



## Input for the 2024 reports of the Special Rapporteur on the right to development

### LGBTQ+ Children Within Russia and Their Right to Development

#### I. Background of Submitting Organisation

This report was prepared by the Coming Out LGBTQ+ group with the assistance of Joseph (Andrei) Wiemann, J.D. Candidate 2024, Georgetown University Law Center, who is doing legal fieldwork with our organisation.

**Coming out** ([comingoutspb.com](http://comingoutspb.com)) is a regional nonprofit initiative group founded in 2008 in St. Petersburg, Russia. It has been protecting the rights of the LGBTQ+ community and helping queer people live more peacefully in Russia. The main goal of the Coming Out LGBTQ+ group is to establish equal legal and social rights for everyone, regardless of their sexual orientation and/or gender identity. The group monitors discrimination to collect evidence of the experiences of LGBTQ+ people in Russia and works with the authorities on cases of discrimination and violence.

#### II. Introduction

The United Nations (U.N.) Declaration on the Right to Development (DRD) articulates that “[s]tates have the right and the duty to formulate appropriate national development policies that aim at the constant improvement of the well-being of the *entire population and of all individuals*.”<sup>1</sup> Although this statement can be interpreted to require state protection of lesbian, gay, bisexual, transsexual, and questioning (LGBTQ+) children on its own, the explicit inclusion of LGBTQ+ children in the DRD is enhanced by examining Article 6(1), which requires states to engage in behaviour “promoting, encouraging and strengthening universal respect for and observance of all human rights and fundamental freedoms for all without any distinction as to race, *sex*, language or religion.”<sup>2</sup> The U.N. Human Rights Committee has noted that “the reference to ‘sex’ . . . is to be taken as including *sexual*

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<sup>1</sup> Declaration on the Right to Development, Dec. 4, 1986, A/RES/41/128, art. 2(3) (emphasis added) [hereinafter Dec. Rt. Dev.].

<sup>2</sup> *Id.* at art. 6(1) (emphasis added).

*orientation*.”<sup>3</sup> Therefore, state parties must respect and observe all human rights for all citizens, including the right to development, regardless of one’s sexual orientation or gender identity. Importantly, the right to development encompasses many different human rights that are applicable to LGBTQ+ children, including social and cultural development;<sup>4</sup> self-determination (referring to the ability of any individual to “decide their own destiny,”<sup>5</sup> as guaranteed under the U.N. Charter,<sup>6</sup> the ICCPR,<sup>7</sup> and the ICESCR,<sup>8</sup> all of which have been ratified by Russia);<sup>9</sup> and the right to equal access to education, health services, and housing.<sup>10</sup>

Unfortunately, the current political, social, and legislative environment in Russia greatly limits the right to development of LGBTQ+ children within the state. Rampant levels of discrimination, proliferation of hate crimes and hate speech, limitations on access to health services, and unjustified mistreatment, including forced familial separation and torture, all negatively affect LGBTQ+ children within Russia by infringing upon their social and cultural development, their right to self-determination, and their equal access to education, health services, and housing. Federal mandates and judicial decisions concerning anti “gay propaganda” laws and “foreign agent” bans exasperate these problems, inflicting further harm, not only by sending the message that it is wrong to be LGBTQ+ and removing sources of information and support, but also by increasing the pressure on LGBTQ+ children to hide their identity.

### III. Discrimination

LGBTQ+ children residing within Russia routinely face discriminatory behaviour from parents, teachers, classmates, and healthcare providers, all of which negatively impacts their right to development. A state ban on “gay propaganda,”<sup>11</sup> originally introduced in 2013, contributes significantly to the anti-LGBTQ+ atmosphere in Russia. This law, which bans the “promotion of non-traditional sexual relations,” prohibits the distribution of any information, whether positive or

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<sup>3</sup> Toonen v. Australia, Hum. Rts. Comm. Commc’n No. 488/1992, U.N. Doc. CCPR/C/50/D/488/1992, ¶ 8.7 (Apr. 4, 1994) (emphasis added).

<sup>4</sup> Dec. Rt. Dev., *supra* note 1, at art. 1(1) (“ . . . every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development.”).

<sup>5</sup> Legal Info. Inst., *Self Determination (International Law)*, CORNELL L. SCH., [https://www.law.cornell.edu/wex/self\\_determination\\_\(international\\_law\)](https://www.law.cornell.edu/wex/self_determination_(international_law)), (last visited Feb. 23, 2024).

<sup>6</sup> U.N. Charter art. 1, ¶ 2.

<sup>7</sup> International Covenant on Civil and Political Rights, art. 1(1), Mar. 23, 1976, 999 U.N.T.S. 14668.

