

CHILDREN'S RIGHTS

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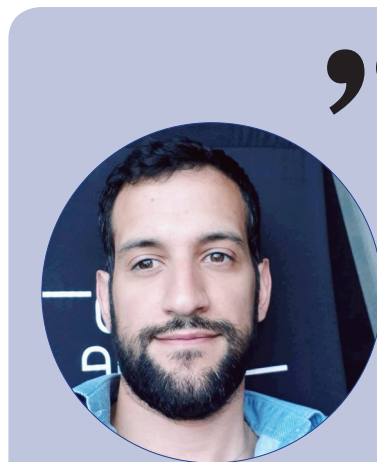
INTERNATIONAL CHILD REPATRIATION GUIDELINES

Today children are as involved in migration as adults and find themselves in other countries for a wide variety of reasons. Child migration may be the result of an informed choice, child exploitation, or a confluence of circumstances. Children may enter migration with their parents and families, with other adults, or alone. In these conditions, migration services may have to handle situations where children must be repatriated.

International law does not ban child repatriation, even though children are in a particularly vulnerable position, but it does set detailed guarantees that must be observed when a child is repatriated. There are more guarantees for children than for adults. Below are descriptions of the seven minimum guarantees that states must observe in accordance with the International Convention on the Rights of the Child.

MIGRANT CHILDREN CANNOT BE DEPRIVED OF LIBERTY

Deprivation of a child's liberty solely on the basis of their or their parents' migration status violates the rights of the child because it contravenes the best interests of the child and leads to long-term and traumatic consequences for the child's physical and emotional health and development. Furthermore, children held in custody must endure poor conditions and violence. International organizations have repeatedly stated that, given the special vulnerability of children, keeping them in immigration detention is the equivalent of torture. If a child or their family must be supervised, these organizations recommend using alternatives to deprivation of liberty like regular check-ins with law enforcement bodies, surrender of identification documents to the police, residence at a specific address, or individual tracking.



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In this year's International Children's Day I would like to highlight three challenges faced by migrant children across the OSCE region. First, I would like to point out that the use of administrative detention of children is still widespread across the number of countries; and this in spite of growing international consensus on the need to end this practice. Second, there is a growing concern on how to protect the best interests of children in return operations. And third, we need to do more to ensure that migrant children-migrants irrespective of their status have access to their basic rights, right to education, right to health care and right to social protection.

*Pablo Rojas Coppari,
Migration & Freedom of Movement
Adviser, OSCE Office for Democratic
Institutions and Human Rights*

LEGAL REPRESENTATIVES FOR UNACCOMPANIED CHILDREN

The authorities of a country where an unaccompanied child or a child travelling with people who are not their legal representatives is residing must appoint a legal representative for the child as soon as possible after the child is discovered. This representative must be authorized to represent the child's interests independently and impartially during any contact with state agencies. State agencies do not have the right to take any actions or make any decisions about the child until a legal representative is appointed.

PROCEDURE FOR DETERMINING A CHILD'S BEST INTERESTS

Any decision regarding a child must be made in the child's best interests. This includes a decision on repatriation. The child's best interests must be determined within the framework of a special procedure conducted by an independent body and with the participation of specialists who work with children or in children's rights. This procedure involves an assessment of the individual child's situation and risks, a family study about the presence and situation of relatives in the country or origin and country of residence, an assessment of safety and existing risks, the child's level of integration in the country of residence and the length of their absence

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HUMANIZING THE PROCESS FOR RETURNING MIGRANT CHILDREN

from their country of origin, and the child's ethnic, religious, cultural, and linguistic characteristics. The determination of the child's best interests must serve as the basis for any future decision made about the child. Three outcomes are possible: repatriation, integration into the country of residence, or transfer to a third country. The child's opinion must be taken into consideration. Furthermore, if repatriation is not in the child's best interests, the child must be given the opportunity to legalize their status and the opportunity to stay or leave for another country.

ACCESS TO LEGAL ASSISTANCE AND THE ABILITY TO APPEAL


A child must have the right to appeal a decision on repatriation and must also have access to legal assistance. Legal assistance must be provided in a language and manner that are clear to the child and must be accessible and free of charge. If possible, the agencies that conducted the procedure for determining the child's best interests should participate in the review of any appeal.

REPATRIATION CAN ONLY TAKE PLACE WITH VOLUNTARY CONSENT

Repatriation must be voluntary and can only take place with the consent of the child and their legal representatives. No means of coercion can be used in relation to the child, their family, or the people accompanying them. The family and the child must be given assistance upon their return insofar as possible.

In addition, the child's country of origin and their family in the country of origin must give voluntary consent for the child's return and confirm that they are prepared to receive the child.

After a decision on repatriation is adopted and well before the child's transfer, the authorities must develop a reintegration plan for the child in the country of origin with account for the child's opinion. The child must be properly informed about what will happen to them in a language and manner that are understandable to them.



