

**LESSONS IN LOVE:
COMPREHENSIVE SEXUALITY EDUCATION AS A HUMAN RIGHT**

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TABLE OF CONTENTS

I. INTRODUCTION.....	325
II. WHAT IS COMPREHENSIVE SEXUALITY EDUCATION?.....	326
A. What is Sex Education?.....	326
B. What is Comprehensive Sexuality Education?.....	327
C. The Benefits of Comprehensive Sexuality Education	328
1. Reduction of Sexual Abuse and Violence.....	328
2. Reduction of Discrimination	330
3. Delayed Sexual Initiation	330
4. Encouragement of Safe Sex Practices	330
D. Arguments Against Comprehensive Sexuality Education.....	331
1. Infringement on the Rights of Others.....	331
2. Inappropriate Content.....	332
III. WHY IS COMPREHENSIVE SEXUALITY EDUCATION A HUMAN RIGHT?.....	333
A. Primary Sources Supporting the Argument that Comprehensive Sexuality Education is a Human Right	335
1. Treaties.....	335
a. The International Covenant on Economic, Social, and Cultural Rights.....	335
b. The Convention on the Rights of the Child	336
c. The Convention on the Elimination of All Forms of Discrimination Against Women.....	339
2. Case Law	340
a. Legal and Human Rights Centre and Centre for Reproductive Rights v. Tanzania.....	340
b. Angulo Losada v. Bolivia	342
c. Guzmán Albarracín et al. v. Ecuador	344
B. Secondary Sources Supporting the Argument that Comprehensive Sexuality Education is a Human Right	347
1. The Committee on Economic, Social and Cultural Rights	347
a. General Comments	348
b. Concluding Observations	349

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2. The Committee on the Elimination of All Forms of Discrimination Against Women	352
a. General Recommendations.....	352
b. Concluding Observations	354
3. The Committee on the Rights of the Child.....	356
a. General Comments	357
b. Concluding Observations	360
IV. HOW CAN THE RIGHT TO COMPREHENSIVE SEXUALITY EDUCATION BE RECOGNIZED AND IMPLEMENTED?.....	362
A. Compulsory Education	362
B. Fundamental Principles.....	363
C. Input from Parents and Religious Groups.....	363
D. Opting Out of Programs	364
E. Implementation Recommendations.....	365
1. Application of Political Pressure	366
2. Provision of Resources.....	366
3. Education and Outreach	367
4. Logistics	368
F. Case Study: The Netherlands	369
V. CONCLUSION	370

ABSTRACT

International and regional human rights jurisprudence has increasingly recognized the right of children and adolescents to receive comprehensive sexuality education. This education consists of a holistic approach to sexual health and wellness. It provides children and adolescents with the tools required to make healthy and informed life choices, develop respectful social and sexual relationships, and understand and ensure the protection of human rights. The right to comprehensive sexuality education is closely linked to fundamental rights such as freedom from discrimination; freedom from arbitrary interference with privacy, family, and home life; the right to free development of personality; the right to the highest attainable standard of physical and mental health; and of course, the right to education.

This article will argue that comprehensive sexuality education is a human right recognized under international law, and as such should be introduced as a mandatory component of educational curricula for children and adolescents. It will first explain what comprehensive sexuality education is, the benefits it provides, and why common arguments against this education are insufficient for rejecting its implementation. Second, this article will discuss the legal foundation for the recognition of the right to comprehensive sexuality education as established in the International Covenant on Economic, Social and Cultural Rights; the Convention on the Rights of the Child; and the Convention on the Elimination of All Forms of

Discrimination Against Women. Select General Comments/Recommendations and Observations from the monitoring bodies of these treaties are included to demonstrate the path towards recognition of this right and its current status. Additionally, recent groundbreaking case law from regional human rights systems illustrates how the theoretical legal bases for comprehensive sexuality education have already been applied in practice to make this right a reality. Third, this article will provide guidance on how comprehensive sexuality education can best be implemented in schools and informal educational curricula.

I. INTRODUCTION

The issue of sex education is particularly important today for several reasons: education about contraceptive use is needed to lower climbing sexually transmitted infection rates among adolescents;¹ child sexual abuse remains a critical issue;² rates of grooming have increased in recent years;³ information regarding the prevention of unplanned pregnancy is needed given recent restrictions on abortion access in countries such as the United States;⁴ and harmful stereotypes regarding gender, sex, and sexuality continue to be perpetuated, causing harm to individuals and inhibiting social progress towards acceptance and equality of nontraditional lifestyles.⁵ This non-exhaustive list of issues illustrates the urgency of recognizing and protecting the right to comprehensive sexuality education, but the fundamental reason for recognizing this right is its firm basis in binding international law.⁶ Regional and international human rights bodies have increasingly and explicitly recognized a right to comprehensive sexuality education in human rights treaties.⁷ They are now calling upon States to respect their obligations to protect this right by implementing comprehensive sexuality education in schools and informal

¹ Leah H. Keller, *Reducing STI Cases: Young People Deserve Better Sexual Health Information and Services*, 23 GUTTMACHER POL'Y REV. 6, 6 (2020), https://www.guttmacher.org/sites/default/files/article_files/gpr2300620.pdf.

² *The Importance of Access to Comprehensive Sex Education*, AM. ACAD. PEDIATRICS, <https://www.aap.org/en/patient-care/adolescent-sexual-health/equitable-access-to-sexual-and-reproductive-health-care-for-all-youth/the-importance-of-access-to-comprehensive-sex-education/#:~:text=comprehensive%20sex%20education%20provides%20inclusive,reduce%20homophobic%20bullying%20in%20schools> (last updated Feb. 15, 2024).

³ *Online Grooming Crimes Have Risen by More Than 80% in Four Years*, NSPCC (Sept. 12, 2022), <https://www.nspcc.org.uk/about-us/news-opinion/2022/online-grooming-crimes-rise/>.

⁴ Lillian Ryan, *Opinion: In post-Dobbs America, Connecticut should mandate sex education*, CT MIRROR (Aug. 31, 2022, 12:01 AM), <https://ctmirror.org/2022/08/31/ct-sex-education-dobbs-supreme-court-roe-v-wade/>.

⁵ *An International Human Right: Sexuality Education for Adolescents in Schools*, CTR. FOR REPROD. RTS. (Sept. 2008), <https://www.reproductiverights.org/sites/default/files/documents/sexualityeducationforadolescents.pdf> [hereinafter *Sexuality Education for Adolescents in Schools*].

⁶ *Id.*

⁷ *Id.*

educational systems.⁸ Part I of this article will provide an overview of what sex education entails and why comprehensive sexuality education is preferable to more traditional programs. Part II will analyze the legal framework for viewing this education as a right and how the recognition of this right has developed in regional human rights systems and international treaty monitoring bodies.⁹ Finally, Part III will explore how the right to comprehensive sexuality education can be recognized and implemented in practice. It will identify the fundamental principles of these educational programs as well as key challenges and logistical concerns, followed by a successful example of how comprehensive sexuality education has been introduced in the Netherlands.¹⁰

II. WHAT IS COMPREHENSIVE SEXUALITY EDUCATION?

A. What is Sex Education?

The term “sex education” covers a broad range of educational curricula ranging from abstinence-only programs, to purely biological mechanics, to a human rights-based approach known as comprehensive sexuality education.¹¹ Non-comprehensive sex education programs often promote abstinence-only messages, withhold information on contraception, and perpetuate harmful stereotypes about sex, sexuality, and gender identity.¹² By exacerbating discrimination and failing to teach children and adolescents important topics such as contraception, communication, and consent, these programs can cause significant physical, mental, and emotional harm.¹³ This harm extends beyond the classroom because it perpetuates a cycle of ignorance, prejudice, and violence that students will carry with them into the world.¹⁴ Providing students with the comprehensive information needed to make informed choices about their sexual and reproductive health is

⁸ *Sexuality Education for Adolescents in Schools*, *supra* note 5.

⁹ These sources, although soft law and therefore nonbinding on States Parties, are important to analyze because they provide insight into the rights protected in treaties and offer advice to States Parties on how best to comply with the obligations arising from these treaties.

¹⁰ The Netherlands has been selected as an example because it is a country which requires compulsory comprehensive sexuality education in schools and Dutch teenagers have been shown to exhibit statistically significantly safer sexual habits and practices than their peers in countries such as the United States which does not require this education. More information on these statistics is provided in Section II of this article.

¹¹ *Sex Education*, GOODTHERAPY: GOODTHERAPY BLOG, <https://www.goodtherapy.org/blog/psychpedia/sex-education> (last updated Aug. 25, 2015).

¹² Mary A. Ott & John S. Santelli, *Abstinence and abstinence-only education*, 19 CURRENT OP. OBSTETRICS & GYNECOLOGY 446, 448 (2007).

¹³ *Id.*

¹⁴ To be clear, there is nothing wrong with promoting abstinence. This author objects only to promoting it at the cost of comprehensive education and advocates for educators using sex education to inform rather than control students.

essential to both their autonomous development and the cessation of the cycle of ignorance and discrimination.¹⁵

B. What is Comprehensive Sexuality Education?

Comprehensive sexuality education is more than the mere biology of sex and reproduction—it is a holistic approach to sexual health and wellness.¹⁶ The United Nations Educational, Scientific and Cultural Organization (hereinafter “UNESCO”) identifies the aims of sexuality education as:

[T]eaching and learning about the cognitive, emotional, physical and social aspects of sexuality. It aims to equip children and young people with knowledge, skills, attitudes and values that will empower them to: realize their health, well-being and dignity; develop respectful social and sexual relationships; consider how their choices affect their own well-being and that of others; and, understand and ensure the protection of their rights throughout their lives.¹⁷

According to the United Nations Population Fund, comprehensive sexuality education “[helps] young people to explore and nurture positive values regarding their sexual and reproductive health and rights” by “[including] discussions about family life, relationships, culture and gender roles, and also addresses human rights, gender equality, bodily autonomy and threats such as discrimination, sexual abuse and violence.”¹⁸ By moving beyond the simplistic approach of exclusively biological or abstinence-only sex education, comprehensive sexuality education programs aim to teach students about every facet of their sexual health and wellness in order to provide them with the tools they need to make healthy and informed choices. The Center for Reproductive Rights highlights the importance of this education in terms of health:

A comprehensive understanding of sexual and reproductive health is imperative to an individual’s ability to protect his or her health and make informed decisions about sexuality and reproduction. It follows that such information is vital to reducing adolescent pregnancies, unwanted pregnancies and unsafe abortions, and preventing the transmission and spread of sexually transmitted infections (STIs) and HIV/AIDS among young people. Governments cannot effectively guarantee these rights

¹⁵ *The Importance of Access to Comprehensive Sex Education, supra* note 2.

¹⁶ UNESCO, INTERNATIONAL TECHNICAL GUIDANCE ON SEXUALITY EDUCATION: AN EVIDENCE-INFORMED APPROACH, 16 (2d ed. 2018) [hereinafter UNESCO].

¹⁷ *Id.*

¹⁸ *Comprehensive sexuality education*, U.N. POPULATION FUND, <https://www.unfpa.org/comprehensive-sexuality-education> (last updated July 3, 2024).

and address these major public health concerns unless they ensure that individuals are armed with comprehensive, evidence-based, non-discriminatory sexual and reproductive health information.¹⁹

By tying comprehensive sexuality education to the human right to the highest attainable standard of physical and mental health, the Center for Reproductive Rights has laid the groundwork for linking this education to established human rights. There are several rights protected in international human rights treaties which could be read to include a right to comprehensive sexuality education, including: freedom from discrimination;²⁰ freedom from arbitrary interference with privacy, family, and home life;²¹ the right to free development of personality;²² the right to the highest attainable standard of physical and mental health;²³ and the right to education.²⁴ Notably, the Special Rapporteur on the Right to Education has explicitly found that comprehensive sexuality education is included in the right to education.²⁵ As established in Section IV(E), which analyzes the General Comments/Recommendations and Concluding Observations from human rights treaty monitoring bodies, none of these rights can be fully enjoyed without comprehensive sexuality education.²⁶

C. The Benefits of Comprehensive Sexuality Education

This section explores the numerous benefits comprehensive sexuality education can have on children and adolescents' physical, mental, and emotional health. Teaching children and adolescents about their sexual and reproductive health through the medium of comprehensive sexuality education can reduce sexual abuse and violence; discourage discrimination based on gender, sex, and sexual orientation; delay sexual initiation; and encourage safe sex practices. Each of these benefits will be addressed in turn.

1. Reduction of Sexual Abuse and Violence

Rape: it is of critical importance to teach children and adolescents about consent, particularly given the recent shift in international law toward a consent-

¹⁹ *Sexuality Education for Adolescents in Schools*, *supra* note 5.

²⁰ *E.g.*, G.A. Res. 2200A (XXI), International Covenant on Civil and Political Rights, art. 4 (Dec. 16, 1966) [hereinafter ICCPR]; G.A. Res. 2200A (XXI), International Covenant on Economic, Social and Cultural Rights, art. 2 (Dec. 16, 1966) [hereinafter ICESCR].

²¹ *E.g.*, ICCPR, *supra* note 20, art. 17.

²² *E.g.*, G.A. Res. 217 (III) A, Universal Declaration of Human Rights, art. 22 (Dec. 10, 1948).

²³ *E.g.*, ICESCR, *supra* note 20, art. 12.

²⁴ *E.g.*, *id.* art. 13.

²⁵ Vernor Muñoz (Special Rapporteur on the right to education), *Rep. of the Special Rapporteur on the right to education*, ¶ 20, U.N. Doc. A/65/162 (July 23, 2010).

