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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development****Protection against violence and discrimination based on sexual
orientation and gender identity in relation to the human rights
to freedom of expression, peaceful assembly and association****Report of the Independent Expert on protection against violence and
discrimination based on sexual orientation and gender identity,
Graeme Reid***Summary*

The present report is submitted to the Human Rights Council pursuant to Council resolutions 32/2, 41/18 and 50/10. In the report, the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Graeme Reid, examines the human rights to freedom of expression, peaceful assembly and association in relation to protection from violence and discrimination based on sexual orientation and gender identity. These freedoms are fundamental to full participation in society, yet – in all regions of the world – restrictions based on sexual orientation and gender identity aim to erase vulnerable minorities from the public sphere and render them invisible. Restrictions on freedoms of expression, peaceful assembly and association are often defended based on spurious and discriminatory grounds, accompanied by hostile political rhetoric. The net result is that lesbian, gay, bisexual, transgender and other gender-diverse persons are less able to advocate for themselves in increasingly inhospitable environments. The Independent Expert concludes the report by offering recommendations to States and other stakeholders on how to abide by their international obligations.



I. Introduction

1. The freedoms to express oneself, to assemble peacefully in public and to associate with others are fundamental to full and meaningful participation in society. They are also key to the effective functioning of civil society groups, and indispensable to democracy.¹ Yet many people are denied these rights and risk being ostracized, subjected to violence, discrimination or imprisonment due to their sexual orientation or gender identity. For many lesbian, gay, bisexual, transgender and other gender-diverse (LGBT) persons,² silence and invisibility are primary sources of marginalization and vulnerability. Simultaneously, LGBT groups face increasingly extreme laws and heightened surveillance extending into the digital sphere. They are compelled to navigate not only this increasingly restrictive space, but also ostracizing narratives that seek to redefine their expression and action. Paradoxically this makes LGBT persons highly visible as political tools not on their own terms, but rather to advance erroneous ideas about them in service of political goals. In this context, freedoms of expression, peaceful assembly and association have particular salience.

2. In recent years, States in all regions of the world have enforced existing laws and policies or imposed new, and sometimes extreme, measures to curb freedoms of expression, peaceful assembly and association specifically targeting people based on sexual orientation and gender identity. One of the consequences of this attempt to erase diversity from the public sphere is that it contributes to a climate of fear and self-censorship. It is also a root cause of systematic discrimination and violence meted out by State and non-State actors alike. In the present report, the Independent Expert documents the multiple ways in which State and non-State actors seek to constrain freedoms of expression, peaceful assembly and association. In many instances the immediate targets are LGBT persons, with particular and compounding adverse impacts falling on those already marginalized by their race, ethnicity, caste, religion, age, disability, geographical location, socioeconomic and legal status, among key factors. Nevertheless, the implications of these restrictions are much broader, extending to those who express or act in solidarity with LGBT groups, as allies or in coalition to respond to common structures of subordination. The net result for advocates working across intersecting structures of oppression is that the constraints they face affect a broad range of groups and rights. Moreover, in the present report, the Independent Expert notes the ways in which restrictions on rights associated with people of diverse genders and sexualities draw from and overlap with anti-gender-equality provisions in public and private life more broadly.

3. Restrictive laws have proliferated in recent years. In 2024, at least 60 States Members of the United Nations had laws that restricted the right to freedom of expression, and at least 59 States had laws that restricted, or could be used to restrict, the rights to freedom of peaceful assembly and association, based on sexual orientation and gender identity.³ Legal restrictions are but one dimension of the many ways in which these rights are curtailed by State and non-State actors. In the present report, the Independent Expert highlights both the extent to which general (and arbitrary) restrictions on freedom of expression, peaceful assembly and association negatively affect all of civil society (and highlights the ways in which groups identified with sexual orientation and gender identity face particular difficulties); and calls attention to State actions pertaining to sexual orientation and gender identity that are directed at repressing the speech, assembly and association freedoms of LGBT groups.

4. The justifications that lawmakers give for imposing legal restrictions based on sexual orientation and gender identity violate rights in two ways: they both unfairly restrict rights and contribute to a hostile and discriminatory environment which – as evidenced below – generates violent attacks and discriminatory practices by non-State actors on people identified with sexual orientation and gender identity issues. These pejorative rationales include misrepresenting LGBT persons as a threat to children, the family or traditional

¹ Guidance Note of the Secretary-General on Democracy, available at https://www.un.org/democracyfund/sites/www.un.org.democracyfund/files/un_sg_guidance_note_on_democracy.pdf.

² Throughout the present report, the acronym “LGBT” should be read as inclusive of all gender-diverse persons.

³ See <https://database.ilga.org/legal-barriers-freedom-of-expression> and <https://database.ilga.org/legal-barriers-freedom-of-association>.

values.⁴ Another spurious justification for denying rights is to deceptively suggest that LGBT persons are a symptom of foreign influence or a threat to national sovereignty or security.

5. Faced with the threat of family rejection, social ostracism and legal sanction, LGBT persons are rendered illegitimate in the debating and making of laws and policies. This repression makes it extremely difficult for them to advocate for themselves or to participate in general political, cultural and legal debates of any kind. Laws and policies that establish discriminatory restrictions make this bad situation much worse by legally preventing groups from registering and advocating for basic human rights, thereby inhibiting the ability to associate freely or to be actively engaged in the public domain. Taken together, restrictions on freedom of expression, peaceful assembly and association – combined with existing social stigma and hostile rhetoric, in settings where LGBT persons face significant obstacles to advocate as and for themselves due to a restrictive legislative environment – create dangerous conditions in which discrimination and violence thrive.

6. Hostile rhetoric by powerful public figures, often for short-term political gain, contributes to a climate in which LGBT persons are vilified. These attacks are part of what some scholars and advocates call the “gender ideology playbook”, in which opponents to rights and equality infuse fear of “a broad range of demands such as the right to abortion, sexual orientation and gender identity, to diverse families, education in gender and sexuality, HIV prevention and sex work”.⁵ The implications for human rights norms and values are very broad. Attacks on LGBT persons are all too often the means to an authoritarian end.⁶

7. For many LGBT persons, the digital sphere provides an indispensable way of connecting with others, especially within inhospitable settings. The Internet has also been a vital venue to advocate for and advance equal rights for all, and for groups to organize and connect within countries and across national boundaries. Yet the digital sphere is also the site of extensive surveillance, control and entrapment by authorities, and exposure, harassment and incitement to violence by State and non-State actors.

8. Many States have taken steps to ensure that the rights of LGBT persons are upheld, including by ensuring explicit protections against discrimination and violence based on sexual orientation and gender identity. In some countries, courts have upheld the right of organizations to form, register and operate freely in settings where consensual same-sex conduct is criminalized, citing the ability of law to distinguish between advocacy, identity and conduct.⁷ Courts in other countries have recognized that protections from discrimination in public life are an essential part of realizing the protections that have been granted in private life, so that constitutional protections for same-sex sexual conduct are not rendered inferior through the creation of tiers of reputability in sex.⁸ Many States have fulfilled their obligation to protect public-facing events, including Pride marches, from hostile attacks, thus ensuring the right to freedom of peaceful assembly.⁹

9. Given the proliferation of legal, policy, bureaucratic and social impediments to freedom of expression, peaceful assembly and association, coupled with rhetorical and physical attacks on LGBT persons, States should take urgent steps to ensure that these freedoms are equally upheld for everyone.

10. At the end of the report, the Independent Expert offers recommendations to States and other relevant stakeholders to ensure their laws and policies conform to – and their practices comply with – their obligations under international human rights law to respect, protect and

⁴ A/78/288, para. 21.

⁵ Sonia Corrêa, “Gender ideology: tracking its origins and meanings in current gender politics”, Sexuality Policy Watch, 30 May 2018.

⁶ Parliamentary Assembly of the Council of Europe, “Freedom of expression and assembly of LGBTI people in Europe”, document 15953, 27 March 2024, para. 69.

⁷ Submission by Southern Africa Litigation Centre and others.

⁸ Submission by YP Foundation, citing the decision of the Supreme Court of India in the case of *Navtej Singh Johar v. Union of India*.

⁹ Parliamentary Assembly of the Council of Europe, “Freedom of expression and assembly of LGBTI people in Europe”, para. 45; and Outright International, *We Remain Resilient: Pride around the World in 2022* (2023).

fulfil the human rights of all persons to freedom of expression, peaceful assembly and association, without discrimination based on sexual orientation or gender identity.