” The immigration detention of children, even for short periods, has a dramatic impact on children's lives. It affects their health, education, and psycho-social development. According to medical reports, 85% of parents and children who are in immigration detention experience negative mental health consequences. In the past years there is being a growing consensus at the global level to end the immigration detention of children. The UN Committee on the Rights of the Child, UNICEF, the UN High Commissioner for Refugees and the International Organization for Migration have all called on states to stop detaining children for immigration-control purposes. Immigration detention is never in the best interests of child and it is always a child's rights' violation.

*Michele Levoy,
the Director of the Platform for
International Cooperation on
Undocumented Migrants (PICUM)*

The time of repatriation must be selected with account for the child's best interests to avoid creating additional stress and difficulties for the child. For example, a decision may be made to allow the child to finish the school year/semester and not transfer them to their country of origin as quickly as possible. Repatriation requires time and preparation (collection of documents, creation of a reintegration plan). Unjustified delay of the deadlines for repatriation is not acceptable.

EVERY CHILD MUST BE PROVIDED WITH AN EDUCATION AND MEDICAL CARE

If a child is alone in their country of residence, they must be placed in the social welfare system on level footing with children who are citizens.

Every migrant child must be given access to education regardless of migration status and length of residence. Every child must be provided with an education that corresponds to their level in a language that is understand-

able to them from the age from which the country of stay's laws require mandatory education for citizens and to the level that is the mandatory basic level of education for citizens in the child's country of residence.

Every migrant child must be given access to the healthcare system. Both education and healthcare must be provided free of charge.

SEPARATION MAY ONLY OCCUR IF A CHILD IS IN DANGER

Migrant children must not be separated from their parents, other family members, or the people accompanying them, except when being with the family members or other people accompanying them puts the child's life or health at risk. If additional supervision must be established over the parents, they must not be deprived of liberty. Instead, alternative measures must be applied to maintain the integrity of the family in the interest of the child.

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HUMANIZING THE PROCESS FOR RETURNING MIGRANT CHILDREN



” The placement in closed institutions of children who have not committed any crime and only have problems with their documents has been deemed unacceptable. Nevertheless, hundreds of migrants end up in special closed children’s institutions every year.

*Gulnara Zhamgyrchieva,
deputy ombudsman, Kyrgyzstan*



” Under Russian law, children cannot be taken from their parents — children should always be with their parents. But when adults are placed in closed institutions for migrants that do not provide suitable conditions for children, children are separated from their parents. This practice must be categorically stopped.

*Olga Tseytina,
human rights attorney,
Migration and Law Network,
Russia*



” Like other former Soviet countries, our country needs a mechanism for making speedy and competent decisions on child repatriation so that the path for migrant children in difficult situations is painless.

*Liliya Leonidova,
deputy of the Odessa City Council,
member of the Committee on
Labor and Social Policy, Ukraine*



” As of today, the current agreement stipulates that these children must be placed in reception centers. These are closed institutions run by the police, they are places of confinement. And children can be held in them for up to 30 days, until they are handed over to their relatives or legal representatives. I believe that this is a violation of the rights of the child. First of all, children are in a state of stress caused by the loss of ties with relatives, transfer, transit, and, on top of this, a long period in a closed facility. All this deals a real blow to a child’s nervous system.

*Vitaly Kapulyak,
head of the Juvenile Prevention
Department, Main Department
of the National Police of
Odessa Oblast, Ukraine*



” A new agreement must be adopted that corresponds to international standards, which are in the best interests of the child. This discriminatory, punitive practice of placing the children of migrant workers in closed institutions and depriving them of access to education and healthcare must be stopped. There must be a ban on separating migrant children from their parents.

*Lira Ismail,
Alternativa Family Reunification
Center, Kyrgyzstan*



” We call on the government of Belarus to heed the numerous comments issued by the Committee on the Rights of the Child in 2020, primarily with regard to developing pertinent laws and procedures in relation to migrant children and introducing the principle of the best interests of the child. We believe it is of the utmost importance to communicate with migrant children in a language known to them, provide them with legal and psychological assistance, and avoid making decisions to hold them in custody in closed centers. We also believe it is important to ensure proper government control over these places of confinement.

*Nasta Loyka,
Human Constanta human
rights organization, Belarus*

THE SIMPLEST WAY TO "FORMALIZE"

The question of what protection a child needs is often the subject of heated debate. Society is divided into those who firmly support parents who know "what is best for the child" and those who almost always support government interference and supervision of family conditions and circumstances. This question usually comes up in relation to troubled families, and people hold forth on it as follows: "If parents cannot provide a child with regular meals, care, or a safe environment, then that child is better off in a children's home."