²⁶ *Id.*

based approach to evaluations of sexual abuse and violence.²⁷ Research shows that comprehensive sexuality education which includes information about sexual agency and consent can successfully address risk factors to reduce the perpetration of sexual violence.²⁸

Grooming and molestation: the popular “stranger danger” maxim, which is a traditional approach taken in basic and abstinence-only sex education programs, teaches children to avoid contact with unknown adults.²⁹ This approach to children’s safety fails to take into account that an estimated 93% of children who experience childhood sexual trauma know their perpetrators, who may be family members, neighbors, or friends of the family.³⁰ Comprehensive sexuality education programs teach children how to recognize this abuse for what it is and provide them with the information they need to help themselves if faced with an unsafe situation, for example, by reporting the abuse to a trusted adult.³¹ Properly training teachers to provide comprehensive sexuality education can help ensure that children have a trusted adult to whom they can report sexual violence and abuse and trust to be an effective ally. Comprehensive sexuality education also places a particular emphasis on the nuances of sexual violence and abuse, which can escalate over time.³²

“Grooming,” or the establishment of a relationship with a child or adolescent under the age of consent in order to gain their trust with the intention to perpetrate sexual violence or abuse,³³ is an increasingly dire epidemic.³⁴ Studies indicate that during the COVID-19 pandemic online grooming alone increased by up to 80%.³⁵ This increase is due in large part to the escalated online presence of children and adolescents, whose daily screen times increased an average of 50%.³⁶ Children and adolescents are spending more time than ever before online, which

²⁷ *E.g.*, M.C. v. Bulgaria, App. No. 39272/98, ¶ 181 (Dec. 3, 2003), <https://hudoc.echr.coe.int/eng#%7B%22appno%22:%5B%2239272%2F98%22%5D,%22itemid%22:%5B%22001-61521%22%5D%7D>.

²⁸ *Key Findings from “Comprehensive Sexuality Education as a Primary Prevention Strategy for Sexual Violence Perpetration,”* NAT’L SEXUAL VIOLENCE RES. CTR. 1, 3 (2021), https://www.nsvrc.org/sites/default/files/2021-02/comprehensive%20sexuality%20education_final508.pdf.

²⁹ *See* Jennifer Katzenstein, *Stranger Danger and Stranger Safety*, JOHNS HOPKINS MED., <https://www.hopkinsmedicine.org/health/wellness-and-prevention/stranger-danger-and-stranger-safety> (last visited Feb. 17, 2025).

³⁰ *Children and Teens: Statistics*, RAINN, <https://www.rainn.org/statistics/children-and-teens> (last visited Aug. 1, 2024).

³¹ Madeline Schneider & Jennifer S. Hirsch, *Comprehensive Sexuality Education as a Primary Prevention Strategy for Sexual Violence and Perpetration*, 21 TRAUMA, VIOLENCE, & ABUSE 439, 447–48 (2018); Eva S. Goldfarb & Lisa D. Lieberman, *Three Decades of Research: The Case for Comprehensive Sex Education*, 68 J. ADOLESCENT HEALTH 13, 22 (2021).

³² *Sexuality Education for Adolescents in Schools*, *supra* note 5.

³³ Shishira Sreenivas, *What Is Sexual Grooming?*, WEBMD (Oct. 17, 2022), <https://www.webmd.com/sex/what-is-sexual-grooming>.

³⁴ *Online Grooming Crimes Have Risen by More Than 80% in Four Years*, *supra* note 3.

³⁵ *Id.*

³⁶ Sara Fischer, *Kids’ daily screen time surges during coronavirus*, AXIOS, (Mar. 31, 2020), <https://www.axios.com/2020/03/31/kids-screen-time-coronavirus>.

can potentially expose them to groomers.³⁷ In order to ensure their safety, it is important to teach children and adolescents about the dangers of forming relationships with unknown adults.

2. Reduction of Discrimination

Comprehensive sexuality education promotes acceptance of all persons regardless of sex, gender, and sexual orientation.³⁸ It actively combats harmful stereotypes and teaches children and adolescents to accept their peers as equals.³⁹ This approach is consistent with the sentiment in all international human rights instruments that every person should be treated with respect and dignity.⁴⁰ The recognition of every person's inherent dignity and the equality between persons of different sexes, sexual orientations, and genders is essential to eradicate harmful cultural practices such as female genital mutilation, human trafficking, the exploitation of sex workers, and the criminalization of sodomy between consenting adults.⁴¹

3. Delayed Sexual Initiation

Contrary to the myth that comprehensive sexuality education encourages promiscuity and earlier sexual encounters, research suggests that recipients of regular—as opposed to comprehensive—sex education are 30% more likely to have earlier sexual initiation.⁴²

4. Encouragement of Safe Sex Practices

Recipients of comprehensive sexuality education are more likely to practice safe sex habits, including the use of contraceptives.⁴³ Increased use of contraceptives lowers the risk of unintended pregnancies, which in turn lowers the

³⁷ *Online Grooming Crimes Have Risen by More Than 80% in Four Years*, *supra* note 3.

³⁸ UNESCO, *supra* note 16.

³⁹ *Id.*

⁴⁰ Off. of the U.N. High Comm'r for Hum. Rts., *The Core International Human Rights Treaties*, U.N. Doc. ST/HR/3, U.N. Sales No. E.06.XIV.2 (2006).

⁴¹ *Fact Sheet No. 23: Harmful Traditional Practices Affecting the Health of Women and Children* (Oct. 28, 2009), OFF. U.N. HIGH COMM'R FOR HUM. RTS., <https://www.ohchr.org/sites/default/files/Documents/Publications/FactSheet23en.pdf>.

⁴² Sumru Erkut et al., *Can Sex Education Delay Early Sexual Debut?*, 33 J. EARLY ADOLESCENCE 482, 492 (2012).

⁴³ Kathrin F. Stanger-Hall & David W. Hall, *Abstinence-Only Education and Teen Pregnancy Rates: Why We Need Comprehensive Sex Education in the U.S.*, 6 PLoS ONE 1, 8–9 (2011), <https://pmc.ncbi.nlm.nih.gov/articles/PMC3194801/pdf/pone.0024658.pdf>.

rates of abortion and maternal mortality due to unsafe abortions.⁴⁴ Contraceptive use also reduces the rates of STIs and the transmission of HIV/AIDS.⁴⁵

D. Arguments Against Comprehensive Sexuality Education

1. Infringement on the Rights of Others

One of the main arguments against comprehensive sexuality education is that it infringes on parents' rights to raise their children in accordance with their beliefs and values.⁴⁶ However, this right has never been considered absolute and should be balanced with the best interests of the child.⁴⁷ Considerable public health concerns such as unintended pregnancies, STIs, HIV/AIDS, and sexual violence are causally linked to ineffective sex education programs.⁴⁸ Non-comprehensive sex education programs have been proven to result in higher rates of unintended pregnancies by minimizing the effectiveness of contraceptives.⁴⁹ These pregnancies often result in abortions, which can result in maternal mortality when pregnant persons do not have access to safe abortion procedures.⁵⁰ If pregnancies are not aborted, unwanted children can be born into situations of extreme poverty. This can result in a tremendous strain on the parents and child, as well as the state and local economies.⁵¹ Minimizing the effectiveness of contraceptives such as condoms has also been proven to increase rates of STIs and HIV/AIDS among adolescents.⁵² Finally, non-comprehensive programs are less likely than comprehensive programs to deter potential perpetrators of sexual violence by including important conversations around consent, agency and respect.⁵³ The effects of unintended pregnancies, STIs, HIV/AIDS, and sexual violence can have life-changing

⁴⁴ *Know the Facts*, CTR. FOR DISEASE CONTROL AND PREVENTION (Feb. 8, 2024), <https://www.cdc.gov/sti-awareness/gyt/know-the-facts.html>.

⁴⁵ *Id.*

⁴⁶ Maureen Bernardy, *Comprehensive sex ed infringes on parents rights*, FED. WAY MIRROR (Apr. 2, 2019, 11:30 AM), <https://www.federalwaymirror.com/letters/comprehensive-sex-ed-infringes-on-parents-rights/>.

⁴⁷ G.A. Res. 44/25, at art. 3 ¶ 1 (Nov. 20, 1989).

⁴⁸ *The Importance of Access to Comprehensive Sex Education*, *supra* note 2.

⁴⁹ Stanger-Hall & Hall, *supra* note 43.

⁵⁰ *E.g.*, CESCR Comm., *Concluding Observations: Benin*, U.N. Doc. E/C.12/1/Add.78, para. 23, 42 (2002); CESCR Comm., *Concluding Observations: Bolivia*, U.N. Doc. E/C.12/1/Add.60, para. 43 (2001); CESCR Comm., *Concluding Observations: Bolivia*, U.N. Doc. E/C.12/BOL/CO/2, para. 27(f) (2008).

⁵¹ Lauren Hoffman et al., *State Abortion Bans Will Harm Women and Families' Economic Security Across the U.S.*, CTR. FOR AM. PROGRESS (Aug. 25, 2022), <https://www.americanprogress.org/article/state-abortion-bans-will-harm-women-and-families-economic-security-across-the-us/>.

⁵² *Know the Facts*, CTR. FOR DISEASE CONTROL AND PREVENTION (Feb. 8, 2024), <https://www.cdc.gov/sti-awareness/gyt/know-the-facts.html>.

⁵³ *Key Findings from "Comprehensive Sexuality Education as a Primary Prevention Strategy for Sexual Violence Perpetration," supra* note 28, at 6.

consequences for individuals outside of the family unit. As such, it is not reasonable for parents to have exclusive control over the education their children receive. States have a compelling interest in protecting the health and best interests of the community and, therefore, should have significant influence in the sphere of sex education.⁵⁴

2. Inappropriate Content

A common complaint against the introduction of comprehensive sexuality education is that parents do not want their children exposed to what they believe to be inappropriate content.⁵⁵ A crucial component of comprehensive sexuality education is that it is age appropriate. While programs may begin as early as preschool (e.g. as in the Netherlands, discussed in Part III), they are tailored to be appropriate to the developmental progression of children.⁵⁶ Because comprehensive sexuality education teaches children about more than just the biological aspects of sex,⁵⁷ this early stage of education is more likely to focus on fostering the development of healthy attitudes and behaviors in nonsexual relationships.⁵⁸ Even young children can benefit from discussions about consent, agency, communication, respect, and other critical elements of relationships in non-sexual contexts.⁵⁹ Sex itself does not need to be discussed at all in these early stages and is generally reserved for classes with older students.⁶⁰

Age-appropriate content should be determined with reference to the criteria articulated by organizations such as UNESCO⁶¹ and established programs that have led to positive results like those in the Netherlands.⁶² This content should also be responsive to legitimate parental concerns and tailored to the needs of students as much as possible. Basing what is age-appropriate on established programs is a good starting place for determining what material should be covered. However, it may not be possible to copy and paste the curricula from one State or

⁵⁴ Off. of the U.N. High Comm'r for Hum. Rts., Fact Sheet No. 31: The Right to Health, U.N. Doc. No. HR/PUB/08/1 (2008), <https://www.ohchr.org/sites/default/files/Documents/Publications/Factsheet31.pdf> (last visited Sept. 29, 2024).

⁵⁵ Ella O' Neal, *A Dangerous Step Back: Why Florida's Rollback of Consent Education Hurts Students*, SAFEBAE, <https://safebae.org/a-dangerous-step-back-why-floridas-rollback-of-consent-education-hurts-students/> (last visited Sept. 29, 2024).

⁵⁶ *Comprehensive Sexuality Education*, *supra* note 18.

⁵⁷ *Id.*

⁵⁸ Saskia de Melker, *The Case for Starting Sex Education in Kindergarten*, PBS NEWS (May 27, 2025, 1:44 PM), <https://www.pbs.org/newshour/health/spring-fever>.

⁵⁹ *Comprehensive sexuality education: Questions and answers*, WORLD HEALTH ORG. (May 18, 2023), <https://www.who.int/news-room/questions-and-answers/item/comprehensive-sexuality-education#>.

⁶⁰ Anna Katz, *Sex Ed Goes Global: The Netherlands*, CTR. FOR GLOB. REPROD. HEALTH DUKE (July 19, 2018), <https://dukecenterforglobalreproductivehealth.org/2018/07/19/sex-ed-goes-global-the-netherlands/>.

⁶¹ UNESCO, *supra* note 16.

⁶² *Id.*

region into another because of cultural differences; what is age-appropriate in one State may not be age-appropriate in another.⁶³ While the fundamental elements of comprehensive sexuality education should be kept intact, the way these elements are communicated to students should be tailored to fit the needs of both parents and students to the greatest extent possible in order to encourage acceptance and implementation.⁶⁴ By being responsive to the needs of parents and students—without giving them veto power—existing curricula can be effectively molded to be appropriate for a particular group of children.⁶⁵

Because children develop at different rates and various environmental factors are outside the control of educators, it is not realistic to say that all children will be ready to discuss a subject at exactly the same time.⁶⁶ However, this is the case with any subject taught in schools, and a well-trained educator should be able to tailor programs to suit their students' needs and ensure that no children are exposed to anything that is significantly beyond their grasp or comfort level.⁶⁷ Additionally, given the paramount importance of teaching this content to ensure the development and enjoyment of the highest attainable standard of physical and mental health later in life, occasional discomfort with new material must be viewed as a reasonable risk.⁶⁸ The alternative is that programs delay education until it is too late and sexual initiation has already begun, thereby endangering children, adolescents, and the community as a whole.⁶⁹

III. WHY IS COMPREHENSIVE SEXUALITY EDUCATION A HUMAN RIGHT?

In the field of human rights law, there are different schools of thought as to how human rights are created.⁷⁰ A school that advocates for an exclusively text-based interpretation of the law would have the reader believe that human rights are narrow in scope and created only through treaties and customs.⁷¹ Like a sex education course that focuses exclusively on biology to the exclusion of the cognitive, emotional, and social aspects of sexuality, this is a myopic approach that fails to account for the complex realities of the issues at stake.

