

LGBTQ+ CENSORSHIP AND SILENCING CHILD HUMAN RIGHTS DEFENDERS: FRAMING CHILDREN AS THE HEROES AND HEROINES OF HUMAN RIGHTS

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ABSTRACT

This Note will challenge LGBTQ+ censorship laws at an international level by using their child protection justification against them. Rather than protecting children, censorship laws are harming them by interfering with their right to act as human rights defenders. LGBTQ+ rights are human rights, and children should be equipped with the knowledge and means to challenge all types of human rights violations. While international challenges to the censorship laws have historically faced pushback due to the pervasive nature of the child protection defense, recent cases show that supranational bodies are more willing to scrutinize the use of this defense, specifically when this defense conflicts with rights that are fundamental to international democracy. Challenging these laws through the implied right to act as a child human rights defender emphasizes the obligations of States to protect child human rights defenders, highlights the danger censorship laws pose to international democracy, and encourages supranational bodies to adopt a bright-line rejection of LGBTQ+ censorship laws.

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INTRODUCTION

With the rise of international human rights law, States have had to become more cautious about domestic measures that could provoke international criticism for breaching human rights commitments.¹ Recognizing the threat of international sanctioning, States have altered their approach to committing human rights violations. LGBTQ+ rights constitute an area for which States have had to adjust to international scrutiny. In recent years, there has been a global regression in LGBTQ+ rights with States imposing new laws and reinstating old laws restricting the rights and freedoms of LGBTQ+ persons.² States are cognizant that these discriminatory laws are subject to international scrutiny and have been preemptively attempting to insulate themselves against legal challenges by passing censorship laws, labeled as “propaganda laws.”³ These censorship laws are rights violations in and of themselves, justified using international human rights language.⁴ These laws also act as a means of silencing dissent, further entrenching discrimination into a State’s legal framework and protecting States against negative international attention.⁵

Children are an especially vulnerable group being impacted by these censorship laws. While these laws are often passed by States

1. Dinah L. Shelton, *An Introduction to the History of International Human Rights Law* 1, 9 (Geo. Wash. Univ. L. Sch. Pub. L., Working Paper No. 346, 2007), https://papers.ssrn.com/sol3/Papers.cfm?abstract_id=1010489 (noting that human rights issues used to be considered purely domestic). In referencing the rise of human rights rhetoric, this paper refers to the drafting of the Universal Declaration of Human Rights following the call for international human rights guarantees in the aftermath of World War II. *Id.* at 15.

2. Graeme Reid (Independent Expert on Protection Against Violence and Discrimination Based on Sexual Orientation and Gender Identity), *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*, ¶ 2, U.N. Doc. A/HRC/56/49 (Apr. 18, 2024).

3. Throughout this Note, the laws will be referred to as “censorship laws” which challenges the purported purpose of these laws and highlights how they function in practice.

4. See Reid, *supra* note 2, ¶ 26 (noting the use of child protection logic to justify the laws); *infra* Section III (explaining how the child protection logic is grounded in international human rights law).

5. See *id.* (noting the way these laws are used to target advocacy work); *infra* Section II (discussing how these laws act as a means of repressing advocacy work).

under the guise of child protection, in practice, they violate the rights of children and deter them from acting in defense of human rights.⁶ Human rights defenders, as defined by the Office of the United Nations High Commissioner for Human Rights, are those “who, individually or with others, act to promote or protect human rights.”⁷ Child human rights defenders often fail to receive recognition, in part due to ageism.⁸ Nonetheless, children are active rights holders with a long history of defending human rights.⁹ Child human rights defenders have historically participated in major rights movements ranging from the Civil Rights Movement in the United States to climate change movements in Ecuador.¹⁰ Despite attempts to stifle the voices of child human rights defenders, children continue to pursue activism opportunities.¹¹ Willful ignorance of the role of children as human rights defenders discredits the important work children are doing, stunts discussions of how to protect children acting in defense of human rights, and allows for their rights to be violated. While the protection of children is a legitimate justification for rights limitations, this justification is often overextended by States, resulting in children being treated as if they lack the capacity to exercise their rights.¹² The core legal conflict at issue is the latitude

6. Reid, *supra* note 2, ¶ 26.

7. U.N. Office of the High Comm’r of Hum. Rts., Fact Sheet No. 29: Human Rights Defenders: Protecting the Right to Defend Human Rights, at 2 (2004), <https://digitallibrary.un.org/record/519502/files/FactSheet29en.pdf> [<https://perma.cc/C73J-4KCY>].

8. Mary Lawlor (Special Rapporteur on the Situation of Human Rights Defenders), “*We are Not Just the Future*”: *Challenges Faced by Child and Youth Human Rights Defenders*, ¶¶ 45–50, U.N. Doc. A/HRC/55/50 (Jan. 17, 2024).

9. U.N. Comm. on the Rts. of the Child, Day of General Discussion (DGD) 2018: Protecting and Empowering Children as Human Rights Defenders, at 10 (2018) [hereinafter *Protecting and Empowering Children as Human Rights Defenders*], https://www.ohchr.org/sites/default/files/Documents/HRBodies/CRC/Discussions/2018/crc_dgd_2018_outcomereport_en.pdf (on file with the *Columbia Human Rights Law Review*).

10. See *infra* Section I.b (detailing the participation of children in human rights movements).

11. Today, children are speaking at the United Nations through the support of non-governmental organizations. Child Rights Connect (@ChildRightsCnct), X (Sept. 20, 2024, at 5:52 AM ET), <https://x.com/ChildRightsCnct/status/1837067217604657513>.

12. Jonathan Todres, *Confronting Categorical Exclusions Based on Age: The Rights of Children and Youth*, 36 HARV. HUM. RTS. J. 283, 285–86 (2023); see

given to States by supranational bodies to protect children or pursue other legitimate means of restricting guaranteed rights. Emphasizing how censorship laws directly conflict with the advocacy work of children takes advantage of the limitations supranational bodies have articulated when it comes to the ability of States to restrict essential rights guarantees.

This Note will focus on how the new wave of anti-LGBTQ+ censorship laws are a threat to the democratic principles underlying international law.¹³ Section I will establish the pervasive nature of these laws through an examination of recently passed laws in Russia, Hungary, Bulgaria, and the United States. Section I will also highlight the historical importance of child human rights defenders. Section II of this Note will assess the impact of these laws on some of the civil and political rights essential to the work of child human rights defenders. Finally, Section III will challenge the censorship laws by using their own logic against them, arguing that these laws unjustly interfere with a child's right to be a human rights defender. Other scholarship has challenged the censorship laws from a child rights perspective,¹⁴ but this Note will focus specifically on the impact of the laws on child human rights defenders. Challenging these laws by focusing on the rights of child human rights defenders will accomplish the two-fold goal of (1) emphasizing the obligations of States to protect the rights of child human rights defenders and (2) providing an alternate legal basis for challenging the LGBTQ+ censorship laws which emphasizes the danger these laws present to international democracy.

infra Section III (recognizing that the protection of children is a human rights obligation of States).

13. The United Nations was founded with democracy as a core value. *Global Issues: Democracy*, UNITED NATIONS, <https://www.un.org/en/global-issues/democracy> [<https://perma.cc/VA6B-NFQY>] (last visited Feb. 26, 2025). These censorship laws will be shown through this Note to be in direct opposition to some of the essential guarantees of democratic nations, including the freedom of association and the freedom of expression. *See id.* (listing the freedom of association and freedom of expression as essential elements of democracy); *see infra* Section III (detailing how the censorship laws restrict rights).

14. Ryan Thoreson, *From Child Protection to Children's Rights: Rethinking Homosexual Propaganda Bans in Human Rights Law*, 124 YALE L.J. 1327 (2015).

I. BACKGROUND

A. LGBTQ+ Censorship Laws

This section will provide context on the language of the censorship laws analyzed and challenged in this Note.¹⁵ The laws chosen for analysis are those that specifically filter the information children may lawfully receive relating to the LGBTQ+ community, whether that be through media censorship or limitations on what can be discussed in schools. States are preemptively defending the censorship laws against challenges by claiming that they are designed to protect the growth and development of children. However, when considering these laws against the backdrop of a global populist trend, the claimed intentions of these laws seem to be a pretextual masking of their true purpose, which is to target the LGBTQ+ community and distract citizens of a State from populist attacks on democracy.¹⁶

Russia is the first of the States analyzed as its initial censorship law served as a model for others, but it should be noted that the use of child protection logic to stifle advocacy did not begin with Russia.¹⁷ The Russian laws are a relevant starting point as they were passed in the midst of a global surge in the weaponization of the child protection defense.¹⁸ In June 2013, the Russian Federation amended its federal law to expand its protection of the health and development of children to encompass restrictions on the dissemination of information on “homosexual” relationships.¹⁹ Article 6.21, titled “Propaganda of non-traditional sexual relations of

15. Translations throughout this section are based on Google Translate and unofficial translations and consequently are imperfect.

16. See Reid, *supra* note 2, ¶ 76 (noting that politicians will focus on issues of gender and sexuality disproportionately in times of crisis); Thoreson, *supra* note 14, at 1328 (highlighting the lack of empirical evidence to prove these “child protection” laws have a positive impact on children, further proving their pretextual basis).

17. See Thoreson, *supra* note 14, at 1328–29 (noting that some of the first efforts to use this logic to restrict advocacy began in the United States and the United Kingdom).

18. *Id.* at 1329.

19. Федеральный закон о защите детей от пропаганды гомосексуализма [Federal Law on the Protection of Children from the Propaganda of Homosexuality], СБОРНИК ЗАКОНОВ РОССИЙСКОЙ ФЕДЕРАЦИИ [SZ RF] [Russian Federation Collection of Legislation] 2013, No. 135-FZ (Russ.).

minors,” penalizes any information spread to minors that promotes non-traditional sexual relations.²⁰ In an explanatory note of the law, the purported purpose is to protect children from information that may be “injurious to [their] physical, moral and spiritual wellbeing.”²¹ The justification for using censorship for this purpose is the idea that children lack the capacity to critically assess all information presented to them.²² The terminology of this amended law is vague both as to what would be considered “propaganda” and as to what would be considered “non-traditional.” The UN Committee on the Rights of the Child (“CRC”) noted its concern over how the vagueness of this law could negatively impact children by stigmatizing certain sexual orientation and gender identities and by justifying violence against young LGBTQ+ rights activists.²³ Other State authorities have acknowledged some of the negative consequences of the Russian law—one identified consequence being increased violence against members of the LGBTQ+ community with impunity from authorities.²⁴ In 2022, Russia approved a bill, since signed into law, that expands its persecution of LGBTQ+ individuals and broadens the scope of the censorship laws by penalizing the “demonstration” of LGBTQ+ behavior.²⁵

20. *Id.* art. 6.21.

21. HUM. DIGNITY TR., RUSSIA: THE ANTI-PROPAGANDA LAW 1 (2014), https://www.humandignitytrust.org/wp-content/uploads/resources/Briefing_on_Russias_federal_anti-propaganda_law.pdf [<https://perma.cc/NS9G-DGE2>].

22. *Id.*

23. Comm. on the Rts. of the Child, Concluding Observations on the Combined Fourth and Fifth Periodic Reports of the Russian Federation, ¶ 24, U.N. Doc. CRC/C/RUS/CO/4-5 (Feb. 25, 2014).

24. Comm. on the Rts. of the Child, Views Adopted by the Committee on the Rights of the Child Under the Optional Protocol to the Convention on the Rights of the Child on Communications Procedure, Concerning Communication No. 51/2018, ¶¶ 2.3, 2.6, U.N. Doc. CRC/C/86/D/51/2018 (Mar. 12, 2021) [hereinafter Communication No. 51/2018].

25. *Russian Parliament Passes Law Banning ‘LGBT Propaganda’ Among Adults*, REUTERS (Nov. 24, 2022, at 14:47 ET), <https://www.reuters.com/world/russias-parliament-passes-law-banning-lgbt-propaganda-among-adults-2022-11-24> [<https://perma.cc/UYQ7-7F9Y>]; Ivana Kottasová & Anna Chernova, *Putin Signs Expanded Anti-LGBTQ Laws in Russia, in Latest Crackdown on Rights*, CNN (Dec. 5, 2022, at 11:28 ET), <https://edition.cnn.com/2022/12/05/europe/russia-lgbtq-propaganda-law-signed-by-putin-intl> [<https://perma.cc/PUK3-FMLP>].

