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## Brotherhood or Bloodshed?: The Deprivation of Human Rights Through Hazing Rituals

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## **Brotherhood or Bloodshed?: The Deprivation of Human Rights Through Hazing Rituals**

Emma Kalucki, Associate Member, *Immigration and Human Rights Law Review*

### **I. Introduction**

Chun “Michael” Deng. Stone Foltz. Adam Oakes. The stories of these three individuals represent lives lost to a corrosive culture. Among hundreds of other victims, these three individuals emerge as symbols, demanding our attention and action against the hazing rituals that continue to take lives across the United States.<sup>1</sup> Since 1970, there has been at least one hazing-related college death in the United States each year.<sup>2</sup> Hazing occurs in many realms of society, including the military, athletic teams, marching bands, universities, and high schools.<sup>3</sup> Approximately 55% of American college students involved in clubs, teams, and organizations have experienced hazing.<sup>4</sup> 47% of American students have experienced hazing while attending high school.<sup>5</sup> These alarming statistics highlight a significant concern regarding the ongoing and widespread practice of hazing.

As hazing incidents continue, it is crucial to examine the humiliation and consequences suffered by the victims, as they are

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<sup>1</sup> Hank Nuwer, *U.S. Hazing Deaths Part Two: 2000-2024*, HANKNUWER.COM, <https://www.hanknuwer.com/hazing-destroying-young-lives/>, (last visited Mar. 10, 2024). Note: This database is run and updated by author Hank Nuwer. Nuwer has written, and continues to write, dozens of articles and publications regarding hazing.

<sup>2</sup> A. Chris Gajilan, *Greek Life More Popular Than Ever, Despite Recent Controversy and Deaths*, CNN, (Dec. 18, 2018), <https://www.cnn.com/2018/08/22/us/fraternity-hazing-tim-piazza-death/index.html>.

<sup>3</sup> StopHazing Research Lab, *Hazing: The Issue*, STOPHAZING, (Dec. 2022), <https://stophazing.org/issue/>.

<sup>4</sup> *Id.*

<sup>5</sup> *Hazing Information*, UNIVERSITY OF CENTRAL FLORIDA, <https://antihazing.sdes.ucf.edu/info/>, (last visited Apr. 5, 2024).

deprived of basic human rights. Hazing is a worldwide issue that spans across numerous countries and is commonly practiced within universities and affiliated organizations, including fraternities, athletic teams, and academic groups.<sup>6</sup> Dr. Ian Winchester, a professor and former dean at the University of Calgary in Canada, noted that hazing is unfortunately a norm within the international educational culture.<sup>7</sup> He wrote that hazing “appears to be an opportunity to exercise cruelty and embarrassment usually... on a particular class of individuals. ... [hazing] is often considered a necessary educational activity as an initiation into a particular group.”<sup>8</sup> Though hazing has been tolerated for hundreds of years and has claimed thousands, if not millions, of victims, the cycle of these “initiation” practices continues around the world.<sup>9</sup> Each victim of hazing, as well as future victims, suffers from a temporary or permanent loss of their basic human rights. Victims of hazing are forced to succumb to the pressure of wanting to be part of a larger community and consequently are deprived of their rights, such as their liberty, freedom from degradation, inhumane punishment, or their lives.

This article will first examine the history of hazing practices and anti-hazing laws across the globe, focusing on the United States, Thailand, and Portugal. Next, it will discuss the deprivation of basic human rights experienced by hazing victims while looking into the anti-hazing laws currently enacted and enforced within each country. Finally, this article will theorize about the future and the

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<sup>6</sup> Ambika Gogna, *Initiation or Humiliation?: Cases of Hazing Around the World*, THE STRAITS TIMES, (Aug. 1, 2016), <https://www.straitstimes.com/world/initiation-or-humiliation-cases-of-hazing-around-the-world>.

<sup>7</sup> Ian Winchester, *Hazing as a Tolerated Part of International Educational Culture*, 51 J. OF EDUC. THOUGHT 231, 231-234 (2018).

<sup>8</sup> *Id.*

<sup>9</sup> Ruth Sterner, *The History of Hazing in American Higher Education*, OREGON STATE UNIVERSITY, <https://ruthsterner.files.wordpress.com/2008/05/histpdf.pdf>, (last visited Apr. 4, 2024).

failure of anti-hazing practices and laws globally. The discussion section will narrowly explore various violations within each country. It is important to note that human rights violations of all kinds occur within each country, and this article does not cover every violation that occurs. Given the broad scope of hazing, this article will primarily focus on hazing practices within educational institutions and affiliated organizations. Thus, this article is in no way comprehensive of each country's or each victim's exposure to hazing.

## II. History of Hazing and Hazing Laws

Hazing traces its roots back to the founding of Plato's Academy in 387 B.C. in Athens, Greece.<sup>10</sup> Once called *pennalism*, the practice was used by Plato's students as a "system of mild oppression and torment practiced upon the first-year students."<sup>11</sup> As pennalism continued throughout the Middle Ages, it became normalized as a means to assert the superiority of upperclassmen over new students.<sup>12</sup> Early practices of pennalism included physical abuse and occasional humiliation, often for the upperclassmen's enjoyment.<sup>13</sup>

Alongside pennalism was the English concept of *fagging* in universities like Oxford and Cambridge.<sup>14</sup> Gaining popularity in the eighteenth and nineteenth centuries, fagging essentially granted older students the authority to compel younger students to carry out tasks according to the older students' wishes, typically tasks disliked by the younger students, akin to servitude.<sup>15</sup> However, the English system expanded pennalism and fagging beyond just underclassmen; upper-level and master's students were also

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<sup>10</sup> Thomas Law Offices, *Fraternity Hazing: A Brief History*, THOMAS LAW OFFICES, (June 22, 2021), <https://www.thomaslawoffices.com/blog/personal-injury/fraternity-hazing-a-brief-history/>.

<sup>11</sup> *Id.*

<sup>12</sup> Galvin Klinger, *Hazing: Its Beginning and Evolution Throughout History*, MEDIUM, (Mar. 9, 2017), <https://medium.com/@gavinklinger57/hazing-its-beginning-and-evolution-throughout-history-fee3cd68ca06>.

<sup>13</sup> *Id.*

<sup>14</sup> Sterner, *supra* note 9, at ¶ 2.

<sup>15</sup> *Id.* See also Paul Nash, *Training an Elite*, 1 HIST. OF EDUC. Q. 14, 14-18 (1961).

subjected to these acts of initiation.<sup>16</sup> These early European practices inspired other students around the world to introduce their versions of hazing.

*A. The United States*

The United States arguably has one of the most horrific hazing cultures, which first gained attention in 1684 when a Harvard student became the first to be expelled for hazing.<sup>17</sup> This first expulsion occurred due to incidents of hitting other students and forcing them to perform acts of servitude.<sup>18</sup> This incident led to the term *hazing* being used regularly in the United States to describe the continued practices of subordination.<sup>19</sup> In the nineteenth and twentieth centuries, hazing began to spread into social fraternities.<sup>20</sup> The rise of social fraternities at universities in the United States was accompanied by a surge in instances of hazing.<sup>21</sup>

As the presence of social fraternities grew, the notion of exclusivity within these organizations grew as well.<sup>22</sup> Organizations began to introduce rituals and initiation practices to stand out and compete with the other blossoming chapters.<sup>23</sup> These early rituals took on a very similar structure to pennialism, focusing on teaching the newest members about the hierarchy of the organization and the bonding of a new brotherhood.<sup>24</sup> However, by the end of the American Civil War, the older students began taking the initiations

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<sup>16</sup> *Id.*

<sup>17</sup> Thomas Law Offices, *supra* note 10, at ¶ 4.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> Sterner, *supra* note 9, at ¶ 2. Note: Social fraternities includes both fraternities and sororities.