⁶³ Sweta Naroji, MD, & Kristl Dorschner Tomlin, MD, *NASPAG Position Statement: Comprehensive Sexual Education for Adolescents*, N. AM. SOC'Y FOR PEDIATRIC & ADOLESCENT GYNECOLOGY (Aug. 11, 2023), <https://naspag.memberclicks.net/assets/docs/comprehensive%20sexual%20education%20for%20adolescents%20advo%20statement%208.17.pdf>.

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ Naroji & Tomlin, *supra* note 63.

⁶⁹ *Id.*

⁷⁰ See generally, DeMond Miller, Jason Rivera & Christopher Gonzalez, *The Deliberative School Approach to Human Rights*, 6 SOCIETIES WITHOUT BORDERS 68, 68–91 (2011).

⁷¹ E.g., Melissa Curvino & Meghan Grizzle Fischer, *Claiming Comprehensive Sex Education is a Right Does Not Make it So: A Close Reading of International Law*, 20 NEW BIOETHICS 72 (2015).

This author argues that human rights are inherent and thus exist independent of their codification in any treaty, statute, constitution, or bill of rights. The codification process serves as a mere confirmation of pre-existing rights, which all persons are born with and which cannot be taken from us by any human power.⁷² Alexander Hamilton voiced this sentiment by stating that the “rights of mankind are not to be rummaged for, among old parchments, or musty records” but are “written, as with a sunbeam in the whole volume of human nature.”⁷³ While the texts that codify rights are of profound importance in laying a foundation for these rights’ protection and interpretation, such texts should, as Hamilton suggested, be viewed as living documents that adapt to align with contemporary realities.⁷⁴ Following this approach, there has been a clear trend in the international and regional human rights law community towards “reading in” a right to comprehensive sexuality education in existing law, as evidenced by the analyses from treaty monitoring bodies in Section IV(E).

The counterargument to this view is that human rights obligations are generally voluntarily assumed by States in treaties and other instruments, and while there are some rights that are a part of customary international law and thus create obligations on States that extend beyond treaties, these rights are few in number.⁷⁵ While there is currently insufficient evidence of the widespread practice and *opinio juris* necessary to view the right to comprehensive sexuality education as customary international law,⁷⁶ this author argues that this right has been recognized as directly derived from the rights to health and education in persuasive secondary sources.⁷⁷ As such, this official recognition should be persuasive in encouraging States to recognize the right to comprehensive sexuality education, and the international human rights community should apply pressure on non-compliant States to encourage recognition and implementation. This increased compliance should in turn lead to a progression of the international acceptance of comprehensive sexuality education to the extent that it can eventually be recognized in binding treaty language.

⁷² See, e.g., *What are Human Rights?*, U.N. HUM. RTS. OFF. OF THE HIGH COMM’R, <https://www.ohchr.org/en/what-are-human-rights> (last visited Sept. 26, 2024).

⁷³ GEOFFREY R. STONE, *SEX AND THE CONSTITUTION: SEX, RELIGION, AND LAW FROM AMERICA’S ORIGINS TO THE TWENTY-FIRST CENTURY* 117 (2018).

⁷⁴ *Id.*

⁷⁵ *Customary International Law*, CORNELL L. SCH. LEGAL INFO. INST., https://www.law.cornell.edu/wex/customary_international_law (last updated July 2022).

⁷⁶ *Opinio Juris (International Law)*, CORNELL L. SCH. LEGAL INFO. INST., https://www.law.cornell.edu/wex/opiniojuris_%28international_law%29 (last updated July 2023).

⁷⁷ See *infra* Section IV(E).

A. Primary Sources Supporting the Argument that Comprehensive Sexuality Education is a Human Right

1. Treaties

a. The International Covenant on Economic, Social, and Cultural Rights

The International Covenant on Economic, Social, and Cultural Rights (hereinafter “ICESCR”) was adopted by the United Nations General Assembly in 1966 and came into force in 1976.⁷⁸ It obligates States Parties to progressively develop economic, social, and cultural rights.⁷⁹ There are currently 171 parties.⁸⁰ It forms a part of the International Bill of Human Rights along with the Universal Declaration of Human Rights (hereinafter “UDHR”) and the International Covenant on Civil and Political Rights (hereinafter “ICCPR”).⁸¹ The main rights protected by the ICESCR from which a right to comprehensive sexuality education may be derived are health and education,⁸² as evidenced by the analysis of the Committee on Cultural, Economic and Social Rights (hereinafter “CESCR”) in Section IV(E).⁸³ The following analysis will explore each article discussing these rights.

Article 12(1) of the ICESCR declares: “The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”⁸⁴ As argued by the Center for Reproductive Health, the highest attainable standard of physical and mental health cannot be achieved without comprehensive sexuality education.⁸⁵ While it may be possible for an individual to enjoy passably adequate health without such education, the language specifying the *highest attainable standard of mental and physical health* requires individuals to be fully equipped to make informed choices regarding sexual and reproductive health.⁸⁶

⁷⁸ ICESCR, *supra* note 20.

⁷⁹ *Id.* at 5.

⁸⁰ *Status of Ratification Interactive Dashboard*, U.N. HUM. RTS. OFF. OF THE HIGH COMM’R, <https://indicators.ohchr.org/> (last visited Aug. 1, 2024).

⁸¹ While the UDHR and ICCPR also establish key human rights from which a right to comprehensive sexuality education could be derived, they are not discussed in this article for two reasons: first, the UDHR is non-binding, and as such does not have the normative force of the other two instruments. Second, while binding, the ICCPR’s monitoring body has not been as active in their advocacy for comprehensive sexuality education as other treaty monitoring bodies. For those interested in the Human Rights Committee’s interpretation of the right to sexuality education *see, e.g.*, Human Rights Committee, Concluding Observations: Poland, U.N. Doc. CCPR/CO/82/POL (Dec. 2, 2004).

⁸² ICESCR, *supra* note 20.

⁸³ *See infra* Section IV(E).

⁸⁴ ICESCR, *supra* note 20, art. 12(1).

⁸⁵ *Sexuality Education for Adolescents in Schools*, *supra* note 5.

⁸⁶ *Id.*

Article 13(1) provides:

The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms.⁸⁷

This language clearly introduces a state obligation to educate people in a holistic manner in order to encourage the full development of the human personality and its dignity. Basic sex education that only addresses simplistic biological functions and abstinence-only sex education clearly does not meet this standard. These programs do not contribute sufficiently to the full development of the human personality because they fail to encourage the development of the cognitive, emotional, physical, and social aspects of sexuality.⁸⁸ The mindful treatment of these aspects in comprehensive sexuality education is therefore a superior method of approaching this obligation.

b. The Convention on the Rights of the Child

The Convention on the Rights of the Child (hereinafter “CRC”) was adopted by the United Nations General Assembly in 1989 and came into force in 1990.⁸⁹ It obligates States Parties to protect the civil, political, economic, social, and cultural rights of children.⁹⁰ As defined by the treaty, children are persons under the age of 18 years old or the national age of majority.⁹¹ It currently has 196 parties, including every member of the United Nations except for the United States.⁹² Significantly, this makes it the most ratified human rights treaty in the world.⁹³ The main rights protected by the CRC from which a right to comprehensive sexuality education may be derived are health and education, as evidenced by the CRC’s analysis in Section IV(E).⁹⁴ This section will analyze the articles discussing these rights.

⁸⁷ ICESCR, *supra* note 20, art. 13(1).

⁸⁸ Rebekah Rollston, *Sex Ed Isn't Actually About Sex*, HARVARD MED. SCH. PRIMARY CARE REV. (May 24, 2021), <https://info.primarycare.hms.harvard.edu/review/sex-ed-isnt-about-sex>.

⁸⁹ United Nations Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 1 [hereinafter CRC].

⁹⁰ *Id.* at 2.

⁹¹ *Id.* at 1.

⁹² *Status of Ratification Interactive Dashboard*, *supra* note 80.

⁹³ *Id.*

⁹⁴ See *infra* Section IV(E).

Article 3(3) provides:

States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.⁹⁵

Because educational institutions are responsible for the care of children, they are implicated by this provision. As such, States Parties have an obligation to ensure that educational institutions meet the heightened standard of quality for health. This would clearly extend to educational programs on health. Article 17 states:

States Parties ... shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health.⁹⁶

The emphasis on social, spiritual, and moral well-being in addition to physical and mental health again lends itself to a broader interpretation of health beyond simplistic biology. This provision also identifies a State obligation to ensure access to information from a diversity of sources,⁹⁷ a diversity which non-comprehensive sexuality education lacks by definition. The state obligations regarding health are elaborated on in Article 19(1), which provides in pertinent part:

States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse.⁹⁸

The obligation to protect children from sexual abuse would logically create State obligations to prevent sexual abuse from occurring and to educate children on how to recognize, avoid, and report such abuse. Comprehensive sexuality education has been shown to deter potential predators from engaging in sexual

⁹⁵ CRC, *supra* note 89, art. 3(3).

⁹⁶ *Id.* art. 17.

⁹⁷ *Id.*

⁹⁸ *Id.* art. 19(1).

abuse.⁹⁹ It also provides children with the tools necessary to recognize, avoid, and report this abuse as illustrated in the discussion on grooming in Part II.¹⁰⁰

Article 24(2)(f) of the CRC explicitly declares an obligation for States Parties to “develop preventive health care, guidance for parents and family planning education and services.”¹⁰¹ Article 28(1) recognizes children’s broader right to education and emphasizes in subsection (3) that “modern teaching methods” should be promoted and encouraged in furtherance of this right.¹⁰² Article 29(1)(b) states that education should be directed to “[t]he development of respect for human rights and fundamental freedoms[.]”¹⁰³

Comprehensive sexuality education encourages respect for human rights such as freedom from discrimination by promoting gender equality and the acceptance of all gender identities and sexual orientations.¹⁰⁴ Non-comprehensive sex education programs, however, generally either do not discuss gender and sexuality at all or perpetuate harmful stereotypes that encourage discriminatory attitudes and behaviors.¹⁰⁵ For example, only 5% of LGBTQ+ students in the United States reported receiving sex education which portrayed LGBTQ+ issues in a positive light.¹⁰⁶ If this is the case in a country with a relatively well-developed education system,¹⁰⁷ and comparatively progressive attitudes towards LGBTQ+ issues,¹⁰⁸ it stands to reason that only a fraction of LGBTQ+ students and other marginalized groups have positive sexuality education experiences globally.¹⁰⁹

⁹⁹ E.g., Rebekah Rollston, *Comprehensive Sex Education as Violence Prevention*, HARV. MED. SCH. CTR. FOR PRIMARY CARE REV. (May 29, 2020), <https://info.primarycare.hms.harvard.edu/review/sexual-education-violence-prevention>.

¹⁰⁰ See *supra* Section II(C)(1).

¹⁰¹ CRC, *supra* note 89, art. 24(f).

¹⁰² *Id.* art. 28(1), 28(3).

¹⁰³ *Id.* art. 29(b).

¹⁰⁴ *Comprehensive sexuality education, supra* note 18.

¹⁰⁵ *Sexuality Education for Adolescents in Schools, supra* note 5.

¹⁰⁶ *Lack of Comprehensive Sex Education Putting LGBTQ Youth at Risk: National 0*, GLSEN (Dec. 2, 2015), <https://www.glsen.org/news/lack-of-sex-education-putting-lgbtq-youth-risk>.

¹⁰⁷ *Best Countries for Education*, U.S. NEWS & WORLD REP., <https://www.usnews.com/news/best-countries/best-countries-for-education> (last visited Aug. 1, 2024).

¹⁰⁸ Jacob Poushter & Nicholas Kent, *The Global Divide on Homosexuality Persists*, PEW RSCH. CTR. (June 25, 2020), <https://www.pewresearch.org/global/2020/06/25/global-divide-on-homosexuality-persists/>.

¹⁰⁹ See Murie O’Farrell, Phil Corcoran, & Martin P. Davoren, *Examining LGBTI+ inclusive sexual health education from the perspective of both youth and facilitators*, 11 BMJ OPEN 1, 19 (2021).

c. The Convention on the Elimination of All Forms of Discrimination Against Women

The Convention on the Elimination of All Forms of Discrimination Against Women (hereinafter “CEDAW”) was adopted by the United Nations General Assembly in 1979 and entered into force in 1981.¹¹⁰ As the name suggests, it obligates States Parties to eliminate all forms of discrimination against women.¹¹¹ Discrimination is defined in Article 1 as “any distinction, exclusion or restriction made on the basis of sex ... in the political, economic, social, cultural, civil or any other field.”¹¹² It currently has 189 parties.¹¹³ The main rights protected by CEDAW from which a right to comprehensive sexuality education may be derived are health and education, as evidenced by the CEDAW Committee’s analysis in Section IV(E).¹¹⁴ This section will explore each article discussing these rights in turn.

Article 10(c) compels States Parties to eliminate:

[A]ny stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods.¹¹⁵

This section is notable for the specific call to revise educational programs and materials to be non-discriminatory. As established in the previous section on the CRC, comprehensive sexuality education is the ideal method of ensuring non-discriminatory education on sexual and reproductive health because it actively combats stereotypes and encourages equal respect for all persons.¹¹⁶

Article 10(h) introduces the obligation to ensure access to information and advice on family planning.¹¹⁷ Article 12(1) restates this obligation, declaring:

States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.¹¹⁸

¹¹⁰ United Nations Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, vol. 1249 U.N.T.S. at p. 13 [hereinafter CEDAW].

¹¹¹ *Id.*

¹¹² CEDAW, *supra* note 110, art. 1.

