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RUSSIA'S FOREIGN AGENT LAW AND ITS CONSEQUENCES
FOR CIVIL SOCIETY AND HUMAN RIGHTS

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I. INTRODUCTION

Foreign Agent Laws subject non-governmental organizations (NGOs), and in some cases individuals, to certain reporting and disclosure requirements if they obtain foreign funding.¹ This type of legislation has become increasingly widespread around the world.² Countries including Russia, Belarus, Georgia, India, Nicaragua, and Kyrgyzstan, have introduced Foreign Agent Laws, often citing security and sovereignty concerns.³

This research examines how Russia's Foreign Agent Law ("the Law") serves as a tool to restrict civil society and inhibit the operation of NGOs. Enacted under the pretense of protecting national sovereignty, the Law has had a profound impact on NGOs and social service organizations in Russia, impeding their efforts to provide essential support and advocate for human rights. By categorizing organizations as "foreign agents," the Law not only stigmatizes groups perceived as promoting Western values, but also curtails their funding, restricts their activities, and deters others from operating in Russia.

The Law breaches Russia's international human rights law obligations. Russia is a signatory of the International Covenant on Civil and Political Rights (ICCPR).⁴ As of September 16th, 2022, Russia is no longer party to the European Convention on Human Rights (ECHR),⁵ however Russia's ECHR violations are still relevant for

¹Alexandra V. Orlova, "Foreign Agents," *Sovereignty, and Political Pluralism: How the Russian Foreign Agents Law is Shaping Civil Society*, 7 PENN. ST. J.L. & INT'L AFF. 382, 384 (2019) <https://elibrary.law.psu.edu/jlia/vol7/iss2/2> [<https://perma.cc/8FMZ-6L9A>].

²*The Troubling March of Foreign Agents Laws*, OPEN SOCIETY FOUNDATIONS, <https://www.opensocietyfoundations.org/explainers/the-troubling-march-of-foreign-agents-laws> [<https://perma.cc/Z2TE-FJGF>] (last visited Sept. 18, 2024).

³*Id.*

⁴Thomas M. Callahan, *Cauldron of Unwisdom: The Legislative Offensive on Insidious Foreign Influence in the Third Term of President Vladimir V. Putin, and ICCPR Recourse for Affected Civil Advocates*, 38 FORDHAM INT'L L.J. 1220, 1236 (2015), <https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=2400&context=ilj> [<https://perma.cc/HL67-XCPN>].

⁵*Russia Ceases to be Party to the European Convention on Human Rights*, COUNCIL OF EUROPE (Sept. 16, 2022), <https://www.coe.int/en/web/portal/-/russia-ceases-to-be-party-to-the-european-convention-on-human-rights> [<https://perma.cc/D5RV-PSGK>].

various reasons. Under these treaties, the strict reporting requirements of the Law infringe on numerous civil and political rights. The Law also violates certain provisions in the International Covenant on Economic, Social and Cultural Rights (ICESCR), which Russia ratified in 1973.⁶ Furthermore, in this research, a dedicated section will focus on how the Law violates the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1981.⁷

Section I will provide background and justifications for the Law. Section II will discuss violations of civil and political rights. Section III will discuss the Law's violations of economic, social, and cultural rights. Section IV will focus on women's rights exclusively under CEDAW. Section VI will address potential counterarguments, meaning Russia's justification for the law. Finally, Section VII will compare the effectiveness of various international responses such as Special Rapporteurs (SRs), the Human Rights Council (HRC), and the Universal Periodic Review (UPR). The UPR is the most appropriate tool to combat the Law because it forces states into international accountability, promotes civil society engagement, ensures regular follow-ups, and can lead to diplomatic consequences for non-compliance. However, in order to be used to its full potential, certain recommendations need to be implemented such as detailing specific recommendations and prioritizing follow-up mechanisms.

II. BACKGROUND

In 2012, the Russian government passed the first Foreign Agent Law.⁸ The Law required NGOs that operate within Russia “to register and advertise their status as ‘foreign agents’”⁹ if they obtain foreign funding and engage in political activity.¹⁰ The Law vaguely defines foreign influence as “‘support’ from foreign sources that

⁶ *UN Treaty Body Database*, UNITED NATIONS HUMAN RIGHTS TREATY BODIES, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=144&Lang=en [https://perma.cc/4ZPQ-5B7T] (last visited Dec. 1, 2024).

⁷ *Id.*

⁸ *Russia: Reject Proposed Changes to Rules for Foreign-Funded NGOs*, HUM. RTS. WATCH (July 13, 2012), <https://www.hrw.org/news/2012/07/13/russia-reject-proposed-changes-rules-foreign-funded-ngos> [https://perma.cc/UW27-RUD4].

⁹ Orlova, *supra* note 1, at 384.

¹⁰ *Id.*

includes funding, technical assistance, or other undefined kinds of assistance and/or open-ended ‘impact’ that constitutes coercion, persuasion, and/or ‘other means.’”¹¹

The Law also has a broad definition of political activity, as it can include an organization that “...participates (including through financing) in organizing and implementing political actions aimed at influencing decision-making by state bodies intended for the change of state policy pursued by them, as well as in the shaping of public opinion for the aforementioned purposes.”¹² This ambiguity is intentional, as it allows the State wide latitude in covering various organizations that may fall under the law’s scope.¹³ For example, if an organization engages in activism, that could be considered political activity by the Russian government.

The reporting requirements under the Law are stringent. NGOs must submit an biannual report to the Ministry of Justice detailing their budget allocations, staff and organizational structure; as well as provide an annual auditor’s report.¹⁴ They must also separate their foreign and domestic funding into different bank accounts.¹⁵ Furthermore, they must “advertise their status on the front page of their website and all official publications,”¹⁶ indicating that these materials originate from a foreign agent.¹⁷ The organizations are also subject to unannounced, checks on official documents and computers.¹⁸ The need to submit detailed financial reports and undergo annual audits forces NGOs to divert limited resources away from their core missions. For smaller organizations with minimal staff, these demands can be overwhelming, which make it nearly impossible to continue operations. Additionally, the requirement of separating foreign and

¹¹ *Russia: New Restrictions on ‘Foreign Agents’*, HUM. RTS. WATCH (Dec. 1, 2022), <https://www.hrw.org/news/2022/12/01/russia-new-restrictions-foreign-agents> [<https://perma.cc/3CFR-7WWQ>].

¹² Orlova, *supra* note 1, at 393-9.

¹³ *Id.* at 393.

¹⁴ Callahan, *supra* note 4, at 1228.

¹⁵ Samuel Rebo, *FARA in Focus: What Can Russia’s Foreign Agent Law Tell Us About America’s?*, 12 J. OF NAT’L SEC. L. & POL’Y. 277, 284 (2021), https://jnslp.com/wp-content/uploads/2022/02/Fara_in_Focus_2.pdf [<https://perma.cc/ZEV2-G89K>].

¹⁶ Callahan, *supra* note 4, at 1228.

¹⁷ Rebo, *supra* note 15, at 284.

¹⁸ Callahan, *supra* note 4, at 1230.

domestic funding into different bank accounts complicates financial management, thereby increasing costs and bureaucracy.