11. The Independent Expert is grateful for over 100 written submissions from governments, non-governmental organizations (NGOs), intergovernmental organizations and independent scholars and advocates. Input was also received during a public consultation held in Geneva on 22 February 2024 and during an expert meeting facilitated by the Centre for Human Rights, University of Pretoria, on 26 February 2024.

II. International legal framework

12. Article 19 of the Universal Declaration of Human Rights states that: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.” Article 20 (1) states: “Everyone has the right to freedom of peaceful assembly and association.”

13. These rights are codified in the International Covenant on Civil and Political Rights which affirms, in article 19, the right of everyone to hold opinions without interference and the right to freedom of expression. Article 21 of the Covenant guarantees the right to freedom of peaceful assembly and article 22 (1) guarantees the right to freedom of association. The right to freedom of opinion is an absolute right, while the rights to freedom of expression and freedom of peaceful assembly and association may be subject to certain restrictions within the purview of the law and where these restrictions are deemed necessary to protect the rights and reputation of others, to protect national security, public order or public health and morals. Any laws that restrict the rights to freedom of expression, peaceful assembly and association must, according to the Human Rights Committee, “also themselves be compatible with the provisions, aims and objectives of the Covenant. Laws must not violate the non-discrimination provisions of the Covenant”,¹⁰ including on the basis of sexual orientation and gender identity.¹¹

14. Any restrictions on the rights to freedom of expression, peaceful assembly and association must respect strict safeguards in international human rights law, including inviolable non-discrimination provisions. While protecting “public morals” can be a legitimate purpose to justify certain restrictions on individual freedoms, it can never be a mask for prejudice or a tool for discrimination. The Human Rights Committee has consistently found that limitations on human rights, including restrictions on the rights to freedom of expression, peaceful assembly and association, must be compatible with the provisions, aims and objectives of the International Covenant on Civil and Political Rights, including the guarantees of equality and non-discrimination.¹² The way in which morality is often deployed to restrict rights based on sexual orientation and gender identity almost invariably represents a misuse of the concept of protecting “public morals”.

15. With regard to article 19 (3) of the International Covenant on Civil and Political Rights, the Human Rights Committee has clarified that States are required to ensure that, when freedom of expression is restricted, the restrictions must have a legitimate objective that is both necessary and proportionate.¹³ The Committee has made similar clarifications regarding necessity and proportionality with respect to articles 21 and 22 of the Covenant.¹⁴ Restrictions must aim to achieve a specific objective, not unduly intrude on other rights and must be the least intrusive means to a legitimate end. Any restriction must be compatible with the provisions, aims and objectives of the Covenant, including the prohibition on discrimination. Moral disapproval of same-sex conduct, even if widespread, is not a

¹⁰ Human Rights Committee, general comment No. 34 (2011), para. 26.

¹¹ Human Rights Committee, general comment No. 37 (2020), para. 25. See also <https://www.ohchr.org/en/press-releases/2014/05/international-day-against-homophobia-and-transphobia-idaho-t-saturday-17-may>.

¹² Human Rights Committee, general comment No. 34 (2011), para. 26; and general comment No. 22 (1993), para. 8.

¹³ Human Rights Committee, general comment No. 34 (2011), para. 35.

¹⁴ Human Rights Committee, general comment No. 37 (2020), para. 36.

legitimate ground to restrict fundamental human rights.¹⁵ Justifications on the grounds of public health have been similarly closely scrutinized and found wanting in the context of sexual conduct and diversity of expressions.¹⁶

16. Article 7 of the Convention on the Elimination of All Forms of Discrimination against Women sets out the obligation of States parties to eliminate discrimination with regard to women's equal right "to participate in non-governmental organizations and associations concerned with the public and political life of the country". Articles 13 and 15 of the Convention on the Rights of the Child guarantee, respectively, children's rights to freedom of expression, including "freedom to seek, receive and impart information and ideas of all kinds", and to freedom of association and freedom of peaceful assembly. Children's rights in this area may similarly be subject to narrow restrictions in certain circumstances and on specific grounds, including "public health or morals".

III. Instrumentalizing the human rights of LGBT persons: justifying abuse with false narratives of existential moral danger

17. A discernible trend in many countries around the world is for lawmakers and politicians to mobilize public antagonism against LGBT persons as a political strategy to boost their own popularity. All too often, politicians exploit existing prejudice by tapping into divisive sentiments within their constituencies to generate media attention, mobilize voters and advance their political agendas.

18. Indeed, in many parts of the world, attacks on LGBT persons have become part of the routine playbook of authoritarian leaders who deploy animosity to create a wedge issue often as a precursor to consolidating power, undermining democratic norms and institutions, and attacking human rights writ large. LGBT persons are both easy targets and convenient scapegoats. Attacks against individuals and groups based on sexual orientation and gender identity thus emerge as both precursor and symptom of a broader crackdown on human rights. The rights of LGBT persons are used as a symbol in larger geopolitical conflicts and cultural schisms that have little to do with the lived reality of LGBT persons themselves. This misleading rhetoric places LGBT persons in situations of heightened vulnerability.

19. One of the consequences of legal prohibition, hostile rhetoric and social stigma is that LGBT persons often need to exercise high levels of discretion to conceal their identities. Invisibility, in turn, renders them vulnerable to misrepresentation and fearmongering by unscrupulous politicians. They become ideal vectors of "moral panic"¹⁷ deployed for political purposes. Hostile environments thus perpetuate invisibility and, at the same time, create the conditions in which deep-rooted prejudices are readily manipulated by unscrupulous actors. Legal, policy and social restrictions on freedoms of expression, peaceful assembly and association mean that LGBT persons find themselves in settings where they are prevented from defending themselves from such attacks. The false and dangerous narratives of threats against "tradition", "family" and "children" by sinister forces intent on "propaganda" and "promotion" serve to perpetrate harmful stereotypes and fuel prejudice and misunderstanding.¹⁸

20. Against this backdrop, visibility is an especially important component in reducing stigma and resulting discrimination based on sexual orientation and gender identity. Laws that restrict content in print media, publications, broadcasting, educational settings and online material – or place restrictions on organizations or public gatherings – have a cumulative effect of stifling expression and further render invisible the experiences of LGBT persons. In such restrictive environments, LGBT persons are less able to defend themselves against dangerous misrepresentations.

¹⁵ Ibid., para. 46.

¹⁶ Human Rights Committee, *Toonen v. Australia* (CCPR/C/50/D/488/1992).

¹⁷ A/76/152, para. 33.

¹⁸ Submission by Eurasian Coalition on Health, Rights, Gender and Sexual Diversity.

IV. Restrictions on freedom of expression

21. Freedom of expression related to sexual orientation and gender identity may be improperly curtailed in a variety of ways by both State and non-State actors. There are often both legal and rhetorical dimensions of these restrictions, both of which are harmful and serve to curtail freedom of expression.

22. Discriminatory laws, such as those prohibiting consensual same-sex conduct¹⁹ or cross-dressing, or in some jurisdictions a ban on the public display of same-sex affection and public display of diverse gender expressions, have an inhibiting effect on freedom of expression. These laws contribute to a climate in which discrimination and even violence²⁰ based on sexual orientation and gender identity are seen to be acceptable, with States perceived to provide tacit sanction, through imposition²¹ or retention²² of discriminatory laws or through widespread failure to enforce anti-discrimination laws.²³

23. The concept of norm diffusion, in its positive sense, usually describes the process whereby States learn from others' best practices in developing and strengthening human rights norms. A negative pattern of norm diffusion is discernible when States emulate discriminatory and restrictive legislation curtailing freedoms of expression, peaceful assembly and association based on sexual orientation and gender identity. The so-called "gay propaganda" law of the Russian Federation (which prohibits any neutral or positive portrayal of so called non-traditional sexual relations), for example, has become a template for other States in Central and Eastern Europe and Central Asia.²⁴ Similar bans on visibility in the public sphere, often using the language of "promotion", have been proposed or enacted in the Middle East and parts of Africa.²⁵ The designation of LGBT groups as extremist or a threat to national security is another discernible trend.²⁶ The diffusion of legal restrictions that discriminate against, or disproportionately affect, LGBT persons undermines basic human rights. Cross-border emulation highlights the urgent need for global efforts to counteract the normalization of discriminatory laws and to foster inclusivity and respect for human rights, regardless of sexual orientation or gender identity.

A. Restrictions based on "morality"

24. As outlined above, not only are legal restrictions on freedoms of expression, peaceful assembly and association harmful in themselves, but also the justifications for imposing them are invariably discriminatory and harmful.