In 2021, Hungary passed Act LXXIX “on taking more severe action against paedophile offenders and amending certain Acts for the protection of children” targeting the dissemination of information to children.²⁶ Act LXXIX amends previous Hungarian laws on media, advertisements, families, education, and crime.²⁷ Under the guise of protecting against pedophilia, this law targets the LGBTQ+ community by adding language on non-heterosexual sexual orientations and non-conforming gender identities to existing laws which target the dissemination of pedophilic content. Hungarian lawmakers provided justification for the amendments in their proposal for the bill, which grounded the new law in the State’s responsibility to protect the mental and moral development of children.²⁸ The argument is that while children are still developing, they are more likely to misunderstand information presented to them and therefore should not be presented with information that could confuse their values.²⁹ Under the new law, economic advertisers are “forbidden to make accessible to persons who have not attained the age of eighteen years advertisement that depicts sexuality in a gratuitous manner or that propagates or portrays divergence from self-identity corresponding to sex at birth, sex change or homosexuality.”³⁰ Furthermore, media that promotes non-conforming sexual orientations and identities will receive a classification deeming it unsuitable for children.³¹ The amendments also extend to children’s education by prohibiting school activities “aimed at the propagation of divergence from self-identity corresponding to sex at birth, sex change or homosexuality.”³² These adjustments restricting coverage of LGBTQ+ issues are grouped together with changes to criminal law pertaining to pedophilia. This grouping is particularly harmful and

26. 2021. évi LXXIX. törvény az Országgyűlésről (Act LXXIX of 2021 on the Parliament) (Hung.) [hereinafter Act LXXIX].

27. *Id.*

28. 2021. T/16365/15, A gyermekvédelmi törvény módosítása, a családvédelem-törvény, a vállalkozási reklámtevékenységről szóló törvény, a médiatörvény és a közoktatási törvény (Amendments to the Child Protection Act, the Family Protection Act, the Act on Business Advertising Activity, the Media Act and the Public Education Act) (Hung.).

29. *Id.*

30. Act LXXIX, *supra* note 26, § 3.

31. *Id.*

32. *Id.*

stigmatizing because it conflates being a member of the LGBTQ+ community with deviant sexual behavior.³³

In August 2024, Bulgaria amended its Preschool and School Education Act to ban “propaganda, popularization or incitement in any way, directly or indirectly, of ideas and views related to non-traditional sexual orientation and/or determination of gender identity other than biological” in educational spaces.³⁴ The amendment defines non-traditional sexual orientation as any attraction between people that are not opposite sexes.³⁵ The traditional/non-traditional distinction is illustrative of a systemic value system that is aimed at delegitimizing LGBTQ+ identities. Bulgaria, like its predecessors, grounds the logic behind the law in the protection of young people.³⁶ Bulgarian officials have openly embraced the biases embedded in the law, describing LGBTQ+ information as “anti-human”³⁷ and framing discussions of gender identity as both dangerous and ideologically leftist.³⁸

The wave of censorship laws extends across the globe into the West, where some of the first efforts to use the child protection logic as a means to restrict advocacy arose.³⁹ Today, many parts of the United States have a commitment to traditionalism which is consistent with the other States passing these censorship laws.⁴⁰ In

33. Amnesty International, *Hungary: The Russian-Style Propaganda Law Violates Human Rights and Threatens LGBTI People*, EUR 27/4492/2021, at 2 (July 22, 2021).

34. Decree No. 199 § 1(2)(3) (Aug. 16, 2024) (Bulg.) [hereinafter Decree No. 199], <https://dv.parliament.bg/DVWeb/showMaterialDV.jsp?idMat=224947> [<https://perma.cc/LRF4-K5CU>].

35. *Id.* § 2(16)

36. Press Release, ILGA Europe, Bulgaria Passes Anti-LGBTI Propaganda Law (Aug. 7, 2024), <https://www.ilga-europe.org/press-release/bulgaria-passes-anti-lgbti-propaganda-law> [<https://perma.cc/GYQ3-AXGU>].

37. See, e.g., Ketrin Johecová, Eddy Wax & Stuart Lau, *Bulgaria's New Anti-LGBTQ+ Law is Official. Opponents Beg EU to Take Action.*, POLITICO (Aug. 16 2024), <https://www.politico.eu/article/bulgaria-anti-lgbtq-law-ban-propaganda-school-ruman-rudev> [<https://perma.cc/AF94-3B7J>].

38. Svetoslav Todorov, *Bulgaria's Parliament Unexpectedly Outlaws 'LGBT Propaganda' in Schools*, BALKANINSIGHT (Aug. 7, 2024), <https://balkaninsight.com/2024/08/07/bulgarias-parliament-unexpectedly-outlaws-lgbt-propaganda-in-schools> [<https://perma.cc/ULK2-6BXU>].

39. Thoreson, *supra* note 14, at 1328–29.

40. See Graeme Reid, “Traditional Values”: A Potent Weapon Against LGBT Rights, HUM. RTS. WATCH (Nov. 6, 2017), <https://www.hrw.org/news/2017/11/06/traditional-values-potent-weapon-against->

July 2022, Florida⁴¹ passed H.B. 1557,⁴² colloquially called the “Don’t Say Gay” bill.⁴³ The bill, which is actually titled “Parental Rights in Education,” emphasizes the important role of parental care in the upbringing of a child.⁴⁴ A majority of the bill is focused on procedural standards for notifying parents when it comes to concerns over a child’s welfare, but there is one provision targeting the dissemination of information to students. This provision prohibits “classroom discussion about sexual orientation or gender identity in certain grade levels.”⁴⁵ Like the other censorship laws, this portion of the bill is intended to limit the information that children receive in school. The language of this law is facially neutral,⁴⁶ unlike the laws in Russia, Hungary, and Bulgaria, which pinpoint particular sexualities

lgbt-rights [https://perma.cc/HCM5-HJLG] (describing how States are using “traditional” values against LGBTQ+ rights by positioning LGBTQ+ individuals outside the designated norm); Luke A. Boso, *Rural Resentment and LGBTQ Equality*, 71 FLA. L. REV. 919, 933, 950 (2019) (noting the traditional values in rural America in which ideas of sexuality and gender are rigid).

41. Florida is being used as an example, but it is not the only state in the United States attempting to restrict access to information on gender and sexuality. For example, in my hometown, Staten Island, New York, an elementary school was under investigation after a haul of books with race, immigration, and LGBTQ+ themes, was found in the garbage next to the school. Scott R. Axelrod, *Dozens of Books with Race, Immigration, LGBTQ+ Themes Found in Trash at NYC Public School*, SILIVE (Mar. 12, 2024, at 18:12 ET), <https://www.silive.com/news/2024/03/not-approved-dozens-of-books-with-race-immigration-lgbtq-themes-found-in-trash-at-nyc-public-school.html> [https://perma.cc/T33C-H3AP]. Staten Island is part of New York City, which is largely affiliated with more progressive politics, showing the expansive reach of the traditionalist rhetoric that has led to this wave of censorship.

42. FLA. STAT. § 1001.42.

43. Parental Rights in Education Act, H.B. 1557, 2022 Fla. Laws 1–7 [hereinafter H.B. 1557].

44. *Id.*

45. *Id.*

46. There was a legal settlement clarifying the neutral application of this law. Press Release, Nat’l Ctr. for LGBTQ Rights, Florida LGBTQ+ Rights Groups and Plaintiffs Reach Historic Settlement to Roll Back Key Discriminatory Provisions in “Don’t Say Gay” Law (Mar. 11, 2024), <https://www.nclrights.org/about-us/press-release/florida-lgbtq-rights-groups-and-plaintiffs-reach-historic-settlement-to-roll-back-key-discriminatory-provisions-in-dont-say-gay-law> [https://perma.cc/SHJ6-5XKK]. The facially neutral language of the law makes this law less susceptible to international criticism. *See supra* Section III (citing cases which use the discriminatory nature of the laws to diminish the child protection defense).

and gender identities that cannot be discussed.⁴⁷ However, critics of these laws note that the neutral language of the Florida law does not prevent it from perpetuating homophobia.⁴⁸ The Florida law is also distinct in its justifications. While other laws focus on State responsibility, this law focuses on parental responsibility. Florida has since expanded censorship of LGBTQ+ information in a 2023 general bill on education that expands the grade levels in which discussions of sexual orientation or gender identity is censored.⁴⁹ This bill also requires approvals for discussions of reproductive health and sexuality and restricts the books that can be held in a classroom library.⁵⁰

B. Child Human Rights Defenders: What Are They and Why Are They Important

The laws in Russia, Hungary, Bulgaria, and the United States have expansive negative impacts within the international human rights regime, undermining the self-expression of LGBTQ+ individuals and silencing organizations advocating for LGBTQ+ rights.⁵¹ When it comes to child rights, these laws impact all children regardless of their group identity.⁵²

Scholars have recognized the harm these laws cause children, and some suggest challenging these laws through a child rights perspective.⁵³ A child rights perspective underscores how censorship

47. See *supra* notes 19, 20, 30–32, 34 and accompanying text (highlighting portions of the State laws which mention gender and sexuality expression being targeted).

48. Monica Hesse, *There's a Reason the 'Don't Say Gay' Bills Don't Say What They Mean*, WASH. POST (Apr. 12, 2022), <https://www.washingtonpost.com/lifestyle/2022/04/12/dont-say-gay-bills-language/> [https://perma.cc/K7Z2-YQQ8] (“When homophobes are the ones using seemingly neutral laws, the actual effects of those laws will be homophobic.”).

49. H.B. 1069, 2023 Fla. Laws 1–10 (2023).

50. *Id.*

51. Reid, *supra* note 2, ¶ 28.

52. For example, in a case before the Committee on the Rights of the Child, the child petitioner was being discriminated against not because of his own identity, but because of the sexual orientation of his mothers. Communication No. 51/2018, *supra* note 24, ¶ 2.2.

53. Thoreson, *supra* note 14, at 1340–43; see also Michael P. Goodyear, *Going Global: An International Human Rights Approach to Russian LGBTQ+ Law and Practices*, 61 VA. J. INT'L L. 631, 649 (2021) (noting research that challenges the censorship laws through international child rights protections);

laws violate rights in ways that harm children’s personal growth and development. However, scholars applying a child rights perspective often overlook how the rights these laws deny are essential to enabling the work of child human rights defenders. In addressing how the censorship laws are harmful to children, the focus is often on the ability of a child to use their rights to protect themselves, but the work of child human rights defenders encompasses more than self-protection.⁵⁴ In these discussions on child rights, it is necessary to emphasize the impact these laws have on children as activists. Failing to do so further perpetrates the notion that children are limited in their involvement in human rights discourse and unduly narrows the scope of how children exercise their rights. Furthermore, it reinforces the narrative spread by the populist States passing these laws that adults are the “heroes and heroines” of children’s rights.⁵⁵ By contrast, a perspective focused on the impact of the laws on child activists acknowledges that children are the champions of their own rights.⁵⁶ While human rights protections are essential to the health and safety of a child, they are also essential to the ability of children to participate in international democracy and act in defense of human rights.

Caroline H. Voyles & Mariana Chilton, *Respect, Protect, and Fulfill or Reject, Neglect, and Regress? Children's Rights in the Time of the Russian "Gay Propaganda Law,"* 21 HEALTH & HUM. RTS. J. 325, 327 (2019) (analyzing the effects of the censorship laws on the fundamental rights of children through the case of a child persecuted under the Russian laws).

54. Thoreson acknowledges that the censorship of information impacts a child’s ability to be heard and share information, but his section on centering children’s rights focuses largely on the passive exercise of rights and fails to thoroughly discuss children as activists. Thoreson, *supra* note 14, at 1337–44.

55. The idea of adults as the “heroes and heroines” of child rights is emphasizing that child rights developed as a way to protect children rather than as a means of recognizing children as active rights holders. Judith Ennew, *The History of Children's Rights: Whose Story?*, CULTURAL SURVIVAL (Apr. 2, 2010), <https://www.culturalsurvival.org/publications/cultural-survival-quarterly/history-childrens-rights-whose-story> [https://perma.cc/M7M5-ZNUJ]. This characterization also highlights how children are often left out of rights discussions. *Id.* Populist states passing censorship laws weaponize this antiquated view of child rights to justify passing laws which they argue are in pursuit of the protection of children. *See supra* Section I.a (describing the justifications of State censorship laws which all are focused on child protection rather than the protection of child rights).

56. *See Ennew, supra* note 55. (discussing the history of child rights and recent efforts to recognize children as “full subjects of human rights”).

