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- ▶ United Nations Independent Expert on sexual orientation and gender identity

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Greetings,

In response to the United Nations Human Rights Office of the High Commissioner's call for input regarding protection against violence and discrimination based on sexual orientation and gender identity, in relation to the human rights to freedom of expression, association, and assembly, I would like to respectfully submit the following comments for your consideration. I welcome the opportunity to further assist the Independent Expert on sexual orientation and gender identity in their efforts in any way I can. Please feel free to contact me with any questions for additional information.

Respectfully submitted,

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Call for Input: Protection Against Violence and Discrimination Based on Sexual Orientation and Gender Identity, in Relation to the Human Rights to Freedom of Expression, Association and Assembly

Since 2015, there has been a rise in the restrictions of freedom of speech, freedom of expression, and freedom of assembly in the United States against the LGBTI+ community. LGBTI+ material censorship, book bans, and pronoun bans in schools are underway across the country and a record number of laws targeting LGBTI+ individuals and topics have been introduced at all governmental levels and among school boards. The American Civil Liberties Union (ACLU, 2024) is currently tracking 374 anti-LGBTI+ bills in the United States. In 2023, over 510 anti-LGBTI+ bills were introduced in state legislative sessions which is almost three times higher than 2022 (Choi, 2024). A common theme throughout many of these bills is restricting school curricula and education, access to information regarding sexual orientation and gender identity for youth, and limiting vital parts of a person's identity such as their pronouns.

LGBTI+ Material Censorship

Many of these anti-LGBTI+ bills target the body autonomy of transgender individuals, especially transgender youth, however there are examples of other forms of institutionalized, government-sponsored discrimination against the LGBTI+ community. There is a targeted effort to advance curricula and book censorship that forbids all mention of LGBTI+ issues under the pretense of protecting children from inappropriate materials and topics. However, this is a facile attempt to silence and reduce LGBTI+ spaces, participation in public life, and cut off resources for LGBTI+ youth by framing these subjects as lewd or indoctrinating youth. Equating sexual orientation and gender identity as inherently sexually explicit is a common theme in attempting to restrict LGBTI+ content and events under the guise of protecting children.

These anti-LGBTI+ information bans are cloaked by the pretense of having the best interests of children as the motivation for these actions and has a long history of using this facade to advance discrimination and avoid criticism and scrutiny (Sawchuk, 2022). What better way to disguise bigotry than to invoke the claim of these actions being for some of the most vulnerable members of society? These tactics make it difficult to unmask the true motivations of this legislation because the waters become muddied and gives anti-LGBTI+ rhetoric a foothold in larger society through this mask.

The echoes of the past can be seen today in these laws. In 1977, Anita Bryant started a campaign against LGBT+ individuals called “Save Our Children” which targeted LGBT+ teachers at schools under the banner of safeguarding children from becoming “recruited” into the LGBT+ lifestyle (Eugenios, 2022), a thin veneer for groundless allegations that children were being “groomed” by LGBT+ persons for sexual exploitation. One of the most devastating examples of this is during Nazi Germany. Images of book burnings are iconic, a visceral and shocking example of the extremism and eradication of information with the goal of destroying facts that did not fit into Nazi propaganda of the narrative of the superior Aryan race.

One of the largest and first targets of book eradication through physical destruction was the *Institut für Sexualwissenschaft* (the Institute for Sexual Research, or ISS), a LGBTI+ scientific institute dedicated to the study of human sexuality and the site of the first modern gender-affirmation surgeries (Schillace, 2021). This institute amassed a large library of human sexuality and information on performing gender-affirming care including hormone therapy and surgical interventions.

The ISS was also a refuge for LGBTI+ individuals, a safe space where they found community and acceptance in the face of hostility towards and criminalization of their identities (Schillace, 2021) under the German law established in 1871, Paragraph 175. This legislation made homosexuality illegal, and an individual accused of this identity faced imprisonment. When the Nazi regime rose an estimated 100,000 German men charged under this criminal code were taken to concentration camps where an estimated 5,000 to 15,000 were murdered for the crime of being gay (Beachy, 2010). It is worth noting that this criminal statute was not repealed until 1994.

This LGBTI+ sexual health, research, and medical center founded by Magnus Hirschfeld, a gay Jewish man, was one of the first targets in a slate of public book burnings in the pursuit of eradicating the vast library of valuable information of gender identity, sexuality, and surgical transitions. In 1933 after Adolf Hitler was appointed as the Chancellor of Germany, he started the campaign of *Lebensunwertes Leben*, or “life unworthy of life” which sought to annihilate LGBT+ and disabled persons, and religious and ethnic minorities (Johnson, 2021). Nazi troops struck at this hub of knowledge and sanctuary shortly after Hitler assumed his position and censored LGBTI+ materials through the destruction and burning of LGBTI+ knowledge and advancing anti-LGBTI+ propaganda that parallels the talking points of far-right entities today-protecting youth from becoming “seduced” into homosexuality (Cassisa, 2023).