<sup>21</sup> Lisa Melancon, *Hazing in U.S. Fraternities and Sororities*, UNI SCHOLARWORKS, (1994), <https://scholarworks.uni.edu/cgi/viewcontent.cgi?article=3865&context=grp#:~:text=Hazing>.

<sup>22</sup> Sterner, *supra* note 9, at ¶ 2.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

too far and started to emulate practices akin to modern hazing rituals.<sup>25</sup>

For many years, hazing rituals consisted of beatings, humiliation, force-feeding of vile substances, staged kidnappings, and more.<sup>26</sup> The entire practice of hazing in the United States took a dark turn in 1873 when the first high-profile hazing death occurred at Cornell University.<sup>27</sup> The first noted death was of Mortimer N. Leggett, a Kappa Alpha Society pledge who was blindfolded and left in the dark.<sup>28</sup> Leggett became disoriented and fell into a gorge to his death.<sup>29</sup> Despite this incident, hazing became more “mainstream” in university organizations, especially fraternities.<sup>30</sup> As the years progressed, so did the extremity of hazing practices. By the turn of the twentieth century, fraternities at Stanford University were stripping pledges nude and submerging them in water until they nearly drowned.<sup>31</sup> The Delta Kappa Epsilon chapter at Dartmouth College was branding pledges.<sup>32</sup> This level of hazing officially introduced “Hell Week” into the lore of United States organizations’ initiations.<sup>33</sup>

Hell Week is defined as “a week during which pledges to a fraternity or sorority are subjected to hazing before initiation.”<sup>34</sup> Typically occurring the last week of the pledge process, Hell Week

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<sup>25</sup> Abby Jackson, *Hazing is Nothing New – Fraternities Have Been Beating and Force-Feeding Pledges Since Colonial Times*, BUSINESS INSIDER, (Sep. 20, 2017, 2:30 PM), <https://www.businessinsider.com/fraternities-hazing-pledges-history-2017-9>.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.* See also Sterner, *supra* note 9, at ¶ 2. (Hazing deaths in fraternity organizations occurred in the United States before the Cornell University death but were often dismissed as “unfortunate consequences of male horseplay.”)

<sup>28</sup> Sterner, *supra* note 9, at ¶ 2.

<sup>29</sup> *Id.*

<sup>30</sup> Jackson, *supra* note 25, at ¶ 8.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Hell Week*, WEBSTER’S NEW WORLD COLLEGE DICTIONARY, (4<sup>th</sup> ed. 2010).

serves as a culmination of severe hazing practices.<sup>35</sup> Typical Hell Week activities may include detention in a central location, sleep deprivation, activities such as paddling, forced alcohol consumption, and physical challenges, topped off by newfound “brotherhood.”<sup>36</sup> The practice of Hell Week spans university organizations and masks itself as a week of bonding and unity between the new and existing members.<sup>37</sup>

Hazing, especially in the United States, can take on many forms. Practices can vary from extremely subtle and nonviolent activities to harassment, whether verbal or physical, to blatant violence.<sup>38</sup> Common hazing practices within United States universities include sleep deprivation, restriction of communication, personal servitude or chores, forced confinement, kidnapping or capturing, total or partial nudity, branding parts of the body, forced consumption of liquids or food, and paddling or whipping.<sup>39</sup> Each of these practices, no matter the severity, deprives the victim of their essential human rights. The long-standing history of hazing in United States university organizations sparked a wave of anti-hazing legislation that coincides with the protections of basic human rights already afforded to all persons.

The severity of hazing within the United States has been and continues to be addressed through anti-hazing litigation and

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<sup>35</sup> Pat Hagerty, *Fraternity Hell Week*, THE FRATERNITY ADVISOR, (Jan. 23, 2010), <https://thefraternityadvisor.com/fraternity-hell-week/>.

<sup>36</sup> Alex Buscemi, *How to Make Hell Week Your Bitch*, TOTAL FRAT MOVE ARCHIVE, <https://archive.totalfratmove.com/how-to-make-hell-week-your-bitch/>, (last visited Mar. 19, 2024). Note: This source, a blog written by a fraternity member, continues the encouragement of hazing practices by essentially giving pledges tips and tricks to make it through Hell Week. This blog shows the interesting psychology and thought processes behind Hell Week and hazing practices as a whole.

<sup>37</sup> Aldo Cimino & Benjamin J. Thomas, *Does Hazing Actually Increase Group Solidarity? Re-Examining a Classic Theory with a Modern Fraternity*, 43 EVOLUTION AND HUMAN BEHAVIOR 408, 408-471 (2022).

<sup>38</sup> *Definition & Examples of Hazing*, ARKANSAS STATE UNIVERSITY, <https://www.astate.edu/a/hazing/definition-examples-of-hazing.dot>, (last visited Mar. 20, 2024).

<sup>39</sup> *Id.*

policies. As of April 4, 2024, 44 of the 50 states have enacted anti-hazing legislation, though they significantly vary in strength, breadth, and consequences.<sup>40</sup> For example, Ohio enacted Collin's Law: the Ohio Anti-Hazing Act following the death of eighteen-year-old Collin Wiant in 2018 during a fraternity hazing ritual at Ohio University.<sup>41</sup> Collin's law made Ohio the eleventh state to make hazing a felony, meaning general hazing was increased to a second-degree misdemeanor and any hazing involving drugs and alcohol became a third-degree felony.<sup>42</sup> In contrast, Colorado's Anti-Hazing Law tosses more extreme hazing to other criminal statutes and categorizes any violation of the anti-hazing law as a class three misdemeanor.<sup>43</sup> All forty-four of the state-enacted laws fall along the spectrum somewhere between Ohio and Colorado.<sup>44</sup>

Though a majority of states have enacted laws against hazing, no federal laws have been enacted to address the widespread custom.<sup>45</sup> Countless lawmakers and states have tried, and continue

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<sup>40</sup> *States with Anti-Hazing Laws*, STOP HAZING, <https://stophazing.org/policy/state-laws/>, (last visited Mar. 20, 2024).

<sup>41</sup> Mike Wagner and Sheridan Hendrix, *Collin's Law, Aimed to Deter Hazing in Ohio, Signed by Gov. Mike Dewine. Here's What to Know*, THE COLUMBUS DISPATCH, (July 6, 2021), <https://www.dispatch.com/story/news/2021/07/05/collins-law-what-know-ohios-anti-hazing-act/7842126002/>.

<sup>42</sup> *Id.*

<sup>43</sup> *Colorado Anti-Hazing Law*, STOP HAZING, <https://stophazing.org/policy/state-laws/colorado/>, (last visited Mar. 20, 2024).

<sup>44</sup> *States with Anti-Hazing Laws*, *supra* note 40, at ¶ 11.