25. Subjective ideas about "morality" are often misused as pretexts to impose illegitimate restrictions on freedoms of expression, as well as freedom of peaceful assembly and association, especially in relation to sexual orientation and gender identity. Specifically, laws against violating "public morals", "good morals", "decency" or laws against "debauchery" and "immorality", many with colonial-era origins, are now repurposed and redeployed by current regimes to shut down the public presence of a wide range of persons not acting in conformity with politically deployed claims of "family values", often including single women, sex workers and LGBT persons.²⁷ The vague wording of these laws provides authorities with broad discretion and subjective interpretation of the concept of "protecting public morals". These laws are frequently used to clamp down on the public expression of

¹⁹ As at December 2023, 61 States Members of the United Nations had laws that criminalized consensual same-sex conduct.

²⁰ Submissions by ILGA Africa and others and ILGA Europe and others.

²¹ Submission by Human Rights Campaign.

²² Submission by United Nations Development Programme.

²³ Submission by Caribe Afirmativo.

²⁴ See communications RUS 28/2023 and RUS 20/2023. All communications mentioned in the present report are available at <https://spcommreports.ohchr.org/TmSearch/Results>. See also submission by ILGA Europe and others.

²⁵ Submission by ReportOUT.

²⁶ Submissions by Sphere Foundation, ComingOut and NC SOS.

²⁷ Submissions by Chile, ILGA Africa and Red de Litigantes LGBTI+ de las Américas.

sexual and gender identities, and the expression of ideas that allow the construction of diverse gender and sexual identities. Similarly, laws against “pornography” and “prostitution” have, in some instances, been applied in a discriminatory manner based on sexual orientation and gender identity.²⁸ Sometimes these laws are redeployed – in the absence of legal prohibition of consensual same-sex conduct – as an alternative means to the same end, at the same time rhetorically linking LGBT persons to immorality, debauchery and pornography, hence implying an intrinsic immorality associated with consensual same-sex conduct or diverse gender expression.

B. Protection of children: “propaganda” and “promotion” laws

26. Over the last decade, several States have adopted, or have considered adopting, laws explicitly prohibiting the so-called propaganda or promotion of consensual same-sex relations, or targeting individuals based on gender-diverse identities or expressions, often justifying them by the need to protect minors.²⁹ While framed as measures to protect children from inappropriate subject matter, these laws are often vaguely worded, broadly interpreted and wielded against freedom of expression and advocacy for equal rights, contrary to the rights of LGBT persons, generally, to children’s right to information, both generally and specifically for LGBT children, and flattening any discussion of children’s evolving capacity and maturity as rights holders. On a metalevel, the “child protection” framing of these laws implies that LGBT persons are a threat to children and that children themselves do not have diverse sexual orientations and gender identities, hence compounding social stigma. Furthermore, the terms “propaganda” or “promotion” suggest a deliberate, ideological and potentially sinister motive behind advocating for fundamental human rights. The United Nations Children’s Fund (UNICEF) has identified eliminating such laws as a priority for ending discrimination against children based on sexual orientation or gender identity.³⁰

27. When lawmakers justify discriminatory prohibitions on various forms of expression by the invocation of “protecting children” – sometimes evoking the spectre of paedophilia, as in the case of Hungary³¹ – they are deliberately deploying a false and dangerous narrative that LGBT persons are a threat to children. It is an approach that has worked well in generating public support for censorship, as naturally the desire to protect children from genuinely harmful influence has wide salience. Aside from an implied justification for broad restriction, as evident in “gay propaganda laws”, lawmakers in several States use “protecting children” to justify, for example, the banning or censorship of books,³² films, television programmes and other forms of creative expression.³³

28. The Russian Federation adopted a federal law in 2013 that added a new administrative offence entitled “Propaganda of non-traditional sexual relations among minors”.³⁴ In effect, the law prevented neutral or positive portrayal of LGBT identities in the public domain in any setting where children may be present. The law had a stifling effect on self-expression,³⁵ contributed to an uptick in violence and has been used by the Government to stifle LGBT-related events, to restrict the activities of organizations and to shut down online media

²⁸ Submission by Phillips Black, Inc.

²⁹ Submission by Article 19; and Article 19, “Traditional values? Attempts to censor sexuality” (2013).

³⁰ UNICEF, “Eliminating discrimination against children and parents based on sexual orientation and/or gender identity”, Current Issues, No. 9 (2014).

³¹ See communication HUN 3/2020; and Law No. T/16365 on stricter action against paedophile offenders and amendments to certain laws in order to protect children (23 June 2021), available at https://www.parlament.hu/web/guest/szavazasok-adott-idoszakban?p_p_id=hu_parlament_cms_pair_portlet_PairProxy_INSTANCE_9xd2Wc9jP4z8&p_p_lifecycle=1&p_p_state=normal&p_p_mode=view&p_auth=11TIPkRv&_hu_parlament_cms_pair_portlet_PairProxy_INSTANCE_9xd2Wc9jP4z8_pairAction=%2Finternet%2Fcplsql%2Fogy_irom.irom_adat%3Fp_ckl%3D41%26p_izon%3D16365.

³² Submission by Hättér Society.

³³ Maria Brock, “The necropolitics of Russia’s traditional family values”, *Lambda Nordica*, vol. 27, No. 3–4 (2022). Submissions by Hättér Society and ASEAN SOGIE Caucus.

³⁴ See communications RUS 28/2023 and RUS 20/2023.

³⁵ See <https://www.hrw.org/report/2018/12/12/no-support/russias-gay-propaganda-law-imperils-lgbt-youth>.

outlets seen to contravene the law.³⁶ In 2022, the Russian Federation extended the “gay propaganda” law to all age groups,³⁷ increased fines for dissemination of material related to “non-traditional sexual relations” to minors or for using mass media to disseminate such material, and added any information on “change of sex” to the list of prohibited content.³⁸ The revised law has been used to arrest and prosecute activists and media workers, to deny permission to hold public events on LGBT issues, to prosecute event organizers and to block or severely restrict websites with sexual orientation and gender identity content.

29. The law has been widely condemned by human rights bodies. The Committee on the Rights of the Child, in its concluding observations on the Russian Federation in 2014, expressed concern that the 2013 legislation, justified in terms of protecting children, actually served to inflict harm on individuals, including children, and recommended its repeal.³⁹ The European Commission for Democracy through Law (Venice Commission) found that the law amounted to discrimination as it unreasonably and without objective criteria singled out homosexuality as a prohibited topic.⁴⁰ The Human Rights Committee found in the case of *Fedotova v. Russian Federation* that a conviction under the law was a violation of the rights to freedom of expression and equal protection of the law.⁴¹

30. The adoption of the 2013 law in the Russian Federation was followed by a series of attempts to pass similar legislation in other countries in Eastern Europe and Central Asia. Special procedure mandate holders have expressed concern about the rights-violating implications of legislative initiatives in Kyrgyzstan, the Republic of Moldova, the Russian Federation and Ukraine.⁴² The Committee on the Elimination of Discrimination against Women urged the Government of Kyrgyzstan not to pass its law, noting that it risked discriminating “against certain groups of women, including lesbian, bisexual, transgender and intersex women”.⁴³ Kyrgyzstan passed a “propaganda” law in 2023.⁴⁴

31. In 2021, the parliament of Hungary approved Law No. T/16365, which introduced several restrictive amendments to existing legislation. Entitled “Stricter action against paedophile offenders and amendments to certain laws in order to protect children”, it made it illegal to make any information on homosexuality or gender identity available to persons under the age of 18 by spuriously suggesting an equivalence with pornography and paedophilia. It also specifically banned educational material, advertisements and media content available to minors that promote or display a deviation from the self-identity corresponding to the sex at birth, gender reassignment and homosexuality. A subsequent decree banned any display of homosexual content or any deviation from sex identity at birth in shop windows or within 200 meters of educational centres and places of worship.⁴⁵ The symbolism of the law is self-evident, as it implies that all material depicting LGBT content is age-inappropriate, thus fuelling stigma.

C. State security and national sovereignty

32. One of the arguments used by those seeking to restrict rights based on sexual orientation and gender identity – both those who do so on ideological grounds and those seeking political capital – is that transnational advocacy for equality is evidence of “foreign”

³⁶ See <https://www.hrw.org/news/2022/11/25/russia-expanded-gay-propaganda-ban-progresses-toward-law>.

³⁷ See communication RUS 28/2023. Article 6.21 of the Code of Administrative Offences was amended by Federal Law No. 479-FZ of 5 December 2022 to punish any propaganda of non-traditional sexual relations and (or) preferences and change of sex.

