



GAVEL AND MOROCCAN FLAG VIA FLICKR USER, MARCO VERCH PROFESSIONAL PHOTOGRAPHER AND SPEAKER, LICENSED UNDER CREATIVE COMMONS 2.0

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18 Convention on the Elimination of All Forms of Discrimination against Women, Art. 12, 1979, 1249 U.N.T.S. 13.

19 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984, 1465 U.N. T. S. 85; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, United Nations Treaty Collection (last visited Mar. 28, 2020), [https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg\\_no=IV-9&chapter=4&lang=en](https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-9&chapter=4&lang=en).

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22 Barbara Ehrenreich, When a “Routine” Exam Feels Like an Assault, Lenny (Apr. 10, 2018), <https://www.lennyletter.com/story/when-a-routine-exam-feels-like-an-assault>.

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24 <https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx>; Human Rights Watch, supra note 7.

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33 Ruth Michaelson, Moroccan Journalist Jailed for ‘Illegal Abortion’ Pardoned by King, The Guardian (Oct. 16, 2019), <https://www.theguardian.com/world/2019/oct/16/moroccan-journalist-hajar-raissouni-jailed-pardoned-abortion>.

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## Combatting Femicide in France

by Adrian Lewis

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“Femicide” is defined in France as the death of a woman at the hands of her partner or ex-partner.[1] More than 130 women were killed by their partners in 2019, exceeding the government’s count of 121 victims of femicide the previous year.[2] Though not the highest among western European countries, France’s rate of femicide is higher than that of many neighboring countries, including Spain, Italy, the Netherlands, and the UK.[3] A steady increase of domestic violence deaths in recent years has sparked outrage and calls for legislative change to combat the growing trend.[4] As a State Party to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), France’s failure to adequately address violence against women is a violation of its obligations under Article 12 of the Convention, as elaborated in CEDAW General Recommendation 19, which requires states to take all appropriate measures to ensure women have equal access to healthcare and related services, including those that protect against a known or suspected threat of physical violence.[5]

Illustrative of the worsening trend was the September 2019 murder of a 27-year old mother of three from northern France.[6] She was in the process of separating from her 37-year old husband when, following an apparent dispute, he stabbed her fourteen times as their three young children looked on. Law enforcement had been called to the woman’s home only the previous week, after she reported to police that her

husband was threatening her with a knife. A common thread running through so many tragic accounts of femicide is victims' repeated outreach to local police in the days and weeks preceding their murders. Such pleas repeatedly elicited responses from law enforcement officers claiming there was not enough evidence to detain a violent abuser or to confiscate a partner's weapon.[7] The experiences of numerous victims of femicide have been shared in the press, often made public by family members only after the women's worst fears were realized.[8] Such stories recount women's harrowing struggles to seek help from police and to secure protection for themselves and their children. Increasingly, such delays are costing women their lives.[9] And with each death, calls for government action and legislative change have grown louder.[10]

In September, France's secretary for gender equality called civil society representatives together with actors from government, politics, and the healthcare sector to participate in a three-month consultation on how best to confront the challenge.[11] Results of the multi-sector initiative included plans for the widespread implementation of electronic bracelets to monitor the location of offenders in relation to their victims and the suspension of child visitation rights for offenders already separated from their former partners.[12] While the conference served to increase public awareness of the issue, activists note that no additional funding was earmarked to combat violence against women, which was one of civil society's primary demands of government in undertaking the three-month conference.[13]

Several international legal instruments exist for the protection of women who are vulnerable to the kind of domestic violence that too often ends in femicide.[14] Most notably, the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) obligates member states to take positive measures to eliminate all forms of violence against women, including domestic violence.[15] Such measures are outlined in Article 2, which stipulates that signatory states "agree to establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination." [16] Growing rates of femicide suggest France must take additional action to establish its commitment to CEDAW. The convention's 16 articles aim to end discrimination at the root

of violent crimes against women and demand active measures on the part of member states to advance this objective.[17]

In addition, France recently strengthened its commitment by adopting the Optional Protocol to CEDAW aimed at more effectively monitoring member states' compliance with the Convention.[18] On a more fundamental level, France is a party to key treaties and conventions that form the foundation of the modern international human rights framework, including the International Covenant on Civil & Political Rights (ICCPR), the International Covenant on Economic, Social & Cultural Rights (ICESCR), and the Convention Against Torture.[19] Legal analysis based on the principles in the Convention Against Torture has illustrated how acts of domestic violence can be interpreted as acts of torture.[20]

The European Union (EU) has been at the forefront of efforts to enshrine into law the equal rights of women by prioritizing them in the Strategic Engagement for Gender Equality 2016-2019 framework.[21] The Council of Europe, the EU's human rights body, took the latest step toward realizing an end to violence against women in 2011 with the ratification of the Istanbul Convention, the formal title of which is the "Council of Europe Convention on preventing and combating violence against women and domestic violence." [22] Its primary objectives are embodied in Article 3(a) of the convention; "violence against women" is understood as a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.[23]

France's obligation to end violence against women within its borders is thus enshrined in both regional legislation like the Istanbul Convention, as well as in international agreements like CEDAW and those listed above.[24] In fulfilling its relevant obligations, France should follow the example of neighboring countries and invest additional resources into ensuring local law enforcement agencies are equipped with the training and resources to effectively aid women who report domestic violence.[25] In Spain, the government has



“RAPISTS, KILLERS, ABUSERS – IT’S YOUR TURN TO BE AFRAID” GRAFFITI IN RENNES, FRANCE VIA FLICKR USER ALTER1FO.COM. (CC BY-NC-ND 2.0)

established a separate system comprised of 100 specialized courts that hear only cases of sexual violence against women.[26] This additional measure has helped reduce the country’s annual rate of femicide by one third.