Over the past decade, The Law has become increasingly expansive and strict. In 2012, the Law only applied to foreign-funded organizations and stated that they must register themselves.¹⁹ In 2014, the Russian Parliament authorized the Justice Ministry to register groups as foreign agents without their consent.²⁰ The 2014 amendment also changed reporting requirements from an annual requirement to a bi-annual requirement.²¹ Then, starting in 2017, the Law applied to media that receives foreign funding.²²

Most recently, in July 2022, the Russian government expanded the Law to include: any person (Russian, foreign or stateless), legal entity (domestic or international), as well as any group without official registration who is considered to have received foreign support and/or be “under foreign influence” and engaged in activities considered political by the Russian government.²³ Furthermore, the July 2022 revision included anyone who gathers, creates, or publicly disseminates information about Russia's military activities or capabilities, and anyone who funds this dissemination.²⁴ Thus, through the years, the Law gradually increased in scope. The number of individuals impacted by this law drastically increased as well. Between 2012 and 2021, only five individuals were on the list; by the end of 2022, there were more than 2,000 individuals.²⁵

Various organizations have developed strategies to circumvent the Law. One strategy is for an organization to relinquish its formal

¹⁹ HUM. RTS. WATCH, *supra* note 8.

²⁰ *Russia: Government Against Rights Groups – The Battle Chronicle*, HUM. RTS. WATCH (June 18, 2018), <https://www.hrw.org/russia-government-against-rights-groups-battle-chronicle> [<https://perma.cc/5T49-LESE>].

²¹ Callahan, *supra* note 4, at 1228.

²² *Russia: Reject ‘Foreign Agents’ Media Bill*, HUM. RTS. WATCH (Nov. 16, 2017, 11:00 PM), <https://www.hrw.org/news/2017/11/17/russia-reject-foreign-agents-media-bill> [<https://perma.cc/286X-RTVS>].

²³ HUM. RTS. WATCH, *Russia: New Restrictions on ‘Foreign Agents’*, *supra* note 11.

²⁴ *Id.*

²⁵ Mark Kalla, *Universal Periodic Review of Russia*, THE ADVOCES. FOR HUM. RTS., at 4 (Apr. 5, 2023), <https://www.theadvocatesforhuman-rights.org/Res/AHR%20Russia%20UPR%20Final.pdf> [<https://perma.cc/SW9D-4LJL>].

legal status and operate informally.²⁶ However, this comes with certain costs, such as a lack of access to grant procedures and difficulty in coordinating finances.²⁷ Moreover, this creates less opportunities for transnational cooperation,²⁸ as potential business partners may be concerned about the legal implications of such collaborations. Another strategy is to use crowdfunding and local support to reduce reliance on foreign aid, which has helped some NGOs. For example, after the Russian government labeled domestic violence organization “Nasiliu.Net” (No To Violence) as a foreign agent, its donations doubled.²⁹ Nevertheless, even with these creative solutions, the Law’s requirements place financial burdens on NGOs.

III. VIOLATION OF CIVIL AND POLITICAL RIGHTS (ECHR + ICCPR)

The Law violates numerous civil and political rights under the ECHR and ICCPR. Even though Russia is no longer party to the ECHR, violations of this treaty are relevant. First, the European Court of Human Rights (ECtHR) has jurisdiction over violations that were committed by Russia before their departure from the ECHR.³⁰ In other words, many cases related to the Law were already before the Court when Russia left, so the ECHR’s standards are still applicable. Furthermore, the ECHR can still be used as a benchmark to evaluate Russia’s actions. For example, in October 2024, the ECHR held that the Law violates the ECHR because it is “‘arbitrary’ and used in an

²⁶ Tatiana Golova, *The Tightening Grip of Russia’s Foreign Agent Laws*, ZOIS (Feb. 24, 2021), <https://www.zois-berlin.de/en/publications/the-tightening-grip-of-russias-foreign-agent-laws> [https://perma.cc/5CT5-35AV].

²⁷ *Id.*

²⁸ *Id.*

²⁹ Sergei Karpov, *Branded ‘Foreign Agents,’ Russian NGOs Still Work to Achieve Change*, MOSCOW TIMES (June 3, 2023), <https://www.themoscowtimes.com/2023/06/03/branded-foreign-agents-russian-ngos-still-work-to-achieve-change-a81362> [https://perma.cc/FX28-2F22].

³⁰ *Russia ceases to be party to the European Convention on Human Rights*, COUNCIL OF EUR. (Sept. 16, 2022), <https://www.coe.int/en/web/portal/-/russia-ceases-to-be-party-to-the-european-convention-on-human-rights> [https://perma.cc/D5RV-PSGK].

‘overly broad and unpredictable way.’”³¹ That case was brought by 107 plaintiffs, comprised of major media outlets and human rights organizations.³² The ECHR ordered Russia to compensate certain media outlets and even though Russia refused,³³ this ruling is symbolic because it shows that Russia is held to the same standard as the international community.

A. Freedom of Expression, Assembly, and Association

Freedom of expression is codified in article 10 of the ECHR and article 19 of the ICCPR, which protects the freedom to seek, receive, or impart info and ideas of all kinds.³⁴ Meanwhile, freedom of assembly and association is codified in article 11 of the ECHR and article 22 of the ICCPR.³⁵ Freedom of assembly is different than freedom of expression, as it states “[e]veryone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.” Thus, freedom of expression focuses on communication and the sharing of ideas, while freedom of association emphasizes group formation and the rights of individuals to unite for common purposes. The two rights can overlap, as people may use freedom of expression within the context of an organization or association. For example, individuals within an advocacy group may use their right to freedom of expression to share opinions or protest on certain issues.

In various legal cases relating to Russia’s Law, these two rights have been interpreted in conjunction with each other. In the case of *Ecodefense and Others v. Russia* (2022), a group of organizations labeled as foreign agents sued the Russian government. The ECHR ruled that the 2012 Law violated the right to freedom of assembly and

³¹ *European Court Says Russia’s ‘Foreign Agent’ Law Violates Human Rights*, RADIO FREE EUR./RADIO LIBERTY (Oct. 22, 2024), <https://www.rferl.org/a/echr-condemnation-russia-foreign-agent-law-human-rights-violation/33167947.html> [<https://perma.cc/7A7D-UHPB>].

³² *Id.*

³³ *Id.*

³⁴ Callahan, *supra* note 4, at 1237-1240.

³⁵ *Id.* at 1238-1240.

association (articles 10 and 11),³⁶ reasoning that the stringent reporting requirements were not necessary in a democratic society, as they were “overbroad and unforeseeable.”³⁷

The legislation was overbroad because it might have included conduct not intended to be regulated by the Law. This would discourage individuals from speaking about certain issues merely due to fear of punishment. The Law being unforeseeable meant that its application or consequences were unpredictable, which may lead to arbitrary enforcement. *Ecodefense and Others v. Russia* (2022) was an important decision regarding the unconstitutionality of the Law. However, Russia ignored the ruling.³⁸

Similarly, in a more recent case called *Kobaliya v. Russia* (2024), the ECtHR held that the Law violated the freedom of expression, assembly and association under article 10 and 11.³⁹ The court reasoned that inhibiting the organization’s activities through stringent reporting requirements served no public interest, the only purpose being to intimidate them from speaking out against the authorities.⁴⁰ By restricting NGOs from engaging in activities that involve foreign funding, it may limit their ability to spread information, advocate for their causes, or collaborate with transnational partners. Therefore, preventing them from functioning properly took away their right of freedom of association and expression.