³⁸ See communication RUS 28/2023; and submission by Delo LGBT+.

³⁹ [CRC/C/RUS/CO/4-5](https://www.crc.org/docs/default-source/communications/crc-c-rus-co-4-5.pdf).

⁴⁰ See [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2013\)022-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2013)022-e).

⁴¹ [CCPR/C/106/D/1932/2010](https://www.ccrp.org/publications/ccpr-c-106-d-1932-2010). See also the analysis of the International Commission of Jurists, available at <https://www.icj.org/sogiu/jurisprudence/fedotova-v-russian-federation-communication-no-19322010-30-november-2012-russian-federation/>.

⁴² See communications UKR 3/2012, MDA 4/2013, RUS 3/2013, RUS 4/2013 and KGZ 1/2014.

⁴³ [CEDAW/C/KGZ/CO/4](https://www.cedaw.org/docs/default-source/communications/cedaw-c-kgz-co-4.pdf), paras. 9 and 10.

⁴⁴ See <https://www.ilga-europe.org/news/statement-kyrgyzstan-targets-lgbti-law/>.

⁴⁵ Submissions by ILGA Europe and others, and Háttér Society and others.

interference by Western actors seeking to impose their values to the detriment of national sovereignty and cultural integrity. Echoes of such rhetoric and framing is evident in Central and Eastern European countries and in the Middle East, as well as in Africa, the Caribbean and Latin America. The framing of the issues invariably has context-specific and historically specific inflections within States and geographical regions, especially with regard to colonial histories, but a red thread that runs through these narratives is the idea that advocating for non-discrimination and equal rights based on sexual orientation and gender identity is an external imposition that threatens the well-being and security of the nation (or even poses an existential threat to the nation), rather than the pursuit of universal human rights norms and standards. Groups working on issues related to sexual orientation and gender identity are sometimes required to register as “foreign agents”. Aside from the practical consequences of being labelled a “foreign agent”, which may include prohibition on “political activities”, special registration and additional oversight,⁴⁶ this rhetoric exacerbates existing stigma and social opprobrium experienced by LGBT persons.

D. Media restrictions

33. States restrict media freedom based on sexual orientation and gender identity in various ways, employing legal, regulatory and social measures. Restrictions may range from a total media ban to selective censorship based on legislation, or using restrictive licencing requirements, States may block online content⁴⁷ or shut down media outlets that cover LGBT topics. Some States impose derogatory terminology such as the “promotion of sexual perversion” or “sexual deviance”⁴⁸ for discussion of LGBT-related themes. Others restrict the portrayal of men seen to adopt feminine styles in dress, speech and deportment. Often these attacks are paired with attacks on feminists as “unnatural women”. In one country, the movie *Barbie*, produced in the United States of America, was reportedly attacked as a foreign import promoting homosexuality and feminism.⁴⁹

34. Social pressures, including harassment and intimidation of journalists and media practitioners covering LGBT issues, can contribute to self-censorship. In countries where there is no explicit ban on the portrayal of homosexuality in the media, but where same-sex relationships are criminalized, producing media content on LGBT-related topics alone can make media professionals and broadcasters susceptible to legal consequences.⁵⁰ In some cases, this can result in skewed depictions of LGBT persons.⁵¹

35. When States impose such restrictions, they not only infringe on freedom of expression, but also contribute to the perpetuation of discrimination and prejudice. Such limitations inevitably lead to the stifling of the voices of LGBT persons, preventing them from sharing their stories and perspectives with the broader public. This restriction not only denies LGBT individuals the right to express themselves, but also inhibits open public discourse on sexual orientation and gender identity.

E. Restrictions in educational settings

36. Schools are inhospitable environments for children singled out for bullying based on perceived difference. In educational settings where bullying occurs, children who are LGBT, or perceived to be, are often targeted, with detrimental effects including subpar educational outcomes and even suicide following online bullying.⁵² Gendered dress codes, strictly enforced, can create barriers for transgender and gender-nonconforming students to dress and

⁴⁶ Submissions by Sarajevo Open Center and iProbono.

⁴⁷ Submissions by Williams Institute, UCLA School of Law and ILGA Europe.

⁴⁸ See <https://www.hrw.org/news/2022/07/04/lebanon-unlawful-crackdown-lgbti-gatherings>; and <https://www.reuters.com/world/middle-east/iraq-bans-media-using-term-homosexuality-says-they-must-use-sexual-deviance-2023-08-08>.

⁴⁹ Submission by ILGA Europe and others.

⁵⁰ See <https://cpj.org/2018/05/covering-lgbtq-issues-brings-risk-of-threats-and-r/>.

⁵¹ Submission by Ejercito Emancipador Foundation.

⁵² Submission by YP Foundation.

present themselves according to their gender identity and expression.⁵³ Access to age-appropriate information is important for all children, in particular those most susceptible to bullying, as accurate information, including on sexual and gender diversity, contributes to a more inclusive and hospitable educational environment. This includes equal and effective access to the digital environment.⁵⁴

37. Comprehensive sexuality education, a curriculum-based approach to teaching and learning about the cognitive, emotional, physical and social aspects of sexuality, has been under sustained attack by anti-rights groups.⁵⁵ Consistent with international human rights law standards, States should ensure the provision of comprehensive sexuality education inclusive of all individuals, promoting human rights, gender equality and empowerment of women and girls, healthy and respectful relationships, well-being, empathy, respect, autonomy, consent and diversity.⁵⁶ Comprehensive sexuality education is also an important educational tool to combat bullying and other forms of discrimination and violence, including on the basis of sexual orientation and gender identity.⁵⁷

38. However, several States – or local authorities responsible for education – have taken steps to restrict access to information based on sexual orientation and gender identity.⁵⁸ Comprehensive sexuality education has been the subject of disinformation campaigns, including by mischaracterizing comprehensive sexuality education as an aspect of “gender ideology”, in which opponents falsely claim that the curriculum is a form of “indoctrination”.⁵⁹ In some settings, local authorities allow parents to remove their children from sexual health classes altogether,⁶⁰ while in other contexts informal barriers exist to comprehensive sexuality education, including cultural or religious reticence to discuss sexuality. Some States have effectively banned openly LGBT teachers. Legislative and political attempts to suppress gender and sexuality education may be a disincentive to teachers, and bullying can lead LGBT students to drop out of school altogether.⁶¹ In the United States, several states have passed variations of laws that restrict or prohibit age-appropriate discussion of gender and sexuality in the classroom,⁶² and contributed to book bans targeting stories by and about people of colour and LGBT persons, which have also had an impact on authors and publishers beyond the education setting, making it more difficult to publish and distribute these books.⁶³ Others have restricted or banned university programmes on gender studies.⁶⁴ In other cases, LGBT organizations have been prevented from attending or organizing events or distributing materials in schools, including mapping of attitudes of teachers regarding LGBT issues.⁶⁵

F. Other restrictions on freedom of expression

39. In addition to explicit legal measures, Governments may employ various non-explicit tactics to restrict freedom of expression based on sexual orientation and gender identity, including in States where consensual same-sex relations are not criminalized. In Türkiye, the regulatory authority with the power to impose penalties on digital platforms and broadcasting organizations has imposed fines for discussions on LGBT issues, and has even recommended

⁵³ Submission by Save the Children Thailand and others.

⁵⁴ Committee on the Rights of the Child, general comment No. 25 (2021), paras. 9–11.

⁵⁵ Submission by Human Rights Watch.

⁵⁶ “A compendium on comprehensive sexuality education” (2023), available at <https://www.ohchr.org/sites/default/files/documents/issues/health/sr/Compendium-Comprehensive-Sexuality-Education-March-2023.pdf>.

⁵⁷ A/HRC/29/23, para. 57.

⁵⁸ Submissions by ILGA Africa and ILGA Europe.

⁵⁹ Submission by Netherlands Institute for Human Rights.

⁶⁰ Submissions by Lawyers Without Borders (Canada) and Common Zone.

⁶¹ Submissions by Sexuality Policy Watch – ABIA and others.

⁶² A/HRC/56/49/Add.3, para. 47; see <https://www.hrw.org/news/2022/02/17/florida-advances-dont-say-gay-bill>; and submissions by ILGA Americas, PEN America and PEN International.

⁶³ Submissions by PEN America and PEN International.

⁶⁴ See communication BRA 4/2017.