It's a little more complicated with wealthy and successful parents, who cannot be reproached for providing an impoverished material life for their children. A glaring example is the case of a girl whose parents spent an enormous amount of money to keep her in a private clinic for years, even though she had no actual medical need for treatment. Attempts to secure the government's protection of the girl's right to a full-fledged life were met with incomprehension: The parents paid, the clinic provided a clean, safe environment, nurses looked after her, and cooks fed her, so "the right to life was not violated." But is a sated, clean, and safe life the only thing children need? It is difficult to prove the obvious: A child also needs emotional development, the love of a family, the friendship of peers, and real life experience with all its pains and dangers.

But what if it's the other way around? What if a child is loved, given every freedom, but is raised in poverty, in poor living conditions, with shabby clothes and primitive toys? Or what if parents knowingly expose a child to dangers or violence? Clearly, this is unacceptable. People often try to protect these children but are unable to. Here's another case: When the mother of a young girl was arrested for "attempted pickpocketing," her daughter was left with acquaintances living in extreme poverty in a temporary structure who could only provide her with basic nutrition. But she had a kitten to play with and was free; she had what the wealthy girl in the clinic had been deprived of. This girl was finally discharged from the clinic six years after overcoming the resistance of her strange, wealthy parents, while the poor daughter of a loving mother who had been arrested was moved to a children's home, declared "abandoned," and offered up for adoption.

The practice of documenting children who clearly have blood parents as



"abandoned children" is not unusual. Police even prefer to label a child torn from their mother's arms as "abandoned" because this makes it possible to get rid of the child more quickly by calling an ambulance and sending the child to the social welfare department at a children's hospital. This is exactly what happened to five-month-old Umarali Nazarov, who was taken from his mother in Saint Petersburg in 2015 after both he and his mother were detained during a raid to detect people who had violated migration rules. Umarali's story became widely known—his parents never saw him alive again and the circumstances of his death have never been fully explained (the parents, whose healthy infant was taken from them, are not convinced by the investigator's version that Umarali died because of a virus). What we do know for sure is that Umarali was taken from his mother, that he was not returned to his father and grandmother, who quickly arrived with the infant's documents, and that the police wrote a report on an "abandoned child," called an ambulance, and sent Umarali to the hospital. Repeated attempts to appeal the illegal separation in court produced no result. Like other government bodies, the court apparently believed that it could and even had to act this way (even in relation to a child whose legal representatives had not been deprived of their parental rights).

Every Russian city has "social welfare" hospitals or hospital departments that hold healthy children brought there from police departments, not for testing or treatment, but for temporary placement. This means that hospitals (and, ap-

parently, the Ministry of Health's budget) are used as places of confinement for children who have for some reason been removed from their families, taken from migrants, or separated from their guardians. If the parents are accused of violence or failure to perform their obligations, then their children await their fate, which most likely involves deprivation of parental rights, in hospitals. And if the authorities have no reason to deprive parents of their parental rights, or if this proves too complicated, then these children are recorded as "abandoned" so that children's institutions can later seek a new family for them. But who here is thinking about the rights of the child or knows their history, relatives, or background?

It is extraordinarily difficult to determine the fate of a child in cases when there is an ongoing dispute between parents. The Kutaisi City Court recently handed down an interesting decision in the case of a conflict between the parents of a child from Belarus who was taken to Georgia by his father against the mother's wishes. The court noted that it believed its governing principle was to view the child not as an object of rights, but as a legal person, and cited the position of the Parliamentary Assembly of the Council of Europe: "Children must no longer be considered as parents' property, but must be recognized as individuals with their own rights and needs." The Court of Appeals reversed the previous court decision recognizing the father's right to live with his son in Georgia. Even though it was established that the child was living in good material conditions in Georgia and that he was provided with

housing, clothes, toys, and activities, the Court of Appeals ruled that it was much more important to consider the emotional and social factors of the child's development. The court noted that the child had close emotional ties with both parents, that he also had other relatives in Belarus, including grandparents and stepbrothers, that it was important to observe his right to communicate with these relatives, and that this child had been socialized in Belarus, attended kindergarten there, and communicated with his peers there. The court considered all these factors to be of extreme importance and recognized that it would be better for the child to return home, where he could live in his accustomed environment (including linguistic environment) and maintain his connections with his family.

The court's decision in this complicated case is notable in particular for its statement of reasons: the judges based their decision not just on the laws of Georgia and decisions in previous cases (including in Belarus), but also to a large degree on norms of international law. Proceeding from the UN Convention on the Rights of the Child, judgments of the European Court of Human Rights, and other norms, the court deemed it necessary to consider the interests of the child in the first place, as well as the child's social and emotional interests and not just his material interests. A psychological assessment of the boy's condition was also important for the court, which noted the psychologist's conclusion that "The child is not as happy and spontaneous as is generally characteristic for his age."

At the end of April 2020, the Supreme Court of Georgia left the decision of the Kutaisi city court in force and agreed with its conclusions. That decision is final and should be executed by the social services in the shortest terms possible.

