



## **Human Rights Watch submission to the UN Special Rapporteur on the right to education's consultation on the cultural dimension of the right to education**

Human Rights Watch welcomes the Special Rapporteur on the right to education's consultation on the cultural dimension of the right to education.

This submission is based on research and analysis conducted by Human Rights Watch on discrimination against groups of children and adolescents within many education systems, often in the name of culture or tradition, including on barriers to mother-tongue education, discrimination against girls and bullying of lesbian, gay, bisexual and transgender (LGBT) children and young adults, and limitations on comprehensive sexuality education.<sup>1</sup> It includes information from different countries, based primarily on children's and young adults' testimony, to provide the Special Rapporteur on education with concrete examples of how various state-endorsed interpretations of "cultural diversity" and the cultural rights of individuals conflict with government's international obligations to ensure rights to and through education.

### **I. Mother-tongue education**

Cultural dimensions of the right to education include the rights of minorities not to be denied their right to use their own language. States are required to, wherever possible, allow minorities to have adequate opportunities to receive instruction in their mother tongue, as well as to ensure that the history, traditions and cultures of minorities are reflected in education.<sup>2</sup> International law also obligates states to give parents the freedom to choose alternative forms of education, and, in the case of those from minority and indigenous communities, to establish their own educational institutions.<sup>3</sup> Although international law expects states to ensure

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<sup>1</sup> For more information on Human Rights Watch research on the right to education, please see <https://www.hrw.org/topic/childrens-rights/education>.

<sup>2</sup> United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992), adopted by General Assembly resolution 47/135 of December 18, 1992, articles 4(3) and 4(4).

<sup>3</sup> The United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992), article 4 (3) provides that: "States should take appropriate measures to allow persons belonging to minorities to have adequate opportunities to learn their mother tongue or to receive instruction in their mother tongue." Article 4 (4) states that the history, traditions, and cultures of minorities should be reflected in education. See also, International Covenant on Economic, Social and Cultural Rights, adopted by General Assembly resolution 2200A (XXI) of December 16, 1966, article 13 (3) and (4).

education is directed to ensure children's respect for national culture and values, this obligation also includes respect for children's own cultural identity, language and values.<sup>4</sup>

Human Rights Watch conducted research in the Tibet Autonomous Region (TAR) to document how the Chinese government's use of education as a tool to assimilate minorities in China impacts on Tibetan children's cultural rights, including through education.<sup>5</sup>

Human Rights Watch found that the Chinese government's education policy is significantly reducing Tibetan children's access to mother-tongue education at all levels of education, including through the limited availability of official textbooks in Tibetan language and of Tibetan teachers who are hired to teach in government-run schools. In addition, Tibetan-medium private schools—which, in some areas, were the only type of schools where children could learn in their mother tongue—have been forcibly closed.

In 2019, Chinese authorities in Qinghai province banned Tibetan children attending classes in local monasteries, where children would usually receive informal lessons taught by monks during school holidays. These classes were popular in Tibetan areas, particularly to teach the Tibetan language, in response to its progressive removal from government-run schools.<sup>6</sup>

Human Rights Watch also found that the government's policy on "bilingual education," introduced in 2010 for all schools in all minority areas of China, is in practice leading to the gradual replacement of Tibetan by Chinese as the medium of instruction in primary schools throughout the region, except for classes studying Tibetan as a language. New educational practices introduced by the government in the TAR are now leading kindergartens to use Chinese as the teaching language from the age of 3.

The government has also introduced "concentrated schooling," which entails closing local schools in rural areas and consolidating them in a nearby town, where rural students usually have to board. While this brings benefits in terms of facilities and standards, it also reduces children's contact with their family and with a Tibetan-speaking environment, and can weaken children's access to and familiarity with their own language and culture.

*We recommend that the Special Rapporteur:*

- Reminds governments of their international obligations to fully respect children's right to learn about their own cultural identity, language and values in school;
- Urges governments to ensure indigenous children, children belonging to ethnic minorities, and protected groups, are able to receive instruction in their mother tongue,

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<sup>4</sup> Convention on the Rights of the Child, article 29(c).

<sup>5</sup> This information is based on research and analysis conducted by Human Rights Watch from 2015 to 2019, which will be published in a forthcoming report to be released in March 2020.

<sup>6</sup> Human Rights Watch, *China: Tibetan Children Banned from Classes*, January 30, 2019, <https://www.hrw.org/news/2019/01/30/china-tibetan-children-banned-classes>.

in line with international best practice; and to respect communities' right to preserve their language and culture, including through extracurricular activities.