<sup>45</sup> Justin Klawans, *America's Hazing Problem and Why Nothing Seems to Change*, THE WEEK, (Jul. 23, 2023), <https://news.yahoo.com/americas-hazing-problem-why-nothing-090105192.html>. See also *Federal Anti-Hazing Legislation: The REACH Act*, STOP HAZING, (last visited Mar. 20, 2024), <https://stophazing.org/reach/>; See also *REACH Act Coalition Drives Federal Anti-Hazing Legislation*, CLERY CENTER, (Sep. 6, 2022), <https://www.clerycenter.org/index>. (Proposed federal anti-hazing legislation called the REACH Act had been toggled back and forth in Congress. This proposed legislation's purpose was to amend the Higher Education Act of 1965 to require institutions of higher education to disclose hazing incidents in their annual crime statistics and establish a comprehensive hazing prevention education

to try, to enact a federal anti-hazing law.<sup>46</sup> One success, though not directly an anti-hazing statute, has allowed for some additional monitoring of university campus incidents.<sup>47</sup> The *Jeanne Clery Act*, or simply the *Clery Act*, requires public and private universities to disclose information about certain crimes that occur on or near campus.<sup>48</sup> While this statute has greatly contributed to the improvement of crime reports surrounding college campuses, the language does not explicitly require hazing-related incidents to be reported alongside other crimes.<sup>49</sup> While the Clery Act does not direct hazing incidents to be reported, the 118<sup>th</sup> Session of United States Congress introduced Bill S.2901, H.R. 5646 – the *Stop Campus Hazing Act*.<sup>50</sup> This proposed legislation aims to improve hazing reporting by requiring colleges to include hazing incidents in their annual security report, establish campus-wide, research-based hazing education and prevention programs, and publish the institution’s hazing prevention policies and the organizations that have violated them.<sup>51</sup> Though this legislation is in the early stages of the path toward becoming law, the introduction of this bill is a step towards a hopeful federal anti-hazing statute.

## B. Thailand

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program. Unfortunately, the bill died in the 116<sup>th</sup> Session of the United States Congress.)

<sup>46</sup> Zachary Schermele, *A Well-Kept Secret on Many Campuses, Congress Pulls Hazing Into Spotlight*, USA TODAY, (Oct. 24, 2023), <https://www.usatoday.com/story/news/education/2023/10/24/college-hazing-bipartisan-legislation/71294172007/>.

<sup>47</sup> *The Jeanne Clery Act*, CLERY CENTER, <https://www.clerycenter.org/the-clery-act>, (last visited Mar. 21, 2024).

<sup>48</sup> *Clery Act*, RAINN, <https://www.rainn.org/articles/clery-act>, (last visited Mar. 21, 2024). Note: The full name of the Act is the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act*. The Act was passed in 1990 and was mostly recently amended by *Campus SaVE* in 2013, which expanded the list of crimes that must be reported.

<sup>49</sup> *Id.*

<sup>50</sup> *118<sup>th</sup> Congress Introduces Stop Campus Hazing Act*, CLERY CENTER, <https://www.clerycenter.org/hazing-legislation>, (last visited Mar. 21, 2024).

<sup>51</sup> *Id.*

Hazing within Thai universities is a longstanding tradition of social hierarchy.<sup>52</sup> Thai society values the tradition of “SOTUS”.<sup>53</sup> SOTUS stands for Seniority, Order, Tradition, Unity, and Spirit, and is a code of conduct within universities that every student is expected to follow.<sup>54</sup> The purpose of SOTUS is to establish a sense of unity and structure among the newest students to assimilate them into school and their new community.<sup>55</sup> This system is designed to benefit those at the top with a heavy emphasis on seniority, consequently placing a heavier emphasis on respect.<sup>56</sup> However, the demand for respect toward older students has evolved into more of a demand for blind submission to follow orders.<sup>57</sup>

SOTUS culture is deeply engrained into the educational system within Thailand and mirrors the importance of hierarchy and respect seen in other aspects of Thai culture.<sup>58</sup> Within Thai universities, a prominent concept of SOTUS is the practice of *rub-nong*, where *nong* translates into “a younger person.”<sup>59</sup> Rub-nong refers to the

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<sup>52</sup> Emily Brown, *Unity or Death: Hazing in Thailand's Universities*, MODERN SOUTHEAST ASIA, (Oct. 8, 2020), <https://seasia.yale.edu/news/unity-or-death-hazing-thailands-universities>.

<sup>53</sup> *Id.*

<sup>54</sup> Petpailin Kirdsaeng, *I Went to a Thai University and Here's the Truth About Its "Brutal" Rab Nong Hazing Culture*, THE SMART LOCAL, (Sep. 11, 2020), <https://thesmartlocal.co.th/thai-university-sotus-hazing-culture/>.

<sup>55</sup> *Id.*

<sup>56</sup> Areeya Kunawaradisa, *Opinion: After Another Student Dies, What Does Our Tolerance of Hazing Say About Thai Society?*, THAI ENQUIRER, (June 16, 2021), <https://www.thaienquirer.com/28587/opinion-after-another-student-dies-what-does-our-tolerance-of-hazing-say-about-thai-society/>.

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

<sup>59</sup> *Id.* Note: Different sources provide alternate spelling for this practice. The practice can be seen spelled as *rab-nong*, *rub-nong*, and *rap-nong* across sources. However, the essential translation of the word *nong*, remains the same. The most common spelling is *rub-nong* and will be used in this article. See also Titipol Phakdeewanich, *Fight for Human Rights Focuses on Thai University Tradition*, THE NATION, (May 28, 2013), <https://www.nationthailand.com/perspective/30207093>. (Translates *rub-nong* into “welcoming the newcomer”).

orientation period for the incoming classes at higher education institutions, which is very commonly filled with hazing rituals.<sup>60</sup> These rituals are traditionally organized and orchestrated by the older students, the *phi*, who have already earned their higher status.<sup>61</sup> The origins of these initiation weeks and rituals are said to have erupted in Thailand after World War II.<sup>62</sup> The belief is that Thai students were filtered through United States military cadet schools during the Second World War, and those students then brought the practices back home to Thai universities.<sup>63</sup> Much like the extensive Hell Weeks of fraternities and sororities in the United States, rub-nong is an initiation and hazing practice meant to introduce new students to their community and bond them with classmates.<sup>64</sup> The rub-nong practices may last weeks and consist of activities ranging from harmless fun, like large dances for the students, to dangerous and humiliating activities like licking the ground, performing activities nude and publicly, or being physically beaten.<sup>65</sup>

Many accounts from students who have gone through rub-nong include stories of strong bonds formed between peers who undergo initiation together, having a common enemy of the older students, and feeling joy on “cheer day,” the last day of the orientation period.<sup>66</sup> In the end, many people look back on their rub-nong experience and cherish the fun memories with their friends, perpetuating the cycle each year.<sup>67</sup> Though there are countless positive stories of rub-nong, each year horror stories emerge of extreme punishments, physical assaults, and deaths.<sup>68</sup>

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<sup>60</sup> *Id.*

<sup>61</sup> Brown, *supra* note 52, at ¶ 13.

<sup>62</sup> David Hutt, *Thailand's Humiliating Hazing Rituals*, SOUTHEAST ASIA GLOBE, (Jan. 22, 2016), <https://southeastasiaglobe.com/hazing-thailand-southeast-asia-globe/>.

<sup>63</sup> *Id.*

<sup>64</sup> Brown, *supra* note 52, at ¶ 13.

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> Hutt, *supra* note 62, at ¶ 14.