It would be nice if other courts and other people who make decisions that determine a child's fate could consider the needs of the individual over the needs of those for whom it is more convenient to "formalize" the child and shuffle this child off onto someone else, or, on the contrary, possess this child.

Stefania KULAEVA

*First published on the
blog of Radio Svoboda*

UN CRC CALLS ON BELARUS TO PROTECT THE RIGHTS OF MIGRANT CHILDREN

The UN Committee on the Rights of the Child (CRC) published recommendations to the Republic of Belarus following the consideration of the state report on compliance with the Convention on the Rights of the Child.

During the pre-session of the CRC in July 2019, Anti-Discrimination Centre "Memorial" presented an alternative report on the issue of immigration detention of children at the detention centre of the Ministry of Internal Affairs of Belarus and their further repatriation to their countries of permanent residence. Foreign children and children, who are citizens of Belarus and who are returning from other countries, are being detained based solely on their migration status, without access to education, which contradicts modern standards of children's rights.

Referring to joint general comments No. 3 and 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (No. 22 and No. 23 (2017) of the Committee on the Rights of the Child) within the context of international migration, the Committee on the Rights of the Child called on Belarus to prohibit immigration detention of children and ensure non-custodial solutions, including foster care and accommodation in specialised open reception centres serviced by trained professionals with access to education and psychosocial support; and ensure the periodic and independent review of the care and access to complaint procedures.

The Committee urged that Belarus also adopt other measures to improve the situation of migrant children, in particular:

- (a) to develop a legislative framework on undocumented children;
- (b) to establish status determination procedures to ensure the identification and protection of migrant children, including unaccompanied children and separated children and their protection;

- (c) to develop a uniform protocol on age-determination methods that is multidisciplinary, scientifically-based, respectful of children's rights and used only in cases of serious doubt about the claimed age and consider documentary or other forms of evidence available, and ensure access to effective appeal mechanisms;
- (d) to integrate the principle of the best interests of the child in legislation and regulations concerning migration and ensure that it is given primary consideration in asylum and migration-related procedures, including age and status determination and deportation, and that children's views are duly taken into account therein; and provide support to families with migration background to prevent family separation;
- (e) to build the capacity of the authorities to determine and apply the best interests of the child in asylum and migration-related procedures;
- (f) to ensure that all migrant children, including undocumented and separated children, receive appropriate protection, are informed about their rights in a language they understand, have access to education and healthcare, including psychosocial support, and are provided with interpretation and free legal aid; and develop comprehensive referral, case management and guardianship frameworks for unaccompanied and separated children.

The Committee also published its recommendations on issues raised in the report prepared by the International Centre for Civic Initiatives "Nash Dom" ("Our House", Belarus), which has been supported by ADC "Memorial".

MIGRANT CHILDREN OF ST. PETERSBURG ON ONLINE QUARANTINE

JULIA ALIMOVA, **coordinator at Children** **of St. Petersburg:**

Children of St. Petersburg has been helping migrant and refugee children adapt to their new culture and society since 2012. We want children to feel comfortable in their new city. We want them to speak Russian fluently, make new friends, go to school, and develop. To achieve this, we hold Russian, English, and math classes in 12 libraries throughout the city and at a general education school, a residential school, and a youth center. We also help students prepare for the basic state examination and the unified state examination. All classes and events are free and open to children of any nationality or citizenship. We try to hold day camps every vacation. Our 2019 summer camp was attended by 75 to 90 children every day for one month. Before quarantine, 180 children attended our classes on a regular basis and we had ambitious plans for our summer camp.

When quarantine started in March, we had no idea that it would last so long. After two weeks with no classes, we realized that we had to continue. We held meetings with volunteers and launched online classes. We've had to adjust the format for each specific child. Some don't have an internet connection, so the teachers hold classes with them over the phone, without a video. Other children have had trouble understanding their schoolwork because of distance learning.

We started a Russian and English conversation club for adolescents. With help from a moderator, Russian-speaking children have conversations with our students who have native English (mainly from refugee families from Afghanistan and Cameroon).

We've also launched French and English conversation clubs for adults. We ask participants in these clubs to make a donation to Children of St. Petersburg. We were planning for in-person classes, but we moved everything

online and actually gained more participants. Online study is often more convenient for adults. Regrettably, the same cannot be said for children or even adolescents, who don't know Russian well and need not just language courses, but comprehensive help with integration and adaptation.

Unfortunately, almost none of our students have computers at home and most do not have their own smartphones. One of our volunteers gave a family of students we work with her own computer so that they could go online. Our families usually live in rented rooms, with the children and adults all in one room. There are families where four children and two adults live in one room. I work with one student whose newborn brother is always crying in the background.