## **II. Inclusive and quality education, including children's right to learn in safe environments and comprehensive sexuality education**

Human Rights Watch would like to draw the Special Rapporteur's attention to instances where governments adhere to inherently discriminatory or unlawful policies or practices in the name of protecting culture or traditional practices, as well as government's failure to tackle and eliminate deeply entrenched "cultural" behaviors in education systems. Human Rights Watch research has shown that both lead to the exclusion of many children from school; endanger and significantly limit children's participation in classrooms; and undermine their enjoyment of quality education, including their right to comprehensive sexuality education.

Human Rights Watch research has shown that girls' right to education is particularly affected by such practices. For example, in Tanzania, the government maintains a discriminatory ban against pregnant students and adolescent mothers that blocks them from public education. Senior government officials have often cited "African tradition," and Tanzanian cultural practices as reasons to justify and maintain this ban, despite widespread support for girls to stay in school from civil society and Tanzanian citizens alike.<sup>7</sup> Human Rights Watch research in other African countries where policies uphold girls' right to stay in school shows that public school officials often cite cultural or traditional grounds to contravene such policies.<sup>8</sup>

Human Rights Watch research in countries such as Japan, the Philippines, the United States, and Vietnam also shows that many lesbian, gay, bisexual and transgender (LGBT) children are denied the right to education when bullying, exclusion, and discriminatory policies prevent them from participating in the classroom or attending school. LGBT students' right to education is also curtailed when teachers and curricula do not include information that is relevant to their development or are outwardly discriminatory toward LGBT people.<sup>9</sup> In some

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<sup>7</sup> Rebecca Ratcliffe, "'After getting pregnant, you are done:: no more school for Tanzania's mums-to-be,'" The Guardian, June 30, 2017, <https://www.theguardian.com/global-development/2017/jun/30/tanzania-president-ban-pregnant-girls-from-school-jo-hn-magufuli>; Human Rights Watch, "Tanzania: Stop Threatening Rights Groups," July 6, 2017, <https://www.hrw.org/news/2017/07/06/tanzania-stop-threatening-rights-groups>; Karen McVeigh, "World Bank urged to scrap \$500m loan to Tanzania over schoolgirls' rights concerns," The Guardian, January 26, 2020, <https://www.theguardian.com/global-development/2020/jan/26/world-bank-urged-to-scrap-500-million-dollar-grant-to-tanzania-over-human-rights-concerns>.

<sup>8</sup> See Human Rights Watch, "Africa: Pregnant Girls, Young Mothers Barred from School," June 14, 2018, <https://www.hrw.org/news/2018/06/14/africa-pregnant-girls-young-mothers-barred-school>; Leave No Girl Behind in Africa: Discrimination in Education against Pregnant Girls and Adolescent Mothers, June 2018, <https://www.hrw.org/report/2018/06/14/leave-no-girl-behind-africa/discrimination-education-against-pregnant-girls-and>.

<sup>9</sup> See Human Rights Watch, "My Teacher Said I Had a Disease" – Barriers to the Right to Education for LGBT Youth in Vietnam," February 2020, <https://www.hrw.org/news/2020/02/12/vietnam-lgbt-youth-unprotected>; "Like Walking Through a Hailstorm," Discrimination Against LGBT Youth in US Schools, December 2016, <https://www.hrw.org/report/2016/12/07/walking-through-hailstorm/discrimination-against-lgbt-youth-us-schools>.

contexts, such as Japan and the Philippines, rigid gender norms are enacted through education policies—such as strict school uniform rules—and enforced by teachers and other school staff who scold students for deviating from those norms in their attire or behavior.<sup>10</sup>

In other contexts, politicians invoke culture and tradition to curtail the right to education. One example is Russia’s “gay propaganda” law.<sup>11</sup> The 2013 law targets vulnerable sexual and gender minorities for political gain. The legislation, formally titled the law “aimed at protecting children from information promoting the denial of traditional family values,” bans the “promotion of nontraditional sexual relations to minors”—a reference universally understood to mean a ban on providing children access to information about LGBT people’s lives. Language of “traditional values” has historically been used by the Russian government to curtail human rights—both domestically and in international fora, such as the UN Human Rights Council.<sup>12</sup>

Human Rights Watch conveyed our concerns about the 2013 law’s impact on education to Russia’s Ministry of Education. The ministry responded that it was responsible for ensuring that education was “based on the spiritual and moral values of the people of the Russian Federation, and historic and national-culture traditions,” which included “awareness and acceptance of their traditional family values and awareness of the responsibility towards the family, society, state and humanity.”