Child human rights defenders are “[c]hildren who take actions to promote, protect and fulfil human rights, including children’s rights . . . even if they do not see themselves as such, or are not considered and called as such by others.”⁵⁷ The work of child human rights defenders is wide-reaching, including “promoting the realization of human rights; collecting and disseminating information on human rights violations; supporting victims; contributing to the implementation of human rights treaties; and supporting better governance and accountability.”⁵⁸ Children are not merely interested in child rights, but rather their interests encompass a range of human rights issues that may or may not impact children themselves, including homelessness, labor, violence, health, and the environment.⁵⁹ The work done by child human rights defenders is just as important as the work done by adult human rights defenders, but children require special attention as they often face additional barriers and safety concerns due to their age.⁶⁰

The barriers that children face in acting as human rights defenders derive, in part, from resistance to children speaking up against adults and skepticism of the ability of children to understand human rights.⁶¹ In recognition of the distinct challenges of this group and the need for international recognition, the CRC devoted its 2018 Day of General Discussion to this topic.⁶² This was the first global

57. CHILD RTS. CONNECT, THE RIGHTS OF CHILD HUMAN RIGHTS DEFENDERS: IMPLEMENTATION GUIDE 7 (2020), <https://childrightsconnect.org/wp-content/uploads/2020/12/final-implementation-guide-the-rights-of-child-human-rights-defenders-forweb.pdf> [https://perma.cc/S4A7-F8A2] [hereinafter IMPLEMENTATION GUIDE].

58. Protecting and Empowering Children as Human Rights Defenders, *supra* note 9, at 5.

59. LAURA LUNDY & MICHELLE TEMPLETON, THE VIEWS, PERSPECTIVES AND RECOMMENDATIONS OF CHILDREN ACROSS THE WORLD 7 (2018), https://www.childrightsconnect.org/wp-content/uploads/2018/09/DGD-REPORT_WEB_en_def_web.pdf [https://perma.cc/5YP9-RYP3]; Jonathan Todres, *Youth Voice Matters: The Critical Nature of Youth Participation in Achieving the Right to a Healthy Environment*, 15 NE. U. L. REV. 763, 771 (2023).

60. See generally Lawlor, *supra* note 8 (addressing some of the barriers child human rights defenders face).

61. IMPLEMENTATION GUIDE, *supra* note 57, at 3.

62. U.N. COMM. ON THE RIGHTS OF THE CHILD, OUTCOME REPORT: 2018 DAY OF GENERAL DISCUSSION ON PROTECTING AND EMPOWERING CHILDREN AS HUMAN RIGHTS DEFENDERS (2018), https://www.ohchr.org/sites/default/files/Documents/HRBodies/CRC/Discussions/2018/crc_dgd_2018_outcomereport_en.pdf [https://perma.cc/VY9L-ZFMZ].

discussion in which child human rights defenders were the main topic of consideration and was regarded by child rights activists as “ground-breaking because it challenged the prevailing perception that children are merely passive objects of protection rather than active holders of human rights.”⁶³ In the 2018 discussion, child human rights defenders were recognized as a protected group under the Declaration on Human Rights Defenders, which states that “everyone” has the right to act as a human rights defender.⁶⁴

Despite international law regimes failing to emphasize the role of child human rights until recently, children have been essential to human rights movements throughout history. While some names are more popular and well-known, such as Greta Thunberg and Malala Yousafzai, most child human rights defenders are acting outside of the typical human rights regime, organizing on their own without any recognition as human rights defenders.⁶⁵ For example, in England, children organized strikes for better education in 1889, 1911, 1914, and then throughout the 1920s.⁶⁶ During labor rights movements in the United States, children organized unions and participated in strikes to address wage-cuts and poor working conditions in mines.⁶⁷ Similarly, in Ghana, children and youth organized in response to abuses from agricultural employers during the 1960s and 1970s.⁶⁸ Children were a driving force of change during the Civil Rights Movement in the United States. In Oklahoma City, children staged a sit-in at a local drug store after watching a play on Martin Luther King, Jr.⁶⁹ A children’s march in Birmingham, Alabama drew a crowd of 5,000 protestors and captured the attention of the public due to the abuses the children protestors experienced at the hands of authorities.⁷⁰

63. Protecting and Empowering Children as Human Rights Defenders, *supra* note 9, at 10.

64. *Id.* at 5; G.A. Res. 53/144, Declaration on Human Rights Defenders, art. 1 (Mar. 8, 1999) [hereinafter Declaration on Human Rights Defenders].

65. Lawlor, *supra* note 8, ¶ 8.

66. Ennew, *supra* note 56.

67. *Id.*

68. *Id.*

69. *Id.*

70. Alli Hartley-Kong, *How Did Children Participate in the Civil Rights Movement?*, LIBR. OF CONG. BLOGS (Jan. 13, 2023), <https://blogs.loc.gov/families/2023/01/how-did-children-participate-in-the-civil-rights-movement/>.

Fast-forwarding to more modern examples, child activists today have had to adjust their work to the evolving world. Himanshu, a 15-year-old living in India, organized a club in 2015 to address child safety in his hometown, emphasizing the need for child protections in online spaces.⁷¹ Himanshu's club has also worked to mobilize members of the community to address sexual exploitation in the emerging tourist industry in his community.⁷² In 2020, children in Thailand participated in a mass display of dissent against abuses in educational facilities, calling themselves the "Bad Students."⁷³ In 2021, children in Ecuador between the ages of 11 and 18 successfully challenged gas flaring as a contributor to global warming which resulted in the Sucumbíos Provincial Court of Justice ruling that the flares should be shut down.⁷⁴ Due to the efforts of child activists of the past, children today are platformed at an international level, speaking at the U.N. Human Rights Council and spotlighting the important role of child human rights defenders in international human rights.⁷⁵

II. HOW THE CENSORSHIP LAWS INTERFERE WITH THE WORK OF CHILD HUMAN RIGHTS DEFENDERS

Child human rights defenders, like adult human rights defenders, rely on civil and political rights and protections including freedom of assembly, freedom of expression, and freedom of association when acting in defense of human rights.⁷⁶ These rights

71. Protecting and Empowering Children as Human Rights Defenders, *supra* note 9, at 13.

72. *Id.* at 13.

73. Sunai Phasuk, *Thailand's 'Bad Students' are Rising up for Democracy and Change*, HUM. RTS. WATCH (Sept. 16, 2020), <https://www.hrw.org/news/2020/09/17/thailands-bad-students-are-rising-democracy-and-change>.

74. Lawlor, *supra* note 8, ¶ 104.

75. See Child Rights Connect (@ChildRightsCnct), X (Sept. 20, 2024, 6:22 AM EST), <https://x.com/ChildRightsCnct/status/1837074906590130456> ("Ensuring children's participation is essential and cannot be overlooked any longer").

76. These rights are guaranteed by the International Covenant on Civil and Political Rights ("ICCPR"). International Covenant on Civil and Political Rights, arts. 19, 21, 22, *opened for signature* Dec. 16, 1966, 999 U.N.T.S. 171. Identity-specific treaties reiterate these rights, emphasizing that for some groups there is added difficulty in claiming rights. The relevant identity-specific treaty analyzed in this Note will be the Convention on the Rights of the Child. Convention on the Rights of the Child, arts. 13, 15, *opened for signature* Nov. 20,

are fundamental to human rights work, enabling individuals to participate in democratic processes and drive broader social change.⁷⁷ An important aspect of the enjoyment of these rights is an individual's ability to access information and educate themselves on their rights.⁷⁸ The censorship laws restrict these "freedom rights" and other related rights protections, which consequently strip child human rights defenders of the tools they rely on to make change. This results in potential child human rights defenders having the passion and capacity, but not the means, to act in defense of human rights. The next section of this Note will give examples of how censorship laws have interfered with rights important to civil and political participation and will explain how these interferences impact child human rights defenders.

A. The Right to Access Information

The right to access information in international law derives primarily from freedom of expression, which includes the ability to "seek, receive and impart information."⁷⁹ There are two pieces of this right to information. The first piece is the ability of a child to access information of their own choosing.⁸⁰ Children hoping to engage in

1989, 1577 U.N.T.S. 3. Civil and political rights are likewise important in discussions of children as human rights defenders. Lawlor, *supra* note 8, ¶ 18.

77. The Declaration on Human Rights Defenders connects these fundamental freedoms directly to the work of human rights defenders and provides additional detail on States' obligations implied by the responsibility of States to ensure that these rights are effective. Declaration on Human Rights Defenders, *supra* note 64.

78. The ICCPR and the Convention on the Rights of the Child include the right to seek information under the freedom of expression. International Covenant on Civil and Political Rights, *supra* note 76, art. 19; Convention on the Rights of the Child, *supra* note 76, art. 13. The Declaration on Human Rights Defenders dedicates an entire section to the protection of information on human rights. Declaration on Human Rights Defenders, *supra* note 64, art. 6.

79. Convention on the Rights of the Child, *supra* note 76, art. 13; International Covenant on Civil and Political Rights, *supra* note 76, art. 19; Declaration on Human Rights Defenders, *supra* note 64, art. 6. The Convention on the Rights of the Child and the ICCPR are both treaty law and thus binding on parties.

80. An example of a violation of this element is a State blocking access to news resources. This example is pulled from a report on the situation of children in Turkmenistan, which found Turkmenistan's restrictions on international news websites to be a cause for concern. Comm. on the Rts. of the Child, Concluding

activism have cited a lack of access to information as a key barrier to exercising their civil and political rights.⁸¹ Failing to provide access to information or actively censoring a child's access to information causes children to be uninformed on their rights, which limits the advocacy work they can do. The second piece of the right to information is the ability of a child to disseminate information.⁸² Similar to restrictions on a child's ability to access information, restrictions on a child's ability to disseminate information likewise cabin a child's ability to engage in effective activism by cutting them off from the rest of the world and preventing them from engaging with other activists. Furthermore, restricting the dissemination of information on LGBTQ+ individuals prevents information on the mistreatment of those individuals from receiving international attention, which stunts the international human rights system from functioning as an effective way to check States.⁸³

observations on the combined fifth and sixth periodic reports of Turkmenistan, ¶ 20(e), U.N. Doc. CRC/C/TKM/CO/5-6 (Oct. 9, 2024).

81. LUNDY & TEMPLETON, *supra* note 59, at 14 (“Children wish that adults support them to know more about their rights. More information and education about human rights are needed, in order to strengthen children to become themselves human rights defenders.”).

82. An example of when this right may be violated is when a State fails to provide disadvantaged communities with access to information-sharing platforms. This example is pulled from a report on the situation of children in Kyrgyzstan, which recommended that the State take positive action to provide equitable access to the Internet. U.N. Comm. on the Rts. of the Child, Concluding observations on the combined fifth and sixth periodic reports of Kyrgyzstan, ¶ 21(b), U.N. Doc. CRC/C/KGZ/CO/5-6 (Oct. 18, 2023).

83. The international human rights system has become increasingly legalized through treaties which provide effective methods of enforcing human rights at an international level. See Laurence R. Helfer, *Overlegalizing Human Rights: International Relations Theory and the Commonwealth Caribbean Backlash against Human Rights Regimes*, 102 COLUM. L. REV. 1832, 1834 (2002) (explaining the legalization of human rights law and its development into a more detailed and readily enforceable legal system). By targeting domestic systems on an international level, a vertical approach is taken to enforcement. This vertical check acts as a means of reigning States in when domestic systems fail to protect human rights. Advocacy work is often recognized as important to treaty bodies' decisions. The Convention on the Rights of the Child, for example, welcomes expert advice. U.N. Comm. on the Rts. of the Child, *Information for civil society, NGOs, and NHRIs*, U.N. HUM. RTS. OFFICE OF THE HIGH COMM'R, <https://www.ohchr.org/en/treaty-bodies/crc/information-civil-society-ngos-and-nhris> (on file with the *Columbia Human Rights Law Review*).

In addition, violations of children's rights to access information harm their ability to gain confidence in themselves and in their knowledge and, in turn, discourages them from engaging in activism work.⁸⁴ This self-confidence, which can be bolstered through the ability to access more information on a topic, is particularly important for communities experiencing intersectional discrimination, including young girls and LGBTQ+ youth. A survey of young girls conducted by Plan International found that they reported feeling more confident in their ability to exercise civil and political rights when they had knowledge of their rights.⁸⁵ LGBTQ+ youth have equated these information bans to "cutting off air."⁸⁶

NGOs have criticized Russia's censorship laws for making it difficult for children to access unbiased information on the LGBTQ+ community.⁸⁷ Russia has used these laws to censor media considered to be LGBTQ+ "propaganda," targeting theater plays and bookstores.⁸⁸ In addition to restricting the information that can be shared with minors by adults, these laws have been used to restrict children, the purported beneficiaries of the law, from sharing information on the LGBTQ+ community. In Yekaterinburg, Russian police officers seized drawings from a school art contest that they

84. See PLAN INT'L, EQUAL POWER NOW: GIRLS, YOUNG WOMEN & POLITICAL PARTICIPATION 42 (2022), <https://plan-international.org/uploads/2022/10/SOTWGR-2022-EN-Final-SD.pdf> [<https://perma.cc/KW5S-WKHJ>] ("Feeling confident in your abilities, in the knowledge and skills you possess and, in your right to be heard is crucially important.").