³⁶ European Court of Human Rights Press Release ECHR 192, Russian Foreign Agents Act 2012 Not Necessary in a Democratic Society (June 14, 2022), available at <https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=003-7358929-10052693&filename=Judgment%20Ecodefence%20and%20Others%20v.%20Russia%20-%20Foreign%20Agents%20Act%202012%20not%20necessary%20in%20a%20democratic%20society%20.pdf>.

³⁷ *Id.*

³⁸ Iskra Kirova, *Foreign Agent Laws: An Authoritarian Playbook*, HUM. RTS. WATCH (Sept. 19, 2024), <https://www.hrw.org/news/2024/09/19/foreign-agent-laws-authoritarian-playbook>.

³⁹ Case of *Kobaliya and Others v. Russia*, App. No. 39446/16, ¶67 (October 22 2024), <https://www.courthousenews.com/wp-content/uploads/2024/10/case-of-kobaliya-and-others-v.-russia.pdf>.

⁴⁰ *Id.* at ¶114.

B. Right to Privacy

The strict reporting requirements of the Law also violate the right to privacy. Article 17 of the ICCPR states that “[n]o one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation...Everyone has the right to the protection of the law against such interference or attacks.”⁴¹ The provision therefore protects nationals of States Parties from unlawful interference with their private lives and imposes an obligation on States to protect victims of such attacks.⁴² Similarly, the ECHR protects the right to privacy in article 8: “Everyone has the right to respect for his private and family life, his home and his correspondence.”⁴³ Requiring individuals and organizations to disclose extensive details about their funding sources, activities, and affiliations interferes with an individual's ability to keep their financial and professional relationships confidential.

Article 8 has also been interpreted to include reputation such as in *Kobaliya v. Russia* (2024). There, the ECtHR held that the Law violated Article 8 because the foreign agent designation damaged applicants' reputations.⁴⁴ The court considered opinion polls which showed that the population associated the term “foreign agent” with traitors, spies, or enemies of the people.⁴⁵ Moreover, this law required NGOs to disclose financial information and prevented them from employment or other professional activities.⁴⁶ The stigma of being labeled a “foreign agent” deters individuals from engaging in activities that require interactions with foreign entities, effectively discouraging participation in civil society. Thus, the court considered both the stigmatization and isolation resulting from the Law.

C. Right to Participate in Public Affairs

Article 25 of the ICCPR protects the right to participate in public affairs which includes choosing representatives, voting, and having

⁴¹ Callahan, *supra* note 4, at 1236.

⁴² *Id.*

⁴³ Eur. Convention on Human Rights, art. 8 (Nov. 4, 1950).

⁴⁴ *Kobaliya v. Russia*, *supra* note 39, ¶ 108 (Oct. 22, 2024).

⁴⁵ *Id.* ¶75.

⁴⁶ *Id.* at ¶101.

access to public service.⁴⁷ The Law infringes on this right both directly and indirectly. Directly, any person accused of being a foreign agent is prohibited from voting or holding government positions.⁴⁸ Thus, the punishment for failing to register as a foreign agent includes both legal repercussions and exclusion from civic engagement. Preventing people from voting and holding office is a way to stifle dissent, as public life helps individuals influence decision-making processes and keep their leaders accountable.

The Law also infringes on the right to participate in public affairs indirectly, as restricting the work of NGOs limits their ability to educate people. For example, Golos, which was first labeled as a Foreign Agent in 2013, is Russia's leading election watchdog.⁴⁹ One of Golos' main services is training people to observe and monitor elections at precinct polling stations.⁵⁰ Their website provides numerous materials on aspects such as observing the polling station setup before opening and reporting violations.⁵¹ Golos also maps violations, receiving information from voters, media representatives, and other observer organizations.⁵² During Russia's last local elections in September 2024, the organization received 642 reports of violations.⁵³

In 2013, Golos was one of the first organizations to be labeled as a foreign agent.⁵⁴ Then, in 2022, two Russian regional courts issued fines against Golos activists, claiming that they were affiliated with the European Network of Election Monitoring Organizations

⁴⁷ International Covenant on Civil and Political Rights, art. 25 [hereinafter ICCPR].

⁴⁸ Kirova, *supra* note 38.

⁴⁹ Daria Litvinova, *Russia calls independent election watchdog a 'foreign agent.'* ASSOCIATED PRESS, (Aug. 18, 2021, 3:46 PM), <https://apnews.com/article/europe-russia-elections-cfe66389729bc5c4da5893dc036ac98a>

⁵⁰ *The Art of Observing the Elections*, GOLOS MOVEMENT, <https://golosinfo.org/en/learn#trening> (last visited March. 9, 2025).

⁵¹ *Id.*

⁵² *Statement on the results of the election on the single voting day on September 8, 2024*, GOLOS MOVEMENT,

<https://golosinfo.org/en/articles/149423> (last visited March. 9, 2025).

⁵³ *Id.*

⁵⁴ *Russia: Amnesty International recognizes co-chair of election watchdog as a prisoner of conscience*, AMNESTY INTERNATIONAL, (Nov. 5 2024), <https://www.amnesty.org/en/latest/news/2024/11/russia-amnesty-international-recognizes-co-chair-of-election-watchdog-as-a-prisoner-of-conscience/>

(ENEMO), which Russia declared “undesirable” in 2021.⁵⁵ Despite other regional Russian courts finding no link between ENEMO and Golos, and despite Golos claiming that it has no links with ENEMO, Russia used these rulings to prosecute co-founder Grigory Melkonyants in August 2023.⁵⁶ He was accused of “organizing the activities of an undesirable organization... and, if found guilty, could face up to six years’ imprisonment.”⁵⁷ Furthermore, as of September 2024, over 20 Golos participants were “recognized as foreign agents...and deprived of the right to participate in election monitoring.”⁵⁸ Detaining the co-founder of the organization on seemingly false grounds sets a fearful precedent for other activists and makes it difficult for the organization to continue running. If NGOs like Golos are at risk of shutting down, then people in Russia will lose the opportunity to become more educated on the voting process, thereby discouraging participating in any advocacy or activism.

D. Right to a Fair Trial

ICCPR Article 14 and ECHR Article 6 guarantee the right to fair trial.⁵⁹ ICCPR article 14 also states that a person has a right “[t]o be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him.”⁶⁰ Similarly, ICCPR Article 9 states that:

No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law...Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.⁶¹

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ GOLOS MOVEMENT, *Statement on the results of the election*, *supra* note 52

⁵⁹ International Covenant on Civil and Political Rights, art. 14; *see also* European Convention on Human Rights, art. 6

⁶⁰ *Id.*; *see also* European Convention on Human Rights, art. 6, § 3.

⁶¹ G.A. Res. 2200A (XXII), International Covenant on Civil and Political Rights (Dec. 16, 1966).