This is a common talking point for extremists. Moms for Liberty, the extremist parental rights group behind many LGBTI+ material restrictions; the Proud Boys, a white supremacist group classified as an extremist group by the United States Federal Bureau of Investigation (Rosenberg, 2018); and Libs of TikTok, a social media account that posts disparaging comments and misinformation about the LGBTI+ community (Laviertes, 2024) all incorporate this rhetoric

to galvanize their far-right base. These groups all use similar wording in their messaging-accusations of “grooming” and “indoctrinating” children (Anti-Defamation League, 2022), implying that LGBTI+ individuals are predatory pedophiles that use teaching sex education and discussing LGBTI+ issues to victimize youth. This has resulted in bomb threats to schools and libraries that carry LGBTI+ literature and resources, and an increase in violence and threats against LGBTI+ individuals (Collins & Madani, 2022) with the goal of forcing schools and libraries to remove materials and curricula they deem offensive and limit freedom of speech.

Libs of TikTok, the social media account started by Chaya Raichik, has made direct accusations about LGBTI+ individuals grooming and recruiting youth and posts misinformation and disinformation about the LGBTI+ community which have been followed by an uptick of threats, harassment, and doxxing (Tirrell et al., 2024). Doxxing is defined as “publicly identifying or publishing private information about (someone) especially as a form of punishment or revenge” (Merriam-Webster, n.d.) and meant to intimidate and threaten individuals and entities into complying with their demands. In one such instance, Libs of TikTok shared a video of a teacher outlining his approach to discussing gender identity, characterizing him as “another groomer that needs to be arrested and jailed for abusing and trying to indoctrinate kids into the sickness.” Libs of TikTok doxxed this teacher’s social media accounts and the school’s social media accounts which resulted in subsequent harassment and threats (Lawton, 2022).

This is not an isolated incident-as of April 2022 Libs of TikTok has published the names of 222 educators, schools, and education organizations encouraging followers of their account to target and harass individuals and entities who discuss LGBTI+ topics that they label propaganda (Lawton, 2022). Libs of TikTok posts have predated threats made against schools, libraries,

educators, and individuals who discuss and promote LGBTI+ positivity and information (Laviertes, 2024). In August of 2023, Libs of TikTok misrepresented a social media post about a school librarian and LGBTI+ literature available at the school she worked which resulted in multiple bomb threats. One such threat stated, “You will stop publishing this woke ideology or we will bomb every school in the union district” (Derksen, 2023).

Libs of TikTok is linked to the Proud Boys, a far-right nationalist group who have used threats and intimidation frequently after Libs of TikTok have posted about drag performances and children’s story hours featuring drag performers (Lorenz et al., 2022). At a library event in San Francisco, members of the Proud Boys interrupted their Drag Queen Story Hour (a program to advance literacy through youth engagement) and made homophobic and transphobic remarks to the drag performer and attendees made up of parents and children. Comments included language about grooming and pedophilia and the group made white power salutes until police intervened (Bellware, 2022).

Attacking these spaces is a direct assault and act of terroristic violence whether it be in speech and/or action and an insidious way to attack LGBTI+ friendly places. Drag queens provide a convenient visual representation of cisgender heterosexual gender role fears and anxieties and an opening to further limit freedom of speech through artistic expression by maligning these performers as dangerous for children. These blatant threats are made with the goal of reducing LGBTI+ visibility, school support, and access to fact-based information that is crucial to the health and well-being of LGBTI+ students. This unearths the facade of protecting children from LGBTI+ materials and topics by subjecting them to the trauma of terroristic threats causing school lockdowns and shelter in place orders (Bracho-Sanchez, 2019).

One of the most well-known curricula censorships is Florida's law HB 1557, the Parental Rights in Education, otherwise known as the "Don't Say Gay" bill (Harding & Grall, 2022). The law took effect July 1, 2022, and "prohibits classroom discussion about sexual orientation or gender identity in certain grade levels or in a specified manner." During his signing of the law in 2022, Florida Governor Ron DeSantis stated, "We will make sure that parents can send their kids to school to get an education, not an indoctrination." DeSantis's press secretary, Christina Pushaw, declared in a public tweet soon after that anyone who opposes the Parental Rights in Education bill was "probably a groomer" (Harding & Grall, 2022). Shortly after HB 1557 was enacted, there was a 406% increase in twitter posts using the words "groomer" or "pedophile" (Berg-Brousseau, 2022). Many of these tweets originated from the accounts from Georgia Representative Marjorie Taylor Greene, Colorado Representative Lauren Boebert, Libs of TikTok's Chaya Raicheck, and alt-right figures spreading misinformation that normalizes stochastic terrorism.