85. *Id.*

86. MICHAEL GARCIA BOCHENEK & KYLE KNIGHT, NO SUPPORT: RUSSIA'S "GAY PROPAGANDA" LAW IMPERILS LGBT YOUTH 18 (2018), <https://www.hrw.org/report/2018/12/12/no-support/russias-gay-propaganda-law-imperils-lgbt-youth> [<https://perma.cc/EA94-RZN2>].

87. ANTI-DISCRIMINATION CENTRE MEMORIAL, COMING OUT & RUSSIAN LGBT NETWORK, IMPLEMENTATION OF THE UN CONVENTION ON THE RIGHTS OF THE CHILD AND PROBLEM OF CHILDREN FROM VULNERABLE GROUPS (RUSSIA) 19–20 (2013), https://www.ecoi.net/en/file/local/1305757/1930_1394553495_int-crcngo-rus-15923-e.pdf (on file with the *Columbia Human Rights Law Review*).

88. ECOM, COMING OUT & NORTH CAUCASUS SOS CRISIS GROUP, ADDITIONAL JOINT SUBMISSION TO THE COMMITTEE ON THE RIGHTS OF THE CHILD ON THE RIGHTS OF LGBTQ+ CHILDREN IN RUSSIA 8 (2023), https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/DownloadDraft.aspx?key=m95xzvGLIshlY7/2sjnISKUfdUd7wMynwbw5yt1IVwnbxZVY/IG0iAI5ijce+IRj (on file with the *Columbia Human Rights Law Review*).

believed should be investigated under the censorship laws.⁸⁹ The original 2013 law was used to detain minors simply for taking a photo in front of a rainbow flag.⁹⁰ In another case, a 17-year-old boy was fined for posting a picture of himself kissing a boy.⁹¹ These examples demonstrate the control Russia exercises over information on the LGBTQ+ community, which, in turn, impacts child human rights defenders by preventing children from educating themselves on diverse viewpoints and from sharing information relating to the LGBTQ+ community. Even when the information censored is not shared with the intent of promoting human rights, the expansive censorship shows Russia's willingness to stifle any and all streams of information, which certainly would encompass information promoting the protection of the LGBTQ+ community.

In Hungary, the enforcement of the censorship law has resulted in less information made available to children.⁹² Books are being restricted under the law, requiring booksellers to censor books with LGBTQ+ characters or receive a fine.⁹³ Museums have been forced to censor the artwork they display because there is a risk of children viewing and being influenced by the pieces.⁹⁴ Ads displaying gay couples are being pulled from circulation.⁹⁵ Media companies platforming LGBTQ+ speakers are being punished.⁹⁶ All of these

89. George Nelson, *Russian police seize drawings by high school pupils under 'gay propaganda' law*, THE ART NEWSPAPER: RUSSIA (Dec. 7, 2018), <https://www.theartnewspaper.com/2018/12/07/russian-police-seize-drawings-by-high-school-pupils-under-gay-propaganda-law> [https://perma.cc/MD28-LTRZ].

90. ECOM, COMING OUT & NORTH CAUCASUS SOS CRISIS GROUP, *supra* note 88, at 7.

91. *Id.* at 8.

92. Amnesty International, *From Freedom to Censorship: The Consequences of the Hungarian Propaganda Law*, EUR 27/7754/2024, at 26 (Feb. 27, 2024).

93. Lili Rutai, *From Censorship To Solidarity: The Surprising Consequences of Hungary's LGBT Laws*, RADIOFREEEUROPE/RADIOLIBERTY (Jan. 31, 2024), <https://www.rferl.org/a/hungary-lgbt-law-censorship-solidarity/32800032.html> [https://perma.cc/26CD-WTYR].

94. *Id.*

95. Jennifer Rankin, *Hungary passes law banning LGBT content in schools or kids' TV*, THE GUARDIAN: EUROPE (June 15, 2021, at 11:06 ET), <https://www.theguardian.com/world/2021/jun/15/hungary-passes-law-banning-lgbt-content-in-schools> [https://perma.cc/T3VC-AMGB].

96. Ryan Thoreson, *LGBT Rights Under Renewed Pressure in Hungary*, HUM. RTS. WATCH (Feb. 15, 2022, at 12:04 ET), <https://www.hrw.org/news/2022/02/15/lgbt-rights-under-renewed-pressure-hungary> [https://perma.cc/TB97-ZAM9].

informational bans limit the ways in which children in Hungary can educate themselves on LGBTQ+ issues and puts them at a global disadvantage.

In Florida, educators and students have spoken in opposition to the information censorship encouraged by the “Don’t Say Gay” bill.⁹⁷ Kate Johnson, a high school student, noted that banning discussions on LGBTQ+ issues conveys the idea that this kind of information is reserved for adults.⁹⁸ This is particularly relevant in discussing the impact these laws can have on child human rights defenders, a group that is often expected to be passive in rights discussions.⁹⁹ It is incompatible with the recognition of children as potential human rights defenders to limit the scope of what discussions they can be a part of.¹⁰⁰ Dr. Robert John Hovel, an educator in Florida, notes the stifling effect these laws have on critical thinking and keeping children informed on current issues.¹⁰¹

Rather than fulfilling their obligation to protect access to information, States passing these censorship laws are actively restricting this right by limiting information disseminated on LGBTQ+ issues. The laws consequently make it difficult for child human rights defenders to educate themselves on LGBTQ+ rights and advocate for non-discrimination of LGBTQ+ individuals.

B. The Right to Education

The right of a child to receive an education is enshrined in the Convention on the Rights of the Child.¹⁰² The Convention sets forth minimum rights standards, which include requiring education on human rights principles, allowing for a child to develop their own values, and instilling a child with an understanding of tolerance and

97. Press Release, Hum. Rts. Campaign, Human Rights Campaign on DeSantis’s “Don’t Say Gay or Trans” Law Going into Effect, Targeting LGBTQ+ Youth and Turning Back the Clock on Equality (Jun. 30, 2022), <https://www.hrc.org/press-releases/human-rights-campaign-on-desantiss-dont-say-gay-or-trans-law-going-into-effect-targeting-lgbtq-youth-and-turning-back-the-clock-on-equality> [https://perma.cc/BCY4-D56B].

98. *Id.*

99. IMPLEMENTATION GUIDE, *supra* note 57, at 3.

100. *See id.* at 7–8 (noting that children do not work solely on children’s rights).

101. Hum. Rts. Campaign, *supra* note 97.

102. Convention on the Rights of the Child, *supra* note 76, arts. 28–29.

equality.¹⁰³ The Declaration on Human Rights Defenders emphasizes the importance of education for the work of human rights defenders, reiterating that States are responsible for teaching human rights and tolerance at all education levels.¹⁰⁴

Access to a comprehensive education on human rights is essential to the work of child human rights defenders.¹⁰⁵ Schools often serve as the starting point for children's journeys as human rights defenders by providing space for children to learn about their rights, improve their advocacy skills, and engage in collective action.¹⁰⁶ When child human rights defenders were asked how schools can empower and protect children in their work, they responded by reiterating the importance of knowing what their rights are. Children in Western Europe noted that "[w]ithout education children will grow up lost and accept injustices, thus they will never speak out and help improve the world."¹⁰⁷ In the Asia-Pacific region, children observed that when taught about current events and issues, those "who are unaware of those laws will be educated and have the right to defend themselves for an instance if they will be in complicated situation."¹⁰⁸ Similar to the right to information, the right to education provides children with the knowledge they need to assert their rights.¹⁰⁹ In addition to

103. *Id.* art. 29(b)–(d).

104. Declaration on Human Rights Defenders, *supra* note 64, arts. 15–16. The Declaration on Human Rights Defenders mimics the language of the Convention on the Rights of the Child in Articles 29(b) and 29(d) regarding the right to education.

105. See Lawlor, *supra* note 8, ¶ 38 (noting that education can be a stepping stone into human rights activism).

106. See Rep. of the Working Grp. on discrimination against women and girls, *Girls' and young women's activism*, ¶ 60, U.N. Doc. A/HRC/50/25 (May 10, 2022) (detailing the importance of educational institutions for young girls, however, this point can be generalized to all children).

107. LUNDY & TEMPLETON, *supra* note 59, at 19.

108. *Id.*

109. There is some overlap between this Note's discussion of how censorship laws restrict the right to information and the right to education. This is because some of the laws, particularly in Bulgaria and Florida, target information dissemination in schools. Decree No. 199, *supra* note 34; H.B. 1557, *supra* note 43. However, these rights violations are distinct. The right to education is a particularly child-centric right; it is not included in the ICCPR but is included in the Convention on the Rights of the Child. Convention on the Rights of the Child, *supra* note 76, art. 28. Violations of the right to information can occur in schools, and when they do, it is important to emphasize the particular harms of interfering with information in an educational environment, which is integral in the development of children and their values. J. Mark Halstead,

informing children of their rights, schools are an important place for children to develop their values. Article 29 of the Convention on the Rights of the Child recognizes this value formulation function of schools and thus requires education to balance diverse viewpoints.¹¹⁰ Teaching children about LGBTQ+ rights and issues is well within the object and purpose of the right to education. LGBTQ+ rights are a human rights issue and acknowledgement of the rights of this community is essential to promoting tolerance of all persons.¹¹¹ The censorship laws directly interfere with a child's right to education by prohibiting education on gender and sexuality, which are human rights issues within the minimum requirements of the right to education.¹¹² These censorship laws also normalize discriminatory values, which makes schools an unsafe space for children in the LGBTQ+ community.¹¹³

In Russia, censorship laws reinforce negative perceptions of LGBTQ+ youth, creating hostile school environments that discourage child human rights defenders from speaking out or pursuing advocacy work.¹¹⁴ In a case brought before the CRC, a boy dropped out of school

Values and Values Education in Schools, in *VALUES IN EDUC. AND EDUC. IN VALUES 3-4* (J. Mark Halstead & Monica J. Taylor eds., 1996). In discussing violations of the right to education, this Note addresses both the harms these laws have when they deprive children of information in schooling and the harms these laws have on the educational environment.

110. Comm. on the Rts. of the Child, General Comment No. 1: The Aims of Education (article 20), ¶ 4, U.N. Doc. CRC/GC/2001/1 (Apr. 17, 2001).

111. In further support of this notion, the Committee on the Rights of the Child has stated that education on sexuality is protected under the right to education. Comm. on the Rts. of the Child, General Comment No 3 (2003): HIV/AIDS and the Rights of the Child, ¶ 16, U.N. Doc. CRC/GC/2003/3 (Mar. 17, 2003).

112. Convention on the Rights of the Child, *supra* note 76, art. 29(b).

113. In an analysis of the Hungarian censorship law, Amnesty International notes that these types of laws contribute to negative stereotypes and further entrench discriminatory beliefs into societal norms. Amnesty International, *supra* note 92, at 9. The harms of the censorship laws are substantiated further by assessments of the situation of LGBTQ+ individuals in States with these laws. In 2013, the Russian LGBT Network conducted a survey linking discrimination faced by young members of the LGBTQ+ community to censorship laws which reported that 63.3% of adolescents faced psychological violence due to their sexual orientation. ANTI-DISCRIMINATION CENTRE MEMORIAL ET AL., *supra* note 87 at 17.

114. In a survey conducted in 2021, 51.7% of teenagers reported feeling unsafe in school. ECOM, *supra* note 88, at 5. This is a significant number of students, and although it cannot be said that the censorship laws are the sole

and moved to Finland after experiencing bullying because of his mothers' sexual orientation.¹¹⁵ Children-404, an online forum created as a safe space for LGBTQ+ teens in Russia, has daily stories of bullying and violence committed against LGBTQ+ children in school.¹¹⁶ While these censorship laws are not the sole cause of discrimination against the LGBTQ+ community, they serve as a systemic means of enforcing discrimination.¹¹⁷ In addition to stoking the flames of hate, these laws have made educators more hesitant to step in to support LGBTQ+ students in fear of the laws being turned against them.¹¹⁸ Some educators have even contributed to the discriminatory environment by using slurs and derogatory language against LGBTQ+ students.¹¹⁹ Russia's censorship laws foster an environment of hate by turning schools into unsafe spaces for LGBTQ+ children and placing these children at a systemic disadvantage. By not taking steps to end the harassment of LGBTQ+ individuals in school, Russia is failing to uphold its obligation to ensure non-discrimination in the application of human rights and

cause of these feelings, the intolerance perpetrated by the State through these laws does not help make schools a safe space for kids identifying as LGBTQ+. See BOCHENEK & KNIGHT, *supra* note 86, at 26 ("Most LGBT students we interviewed for this report said the environment in Russian schools is indifferent, hostile, or outright violent.").