In attempts to combat the continuous problem of SOTUS rituals escalating from harmless orientation activities to hazing, many technical colleges and universities have banned hazing.<sup>69</sup> However, it continues to be practiced through rub-nong.<sup>70</sup> Rules and regulations have been developed and promoted to protect Thai students' human rights by the Office of the Higher Education Commission and the Ministry of Education.<sup>71</sup> In June 2019, the former secretary of the Ministry of Higher Education, Science, Research, and Innovation in Thailand sent a message to all Thai universities.<sup>72</sup> This message urged the institutions to comply with Ministry guidelines on hazing rituals.<sup>73</sup> The guidelines state that "all hazing-related activities must be constructive and provide a good image in the eyes of the public ... must take into account the rights and liberty of the freshmen ... no violations of an individual's rights can take place...."<sup>74</sup> Further, the Ministry guidelines banned any alcohol inclusion within hazing rituals.<sup>75</sup> Though these guidelines provide rules for the universities and students to follow, the rub-nong practices of SOTUS are deeply planted in Thai universities and continue to occur.<sup>76</sup>

Thailand established the National Human Rights Commission of Thailand in 2001 under the Constitution of the Kingdom of Thailand B.E. 2540.<sup>77</sup> This establishment was a response to the public demand for an independent mechanism to promote and protect the rights and liberties of the Thai people.<sup>78</sup> The Commission consists of seven individuals appointed by the King to protect and promote human

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<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> Titipol Phaldeewanich, *Time to End Hazing Culture in Universities*, THE NATION, (Aug. 20, 2017), <https://www.nationthailand.com/opinion/30324392>.

<sup>72</sup> Hutt, *supra* note 62, at ¶ 14.

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> *NHRCT Thailand*, SEANF, <https://seanf.asia/nhrct-thailand/>, (last visited Mar. 21, 2024).

<sup>78</sup> *Id.*

rights.<sup>79</sup> The Commission is mandated to examine and report facts in cases of human rights violations, help provide remedial measures for the affected persons, raise awareness about human rights, prepare human rights situation assessment reports for the government and public, and much more.<sup>80</sup>

### C. Portugal

Hazing in Portugal, also known as *praxe* or *praxe académica*, is an academic tradition designed to initiate university freshmen.<sup>81</sup> The history of *praxe* dates back to the fourteenth century in Portugal, with monastic clerics beginning the practice.<sup>82</sup> In the sixteenth century, the practice became more mainstream under the name “investigates,” which at the time was a much harsher and more savage form of hazing toward younger students.<sup>83</sup> Before April of 1974, *praxe* was banned from universities due to the previously violent nature of the rituals.<sup>84</sup> After the reintroduction of the practice of *praxe* into Portuguese universities, supporters of the tradition see it as a representation of respect for others and humility, as well as a method of preparing individuals for their future academic and professional life.<sup>85</sup> Many see the “impossible missions” and acts the freshmen are forced to complete as a means to improvise in unknown situations and become resourceful.<sup>86</sup>

Generally, the practice consists of older students publicly hazing the new students. The newcomers are dressed in long black capes

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<sup>79</sup> *Id.*

<sup>80</sup> *Id.*

<sup>81</sup> Alex Bresler, *In Portugal, Freshman Hazing Looks Like a Hogwarts Parade Gone Wild*, MATADOR NETWORK, (Jul. 1, 2020), <https://matadornetwork.com/read/portugal-freshman-hazing/>.

<sup>82</sup> Henrique Tigo, *Praxe Académica*, REGIAO CENTRO, <https://web.archive.org/web/20071107080816/http://www.regiaocentro.net/lugares/coimbra/praxe/default.asp>, (last visited Mar. 24, 2024).

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

which complete the traditional academic uniform.<sup>87</sup> Portugal's praxe allows students to "shed" their first-year status and earn their right to wear their academic robes after the garbs have been "baptized" in alcohol.<sup>88</sup> Praxe is broadly seen as a "silly, but fun" rite of passage by past participants, and a shared public embarrassment that breeds connection among students.<sup>89</sup> While this may be true for some participants, others feel pressure to participate in rituals they typically would never engage in.<sup>90</sup>

Akin to most hazing practices, praxe feeds into and is inherent to hierarchy.<sup>91</sup> The nature of praxe creates a hierarchy between those in charge and those who follow the commands of those in charge.<sup>92</sup> Due to this embedded power dynamic, some participants will have their basic human rights taken away during this practice as they are subjected to praxe hazing.

Perhaps the most well-known and horrific deprivation of rights through praxe occurred on the night of December 14, 2013. That night, six university students were swept out to sea and died during a praxe-related gathering.<sup>93</sup> Less severe, but still terrible acts, of praxe have included students crawling around in barns while older students toss hay on them, excessive alcohol consumption, humiliating games, and simulations of sexual intercourse.<sup>94</sup> While the praxe practices are comparatively less severe than those of the

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<sup>87</sup> Bresler, *supra* note 81, at ¶ 18.

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

<sup>90</sup> Raphael Minder, *Student Deaths Spark Debate Over Hazing at Portugal's Universities*, THE NEW YORK TIMES, (Mar. 18, 2014), <https://www.nytimes.com/2014/03/19/world/europe/student-deaths-spark-debate-over-hazing-at-portugals-universities.html>.

<sup>91</sup> *Id.*

<sup>92</sup> José Pedro Silva, et al., *Each Person in their Place: The "Praxe" as a Ritual of Integration, Stratification and Differentiation*, 26 J. OF YOUTH STUD. 98, 98-103, (2021).

<sup>93</sup> Mariana Alvim, *The Fundamental Right to Life in the Case Soares Campos v. Portugal: Where Do We Stand?*, UNIO EU LAW JOURNAL, (Feb. 10, 2020), <https://officialblogofunio.com/2020/02/10/the-fundamental-right-to-life-in-the-case-soares-campos-v-portugal-where-do-we-stand/>.

<sup>94</sup> Minder, *supra* note 90, at ¶ 19. See also Bresler, *supra* note 81, at ¶ 18.

United States and Thailand, the participants, and victims, of praxe experience fundamental human rights violations.

Many criminal and civil laws, along with disciplinary regulations within educational institutions, govern and rule hazing incidents through praxe.<sup>95</sup> Some of the more intense hazing incidents are considered punishable under the Portuguese Penal Code.<sup>96</sup> Similar to the absence of federal anti-hazing legislation in the United States, Portugal has not incorporated specific hazing laws into the Portuguese Penal Code.<sup>97</sup>

In addition to the individual criminal laws enacted within the country to combat extreme hazing, Portugal has adopted the European Convention on Human Rights (ECHR).<sup>98</sup> The ECHR is an international human rights treaty between the forty-seven member states of the Council of Europe.<sup>99</sup> Portugal joined the Council of Europe on September 22, 1976.<sup>100</sup> The governments who have joined the ECHR made a “legal commitment to abide by certain standards of behavior and to protect the basic rights and freedoms of people.”<sup>101</sup> Going into full effect on September 3, 1953, the ECHR became a flexible collection of universal human rights meant to grow and adapt to society’s ever-changing needs.<sup>102</sup> The ECHR places duties on member states to protect their citizens including

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<sup>95</sup> Marisalva Fávero, et al., *Hazing Violence: Practices of Domination and Coercion in Hazing in Portugal*, SAGE JOURNALS, (Dec. 20, 2015), <https://journals.sagepub.com/doi/10.1177/0886260515619748?icid=int.sj-abstract.citing-articles.92>.