High-quality distance learning requires more preparation and concentration from teachers than in-person classes. There's basically no spontaneity, so teachers have to think through every little detail. They have to stare intently at the screen, for example, to try to understand if the child lost the connection or if they're just daydreaming or distracted. We're all anxious to get back to offline classes, where we can create the safest place possible for the children so that they're not scared of making a mistake, expressing their ideas, or learning something new. After all, we're not just teaching language—we're working on integration. No matter how hard a teacher tries, online classes cannot become a robust mechanism for integration. In addition, some children have dropped out of the education process entirely.

Classes at Children of St. Petersburg are held all year and are not tied to the school year. So even though the academic year is over, our plan is to continue distance classes until we can restart in-person classes. This year we were supposed to hold our fourth summer day camp. Summer camp is the most anticipated event for many of our students and for us adults as well. Unfortunately, it's now clear that we won't have a large camp with hundreds of children. It was very hard for me to accept this. Unlike children at camps outside the city, children at summer day camps have to take the metro and see their families and

Activities at the youth center «Children of St. Petersburg»



neighbors every morning and evening, so that's much more dangerous from an epidemiological point of view. We're trying to come up with a replacement. We might be able to hold smaller camps with fewer children from different districts. But this would be much more expensive.

Right now we're arranging to have food packages delivered to our students. Many of them are from Central Asian countries (Uzbekistan, Tajikistan, Kyrgyzstan), Azerbaijan, and Armenia. Most of their parents hold low-paying jobs and have no safety net to help them survive a job loss. It used to be easy to find low-paying work in St. Petersburg, but it's not so simple now.

ANNA UDYAROVA,
volunteer for Children
of St. Petersburg:

I have been working on Children of St. Petersburg projects since late 2016, holding classes with other volunteers at our local library. Before this, I worked on violation of the rights of migrant families as a lawyer, so I'm familiar with this topic from the standpoint of human rights. Right now, I'm also training to become a teacher, so I can use these new skills in my volunteer activities, among other activities.

When quarantine first started, when classes were cancelled at the library, we didn't hold any classes because we didn't know what distance learning format would work for our children and what technical capabilities they had. We gradually came to understand that WhatsApp would be most convenient for the children. My colleague Tatyana Vitalyevna proposed holding classes using this system and came up with different variations of tasks for this format.

We initially held classes several times a week, but we've now moved to daily classes lasting one-and-a-half to two hours with no days off. We have two groups, one for older children and one for younger children, just like with in-person classes. But the older students rarely respond, so we only hold regular classes with younger children. They record their responses as voice messages, but sometimes they type when we ask them to write a word. They also send photos of their drawings and written assignments. We're continuing with the topics we covered before, reading short texts, and working on puzzles and rebuses (children really enjoy these). Our



Primary school kids in class

children love this format and often ask to "study a little bit more," even if class is over. Then they start communicating with each other.

There are naturally complications, both in terms of technology (files from past lessons can be lost among messages), and in terms of getting the children to work together. In many cases, they think they don't have to answer a question if someone else has already answered and they see this response. Also, it's hard to use the game format we use in class (flashcards, word bingo, "memory," and so forth). Also, there are children who can't connect with us through this format for various reasons (for example, only their parents have phones and they are always at work, it's hard to absorb information in this format). So we hope to be able to return to in-person classes in the summer.

ARTEM SLETA,
Project coordinator at
Children of St. Petersburg:

We have been working on migrant assistance for eight years now and can see that the public does not always approve of our work. Various manifestations of xenophobia and racism are unfortunately all too prevalent in our society. That's why we believe that one of our main tasks is outreach work. The Festival of Migration and Contemporary Culture that we held early last year was just the start of a large-scale project conceived to create a new culture of eth-

nic relations. We have received support from colleagues at partner organizations and attracted a diverse audience. Every day of the festival ended with energetic discussions, so we intend to develop this project. The D[ist] Festival will be an annual event, and the next festival will be devoted to the linguistic diversity of our country. We're already working on a range of educational projects. The next one will take place this summer and will be dedicated to migration and urban studies. We also plan to release podcasts and work on joint projects with some media outlets.

Quarantine has forced the entire world to move to distance learning, and it has become clear that more work must be done in the area of online education. Over the summer, we hope to prepare interactive audio and video materials for the new academic year because the videoconferencing format does not work for children. Our response to quarantine will be our own educational platform where we can upload our preliminary work and invite our colleagues from all over Russia to cooperate.

Children of St. Petersburg very much need your support right now. You can make donations for food packages or sign up for monthly contributions at detipeterburga.ru

BACHA BAZI: A FORM OF CHILD SEXUAL EXPLOITATION

The Palermo Protocol (the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children) concerns trafficking in persons, which means the abduction or receipt of persons, by means of the threat of the abuse of power or of a position of vulnerability for the purpose of exploitation, including the prostitution of others and other forms of sexual exploitation. Bacha bazi (bacha bosi, bachabozstvo, bachism, lit. “boy play”) falls squarely under this definition. As part of this tradition, which has existed since the Middle Ages in several Central and South Asian countries, adolescent boys entertain men by dancing for them in women’s clothing, jewelry, make-up, and sometimes even fake breasts. These dances are accompanied by musical instruments and songs, some about homosexual love. The “owner” can control and direct the boy himself or sell him to other men for dances and sex.