¹¹³ *Status of Ratification Interactive Dashboard*, *supra* note 80.

¹¹⁴ *See infra* Section IV(E).

¹¹⁵ CEDAW, *supra* note 110, art. 10(c).

¹¹⁶ *Sexuality Education for Adolescents in Schools*, *supra* note 5.

¹¹⁷ CEDAW, *supra* note 110, art. 10(h).

¹¹⁸ *Id.* art. 12(1).

This obligation is mentioned yet again in Article 14(2)(b) in the context of heightened protections for women in rural areas¹¹⁹ and in Article 16(1)(e), which establishes the right to “decide freely and responsibly on the number and spacing of . . . children and to have access to the information, education and means to enable them to exercise these rights[.]”¹²⁰ It is significant that the obligation of States Parties to ensure access to education on family planning is mentioned no less than four times in the text of the treaty and is done so in the contexts of both the right to health and education.¹²¹ The obligation to ensure access to education sufficient for women to make informed choices relevant to family planning would best be fulfilled by comprehensive sexuality education programs because of the quality and quantity of information regarding sexual and reproductive health they provide.¹²²

2. Case Law

a. Legal and Human Rights Centre and Centre for Reproductive Rights v. Tanzania

On September 15, 2022, the African Committee of Experts on the Rights and Welfare of the Child (hereinafter “the Committee”) published its decision on the case of *Legal and Human Rights Centre and Centre for Reproductive Rights v. Tanzania*.¹²³ This case arose from a program in Tanzania which forcibly subjected schoolgirls to mandatory pregnancy testing and subsequently expelled girls found to be pregnant or married.¹²⁴ The Committee found in favor of the complainants and ruled that Tanzania had committed numerous human rights violations under the African Charter on the Rights and Welfare of the Child (hereinafter “the Charter”).¹²⁵

While the Charter provides the main foundation for the Committee’s discussion on comprehensive sexuality education, this decision also references the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (hereinafter “the Maputo Protocol”) as well as Economic Community of West African States (hereinafter “ECOWAS”) precedent.¹²⁶ Article 14 of the Maputo Protocol—further explained in General Comment 2 of the African Commission—specifically includes “the right [of women and girls] to control their fertility, the right to decide the number of children and the spacing of children, the

¹¹⁹ CEDAW, *supra* note 110, art. 14(2)(b).

¹²⁰ *Id.* art. 16(1)(e).

¹²¹ *Id.*

¹²² *See generally* Rollston, *supra* note 99.

¹²³ *Legal and Human Rights Centre and Centre for Reproductive Rights (on behalf of Tanzanian girls) v. United Republic of Tanzania*, Communication No.0012/Com/001/2019, AFR. COMM. EXPERTS ON RTS. AND WELFARE CHILD (ACERWC) (Sept. 1, 2020), <https://www.w.acerwc.africa/sites/default/files/2022-10/ACERWC%20Decision%20final%20Communication%20No-%200012Com0012019.Tanzania.pdf> [hereinafter ACERWC].

¹²⁴ *Id.*

¹²⁵ *Id.* ¶ 109.

¹²⁶ *Id.* ¶¶ 40, 42.

right to choose any method of contraception, and the right to have family planning education.”¹²⁷ ECOWAS explicitly called for the integration of sexual and reproductive rights into public education in a decision concerning the ban on pregnant learners in schools in Sierra Leone.¹²⁸ These sources bolster the argument that there is an emerging regional trend in Africa toward recognizing a right to comprehensive sexuality education.

In the case at hand, Tanzania argued that the policy of expelling pregnant and married schoolgirls was supported by Article 11(2)(c) of the Charter, which provides that education should preserve African morals, values, and cultures.¹²⁹ However, the Committee determined this argument was not supported by the Charter because the article in question only provides for the protection of “positive” African morals, values, and cultures.¹³⁰ The Committee reasons that practices that harm children are not positive and therefore not protected, thus invalidating the morality argument.¹³¹

Tanzania also argued that it should be afforded a margin of appreciation in regard to the right to education, but the Committee again rejected this reasoning and reaffirmed that Article 11 does not provide for any limitations or conditions on the right to education.¹³² Consequently, there can be no margin of appreciation afforded.¹³³ Furthermore, the Committee underscores that “the responsibility of States in realizing the right to education includes the obligation to promote, respect, protect and fulfil education,”¹³⁴ and “no argument of morality or margin of appreciation can justify a policy and practice which is against the explicit provisions of the Charter.”¹³⁵ The Committee then explores the best interests of the child, which it understands as a three-fold principle encompassing a substantive right, an interpretative principle, and a rule of procedure.¹³⁶ It emphasizes that “[t]he best interests of the child ... shall be the primary consideration ‘in all actions undertaken by any person or authority,’ as it concerns children” and provides that “there are no conditions attached to this principle which could dilute its scope, reach or standard of application.”¹³⁷ This pronouncement signals that when States are faced with issues that force them to balance the interests of parents, educators, children, and society generally, it is the children who must be prioritized. Therefore, arguments

¹²⁷ African Commission on Human and Peoples’ Rights, *General Comment No. 2 on Article 14.1 (a), (b), (c), and (f) and Article 14.2 (a) and (c) of the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa*, 2 (2014).

¹²⁸ Women Against Violence and Exploitation in Society (WAVES) & Child Welfare Society, Sierra Leone (CWS SL) (On Behalf of Pregnant Adolescent School Girls in Sierra Leone) v. Sierra Leone, ECW/CCJ/JUD/37/19, 6 (Dec. 19, 2019).

¹²⁹ African Charter on the Rights and Welfare of the Child, OAU Doc. CAB/LEG/24.9/49 (1990), Art. 11(2)(c).

¹³⁰ ACERWC, *supra* note 123, ¶ 42.

¹³¹ *Id.*

¹³² *Id.* ¶ 48.

¹³³ *Id.*

¹³⁴ *Id.* ¶ 41.

¹³⁵ ACERWC, *supra* note 123, ¶ 48.

¹³⁶ *Id.* ¶ 70.

¹³⁷ *Id.* ¶ 69.

based on social mores, the doctrine of margin of appreciation, and parental values must yield to the best interests of children when they are in conflict.

The Committee concludes the opinion by emphasizing that States have a positive and affirmative obligation to facilitate a safe and supportive environment for students, which includes ensuring students have sufficient access to information about family planning, contraception, and abortion.¹³⁸ They also encourage States to take measures to address gender-based discrimination and negative customary and societal norms.¹³⁹ Most significantly, the Committee explicitly states that “the full implementation of the provision of comprehensive sexuality education and child-friendly sexual and reproductive health services must be realised.”¹⁴⁰ While this call is relatively aspirational in tone and lacks indicators of timeliness and specificity that could be used to measure the success of comprehensive sexuality education implementation, it is an important step forward for the Committee and the region.

b. Angulo Losada v. Bolivia

On November 18, 2022, the Inter-American Court of Human Rights published its decision on the case of *Angulo Losada v. Bolivia*.¹⁴¹ This case arose from the sexual violence suffered by a young girl, Brisa, at the hands of her cousin and her subsequent revictimization by the state of Bolivia.¹⁴² The Court found in favor of Brisa and ruled that Bolivia was responsible for violations of Brisa’s rights to humane treatment, judicial guarantees, private and family life, equality before the law, judicial protection, and children’s rights under the American Convention on Human Rights (hereinafter “the Convention”) in failing to prevent, address, punish, and redress the sexual and institutional violence Brisa suffered.¹⁴³

While the focus of this case is not on comprehensive sexuality education per se, the Court uses this opinion as an opportunity to introduce several strong arguments in support of the recognition of this right.¹⁴⁴ Additionally, the incestuous rape at the center of this case brings to light an important argument against families having absolute control over their children’s education: the statistically significant occurrence of sexual violence committed by family members.¹⁴⁵ An estimated 34% of rape victims who were children were raped by family members.¹⁴⁶ To leave the decision of whether or not to educate children on their rights in the hands of their potential abusers is to fail to protect the rights of these children.

¹³⁸ ACERWC, *supra* note 123, ¶¶ 78–80.

¹³⁹ *Id.* ¶ 109.

¹⁴⁰ *Id.* ¶ 84.

¹⁴¹ Angulo Losada v. Bolivia, Preliminary Objections, Merits and Reparations, INTER-AM. CT. H.R., Series (ser. C), No. 475, 4 (November 18, 2022).

¹⁴² *Id.*

¹⁴³ *Id.* at 24.

¹⁴⁴ *Id.* at 68.

¹⁴⁵ *Children and Teens: Statistics, supra* note 30.

¹⁴⁶ *Id.*

As in the *Tanzania* case, the Court emphasizes the importance of prioritizing the best interests of the child whenever they are implicated.¹⁴⁷ It considers the best interests of the child a mandated priority best shaped by listening to the child and weighing the rights involved while giving preponderance to the rights of the child.¹⁴⁸ The Court acknowledges that children have a right to be heard¹⁴⁹ by underscoring the importance of including children's perspectives and affording top priority to their needs.¹⁵⁰

The Court also delves into the intersectional experience of violence, noting that children are more vulnerable to human rights violations, and that protections against violations such as comprehensive sexuality education should take into account factors such as age, degrees of development and maturity, and the particular conditions of each individual.¹⁵¹ The Court underlines that age is a potential factor of discrimination because "girls and adolescents, due to their age, do not have the social or legal legitimacy to make important decisions in matters of education, health, and in relation to their sexual and reproductive rights."¹⁵² Additionally, the heightened vulnerability to rights abuses that result from age-based discrimination can be further compounded by gender discrimination driven by socio-historical factors.¹⁵³ The Court notes this is particularly true of girls' vulnerability to sexual violence in the family sphere.¹⁵⁴ These intersectional factors converge to create situations in which children and adolescents are particularly vulnerable to violations of their rights and increase the need for comprehensive sexuality education programs that acknowledge these factors.¹⁵⁵

The Court makes clear that the fact that the initial violence in this case was committed by a private actor does not absolve the State of culpability because it had been charged with adopting comprehensive policies to prevent, punish, and eradicate violence against women and especially girls.¹⁵⁶ Any policy that aims to prevent, punish, and eradicate violence against women must take into account the gender-based stereotypes that are a cause of this violence.¹⁵⁷ The Court explicitly notes that a State's failure to eliminate gender-based stereotypes not only fosters an environment that leads to violence against women but can, when influencing the policies and practices of the state, lead to the denial of justice and re-victimization.¹⁵⁸ As discussed in Part II, comprehensive sexuality education can be a powerful tool for eliminating the gender-based stereotypes at the root of this violence.¹⁵⁹

¹⁴⁷ Angulo Losada, *supra* note 141.

¹⁴⁸ *Id.*

¹⁴⁹ G.A. Res. 44/25, Convention on the Rights of the Child (Nov. 20, 1989).

¹⁵⁰ See Angulo Losada, *supra* note 141, at 31–32.

¹⁵¹ See Angulo Losada, *supra* note 141, at 33.

¹⁵² *Id.*

¹⁵³ *Id.*

¹⁵⁴ *Id.* at 60.

¹⁵⁵ Angulo Losada, *supra* note 141, at 60.

¹⁵⁶ *Id.* at 54–55.

¹⁵⁷ *Id.* at 55.

¹⁵⁸ Angulo Losada, *supra* note 141, at 55.

¹⁵⁹ UNESCO, *supra* note 16, at 12.

In the reparations section of this case, the Court once again highlights the importance of children's participation in the formulation of public prevention programs.¹⁶⁰ It charges Bolivia with increasing public awareness of incest, the rights of children, and the importance of consent in sexual relations via a campaign aimed at the general population that incorporates a gender and childhood perspective and is comprehensible to the entire population.¹⁶¹ Furthermore, it specifically calls upon Bolivia to "[incorporate] adequate, timely and appropriate information [including information on incest and the importance of consent in sexual relations] into the compulsory school teaching materials in accordance with the level of maturity of the children and adolescents aimed at providing them with the tools to prevent, identify and report acts that constitute sexual violence and its risks."¹⁶² Note the contrast in detail and tone between this order and the conclusion of the *Tanzania* case: the firmness and specificity of this directive indicate that this Court has recognized the right to comprehensive sexuality education in a way that is concrete and practical rather than aspirational and theoretical.¹⁶³ While both cases support the recognition of the right to comprehensive sexuality education, this case illustrates a more advanced development of that recognition.¹⁶⁴

c. Guzmán Albarracín et al. v. Ecuador

On June 24, 2020, the Inter-American Court of Human Rights published its decision on the case of *Guzmán Albarracín et al. v. Ecuador*.¹⁶⁵ This case arose from the sexual violence suffered by a young girl, Paola, at the hands of the vice principal of her school, ultimately leading to her suicide.¹⁶⁶ The Court ruled in favor of Paola's family and found Ecuador responsible for violating Paola's right to life, personal integrity, private life and dignity, education, and the right to live free from gender violence and discrimination.¹⁶⁷ The Court used this opportunity to fully establish that the right to education includes sexual and reproductive health education.¹⁶⁸ This case is also notable for its extensive use of citations to international sources, such as General Comments from the CESCR and CRC.¹⁶⁹ As such, it provides a valuable example of how regional courts can draw inspiration from international sources to realize the right to comprehensive sexuality.

¹⁶⁰ Angulo Losada, *supra* note 141, at 67.

¹⁶¹ *Id.* at 68.

¹⁶² Angulo Losada, *supra* note 141, at 68.

¹⁶³ *Id.*

¹⁶⁴ *Id.*

¹⁶⁵ Guzman Albarracin et al. v. Ecuador, Merits, Reparations, and Costs, INTER-AM. CT. H.R., SERIES (ser. C), No. 405, 1 (June 24, 2020).

¹⁶⁶ *Id.* at 4.

¹⁶⁷ *Id.* at 79.