115. Communication No. 51/2018, *supra* note 24, ¶ 2.2.

116. Trevor Allen, "Children-404": A Refuge For Russia's At-Risk LGBT Youth Is Under Attack, HUM. RTS. FIRST (Feb. 19, 2014), <https://humanrightsfirst.org/library/children-404-a-refuge-for-russias-at-risk-lgbt-youth-is-under-attack/> [<https://perma.cc/PP2Y-J84H>].

117. Finnish Immigration noted a change in the treatment towards LGBTQ+ individuals in Russia following the passage of the original censorship law. Communication No. 51/2018, *supra* note 24, ¶ 2.6. Additionally, Russian citizens have reported a radical difference in treatment of the LGBTQ+ community following the passage of the laws. Aleg Kucheryavenko et al., *Cost of indulgence: Rise in violence and suicides among LGBT youth in Russia*, HUM. AND HEALTH RTS. (Dec. 18, 2013), <https://www.hhrjournal.org/2013/12/18/cost-of-indulgence-rise-in-violence-and-suicides-among-lgbt-youth-in-russia/> [<https://perma.cc/3C9X-3A3R>]; Rights activists point to examples of blatant homophobia in schools as a sign that the censorship laws are inspiring more hatred against the LGBTQ+ community. Tom Balmforth, *Videotaped Bullying of Gay Russian youths Highlights Growing Homophobia*, RADIOFREEEUROPE/RADIOLIBERTY (July 31, 2013), <https://www.rferl.org/a/russia-videotaped-bullying-gays/25062657.html> [<https://perma.cc/Z755-6M3K>].

118. ECOM, *supra* note 88, at 4.

119. BOCHENEK & KNIGHT, *supra* note 86, at 26–31.

consequently preventing an entire community from being able to safely access the tools needed to combat rights abuses.¹²⁰

The law in Hungary has had a similarly negative effect on the school environment. One consequence of the law has been book bans. Books categorized as “adult” under the new law are prohibited in schools or in bookstore locations near schools.¹²¹ The law also interferes with the work of educators, who child human rights defenders rely on as tools to compile information into a digestible format. Teachers interested in continuing LGBTQ+ education have expressed concern about students reporting them to parents due to the discriminatory values being pushed onto youth through the censorship law.¹²² Teachers also face an additional challenge—the vagueness of the law which can lead to more cases of self-censorship.¹²³ This fear of being reported coupled with worry over what will be considered a violation of the law creates a negative learning environment wherein students are not educated on diverse viewpoints.

Teachers in Bulgaria stood against the amended law before it was passed, resulting in them being targeted and threatened by the political party backing the law.¹²⁴ This response to teachers will likely create a stifling educational environment, as seen in Hungary, where educators are bypassing important topics that could inform the work of children interested in human rights advocacy. Ivan, an openly gay teacher in Bulgaria, expressed concern over his job security and ability to be open about his home life with students who often express curiosity about his sexual orientation.¹²⁵ Ivan’s concern showcases the

120. Convention on the Rights of the Child, *supra* note 76, art. 2.

121. Amnesty International, *supra* note 92, at 27.

122. Esme Nicholson, *Hungary Bans LGBTQ+ Content From Schools, But Some Teachers Say They Will Defy It*, NPR (July 9, 2021), <https://www.npr.org/2021/07/09/1014744317/anti-lgbtq-law-in-hungary-will-hurt-the-people-it-claims-to-protect-critics-say>, [https://perma.cc/X73Q-RHPR].

123. See Amnesty International, *supra* note 92, at 34 (explaining that the broad nature of these laws has had a “chilling effect” on individuals exercising their rights and noting that these laws could deter individuals from using their rights altogether).

124. Katerina Vasileva, *Bulgarian Teachers Say They Face Threats For Opposing Anti-LGBT ‘Propaganda In School’ Law*, RADIOFREEEUROPE/RADIOLIBERTY (Aug. 24, 2024), <https://www.rferl.org/a/anti-lgbt-law-bulgaria-33089991.html> [https://perma.cc/G3C3-6F3A].

125. Damyana Veleva, *In Bulgaria, A Gay Teacher Worries About An Anti-Gay Law*, RADIOFREEEUROPE/RADIOLIBERTY (Aug. 16, 2024),

wide breadth of the censorship laws which can be used to restrict not just curricula, but everything that is said to children in a classroom. Thus, children are at risk of being completely cut off from learning about entire identity groups.

Florida educators have faced similar confusion over the vagueness of the original censorship law resulting in different understandings of how to apply the law between districts. In one district, teachers were advised to take down pride flags and images of same-sex partnerships, but were later told that these displays were allowed to remain.¹²⁶ This confusion and lack of consensus on what children can and cannot be educated on creates a disparity in knowledge between children, providing some with a more comprehensive rights education than others. However, unlike in Hungary, this confusion has been somewhat cleared up by a recent settlement which clarified that the law only applies to classroom instruction, allowing teachers to discuss their sexual orientation and gender identity.¹²⁷ Despite this settlement mitigating the coverage of the law, faculty still fear the consequences of breaking the rules.¹²⁸ This fear not only creates some of the same over-compliance issues seen in other States, but can also result in distrust between faculty and students. The Florida law mandates reporting requirements in educational facilities which can mean that an educator report to a parent when a child reveals something about their gender or sexuality.¹²⁹ This reporting requirement harms the trust between students and teachers, cutting child human rights defenders off from potential resources that they could rely on to aid them in their interest in activism.¹³⁰

<https://www.rferl.org/a/bulgaria-law-lgbt-schools-gay-teacher/33080283.html>
[<https://perma.cc/AWK4-CQ4U>].

126. Madeleine Carlisle, *LGBTQ Teachers Struggle to Navigate Florida's So-Called 'Don't Say Gay' Law*, TIME (Aug. 25, 2022), <https://time.com/6208554/florida-lgbtq-teachers-dont-say-gay-education-law/> [<https://perma.cc/87HJ-N42W>].

127. The Associated Press, *Florida teachers can discuss LGBTQ topics under 'Don't Say Gay' law, settlement says*, NPR (Mar. 11, 2024), <https://www.npr.org/2024/03/11/1237730819/florida-dont-say-gay-law-settlement-lgbtq> [<https://perma.cc/L447-934H>].

128. Carlisle, *supra* note 126.

129. *Id.*

130. Adults can sometimes interfere with the work of child human rights defenders by mocking the competency of children, but they can also still be a

Education is important to child human rights defenders who often begin developing their moral values based on what they learn in school.¹³¹ The censorship laws in Florida and Bulgaria, which target early education, are particularly harmful to the development of children.¹³² Depriving children of a comprehensive curriculum, which includes discussions of the LGBTQ+ community, creates a knowledge barrier which potentially prevents children from pursuing LGBTQ+ advocacy work. Furthermore, making education an unsafe space for LGBTQ+ individuals disproportionately impacts the ability of those children to educate themselves on human rights.

C. The Right to Peaceful Assembly

The right to peaceful assembly, incorporated into many human rights treaties,¹³³ includes the “right to hold meetings, sit-ins, strikes, rallies, events or protests.”¹³⁴ This right is essential to democracy as it enables individuals to call attention to issues and shape societal change.¹³⁵ While being a child human rights defender is not always about active participation in protests and human rights groups, children do use organization as a means of calling attention to the issues they care about.¹³⁶ Therefore, protecting this right is

source of guidance when they respect the child’s capacity to act as a human rights defender. See IMPLEMENTATION GUIDE, *supra* note 57, at 21, 27.

131. See Kelum A.A. Gamage et al., *The Role of Personal Values in Learning Approaches and Student Achievements*, 11 BEHAV. SCI. 1 (2021) (noting that personal values are “greatly influenced” and “molded” by education).

132. Natasha L. Pouloupoulos, *The Deleterious Impact of Florida’s ‘Don’t Say Gay’ Bill*, GLOB. HEALTH NOW (Feb. 15, 2022), <https://globalhealthnow.org/2022-02/deleterious-impact-floridas-dont-say-gay-bill> [https://perma.cc/K3SX-F8GA] (“primary school is a time for children to learn, explore, and develop socially and emotionally; this has lasting impacts on their perceptions of themselves, others, and the world.”).

133. See *e.g.*, Convention on the Rights of the Child, *supra* note 76, art. 15; International Covenant on Civil and Political Rights, *supra* note 76, art. 21.

134. *Freedom of Assembly and Association*, UNITED NATIONS HUM. RTS. OFF. OF THE HIGH COMM’R, <https://www.ohchr.org/en/topic/freedom-assembly-and-association#:~:text=Everyone%20has%20the%20rights%20to,protests%2C%20bot h%20offline%20and%20online> [https://perma.cc/T4JE-XYU] (last visited Nov. 18, 2025).

135. Hum. Rts. Comm., General Comment No. 37 (2020) on the Right of Peaceful Assembly (Article 21), ¶ 1, U.N. Doc. CCPR/C/GC/37 (Sep. 17, 2020).

136. UNICEF, FREE AND SAFE TO PROTEST: POLICING ASSEMBLIES INVOLVING CHILDREN 1 (2023), <https://www.unicef.org/media/144876/file/Free%20and%20safe%20to%20prote>

important to encourage the work of child human rights defenders. Children, because of their age, are excluded from other means of democratic participation, such as voting and civic employment, which makes it especially important to protect the ways in which children can participate in political democracy.¹³⁷ The right to assembly is also important because it allows child activists to connect with broader human rights communities, fostering further advocacy.¹³⁸

The censorship laws violate the right to assembly by creating barriers to the collective action of LGBTQ+ human rights defenders.¹³⁹ These laws also isolate children interested in LGBTQ+ issues by creating concern over whether the simple action of meeting with others in a group may be considered a violation of the law. Furthermore, these laws make public protests more unsafe for children by implicitly sanctioning violence against protestors disseminating LGBTQ+ information.¹⁴⁰ The violence inspired by these laws is particularly harmful to children, who are a vulnerable group in need of added protection.¹⁴¹ Child human rights defenders generally struggle to have authorities take them seriously when they report threats or acts of violence.¹⁴² In places where the legal framework enforces discrimination against the LGBTQ+ community, the danger to child human rights defenders participating in LGBTQ+-related demonstrations is compounded.¹⁴³

st%20%3A%20Policing%20assemblies%20involving%20children%20.pdf [https://perma.cc/ZZ59-WPKH] [hereinafter FREE AND SAFE TO PROTEST]; UNICEF, YOUTH, PROTESTS AND THE POLYCRISIS 11 (2024), <https://www.unicef.org/innocenti/media/7761/file/UNICEF-Innocenti-Youth-Protests-and-the-Polycrisis-%20report.pdf> (noting the increase in protest participation among youth) [https://perma.cc/S3GS-QZET] [hereinafter YOUTH, PROTESTS AND THE POLYCRISIS]. During my time in high school, I witnessed students organize walkouts, exercising their right to assembly, to protest gun laws in the United States.

137. FREE AND SAFE TO PROTEST, *supra* note 136, at 3.

138. See YOUTH, PROTESTS, AND THE POLYCRISIS, *supra* note 136, at 25 (noting the increase in protest participation among youth).

139. See Reid, *supra* note 2, ¶ 28 (highlighting the use of the laws in Russia to stifle LGBTQ+ events and activism).

140. *Id.* (noting the use of the laws in Russia to arrest, prosecute, and abuse activists).

141. IMPLEMENTATION GUIDE, *supra* note 57 at 3.

142. Lawlor, *supra* note 8, ¶ 30.

143. See Reid, *supra* note 2, ¶ 51 (“In some settings, bias-motivated groups are encouraged by lawmakers and their actions justified as expressions of majority sentiment.” (footnotes omitted)).

The censorship laws in Russia have been used to shut down events related to LGBTQ+ rights and punish those involved.¹⁴⁴ An individual protesting treatment of LGBTQ+ individuals was fined for holding up a poster during a protest that read: “Being gay and loving gays is normal; beating gays and killing gays is criminal.”¹⁴⁵ Russia’s first ever attempt to organize a gay pride event was forcibly cancelled under the 2013 censorship law.¹⁴⁶ In addition to making it difficult to organize, the law creates safety concerns for those who organize despite the potential fines. Children and LGBTQ+ individuals in Russia fear the rhetoric spread by the laws and how it could lead to violence during any public demonstration involving LGBTQ+ rights.¹⁴⁷ Anti-rights demonstrators have organized attacks against LGBTQ+ rights events previously, substantiating these fears.¹⁴⁸

In Hungary, the fear sown by the government has already impacted attempts to host LGBTQ+ events by making it harder to find venues.¹⁴⁹ The language of the Hungarian law more closely corresponds to the Russian law as it targets general dissemination of information rather than distribution in educational institutions, and therefore can likely be used to shut down protests and other forms of assembly on the grounds that these events promote sexuality.¹⁵⁰

144. *Russia: Expanded ‘Gay Propaganda’ Ban Progresses Toward Law*, HUM. RTS. WATCH (Nov. 25, 2022), <https://www.hrw.org/news/2022/11/25/russia-expanded-gay-propaganda-ban-progresses-toward-law> [https://perma.cc/86LM-BTAQ].