## Comprehensive Sexuality Education

Adolescent children’s right to information about sexual and reproductive health is guaranteed under international law. The right to information is set forth in numerous human rights treaties,<sup>13</sup> and includes both a negative obligation for states to refrain from interference with the provision of information by private parties and a positive responsibility to provide

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<sup>10</sup> Human Rights Watch, “The Nail That Sticks Out Gets Hammered Down’: LGBT Bullying and Exclusion in Japanese Schools,” May 5, 2016, <https://www.hrw.org/report/2016/05/05/nail-sticks-out-gets-hammered-down/lgbt-bullying-and-exclusion-japanese-schools>; Daniel Lee, “End Gendered Uniform Restrictions for LGBT Students,” *Rappler*, June 23, 2017, <https://www.rappler.com/thought-leaders/173754-end-gendered-uniform-restrictions-lgbt-philippines>.

<sup>11</sup> Human Rights Watch, No Support, Russia’s “Gay Propaganda” Law Imperils LGBT Youth, December 2018, <https://www.hrw.org/report/2018/12/11/no-support/russias-gay-propaganda-law-imperils-lgbt-youth>.

<sup>12</sup> For example, a 2012 Human Rights Council resolution that was spearheaded by Russia declared that “all cultures and civilizations in their traditions, customs, religions and beliefs share a common set of values.” The resolution invokes a single, supposedly agreed-upon value system thereby neglecting considerations of diversity, ignoring the dynamic nature of traditional practice and customary laws, and undermines the basic rights of LGBT people. See, Graeme Reid (Human Rights Watch), “The Trouble with Tradition,” in Human Rights Watch “World Report 2013” (New York: Human Rights Watch, 2013), <https://www.hrw.org/world-report/2013/country-chapters/africa#>. United Nations Human Rights Council, “Promoting Human Rights and Fundamental Freedoms Through a Better Understanding of Traditional Values of Humankind: Best Practices,” U.N. Doc. A/HRC/21/L.2 (September 21, 2012).

<sup>13</sup> See International Covenant on Civil and Political Rights, adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, art. 19(2); American Convention on Human Rights, (“Pact of San José”), adopted November 22, 1969, O.A.S. Treaty Series No. 36, 1144 U.N.T.S. 123, entered into force July 18, 1978, art. 13(1).

complete and accurate information necessary for the protection and promotion of rights, including the right to health.<sup>14</sup>

The Committee on the Rights of the Child and the Committee on Economic, Social and Cultural Rights have clarified that the right to education includes the right to comprehensive sexuality education.<sup>15</sup> Governments are encouraged to adhere to international technical guidance on sexuality education published jointly by the United Nations Educational, Scientific, and Cultural Organization (UNESCO) and other UN agencies.<sup>16</sup> This guidance takes into account the importance of developing curricula and materials on comprehensive sexuality education that are culturally responsive and relevant, and context appropriate, analyzing how cultural norms influence people's choices and relationships.<sup>17</sup>

However, Human Rights Watch has observed a troubling backlash against efforts to provide children and young adults with comprehensive sexuality education in many parts of the world, including in Brazil,<sup>18</sup> the Dominican Republic,<sup>19</sup> Ghana,<sup>20</sup> Kenya,<sup>21</sup> and Poland.<sup>22</sup>

Human Rights Watch has conducted research on the consequences of limited access to the right to education on sexuality and reproduction in various countries across different

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<sup>14</sup> See International Covenant on Economic, Social and Cultural Rights, article 2(2). See also CESCR General Comment No. 14 on the right to the highest attainable standard of health, UN Doc. E/C.12/2000/4 (2000); and CESCR General Comment No. 22 on the right to sexual and reproductive health, UN Doc. E/C.12/GC/22 (2016),

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fGC%2f22&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fGC%2f22&Lang=en).

<sup>15</sup> The Committee on the Rights of the Child has recommended that states adopt “[a]ge-appropriate, comprehensive and inclusive sexual and reproductive health education, based on scientific evidence and human rights standards and developed with adolescents, should be part of the mandatory school curriculum and reach out-of-school adolescents. Attention should be given to gender equality, sexual diversity, sexual and reproductive health rights, responsible parenthood and sexual behaviour and violence prevention, as well as to preventing early pregnancy and sexually transmitted infections.” Committee on the Rights of the Child, General Comment No. 20 (2016) on the implementation of the rights of the child during adolescence, UN Doc. CRC/C/GC/20 (2016),

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC.12%2fGC%2f20&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC.12%2fGC%2f20&Lang=en),

paragraph 61; Committee on Economic, Social and Cultural Rights, General Comment No. 22 on the right to sexual and reproductive health, UN Doc. E/C.12/GC/22 (2016),

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fGC%2f22&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fGC%2f22&Lang=en), paragraph 9.