¹⁶⁸ Guzman Albarracin et al., *supra* note 165, at 68.

¹⁶⁹ *Id.*

As discussed in the case of *Angulo Losada v. Bolivia*, one danger of families having absolute control over their children's education is that many children are abused by family members.¹⁷⁰ These abusers can prevent children from understanding their rights, thus perpetuating the cycle of abuse.¹⁷¹ The facts of this case raise another issue: that of educators operating outside of a rights-based educational framework monitored by the State. Not only was Paola abused by the vice principal of her school, but the school also knew of and tolerated this abuse.¹⁷² Furthermore, the Court suggests her lack of education on sexual and reproductive rights was an intersectional factor, along with her age and gender, that increased her vulnerability to abuse.¹⁷³

The Court devotes a significant portion of its opinion to a discussion of discrimination as an underlying cause of rights violations.¹⁷⁴ The Court reaffirms its precedent acknowledging that negative or harmful gender stereotypes may have a negative impact on the exercise of rights¹⁷⁵ and that the obligation of non-discrimination includes an “[obligation] . . . to adopt positive measures to revert or change discriminatory situations that exist in their societies which affect a specific group of persons.”¹⁷⁶ It connects these general statements on discrimination to education specifically by reestablishing that:

an education imparted in a manner that breaches human rights . . . violates the right to education. States must therefore take appropriate steps to prevent human rights violations in the course of a child's educational process. To comply with these duties, States must take into consideration the serious nature and specific features of gender-based violence, sexual violence, and violence against women, all of which are a form of discrimination.¹⁷⁷

These statements about discrimination provide a window into how the Court's understanding of State obligations relating to discrimination evolved prior to the case at hand. This precedent is then expanded upon with citations to CRC General Comments 13 and 20. The Court quotes CRC General Comment 13 in emphasizing that States must adopt prevention measures that “[challenge] attitudes which perpetuate tolerance and acceptance of violence in all its forms, including gender-based [violence...] and other power imbalances.”¹⁷⁸ Furthermore,

¹⁷⁰ See *Angulo Losada*, *supra* note 141, at 60.

¹⁷¹ See *Guzman Albarracin et al.*, *supra* note 165, at 43.

¹⁷² *Id.* at 41.

¹⁷³ See *id.* at 43.

¹⁷⁴ *Id.* at 43–44.

¹⁷⁵ *Id.* at 40.

¹⁷⁶ *Guzman Albarracin et al.*, *supra* note 165, at 44.

¹⁷⁷ See *id.* at 35 (citing UNCESCR, *General Comment No. 13: Right to Education*, 21st Sess, 8 December 1999, U.N. Doc. E/C.12/1999/10). The Committee emphasized that the obligation of non-discrimination “is subject to neither progressive realization nor the availability of resources.”

¹⁷⁸ *Id.* (quoting UNCRC, *General Comment No. 13: The Right of the Child to Freedom from All Forms of Violence*, 18 April 2011, U.N. Doc. CRC/C/GC/13, at 18).

educational measures should “address attitudes, traditions, customs, and behavioral practices which condone and promote violence against children [and] should encourage open discussion about violence.”¹⁷⁹ The Court also quotes CRC General Comment 20 in asserting that States must “invest in proactive measures to promote the empowerment of girls, challenge patriarchal and other harmful gender norms and stereotyping and promote legal reforms to address direct and indirect discrimination against girls.”¹⁸⁰ These Comments, combined with the Court’s precedent, establish a firm international and regional basis for States’ obligation to combat discrimination through education.

The Court also cites numerous sources which support the right to comprehensive sexuality education specifically. These sources include the CESCRC and national legislation from the Americas, as well as an amicus brief and expert opinion.¹⁸¹ CESCRC General Comment No. 22 states that the right to education “entails a right to education on sexuality and reproduction that is comprehensive, non-discriminatory, evidence-based, scientifically accurate, and age-appropriate.”¹⁸² This right triggers a State obligation to provide “comprehensive education and information” taking into account “the evolving capacities of children and adolescents.”¹⁸³ The Court clarifies that this education “must ensure that children have an adequate understanding of the implications of sexual and emotional relationships, particularly in terms of their consent to such relationships so that they can freely exercise their sexual and reproductive rights.”¹⁸⁴

Continuing to build on this foundation, the Court acknowledges expert Munoz Villalobos’s assertion that under current international standards, sexual education “may be considered as a human right in itself and an essential means to strengthen education in general,” and that “several United Nations bodies have recognized the human right to a comprehensive sexual education and consider that it should be a mandatory component of schooling.”¹⁸⁵ This argument is complemented by a citation to the amicus curiae brief submitted by the Latin American Consortium Against Unsafe Abortion, which states “comprehensive sexual[ity] education [implemented in an age-appropriate manner with a gender perspective] is a measure for the prevention of all forms of sexual violence.”¹⁸⁶ Finally, the Court notes that a number of States subject to its jurisdiction have adopted legislation on the right to sexual and reproductive health education, including Argentina, Bolivia, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Mexico, Nicaragua, Panama, Paraguay, and Uruguay.¹⁸⁷ While the reality of

¹⁷⁹ Guzman Albarracin et al., *supra* note 165, at 35.

¹⁸⁰ *Id.* at 44–45 (quoting UNCRRC, *General Comment 20: On the Implementation of the Rights of the Child During Adolescence*, 6 December 2016, U.N. Doc. CRC/C/GC/20, at 11).

¹⁸¹ UNESCR, *General Comment 22: On the right to sexual and reproductive health*, 2 May 2016, U.N. Doc. E/C.12/GC/22.

¹⁸² *Id.* ¶ 9.

¹⁸³ *Id.* ¶ 49(f).

¹⁸⁴ Guzman Albarracin et al., *supra* note 165, at 43.

¹⁸⁵ *Id.* at 42.

¹⁸⁶ U.N. Doc E/C.12/GC/22, *supra* note 181, at 35.

¹⁸⁷ *Id.* at 42.

comprehensive sexuality education may take time to actualize in these States, this national legislation demonstrates how States have begun to conform en masse to international and regional standards on the recognition of comprehensive sexuality education as a human right.

B. Secondary Sources Supporting the Argument that Comprehensive Sexuality Education is a Human Right

1. The Committee on Economic, Social and Cultural Rights

The Committee on Economic, Social, and Cultural Rights has framed its support of comprehensive sexuality education primarily under the right to sexual and reproductive health.¹⁸⁸ This right is derived from the right to the highest attainable standard of physical and mental health as articulated in Article 12(1) of the ICESCR¹⁸⁹ and elaborated on in General Comment No. 22.¹⁹⁰ The CESCR has also connected the lack of education in sexual and reproductive health with high rates of abortion and maternal mortality¹⁹¹ and because of this has continually urged States Parties to implement educational programs on sexual and reproductive health in an effort to lower abortion and maternal mortality rates.¹⁹² The fact that the CESCR has made these connections on numerous occasions further strengthens the evidence-based connection between comprehensive sexuality education and lower rates of pregnancy (and therefore lower rates of abortion and maternal mortality).¹⁹³ This section will first present excerpts from the CESCR's General Comments that detail how the Committee interprets the rights at issue, and it will then show how these interpretations are applied to various countries in Concluding Observations. The Concluding Observations have been divided into three chronological categories which show the development of the language the CESCR has used to advocate for sex education programs: first, these programs were encouraged to be introduced; second, they were further promoted and expanded in detail; and third, the CESCR has begun calling upon States to ensure access to comprehensive programs. This three-part structure has also been applied to the following sections on the CRC and

¹⁸⁸ ICESCR, *supra* note 20, art. 12(1).

¹⁸⁹ G.A. Res. 2200A (XXI) Art. 12, International Covenant on Economic, Social, and Cultural Rights (Jan. 3, 1976).

¹⁹⁰ U.N. Doc. E/C.12/GC/22, *supra* note 181.

¹⁹¹ *E.g.*, U.N., Econ. & Soc. Council, Consideration of Reports Submitted by States Parties Under Articles 16 and 17 of the Covenant, Concluding observations of the Committee on Economic, Social and Cultural Rights, Benin, 23 U.N. Doc. E/C.12/1/Add.78 (2002).

¹⁹² *Id.*; U.N., Econ. & Soc. Council, Consideration of Reports Submitted by States Parties Under Article 16 and 17 of the Covenant, Concluding observations of the Committee on Economic, Social and Cultural Rights, Bolivia, 6 U.N. Doc E/C.12/1/Add.60 (2001); U.N., Econ. & Soc. Council, Consideration of Reports Submitted by States Parties Under Article 16 and 17 of the Covenant, Concluding observations of the Committee on Economic, Social and Cultural Rights, Bolivia, 6 U.N. Doc E/C.12/BOL/CO/2 (2008).

¹⁹³ Stanger-Hall & Hall, *supra* note 43, at 10.

CEDAW, as their Concluding Observations and General Recommendations followed a similar progressive development.

a. General Comments

U.N. Committee on Economic, Social and Cultural Rights [CESCR Comm.], *General Comment No. 13: The Right to Education*, U.N. Doc. E/C.12/1999/10, para. 6 (1999).

6. While the precise and appropriate application of the terms will depend upon the conditions prevailing in a particular State party, education in all its forms and at all levels shall exhibit the following interrelated and essential features: (b) ... Non-discrimination - education must be accessible to all, especially the most vulnerable groups, in law and fact, without discrimination on any of the prohibited grounds (see paras. 31-37 on non-discrimination); ... (d) Adaptability - education has to be flexible so it can adapt to the needs of changing societies and communities and respond to the needs of students within their diverse social and cultural settings.

CESCR Comm., *General Comment No. 14: The Right to the Highest Attainable Standard to Health*, U.N. Doc. E/C.12/2000/4, paras. 8, 11, 21, 23 (2000).

8. The right to health is not to be understood as a right to be *healthy*. The right to health contains both freedoms and entitlements. The freedoms include the right to control one's health and body, **including sexual and reproductive freedom**

11. The Committee interprets the right to health, as defined in article 12.1, as an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as ... **access to health-related education and information, including on sexual and reproductive health**

21. **The realization of women's right to health requires the removal of all barriers interfering with access to health services, education and information, including in the area of sexual and reproductive health.** It is also important to undertake preventive, promotive and remedial action to shield women from the impact of harmful traditional cultural practices and norms that deny them their full reproductive rights

23. States Parties should provide a safe and supportive environment for adolescents, that ensures the opportunity to **participate in decisions affecting their health, to build life**

skills, to acquire appropriate information, to receive counselling and to negotiate the health-behaviour choices they make.

CESCR Comm., *General Comment No. 20: Non-discrimination in Economic, Social and Cultural rights*, U.N. Doc. E/C.12/GC/20, para. 29 (2009).

29. Age is a prohibited ground of discrimination in several contexts In relation to young persons, **unequal access by adolescents to sexual and reproductive health information and services amounts to discrimination.**

CESCR Comm., *General Comment No. 22: The Right to Sexual and Reproductive Health*, U.N. Doc. E/C.12/GC/22, para. 1 (2016).

1. The right to sexual and reproductive health is an integral part of the right to health enshrined in article 12 of the International Covenant on Economic, Social, and Cultural Rights. It is also reflected in other international human rights instruments. The adoption of the Programme of Action of the International Conference on Population and Development in 1994 further highlighted reproductive and sexual health issues within the human rights framework. Since then, international and regional human rights standards and jurisprudence related to the right to sexual and reproductive health have considerably evolved. Most recently, the 2030 Agenda for Sustainable Development includes goals and targets to be achieved in the area of sexual and reproductive health.

b. Concluding Observations

Stage 1: Introduce

CESCR Comm., *Concluding Observations: Bolivia*, U.N. Doc. E/C.12/1/Add.60, para. 43 (2001).

43. The Committee calls upon the State party to take measures to reduce the female mortality rate, and in particular to bring about a reduction of deaths caused by illegal abortion and unassisted childbirth. In particular, the Committee recommends that the State party intensify the implementation of its National Sexual and Reproductive Health Programme, **organize educational campaigns regarding women's sexual and reproductive health, and include such subjects in school curricula.**

CESCR Comm., *Concluding Observations: Ukraine*, U.N. Doc. E/C.12/1/Add.65, para. 31 (2001).

31. The Committee recommends that the State party ensure that its commitment to primary health care is met by adequate allocation of resources and that all persons, especially from the most vulnerable groups, have access to health care. The Committee suggests that the State party **establish comprehensive reproductive health programmes**, as well as measures to ensure that abortion is not perceived as a method of contraception. It further **recommends that adolescents have access to and be provided with reproductive health education**, as well as with STD and HIV/AIDS prevention programmes.

CESCR Comm., *Concluding Observations: Poland*, U.N. Doc. E/C.12/1/Add.82, paras. 28, 50 (2002).

28. The Committee is concerned that family planning services are not provided in the public health-care system and that women have no access to affordable contraception. It also expresses concern that education in sexual and reproductive health is not adequately covered in the national school curricula

50. The Committee also recommends that family planning services be provided by the public health-care system, that contraceptives be available at affordable prices and that **sexual and reproductive health education be included in the national school curricula**.

Stage 2: Promote

CESCR Comm., *Concluding Observations: Poland*, U.N. Doc. E/C.12/POL/CO/6, paras. 49–50 (2016).

49. The Committee calls upon the State party to: (a) Ensure access to sexual and reproductive health services and information and to affordable, safe and effective contraceptives, for everyone; (b) **Promote comprehensive and age-appropriate sexual and reproductive education for both sexes in schools and informal settings**

50. The Committee draws the State party's attention in this regard to its general comment No. 22 (2016) on the right to sexual and reproductive health.

CESCR Comm., *Concluding Observations: Moldova*, U.N. Doc. E/C.12/MDA/CO/3, para. 63 (2017).