⁶⁵ Submissions by Human Rights Platform and Education Community.

and disseminated anti-LGBT content, including announcements to promote participation in anti-LGBT rallies that included calls for the closure of LGBT rights organizations.⁶⁶ Various art forms provide important outlets for individual creative expression and valuable tools for education and advocacy. Yet books, films, artworks, artistic performances and events, murals and even accoutrements, such as rainbow-themed earrings or watches, are subject to outright bans or censorship in some countries.⁶⁷ In Poland, nearly 100 local governments and municipalities, as of 2020, had established largely-symbolic “LGBT-ideology free zones”, while State-run companies funded a media campaign that distributed “LGBT-free” stickers.⁶⁸

V. Restrictions on freedom of peaceful assembly and association

40. States impose discriminatory restrictions on freedom of peaceful assembly and association based on sexual orientation and gender identity through various legal, administrative and societal means. States may refuse to recognize organizations working on sexual orientation and gender identity, deny their legal recognition, impose discriminatory regulations, undertake surveillance and intimidation, restrict foreign funding, pass anti-LGBT legislation, perpetuate or incite hate speech, provide support to anti-LGBT groups or impose online censorship. These measures could include stringent requirements for permits and approvals for public gatherings that have a disproportionate impact on organizations advocating for rights based on sexual orientation and gender identity.⁶⁹ Other more extreme measures include the banning of assemblies based on sexual orientation and gender identity and arbitrary detention of persons. For example, in Türkiye, following similar instances in previous years,⁷⁰ 582 detentions were reported during the 2022 Pride march, resulting from 10 different banning orders.⁷¹

41. Governments may impose restrictions or even bans on foreign funding for LGBT organizations, limiting their financial resources and constraining their ability to operate independently. This is often done under the guise of safeguarding national interests or preventing foreign interference.

42. Some States impose legal and other barriers to prevent LGBT groups from registering formally with relevant authorities. Governments may enact or selectively enforce regulations that specifically target LGBT groups. Organizations may be prevented from effectively conducting their activities and advocacy even in settings where they are formally registered. In countries where consensual same-sex relations are criminalized or where legislation restricts freedoms of expression and assembly, freedom of association can also be affected.

43. Some States may engage in surveillance and intimidation tactics against LGBT groups by, inter alia, monitoring activities, imposing mandatory inspections, infiltrating meetings or harassing members. This contributes to a climate of fear and inhibits the free and open exchange of ideas within these organizations. State officials may contribute to the stigmatization of LGBT groups, thereby fostering a hostile environment. Societal pressure, including the threat of violence, can lead to self-censorship and create challenging conditions or make it impossible to associate openly. In some countries these restrictions affect civil society writ large, but where the freedoms and rights of LGBT persons are restricted, such measures often disproportionately affect NGOs working on sexual orientation and gender identity issues. Lesbians are particularly exposed by the common tactic of “sexuality baiting” women human rights defenders, including labelling them lesbians, to stigmatize them and discredit their work.⁷² Women human rights defenders, including LGBT activists, are also

⁶⁶ See communication TUR 10/2020 for similar instances; and submission by Kaos GL.

⁶⁷ Submissions by Kaos GL, ReportOUT and ILGA Asia.

⁶⁸ See communications POL 1/2020, POL 3/2021, POL 6/2021 and POL 2/2022; and submission by Williams Institute.

⁶⁹ Submissions by Kaos GL and Amnesty International Poland.

⁷⁰ See communications TUR 12/2018 and TUR 1/2020.

⁷¹ Submission by Social Policy, Gender Identity and Sexual Orientation Studies Association.

⁷² A/HRC/40/60, para. 38.

exposed to the risk and often explicit threat of rape, sexual abuse and other forms of sexual violence and harassment.⁷³

A. Restrictions on legal registration and ability to operate

44. Civil society organizations are the bedrock of democratic societies. The ability to be recognized as independent legal entities under the law is a prerequisite for groups to perform necessary functions, such as raising funds, operating bank accounts, contracting goods and services or renting premises. Registration also provides access to advocacy platforms and helps create visibility and growth for national movements.⁷⁴ Yet many States refuse to register organizations that work on sexual orientation and gender identity-related issues, or establish unnecessary administrative obstacles that effectively prevent groups from registering.⁷⁵ Sometimes the work of existing groups is suspended by authorities or subjected to official investigation for no reason other than the fact that it is work on sexual orientation and gender identity-related issues.⁷⁶ This has the effect of undermining the rights to freedom of assembly and association of those groups and organizations – setting the stage for a variety of penalties designed to unlawfully punish individuals and groups for their political opinions, identities, human rights advocacy and efforts to express divergent viewpoints.

45. Some 59 countries currently have laws that restrict, or could be used to restrict, the activities of civil society organizations working on sexual orientation and gender identity-related issues.⁷⁷ These regulations typically impose onerous registration procedures for organizations, continuously monitor their operations, subject them to arbitrary inspections,⁷⁸ limit access to financial and other resources, and threaten groups with closure for non-compliance with the impractical demands imposed on them.⁷⁹

46. In hostile domestic environments in which LGBT groups are under siege, these organizations are often reliant on external funding and foreign assistance to carry out their work, yet find themselves disproportionately burdened by heightened bureaucratic demands and transparency measures. The combination of increased regulations and dependency on external funding places a strain on the ability of NGOs to operate effectively.

47. Some countries systematically clamp down on NGOs working to advance sexual orientation and gender identity-related rights. In some instances, authorities ban organizations outright for their expressed viewpoints or sexual orientation and gender identity-related activities in defence of human rights, or leave them waiting for years after submitting registration applications.⁸⁰ Others are prevented from registering in countries where same-sex conduct is criminalized on the grounds that the organizations are advocating for illegal activity, notwithstanding the fact that in many jurisdictions it is consensual same-sex intimacy that is prohibited, not LGBT identities per se.⁸¹ These measures severely restrict the ability of groups to advocate for their basic rights.⁸²

48. Discriminatory restrictions on LGBT groups are frequently a bellwether for restrictions on other civil society organizations that are perceived as oppositional or as posing a threat to the status quo. Restrictive laws, policies and practices imposed by States have a

⁷³ A/HRC/16/44 and A/HRC/16/44/Corr.1, paras. 86 and 87, and A/HRC/40/60, paras. 42 and 45.

⁷⁴ Submission by Outright International.

⁷⁵ Felicity Daly, “The global state of LGBTIQ organizing: the right to register” (Outright International, 2018); International Center for Not-For-Profit Law, “LGBTI civil society organizations around the globe: challenges, successes, and lessons learned”, *Global Trends in NGO Law*, vol. 7, No. 2 (May 2016); and submission by ILGA Africa, p. 6.

⁷⁶ Submission by ReportOut.

⁷⁷ See <https://database.ilga.org/legal-barriers-freedom-of-association>.

⁷⁸ Submission by Kaos GL.

⁷⁹ See <http://timesofindia.indiatimes.com/articleshow/99052212.cms>; <https://www.amnesty.org/en/latest/news/2019/02/global-assault-on-ngos-reaches-crisis-point/>; and submission by China Rainbow Observation.

⁸⁰ Submission by Outright International.

⁸¹ Submission by Zambia.

⁸² Submission by Southern Africa Litigation Centre and others.

stifling effect on the activities of organizations, causing them to be afraid of falling foul of the law by offering specialized services benefiting LGBT persons or including equal rights for LGBT persons within their purview. In some cases, overly broad laws may be used as a pretext to shut down civil society groups that are deemed undesirable by States. Restrictions imposed on LGBT groups can thus be a precursor to a wider clampdown on civil society.

49. Workers face discrimination based on sexual orientation and gender identity. LGBT workers also experience disproportionate levels of violence and harassment in the workplace. The ability to bargain collectively helps ensure protection, safety and well-being for all workers, yet in many jurisdictions States impose restrictions on trade unions that inhibit them from tackling discrimination, including based on sexual orientation and gender identity.⁸³

B. Restrictions on public gatherings

50. Pride marches constitute an important form of cultural expression for LGBT persons and serve various advocacy purposes, depending on context, including protesting against violence and discrimination, celebrating resilience and community, and expressing public visibility.⁸⁴ A global survey concluded that 102 countries held Pride events in 2022,⁸⁵ but Pride marches have been banned in several countries, thus infringing on freedom of peaceful assembly.⁸⁶

51. Governments sometimes shirk their responsibility to protect individuals and groups who are threatened or attacked by non-State actors when exercising their right to peaceful assembly.⁸⁷ In some settings, bias-motivated groups are encouraged⁸⁸ by lawmakers and their actions justified as expressions of majority sentiment.⁸⁹ In other contexts, the threat of violence is used by States as a pretext to prevent peaceful assemblies.⁹⁰ LGBT persons face a wide range of harms also from State actors, including abuse, excessive use of force, arbitrary detention, and humiliating or degrading treatment while detained at some police stations.⁹¹ Gatherings aimed at promoting understanding and inclusivity have sometimes been declared illegal gatherings. In other settings, administrative procedures are used to curb Pride events, by prioritizing other groups, imposing financially burdensome security requirements or not responding to requests in time for events to occur.⁹² In other cases, organizers of events have been denied requested locations and advised to choose alternative locations with reduced visibility.⁹³

52. Security force raids on symbolic same-sex weddings in countries where same-sex marriage is not legal, raids on homes and social gatherings,⁹⁴ or restrictions on “gay parties” are further evidence of the increasingly restrictive space for social activity. In those and other analogous cases, LGBT persons have been prosecuted for both public and private gatherings under “morality”, “prostitution”, “pornography” or other criminal laws.