<sup>8</sup> International Covenant on Economic, Social and Cultural Rights, art. 1(1), Jan. 3, 1976, 993 U.N.T.S. 14531.

<sup>9</sup> Dec. Rt. Dev., *supra* note 1, at art. 1(2) (“The human right to development also implies the full realization of the right of peoples to self-determination.”).

<sup>10</sup> Dec. Rt. Dev., *supra* note 1, at art. 8(1) (“The right to development and shall ensure, inter alia, equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income.”).

<sup>11</sup> *Russia: Expanded ‘Gay Propaganda’ Ban Progresses Toward Law*, Hum. Rts. Watch (Nov. 25, 2022, 9:30 AM) (hereinafter ‘*Gay Propaganda’ Ban*), <https://www.hrw.org/news/2022/11/25/russia-expanded-gay-propaganda-ban-progresses-toward-law>; *see also* Mariana Katarova (Special Rapporteur on the Situation of Human Rights in the Russian Federation), *First Report*, U.N. Doc. A/HRC/54/54 (Sept. 15, 2023) [hereinafter A/HRC/54/54].

neutral in nature, that depicts any “alternative” sexual orientation or gender identity apart from cisgendered heterosexuality.<sup>12</sup> In practice, this law discourages medical and educational personnel from expressing support or providing aid to LGBTQ+ children.<sup>13</sup> Doctors, teachers, and psychologists even engage in verbal abuse, prejudicial behaviour, and involuntary outing of LGBTQ+ children.<sup>14</sup> As a result, many LGBTQ+ minors within Russia feel unsafe in school because of the stigma associated with the expression of alternative sexual orientations and gender identities. This thereby diminishes the ability of LGBTQ+ children to have equal access to education and health services, directly conflicting with DRD Article 8(1).<sup>15</sup>

#### **IV. Hate Crimes and Hate Speech**

Another ongoing issue in Russia is the prevalence of hate crimes directed towards LGBTQ+ individuals, including physical violence (e.g., assault and domestic violence), property damage, and emotional violence (e.g., hate speech, cyber bullying, threats, and blackmail). The proliferation of this behaviour in Russia impedes upon the social and cultural development of LGBTQ+ children, directly conflicting with DRD Article 1(1).<sup>16</sup> For instance, LGBTQ+ minors regularly face bullying, insults, and hate speech from parents, classmates, and even teachers, detracting from the ability of these children to have equal access to education,<sup>17</sup> as guaranteed under DRD Article 8(1).<sup>18</sup> Unfortunately, the aforementioned discrimination and stigma surrounding LGBTQ+ lifestyles often prevents victims of hate crimes to seek retribution or protection. Even when they do, the motivation of hate is often not taken into account during the investigation or sentencing of the perpetrators. The lack of proper mitigation leads to additional discrimination against LGBTQ+ children, as well as ineffective prevention of these behaviours. Hate crimes and hate speech toward LGBTQ+ children, as well as the State’s refusal to explicitly address and curtail these crimes, directly contradicts DRD Article 6(1)’s obligation for states to ensure “respect for and observance of all human rights” for all individuals, including LGBTQ+ youth within Russia.<sup>19</sup>

#### **V. Access to Information, Education and Health Services**

In addition to the ban on “gay propaganda” discussed above, Russia has also enacted a “Foreign Agents Law” that imposes significant restrictions, including forced closure, upon individuals

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<sup>12</sup> A/HRC/54/54, *supra* note 11, at ¶ 37.

<sup>13</sup> Life of LGBTQ+ youth in Saint Petersburg and the Leningrad Region in 2021. Saint Petersburg: Coming Out, 2021. <https://comingoutspb.org/en/books/life-of-lgbtq-youth-in-saint-petersburg-and-the-leningrad-region/>.

<sup>14</sup> *Ibid.*

<sup>15</sup> Dec. Rt. Dev., *supra* note 1, at art. 8(1).

<sup>16</sup> *Id.* at art. 1(1).

<sup>17</sup> Life of LGBTQ+ youth.

<sup>18</sup> *Id.* at art. 8(1).