63. The Committee recommends that the State party take all effective measures to: (a) Ensure access for all to sexual and reproductive health information and services, including modern contraceptives; (b) **Carry out comprehensive and age-appropriate sexual and reproductive education in all educational institutions, as provided in the law on sexual and reproductive health**; The Committee draws the attention of the State party to its general comment No. 22 (2016) on the right to sexual and reproductive health.

CESCR Comm., *Concluding Observations: Russian Federation*, U.N. Doc. E/C.12/RUS/CO/5, para. 55 (2017).

55. The Committee also recommends that the State party **incorporate into the school curricula comprehensive, non-discriminatory, evidence-based, scientifically accurate, and age-appropriate education about sexual and reproductive health**. The Committee refers the State party to its general comment No. 22 (2016) on the right to sexual and reproductive health.

Stage 3: Ensure Access

CESCR Comm., *Concluding Observations: Mexico*, U.N. Doc. E/C.12/MEX/CO/5–6, paras. 63–64 (2018).

63. (c) Intensify its efforts to ensure that appropriate high-quality sexual and reproductive health information and services, including family planning, are available to all women and adolescents in all the federative entities, especially in remote rural areas; (d) Redouble its efforts to prevent teenage pregnancy by, inter alia, **ensuring that school programmes on sexual and reproductive health are age-appropriate and properly implemented** and conducting campaigns to raise awareness among the general public of the negative impact of teenage pregnancy

64. In addition, the Committee refers the State party to its general comment No. 22 (2016) on the right to sexual and reproductive health.

2. The Committee on the Elimination of All Forms of Discrimination Against Women

It has been well-established that access to information about sexual health and contraception in particular has historically been intentionally restricted as a means to enforce abstinence, thereby subjugating women.¹⁹⁴ In order for women and girls to gain full autonomy, they must be able to make informed choices about their sexual and reproductive health. To ensure that women enjoy the right to the highest attainable standard of physical and mental health, it is crucial for States to not only stop withholding information critical to making informed choices (e.g., information about family planning) but also to proactively provide women with this information. The CEDAW Committee has articulated the importance of women's access to this information in the following General Recommendations and Concluding Observations.¹⁹⁵ Notably, at the time of writing, it is the only treaty monitoring body included here that goes so far as to urge States to make comprehensive sexuality education mandatory both in school curricula and in informal educational programs.¹⁹⁶ However, given the advancement of the dialogue around comprehensive sexuality education and its steady progression in both strength and detail in the past ten years alone, it is possible that other treaty monitoring bodies will soon follow CEDAW's lead in urging States to make this education mandatory.¹⁹⁷

a. General Recommendations

Stage 1: Introduce

U.N. Committee on the Elimination of Discrimination Against Women [CEDAW Comm.] *General Recommendation No. 24: Article 12 of the Convention (Women and Health)*, U.N. Doc. A/54/38/Rev.1, paras. 18, 23 (1999).

18. States Parties should **ensure, without prejudice or discrimination, the right to sexual health information, education, and services for all women and girls**, including those who have been trafficked, even if they are not legally resident in the country. In particular, States Parties should **ensure the rights of female and male adolescents to sexual and reproductive health education by properly trained personnel**

¹⁹⁴ GEOFFREY R. STONE, *supra* note 73.

¹⁹⁵ See *infra* **Error! Reference source not found.** and **Error! Reference source not found.**

¹⁹⁶ Comm. on the Elimination of Discrimination against Women, General recommendation No. 36 on girls' and women's right to education, U.N. Doc. CEDAW/C/GC/36, para. 18 (Nov. 16, 2017).

¹⁹⁷ Neil A. Englehart & Melissa K. Miller, *The CEDAW Effect: International Law's Impact on Women's Rights*, 13 J. HUM. RTS. 22, 39 (2014).

in specially designed programmes that respect their right to privacy and confidentiality

23. In their reports, States Parties should state what measures they have taken to ensure timely access to the range of services that are related to family planning, in particular, and to sexual and reproductive health in general. Particular attention should be paid to the health education of adolescents, including information and counselling on all methods of family planning.

Health education for adolescents should further address, inter alia, gender quality, violence, prevention of sexually transmitted diseases and reproductive and sexual health rights.

Stage 2: Promote

CEDAW Comm., *Joint General Recommendation/General Comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on Harmful Practices*, U.N. Doc. CEDAW/C/GC/31-CRC/C/GC/18, paras. 68–69 (2014).

68. Age-appropriate education, which includes science-based information on sexual and reproductive health, contributes to empowering girls and women to make informed decisions and claim their rights. To this end, health-care providers and teachers with adequate knowledge, understanding, and skills play a crucial role in conveying the information, preventing harmful practices, and identifying and assisting women and girls who are victims of or might be at risk of being subjected to them

69. The Committees recommend that the States Parties to the Conventions: (d) **Ensure that schools provide age-appropriate information on sexual and reproductive health and rights**, including in relation to gender relations and responsible sexual behaviour, HIV prevention, nutrition, and protection from violence and harmful practices.

Stage 3: Ensure Access

CEDAW Comm., *General Recommendation No. 36: On Girls' and Women's Rights to Health*, U.N. Doc. CEDAW/C/GC/36, paras. 28, 68–69 (2017).

28. When girls and women lack access to high-quality education, they ultimately face major difficulties, including a lack of personal autonomy and choices, including control over their health and sexual and reproductive decisions

68. An important response to the magnitude of the problem [of sexual abuse of girls] in the home, school, and community is instituting **mandatory, age-appropriate curricula, at all levels**

of education, on comprehensive sexuality education, including on sexual and reproductive health and rights, responsible sexual behaviour, prevention of early pregnancy, and prevention of sexually transmitted infections, in line with articles 10 (h) and 12 of the Convention, the Committee's general recommendation No. 24 (1999) on women and health and general recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19. Teachers should be specifically trained for the various levels of age-appropriate delivery

69. The Committee recommends that States Parties take the following measures to curtail violence against girls and women associated with educational institutions and schooling, thereby protecting their right to be treated with respect and dignity: (i) **Develop and introduce age-appropriate, evidence-based, scientifically accurate mandatory curricula at all levels of education, covering comprehensive information on sexual and reproductive health and rights, responsible sexual behaviour, prevention of early pregnancy, and sexually transmitted infections.**

b. Concluding Observations

Stage 1: Introduce

CEDAW Comm., *Concluding Observations: Chile*, U.N. Doc. A/54/38, para. 227 (1999).

227. The Committee recommends that the Government and SERNAM give priority to an examination of the situation of adolescents and urges the Government to adopt various measures to address effectively the sexual and reproductive health services and information needs of adolescents, including through the dissemination of family planning and information on contraceptive methods, though, *inter alia*, the **introduction of effective sex education programmes.**

CEDAW Comm., *Concluding Observations: Greece*, U.N. Doc. A/55/38, para. 208 (1999).

208. The Committee recommends that the Government **introduce sex education as part of the school curriculum.** It also recommends the improvement of family-planning policies and measures so that all women and men have access to information about and measures of contraception. It also urges

the Government to target men in its family-planning efforts and to stress the shared responsibilities of women and men in this regard.

Stage 2: Promote

CEDAW Comm., *Concluding Observations: Kazakhstan*, U.N. Doc. A/56/38, para. 106 (2001).

106. The Committee urges the Government to maintain free access to adequate health care and to improve its family planning and reproductive health policy, including the availability of and accessibility to modern contraceptive means. It encourages the Government to **promote sex education** for both girls and boys.

CEDAW Comm., *Concluding Observations: Turkmenistan*, U.N. Doc. CEDAW/C/TKM/CO/2, para. 31 (2006).

31. The Committee urges the State party to raise awareness of the importance of education as a fundamental human right and as a basis for the empowerment of women ... It recommends that the State party **include age-appropriate reproductive health education in school curricula at all levels and channels of formal and non-formal [or informal] education, taking into account the rights and the needs of adolescents**. The Committee also recommends that teachers receive adequate training in this area.

CEDAW Comm., *Concluding Observations: Slovakia*, CEDAW/C/SVK/CO/4, para. 33 (2008).

33. The Committee urges the State party to design and implement comprehensive programmes in the educational system and to encourage the mass media to promote cultural changes with regard to the roles and responsibilities attributed to women and men, as required by Article 5 of the Convention. It recommends that policies be developed and programmes implemented to **ensure the eradication of traditional sex role stereotypes** in the family, labour market, the health sector, academia, politics, and society at large. The Committee calls upon the State party to complete the review of school textbooks in order to **remove gender stereotypes and promote egalitarian views of women's and men's roles in the family and society**. It recommends that the State party **ensure that sex education is widely promoted in schools and targeted at both girls and boys**.

Stage 3: Ensure Access

CEDAW Comm., *Concluding Observations: Georgia*, CEDAW/C/GEO/CO/6, para. 34 (2023).

34. Recalling its previous recommendation (CEDAW/C/GEO/CO/4-5, para. 27), and with reference to its general recommendation No. 36 (2017) on the right of girls and women to education, the Committee recommends that the State party: (b) **Integrate mandatory age-appropriate and inclusive education on sexual and reproductive health and rights in school curricula, including education on responsible sexual behaviour, modern forms of contraception, the prevention of sexually transmitted infections, and the risks of unsafe abortion.**

3. The Committee on the Rights of the Child

The Committee on the Rights of the Child has been one of the most vocal treaty monitoring bodies in terms of advocating for the implementation of comprehensive sexuality education, particularly in its General Comments.¹⁹⁸ These Comments, excerpted below, emphasize the importance of a holistic approach to sexuality education in preparing children and adolescents to make informed choices about their sexual and reproductive health.¹⁹⁹ The CRC also notes that this information should be available to all children and adolescents regardless of parental consent or marital status.²⁰⁰ They also frequently call on States Parties to collaborate with United Nations agencies in order to ensure that the education provided is in alignment with international standards for comprehensive sexuality education.²⁰¹ Although the CRC does not emphasize the need for women and girls to have more recognition of rights in the area of sexuality education in the way the CEDAW Committee does,²⁰² instead taking the broader view that this education should be accessible to all children and adolescents, the need for this recognition is apparent from the CEDAW Committee's General Recommendations.²⁰³ Because the CRC is the most ratified human rights treaty in the world,²⁰⁴ the CRC's

¹⁹⁸ See *infra* Section III(B)(3)(c).

¹⁹⁹ *Id.*

²⁰⁰ U.N. Comm. on the Rights of the Child, *General Comment No. 4: Adolescent Health and Development in the Context of the Convention on the Rights of the Child*, U.N. Doc. CRC/GC/2003/4, para. 5 (July 1, 2003).

²⁰¹ See, e.g. U.N. Convention on the Rights of the Child, *Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Egypt*, U.N. Doc. CRC/C/EGY/CO/3-4, para. 17 (July 15, 2011).

²⁰² See, e.g., U.N. Doc. CEDAW/C/GC/36, *supra* note 196, para. 5.

²⁰³ *Id.*

²⁰⁴ *Status of Ratification Interactive Dashboard*, *supra* note 80.

recognition that access to this education is crucial to fulfilling obligations regarding the rights to health and education adds increased weight to the CEDAW Committee's assertions.²⁰⁵

a. General Comments

U.N. Committee on the Rights of the Child [CRC Comm.] *General Comment No. 1: The Aims of Education in Compilation of General Comments and General Recommendations Adopted by the Human Rights Treaty Bodies*, U.N. Doc. HRI/GEN/1/ Rev. 6, para. 9 (2003).

9. Consistent with the Convention's emphasis on the importance of acting in the best interests of the child, this article emphasizes the message of child-centered education: that the key goal of education is the development of the individual child's personality, talents, and abilities, in recognition of the fact that every child has unique characteristics, interests, abilities, and learning needs. Thus, the curriculum must be of direct relevance to the child's social, cultural, environmental, and economic context and to his or her present and future needs and take full account of the child's evolving capacities; teaching methods should be tailored to the different needs of different children. **Education must also be aimed at ensuring that essential life skills are learnt by every child and that no child leaves school without being equipped to face the challenges that he or she can expect to be confronted with in life.** Basic skills include not only literacy and numeracy but also life skills such as the ability to make well-balanced decisions; resolve conflicts in a non-violent manner; and develop a healthy lifestyle, good social relationships and responsibility, critical thinking, creative talents, and other abilities which give children the tools needed to pursue their options in life.

CRC Comm., *General Comment No. 3: HIV/AIDS and the Rights of the Child*, U.N. Doc. HRI/ GEN/1/Rev.6, para. 16 (2003).

16. States Parties are reminded that **children require relevant, appropriate, and timely information that recognizes the differences in levels of understanding among them, is tailored appropriately to age level and capacity, and enables them to deal positively and responsibly with their sexuality** in order to protect themselves from HIV infection. The Committee wishes to emphasize that effective HIV/AIDS prevention requires States to

²⁰⁵ See CRC Comm., *Concluding Observations: Indonesia*, U.N. Doc. CRC/C/IDN/CO/3-4, para. 50 (2014).

refrain from censoring, withholding, or intentionally misrepresenting health-related information, including sexual education and information, and consistent with their obligations to ensure the right to life, survival, and development of the child (art. 6), **States Parties must ensure that children have the ability to acquire the knowledge and skills to protect themselves and others as they begin to express their sexuality.**

CRC Comm., *General Comment No. 4: Adolescent Health and Development in the Context of the Convention on the Rights of the Child*, U.N. Doc. CRC/GC/2003/4, paras. 24, 26, 28 (2003).