53. Restrictions can have an adverse impact on public health. Police raids in Indonesia between 2016 and 2018 on LGBT spaces included spaces used for public health outreach, making such efforts far more difficult.⁹⁵

⁸³ Submission by ILGA Americas and others.

⁸⁴ [A/HRC/38/34](#).

⁸⁵ Outright International, *Pride Around the World in 2022*.

⁸⁶ Submission by Social Policy, Gender Identity and Sexual Orientation Studies Association.

⁸⁷ Parliamentary Assembly of the Council of Europe, “Freedom of expression and assembly of LGBTI people in Europe”; and submission by Damj.

⁸⁸ Submissions by Social Policy, Gender Identity and Sexual Orientation Studies Association and Lawyers Without Borders Canada.

⁸⁹ Submissions by Georgian Democracy Initiative and Tbilisi Pride.

⁹⁰ Submissions by Education Community and Lawyers Without Borders Canada.

⁹¹ Submissions by Article 19 and Save the Children Thailand and others.

⁹² Submission by Sarajevo Open Center.

⁹³ Ibid.

⁹⁴ Submissions by CHEVS and ASEAN SOGIE Caucus.

⁹⁵ See communication IDN 1/2018; and submission by Williams Institute.

54. Furthermore, the residual effects of coronavirus disease (COVID-19) continue to resonate. In 2020, the Independent Expert wrote of the “fears that the pandemic create[d] an existential threat to LGBT movement-building and organizational survival”.⁹⁶ Many countries applied arbitrary forms of restrictive laws in the name of public health, with grave and adverse effects on LGBT rights, often with scant scientific support for the intended health benefits (e.g. abusive application of gender-specific restrictive movement laws; “shelter at home” requirements which increased family violence for many women and LGBT persons; or bans on a variety of congregate living settings, destroying spaces of support and solidarity with no alternatives forms of support provided).⁹⁷

55. The mandate holder received a small number of submissions in which it was argued that the presence of trans women in women’s spaces, including private spaces for socializing or online dating, undermines cis women’s rights to freedom of expression, association and assembly.⁹⁸ Human rights require State policies which create the conditions for equality of access and enjoyment of social, cultural and civic spaces both in private and in public, with careful regard to evidence of abuse from any direction:⁹⁹ individual dating preferences can follow stereotypes, but the State’s duty is to ensure dating spaces are free from discrimination and abuse, respecting private life while ensuring bodily integrity.¹⁰⁰

C. Legal restrictions on freedom of association based on sexual orientation and gender identity

56. States may restrict freedom of association for organizations advocating for or conducting activities related to the rights and needs of LGBT persons through explicit legislation regulating NGOs, or by applying vaguely defined prohibitions. States that have laws or legal provisions criminalizing same-sex relations may use them to restrict freedom of association for LGBT persons.

57. In an extreme example of an effort to curtail freedom of association, in Ghana, Parliament passed a bill in 2024 which, if it becomes law (at the time of writing, the President had not assented to it), would criminalize the mere expression of identity, as well as any individual advocating for sexual orientation and gender identity-related rights, and outlaw all LGBT groups.¹⁰¹

58. The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has raised the alarm concerning the global trend towards using security measures to curtail the activities of human rights defenders and to further restrict the space for civil society, including LGBT groups, to operate.¹⁰²

59. The Supreme Court of the Russian Federation, in a 2023 closed hearing, ruled in favour of a lawsuit of the Ministry of Justice that labelled what it called the “international LGBT public movement” an “extremist organization”.¹⁰³ Under criminal law in the Russian Federation, participating in or financing an extremist organization¹⁰⁴ is punishable by up to 12 years in prison. The authorities may include individuals suspected of involvement with an extremist organization in the countrywide “list of extremists” and freeze their bank accounts.

⁹⁶ [A/75/258](#), para. 55.

⁹⁷ Ali Miller and Mindy Roseman, “Gender and human rights in the context of COVID-19”, in *The Routledge Companion to Gender and COVID-19*, Linda C. McClain and Aziza Ahmed, eds. (forthcoming); and submissions by ILGA Europe and Save the Children Thailand and others.

⁹⁸ Submissions by Affiliation of Australian Women’s Action Alliances, Australian Feminists for Women’s Rights, LGB Alliance Australia, The Lesbian Project and Dianne Post.

⁹⁹ [A/HRC/47/27](#), para. 45.

¹⁰⁰ *Ibid.*, para. 40.

¹⁰¹ See communication GHA 3/2021; and <https://www.ohchr.org/en/press-releases/2024/03/un-experts-urge-ghanas-president-reject-discriminatory-bill>.

¹⁰² [A/HRC/40/52](#), para. 8.

¹⁰³ See communication RUS 28/2023; and <https://www.ohchr.org/en/press-releases/2023/12/un-experts-condemn-russian-supreme-court-decision-banning-lgbt-movement>.

¹⁰⁴ Submission by ILGA Europe.

People deemed to be involved with an extremist organization are barred from running for public office.¹⁰⁵

60. In Nigeria, the Same-Sex Marriage (Prohibition) Act, 2013¹⁰⁶ includes a provision that effectively criminalizes all advocacy based on sexual orientation and gender identity: “A person who registers, operates or participates in gay clubs, societies and organisations, or directly or indirectly makes public show of same-sex amorous relationship in Nigeria commits an offence and is liable on conviction to a term of 10 years’ imprisonment” (art. 5 (2)). Various mandate holders have expressed grave concern about the human rights implications of that Act.¹⁰⁷

61. In 2023 in Uganda, Parliament adopted the Anti-Homosexuality Act,¹⁰⁸ which, among other provisions, criminalizes the vaguely worded “promotion of homosexuality”. A clause on “aggravated homosexuality” carries a potential death sentence.¹⁰⁹ According to that Act, anyone advocating for the rights of LGBT persons, including representatives of human rights organizations and media workers, or those providing financial support to organizations that do so, faces up to 20 years in prison.¹¹⁰ The law contains an invidious provision requiring all citizens to report to the police any offence or intention to commit an offence under the Act and it prohibits renting accommodation to anyone who may commit an offence under the Act. In 2023, the Ugandan NGO Bureau closed down several organizations and published a list of some 20 LGBT groups under investigation, after years of attacks against LGBT human rights defenders.¹¹¹ The umbrella organization Sexual Minorities Uganda was closed by authorities in 2022.¹¹² In countries where consensual same-sex sexual relations carry the death penalty, mere association with LGBT groups can be used as the basis for conviction.¹¹³

D. Restrictions on foreign funding, surveillance and intimidation

62. Several countries in the last decade have adopted so-called laws on foreign agents or on organizations that receive foreign funding, which restrict the activities of such organizations. The Special Rapporteur on the rights to freedom of peaceful assembly and of association has noted: “Overly broad restrictions in this area produce a chilling effect on the exercise of the right to freedom of association and have an adverse effect on civic space and democracy.”¹¹⁴

63. LGBT groups often find themselves reliant on foreign funding¹¹⁵ as a crucial source of support, especially when faced with no resources or support from national Governments or other domestic sources. In many instances, discriminatory laws or societal prejudices may hinder these organizations from securing adequate funding domestically. Authorities may also pressure domestic philanthropic foundations to stop working with LGBT organizations, with no legal basis.¹¹⁶ At the same time, by imposing limitations on financial assistance from international sources, Governments undermine the ability of these organizations to carry out their essential work,¹¹⁷ including through investigations and onerous reporting requirements that interfere with the ability of these organizations to conduct regular activities.¹¹⁸ Such

¹⁰⁵ See <https://www.hrw.org/news/2023/11/30/russia-supreme-court-bans-lgbt-movement-extremist>.