These posts correlate with a rise in anti-LGBTI+ legislation, threats, intimidation, and anti-LGBTI+ violence (Berg-Brousseau, 2022). In a study by The Trevor Project (2022), two-thirds of LGBT+ youth report negative mental health impacts caused by debates about laws restricting the rights of transgender and/or nonbinary youth. Among transgender and/or nonbinary youth that number rises to more than four in five, or 85% of youth. The effects on LGBTI+ youth run counter to claims of these laws having the best interests of youth at heart.

Pronoun Censorship

Freedom of speech restrictions are not only present in curricula, but there are also laws prohibiting the use of pronouns consistent with one's gender identity in schools. Florida's HB

1069 (McClain & Anderson, 2023), states that “a person's sex is an immutable biological trait and that it is false to ascribe to a person a pronoun that does not correspond to such person's sex.” Pronoun restrictions do not just affect youth, they may be used by school districts to defend disciplinary actions directed at transgender educators for using their preferred pronouns at work (Florida Education Association et al.) This denies youth and transgender educators the basic right to define themselves in the most personal terms and not only erases their gender identity, but it also erases their very existence as a transgender/nonbinary individual in the eyes of the law through identity censorship.

Other anti-transgender actions make it even more unsafe for transgender and nonbinary youth-in Kansas, Attorney General Kris Kobach ordered public schools to notify parents of their child’s transgender or nonbinary status even if that child has not disclosed their identity to their household (Hanna & Mulvihill, 2024), despite the fact this is not currently in any state legislation. Although this is not yet legalized in Kansas, five states including Alabama, Indiana, Iowa, North Carolina, and North Dakota have legislation requiring school staff to forcibly out students (“out” or “outing” refers to sharing one's sexual orientation and/or gender identity with others) who use their correct pronouns to parents and/or guardians (Movement Advancement Project, 2023).

This can often have devastating and deadly effects on LGBT+ youth. The risk of violence in the home increases once youth disclose their LGBT+ identities-family reactions may be brutal and can result in physical assault (Braga et al., 2018), mental and verbal abuse, and expulsion from their home (Abramovich et al., 2022). Youth who are LGBT+ have a 120% higher risk of homelessness than their heterosexual and/or cisgender peers after coming out to their parents and/or guardians. This can have a disastrous ripple effect leading to unemployment, dropping out

of school, getting entangled with the juvenile justice system, increases their risk of being trafficked, poor mental health outcomes, and succumbing to the lifelong cycle of poverty and homelessness (National Conference of State Legislatures, 2023).

The forced outing of youth after disclosing their LGBT+ identities to teachers and school administration may endanger them and is a powerful incentive to hide core parts of their being to avoid the risks associated with coming out. However, disclosing LGBT+ identities to trusted adults outside their household if they fear negative consequences at home is crucial-adult support of LGBTI+ youth identities is associated with better mental health outcomes. Social support is a protective factor and can decrease depression and anxiety (Kiekens & Mereish, 2022). Other protective factors are positive LGBT+ identity development, reducing internalized shame (Green et al., 2022), and reducing suicidal ideation and self-harm, (Taliaferro et al., 2018). Suicidal ideation is particularly high among LGBT+ youth-41% of these youth reported attempting suicide. In the inverse, using the correct pronouns of transgender and/or nonbinary youth reduces rates of suicide attempts (The Trevor Project, 2023). Cutting off this source of support can leave LGBT+ youth being forced to censor and conceal their identities to others to prevent teachers and educators from revealing they are LGBT+ to avoid adverse effects at home, leaving them with no form of support and increases the risk of suicide, depression, and anxiety (Taliaferro et al., 2018).

Controlling information is a powerful tool in dictatorships and autocracies and manifests as restricting access to facts, controlling media, and spreading mis and disinformation. Anti-LGBTI+ content is a piece that fits into the larger picture of anti-DEAI and anti-critical race theory movements (The Trevor Project, 2021), a push towards revisionist history through censorship that erases and denies past atrocities and severs access to information with the goal of

maintaining mechanisms of institutionalized inequity. Censorship cuts off avenues to counter harmful narratives and perpetuate negative stereotypes, allowing them to flourish unchallenged, thus making it easier to stoke hatred and fear of marginalized groups. The censorship of LGBTI+ materials and topics is the canary in the coalmine-these restrictions serve as warning signs for wider censorship among all populations, marginalized or otherwise. The freedom of expression through living authentically, having access to vital information that is uncensored and factual, and the right to gather and inhabit public spaces is a basic human right and one that must be defended through legislation, curbing the spread of online hate, and ending stochastic terrorism.

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