24. In light of articles 3, 17, and 24 of the Convention, States Parties should provide adolescents with access to sexual and reproductive information, including on family planning and contraceptives, the dangers of early pregnancy, the prevention of HIV/AIDS, and the prevention and treatment of sexually transmitted diseases (STDs). In addition, **States Parties should ensure that they have access to appropriate information, regardless of their marital status and whether their parents or guardians consent...**

26. Adolescents have the right to access adequate information essential for their health and development and for their ability to participate meaningfully in society. **It is the obligation of States Parties to ensure that all adolescent girls and boys, both in and out of school, are provided with, and not denied, accurate and appropriate information on how to protect their health and development and practise healthy behaviours.** This should include information on the use and abuse of tobacco, alcohol, and other substances, **safe and respectful social and sexual behaviours**, [and] diet and physical activity....

28. In light of articles 3, 17, and 24 of the Convention, **States Parties should provide adolescents with access to sexual and reproductive information**, including on family planning and contraceptives, the dangers of early pregnancy, the prevention of HIV/AIDS, and the prevention and treatment of sexually transmitted diseases (STDs). In addition, **States Parties should ensure that they have access to appropriate information, regardless of their marital status and whether their parents or guardians consent.** It is essential to find proper means and methods of providing information that is adequate and sensitive to the particularities and specific rights of adolescent girls and boys. To this end, States Parties are encouraged to ensure that adolescents are actively involved in the design and dissemination of information through a variety of channels beyond the school,

including youth organizations, religious, community, other groups, and the media.

CRC Comm., *General Comment No. 14: The Right of the Child to Have His or Her Best Interests Taken as a Primary Consideration (art. 3, para. 1)**, CRC/C/GC/14, paras. 55, 78 (2013).

55. Children are not a homogeneous group and therefore diversity must be taken into account when assessing their best interests. The identity of the child includes characteristics such as sex, sexual orientation, national origin, religion and beliefs, cultural identity, and personality. Although children and young people share basic universal needs, the expression of those needs depends on a wide range of personal, physical, social, and cultural aspects, including their evolving capacities. The right of the child to preserve his or her identity is guaranteed by the Convention (art. 8) and must be respected and taken into consideration in the assessment of the child's best interests....

78. For example, regarding adolescent health, the Committee has stated that **States Parties have the obligation to ensure that all adolescents, both in and out of school, have access to adequate information that is essential for their health and development in order to make appropriate health behaviour choices.** This should include information on the use and abuse of tobacco, alcohol, and other substances, diet, appropriate sexual and reproductive information, dangers of early pregnancy, prevention of HIV/AIDS, and sexually transmitted diseases.

CRC Comm., *General Comment No. 15: The Right of the Child to the Enjoyment of the Highest Attainable Standard of Health (art. 24)** CRC/C/GC/15 (2013).

Children's right to health contains a set of freedoms and entitlements. The freedoms, which are of increasing importance in accordance with growing capacity and maturity, include the right to control one's health and body, including sexual and reproductive freedom to make responsible choices. The entitlements include access to a range of facilities, goods, services, and conditions that provide equality of opportunity for every child to enjoy the highest attainable standard of health.

Sexual and reproductive health education should include self-awareness and knowledge about the body, including anatomical, physiological, and emotional aspects, and should be accessible to all children, girls and boys. It should include content related to sexual health and well-being, such as

information about body changes and maturation processes, and be designed in a manner through which children are able to gain knowledge regarding reproductive health and the prevention of gender-based violence and adopt responsible sexual behaviour.

b. Concluding Observations

Stage 1: Introduce

CRC Comm., *Concluding Observations: Dominican Republic*, U.N. Doc. CRC/C/15/Add.150, para. 38 (2001).

38. The Committee suggests that a comprehensive and multi-disciplinary study be undertaken to understand the scope of the phenomenon of adolescent health problems, especially early pregnancies and maternal mortality. The Committee recommends that the State party **adopt comprehensive adolescent health policies and strengthen reproductive health and sexual education** and counselling services.

CRC Comm., *Concluding Observations: Indonesia*, U.N. Doc. CRC/C/15/Add.223, para. 59 (2004).

59. The Committee recommends that the State party: (c) Promote collaboration between State agencies and NGOs in order to establish a system of formal and informal education on HIV/AIDS and STIs and on sex education.... (e) **Ensure access to reproductive health counselling and information and services for all adolescents.**

Stage 2(a): Promote Sex Education

CRC Comm., *Concluding Observations: Colombia*, U.N. Doc. CRC/C/COL/CO/3, para. 71 (2006).

71. The Committee recommends that the State party **promote and ensure access to reproductive health services for all adolescents, including sex and reproductive health education in schools**, as well as youth-sensitive and confidential counselling and health-care services, taking into due account the Committee's general comment No. 4 on adolescent health and development in the context of the Convention (CRC/GC/2003/4).

CRC Comm., *Concluding Observations: Trinidad and Tobago*, U.N. Doc. CRC/C/TTO/CO, para. 54 (2006).

54. The Committee recommends that the State party, taking into account general comment No. 4 of 2003 on Adolescent health and development (CRC/GC/2003/4): (c) Take measures to **incorporate sexual and reproductive health education in the school curriculum**, particularly at the secondary level, **to inform adolescents fully of reproductive health rights**, including prevention of sexually transmitted diseases, including HIV/AIDS and early pregnancies.

CRC Comm., *Concluding Observations: Egypt*, U.N. Doc. CRC/C/EGY/CO/3-4, para. 67 (2011).

67. The Committee further **recommends that reproductive health be included in the school curricula** and that the State party take urgent measures to increase reproductive health services, counselling, and rehabilitation for adolescents. In considering the above recommendations, the Committee recommends that the State party seek technical assistance from UNICEF and UNFPA.

Stage 2(b): Promote Comprehensive Education

CRC Comm., *Concluding Observations: Antigua and Barbuda*, U.N. Doc. CRC/C/ATG/CO/2-4, para. 45 (2017).

45. With reference to its general comment No. 4 (2003) on adolescent health and development in the context of the Convention, the Committee recommends that the State party: (a) **Provide comprehensive, age-appropriate education on sexual and reproductive health**, including information on family planning and contraceptives, the dangers of early pregnancy, and the prevention and treatment of sexually transmitted diseases....

CRC Comm., *Concluding Observations: Bhutan*, U.N. Doc. CRC/C/BTN/CO/3-5, para. 35 (2017).

35. The Committee welcomes the adoption of the National Adolescent Health Strategy 2013-2018 and, in the light of its general comment No. 4 (2003) on adolescent health and development in the context of the Convention, it recommends that the State party: (a) **Adopt a comprehensive sexual and reproductive health policy for adolescent girls and boys**, with

special attention on preventing early pregnancy and sexually transmitted infections.

Stage 3: Ensure Access

CRC Comm., *Concluding Observations: Indonesia*, U.N. Doc. CRC/C/IDN/CO/3-4, para. 50 (2014).

50. In the light of its general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child, the Committee recommends that the State party: (a) **Amend its laws to ensure adolescents, especially girls, have full and unconditional access to information and services regarding sexual and reproductive health and contraception, without the need for consent from parents or husbands**, and ensure that their requests are treated in a confidential manner.

IV. HOW CAN THE RIGHT TO COMPREHENSIVE SEXUALITY EDUCATION BE RECOGNIZED AND IMPLEMENTED?

An in-depth analysis of the best ways to implement comprehensive sexuality education at the State level is beyond the scope of this article. The various types of legislation, policies, protocols, and programs needed to introduce this kind of education are uniquely dependent on which country is implementing the education and are best determined on a case-by-case basis. As such, this section will focus on what is meant by compulsory education, the fundamental principles deemed necessary in comprehensive sexuality education by UNESCO,²⁰⁶ the issues of parental and religious input, the ability of parents to opt out of school programs, and general recommendations for implementation. Following these analyses will be a discussion of how comprehensive sexuality education has been implemented in the Netherlands because of the significance of the statistically positive results this State has reported as a result of successful program implementation.²⁰⁷

A. Compulsory Education

As evidenced by the Concluding Observations discussed *supra*, there is a clear need for encouragement for States to incorporate comprehensive sexuality education into curricula. If States were incorporating this education into curricula voluntarily, treaty monitoring bodies would not need to pressure them by emphasizing their treaty obligations. This author concurs with the CEDAW

²⁰⁶ The UNESCO guidelines are discussed here because of their comprehensive nature and UNESCO's normative force as a United Nations agency.

²⁰⁷ Katz, *supra* note 60.

Committee that comprehensive sexuality education should be mandatory in schools because of the demonstrated reticence of States to incorporate this education into curricula of their own volition. The mandatory implementation of comprehensive sexuality education means that States must ensure it is available, accessible, acceptable, and adaptable to all persons.²⁰⁸

B. Fundamental Principles

Despite the intricacies involved in implementing educational curricula at a national level, there are certain fundamental principles and key elements that can be applied broadly. According to UNESCO's International Technical Guidance on Sexuality Education (ITGSE), comprehensive sexuality education must be comprehensive, scientifically accurate, incremental, age- and developmentally-appropriate, curriculum-based, based on a human rights approach and gender equality, culturally relevant, context-appropriate, transformative, and able to help develop life skills needed to support healthy choices.²⁰⁹ The ITGSE identifies the key concepts in comprehensive sexuality education as relationships; values, rights, culture, and sexuality; gender; violence and safety; skills for health and well-being; the human body and development; sexuality and sexual behavior; and sexual and reproductive health.²¹⁰ UNESCO views these criteria and concepts as fundamental to the success of comprehensive sexuality education and, therefore advocates for their inclusion in all programs in an age- and developmentally-appropriate manner.²¹¹ As such, the ITGSE articulates a baseline international standard that can be implemented in any country once tailored--but not fundamentally altered--to suit cultural needs and social realities.

C. Input from Parents and Religious Groups

In order to minimize the infringement on parental rights to raise their children in accordance with their beliefs and values, the input of parents should be acknowledged in comprehensive sexuality programs to the fullest extent possible without compromising the fundamental principles mentioned above. Parents who exhibit reticence towards comprehensive sexuality education may be coming from

²⁰⁸ For more information on the requirements of availability, accessibility, acceptability, and adaptability, see e.g., Comm. on Economic, Social and Cultural Rights, *General Comment No. 22 (2016) on the Right to Sexual and Reproductive Health*, U.N. Doc. E/C.12/GC/22 (May 2, 2016).

²⁰⁹ For more information on these recommendations, see UNESCO, *International Technical Guidance on Sexuality Education: An Evidence-Informed Approach*, UNESDOC DIGIT. LIBR. (2018), <https://unesdoc.unesco.org/ark:/48223/pf0000260770>.

²¹⁰ *International Technical Guidance on Sexuality Education*, supra note 209.

²¹¹ *Id.*

a place of fear,²¹² even if this education is aligned with their ideals,²¹³ or lack of understanding about what this education entails and the benefits it provides because it differs from the education they received.²¹⁴ As such, parents should be fully informed about what their children are being taught in these programs, and perhaps more importantly, what they are *not* being taught in non-comprehensive programs. The benefits of comprehensive sexuality education should be presented in full, and counterarguments should be heard and responded to in an educational manner that is as objective as possible, emphasizing statistical data such as lower rates of unwanted pregnancies, STIs and HIV/AIDS, and sexual violence.²¹⁵ The consequences of non-comprehensive programs should be carefully articulated as well so that parents are fully informed about the dangers these programs present to their children and their communities.²¹⁶ Parents should also be given a voice to express their concerns, and there should be an appropriate forum in which these voices can be heard and responded to.

Religious groups can also play a collaborative role in the development of comprehensive sexuality programs in much the same way as parents, with special recognition paid to the influence of these groups in communities.²¹⁷ The integration of key values central to the relevant religions and cultures can help ensure that the basic frameworks established at an international level are implemented in a way that will be effective within a community and responsive to its needs. Like parents' values, however, the values of religious groups should be balanced with larger community health concerns and the best interests of the children should be given priority when these values are in conflict. Therefore, religious groups should not be given absolute control or veto power over critical decisions such as key concepts and principles.

D. Opting Out of Programs

For the same reason that maintaining the highest possible standard of public health is a State interest sufficiently compelling to limit exclusive parental control over their children's sexual and reproductive health education, parents

²¹² Hyewon Shin, Jung Min Lee, & Ji Young Min, *Sexual Knowledge, Sexual Attitudes, and Perceptions of Actualities of Sex Education among Elementary School Parents*, 25 CHILD HEALTH NURSING RSCH. 312, 321 (2019).

²¹³ See Maaïke Noorman, Chantal den Daas, & John B.F. de Wit, *How Parents' Ideals are Offset by Uncertainty and Fears: A Systematic Review of the Experiences of European Parents Regarding the Sexual Education of Their Children*, 60 J. SEX RSCH. 1034, 1034 (2022).

²¹⁴ *10 Myths - and Truths - About Comprehensive Sexuality Education*, U.N. POPULATION FUND (Aug. 19, 2024), <https://www.unfpa.org/stories/10-myths-%E2%80%93-and-truths-%E2%80%93-about-comprehensive-sexuality-education>.

²¹⁵ Goldfarb & Lieberman, *supra* note 31.

²¹⁶ See Ott & Santelli, *supra* note 12.

²¹⁷ Chitando et al., *Religion & Sexuality: A Report on Faith-Based Responses to Children's Comprehensive Sexuality Education and Information*, SAVE CHILD. INT'L, https://resourceceentre.savethechildren.net/pdf/religion_sexuality.pdf/ (last visited Jan. 29, 2025).

should not be able to opt out of their children's participation in comprehensive sexuality education programs. In this regard, the concept of limiting parental control over decisions affecting their children is similar to the debate around mandatory vaccinations.²¹⁸ Decisions regarding the health and wellness of children, the implications of which extend beyond the family unit, should be weighed against broader community concerns.

