center, only Finland, France, and Germany have ratified the optional protocol. Afghanistan, Algeria, Morocco, Pakistan, Russia, and Trinidad and Tobago have not ratified.⁵⁵ The individual communications procedure is not available to children whose national governments are not on this list. The CRC individual communications procedure is out of reach for children residing in the Al-Hol and Al-Roj camps, as well as in the Hour Center. To use the individual communications procedure, they must prepare their complaint using English, French, Russian, or Spanish, then file their complaint via email or print the document, then mail it to the OHCHR in Geneva, Switzerland—a mechanism that is nearly impossible for a child stranded with little resources living in the camps or center.

The actions of such governments present the ultimate pretense of commitment to human rights of their children, with essentially no follow through in practice. Governments allow their young people to live in desperate situations, despite making commitments to repatriate, rehabilitate,

52. See CRC, *supra* note 4, Art. 9.

53. CRC Committee, P.N., K.K., and O.M. v. Finland, U.N. Doc. CRC/C/91/D/100/2019, ¶ 13 (Oct. 20, 2022); CRC Committee, F.B. and D.A. et al. v. France, U.N. Docs. CRC/C/89/D/77/2019 et al., ¶ 8 (Feb. 23, 2022). See *France violated rights of French children detained in Syrian camps*, U.N. News (Feb. 24, 2022), <https://news.un.org/en/story/2022/02/1112682> [<https://perma.cc/C3AU-VFQF>]; *Finland: Rights of Finnish children detained in Syria camps violated*, U.N. News (Oct. 12, 2022), <https://news.un.org/en/story/2022/10/1129462> [<https://perma.cc/V23P-YWXX>].

54. See CRC Committee, F.B. and D.A. et al. v. France, U.N. Docs. CRC/C/89/D/77/2019 et al., ¶ 1.1 (Feb. 23, 2022).

55. See *Status of Ratification Interactive Dashboard*, *supra* note 12.

and reintegrate their children via the IBHR and CRC.⁵⁶ Through CRC ratification, governments have promised to make detention a last resort and, if detention happens, for the shortest time.⁵⁷ The governments of young people living in Al-Hol, Al-Roj, and the Hourri Center are failing to implement these treaties and to ensure young people can exercise their rights—creating a clear violation of both their international and moral obligations.

Hannah Arendt criticized human rights for their dependence on national citizenship.⁵⁸ The international framework of children's rights is based on the notion that young people can call on their national governments to enforce their rights. Many governments, however, ignore their children who reside in the Al-Hol and Al-Roj camps and the Hourri Center.

CONCLUSION

Across many countries, national governments have established independent children's rights institutions ("ICRIs"), often called children's ombudspersons and children's commissioners.⁵⁹ These ICRIs typically are independent of their governments yet endowed with legal powers to monitor government actions and omissions and advocate for children's rights. ICRIs are typically empowered to raise the profile of the CRC, investigate concerns, publish reports, and speak to media about children's rights. Their focus is on their national governments and their efforts to advance children's rights through the CRC framework.⁶⁰ Different ICRIs based in European countries have called for repatriation of children from the Al-Hol camp.⁶¹ Efforts of these ICRIs have called attention to the plight of young people in the camps and the Hourri Center, but many governments have not responded.

A global ICRI established to monitor the international framework of children's rights would concentrate on all young people and the exercise of their rights. A global ICRI would be independent not only of national gov-

56. See Louisa Loveluck & Mustafa Salim, *After years in ISIS prison camp, they now face an uncertain welcome home*, THE WASHINGTON POST (July 5, 2022), <https://www.washingtonpost.com/world/2022/07/05/iraq-syria-al-hol-return/> [https://perma.cc/67ZN-SFRE].

57. See CRC, *supra* note 4, Preamble, Art. 37; Gerald L. Neuman, *Detention as a Last Resort: The Implications of the Human Rights Committee's General Comment No. 35*, in PROTECTING MIGRANT CHILDREN 381, 381 (Mary Crock & Lenni Benson eds., 2018).

58. See HANNAH ARENDT, THE ORIGINS OF TOTALITARIANISM 230 (1951).

59. See Brian Gran, *Why the United States Needs a National Children's Rights Ombudsperson*, in THE ROLES OF INDEPENDENT CHILDREN'S RIGHTS INSTITUTIONS IN ADVANCING HUMAN RIGHTS OF CHILDREN 115, 115 (Agnes Lux & Brian Gran eds., 2022). See Michael Garvia Bochenek & Warren Binford, *Children Arriving in the United States Need Strong Safeguards*, HEALTH & HUM. RTS. J. 1, 4 (2022).

60. See THE ROLES OF INDEPENDENT CHILDREN'S RIGHTS INSTITUTIONS IN ADVANCING HUMAN RIGHTS OF CHILDREN 5 (Agnes Lux & Brian Gran eds., 2022).

61. See *Nederland moet kinderen in kampen beschermen*, KINDERSOMBUDSMAN (Jan. 31, 2023), <https://www.kinderombudsman.nl/nieuws/nederland-moet-kinderen-in-kampen-beschermen> [https://perma.cc/4778-NCEG].

ernments, but also the CRC Committee. If endowed with appropriate powers, this global ICRI could use its independence and powers to monitor national governments, the CRC Committee, and components of the international framework of children's rights, including the individual communications procedure. Young people could call on the global ICRI to advocate, protect, promote, and enforce their rights wherever they live. Like national ICRI's, the global ICRI could monitor implementation of the CRC wherever children live. A global ICRI could advocate for the human rights of all young people and seek their equal membership in the global community. A global ICRI, of course, is not the complete answer. The idea of an ombudsperson is to represent and speak on behalf of people whose governments ignore their rights, or worse. A global ICRI would strive to change perceptions of young people and their rights. This proposal is not far-fetched: the European Union has established an ombudsman office for EU members to enforce EU law.⁶²

Societal leaders, especially political leaders, must think long term. If current arrangements encourage short-term thinking, then those arrangements must be corrected. Societal leaders must conceptualize children's rights as human rights and keep in mind why an international framework of human rights was established for all people. Assuring that young people can exercise their rights as humans can foster commitments to non-discrimination, dignity, and participation in communities as citizens, workers, leaders, and parents.⁶³ Young people can then grow up to make powerful contributions and hold responsibilities as societal leaders who advance "peace, dignity, tolerance, freedom, equality and solidarity"⁶⁴

62. See *European Ombudsman*, EUROPEAN OMBUDSMAN (last accessed Mar. 26, 2023), <https://www.ombudsman.europa.eu/en/home> [<https://perma.cc/8A7X-KCAW>].

63. See Caroline Sarojini Hart & Nicolás Brando, *A capability approach to children's well-being, agency and participatory rights in education*, 53 EUR. J. EDUC. 293, 296–97 (2018).

64. CRC, *supra* note 4, Preamble. See Axel Gosseries, *Ageing, Unequal Longevities and Intergenerational Justice*, in THE CAMBRIDGE HANDBOOK OF THE ETHICS OF AGEING 212, 212 (2022).