The practice of bacha bazi was widespread in western Turkistan under the Russian Empire and was even recorded in Soviet times until 1930. It still continues in Pakistan and Afghanistan, where this tradition has been on the rise over the past 20 years, especially in Pashtun regions in the south and east, and in the north, including among ethnic Tajiks. There is no explicit information that this form of child exploitation exists in Tajikistan, but human rights defenders believe that boys living in border regions are at risk considering the strong ties between Tajikistan and Afghanistan and the fact that ethnic Tajiks make up one-third of the population in northern Afghanistan. The situation for residents in southern Tajikistan is worsened by poverty and poor education combined with a fear of armed people who, at least in Afghanistan, abduct boys.

Paradoxically, homosexuality is censured in Central Asian and neighboring South Asian countries and is even criminalized in Afghanistan, Pakistan, Turkmenistan, and Uzbekistan. In the public’s mind, however, bacha bazi is not viewed as a manifestation of homosexuality and is justified as a cultural tradition.

The phenomenon of bacha bazi is inextricably linked to gender discrimination. The proscription on women appearing in public means that they are “replaced” with dancing boys. This has a negative impact on both of these vulnerable groups: Women continue to be excluded from public life, remain under lock and key, and regularly face humiliation and violence, while underage boys become sex



Dance of a bacha (dancing boy), Samarkand, ca 1905 - 1915, Sergei Mikhailovich Prokudin-Gorskii (1863-1944)

objects for men, who see a woman’s role as perpetuating and serving the family.

A 2013 study by Hagar International found an extremely high rate of trafficking of boys in Afghanistan. Children over the age of 14 are more likely to be used for forced labor or as child soldiers, while boys under the age of 14 are more likely to be sexually exploited. At least 50 percent of these children under 14 are the victims of Bacha bazi. Hundreds of YouTube videos with thousands of views are evidence of the prevalence of bacha bazi in Afghanistan. Amendments made to Afghanistan’s criminal code in 2017 banned this practice, setting punishments of up to three years in prison for the “owners” of dancing boys and up to 15 years in prison for members of the government complicit in the practice. However, there is only a very small chance that the guilty parties will be prosecuted, while some “bacha” themselves have faced criminal punishment.

Bacha bazi is not just sexual exploitation of children and a means of earning money, but also a sign of status and wealth for men in high positions. Victims have stated that their abusers included many

members of the government, the armed forces, and the police. In fact, these officials often strive to possess the most beautiful boys and are involved in child abductions. The change of power to more radical Islamic forces has done nothing to stop this tradition: Many people do not believe that sexual contact with boys is a manifestation of homosexuality and are stricter about bans on ties with women.

Years of armed conflict in Afghanistan have played no small role in aggravating the situation of boys: Many have been left without fathers and forced to take on the obligation to provide for their families. The general atmosphere of lawlessness and the numerous human rights violations that go hand in hand with war have also complicated the situation. Soldiers, who are not able to see their wives, regularly sexually exploit boys, and have in some cases used them to distract or even kill an enemy.

Boys also become “bacha” because of the terrible economic situation and their lack of education. Street boys from large and poor families are particularly vulnerable in this respect. Their parents sell them into sex slavery in return for a small

ADAPTION NEEDS OF CHILDREN RETURNING FROM SYRIA AND IRAQ

amount of money, or the children themselves receive meager compensation, which they generally hand over to their families. Some continue to live at home, but most stay with their “owners” and cut most of their ties with their families. When children are abducted, their relatives either cannot find them or decide not to collect them because the owners might attempt to get them back or might even kill them for trying to escape.

But these aren't the only cases where children's lives and health are at risk. Even though some boys say that being a “bacha” is a good way to earn money, some who have had the courage and rare opportunity to talk with independent journalists and human rights defenders say that their entire lives are filled with regular sexual assault, beatings, and humiliation from the men they must serve and that they even fear losing their lives. Some boys who could not manage anymore have attempted suicide.

Young men can no longer be “bacha” when they reach the age of 18 to 20, but multiple psychological traumas prevent these grown “dancing boys” from leading a normal life. Some wealthy owners promise to arrange and pay for a marriage for the boys, thus lifting this burden from the parents or the boy himself. Other former owners may continue to support the boys, find them work, or ask them to train new “bacha.” If they have enough money when they stop dancing, some boys may start their own bacha bazi businesses, training boys they know personally and earning money on them, thus continuing this anachronism and recreating their own experiences. However, without the education, skills, or abilities they need to find work, most grown “bacha” remain on the street with broken emotional and sometimes physical health and no ties to their families. This forces some into the only available way to earn a living—prostitution.