Support for not allowing parents to opt out of school programs can be found in case law from the European Court of Human Rights, which unanimously held in *Osmangolu and Kocabas v. Switzerland* that Switzerland had not violated the right to freedom of religion under Article 9 of the European Convention on Human Rights when it required Muslim parents to send their children to compulsory co-educational swimming lessons.²¹⁹ The Court determined that the children's integration into "local customs and mores" took precedence over their parents' wishes to opt out of the lessons.²²⁰ As such, the holding and legal reasoning in *Osmangolu* indicates that the European Court views community concerns as a sufficient basis for limiting parental control over their children's education in certain circumstances.²²¹ Children's participation in comprehensive sexuality education can be seen as a similar form of integration into local customs and mores because of the impact the education they receive has on their community.²²² Given the Court's status as a preeminent leader in establishing international standards for human rights,²²³ it is likely that international and regional courts will follow this example of selectively limiting parental control in education in the future. Additionally, as mentioned in Section B, the CRC has explicitly advocated for the availability of sexuality education regardless of parental and/or guardian consent.²²⁴

E. Implementation Recommendations

Like the encouragement of compliance with any international standard, the successful implementation of comprehensive sexuality education programs depends in large part on the exertion of political pressure to ensure States' cooperation and the provision of sufficient resources to make these programs effective. Additionally, the role of civil society organizations and other advocacy groups in educating the public about the benefits of comprehensive sexuality education and the dangers of noncomprehensive programs will likely be critical in

²¹⁸ Chepra McKee & Kristin Bohannon, *Exploring the Reasons Behind Parental Refusal of Vaccines*, 21 J. PEDIATRIC PHARMACOLOGY AND THERAPEUTICS 104, 104–09 (2016).

²¹⁹ *Osmanoğlu and Kocabas v. Switzerland*, App. No. 29086/12, ¶ 105–06 (Jan. 10, 2017).

²²⁰ *Id.* ¶ 97.

²²¹ See *Osmanoğlu*, *supra* note 219.

²²² See, e.g., the discussion on community health concerns *infra* Section II(D).

²²³ See, e.g., Laurence R. Helfer, *Redesigning the European Court of Human Rights: Embeddedness as a Deep Structural Principle of the European Human Rights Regime*, 19 EJIL 125, 126 (2008).

²²⁴ U.N. Doc CRC/GC/2003/4, *supra* note 200, at para. 24.

progressing public opinion.²²⁵ Finally, certain logistical issues, such as whether or not to integrate this education into existing subjects or teach it as a standalone subject, as well as how to evaluate and monitor these programs, must be addressed. This section addresses each of these elements in turn.

1. Application of Political Pressure

The CESCR, CRC, and CEDAW Committee should continue to progress the strength and specificity of the language used in their General Comments/Recommendations in order to exert political pressure on States Parties to ensure compliance with the implementation of comprehensive sexuality education programs.²²⁶ It has only been in the past decade that these treaty monitoring bodies have begun to explicitly state an obligation under the language of their respective treaties to ensure access to high quality comprehensive sexuality education.²²⁷ Because this language is relatively new, treaty monitoring bodies would do well to continue to use the language of binding requirements on States Parties, as well as to explain in Concluding Observations for States the specifics of what these obligations entail and how they can best be fulfilled.

2. Provision of Resources

The importance of providing sufficient funding for comprehensive sexuality education programs cannot be overstated. Teachers must be trained in the curricula, and educational materials must be provided. Without these resources, no educational program can flourish because the required information cannot be optimally transmitted.²²⁸ In countries like the United States, which have resources to expend on education, federal programs like the Personal Responsibility Education Program can provide grants to educational programs teaching comprehensive sexuality education.²²⁹ Federal acts like the Real Education and Access for Healthy Youth Act can also allocate federal resources for grants

²²⁵ Niina Meriläinen, *NGOs and Agenda Setting – Influence on Public Opinion and Decision-Making*, EUR. CONSORTIUM FOR POL. RSCH., <https://ecpr.eu/Events/Event/PaperDetails/8317#:~:text=Human%20rights%20NGOs%20aim%20to,by%20using%20agenda%20setting%20tactics> (last visited Aug. 1, 2024).

²²⁶ See, e.g., Valentina Carraro, *Promoting Compliance with Human Rights: The Performance of the United Nations' Universal Periodic Review and Treaty Bodies*, 63 ISQ 1079 (2019) (more information on how treaty monitoring bodies can encourage compliance with international human rights standards).

²²⁷ U.N. Doc. CEDAW/C/GC/36, *supra* note 196, at paras. 28, 68–69.

²²⁸ *Global Review Finds Comprehensive Sexuality Education Key to Gender Equality and Reproductive Health*, U.N. OFF. SEC'Y GEN. ENVOY ON YOUTH, <https://www.un.org/youthenvoy/2016/03/comprehensive-sexuality-education/> (last visited Aug. 1, 2024).

²²⁹ *Federally Funded Sex Education: Strengthening and Expanding Evidence-Based Programs*, GUTTMACHER INST. (June 2021), <https://www.guttmacher.org/fact-sheet/sex-education>.

supporting these educational programs.²³⁰ In countries with fewer resources available for educational programs, international support will be crucial for the effective implementation of comprehensive sexuality curricula if domestic resources cannot support these programs independently. One potential source of international funding is The Global Fund, which provides resources to countries with high HIV/AIDS burdens and low economic capacities.²³¹

3. Education and Outreach

Organizations like the Center for Reproductive Rights and the International Planned Parenthood Federation should continue to educate the public on both the benefits of comprehensive sexuality education programs and the dangers of non-comprehensive programs.²³² Collecting, analyzing, and reporting national data on issues such as unintended pregnancy rates, STI and HIV/AIDS transmission rates, sexual violence rates, and sexual initiation ages can demonstrate the universal need for comprehensive sexuality education.²³³ The communication of key findings from these studies should be widely published with a specific aim toward the dissemination of information in rural areas, where people may be more disconnected and difficult to reach. Developing a concentrated focus on broadening the conversation around comprehensive sexuality education internationally and in rural areas may also contribute to the desensitization of conservative States and communities around the subjects of sexual and reproductive health. While merely increasing the discussion of these topics will probably not be sufficient in itself to encourage acceptance, doing so in a mindful and respectful manner that is sensitive to cultural differences and firmly supported by positive statistical data and international law is likely to encourage progress.

One specific issue likely to arise in the context of broadening the conversation on comprehensive sexuality education is whether there should be a focus on using the term *sexuality* in an attempt to destigmatize the word or to consider alternative names for educational programs that avoid the use of the word. It is not difficult to imagine the terms *sex* and *sexuality* as trigger words that could cause more conservative States and communities to adopt a defensive posture; thus, decreasing the likelihood of compliance with these educational programs. Alternative names (particularly for educational curricula geared toward younger students without a focus on sex) could be *health and wellness education* or

²³⁰ *Federally Funded Sex Education*, *supra* note 229.

²³¹ *Who We Fund*, GLOB. FUND TO FIGHT AIDS, TUBERCULOSIS, AND MALARIA, <https://www.theglobalfund.org/en/who-we-fund> (last visited Aug. 1, 2024).

²³² *Sexuality Education for Adolescents in Schools*, *supra* note 5; *Comprehensive Sex Education*, INT'L PLANNED PARENTHOOD FED'N, <https://www.ippf.org/our-approach/services/comprehensive-sex-education> (last visited Jan. 29, 2025).

²³³ Goldfarb & Lieberman, *supra* note 31.

relationship guidance education. These names address the holistic nature of comprehensive sexuality education while avoiding permutations of the word *sex*.²³⁴

4. Logistics

Several logistical concerns arise in an analysis of effective implementation, including how to integrate comprehensive sexuality education into curricula and how to monitor and evaluate programs once they have been created. There is currently debate as to whether it is preferable to introduce these programs as independent courses or to attempt to integrate them into existing courses such as health and/or biology.²³⁵ The decision of whether to opt for an independent or integrated program depends on general educational policies, the availability of resources, and the extent of community support.²³⁶ With those considerations in mind, an integrated approach may be more practical—particularly in conservative States and communities—because building upon existing curricula can seem like less of a drastic change to parents and religious organizations who could otherwise object to the introduction of comprehensive sexuality education.²³⁷

Once programs have been implemented, it is critical to evaluate and monitor their outputs at regular intervals in order to measure their effectiveness. This is necessary to ensure that States are fulfilling their legal obligations and students are receiving an effective education. While the specific criteria used for measuring the effectiveness of these programs should be tailored to respond to the goals of the States and regions introducing the programs,²³⁸ possible areas to monitor are the qualitative inclusion of comprehensive sexuality education in curricula, the percentage of teachers and educators with the capacity²³⁹ to provide these programs, and the percentage of students who demonstrate desired knowledge levels on key concepts. National Advisory Councils and Task Force Committees can assist in the development and implementation of comprehensive sexuality education programs and can also inform the development of relevant policies at the national and regional levels.²⁴⁰ At the international level, treaty monitoring bodies should continue to address the implementation of programs in their Concluding Observations and provide specific guidance to States Parties to ensure that these programs meet international standards.

²³⁴ One possible focus of future research could be a national or regional study determining whether the introduction of comprehensive sexuality education programs implemented without the use of the word *sexuality* has a statistically significant difference in the reduction of stigmatization around sex and sexuality than programs that use the term.

²³⁵ UNESCO, *supra* note 16, at 94.

²³⁶ *Id.*

²³⁷ *Id.*

²³⁸ *I.e.*, focusing on the most pressing national and local concerns that could be ameliorated by comprehensive sexuality education, such as rates of unwanted pregnancies or STI and HIV/AIDS transmissions.

²³⁹ *I.e.*, sufficient training, resources, and community acceptance.

²⁴⁰ UNESCO, *supra* note 16, at 86.

F. Case Study: The Netherlands

An example of a country in which sexuality education is both comprehensive and compulsory is the Netherlands. Primary schools and lower secondary in the Netherlands are required under domestic law to instruct students in sexuality education.²⁴¹ The goal of this education is to “support children and young people in their sexual development and to teach them to make sexually responsible choices” which are “safe, pleasant, and desired.”²⁴²

One of the difficulties of traditional sexuality education is determining the age at which it should be introduced to students because children develop at different rates mentally, emotionally, and physically.²⁴³ The Dutch approach allows for the incremental introduction of sexuality education—consistent with ITGSE recommendations—beginning as early as four years old.²⁴⁴ At this age, the educational focus is on fundamental topics such as relationship-building and respect.²⁴⁵ As children develop, more complex topics are gradually introduced: by nine years old, Dutch children have learned about self-image and gender stereotypes; by 11 years old, sexual orientation and contraception.²⁴⁶ This approach is supported by the United Nations Population Fund, which stresses that comprehensive sexuality education is “most effective when . . . taught over several years by integrating age-appropriate information that accounts for the developing capacities of young people.”²⁴⁷

Key takeaways from the Dutch model show that compared to their international peers who don’t receive comprehensive sexuality education, Dutch teens have equal or higher sexual initiation ages,²⁴⁸ have more positive first sexual encounters,²⁴⁹ use contraception more frequently,²⁵⁰ and have some of the lowest rates of STIs²⁵¹ and teen pregnancies in the world.²⁵² In the United States, for

²⁴¹ *Netherlands Comprehensive Sexuality Education*, UNESCO, <https://education-profiles.org/europe-and-northern-america/netherlands/~comprehensive-sexuality-education> (last updated May 11, 2024).

²⁴² *Id.*

²⁴³ *Development Status*, UNICEF, <https://data.unicef.org/topic/early-childhood-development/development-status/> (last updated October 2024).

²⁴⁴ Melker, *supra* note 58.

²⁴⁵ *Id.*

²⁴⁶ Melker, *supra* note 58.

²⁴⁷ *Comprehensive Sexuality Education*, *supra* note 18.

²⁴⁸ *Netherlands Comprehensive Sexuality Education*, *supra* note 241.

²⁴⁹ *Id.*

²⁵⁰ Rebecca M. Ferguson et al., *A Matter of Facts...and More: An Exploratory Analysis of The Content of Sexuality Education in the Netherlands*, 8 SEX EDUC. 93, 98 (2008).

²⁵¹ Katz, *supra* note 60.

²⁵² *The Netherlands Has Lowest Rate of Teenage Mothers in the EU*, DUTCHNEWS (Dec. 11, 2017), <https://www.dutchnews.nl/2017/12/the-netherlands-has-lowest-rate-of-teenage-mothers-in-the-eu/>.

example, teenagers give birth at five times the rate of their Dutch peers²⁵³ and have twice as many abortions.²⁵⁴

V. CONCLUSION

Comprehensive sexuality education has earned recognition as a human right by numerous United Nations bodies such as the ICESRC, CRC, and CEDAW Committee, as well as regional human rights courts in the Americas and Africa. These bodies consider comprehensive sexuality education to be a necessity for the full realization and enjoyment of fundamental rights such as health, education, and freedom from discrimination. Because of the reticence of States to implement this education of their own volition, international and regional human rights bodies such as the aforementioned courts and committees should continue to advocate for its requirement in both schools and informal educational programs. These programs should be implemented based on international standards and customized to fit national and regional needs, and they should be carefully monitored and evaluated to ensure compliance with international standards. While the path towards the full realization of this right will be long and rife with controversy, the explicit recognition of comprehensive sexuality education as a human right is a significant step forward.

²⁵³ *About Teen Pregnancy*, CTR. FOR DISEASE CONTROL AND PREVENTION (May 15, 2024), https://www.cdc.gov/reproductive-health/teen-pregnancy/?CDC_AAref_Val=https://www.cdc.gov/teenpregnancy/about/index.htm.

²⁵⁴ *Abortion Rates by Country 2023*, WORLD POPULATION REV., <https://worldpopulationreview.com/country-rankings/abortion-rates-by-country> (last visited Jan. 29, 2025).