145. BOCHENEK & KNIGHT, *supra* note 86, at 17.

146. Samuel Osborne, *Russia’s First Ever Gay Pride Banned Within 24 Hours of Being Announced*, INDEPENDENT (Aug. 17, 2018), <https://www.independent.co.uk/news/world/europe/russia-gay-pride-banned-village-cancelled-yablonevy-novoulyanovsk-a8496171.html> [https://perma.cc/8EAP-5LB4].

147. Diana, a 14-year-old child in Russia, notes that the harmful rhetoric spread by the censorship laws leaves the LGBTQ+ community “afraid to organize prides and demonstration” and “afraid of being beaten and humiliated.” BOCHENEK & KNIGHT, *supra* note 86 at 18.

148. Susan Armitage, *Banned From Marching, Russians Celebrate Gay Pride Online*, NPR (June 30, 2013, at 13:57 ET), <https://www.npr.org/sections/parallels/2013/06/30/197324391/russian-look-online-to-celebrate-gay-pride> [https://perma.cc/V7Y3-KG2N].

149. James Factora, *Budapest Pride Defies Hungary’s ‘Propaganda’ Law with its Largest March in History*, THEM (July 26, 2021), <https://www.them.us/story/budapest-pride-defies-hungary-propaganda-law-largest-march-in-history> [https://perma.cc/R7A3-G3NF].

150. Act LXXIX, *supra* note 26, §§ 6/A, 8(1a), 5/A & 9(12).

Unlike the Hungarian and Russian laws, the censorship laws in Bulgaria and Florida¹⁵¹ do not prohibit all distribution of information on LGBTQ+ issues. The language of these laws limits restrictive actions that can be taken by a State to events organized in educational settings.¹⁵² This suggests that these laws, read literally, should not prevent youth from participating in a form of assembly outside of an educational facility. However, this does not mean that these laws do not violate a child's right to assembly. Bans on assembly in educational facilities deprive children of a safe space to assert their rights. Florida has responded to the concern that its law would negatively impact student organization in a recent settlement which made it clear that student-organized events with mentions of LGBTQ+ identities are permitted under the law.¹⁵³ While club meetings on LGBTQ+ issues are not banned, a regulation was passed by the Florida Board of Education as an outgrowth of the "Don't Say Gay" bill requiring parental permission for extracurriculars, which in turn can result in children being effectively banned from organizing if their parents do not sanction their activism work.¹⁵⁴

While Bulgaria's law does not have similar provisions on parental notification, the language of this law may be used to suppress student organization, especially since there is no clarity on whether it would apply to student extracurriculars.¹⁵⁵ The law in Bulgaria bans any promotion of ideas and views related to "non-traditional" sexual orientation or gender identity and does not specify what parties will be punished for dissemination of information,¹⁵⁶ which can mean that student clubs may be seen as a violation of the law. As seen in the application of censorship laws in Russia, it is not

151. Decree No. 199, *supra* note 34; H.B. 1557, *supra* note 43; H.B. 1069, *supra* note 49.

152. Decree No. 199, *supra* note 34; H.B. 1557, *supra* note 43; H.B. 1069, *supra* note 49.

153. Patricia Mazzei, *Legal Settlement Clarifies Reach of Florida's 'Don't Say Gay' Law*, N.Y. TIMES (Mar. 11, 2024), <https://www.nytimes.com/2024/03/11/us/florida-dont-say-gay-law-settlement.html> [<https://perma.cc/J7E8-2FFH>].

154. Nico Lang, *A New Policy in Florida Could Out LGBTQ+ Students to Their Parents if They Join a GSA*, YOUTH TODAY (Nov. 2, 2023), <https://youthtoday.org/2023/11/a-new-policy-in-florida-could-out-lgbtq-students-to-their-parents-if-they-join-a-gsa/> [<https://perma.cc/HEJ7-JZ3D>].

155. See Decree No. 199, *supra* note 34 (generally prohibiting ideas and views related to non-traditional sexual orientations and gender identities).

156. *Id.*

outside the realm of possibility that these laws be used to prosecute children despite being grounded in child protection logic.¹⁵⁷

While it is important to respect a child's right to assembly, it would be ignorant not to acknowledge the potential harms that can come from exercising this right. Violence is a strategy used by those opposed to youth advocacy to spread fear and silence youth voices.¹⁵⁸ The potential for violence is exacerbated for those engaging in activism on LGBTQ+ issues.¹⁵⁹ The possibility of violence should not encourage States to suppress child activism, but rather should encourage States to provide opportunities for youth to engage in safe activism, which would include providing children with safe spaces to organize.

III. USING CHILD RIGHTS TO CHALLENGE CENSORSHIP LAWS

The LGBTQ+ censorship laws have faced significant scrutiny from the international community due to concerns about these laws conflicting with U.N. human rights obligations.¹⁶⁰ Legal

157. See *supra* notes 89–90 and accompanying text (providing examples of children prosecuted under the censorship laws in Russia).

158. Lawlor, *supra* note 8, ¶ 96.

159. *Id.* ¶ 64.

160. Most of the scrutiny focuses on Russia's censorship law as it predates the other laws and is often the inspiration for such laws. See *Spread of Russian-Style Propaganda Laws*, HUM. RTS. FIRST (July 11, 2016), <https://humanrightsfirst.org/library/spread-of-russian-style-propaganda-laws/> [<https://perma.cc/Q95V-QZP2>] (referring to censorship laws as "Russian-style"); Alison Mutler, *First Russia, Then Hungary, Now Romania Is Considering A 'Gay Propaganda' Law*, RADIO FREE EUR. (June 26, 2022), <https://www.rferl.org/a/romania-lgbtq-rights-bill-gay-propaganda-law/31915661.html> [<https://perma.cc/2YH7-N7MU>] (referring to a "Russian propaganda arsenal" in addressing the spread of censorship laws). In the 2013 Universal Periodic Review of Russia, several States expressed concern over Russia's regional censorship laws. Rep. of the Working Grp. on the Universal Periodic Rev., *Russian Federation*, ¶¶ 126, 140.90, U.N. Doc. A/HRC/24/14 (July 8, 2013). In Russia's next periodic review, it continued to face criticism, now from States seeing the impacts of the original federal censorship law. Rep. of the Working Grp. on the Universal Periodic Rev., *Russian Federation*, ¶¶ 147.70, 147.100, U.N. Doc. A/HRC/39/13 (June 12, 2018). These periodic reviews spotlight human rights violations and therefore can be a helpful tool for holding States accountable, but they are limited in that they involve a legal analysis of rights violations and do not obligate the State under review to adopt any of the recommendations. See U.N. Hum. Rts. Council, *Basic Facts About the UPR*, OFFICE HIGH COMM'R OF HUM. RTS., <https://www.ohchr.org/en/hr->

commentators have also critiqued these laws for conflicting with obligations in regional human rights instruments, such as the European Convention on Human Rights.¹⁶¹ Despite challenges, these laws have increased in popularity under the logic of child protection.¹⁶² This logic holds legal weight, making it more than simply an excuse to justify discriminatory laws. The protection of children is, in fact, a positive obligation imposed on States in the Convention on the Rights of the Child, which is both affirmed through various rights guarantees and enshrined as a general interpretive

bodies/upr/basic-facts (last visited Nov. 5, 2025) (describing how the UPR functions as discussion/dialogue rather than a formal legal analysis). States have the option to “support” or “note” recommendations. UNICEF, UNIVERSAL PERIODIC REVIEW (UPR) 1, <https://www.unicef.org/media/75361/file/Engagement-Toolkit-UPR.pdf> (on file with the *Columbia Human Rights Law Review*). However, to “note” a recommendation is in practice a rejection. *Id.* States are made to hold themselves accountable and compliance is encouraged by the peer pressure of the review process. *Id.* at 2.

161. Stephan Polsdofer, *Pride and Prejudiced: Russia’s Anti-Gay Propaganda Law Violates the European Convention on Human Rights*, 29 AM. U. INT’L L. REV. 1069, 1082–91 (2014). In order for a rights violation to be justified under the European Convention on Human Rights, “it must be prescribed by law, pursue a legitimate government aim, and be necessary in a democratic society.” *Id.* at 1074. The argument is that the laws, which effectively interfere with LGBTQ+ demonstrations, fail to meet the necessity requirement of the European Convention on Human Rights because the intolerance underlying these laws is incompatible with democratic values. *Id.* at 1076–78, 1082–84.

162. See Thoreson, *supra* note 14, at 1329 (noting a tradition of restricting LGBTQ+ rights advocacy through the child protection logic). As noted earlier, the Florida law is grounded in parental rights rather than the protection of children. See *supra* Section I.a. While this defense has not received the same amount of attention in international censorship cases, it can be reasoned that this defense would be treated similarly to the child protection defense. States are similarly obligated to protect the rights of parents. See Convention on the Rights of the Child, *supra* note 76, art. 3 (noting obligation to respect parental rights). Freedom rights may be limited to respect the rights of others. International Covenant on Civil and Political Rights, *supra* note 76, arts. 18, 19, 22 (noting that these rights may be limited when conflicting with the rights of others); Convention on the Rights of the Child, *supra* note 76, arts. 13, 14, 15 (noting that these rights may be limited when conflicting with the rights of others). Regardless of its justification, the Florida law would be subject to the same scrutiny analysis as the laws grounded in the child protection defense, thus allowing for the argument that will be made in this section to apply with equal force. See *infra* note 203 and accompanying text (arguing that any action that restricts the right to act as a child human rights defender should be subject to a necessity and proportionality analysis). Because of the lack of international attention paid to this justification, it will not be considered as thoroughly in this Note’s proposed solution.

principle.¹⁶³ This logic also aligns with contemplated restrictions on freedom rights because child protection can be conceptualized as protecting the morals of children.¹⁶⁴

A. Legal Analysis of the Child Protection Defense

The principle that a State is required to take action to protect the health and morals of its people, including its children, exists across human rights treaties and commitments, making it a thoroughly analyzed principle in international law.¹⁶⁵ The child protection defense experienced some success in the 20th century as a reasonable limitation to certain civil and political rights before supranational bodies shifted to become more critical of the abuse of this defense. In *Handyside v. United Kingdom*, an early human rights challenge to the extent of child protection logic, the European Court of Human Rights (“ECtHR”) deferred to the State’s restrictions on freedom of expression.¹⁶⁶ The Court endorsed “the protection of the morals of the young” as a legitimate government purpose and sanctioning the steps taken to pursue that aim as within the margin of appreciation given to states to protect the rights and liberties of its citizens.¹⁶⁷ The restriction in question in this case was a ban on the

163. Tamar Ezer, *A Positive Right to Protection for Children*, 7 YALE HUM. RTS. & DEV. L.J. 1, 25 (2004) (“The Convention includes a multitude of provisions affirming children’s positive right to protection.”); Convention on the Rights of the Child, *supra* note 76, art. 3(2).

164. International Covenant on Civil and Political Rights, *supra* note 76, arts. 18, 19, 21, 22 (noting that these rights may be limited for the protection of public morals); Convention on the Rights of the Child, *supra* note 76, arts. 13, 14, 15 (noting that these rights may be limited for the protection of public morals).

165. See e.g., Convention for the Protection of Human Rights and Fundamental Freedoms, arts. 10(2), 11(2), Nov. 4, 1950, 213 U.N.T.S. 221 [hereinafter European Convention on Human Rights] (stating that the exercise of both freedom of expression and freedom of assembly and association may be limited “for the protection of health or morals”); Convention on the Rights of the Child, *supra* note 76, arts. 13(2)(b), 15(2) (stating that a child’s rights to freedom of expression and freedom of association and peaceful assembly may be restricted for the protection of “public health or morals”); International Covenant on Civil and Political Rights, *supra* note 76, arts. 19(3)(b), 21, 22(2) (stating that the exercise of freedom of expression, freedom of peaceful assembly, and freedom of association may be restricted for the protection of “public health or morals”).

166. *Handyside v. United Kingdom*, App. No. 5493/72, ¶ 48 (Eur. Ct. H.R. Dec. 7, 1976) [hereinafter *Handyside*].