In addition to providing legal remedies, Article 20 of the Istanbul Convention states that the provision of shelter and physical protection from immediate threats must always be available to victims seeking assistance and redress.[27] Under Article 15, France is obliged to take active steps to provide or strengthen appropriate training for professionals interacting with victims and to introduce training on coordinated multi-agency cooperation to enable comprehensive handling of cases involving violence against women.[28]

France’s progress toward ending femicide within its borders is dependent on the implementation of the policies outlined above, as well as those detailed in the regional and international human rights conventions that have been ratified by its legislature. France’s government and law enforcement agencies are afforded sufficient means within the text of such agreements to end femicide in France.[29] All that remains is a

national commitment to operationalizing the legal instruments at their disposal to protect women from the threat of violence.

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- 5 UN Committee on the Elimination of Discrimination Against Women, Convention on the Elimination of All Forms of Discrimination against Women, G.A. Res. 34/180 (Dec. 18, 1979); UN Committee on the Elimination of Discrimination Against Women, CEDAW General Recommendation No. 19, 1992.
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- 9 Fourquet, *supra* note 7.
- 10 Le Breton, *supra* note 4.
- 11 Piser, *supra* note 8.
- 12 *Id.*
- 13 News Wires, France unveils measures in battle against domestic violence, FRANCE 24 (Sept. 3, 2019), <https://www.france24.com/en/20190903-france-women-femicide-new-battle-domestic-violence-crime-philippe>.
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- 15 UN Committee on the Elimination of Discrimination Against Women, Convention on the Elimination of All Forms of Discrimination against Women, G.A. Res. 34/180 (Dec. 18, 1979).
- 16 *Id.*
- 17 *Id.*
- 18 United Nations Economic and Social Council, Statement submitted by the Academic Council on the United Nations System, a non-governmental organization in consultative status with the Economic and Social Council, U.N. Doc. E/CN.15/2013/NGO/1 (Feb. 1, 2013).

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decades of violence in the region.[5] Kashmir has held special autonomous status protected by Article 370 of the Indian Constitution for over fifty years.[6] This status was also protected by UN Security Council Resolution 47 in 1948.[7] Since 1989, various groups have protested for Kashmir's right to self-determination, leading to a rise in violence and approximately 77,000 killed in the region over the past thirty years.[8]

On August 5, 2019, the Indian Prime Minister, Narendra Modi, controversially decided to remove Kashmir's autonomous status under Article 370.[9] Subsequently, India shut down access to internet and mobile communication in the region.[10] Adding further tension, on August 6, 2019, the President of India, Ram Nath Kovind, ordered that Jammu and Kashmir be reorganized into two separate union territories.[11] This designation eliminates representation in the federal government and gives the central government of India direct control over the region.[12]

During the lockdown, roughly 3,800 Kashmiris were detained without charge or trial.[13] According to the Indian government, as of September 6, 2019, over 1,000 remain in prison.[14]

However, most journalists have been barred from entering the region to verify data.[15] Many of those arrested have been beaten or tortured by security forces.[16] Some detained Kashmiris have been transported to prisons more than 1,000 kilometers away from Kashmir.[17] The government has not disclosed the reasons for these detentions. Those arrested include local politicians, journalists, lawyers, or suspected political dissidents, including the former chief minister of Kashmir.[18] However, the government has not provided reasons for the detention of other civilians without political influence, including children.[19]

International human rights standards do not allow for prolonged, arbitrary detention. Article 9 of the ICCPR, which India has ratified, states that no one shall be arbitrarily arrested or detained without trial.[20] The Indian security forces are obligated to inform detained individuals of the reason for their arrest and to allow them access to a trial in a timely manner. If the detention appears to be unlawful, detainees are entitled to take proceedings to court and be fairly compensated, according to ICCPR Article 9(4) and (5).[21] The Kashmir PSA violates these rights. The PSA allows

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## Arbitrary Detention in Jammu and Kashmir

by Maya Rose Martin

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Early in August 2019, the Indian government stripped Jammu and Kashmir of their special status under the Indian constitution.[1] Since then, nearly 4,000 residents of Jammu and Kashmir were arrested and detained without trial.[2] These arrests were justified by the Public Safety Act (PSA), which allows arrests to ensure public order.[3] However, these detentions violate the Indian Constitution and the International Covenant on Civil and Political Rights (ICCPR).[4] India is not fulfilling its obligations to ensure of the right to freedom from arbitrary detention and the right to a fair trial.

Since the partition of India and Pakistan, the disputed status of Jammu and Kashmir (Kashmir) has led to