For people or organizations designated as foreign agents, there is no due process, as “their names simply appear on a list found on a government-controlled web site, updated each Friday.”⁶² This demonstrates the arbitrary nature of the Law. One human rights advocate only found out that they were on the list when their friends told them.⁶³ After inquiring from a Ministry official, the official said that they were designated as a foreign agent because they received money from a Ukrainian organization.⁶⁴ The human rights advocate told the official that this was not true but they did not believe them.⁶⁵ Thus, not only was there no warning but there was an inability to seek a legal remedy despite the designation being based on false accusations. Cases like this illustrate how the Law increases the likelihood of arbitrary detention or harassment of individuals associated with foreign agent organizations.

IV. VIOLATIONS OF ECONOMIC, SOCIAL, AND CULTURAL RIGHTS (ICESCR)

A. Non-discrimination

By disproportionately impacting NGOs that support marginalized groups, the Law violates Article 2 (non-discrimination) of the ICESCR. One notable marginalized group affected by the Law is the LGBTQ community. In June 2013, the Russian government fined the director of the LGBTQ organization “Coming Out” approximately \$9,000 and fined the organization around \$15,000.⁶⁶ Then, in December 2021, the government labeled Mayak, one of Russia’s largest LGBTQ organizations, as a foreign agent.⁶⁷ Russian NGO OVD-Info, which collects data on citizen’s rights violations, reports that there are

⁶² Kalla, *supra* note 25, at 3.

⁶³ Kalla, *supra* note 25, at 3

⁶⁴ Kalla, *supra* note 25, at 3

⁶⁵ Kalla, *supra* note 25, at 3

⁶⁶ *The Facts on LGBT Rights in Russia*, COUNCIL FOR GLOB. EQUALITY, <https://www.globalequality.org/component/content/article/1-in-the-news/186-the-facts-on-lgbt-rights-in-russia> [<https://perma.cc/7Z3C-3YUU>] (last visited Sept. 18, 2024).

⁶⁷ Current Time, *Russian LGBT Organization Branded As ‘Foreign Agent’*, RADIO FREE EUR./RADIO LIBERTY (Dec. 18, 2021), <https://www.rferl.org/a/russia-lgbt-foreign-agent/31615300.html> [<https://perma.cc/37V9-3UFJ>].

currently 38 LGBTQ support groups listed as foreign agents.⁶⁸ This means that these groups are also at risk of shutting down.

This crackdown on LGBTQ organizations is concerning because the frequency of homophobic incidents in Russia has been on the rise.⁶⁹ From 2010 to 2015, the number of planned crimes targeting homosexual victims increased by five times and stayed the same for the rest of the decade.⁷⁰ The State Department issued a warning to American travelers in Russia, writing that “Discrimination based on sexual orientation is widespread in Russia... Public actions (including dissemination of information, statements, displays, or perceived conspicuous behavior) contradicting or appearing to contradict [anti-LGBTQ propaganda] laws may lead to arrest, prosecution, and the imposition of a fine.”⁷¹ Thus, the Law can exacerbate already dangerous conditions.

Using the Law to target the LGBTQ community is closely intertwined with the targeting of health advocacy organizations, specifically those fighting for HIV/AIDS awareness. According to OVD-Info, there are a total of 16 HIV prevention and drug addiction care centers listed as foreign agents.⁷² Designating these organizations as foreign agents is part of Russia's rejection of western values, as evidenced by the 2013 “gay propaganda law” which deems certain medical and social services as LGBTQ propaganda.⁷³ The gay propaganda law, coupled with the Foreign Agent Law, has inhibited the operation of many organizations. In 2022, the Russian government labeled Svecha (“Candle”), an organization that cares for HIV patients, a foreign agent because posts by the head of the organization on her personal Facebook page were considered “political activities.”⁷⁴ The posts included her participation in a protest and articles about

⁶⁸ OVD-INFO, <https://data-scripts.ovd.info/agents/> [<https://perma.cc/J6XA-LDD8>] (last visited Oct. 24, 2024).

⁶⁹ Sergey Katsuba, *The Decade of Violence: A Comprehensive Analysis of Hate Crimes Against LGBTQ in Russia in the Era of the "Gay Propaganda Law" (2010-2020)*, 19 VICTIMS & OFFENDERS, 395, 395 (2024).

⁷⁰ *Id.* at 415-16.

⁷¹ COUNCIL FOR GLOB. EQUALITY, *supra* note 66.

⁷² OVD-INFO, *supra* note 68.

⁷³ Ulla Pape, *The Silenced Epidemic: Why Does Russia Fail to Address HIV?*, GEO. J. INT'L AFF. (Jan. 31, 2022), <https://gja.georgetown.edu/2022/01/31/the-silenced-epidemic-why-does-russia-fail-to-address-hiv/> [<https://perma.cc/H3NP-PVD2>].

⁷⁴ MOSCOW TIMES, *supra* note 29.

individuals with HIV and sex workers.⁷⁵ In another instance, Russia deemed the distribution of needles and condoms for the purpose of preventing HIV/AIDs as "political activity."⁷⁶

The risk of HIV/AIDS organizations shutting down poses a danger to the vulnerable populations they serve. As of 2020, 1.4 percent of the Russian population aged 15 to 49 years was HIV positive.⁷⁷ Russia's HIV epidemic is so extreme that researchers predict the mortality rate will surpass the cancer mortality rate by 2030.⁷⁸ If these types of health advocacy organizations continue to shut down, the epidemic will be exacerbated. Patients who require medical attention may not have access to the resources they need. Thus, Russia uses the Foreign Agent Law to target LGBTQ organizations as well as those whose needs they support.

Using the Law to shut down HIV NGOs not only violates Article 2(2) of the ICESCR but also Article 12, which protects the right to health. Article 12 states "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."⁷⁹ By limiting access to HIV treatment, the Russian government is in violation of article 12. By targeting NGOs that work on poverty alleviation, the law prevents initiatives which are aimed at improving living standards for marginalized populations.

Article 2(1) states that "Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex ... or other status."⁸⁰ UN Human Rights Committee (HRC) and the Committee on Economic, Social and Cultural Rights (CESCR) have interpreted "other status" to include sexual orientation and

⁷⁵Kobaliya and Others v. Russia, App. No. 39446/16, at 64 (Oct. 22, 2024), <https://hudoc.echr.coe.int/#%7B%22fulltext%22:%5B%2239446/16%22%5D%2C%22documentcollectionid%22:%5B%22GRANDCHAMBER%22%2C%22CHAMBER%22%5D%2C%22itemid%22:%5B%22001-237425%22%5D%7D> [<https://perma.cc/7TB2-6HLU>].

⁷⁶ Orlova, *supra* note 1, at 398.

⁷⁷ Pape, *supra* note 73.

⁷⁸ *Id.*

⁷⁹International Covenant on Economic, Social and Cultural Rights, art. 12, Dec. 16, 1966, 993 U.N.T.S. 3 [hereinafter ICESCR].

⁸⁰ ICCPR, *supra* note 47, art. 2, ¶ 1.

gender identity (SOGI). In *Toonen v. Australia* (1994) the HRC went even further, holding that the reference to "sex" in Article 26 of the ICCPR should be taken to include sexual orientation.⁸¹ Thus, this case set a precedent for recognizing SOGI discrimination as a human rights violation.