Even boys in a favorable situation are at risk for sexual assault in Afghanistan. For example, in 2019 the public learned of hundreds of cases of rape committed by schoolteachers in one province and by the officials and police officers the boys turned to for help. At the same time, the normalization of sexual assault against boys is such that activists reporting on their independent investigations of these crimes have been prosecuted instead of the offenders, while the government has denied the problem. The victims did not receive assistance or support: In fact, there were reports that some boys were driven out of their families and even killed (possibly by the Taliban or relatives). On the one hand, then, society does not accept rape victims but, on the other hand, it does not view rape in the form of bacha bazi as rape and considers it a social norm.

Inessa SAKHNO



The problem of “children and migration” also relates to the vulnerable group of the children of militants returning from Syria and Iraq. Many countries, including our own region, now face the question of how to help children traumatized by war, violence, the loss of loved ones, and radical religious practices adapt.

In March 2020, the Conflict Analysis and Prevention Center (CAPC) released the report “A Confident Step Towards the Future? Research of socio-psychological and adaptation needs of wives, widows and children of killed and sentenced fighters in the North Caucasus.” This report analyzes how the loss of a husband/father killed during the armed conflict in the North Caucasus and/or the Middle East, or sentenced to long-term imprisonment for participating in illegal armed groups affects the life of his family members (widows, wives, and children).

The report's authors note that the children of returnees from the conflict zone in Syria and Iraq have a lot in common with the children of militants who fought in Russia, but they also have important differences. Specifically, returning children and mothers from the conflict zone in the Middle East have more severe

mental trauma, some are physically wounded, and they generally have more serious health and adaptation problems. Younger children speak Russian poorly, and older ones have serious gaps in their school education. In Chechnya, families where returning children were born from marriages with non-Chechens sometimes have problems with their extended family who do not accept them because inter-ethnic marriages are condemned there, especially when a Chechen woman marries an outsider. Society explicitly condemns women who went to the Middle East, and they are isolated.

The reports makes the following recommendations to the authorities: offer comprehensive legal, emotional, and social support; work with law enforcement bodies strictly within the law, in a delicate manner that does not stigmatize children and their mothers; open special rehabilitation and resocialization programs for children returning from conflict zones in the Middle East; engage various specialists to conduct field visits to villages.

As CAPC director Ekaterina Sokirianskaia writes:

“Neither the government nor society knows how these families live, what their actual needs are, what needs to be done to help them manage this difficult life crisis. As a result, this fairly large social group goes almost unnoticed by society. They are rarely written about in the media or academic papers, and the people around them pay no attention to them and even distance themselves from them.... Long-term peace in the North Caucasus depends to a large extent on how psychologically resilient, successful, and integrated children from these families are. This is why their problems are our problems.”

BELARUSIAN COURT RULED TO RETURN CHILD TO A WOMAN WITH DISABILITY

Lawyers of the Office for the rights of persons with disabilities (Belarus) with the support of the Anti-Discrimination Centre “Memorial” in April 2020 won the ruling of the court of second instance in a case concerning removal of a child from his mother with mental disorder.

Back in April 2019, local municipal authorities took the child from Olga Korzun due to the fact that she was a disabled person diagnosed with a 2nd degree mental disorder. Olga Korzun had been assisted by her mother in raising her 5-year-old son, however, five days after her mother's death, local authorities decided that Korzun would not be able to raise the child on her own. The boy was then sent to a family-type residential care, and the municipal authorities filed a lawsuit requesting the removal of the child from his mother (without depriving her of parental rights) based on Korzun's medical diagnosis. In July 2019, the district court ruled to remove the child from Korzun.

The Office for the rights of persons with disabilities appealed this court decision with a court of higher instance, indicating that Olga Korzun had positive references, that she had not committed any wrongdoing and that she had been mistakenly diagnosed with mental disorder 10 years ago. As part of the preparation of the consideration of the complaint in court, the Office was able to carry out an alternative examination for Olga Korzun at the Independent Psychiatric Association in the Russian Federation. This independent psychiatric evaluation, which was then followed by official state psychiatric examination ordered by the court, confirmed that Olga Korzun had the skills of taking care for herself and was capable of independent life and did not pose a threat to her child.

The court of second instance indicated that the court of first instance had made its ruling in violation of the law of substance and the procedural laws. The court also indicated that, in accordance with the Code on Marriage



and Family of the Republic of Belarus, a child could be taken away from parents only if his/her further residence with them was dangerous for him/her. Having taken into account the results of the medical examinations and all the files, which had been studied, the court of second instance overruled the earlier court decision and ruled to return the child to his mother. Based on this, in April 2020, the earlier decision of the municipal authorities was also canceled, and Olga Korzun reunited with her son.