<sup>96</sup> *Id.*

<sup>97</sup> *Id.* Note: Charges in Portugal following hazing incidents are typically brought under other criminal statutes.

<sup>98</sup> *What is the European Convention on Human Rights (ECHR)?*, AMNESTY INTERNATIONAL UK, (Aug. 17, 2023, 3:35 PM), <https://www.amnesty.org.uk/what-is-the-european-convention-on-human-rights>.

<sup>99</sup> *Id.*

<sup>100</sup> *Action of the Council of Europe in Portugal*, COUNCIL OF EUROPE, <https://www.coe.int/en/web/portal/portugal>, (last visited Mar. 21, 2024).

<sup>101</sup> *What is the European Convention on Human Rights (ECHR)*, *supra* note 98, at ¶ 23.

<sup>102</sup> *Id.*

protection from abuse by the state as well.<sup>103</sup> Included within the eighteen articles of the ECHR are the right to life, the rights to liberty and security, the prohibition of torture, and cruel, inhumane, and degrading treatment, and the prohibition of forced labor.<sup>104</sup>

#### *D. International Laws*

The United Nations General Assembly adopted the Universal Declaration of Human Rights (UDHR) on December 10, 1948, following World War II.<sup>105</sup> The UDHR sets out fundamental human rights to be universally protected and is a milestone document in the history of human rights.<sup>106</sup> This document outlines the inherent, equal, and inalienable rights of all humans and includes thirty essential rights and freedoms.<sup>107</sup> Included in the thirty rights and freedoms are the right to be free from torture, the right to life, liberty, and privacy, and the right to be free from servitude.<sup>108</sup> These rights are recognized by all member countries of the United Nations, which includes the United States, Thailand, and Portugal.<sup>109</sup>

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<sup>103</sup> *Id.*

<sup>104</sup> *Id.*

<sup>105</sup> *History of the Declaration*, UNITED NATIONS, <https://www.un.org/en/about-us/udhr/history-of-the-declaration>, (last visited Mar. 21, 2024).

<sup>106</sup> *Universal Declaration of Human Rights*, UNITED NATIONS, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>, (last visited Mar. 21, 2024).

<sup>107</sup> *What is the Universal Declaration of Human Rights and Why Was It Created?*, AMNESTY INTERNATIONAL, <https://www.amnesty.org/en/what-we-do/universal-declaration-of-human-rights/>, (last visited Mar. 21, 2024). See also *International Bill of Human Rights*, UNITED NATIONS, <https://www.ohchr.org/en/what-are-human-rights/international-bill-human-rights>, (last visited Mar. 21, 2024). Note: The UDHR works in conjunction with two additional international treaties, adopted in 1966 by the UN General Assembly, which shape international human rights: the International Covenant on Social and Cultural Rights and the International Covenant on Civil and Political Rights. These three are often referred to as the International Covenants.

<sup>108</sup> *Universal Declaration of Human Rights*, *supra* note 106, at ¶ 24.

<sup>109</sup> *Member States*, UNITED NATIONS, <https://www.un.org/en/about-us/member-states>, (last visited Mar. 21, 2024).

Natural rights, though not legal rights bestowed upon citizens of each nation are rights, or laws, granted to all people by nature that cannot be denied or restricted by any government or individual.<sup>110</sup> Natural law concepts first appeared in ancient Greek and Roman philosophy, further spreading into the Middle Ages and beyond.<sup>111</sup> Made especially important by philosopher John Locke through his life work, natural law encompasses the inherent rights afforded to every human, including the right to life.<sup>112</sup>

The concept heavily influenced Thomas Jefferson as he drafted the United States Declaration of Independence, envisioning a nation that upheld the natural rights of its citizens.<sup>113</sup> The Declaration of Independence unequivocally asserts that every human is endowed with unalienable rights to life, liberty, and the pursuit of happiness.<sup>114</sup> These principles of natural law permeate the foundational values of the United States. Similarly, both Thailand and Portugal have embraced mechanisms to protect human rights. Thailand has established the National Human Rights Commission of Thailand, while Portugal has adopted the European Convention on Human Rights.<sup>115</sup> These institutions safeguard fundamental human rights, which echo the inherent principles of natural law. The reaffirmation of natural law concepts through the policies and statutes within these three countries demonstrates that innate human rights transcend mere legal frameworks. They serve as fundamental

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<sup>110</sup> Robert Longley, *What Are Natural Rights?*, THOUGHTCO., (Nov. 1, 2022), <https://www.thoughtco.com/what-are-natural-rights-4108952>.

Note: Modern philosophers and political scientists are divided on whether or not to rope in natural rights synonymously in with human rights.

<sup>111</sup> *Id.*

<sup>112</sup> Investopedia Team, *Natural Law in Ethics*, INVESTOPEDIA, (Dec. 19, 2023), <https://www.investopedia.com/terms/n/natural-law.asp>.

<sup>113</sup> Longley, *supra* note 110, at ¶ 25.

<sup>114</sup> *Declaration of Independent: A Transcript*, NATIONAL ARCHIVES, <https://www.archives.gov/founding-docs/declaration-transcript>, (last visited Mar. 21, 2024).

<sup>115</sup> *What is the European Convention on Human Rights (ECHR)*, *supra* note 98, at ¶ 23. See also *NHRCT Thailand*, *supra* note 77, at ¶ 17.

principles guiding the protection and preservation of human dignity and freedom.

In addition to the UDHR and inherent natural rights afforded to every human being, many countries have individually enacted laws that protect their citizens from hazing. The combination of these nationally and internationally recognized rights and freedoms should, in theory, provide legal protections against the varied hazing practices. However, despite the global protections already in place, victims of hazing continue to suffer each year due to the lack of enforcement mechanisms available under these global protections.<sup>116</sup>

### **III. Discussion**

#### **A. Hazing Procedures**

Hazing practices around the world have been practiced and perfected for countless decades. University students in the United States, Portugal, and Thailand created their mixture of typical hazing rituals performed upon a new class of victims each year. While the countries differ in the manner in which many of the rituals take place and the students have found the most effective way to haze their newcomers, victims across the globe are still subjected to the same violence, humiliation, and loss of their human rights.

##### *1. United States*

As aforementioned, fraternal organizations across the United States developed and continuously use particularly brutal hazing rituals compared to Thailand and Portugal. During their Hell Week and beyond, elder fraternal students use countless methods to ensure their pledges are hazed into earning their places in different organizations. Common practices across hundreds of fraternity chapters throughout the country include kidnapping, verbal abuse,

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<sup>116</sup> Josiah Bates, *Does College Hazing Defy the Laws It Spawned?*, THE MARSHALL PROJECT, (Aug. 21, 2016), <https://www.themarshallproject.org/2016/08/21/does-college-hazing-defy-the-laws-it-spawned>.

paddling, branding, sleep deprivation, and much more.<sup>117</sup> Many of these abuses violate laws specifically designed to combat these procedures. Unfortunately, the cycle of these practices continues as fraternal organizations fail to take proactive measures to seriously combat hazing.