<sup>19</sup> *Id.* at art. 6(1).

and organizations who are perceived to be “under foreign influence.”<sup>20</sup> There is significant ambiguity as to what qualifies as “foreign influence,” which essentially allows the State to prohibit any LGBT-rights speaker or organization with international ties from operating within Russia. Consequently, many organizations and individuals that provide support to LGBTQ+ children via dissemination of sexual and mental health information are banned. Journalists, academics, researchers, and educators who work on international advocacy and human rights must overcome significant hurdles to reach LGBTQ+ children who reside within Russia, directly impacting their opportunity to access health and educational services guaranteed under DRD Article 8(1).<sup>21</sup>

However, Russia’s Foreign Agents Law is not the only limitation on the right to development via access to health services that is experienced by LGBTQ+ youth within Russia. Across the State, there are numerous specialists that attempt to “cure” LGBT children’s sexuality and gender identity through involuntary treatment by holding, beating, restraining, and depriving LGBTQ+ individuals of food and water at various rehabilitation centres. Additionally, President Putin has recently signed a ban that prohibits all forms of gender-affirmative therapy (including hormone therapy and voluntary surgeries), as well a restriction that denies citizens the ability to legally change their gender on official government documents. All these actions negatively impact the right to development for LGBTQ+ children within Russia, not only by infringing upon their right to health services, but also by impeding upon their right to self-determination and social development as guaranteed under DRD Articles 1(1)-1(2).<sup>22</sup>

## **VI. State-Endorsed Mistreatment**

In a cumulation of the various infringements discussed above, including involuntary treatment, discrimination, and failure of the State to appropriately prevent and discourage abuse, there have been numerous reports of blackmail, unlawful detention, torture, and fabricated criminal charges against LGBTQ+ individuals in Russia, including LGBTQ+ children. Although this is especially true in the Chechen Republic of Russia, where there has been a wave of mass persecution against LGBTQ+ individuals, this mistreatment can be seen throughout the state. Mistreatment even extends to cisgendered, heterosexual Russian children of transgendered parents, who can be legally removed from custody if one or both parents are designated as transgendered. Additionally, in 2023, the State Duma passed a ban prohibiting trans individuals from adopting or fostering children while also allowing the State to dissolve the marriage of any two citizens if one of the spouses has previously changed their legal gender. These actions perpetuated by the Duma infringe upon all children’s access

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<sup>20</sup> Mariana Katzarova (Special Rapporteur on the Situation of Human Rights in the Russian Federation), *First Report*, U.N. Doc. A/HRC/54/54 (Sept. 15, 2023).

<sup>21</sup> Dec. Rt. Dev., *supra* note 1, at art. 8(1).

<sup>22</sup> *Id.* at art. 1(1)-1(2).

to housing guaranteed under DRD Article 8(1),<sup>23</sup> while the mistreatment of LGBTQ+ children violates the guarantees of self-determination and social development as provided by DRD Article 1(1)-1(2).<sup>24</sup>

## VII. Conclusion

Conclusively, Russia does not currently satisfy their obligation to constantly improve the well-being of their entire population, including LGBTQ+ children, as guaranteed in the Declaration on the Right to Development.<sup>25</sup> Discrimination, perpetuated in part by the ban on “gay propaganda,” prevents LGBTQ+ children from fully accessing educational and health services. Proliferation of hate crimes and hate speech prevents LGBTQ+ children from receiving respect for and observance of their universal human rights. Diminished access to international and domestic healthcare, perpetuated in part by the Foreign Agents Law, prevents LGBTQ+ children from accessing health services in a manner equal to that of other citizens within the country. And state-endorsed mistreatment prevents LGBTQ+ children from being able to engage in self-determination and social development, while mistreatment of familial units with transgendered parents prevents all children within Russia from having equal access to housing. These political, social, and legislative elements of Russian society have a tremendously negative impact on the overall well being of LGBTQ+ children within Russia, especially regarding the overarching right to development.

## VIII. Recommendations

1. *Promote a comprehensive anti-discrimination law, which includes a definition of direct and indirect discrimination, as well as sexual orientation, gender expression and gender identity as explicit grounds of discrimination in the various anti-discrimination laws at the national, regional and community levels.*
2. *Take measures to adopt a comprehensive strategy to combat homophobia, transphobia, ageism, racism, discrimination and intolerance.*
3. *Condemn all propaganda and all organisations which attempt to justify or promote hatred and discrimination based on sexual orientation, gender expression and gender identity.*
4. *Prevent the use of 'child protection' rhetoric to justify discrimination against LGBTQ+ people, repressive legislation and censorship.*
5. *Provide training to the police and law enforcement officials promoting respect for human rights and tolerance for diversity.*
6. *Collect disaggregated statistical data on hate crimes against vulnerable groups, including LGBT people.*

For any additional information, please contact:  
Nina Pavlova  
Monitoring and advocacy officer  
"Coming Out" LGBTQ+ group  
[nina@comingoutspb.org](mailto:nina@comingoutspb.org)

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<sup>23</sup> *Id.* at art. 8(1).

<sup>24</sup> *Id.* at art. 1(1)-1(2).

<sup>25</sup> *Id.* at art. 2(3).