B. Cultural Life

The Law also violates article 15 of the ICESCR which provides the right to participate in cultural life.⁸² NGOs preserving cultural identity, especially among minorities, may face operational barriers under the law's restrictions. This not only applies to LGBTQ culture, but also to ethnic minorities. To date, 31 organizations that support ethnic minorities within Russia are listed as⁵⁰⁰⁰ foreign agents.⁸³ In July 2024, the government added 54 indigenous groups to the country's list of extremist organizations including Asians of Russia, Free Buryatia foundation, the Free Ingria movement, the Sakha Pacifist Association community, and the World Chechen Congress.⁸⁴

Being labeled as extremist means that anyone who associates with the organization can be imprisoned for up to six years.⁸⁵ Being labeled a "foreign agent" and being designated as an "extremist organization" are both tools that the government uses to suppress civil

⁸¹ Gemma MacArthur, *Securing Sexual Orientation and Gender Identity Rights within the United Nations Framework and System: Past, Present and Future*, 15 *EQUAL RTS. REV.* 25, 30 (2015), <https://www.equalrightstrust.org/sites/default/files/ertdocs/Securing%20Sexual%20Orientation%20and%20Gender%20Identity%20Rights%20within%20the%20United%20Nations%20Framework%20and%20System%20Past%2C%20Present%20and%20Future.pdf> [https://perma.cc/LVX7-VZLM].

⁸² ICESCR, *supra* note 79, art. 15, ¶ 1 ("The States Parties to the present Covenant recognize the right of everyone: (a) To take part in cultural life; (b) To enjoy the benefits of scientific progress and its applications; (c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.")

⁸³ OVD-Info, *supra* note 68.

⁸⁴ *Moscow Labels Dozens of Indigenous Groups, Free Russia Foundation as 'Extremist'*, MOSCOW TIMES (July 26, 2024), <https://www.themoscowtimes.com/2024/07/26/moscow-labels-dozens-of-indigenous-groups-free-russia-foundation-as-extremist-a85833> [https://perma.cc/6L79-R26L].

⁸⁵ *Id.*

society.⁸⁶ Similar to the Foreign Agent Law, the original justification for the extremist law was different than its application. Extremism laws were originally used to combat aggressive nationalism and neo-Nazism; however, over time the government expanded the definition and used it to target public organizations.⁸⁷ These laws disproportionately impact the ability of minorities such as ethnic groups and LGBTQ people to freely express their cultural identities, thereby violating article 15 of the ICESCR.

C. Right to Work and Favorable Working Conditions

In addition to social and cultural rights, the Law violates certain economic rights. One example is the right to work, which is codified in article 6.⁸⁸ The restrictions hamper NGOs' ability to function, which leads to job losses and may reduce employment opportunities for people working in these organizations. Foreign Agents are prohibited from working in academic environments, administration of elections, and from working with the state and state bodies.⁸⁹ One human rights defender stated that they used to teach and lecture on human rights but after being listed as a Foreign Agent, even the schools where they taught are unwilling to rehire.⁹⁰ In a similar vein, Article 7 of the ICESCR protects just and favorable working conditions.⁹¹ NGO employees may face a hostile work environment. This is exacerbated by the fact that, culturally, the label of foreign agent is synonymous to spy or traitor, thus harming the reputation of NGOs and individuals.⁹²

The penalties and social consequences of the Law can also make it difficult to recover economically. If an individual or organization fails to register as a foreign agent, penalties include fines,

⁸⁶ Stanislav Dmitriyevskiy, *Russian "Foreign Agents Law,"* RONDELI FOUND., at 1-2 (May 16, 2024), <https://gfsis.org/wp-content/uploads/2024/05/ENG-Agent-Law.pdf> [<https://perma.cc/ZEY9-6VRY>].

⁸⁷ *Id.* at 2.

⁸⁸ ICESCR, *supra* note 79, art. 6, ¶ 1 ("The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.").

⁸⁹ Kalla, *supra* note 25, at 3-4.

⁹⁰ *Id.*

⁹¹ ICESCR, art. 7.

⁹² Callahan, *supra* note 4, at 1240.

probation, imprisonment, or forced labor.⁹³ The person responsible for an organization may be fined up to 300k rubles, lose up to two years' worth of salary, be sentenced to 480 hours of compulsory labor, or face imprisonment for two years.⁹⁴

V. WOMEN'S RIGHTS

The Foreign Agent Law impacts NGOs that focus on women's rights. While all NGOs affected by the Foreign Agent Law struggle with financial burdens and reputational damage, women's organizations experience additional gendered consequences that distinguish their situation from other civil society groups. Furthermore, the legal frameworks addressing women's rights, such as CEDAW, are distinct from those focused on broader civil, political, or economic rights. These frameworks may include gender-specific provisions that are not always included in general human rights treaties, which justify discussing them separately.

Russia's targeting of women's rights organizations directly puts Russia in violation of CEDAW, which it ratified in 1981.⁹⁵ Two of Russia's largest domestic violence organizations "Nasiliu.Net" (No To Violence) and "The Anna Center" were labeled as foreign agents.⁹⁶ In total, there are currently 13 women's rights organizations listed as foreign agents.⁹⁷

Women's rights organizations, like LGBTQ organizations, may also be targeted in order to appeal to conservative voters. In the past, conservative groups have posed an obstacle to enacting legislation against domestic violence. For example, in 2012 a conservative group claimed that using the rhetoric "violence in the family" was "a product of 'the ideas of radical feminism' aimed at victimizing

⁹³ Rebo, *supra* note 15, at 288.

⁹⁴ Callahan, *supra* note 4, at 1229.

⁹⁵ *UN Treaty Body Database*, *supra* note 6.

⁹⁶ Samantha Berkhead & Uliana Pavlova, *Branded Foreign Agents, Russia's Domestic Violence Groups Fear for the Future*, MOSCOW TIMES (Mar. 11, 2021), <https://www.themoscowtimes.com/2021/03/11/branded-foreign-agents-russias-domestic-violence-groups-fear-for-the-future-a73212> [<https://perma.cc/4CKL-L55N>].

⁹⁷ OVD-INFO, *supra* note 68.

men.”⁹⁸ Even when Putin criminalized some forms of domestic violence in 2016, this move received harsh criticism from conservatives. Specifically the Commission on the Family claimed that “physical punishment was a Russian tradition and thus should be protected as ‘an essential right given to parents by God.’”⁹⁹ More evidence suggesting that women’s rights organizations are targeted in order to appeal to conservative voters lies in the fact that the Law has an exemption for religious organizations, thereby immunizing the Orthodox Church from its effects.¹⁰⁰ This religious exemption may also be considered an ICCPR discrimination issue, as mentioned above. Overall, using the Law to target both women’s rights organizations may be a tactic to appeal to conservative voters, thereby preserving Putin’s power.