Kidnapping and extended periods of isolation are commonplace in fraternity hazing practices.<sup>118</sup> Fraternity members will kidnap their pledges as they go about their normal lives, then will often bring them to an off-campus location, like a townhome or cabin.<sup>119</sup> There, more hazing such as forced alcohol consumption, sleep deprivation, and other forms of humiliation occur.<sup>120</sup> Many of these kidnappings and isolations are played off as fun pranks to scare the pledges and provide a place to continue initiation rituals.<sup>121</sup> Contrary to kidnapping being a “fun prank,” the isolation strips victims of their rights to freedom and security of person.<sup>122</sup>

Article Three of the UDHR recognizes that everyone “has the right to life, liberty, and security of person.”<sup>123</sup> Kidnapping a pledge in the name of brotherhood and bonding directly violates the pledges’ right to liberty. The victims are taken to an undisclosed location with no opportunity to leave until those perpetrating the hazing decide they can leave. Though the temporary kidnapping brings temporary human rights violations, violations occur, nonetheless. Some universities have chastised organizations for kidnapping their members, typically in conjunction with other violations like assault and coercive behavior.<sup>124</sup>

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<sup>117</sup> *Hazing*, UC SAN DIEGO CENTER FOR STUDENT INVOLVEMENT, <https://getinvolved.ucsd.edu/org-toolkit/manage/hazing.html#Violent-Hazing>, (last visited Mar. 24, 2024).

<sup>118</sup> *Hazing: The Issue*, STOP HAZING, <https://stophazing.org/issue/>, (last visited Mar. 21, 2024).

<sup>119</sup> *Id.*

<sup>120</sup> *Id.*

<sup>121</sup> *Id.*

<sup>122</sup> *Universal Declaration of Human Rights*, *supra* note 106, at ¶ 24.

<sup>123</sup> *Id.*

<sup>124</sup> Marina Pitofsky, *LSU Suspends Fraternity Over Hazing, Kidnap and Assault of Member During ‘Hell Week’*, USA TODAY, (Apr. 11, 2022),

Hazing practices across fraternity organizations during Hell Week involve the seizing of personal property. Cell phones and personal property like bags, keys, and other essentials are often taken from the hazing victims for undisclosed amounts of time.<sup>125</sup> Whether the reasoning behind the taking of property is to disorient the victims or to ensure that no evidence of the hazing is recorded, unwarranted seizing of personal property.<sup>126</sup> The United States, and the UDHR, heavily emphasize the inherent right to acquire.<sup>127</sup> While this is a clear violation of one's right to use and enjoy their personal property, there are.<sup>128</sup>

The worst cases of hazing result in the harshest human rights violations of all, the taking of one's life. Though all three countries, the United States, Thailand, and Portugal, have seen horrible deaths at the hands of hazing, the United States particularly has a problem despite numerous anti-hazing laws.<sup>129</sup>

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<https://www.usatoday.com/story/news/nation/2022/04/11/lsu-fraternity-hazing-suspended/7281023001/>.

<sup>125</sup> *Report Hazing*, UNIVERSITY OF WISCONSIN-MADISON, <https://doso.students.wisc.edu/report-an-issue/report-hazing/>, (last visited Mar. 21, 2024).

<sup>126</sup> Jared Borislow, *Entire Fraternity Keeps Phones in Pockets During Hazing Event, Nothing Bad Happens to Them*, TOTAL FRAT MOVE ARCHIVE, <https://archive.totalfratmove.com/entire-fraternity-keeps-phones-in-pockets-during-hazing-event-nothing-bad-happens-to-them/>, (last visited Mar. 21, 2024).

<sup>127</sup> Roger Pilon, *Property Rights and the Constitution*, CATO INSTITUTE, <https://www.cato.org/cato-handbook-policymakers/cato-handbook-policy-makers-8th-edition-2017/property-rights-constitution>, (last visited Mar. 24, 2024).

See also Borislow, *supra* note 126, at ¶ 32.

<sup>128</sup> E.A. Gjeltén, *Illegal Hazing: Crimes and Civil Lawsuits*, LAWYERS.COM, (Sep. 21, 2018), <https://legal-info.lawyers.com/research/education-law/no-ifs-and-or-buts-hazing-is-illegal.html>. Note: It appears as though claims of personal property violations are the least of many victims' worries, as the seizing of property typically is in conjunction with violence and hazing which inflict bodily harm or injury.

<sup>129</sup> Nuwer, *supra* note 1, at ¶ 1. See also Hank Nuwer, *U.S. Hazing Deaths Part Two: 1838-1999*, HANKNUWER.COM, <https://www.hanknuwer.com/hazing-deaths/>, (last visited Mar. 21, 2024).

The blatant disregard hazers have, especially in the context of fraternities and sororities, for victims' safety leads to death. In the previous cases of hazing-related United States deaths, criminal, and sometimes civil, charges are brought against those in the organization responsible for the human rights violation.<sup>130</sup> As stated before, the anti-hazing laws vary greatly among the states, and charges and punishments against involved parties range from felony charges and years in prison to misdemeanor charges with six weeks in jail.<sup>131</sup> Most hazing death cases are brought under these criminal and civil statutes, and while they very obviously cover the violation against the victim for taking their life, explicit mentions of a human rights violation against the victim are rare.

## 2. Thailand

Thailand's rub-nong activities mirror those of the United States and Portugal as elder students punish and haze young students as a "welcome" into their new community. However, where Portugal's praxe rituals are less severe and physical, the United States and Thailand resort to physical assaults and pain to garner respect and become a unified group of students, whether in an organization in the United States cases or as newcomers to a school in Thailand.

Rub-nong especially plays into the physical punishments and public humiliation to make younger students earn their place and respect.<sup>132</sup> Many victims have narrated their experiences with rub-nong physical punishments. Under Article Five of the UDHR, all people are protected from cruel punishment.<sup>133</sup> Rub-nong is notorious for violating UDHR's Article Five. Cruel punishments are often administered to students, and these punishments have led to death. In a few months in 2021, two students at separate universities

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<sup>130</sup> Owen McCarthy, *Seven Additional Individuals Charged in Connection to 2021 MSU Fraternity Hazing Death*, THE STATE NEWS, (Feb. 9, 2024), <https://statenews.com/article/2024/02/seven-additional-individuals-charged-in-connection-to-2021-fraternity-hazing-death>.

<sup>131</sup> *States with Anti-Hazing Laws*, *supra* note 40, at ¶ 11.

<sup>132</sup> Kunawaradisa, *supra* note 56, at ¶ 13. See also Brown, *supra* note 52, at ¶ 13.

<sup>133</sup> Universal Declaration of Human Rights, *supra* note 106, at ¶ 24.

died from punishments doled out by older students after they made menial mistakes.<sup>134</sup> The first incident involved a female student who made mistakes during a cheer practice and was subsequently forced to run eight laps around a university building as punishment.<sup>135</sup> On the seventh lap, she collapsed, went into shock, later died at the hospital, and was found to have blood in her lungs from the exertion.<sup>136</sup> This extreme punishment for a simple mistake in an extracurricular practice violated the student's right to be free from cruel punishment, and it ultimately led to her death.

The second incident involved a male student who suffered physical beatings as a punishment for failing to answer a question.<sup>137</sup> The student was kicked in the chest by six upperclassmen, which was observed by forty onlookers, none of whom stepped in.<sup>138</sup> This incident is another example of the extremely disproportionate and violent, cruel punishment students are subjected to during rub-nong, all in the name of earning respect and learning tradition. The disregard for students' human rights is astounding, and more serious steps must be taken by the universities and the government.