¹⁰⁶ See A/HRC/56/7, CCPR/C/NGA/Q/2/Add.1 and submission by CHEVS.

¹⁰⁷ See, for example, communication NGA 1/2014.

¹⁰⁸ See <https://www.humandignitytrust.org/wp-content/uploads/2023/06/Signed-Anti-Homosexuality-Act-2023.pdf>.

¹⁰⁹ See <https://www.ohchr.org/en/press-releases/2023/03/uganda-un-experts-condemn-egregious-anti-lgbt-legislation>; submission by Human Rights Awareness and Promotion Forum; and joint submission by World Coalition Against the Death Penalty and others.

¹¹⁰ Submission by ReportOUT.

¹¹¹ See communication UGA 3/2022.

¹¹² See communication UGA 4/2022.

¹¹³ Joint submission by World Coalition Against the Death Penalty and others.

¹¹⁴ A/HRC/50/23, para. 32, and A/HRC/53/38/Add.4.

¹¹⁵ Submissions by ILGA Europe and ILGA Asia.

¹¹⁶ Submission by Yale China Center.

¹¹⁷ Submission by YP Foundation.

¹¹⁸ Submission by Hättér Society.

restrictions not only curtail the financial independence of LGBT advocacy groups, but also hinder their capacity to conduct outreach, provide support services and engage in legal and policy advocacy. The imposition of these laws exacerbates the challenges faced by LGBT communities, representing a direct infringement on the freedom of association. The European Commission for Democracy through Law has expressed concern about the overly broad nature of these laws and their “adverse effect on the freedom of association and democracy itself”.¹¹⁹

64. Some States require groups working on sexual orientation and gender identity-related issues to register as “foreign agents”.¹²⁰ The term “foreign agent” has a stigmatizing association, suggesting that LGBT groups represent a foreign threat to the State. In the Russian Federation (which adopted a foreign agent law in 2022),¹²¹ it has particularly negative connotations as it is considered synonymous with “traitor” or “spy”.¹²²

VI. Restrictions in the digital sphere

65. Digital platforms have provided an invaluable tool for LGBT persons to access information, to connect with each other and to form communities within restrictive environments. For human rights defenders, digital platforms provide the tools to connect within and across national boundaries, making regional and global connections that are essential to their work. Restrictions on electronic communications inhibit not only freedom of expression, but also freedom of association. Some States use digital platforms to undertake surveillance of LGBT organizations and human rights defenders, or even to monitor and entrap individuals. The same freedoms that are enjoyed offline are protected online.¹²³

66. While the digital sphere allows for connectivity and community through expression, association and online gatherings, the digital space also allows for widespread surveillance, blanket censorship, invasion of privacy, threats, doxing¹²⁴ and manipulation of opinion by State and non-State actors. The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has analysed extensively the gendered aspects of online space, both its freedoms and its abuses, noting in particular the ways in which inequalities and marginalization in the material world are connected to harms and attacks in the virtual world.¹²⁵ Protections for online crimes such as cyberstalking may be limited in scope to women, creating a very specific analytical framework for these crimes and leaving out other LGBT populations, including gender-diverse people.¹²⁶ Protectionist legal approaches to safety also regulate minorities’, specifically women’s, expression online according to specific ideas around gender and sexuality, undermining their digital rights.¹²⁷

A. Freedom of opinion and expression in the digital sphere

67. The Special Rapporteur on the right to privacy has repeatedly emphasized the intersection of the right to privacy with other human rights, including freedom of opinion and expression.¹²⁸ The publication of private information concerning an individual’s sexual orientation or gender identity has the capacity to cause serious repercussions in the individual’s private and public lives.¹²⁹ LGBT individuals are at risk of specific forms of

¹¹⁹ See [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2019\)002-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2019)002-e), para. 102.

¹²⁰ Submission by Education Community.

¹²¹ See <https://www.hrw.org/news/2022/12/01/russia-new-restrictions-foreign-agents>.

¹²² See communications RUS 7/2022 (and communications cited therein) and RUS 16/2022.

¹²³ General Assembly resolution 73/173.

¹²⁴ Submission by iProbono.

¹²⁵ A/HRC/50/29. See also <https://www.ohchr.org/en/statements/2022/02/statement-irene-khan-special-rapporteur-promotion-and-protection-freedom-opinion>.

¹²⁶ Submission by YP Foundation.

¹²⁷ Submission by Association for Progressive Communication.

¹²⁸ A/HRC/40/63.

¹²⁹ Submission by Human Rights Watch.

online harassment, or discrimination, such as outing, doxing and gender- or sexuality-related abuse.¹³⁰ Furthermore, freedom of expression is severely limited if individuals are denied anonymity through privacy infringement online and believe they cannot post freely without real-life repercussions, which is the unfortunate reality for many LGBT individuals and activists around the world.¹³¹ Data protections in law inadequately safeguard against this where, for example, they are ambiguous, do not address the specific concerns of LGBT individuals, allow data profiling or allow unnecessary government discretion or exemptions in implementation.¹³²

68. The right to freedom of opinion is under threat in ways that were unimaginable in the pre-digital age. Opinions are no longer contained in the mind or shared selectively, but externalized in the digital sphere.¹³³ In the past, without exercising freedom of expression, opinion could not be accessed by external actors and thus could be infringed upon only in a general way (through mass, non-targeted propaganda). In the digital age, algorithmic surveillance and data mining allow corporations and Governments to alter the information the general public is shown, thus stimulating unconscious changes in habits and opinions to make people more susceptible to advertising or manipulation. Formation of opinion may also be undermined by online surveillance, which “likely deters individuals from accessing information, particularly where such surveillance leads to repressive outcomes and online censorship”.¹³⁴

69. Gendered disinformation (the spread and perpetuation of lies and harmful stereotypes about women and gender-nonconforming persons) has gained traction,¹³⁵ and as the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has noted, “gendered disinformation affects LGBTQ+ communities disproportionately, perpetuating harmful stereotypes and further marginalizing them”.¹³⁶

B. Online content moderation

70. Online content moderation is an issue that sits at the nexus of State and corporate responsibility. Companies are often required to follow legal standards set by the State or other governing bodies (such as the European Union). The Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence sets a high threshold and precise criteria for defining “hate speech”, and identifies both shortcomings (impunity for direct incitement to violence) and excesses (overly broad legislation that stifles free expression) in the application of “hate speech” provisions in article 20 (2) of the International Covenant on Civil and Political Rights. While content moderation is necessary to ensure that incitement to imminent violence is not condoned or treated with impunity either online or offline, “hate speech” provisions carry the potential of misusing a legitimate aim to an overly restrictive end.¹³⁷ Other vague and restrictive laws on, for example, “extremism”, “blasphemy”, “defamation”, “offensive” speech, “false news” and “propaganda”, can also be used as a pretext to force companies to restrict legitimate discourse, including sexual orientation and gender identity-related information.¹³⁸

71. Owing to the inbuilt biases of the programmers and mirrored power structures in the digital landscape upon which these automated models are trained, research suggests that such filters disproportionately harm historically underrepresented communities.¹³⁹ Furthermore, there are significant limitations to the capabilities of automated filters and blockers,

¹³⁰ Submission by ILGA Africa.

¹³¹ Submission by Association for Progressive Communications.

¹³² Submission by YP Foundation.

¹³³ [A/HRC/29/32](#).

¹³⁴ *Ibid.*, para. 21.

¹³⁵ [A/78/288](#).

¹³⁶ *Ibid.*, para. 41.

¹³⁷ [A/HRC/38/35](#).

¹³⁸ Submission by ILGA Asia.

¹³⁹ [A/74/486](#).