Article 2 of CEDAW obligates the state “to adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women.”¹⁰¹ By stigmatizing NGOs that work to promote women’s rights, the Law hinders state efforts to adopt measures to eliminate discrimination against women. For example, NGOs provide transparency on domestic abuse statistics, as data from the Russian government sometimes conflicts with that of independent sources. A study done by Russian NGO Teplitsa shows that, in 2018, “at least 5,000 women were killed in domestic violence episodes.”¹⁰² Meanwhile, the Interior Ministry reports that in the same year, there were only 253 women, and attributed the cause to “family-related” conflicts.¹⁰³ This significant difference shows the

⁹⁸ Andrew Higgins, *Russia's Police Tolerate Domestic Violence. Where Can Its Victims Turn?* N.Y. TIMES (July 12, 2019), <https://www.nytimes.com/2019/07/11/world/europe/russia-domestic-violence-european-court-of-human-rights.html?searchResultPosition=4> [<https://perma.cc/9S7RB5N9>].

⁹⁹ Ivan Nechepurenko, *Russia Moves to Soften Domestic Violence Law*, N.Y. TIMES (Jan. 25, 2017), <https://www.nytimes.com/2017/01/25/world/europe/russia-domestic-violence.html> [<https://perma.cc/WS4G-MUU3>].

¹⁰⁰ Katherin Machalek, *Fact Sheet: Freedom of the Press 2017*, FREEDOM HOUSE 1, at 3 (2017), https://freedomhouse.org/sites/default/files/Fact%20Sheet_0.pdf [<https://perma.cc/4UKD-446K>].

¹⁰¹ G.A. Res. 34/180, Convention on the Elimination of All Forms of Discrimination Against Women, art. 2 (Dec. 18, 1979).

¹⁰² Yuliya Gorbunova, *Russia's Deadly Negligence of Domestic Violence*, HUM RTS. WATCH (Mar. 8, 2021, 1:28 PM), <https://www.hrw.org/news/2021/03/08/russias-deadly-negligence-domestic-violence> [<https://perma.cc/ZFD9-6B8B>].

¹⁰³ *Id.*

importance of NGOs' work in bringing domestic violence statistics to light.

Relatedly, article 10(h) states that the state must provide "access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning."¹⁰⁴ Women's rights organizations such as "Nasiliu.Net" educate women on what domestic violence is,¹⁰⁵ thereby helping identify issues and fostering healthy relationships.

Furthermore, article 14 discusses the importance of taking rural women into account. In Russia, state resources for domestic violence victims are far below the Council of Europe's recommended amount¹⁰⁶ and shelters tend to be located only in large cities which means that rural women have little to no access to them.¹⁰⁷ Thus, if NGOs continue to shut down, rural victims of domestic violence will have even fewer resources.

VI. PURPORTED BENEFITS OF FOREIGN AGENT LAW

A. National Security.

Russia claims that the Law is necessary to protect its sovereignty and prevent foreign influence on its political system. In 2014, the Russian Constitutional Court upheld the Law, reasoning that freedom of association may be limited for a legitimate governmental purpose.¹⁰⁸ The court claimed that the requirements of law ensure transparency of NGOs¹⁰⁹ as well as protect Russian sovereignty by preventing foreign influence.¹¹⁰ In other words, the Law serves as a safeguard against potential infiltration by foreign entities that may seek to undermine national sovereignty, security, or social stability.

¹⁰⁴ G.A. Res. 34/180, *supra* note 102, art. 10(h).

¹⁰⁵ *Brochures and Leaflets*, NASILIU NET, <https://nasiliu.net/broshyury-i-listovki/> [<https://perma.cc/JG9C-RNFH>] (last visited Mar. 14, 2025).

¹⁰⁶ *I Could Kill You and No One Would Stop Me': Weak State Response to Domestic Violence in Russia*, HUM. RTS. WATCH (Oct. 25, 2018), available at <https://www.hrw.org/report/2018/10/25/i-could-kill-you-and-no-one-would-stop-me/weak-state-response-domestic-violence> [<https://perma.cc/L9NZ-JQGR>].

¹⁰⁷ *Id.*

¹⁰⁸ Orlova, *supra* note 1, at 399.

¹⁰⁹ *Id.* at 401.

¹¹⁰ *Id.*

Over the years, this public safety justification has been difficult to challenge in court.¹¹¹ Using a Civil Procedural Code that grants authority to file suit, “in defense of the rights, freedoms and legitimate interests of citizens,”¹¹² federal prosecutors have won six Foreign Agents cases.¹¹³ Since Russia’s invasion of Ukraine in February 2022, the government has leaned more heavily on this justification and the number of organizations designated as foreign agents has tripled.¹¹⁴ Officials argue that the Law is necessary for national security during times of heightened tension, citing the war in Ukraine as a key example. In March 2024, the Ministry of Justice recognized a deputy chairman as a Foreign Agent because he criticized the “special operation” in Ukraine and allegedly disseminated false information about government bodies.¹¹⁵ Thus, under this policy, the Russian government may justify limiting certain rights such as freedom of speech.

There are certain exceptions in the ICCPR and ECHR that may support Russia’s claims. Both Article 22 of the ICCPR and Article 11 of the ECHR state that freedom of association can be limited when necessary “in the interests of national security or public safety.” Similarly, the freedom of privacy provision in the ICCPR states that “[n]o one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.” Similar to freedom of association, Russia can point out that its infringements on privacy are not arbitrary or unlawful. Thus, Russia may use the language of these provisions to justify the Law’s reasonableness.

Despite Russia’s justifications, it is evident that the Russian government implements the law to quell dissent rather than protect national security. Some scholars point to the fact that the passing of the first Foreign Agent Law coincided with widespread protests

¹¹¹ Orlova, *supra* note 1, at 416.

¹¹² Callahan, *supra* note 4, at 1246.

¹¹³ *Id.*

¹¹⁴ *Russia: Independent media are the primary targets of Kremlin laws against “foreign agents” and “undesirable organisations*, REPORTERS WITHOUT BORDERS, <https://rsf.org/en/russia-independent-media-are-primary-targets-kremlin-laws-against-foreign-agents-and-undesirable> [<https://perma.cc/HZV4-Q39W>] (last visited March 14 2025).

¹¹⁵ «Яблоку» удвоили иностранное влияние [Yabloko's Foreign Influence Doubled], KOMMERSANT (March 31 2024, 10:47 PM). <https://www.kommer-sant.ru/doc/6608841> [<https://perma.cc/TLK7-R54E>].

following Putin's 2012 reelection.¹¹⁶ The protests stemmed from allegations of electoral fraud.¹¹⁷ Authorities viewed these protests as "Western-sponsored" attempts at regime change, which fueled the narrative that Western influences were undermining Russia from within.¹¹⁸ In other words, the Russian government's implementation of the Foreign Agent Law can be viewed as a strategic move to preserve President Putin's power by discouraging public dissent and criticism.

The Law targets NGOs because they can be a useful tool for individuals to voice their complaints to the government.¹¹⁹ While the public's ability to shape policy and push for human rights can lead to positive change, it can also be seen as a threat to Putin's authoritarian regime.¹²⁰ Harsh penalties and maintenance requirements lead to self-censorship by individuals and organizations.¹²¹ Self-censorship can mean being cautious in communications and avoiding expressing critical opinions or sharing information that could be construed as politically sensitive. These obstacles make it difficult for organizations to operate out of Russia, threatening their financial stability.¹²² By 2015, 20 NGOs have fully or partially ceased their activity.¹²³ Thus, while the Russian government justifies the Law with national security concerns, the Law is a tactic to remove undesirable organizations or limit their ability to operate.