A recent serious complaint was submitted to the Office of the Higher Education Commission regarding the lack of protection for student's human rights and constitutional rights as the hazing in universities persists.<sup>139</sup> The complaints expressed to the Office of the Higher Education Commission are prepared to be taken to the United Nations representatives in Thailand if the issues persist further.<sup>140</sup> Along with these recent complaints, the National Human Rights Commission of Thailand has begun making small steps towards truly recognizing a hazing problem exists, especially within

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<sup>134</sup> Kunawaradisa, *supra* note 56, at ¶ 13.

<sup>135</sup> Khaosod English, *Death By SOTUS? Student Forced to Run to Death in Phuket*, KHAOSOD ENGLISH, (Aug. 21, 2020), <https://www.khaosodenglish.com/news/crimecourtscalamiy/2020/08/21/death-by-sotus-student-forced-to-run-to-death-in-phuket/>.

<sup>136</sup> *Id.*

<sup>137</sup> Kunawaradisa, *supra* note 56, at ¶ 13.

<sup>138</sup> *Id.*

<sup>139</sup> Phakdeewanich, *supra* note 59, at ¶ 14.

<sup>140</sup> *Id.*

the universities.<sup>141</sup> The National Human Rights Commission is meant to protect Thai citizens, ensure their human rights are not violated, and help redress those who have suffered human rights violations.<sup>142</sup> The Commission has published reports on its website concerning the hazing abuses within higher education and is currently working with four Thai universities to look more broadly at the human rights issues occurring – a matter the Commission has not been vocal about previously.<sup>143</sup> While the Office of the Higher Education Commission and the National Human Rights Commission of Thailand have begun their recognition of hazing human rights issues, the Ministry of Education and university executives have continued with standardized statements and vows to protect students, which are useless in truly cracking down on hazing and the human rights violations within.<sup>144</sup>

### 3. *Portugal*

Praxe académica, of all three hazing practices among the United States, Thailand, and Portugal, has seen the least severe outcomes of hazing, as the practice is highly monitored by Portugal's universities, laws, and the ECHR.<sup>145</sup> Though this may be true, the practice still strips victims of their human rights that are protected by the UDHR and the ECHR.

Praxe activities often involve the younger students doing tasks and chores for the older students guiding them through the initiation period.<sup>146</sup> Older students oversee the praxe activities and create the situations the younger students must endure.<sup>147</sup> While the activities can be silly or educational, like making the students study more, showing them the ropes of the university, or completing dares, the

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<sup>141</sup> *Id.*

<sup>142</sup> *NHRCT Thailand*, *supra* note 77, at ¶ 17.

<sup>143</sup> *Id.*

<sup>144</sup> *Id.*

<sup>145</sup> *Minder*, *supra* note 90, at ¶ 19.

<sup>146</sup> *Tigo*, *supra* note 82, at ¶ 18. See also *Bresler*, *supra* note 81, at ¶ 18.

<sup>147</sup> *Bresler*, *supra* note 81, at ¶ 18.

activities can be taken to the extreme.<sup>148</sup> Students can be forced into near-impossible tasks that exasperate their efforts and forced into doing tasks or chores for the older students.<sup>149</sup> The UDHR and the ECHR prohibit forcing an individual to work against their will.<sup>150</sup> While the praxe activities may not be an extreme forcing of labor or slavery to another, there are still violations of one's free will and protection from forced work for another human.

While most praxe activities do not involve violence and abuse towards the younger students, public and private humiliation to build comradery and respect are often the hazing of choice.<sup>151</sup> Cruel and degrading praxe activities are commonplace within the Portuguese practice. One student told of her experience with humiliating and degrading acts she refused to participate in.<sup>152</sup> Students in this ritual were required to simulate sexual intercourse with one another, and the female students were told to lick yogurt from male students' laps.<sup>153</sup> Additionally, other initiation tactics used to devalue and humiliate students include making them crawl around a barn while having hay and other things thrown on them, and similar acts.<sup>154</sup> Rituals like the one described are common within praxe.<sup>155</sup> Again, both the UDHR and the ECHR prohibit the use of cruel, inhumane, and degrading treatment towards others.<sup>156</sup> Forcing another person to crawl in a barn like an animal or lick the lap of another and simulate sexual activity is beyond atrocious. The

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<sup>148</sup> Ana Carolina Helena, #101- 10 Portuguese Academic Traditions, ERASMUSU, <https://erasmusu.com/en/erasmus-blog/erasmus-tips/101-10-portuguese-academic-traditions-559457>, (last visited Apr. 19, 2024).

<sup>149</sup> Tigo, *supra* note 82, at ¶ 18.

<sup>150</sup> *What is the European Convention on Human Rights (ECHR)*, *supra* note 98, at ¶ 23. See also *Universal Declaration of Human Rights*, *supra* note 106, at ¶ 24.

<sup>151</sup> *Id.*

<sup>152</sup> Minder, *supra* note 90, at ¶ 19.

<sup>153</sup> *Id.*

<sup>154</sup> *Id.*

<sup>155</sup> *Id.*

<sup>156</sup> *What is the European Convention on Human Rights (ECHR)*, *supra* note 98, at ¶ 23. See also *Universal Declaration of Human Rights*, *supra* note 106, at ¶ 24.

students subjecting others to this treatment blatantly violate the right to be protected from inhumane and degrading treatment by others. The mother of the student who spoke out about her refusal to participate in the praxe activities contacted her university and reported the incident and hazing that was occurring within praxe.<sup>157</sup> No action was taken by the university.<sup>158</sup>

After the tragic deaths of six students, the former education minister and former justice minister of Portugal looked to what additional measures needed to be created to protect their students.<sup>159</sup> They concluded that a ban on praxe was not the answer, considering the positive social and cultural outcomes for many students.<sup>160</sup> However, the practices taken to the extreme should be well monitored to further protect the rights of students who are subjected to forced labor and cruel and degrading treatment by their superiors.<sup>161</sup>

## **B. Analysis of Hazing Laws**

Despite numerous international and national anti-hazing laws, unique to the United States, Portugal, and Thailand, the governments and universities within these countries often fail to implement effective enforcement mechanisms within these laws. Considering international laws, like the UDHR, natural laws, and the national laws within the United States, Thailand, and Portugal all of which emphasize the right to life and freedom from the types of abuses found within hazing, the fault lies with the governments and universities for their failure to provide proper processes and punishments for those who commit hazing crimes. Victims rarely bring legal action against those who hazed them out of fear of

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<sup>157</sup> Minder, *supra* note 90, at ¶ 19.

<sup>158</sup> *Id.*

<sup>159</sup> *Id.*

<sup>160</sup> *Id.*

<sup>161</sup> *Id.*

expulsion from their organization or fear of further punishment.<sup>162</sup> This leads to many instances of hazing going unnoticed, and thus anti-hazing laws are unenforced.

### 1. *United States*

While the United States arguably has the most state anti-hazing legislation enacted when comparing the United States to Thailand and Portugal, it continues to present some of the worst hazing incidents around the world. The continued inhumanity of hazing practices within fraternal organizations across the United States discredits the hard work of lawmakers and victims' families who have fought for anti-hazing legislation to be enacted.

Though many anti-hazing laws are enacted, the United States urgently needs to take further action to protect its citizens' human rights. Recently, the United Nations Human Rights Committee delivered a scathing report highlighting the United States government's failure to meet its human rights obligations under the International Covenant on Civil and Political Rights.<sup>163</sup> The report urges the United States to establish a national human rights institution, much like the one established in Thailand.<sup>164</sup> Such an institution would play a vital role in monitoring and ensuring that internationally guaranteed human rights are upheld at a national level. This could greatly improve the monitoring, in conjunction with established laws, of human rights violations in hazing.<sup>165</sup>

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<sup>162</sup> *Don't Be a Bystander; Stop the Cycle of Hazing*, TAU KAPPA EPSILON, <https://www.tke.org/news/2009/10/26/dont-be-a-bystander>, (last visited Apr. 19, 2024).