<sup>16</sup> See UNESCO, “UN urges Comprehensive Approach to Sexuality Education,” January 10, 2018,

<https://en.unesco.org/news/urges-comprehensive-approach-sexuality-education>; UNESCO, UNICEF, et al., International technical guidance on sexuality education – An evidence-informed approach,” 2018,

<https://unesdoc.unesco.org/ark:/48223/pf0000260770>, pp. 12, 16, 24 and 34.

<sup>17</sup> Ibid., pp. 17, 18, 34 and 84.

<sup>18</sup> See, for example, Dom Phillips, “‘Like going back 40 years’: dismay as Bolsonaro backs abstinence-only sex ed,” *The Guardian*, January 17, 2020, [https://www.theguardian.com/world/2020/jan/17/brazil-bolsonaro-backs-abstinence-only-sex-education?CMP=share\\_btn\\_tw](https://www.theguardian.com/world/2020/jan/17/brazil-bolsonaro-backs-abstinence-only-sex-education?CMP=share_btn_tw).

<sup>19</sup> See, for example, Dahia Sena, “Victor Masalles asegura ordenanza del MinerD pretende desprogramar la raza humana,” *CDN*, June 6, 2019, <https://cdn.com.do/2019/06/06/victor-masalles-asegura-ordenanza-del-minerd-pretende-desprogramar-la-raza-humana/>.

<sup>20</sup> See, for example, Africa News, “Here’s why Ghana’s sex education program is controversial,” October 3, 2020, <https://www.africanews.com/2019/10/03/here-s-why-ghana-s-sex-education-program-is-controversial/>.

<sup>21</sup> See, for example, David Oginde, “Why the church opposes bid to introduce sex education,” *The Standard*, January 21, 2018, <https://standardmedia.co.ke/article/2001266642/why-the-church-opposes-bid-to-introduce-sex-education>.

<sup>22</sup> See, for example, Hillary Margolis (Human Rights Watch), “Polish Parliament Should Scrap Bill Against Sex Education,” October 18, 2019, <https://www.hrw.org/news/2019/10/18/polish-parliament-should-scrap-bill-against-sex-education>.

continents. In Japan, we found that limited access to information about sexuality contributes to widespread and brutal bullying of LGBT students.<sup>23</sup> In South Korea and in some US states, teachers are prohibited from providing information on same-sex activity and safer sex in the classroom, prompting young people to seek out information of dubious accuracy from friends, social media, or pornography instead.<sup>24</sup> In Senegal, where we found girls face high levels of sexual and gender-based violence, the lack of adequate sexuality education leaves girls vulnerable to sexual exploitation and abuse.<sup>25</sup> In the Philippines, we found that rates of HIV transmission among men who have sex with men (MSM) and transgender women are rapidly rising, and have been exacerbated by the lack of provision of comprehensive sexuality education and limited information that is inclusive of LGBT children.<sup>26</sup> In Vietnam, guidelines for comprehensive sexuality education include sexual orientation and gender identity-related material, however uneven implementation means students are often not receiving accurate or affirming information.<sup>27</sup>

Opposition to sexuality education is often rooted in harmful, stigmatizing, patriarchal or homophobic beliefs—framed or presented as national traditions or cultural values— that young people will grow out of or cannot yet understand their sexual orientation, that adolescents and young people should not engage in sexual activity, and that suppressing access to information about sexuality will somehow delay young people’s sexual initiation.

For example, Human Rights Watch research in the Dominican Republic showed authorities had delayed the implementation of comprehensive sexuality education in the national curriculum, in part due to opposition from the Catholic Church hierarchy and other socially conservative groups pushing for an abstinence-based approach to sexuality education. A bill introduced in the National Congress with support from the Catholic Church proposed an abstinence-only approach, designed to reflect “the purpose of human sexuality as an agent of procreation, intimacy and exclusive commitment between two people of legal age, [and] of the opposite sex,” promote “abstinence from sexual relations,” and emphasize “the emotional

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<sup>23</sup> Human Rights Watch, “The Nail That Sticks out Gets Hammered Down,” May 2016, <https://www.hrw.org/report/2016/05/05/nail-sticks-out-gets-hammered-down/lgbt-bullying-and-exclusion-japanese-schools>;

<sup>24</sup> Human Rights Watch, “‘Like Walking Through A Hailstorm’: Discrimination Against LGBT Youth in US Schools, December 2016,” <https://www.hrw.org/report/2016/12/07/walking-through-hailstorm/discrimination-against-lgbt-youth-us-schools>; Ryan Thoreson (Human Rights Watch), “UN Body Urges South Korea to Improve Sexuality Education,” October 16, 2019, <https://www.hrw.org/news/2019/10/16/un-body-urges-south-korea-improve-sexuality-education>.