Specifically, the Law targets western NGOs. In fact, among the first NGOs that were forced to register as Foreign Agents, every one of them "promoted more 'western' views."¹²⁴ In December 2016, 82% of registered organizations "were conducting activities such as:

¹¹⁶ Max Seddon, *Russia Rewrites the Rules to Crack Down on Dissent*, FINANCIAL TIMES (Dec. 1, 2022), <https://www.ft.com/content/379e19fe-e366-4224-a12a-23b579472467> [<https://perma.cc/N499-42VW>].

¹¹⁷ Orlova, *supra* note 1, at 392.

¹¹⁸ *Id.*

¹¹⁹ Orlova, *supra* note 1, at 388.

¹²⁰ Kirova, *supra* note 38.

¹²¹ Rebo, *supra* note 15, at 290.

¹²² Machalek, *supra* note 98.

¹²³ *Council of Europe Commissioner for Human Rights reiterates his call to bring Russian NGO legislation in line with European standards*, COUNCIL OF EUROPE (July 9 2015), <https://www.coe.int/en/web/commissioner/-/council-of-europe-commissioner-for-human-rights-reiterates-his-call-to-bring-russian-ngo-legislation-in-line-with-european-standards> [<https://perma.cc/U2AA-WS7R>].

¹²⁴ Rebo, *supra* note 15, at 289.

the promotion of democracy and the rule of law, humanitarian and social assistance, awareness-raising on environmental issues, promotion of independent media and journalism, civic education, and social research.”¹²⁵ Furthermore, the largest category of NGOs registered as foreign agents were human rights defenders, which constituted 30 percent.”¹²⁶

Some notable cases and examples include Memorial International, one of Russia's oldest human rights organizations, which the government shut down after it failed to label social media posts as “foreign agents.”¹²⁷ In another case, the Committee Against Torture was shut down in 2015 after being fined 300,000 rubles (\$5,600) for failing to register as a foreign agent.¹²⁸ Based on the high percent of organizations labeled as foreign agents that promote western values, it can be assumed that the Law specifically targets these groups. Thus, despite Russia’s national security justification, it is evident that the purpose of the law is to quell dissent.

B. National Unity

Russia may also argue that the Foreign Agent Law helps preserve national unity. In November 2023, the Russian government labeled the LGBTQ movement an extremist organization and accused them of “inciting social and religious discord.”¹²⁹ Similarly, when labeling ethnic minority NGOs as foreign agents, officials justified their distinction by arguing that they promote separatism or ethnic hatred.¹³⁰ The Justice Ministry stated that these organizations are part of an “Anti-Russian separatist movement” which seeks to “destroy the multinational unity and territorial integrity of the country.”¹³¹

¹²⁵ COUNCIL OF EUROPE, *supra* note 121.

¹²⁶ *Id.*

¹²⁷ *Moscow Court Orders Memorial Human Rights Center to Be Banned*, DEUTSCHE WELLE (Dec. 29, 2021), <https://www.dw.com/en/moscow-court-orders-memorial-human-rights-center-to-be-banned/a-60283467> [<https://perma.cc/6P78-NSAN>].

¹²⁸ Litvinova, *supra* note 49.

¹²⁹ *Russia’s Supreme Court Bans LGBT Movement as ‘Extremist’*, HUM. RTS. WATCH (Nov. 30, 2023), <https://www.hrw.org/news/2023/11/30/russia-supreme-court-bans-lgbt-movement-extremist> [<https://perma.cc/8N4E-RWMT>].

¹³⁰ OVD-Info, *supra* note 68.

¹³¹ THE MOSCOW TIMES, *supra* note 84.

Impeding the work of these non-profits is part of a systematic effort to scapegoat minority communities. Scapegoating of the LGBTQ community helps rally support from Putin's conservative voters and bolsters his fight for traditional values against the "collective west."¹³² By portraying LGBTQ individuals and other minorities as threats to societal cohesion, the government seeks to legitimize its repressive policies under the guise of protecting national stability and moral integrity. Thus, the Foreign Agent Law is a useful political mechanism to remove "western" organizations.

VII. INTERNATIONAL RESPONSES TO THE FOREIGN AGENT LAW

A. *Special Rapporteurs (SRs)*

SRs in the Special Procedure system of the United Nations (UN) are appointed to investigate the general human rights situation in a given country or a specific theme of human rights (eg. there is an SR for cultural rights).¹³³ After gathering information from available sources such as NGOs and sometimes visiting their assigned country, they then report to the UN General Assembly and UN Human Rights Council on that theme or country.¹³⁴

The SRs have repeatedly expressed concerns over how the Law arbitrarily targets Russian organizations and individuals.¹³⁵ In November 2022, SRs advised Russia that the Law did not conform with international human rights obligations under the Universal Declaration of Human Rights (UDHR) and ICCPR.¹³⁶ Specifically, they cited the expanded scope of the law and its harsh penalties as well as severe consequences such as bans on employment and financial restrictions.¹³⁷

¹³² Rebo, *supra* note 15, at 290.

¹³³ *Special Rapporteurs on Human Rights*, DOCTORS WITHOUT BORDERS, <https://guide-humanitarian-law.org/content/article/3/special-rapporteurs/> [https://perma.cc/4PQ3-HGZM] (last visited Dec.1, 2024).

¹³⁴ *Id.*

¹³⁵ Kalla, *supra* note 25, at 5.

¹³⁶ *Id.* at 3.

¹³⁷ *Id.*

Then in September 2023, SRs issued another report criticizing this law.¹³⁸ In this report, regional experts stated that Foreign Agent Laws impose disproportionate and discriminatory obligations such as separate registration for associations based on foreign funding and stigmatizing labels like "foreign agent."¹³⁹ They urged States to repeal existing laws and halt the adoption of such legislation.¹⁴⁰ Further, they stressed that while transparency and security are important, these laws undermine the role of civil society in fostering democracy, accountability, and inclusivity.¹⁴¹ These reports illustrate the work of SRs, as their main function is investigating and writing recommendations on specific issues.

B. Universal Periodic Review

Another international law mechanism is Universal Periodic Review (UPR). UPR is a procedure by which the Human Rights (HR) Council reviews countries' HR practices every four and a half years.¹⁴² During the UPR session, representatives from the reviewed country answer questions and respond to recommendations from other HR Council members.¹⁴³ The review is followed by a report produced by a group of three Human Rights Council members and supported by the UN Human Rights Office.¹⁴⁴ This report contains all recommendations made to the country, which can choose to accept or reject them.¹⁴⁵ The reviewed country is then responsible for implementing the accepted recommendations, with support from the UN as needed.¹⁴⁶ The 2023 UPR stakeholder report states that, in 2018, Russia received 13 recommendations to repeal or revise or consider repealing or revising the foreign agents law. Russia did not accept these

¹³⁸ Rep. of the Special Rapporteur on the Situation of Human Rights in the Russian Federation, U.N. Human Rights Council, U.N. Doc. A/HRC/54/54 (Sept. 18, 2023).

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² *Universal Periodic Review Process*, U.S DEP'T OF STATE, <https://www.state.gov/universal-periodic-review-process/> [<https://perma.cc/3ZAL-Y6HU>] (last visited Sept. 18, 2024).