<sup>163</sup> Jamil Dakwar and Marwa Elessawy, *The U.S. Touts Itself as a Global Leader in Human Rights. A New U.N. Report Says Otherwise.*, ACLU, (Nov. 15, 2023), <https://www.aclu.org/news/human-rights/the-u-s-touts-itself-as-a-global-leader-in-human-rights-a-new-u-n-report-says-otherwise>. Note: The International Covenant on Civil and Political Rights is an international treaty ratified by the United States in 1992. This is another important international human rights treaty the United States is bound to.

<sup>164</sup> *Id.*

<sup>165</sup> *Id.*

In the last few decades, the laws and university policies surrounding the punishment and chastising of hazing have expanded greatly.<sup>166</sup> Unfortunately, many people continue to ignore the deeper human rights violations inherent within United States hazing practices, and prosecutions against instigators rarely prioritize addressing these violations, focusing instead on the criminal aspects of hazing.<sup>167</sup> Whenever a new story concerning hazing crimes and the atrocities that are inflicted upon victims makes headlines, there is often a rush and uproar across the nation to combat the crimes and implement a true system of protecting students.<sup>168</sup> However, the momentum quickly dies out, and little is done beyond the enactment of another law which goes unenforced.<sup>169</sup> The foundation of anti-hazing laws is laid for the United States to truly attack and neutralize the issue of hazing. Though progress has been made, the United States needs to shift and expand the legal structure surrounding hazing to protect the essential human rights of students who become victims of hazing through federal legislation and harsher state laws combating the abuse. Thus, universities, law enforcement, and state and federal government bodies must be willing to look deeper into the hazing problem across the nation and truly punish those committing hazing crimes. Even a small step towards greater action by these actors, like reinforcing the importance of enforcement mechanisms through internal or community programming, can propel the first steps of making true change.

## 2. Thailand

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<sup>166</sup> *States with Anti-Hazing Laws*, *supra* note 40, at ¶ 11. See also Bates, *supra* note 116, at ¶ 27. (While there are many laws in place across the nation, many anti-hazing laws do little more than simply mirror existing misdemeanor or felony statutes of other crimes).

<sup>167</sup> William S. Friedlander, *Fighting Hazing in Court*, FRIEDLANDER & FRIEDLANDER, <https://schoolviolencelawyers.com/article-fighting-hazing-in-court/>, (last visited Mar. 21, 2024).

<sup>168</sup> Katie Reilly, *College Students Keep Dying Because of Fraternity Hazing. Why is it So Hard to Stop?*, TIME, (Oct. 11, 2017), <https://time.com/4976836/fraternity-hazing-deaths-reform-tim-piazza/>.

<sup>169</sup> Bates, *supra* note 116, at ¶ 27.

Thailand's rub-nong hazing epidemic, while slowly catching the attention of higher government organizations that are starting to make a change, will be extremely challenging to address. SOTUS is an integral part of Thai culture, and many believe that rub-nong prepares adults for post-education society and teaches them the respect needed to carry onward.<sup>170</sup> Though these human rights violations occur to young adults, many older citizens see the value in this tradition.<sup>171</sup> As rub-nong and SOTUS are so tightly wound into the overall Thai culture, the admonishment of the rub-nong activities, especially those that violate human rights, will likely be a difficult feat for the government of Thailand.

Thai law enforcement can likely make a difference by bringing more charges against the students who are taking the rub-nong practices to the extreme, especially when students are bold enough to come forward about the horrors they have experienced. Though there is no national Thai anti-hazing law, charges can be brought against those committing crimes through other broader crimes, like assault or murder charges.

However, considering rub-nong occurs within most university institutions and propels the SOTUS culture, the most likely path to remedying the abuse that occurs in the education system is within the Office of the Higher Education Commission and the National Human Rights Commission of Thailand. These two Commissions need to work together to enact a better system that monitors rub-nong practices. Whether they work in tandem with the Thai government to enact a national anti-hazing law which is truly enforced by law enforcement and universities, or they enact a national reporting system for victims to contact, something must be done. As these commissions have recently been more inclined to acknowledge the human rights violations that occur in rub-nong, the Thai government may be inspired to assist in the protection of its young citizens, rather than overlook the hazing practices that have inflicted harm upon countless victims.

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<sup>170</sup> *Id.*

<sup>171</sup> Phaldeewanich, *supra* note 71, at ¶ 17.

### 3. *Portugal*

Praxe is a crucial step within Portugal's university culture and the foundational building of young adults the likelihood of a complete overhaul of the practice is highly unlikely, and the likelihood of perpetrators being seriously punished for their actions is extremely low. Portuguese students deserve to participate in an important university bonding tradition without the fear of their rights being violated by another student, and the universities and governments need to take more action and care in protecting these young, vulnerable students.

A former education minister once noted that a ban on praxe is not the answer to combat praxe abuse.<sup>172</sup> Government officials who make comments showing unwavering support of praxe likely damage any trust the public may have in the government to remedy praxe abuses. The Portuguese government will continue to fail their citizens through the relentless support for praxe.<sup>173</sup> Since the government is unlikely to be an ally for victims of praxe abuses, the most realistic step for Portugal to combat crimes occurring during praxe upon the younger students is implementing a reporting system within universities. A reporting system would allow students to have their stories heard by the university and provide an opportunity for universities to step up, protect students, and punish those who have committed human rights violations against their peers. This change would allow universities to hold perpetrators accountable rather than disregarding the issue, as the Portuguese government seems inclined to do, in the name of tradition.

### IV. **Conclusion**

Hazing continues to hold its place within universities globally, claiming more victims each year. Despite the enactment of countless national and international human rights protections and anti-hazing laws and policies, individuals continue to suffer abuse, lose their

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<sup>172</sup> Minder, *supra* note 90, at ¶ 19.

<sup>173</sup> *Id.*

lives, and have their fundamental human rights violated. The governments of the United States, Thailand, and Portugal have attempted, but failed, to adequately protect their citizens from hazing. Hazing is deeply engrained within student life traditions and in the cultures of Portugal and Thailand, where hazing is often seen as a means to instill respect and hierarchy. This dilemma between social traditions and obligations to ensure the safety and well-being of citizens underscores a nuanced challenge that governments must navigate if they aim to eradicate harmful behaviors and effectively protect their citizens.

The United States has an opportunity to establish a national human rights institution to closely monitor human rights violations, including those related to hazing. Additionally, the passage of a federal anti-hazing statute would be beneficial in ensuring that incidents of hazing are fully reported and addressed.

Thailand's recent acknowledgment of the country's hazing problem signals a hopeful future for the protection of university students' human rights. However, more action is needed to address the issue effectively.

Portugal faces significant challenges as praxe is an integral part of university culture, with continual support from those who have gone through it, as well as from universities and government officials. This lack of urgency in changing the structure or guidelines of praxe to truly protect all human rights is concerning. While a world free from all hazing is unlikely, implementing more protective measures and criminal laws could help protect victims and attempt to break the deeply rooted cycle of hazing abuse.