<sup>25</sup> “It’s Not Normal” – Sexual Exploitation, Harassment and Abuse in Secondary Schools in Senegal, October 2018, <https://www.hrw.org/report/2018/10/18/its-not-normal/sexual-exploitation-harassment-and-abuse-secondary-schools-senegal>.

<sup>26</sup> Human Rights Watch, “Just Let Us Be,” Discrimination Against LGBT Students in the Philippines, June 2017, <https://www.hrw.org/report/2017/06/21/just-let-us-be/discrimination-against-lgbt-students-philippines>; Human Rights Watch, *Fueling the Philippines’ HIV Epidemic: Government Barriers to Condom Use by Men Who Have Sex With Men*, December 8, 2016, [https://www.hrw.org/sites/default/files/report\\_pdf/philippines1216\\_web.pdf](https://www.hrw.org/sites/default/files/report_pdf/philippines1216_web.pdf).

<sup>27</sup> Human Rights Watch, “‘My Teacher Said I Had a Disease’: Barriers to the Right to Education for LGBT Youth in Vietnam,” February 2020, <https://www.hrw.org/report/2020/02/12/my-teacher-said-i-had-disease/barriers-right-education-lgbt-youth-vietnam>.

consequences of sexual relations at the wrong time.” The bill would guarantee parents the right to choose whether their children participate in the course.<sup>28</sup>

In Poland in 2019, Warsaw’s Mayor Rafał Trzaskowski pledged to support LGBT people and ensure the city’s sex education curriculum includes teaching on sexual orientation and gender identity. The ruling party leader, Jaraslow Kaczyński, called this an attack on families and warned it would cause “sexualization of kids.” In September 2018, a campaign called “Stop Sexualization of Children and Youth” accused groups conducting sex education workshops of promoting “depravity.” The campaign claimed that following World Health Organization sex education standards for Europe would cause “sex addiction” and “confusion about gender identity.”<sup>29</sup>

*We recommend that the Special Rapporteur:*

- Critiques the ways in which governments invoke “culture” as singular, non-diverse, and supposedly agreed-upon value system to curtail the right to education through censorship of the school curriculum allowing school rules to enforce rigid and sometimes-harmful gender norms.
- Reminds all states that cultural and religious beliefs held by individuals, families, or specific communities should never be used to block or undermine public policies aimed at fulfilling children’s internationally recognized human rights and advancing public health.
- Urges all states to implement comprehensive sexuality education as a mandatory part of the national curriculum in primary and secondary schools.
  - Ensure that sexuality education meets international standards and is scientifically accurate, rights-based, and age-appropriate.
  - Ensure comprehensive sexuality education reaches students from an early age and builds incrementally to equip them with developmentally relevant information about their health and well-being.
  - Ensure teachers and educators are adequately trained to teach the curriculum impartially and in an inclusive manner.
- Urges education authorities to disseminate accurate information about what sexuality education involves and why it is an important part of protecting the rights, health, and dignity of children and youth.

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<sup>28</sup> See Human Rights Watch, “I Felt Like the World Was Falling Down on Me,” Adolescent Girls’ Sexual and Reproductive Health and Rights in the Dominican Republic, June 2019, <https://www.hrw.org/report/2019/06/18/i-felt-world-was-falling-down-me/adolescent-girls-sexual-and-reproductive-health>; Proyecto de Ley de Educación Sexual Basado en Valores y Responsabilidad, November 8, 2017, <http://sil.camaradediputados.gob.do:8095/ReportesGenerales/VerDocumento2?documentoid=67487> (accessed September 12, 2018).

<sup>29</sup> Human Rights Watch, “Sex Ed Under Fire Again in Poland,” March 19, 2019, <https://www.hrw.org/news/2019/03/19/sex-education-under-fire-again-poland>.

- Urges authorities to create avenues for young people's voices to be heard and respected in dialogue around public policy regarding sexuality education.