Unfortunately, removal of children from their families by social services is widespread in Belarus. The list of diseases approved by the Belarusian Ministry of Health serves as the basis for deprivation of parental rights and


it indicates which parents cannot fulfill their parental responsibilities. This practice seriously violates the rights of the child and discriminates against people with disabilities, as the mere presence of a disorder in a parent cannot be the sole basis for the removal of children from family. The only reason for such a profound interference into family life can be a threat to the life, safety and health of the child. This had been stated earlier by the Ministry of Health of Belarus. The list of diseases itself had adopted in accordance with the Code on Marriage and Family as a basis for exempting parents from reimbursing the state for the cost of keeping their children in state-run institutions, but is not a list of grounds for removing children from families.

CONTENT

The issue topic: CHILDREN'S RIGHTS

INTERNATIONAL CHILD REPATRIATION GUIDELINES	1
THE SIMPLEST WAY TO "FORMALIZE" <i>Stefania KULAEVA</i>	4
UN CRC CALLS ON BELARUS TO PROTECT THE RIGHTS OF MIGRANT CHILDREN	5
MIGRANT CHILDREN OF ST. PETERSBURG ON ONLINE QUARANTINE	6
BACHA BAZI: A FORM OF CHILD SEXUAL EXPLOITATION <i>Inessa SAKHNO</i>	8
ADAPTION NEEDS OF CHILDREN RETURNING FROM SYRIA AND IRAQ	9
BELARUSIAN COURT RULED TO RETURN CHILD TO A WOMAN WITH DISABILITY	10


HUMAN RIGHTS REPORTS BY ADC MEMORIAL




"The children are really only restricted from leaving the facility and doing what they wish," police major, senior sergeant, Temporary Detention Center for Juvenile Offenders (Russia).

MIGRANT CHILDREN IN CIS COUNTRIES:
Lack of Adequate Legal Norms Regulating Cooperation Between Involved Countries

2018




ЗАЩИТА ОТ ДИСКРИМИНАЦИИ:
опыт успешных судебных дел

Сборник составлен на основании материалов акции, проведенной АДЦ «Мемориал» в 2017-2018 годах, и отчетов АДЦ «Мемориал» «Служащие милиции профессии – лидеры дискриминации» (2018), «Путешествие при Асс-Бля: преграды и несправедливые условия в сфере реализации ЦСР в доли «Ново-орлеан России» (2018)

2018



DISCRIMINATION AGAINST PERSONS WITH DISABILITIES WHEN EXERCISING THE RIGHT TO EDUCATION IN THE RUSSIAN FEDERATION



ALTERNATIVE INFORMATION on Russia's Implementation of the UN Convention on the Rights of Persons with Disabilities in connection with the review of the first state report by the UN Committee on the Rights of Persons with Disabilities

For the 10th Session of the CPTD
14 February – 10 March 2018





ALTERNATIVE REPORT
of ADC "Memorial" and the Human Rights Movement: Bir Daino Kyrgyzstan

ON THE KYRGYZ REPUBLIC'S COMPLIANCE WITH THE INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION




Migrant children in Kyrgyzstan. Photo by ADC Memorial.

for the 95th Session of the UN CERD
April 24 – May 11, 2018





STRUCTURAL DISCRIMINATION AGAINST ROMA
in Eastern Europe and Central Asia

April 2018



ALTERNATIVE REPORT
on Tajikistan's Implementation of the International Convention on the Elimination of All Forms of Racial Discrimination in Connection with the UN CERD Consideration of the Republic of Tajikistan's Ninth to Eleventh Periodic Reports for 2012-2015



The babies of abandoned or other children whom Tajikistan is a default partner in addressing a water crisis. Tajik children have to go far from their homes.

NATIONLESS ETHNIC GROUPS OF TAJIKISTAN (Pamiri, Jughhi, Yaghnoibi): FROM NON-RECOGNITION TO DISCRIMINATION

For the 93rd session of the CERD, 21 July-13 August 2017



ALTERNATIVE REPORT on the Russian Federation's Implementation of the International Convention on Economic, Social and Cultural Rights in Connection with the Commission of the Sixth Periodic State Report (2014) by the UN Committee on Economic, Social and Cultural Rights

THE RUSSIAN FEDERATION: VIOLATION OF THE ECONOMIC AND SOCIAL RIGHTS OF VULNERABLE GROUPS

- violation of the socioeconomic and cultural rights of indigenous peoples;
- structural discrimination against Roma people;
- discrimination against and violation of the socioeconomic and cultural rights of ethnic minorities in territories controlled by the RF;
- discrimination against stateless persons;
- employment discrimination against vulnerable groups;
- the situation of migrant workers;
- the situation of disabled people in closed institutions



For the 62nd session of the CESCR
September 19 - October 6, 2017




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Invisible and exploited in Kazakhstan:
the plight of Kyrgyz migrant workers and members of their families

June 2018/19/2018

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possible ways to overcome the problem



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