“including the challenge of assessing context and taking into account widespread variation of language cues and meaning, linguistic and cultural particularities”.¹⁴⁰ Mass reporting of social media accounts by trolls can lead to self-censorship, preventing specific stories and voices from being amplified, while the creation of algorithms and the use of artificial intelligence can feed surveillance systems and enhance harms related to privacy violations.¹⁴¹

C. Freedom of association and assembly in the digital sphere

72. For LGBT individuals, there is often a social aspect to “association”. For many LGBT individuals who experience isolation, the Internet is a vital medium for connecting with others. For LGBT individuals, online association and assembly are often simply born of a pursuit for connection and belonging without political motive or intent to advocate for equal rights. All the same, they can face undue restrictions and State persecution for this act of online assembly. In a discriminatory legislative environment, Indonesia has blocked websites and social media applications owing to their LGBT-related content.¹⁴² In Tunisia, the expansive surveillance provisions, severe penalties and ambiguous language of cybercrime legislation, including “insulting public morals”,¹⁴³ risk targeting LGBT individuals and organizations, alongside dissenters, journalists and human rights defenders.¹⁴⁴ Similarly, in Egypt, cybercrime laws are used for morality prosecutions for same-sex conduct.¹⁴⁵ Expansive cybercrime and surveillance legislation leads to the systemic suppression of LGBT identities through compelling individuals to self-censor or face severe consequences, particularly if State regulatory measures undercut the possibility of anonymity and encryption, such as by banning virtual private networks.¹⁴⁶ A multi-year research project on technology-facilitated harms, with a focus on countries in the global South, found that sexual orientation and gender identity were determining factors for reporting serious impact from online harms, with transgender and gender-diverse people bearing the brunt.¹⁴⁷

VII. Conclusion

73. **In the present report, the Independent Expert documents a discernible trend in laws, policies and practices that restrict the rights to freedom of expression, peaceful assembly and association. While this trend is apparent, in various manifestations, in all regions of the world, it is not ubiquitous. There are many examples of States taking steps to ensure that these rights are upheld regardless of sexual orientation and gender identity. A snapshot of some of these measures include the fact that States have taken steps to protect against hate speech, violence and discrimination based on sexual orientation and gender identity.¹⁴⁸ There is a discernible global trend towards decriminalizing same-sex conduct, as evident in the 38 States that have done so in the past 25 years.¹⁴⁹ Some States have passed comprehensive non-discrimination laws which directly address sexual orientation and gender identity-specific concerns around**

¹⁴⁰ A/73/348, para. 15.

¹⁴¹ Submission by Association for Progressive Communication.

¹⁴² See communication IDN 2/2022; and submission by the Williams Institute.

¹⁴³ Submission by Damj.

¹⁴⁴ See communications TUN 3/2021, TUN 4/2021, TUN 9/2021 and TUN 6/2019; and submissions by Damj and Human Rights Watch.

¹⁴⁵ See communications EGY 14/2019, EGY 4/2019 and EGY 17/2017; and submissions by Article 19 and Human Rights Watch.

¹⁴⁶ Submissions by Access Now and Electronic Frontier Foundation.

¹⁴⁷ A/HRC/41/41; see

<https://www.ohchr.org/sites/default/files/documents/issues/trafficking/statements/20230915-jd-foaa-digital-technologies.pdf>; submission by Association for Progressive Communication; and Suzie Dunn, Tracy Vaillancourt and Heather Brittain, “Supporting safer digital spaces: highlights” (Centre for International Governance Innovation, 2023).

¹⁴⁸ Submission by South Africa.

¹⁴⁹ Human Dignity Trust, “A history of LGBT criminalisation”, available at <https://www.humandignitytrust.org/lgbt-the-law/a-history-of-criminalisation/>.

expression, assembly and association.¹⁵⁰ States provide protection for public-facing events, including Pride marches.¹⁵¹ States provide education that is inclusive and diverse. In some settings, courts have been a bulwark in defence of registration of NGOs.¹⁵²

74. Notwithstanding these positive developments, a negative trend, evident in all regions of the world, is for States to impose restrictions that limit visibility and participation in the public sphere, based on sexual orientation and gender identity. While this is not a new phenomenon, the extent, severity and scope of these restrictions are. Laws and policies may be explicit or implicit in targeting LGBT persons. At the most extreme are efforts to completely eliminate LGBT persons from the public sphere by criminalizing even the declaration of identity, whereby the statement “I am lesbian” could land a person in jail and preclude her from any prospect of shelter, employment, access to health services or family life. Other laws are less extreme, but they all stem from the same motivation – to curtail the rights to freedom of expression, peaceful assembly and association for targeted groups of people, on the basis of their actual or assumed sexual orientation or gender identity.

75. The rhetoric used to justify these laws and policies relies on harmful stereotypes and perpetuates misinformation about LGBT persons. Concepts such as “protecting children” from purported negative influence misrepresent LGBT persons as a threat to the family, society or the State. While these are absurd claims to direct against small minority groups, they have proven to be an effective scapegoating strategy in many settings. This is a minority-rights issue in the sense that these laws and policies, and State and non-State actions that follow in their wake, have a disproportionate effect on people based on their sexual orientation and gender identity. Nevertheless, these attacks represent a much broader threat to human rights and democracy.

76. Attacks on minorities, and increasingly on LGBT persons, are part of the routine playbook of authoritarian populists, seeking to shore up a domestic support base. The “us-versus-them” rhetoric that is ubiquitous with authoritarian leaders is used to justify the exclusion of LGBT persons from the public sphere. These laws and policies and the rhetoric that accompanies them serve to create pariah social groups. This is almost invariably accompanied by attacks on democratic norms – free press, independence of the judiciary and a robust civil society. These laws and policies are also often used to distract attention from pressing social, political and economic issues. It may seem extraordinary to outsiders that politicians would pay so much attention to questions of gender and sexuality in times of crisis, but these are precisely the moments in which these issues get disproportionate attention and fuel moral panics. Indeed, questions of gender and sexuality are currently front and centre in several geopolitical conflicts that have nothing to do with the lived realities of LGBT persons.

77. In a global context, civil society space is being eroded. There is a proliferation of laws and policies restricting groups from working on sexual orientation and gender identity issues. This is a dangerous brew: hostile, misleading public rhetoric, restrictive laws and policies, and severely restricted civil society space. This combination creates an environment in which systematic State-sanctioned discrimination and violence is inevitable. Even when proposed legislation does not ultimately pass, the negative public attention on sexual orientation and gender identity associated with parliamentary processes contributes to a climate of abuse. Urgent attention is needed to address the widespread discrimination and violence that occurs as a result of these restrictions.

¹⁵⁰ Submissions by Albania, North Macedonia and Uruguay.

¹⁵¹ Submission by National Human Rights Commission of India.

¹⁵² See <https://www.humandignitytrust.org/news/victory-as-kenyas-highest-court-allows-registration-of-lgbt-organisation/>.

VIII. Recommendations

78. With regard to equality and non-discrimination, States and other stakeholders should:

- (a) Decriminalize consensual same-sex sexual conduct;
- (b) Remove laws that prohibit public expression of gender identity;
- (c) Ensure equal access to justice;
- (d) Work towards ending incitement of hatred and violence against individuals on account of their sexual orientation or gender identity;
- (e) Remove any barriers to the enjoyment of equal rights for all regardless of sexual orientation and gender identity;
- (f) Ensure the investigation, prosecution and punishment of any proven acts of violence motivated by the victim's sexual orientation or gender identity;
- (g) Provide effective protection against violence;
- (h) Reject social stigmatization, discrimination and violence based on sexual orientation and gender identity;
- (i) Remove barriers to accessing foreign funding for human rights-related work;
- (j) Remove obstacles for the registration of organizations associated with sexual orientation and gender identity.

79. With regard to hate speech, States and other stakeholders should:

- (a) Prevent, prohibit and prosecute hate speech in accordance with the Rabat Plan of Action;
- (b) Ensure thorough investigation of all cases of intimidation, threats and assault and provide victims with remedy and reparation;
- (c) Ensure public accountability for public officials who spread disinformation or incite violence, discrimination or harassment based on sexual orientation and gender identity;
- (d) Take effective measures to prevent hate speech and publicly condemn it;
- (e) Raise awareness about hate speech and implement effective measures to encourage reporting of hate crimes.

80. With regard to training and awareness-raising, States and other stakeholders should:

- (a) Provide specialized training to law enforcement officials, judges and prosecutors on addressing hate speech and hate crimes based on sexual orientation and gender identity;
- (b) Increase training and education programmes on the importance of freedom of expression, freedom of association and freedom of assembly for law enforcement officers, military personnel, staff of private security companies, judges and prosecutors;
- (c) Regularly conduct activities with the public aimed at promoting mutual tolerance, respect for diversity, countering hatred and eradicating societal stereotypes;
- (d) Ensure that school curricula are aligned with human rights norms and standards, including on equality, non-discrimination and access to age-appropriate information;
- (e) Repeal laws and policies that prohibit classroom discussions or access to age-appropriate information on gender and sexuality;

- (f) **Implement comprehensive sexuality education;**
 - (g) **Provide training on sexual orientation and gender identity issues to media workers;**
 - (h) **Consult civil society groups when developing public education campaigns on non-discrimination, inclusion and diversity;**
 - (i) **Set up a mechanism to ensure that acts of violence and threats against human rights defenders can be reported and promptly investigated.**
81. **States and other stakeholders should improve data collection on hate speech and violence directed against people based on sexual orientation and gender identity.**
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