

BORN IN A NON-EXISTENT PLACE?

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

Executive Summary

REPORT AIMS

Supposedly, human rights are universal, and children all over the world have rights, irrespective of their language, nationality or ethnicity. Yet one category of children remain systematically excluded from international legal protection: **children living in de facto states**. This report informs the international community about the exclusion of these children, and offers suggestions for how they might be included.

AUTHORS

Research group at Maastricht University and the participants of its International Conference on “Realizing Children’s Development Rights in De Facto States”, January 2024.

WHAT IS A DE FACTO STATE?

De facto states are political entities that possess all four criteria for statehood (1933 Montevideo Convention): a permanent population, a defined territory, a government, and the capacity to enter into relations with (other) states, who have declared

independence, but who are not member states of the United Nations. Today, they include Kosovo, Somaliland, and the Turkish Republic of Northern Cyprus. In total, it concerns roughly 9 million children.

THE PROBLEM

With the exception of Palestine, the rights of children living in de facto states are not monitored by the UN or any of its agencies. De facto states do not report to any UN human rights body. No relevant government or shadow reports are submitted. As a result, children’s rights are violated with impunity.

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RECOMMENDED SOLUTIONS

It is unacceptable that children living in de facto states do not receive the same protection as children living in (fully) recognised states. With this in mind, so long as de facto states exist and their associated conflicts remain unresolved, we offer 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.**

2 **Include de facto states in UN children's rights monitoring and reporting.** We list two possible approaches in order of preference:

- a. Invite de facto states to sign and ratify the UNCRC.** It is already legally possible for non-state entities to do this. Practically, there are two main ways to realise this:
 - i.** An invitation by the UNGA to ratify the UNCRC
 - ii.** An invitation by the UNGA to become a "non-member observer State" akin to Palestine and the Holy See, and then sign/ratify the UNCRC.
- b. Inviting relevant (other) states to include reporting on children's rights in de facto states.** Ideally, the de facto state would be included under a separate section, or annex, added to the report of the recognised state.

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

4 **Send a message.** Publish a statement affirming that all children have rights and that the protection of the rights of children living in de facto states is a priority.