167. *Id.* ¶¶ 46, 48, 52, 59. Freedom of expression is textually limited in the European Convention for the Protection of Human Rights and Fundamental

distribution of a book which included sections on the following “sexual” topics: “[m]asturbation, [o]rgasm, [i]ntercourse and petting, [c]ontraceptives, [w]et dreams, [m]enstruation, [c]hild-molesters or ‘dirty old men’, [p]ornography, [i]mpotence, [h]omosexuality . . . [v]eneral diseases, [a]bortion, [l]egal and illegal abortion.”¹⁶⁸ The book was subject to domestic law which restricted obscene publications.¹⁶⁹

A primary consideration of the Court in its opinion was the necessity of the State’s actions for the protection of public morals. When assessing the necessity of the State’s restrictions, the Court emphasized the discretion of States to determine how to best protect and delineate rights.¹⁷⁰ The Court reasoned that the lack of a European-wide conception of public morals makes domestic institutions rather than supranational institutions better suited to the task of determining what is necessary for the protections of public morals in the context of the region.¹⁷¹ While the Court deferred to the State in this case on the invocation of the public morals defense, it noted that there are limitations to this margin of appreciation.¹⁷² One such limitation is that while “necessity” need not be proven to be “absolutely necessary” or “strictly necessary,” it must be more than something a State finds “desirable.”¹⁷³ The restriction imposed also must be proportionate to the aim.¹⁷⁴ The Court thus left open the opportunity to reject the protection of youth morals defense in future cases where State action is not necessary and/or proportionate.¹⁷⁵

Freedoms. Thus, the Court’s endorsement of the restriction is based directly on the text of the Convention. European Convention on Human Rights, *supra* note 165, art. 10.

168. Handyside, *supra* note 167, ¶ 20.

169. *Id.* ¶¶ 24–25.

170. *Id.* ¶¶ 47–48.

171. *Id.* ¶ 48.

172. *Id.* ¶ 48–49.

173. *Id.* ¶ 48.

174. *Id.* ¶ 49.

175. The Court also indicates that it may be open to rejecting the child protection defense if it can be found that the defense is used pretextually to conceal some kind of alternate political agenda. *See* Handyside, *supra* note 167, ¶ 52 (considering whether the fundamental aim is in fact the protection of the morals of children). The Court recognized that “the book contained purely factual information that was generally correct and often useful,” but that it also included information that could be interpreted as “encouragement to indulge in precocious activities harmful for them or even to commit certain criminal offenses.” *Id.* Based on this finding that the book has some information that a government could,

In a 1982 case specifically addressing censorship of media relating to homosexuality, *Hertzberg v. Finland*, the Human Rights Committee (“HRC”) similarly upheld the protection of a child defense to restrictions on the freedom of expression, finding that it was legitimate so long as the restriction was narrowly tailored to that aim.¹⁷⁶ The subject of dispute was a Finnish law punishing those violating sexual morality and anyone encouraging “indecent behavior.”¹⁷⁷ Hertzberg was an expert invited to speak on a radio program for the purpose of sharing his knowledge of employment discrimination based on sexual orientation.¹⁷⁸ The editor of the radio program was found to be in violation of the Finnish morality law for inviting Hertzberg to speak.¹⁷⁹ The HRC recognized the protection of public health or morals as a valid restriction to the exercise of freedom of expression as per the ICCPR and, like in *Handyside*, gave a margin of appreciation to the State’s idea of public morals based on the idea that public morals differ widely.¹⁸⁰

Despite the early reluctance of human rights mechanisms to challenge a State’s conception of public morals, there has been a more recent pushback against the child protection defense, specifically when it comes to censorship laws.¹⁸¹ These more recent decisions narrow the scope of the child protection defense. The language of these decisions exemplify the supranational community’s recognition that the overapplication of the child protection limitation can have a negative impact on human rights advocacy.¹⁸² These decisions also show an increased willingness to reign in the concept of morality so that it cannot be invoked in conflict with generally accepted and

within their discretion, find harmful to the morals of children, the Court found that the fundamental aim is to protect children. *Id.* This logic indicates that if the book had not contained the latter kind of harmful information, then the Court might have been open to rejecting the aim not as illegitimate but as pretextual.

176. Thoreson, *supra* note 14, at 1332–33; Human Rts. Comm., *Hertzberg v. Finland*, Views of the Human Rights Committee Under Article 5(4) of the Optional Protocol to the International Covenant on Civil and Political Rights Concerning Comm. No. R.14/61, ¶ 10.2, U.N. Doc. A/37/40 (Apr. 2, 1982) [hereinafter Hertzberg].

177. Hertzberg, *supra* note 176, ¶ 2.1.

178. *Id.* ¶ 2.2.

179. *Id.*

180. *Id.* ¶¶ 10.2–10.3. The ICCPR contains a textual limit to the freedom of expression which includes the protection of public morals. International Covenant on Civil and Political Rights, *supra* note 76, art. 19.

181. See *infra* notes 184–95 and accompanying text.

182. See *infra* notes 186–87, 193 and accompanying text.

important human rights norms and the principle of non-discrimination.¹⁸³ This shift in the way supranational bodies are willing to approach the protection of youth morals defense is promising for future challenges to the new censorship laws, providing a greater chance for international relief.

In *Fedotova v. Russian Federation*, a 2012 decision illustrating the shift in approach taken by supranational bodies, the HRC found the censorship laws in question to be in violation of the freedom of expression enshrined in Article 19 of the ICCPR, and found the child protection justification to be unreasonable because it targeted homosexuality rather than all sexual content.¹⁸⁴ This case was a petition from a woman who was arrested based on a local “propaganda” law in Russia for displaying posters which said: “Homosexuality is normal” and “I am proud of my homosexuality.”¹⁸⁵ In this decision, the HRC acknowledged that freedom of expression may be restricted, but emphasized that restrictions must be limited due to the importance of this right.¹⁸⁶ The HRC noted that any restriction “must conform to the strict tests of necessity and proportionality and ‘must be applied only for those purposes for which they were prescribed and must be directly related to the specific need on which they are predicated.’”¹⁸⁷ Furthermore, the HRC shifted from its hands-off approach on morality, analyzing Russia’s conception of morality in the case in light of universal human rights and the principle of non-discrimination.¹⁸⁸ While the HRC did not conclude that LGBTQ+ information is never harmful to children, States must satisfy the strict standard of necessity when arguing that a law targeting homosexuality benefits the welfare of children.¹⁸⁹

After *Fedotova*, the HRC reiterated its view that the child protection logic has its limitations. In *Nepomnyashchiy v. Russian Federation*, the HRC found that the child protection defense is an unreasonable justification for a blanket ban targeting LGBTQ+

183. See *infra* notes 188, 192 and accompanying text.

184. Goodyear, *supra* note 53, at 652; Hum. Rts. Comm., *Fedotova v. Russian Federation*, Views adopted by the Committee at its 106th session (15 October–2 November 2012), ¶ 10.6, U.N. Doc. CCPR/C/106/D/1932/2010 (Oct. 31, 2012) [hereinafter *Fedotova*].

185. *Fedotova*, *supra* note 184, ¶ 2.3.

186. *Id.* ¶ 10.3.

187. *Id.*

188. *Id.* ¶ 10.5.

189. *Id.* ¶ 10.8.

individuals.¹⁹⁰ The facts of this case are similar to *Fedotova* in that an individual was convicted in Russia under a regional censorship law for displaying a sign promoting tolerance of the LGBTQ+ community.¹⁹¹ The HRC similarly took issue with the lack of neutrality in Russia's law which targets a particular group based on their sexual orientation and gender identity, invoking an individual's right to non-discrimination which can be restricted only based on objective criteria in pursuit of a legitimate aim.¹⁹² The HRC reiterated that freedom of opinion and expression are cornerstones of democracy and subject only to strict tests of necessity and proportionality, adding that appeals to "public morals" cannot justify suppressing human rights advocacy.¹⁹³ The HRC concluded by finding the restriction to be illegitimate, acknowledging that the freedom of opinion and expression may be restricted to protect the welfare of minors, but noting that such a restriction is not strictly necessary and proportionate when blanket banning "legitimate expressions of sexual orientation."¹⁹⁴ These decisions do not invalidate the child protection defense when applied to restricting discussions of the LGBTQ+ community, but they do provide logic which subjects censorship bans to strict scrutiny and requires these laws to be facially neutral.¹⁹⁵ Additionally, these decisions demonstrate a general critique of the invocation of a "public morals" defense when used to muzzle advocacy work.

B. The Right to Act as a Child Rights Defender as a Sword to Combat LGBTQ+ Censorship Laws

While the recent holding in *Fedotova* and *Nepomnyashchiy* are promising, supranational bodies have refrained from setting a

190. Goodyear, *supra* note 54, at 652; Hum. Rts. Comm., *Nepomnyashchiy v. Russian Federation*, Views Adopted by the Committee Under Article 5(4) of the Optional Protocol, Concerning Communication No. 2318/2013, ¶ 7.8, U.N. Doc. CCPR/C/123/D/2318/2013 (Aug. 23, 2018) [hereinafter *Nepomnyashchiy*].

191. *Nepomnyashchiy*, *supra* note 190, ¶¶ 2.2–2.3.

192. *Id.* ¶¶ 7.4–7.5.

193. *Id.* ¶ 7.6 ("Paragraph 3 may never be invoked as a justification for the muzzling of any advocacy of multi-party democracy, democratic tenets and human rights." (footnote omitted)).

194. *Id.* ¶ 7.8.

195. As seen in this Note's analysis of the Florida law, requiring these laws to be facially neutral does not prevent these laws from having a stifling effect on advocacy work. See *supra* Section II (analyzing how the Florida law has conflicted with the right to information, right to education, and freedom of assembly).

bright-line rule rejecting legislation which censors information on the LGBTQ+ community.¹⁹⁶ The best way to get these bodies to reject laws censoring LGBTQ+ information is by presenting a rights challenge which emphasizes that no matter how these laws are applied—whether or not they are facially neutral—they violate rights essential to democratic society and in a manner that harms rather than protect children.¹⁹⁷ While a State may have obligations to protect children and parental rights, the methods a State uses to carry out these obligations should avoid interfering with the enjoyment of other rights.¹⁹⁸ The censorship laws violate the civil and political rights of children and directly attack democratic advocacy by interfering with a child’s right to act as a human rights defender. This right is implied through the existence of civil and political rights protected in the ICCPR, which applies to all people including children, and the Convention on the Rights of the Child, which reiterates these rights

196. See Thoreson, *supra* note 14, at 1339 (“These bodies have not, however, defined the permissible scope of morals legislation targeted at children.”). While the HRC has shifted its perspective on the invocation and the scope of the public morals defense, the doctrine is still considered valid. For more discussion on the history of this defense and its presumed validity, see generally Ryan Thoreson, *The Limits of Moral Limitations: Reconceptualizing “Morals” in Human Rights Law*, 59 HARV. INT’L L.J. 197 (2018) (discussing moral limitations to international rights guarantees and analyzing how international regimes have applied these limitations).

197. This addresses one of the major concerns reflected in the recent holdings, which is that these censorship laws could be used to restrict human rights advocacy. Nepomnyashchiy, *supra* note 190, at ¶ 7.6; see Fedotova, *supra* note 184, at ¶ 10.3 (listing the tools used by human rights advocates as essential to democratic society). Furthermore, it calls the pretextual basis of these laws to direct attention by pointing to how these laws are doing the opposite of their purported aim. This challenge does not require international bodies to take a strong stance on if sexuality-related censorship is within the confines of “public morals” law, but rather calls attention to how these laws, in and of themselves, are harmful to children.

198. See Convention on the Rights of the Child, *supra* note 76, at art. 3 (outlining the child protection obligation and the obligation to protect parental rights). There is no hierarchy of human rights obligations, although debate exists on if some rights should be considered superior to others. Eckart Klein, *Establishing a Hierarchy of Human Rights: Ideal Solution or Fallacy?*, 41 ISR. L. REV. 477, 477–80 (2008). It can be problematic to rank certain rights as superior to others as all rights have been fought for and it becomes difficult to decide what is of greater universal value. *Id.* at 480–81.

and emphasizes the special protections States should be providing to children in the exercise of these rights.¹⁹⁹

The implication of a right through other human rights guarantees is not a novel concept in international law. For example, the right to truth emerged in the context of forced disappearances through an expansive reading of a State's obligations under the duty to investigate gross human rights abuses and/or the right to an effective remedy.²⁰⁰ In the context of international climate change litigation, plaintiffs have "crafted" international principles through the combination of existing rights.²⁰¹ The underlying logic behind the recognition of a right or obligation implied from other rights is that a State may have positive obligations beyond a strict textual interpretation of a right. The existence of the right to act as a human rights defender acknowledges the extra steps a State must take to protect this vulnerable group, especially considering the role human rights defenders play in the promotion of international democracy. This implied right is supported by international acknowledgement of the role of human rights defenders and the protections this community requires.²⁰²

The implied right to act as a human rights defender is not written in any treaty and thus does not have any corresponding text on when and how this right may be limited. However, the HRC and the CRC would likely subject any limitation to tests of necessity and proportionality because the freedom rights from which this right is

199. The rights which imply the existence of the right to act as a child human rights defender include the rights acknowledged *supra* Section III and other civil and political rights used by human rights defenders in their work.

200. Frederico Fabbrini, *The European Court of Human Rights, Extraordinary Renditions and the Right to the Truth: Ensuring Accountability for Gross Human Rights Violations Committed in the Fight Against Terrorism*, 14 *HUM. RTS. L. REV.* 85, 101–02 (2013).

201. Christel Cournil, Antoine Le Dyllo & Paul Mougeolle, *L'affaire Du Siècle: French Climate Litigation Between Continuity and Legal Innovations*, 14 *CARBON & CLIMATE L. REV.* 40, 41–42 (2020).

202. See Declaration on Human Rights Defenders, *supra* note 61, at art. 1 ("Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels."). While a General Assembly resolution is not binding on States, these resolutions can be interpreted as reiterations of existing principles recognized in international law. Stephen M. Schwebel, *The Effect of Resolutions of the U.N. General Assembly on Customary International Law*, 73 *AM. SOC'Y OF INT'L L.* 301, 305 (1979).

derived all have the same language regarding restrictions.²⁰³ When considering necessity and proportionality, invoking the right to act as a human rights defender would work to delegitimize the invocation of a child protection defense.

In *Nepomnyashchiy*, the HRC specifically stated that the protection defense in the context of the freedom of expression could not be used to stifle human rights advocacy.²⁰⁴ Based on this logic, the HRC would likely be critical of the invocation of the child protection defense if it was framed as being in direct opposition to a right to be a human rights defender, as this would highlight how directly the purported protection conflicts with human rights advocacy work. The HRC also noted in *Nepomnyashchiy* and *Fedotova* that the invocation of the “morals” defense must be interpreted in light of other human rights principles.²⁰⁵ A violation of the right to act in defense of human rights may be criticized under this point because it encompasses multiple civil and political rights essential to the underlying democratic principles of human rights law. The CRC, a body of the United Nations acting with the same democratic values as the HRC, would likely also be critical of attempts to stifle human rights advocacy. The CRC has also already provided clarification on what information could be harmful to children—including discriminatory, pornographic, and racist information—thus making this body less likely to defer to a State on the necessity of LGBTQ+ censorship for the protection of youth morals.²⁰⁶

Furthermore, the LGBTQ+ censorship laws that use the child protection defense as justification would be subject to greater critique by pointing out how they interfere with a right specific to children, thus harming rather than protecting children.²⁰⁷ Calling attention to

203. International Covenant on Civil and Political Rights, *supra* note 76, at arts. 18, 19, 22 (noting that limitations must be necessary and prescribed by law); Convention on the Rights of the Child, *supra* note 76, at arts. 13, 14, 15 (noting that restrictions must conform with law and be necessary in a democratic society).

204. *Nepomnyashchiy*, *supra* note 190, at ¶ 7.6.

205. *Id.*; *Fedotova*, *supra* note 184, ¶ 10.5.

206. Thoreson, *supra* note 14, at 1339.

207. *See supra* Section II.a (noting that these laws are being used to punish children). In both *Nepomnyashchiy* and *Fedotova*, the discussion was centered around adult human rights advocates. The petitioners in both of these cases were adults, so the bodies did not thoroughly consider how child rights are directly impacted by censorship laws, instead assuming that sometimes censorship is necessary to protect youth. *Nepomnyashchiy*, *supra* note 190, ¶ 7.8 (briefly noting that the State has the authority to protect minors, but not weighing the harms

the harms children experience due to the censorship of LGBTQ+ information insists that international bodies conduct a more thorough analysis of how these laws are counterintuitive to the protection of children. Such analysis would highlight how censorship laws represent a disproportionate rights restriction.

Framing censorship laws as a violation of the ability to act as a human rights defender also leaves room for States to censor actual harmful information,²⁰⁸ as this information would presumably not be necessary to the work of a child human rights defender and thus not encompassed by the right. It may be considered that States will adjust their laws to be facially neutral and to remove any justification relating to the LGBTQ+ community to avoid any claims that they are targeting anything that may interfere with the work of child human rights defenders. While this is a possibility, it is not the case that international bodies are completely ignorant to these concealment tactics. For example, in a recent ECtHR case, *Macaté v. Lithuania*, the Court rejected the State's pretextual argument that its censorship laws, as applied to a fairytale book depicting LGBTQ+ relationships, targeted sexually explicit information.²⁰⁹ The State did not introduce the idea that the book had sexually explicit information until late in the litigation, which indicated that this was not the State's true concern when censoring the book production.²¹⁰ International bodies are not considering cases without added context and consequently are able to consider the totality of the circumstances to determine the truthfulness of a State's justifications for its regulations. The States discussed in this Note have noted that they are targeting non-traditional sexual orientations and gender identities in their

and benefits these laws cause to minors); Fedotova, *supra* note 184, ¶ 10.8 (considering the protection of the welfare of minors without accounting for the impact these laws have on minors).

208. "Actual harmful information" will not be defined by this Note as this would have to be based on a case-by-case determination applying the principles articulated in this Note on boundaries to the child protection defense. An example of information that would not be protected is child pornography as there is no cognizable purpose for child pornography to be used by child human rights defenders in the furtherance of their advocacy work. However, the term "child pornography" may not be overutilized by a State to encompass LGBTQ+ relationships. This is why it is important to conduct an individualized analysis into censorship laws which recognizes children as active rights holders.

209. *Macaté v. Lithuania*, App. No. 61435/19, ¶¶ 1, 192–93 (Jan. 23, 2023), <https://hudoc.echr.coe.int/eng?i=001-222072> [<https://perma.cc/T2P8-P5U6>].

210. *Id.* at ¶ 192.

justifications for these laws.²¹¹ Even Florida, which does not mention the LGBTQ+ community in the justification for its law, has a history of discrimination against this community which may be taken into account by international bodies.²¹² Additionally, as exemplified by the law in Florida, facially neutral censorship laws have discernible negative impacts on the work of child human rights defenders when the neutrality is used to mask a discriminatory purpose.²¹³

One may posit that combatting these censorship laws through international law is a moot point in States where anti-LGBTQ+ rhetoric is so heavily engrained both socially and legally. Many critics view international law as limited by national interests,²¹⁴ thus States with anti-LGBTQ+ values likely will not change domestic law to comply with an international holding on the invalidity of censorship laws. However, this is an oversimplification of the value of international law and its influence. Louis Henkin's statement that "almost all nations observe almost all principles of international law and almost all of their obligations almost all of the time" best describes the importance of international law while recognizing its limits.²¹⁵ While there are many gaps in enforcement, international law continues to grow and States continue to follow its guidance, whether it be out of respect for the law or out of fear of extra-legal consequences including "friendly relations, prestige, credit, [and] international stability."²¹⁶ Thus, while the HRC and the CRC do not have direct enforcement powers,²¹⁷ they may inspire compliance based on fear or respect for the law. It is undoubtedly overly optimistic to

211. See *supra* Section I.a (detailing the justifications for the censorship laws in Russia, Hungary, Bulgaria, and the United States).

212. Although Florida's law is facially neutral, an analysis of surrounding circumstances would reveal Florida's history of discrimination against the LGBTQ+ community. Omar G. Encarnación, *Florida's 'Don't Say Gay' Bill is Part of the State's Long, Shameful History*, TIME (May 12, 2022, at 15:51 EDT), <https://time.com/6176224/florida-dont-say-gay-history-lgbtq-rights/> [https://perma.cc/8FZZ-YJRX].

213. See *supra* Section II (showing how the Florida law has targeted the LGBTQ+ community despite its purported neutrality).

214. LOUIS HENKIN, *HOW NATIONS BEHAVE: LAW AND FOREIGN POLICY* 27 (2d rev. ed. 1979).

215. *Id.* at 47.

216. *Id.* at 26–28.

217. Rosa Freedman, *Failing to Protect: Systemic Weaknesses Within the UN Human Rights Machinery*, UNIVERSAL RTS. GRP. (July 7, 2014), <https://www.universal-rights.org/failing-to-protect-systemic-weaknesses-within-the-un-human-rights-machinery/> [https://perma.cc/KR9K-AC8X].

believe that States will change domestic law based upon a singular decision from a treaty body which is unable to enforce its holding. However, the importance of a singular decision is that it builds the groundwork for successive recommendations and critiques which eventually create heavy pressure for a State to comply.²¹⁸

States' potential resistance against altering their viewpoints on LGBTQ+ issues, coupled with the difficulty in enforcing compliance, makes international law a difficult means of instigating change on a domestic level. Nonetheless, international law is an important vehicle in ensuring remedies exist when domestic laws fail. While State reluctance may make international enforcement more difficult, it also makes international law essential to acknowledging human rights violations and encourages sanctions against States and eventual remedies for impacted individuals.

Attacking the censorship laws by emphasizing their interference with the work of child human rights defenders can jointly work to challenge these LGBTQ+ censorship laws and raise recognition for child human rights defenders as a group. Furthermore, in human rights litigation, it is sometimes more impactful to address harms to a group identity rather than to an individual. When human rights adjudicatory bodies assess individual complaints, larger systemic issues often go unassessed.²¹⁹ Acknowledging a group identity and pointing to harms caused to that group is important to addressing larger systemic issues.²²⁰ In the case

218. Valentina Carraro, *Promoting Compliance with Human Rights: The Performance of the United Nations' Universal Periodic Review and Treaty Bodies*, 63 INT'L STUD. Q. 1079, 1089 (2019). Forced compliance is also, at least in part, dependent on the level of attention the issue received from other States and thus the level of success achieved through a treaty body's effort at naming-and-shaming. Without political pressure or the threat of sanctions from other States, it is less likely a State hard set on its discriminatory values will be willing to improve human rights domestically. *Id.* Thus, attacking the censorship laws using international regimes will require more than one favorable interpretation of international law.

219. *Fedotova* and *Nepomnyashchiy* are both examples of cases where the individual facts of the case limited the ability of the Court to address the pervasive nature of the harms caused by the censorship laws. *See supra* text accompanying notes 181–95 (illustrating how supranational bodies may invalidate legislation censoring LGBTQ+ information without making a conclusive determination that LGBTQ+ information is not harmful to children).

220. For example, in *Wa Baile v. Switzerland*, the ECtHR reached a landmark judgment addressing racial bias in policing due in part to its recognition of the petitioner as a member of a group which is more vulnerable to

of child human rights defenders, calling attention to how the censorship laws make it difficult for this group to access the tools they need to pursue activism work is critical. This attention is a means to address the repression and pushback child human rights defenders face due to their age.²²¹

IV. CONCLUSION

The growing popularity of these anti-LGBTQ+ censorship laws is indicative of a global trend in which human rights language is used to attack international democracy.²²² These laws nefariously target civil and political rights which shields against civil dissent and reinforces discrimination against LGBTQ+ individuals. In addition to depriving people of their civil and political rights, these laws commit the error of invoking child rights to undermine the agency of children.²²³ This misunderstanding of child rights materializes into laws which are used to stifle the civil and political rights of children, creating additional barriers for children to act as human rights defenders. Without access to LGBTQ+ information or safe spaces for collective participation, children are blocked from defending LGBTQ+ rights—ultimately to their own detriment.

Challenging these laws through the right to act in the defense of human rights underscores the importance of child human rights defenders in human rights discourse and highlights the pretextual nature of the child protection defense invoked by States to justify their discriminatory agendas. Furthermore, this framing takes advantage of the limitations that have been articulated by supranational bodies in relation to the public morals justification, highlighting how censorship laws directly conflict with democratic

victimization. Nozizwe Dube, *Wa Baile v Switzerland: An Implicit Acknowledgement of Racial Profiling as Structural Discrimination*, STRASBOURG OBSERVERS (March 26, 2024), <https://strasbourgobservers.com/2024/03/26/wa-baile-v-switzerland-an-implicit-acknowledgment-of-racial-profiling-as-structural-discrimination/> [https://perma.cc/QG62-BSZK].

221. See Lawlor, *supra* note 8, ¶ 45 (highlighting the lack of respect afforded to child human rights defenders).

222. See *supra* note 16 and accompanying text (noting the rise in populism and the use of the child protection defense to justify attacks on democracy) and Section III (outlining how censorship laws conflict with democratic values).

223. IMPLEMENTATION GUIDE, *supra* note 57, at 56 (noting that a paternalistic understanding of child rights underestimates the agency child human rights defenders possess).

values by stifling the advocacy work of child human rights defenders. Viewing the laws through a child rights lens centers children as active rights holders while also providing a novel basis for challenging these laws which calls upon international legal systems to set a bright-line rule delegitimizing the use of the child protection defense to censor LGBTQ+ information irrespective of facial neutrality.