¹⁴³ *Id.*

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

recommendations, however, arguing that the reporting requirements for NGOs promoted transparency.¹⁴⁷

C. Human Rights Council Complaints Mechanism

Another international tool for addressing violations of human rights is the Human Rights Council Complaints Mechanism. Any individual, group of individuals, or non-governmental organization can submit a complaint against any of the 193 Member States.¹⁴⁸ The admissibility criteria include the following: domestic remedies must be exhausted, it must be in writing in one of the six UN official languages, it must not be politically motivated, it must not contain abusive or insulting language, it must contain a description of the relevant facts; and it must not already be under examination by a special procedure, a treaty body, or other United Nations or similar regional complaints procedure in the field of human rights.¹⁴⁹

The Human Rights Council Complaints Mechanism is unique in many ways. The complaint can be about any human right unlike Special Procedures where the rights must fall under one of the 40+ Special Procedures mandates.¹⁵⁰ Furthermore, because this is an individual complaint system, the recommendations might be more specific than the general policy recommendations made by Special Procedures or UPR.¹⁵¹ This victim-centered approach might allow for a more targeted and efficient response. Thus, the Human Rights Council Complaints Mechanism is another possible avenue for Russian NGOs to combat the Law.

¹⁴⁷ Kalla, *supra* note 25, at 2.

¹⁴⁸ *Human Rights Council Complaint Procedure*, UNITED NATIONS HUMAN RIGHTS COUNCIL, <https://www.ohchr.org/en/hr-bodies/hrc/complaint-procedure/hrc-complaint-procedure-index> [<https://perma.cc/A6QC-KSQM>].

¹⁴⁹ *Id.*

¹⁵⁰ *Choosing Where to Submit Your Complaint*, U.N. OFF. OF THE HIGH COMM'R FOR HUM. RTS., <https://www.ohchr.org/en/choosingyourcomplaint> [<https://perma.cc/STM8-YSNR>] (last visited Mar. 14, 2025).

¹⁵¹ *Human Rights Council*, U.N HUMAN RIGHTS COUNCIL, https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/HRC_booklet_EN.pdf [<https://perma.cc/SM57-628K>], at 12 (last visited March 14, 2025).

D. Comparative Analysis

States are not legally obligated to comply with SR and UPR recommendations.¹⁵² In other words, a state is not penalized for failing to implement them.¹⁵³ However, their work is important for many reasons. Firstly, it signals to the Russian government that the international community remains focused on human rights violations.¹⁵⁴ Diplomatic pressure and public accountability may also provide an impetus for passing legislation that is consistent with human rights norms. For example, the Russian government may want to avoid sanctions or protect its reputation.

Secondly, the work of these international bodies allows NGOs and activists in Russia to have an avenue for engagement, signaling that their voices are still being heard.¹⁵⁵ These organizations can document human rights abuses and propose recommendations for improvement, which fosters international awareness. This process also encourages diplomatic engagement and advocacy from other nations, which can amplify the concerns of Russian activists and apply pressure for change, despite local challenges to free expression and association. Thus, while it may not be realistic to expect the Russian government repeal the Law, it is nevertheless important that the international community continues the UPR process and the work of the Special Rapporteurs.

Out of those three mechanisms, the UPR is the most suitable for addressing the Foreign Agent issue. The UPR provides a platform for broad international scrutiny and can generate public recommendations. This increases international pressure on Russia by generating widespread discussion, which Russia cannot ignore without reputational consequences. Furthermore, because the UPR occurs every 4.5 years, it means that Russia cannot avoid scrutiny indefinitely. This

¹⁵² Sarah Kim, *What is the Universal Periodic Review?* ACCESS ACCOUNTABILITY (July 24 2018), <https://accessaccountability.org/index.php/2018/07/24/what-is-the-universal-periodic-review/#:~:text=While%20UPR%20recommendations%20are%20non,states%20consistently%20refuse%20to%20cooperate> [https://perma.cc/Q8JG-GFGD].

¹⁵³ *Id.*

¹⁵⁴ *Update on Human Rights in the Russian Federation and the Continuing Need for a Special Rapporteur on Russia*, HUM. RTS. WATCH, <https://www.hrw.org/news/2024/08/28/update-human-rights-russian-federation-and-continuing-need-special-rapporteur> [https://perma.cc/6BDU-C7P4].

¹⁵⁵ *Id.*

repeated international engagement makes it a useful long-term tool for highlighting and pushing back against restrictive laws. The 2024 report showed that at the end of the third cycle (or third year), the acceptance rate of recommendations by States under review was 76 percent.¹⁵⁶ This indicates a relatively high level of willingness to adopt the suggested improvements.

Additionally, the UPR allows multiple stakeholders, including NGOs, civil society organizations, and other UN Member States, to submit reports and advocate for reforms. This broad coalition of voices makes it more difficult for Russia to dismiss criticism as politically motivated or one-sided. The process also provides an opportunity for pressure from other states, which can lead to diplomatic consequences if Russia refuses to acknowledge or address concerns.

Meanwhile, the HRC complaints procedure offers a more targeted approach. This means that the complaints mechanism focuses on individual cases or patterns of violations, rather than examining a country's overall human rights record. However, the its downside is that its confidential operation and non-public complaints mechanism, lacks the visibility needed to pressure Russia into reform. Furthermore, throughout the years, the HRC mechanism has been criticized for being highly selective and unpredictable, prioritizing cases that demonstrate widespread and severe human rights abuses.¹⁵⁷

In contrast, the UPR ensures regular and sustained international engagement, making it a more effective tool for advocating against restrictive laws like the Foreign Agent Law. By fostering public accountability, the UPR presents a stronger pathway for challenging policies that suppress civil society and NGOs in Russia. Moreover, the UPR may also take less time to yield results. The HRC is slower and more case-dependent, potentially taking years for a resolution. Because it focuses on individual cases, it involves a lengthier investigation process.

¹⁵⁶ *Universal Periodic Review*, U.N HUMAN RIGHTS COUNCIL <https://www.ohchr.org/en/hr-bodies/upr/upr-home> [<https://perma.cc/S22V-HVBC>] (last visited March 14 2025).

¹⁵⁷ U.N. GAOR, 72nd Sess., 40th plen. mtg., U.N. Doc. GA/11968 (Nov. 2, 2017), <https://press.un.org/en/2017/ga11968.doc.htm>; see also *Curing the Selectivity Syndrome*, HUM. RTS. WATCH. (Jun. 24, 2010), <https://www.hrw.org/report/2010/06/24/curing-selectivity-syndrome/2011-review-human-rights-council> [<https://perma.cc/FR9T-YN56>].

The SR system is the weakest out of all three mechanisms. Firstly, the SR system is voluntary, as it depends entirely on Russia's willingness to engage. Russia can refuse to allow SRs to enter the country, limiting its ability to investigate human rights violations firsthand. In September 2023, the newly appointed UN Special Rapporteur on the situation of human rights in the Russian Federation reported that Russian authorities had refused to permit a country visit.¹⁵⁸ The UPR forces Russia to participate and the HRC complaints mechanism can still process cases even without Russia's cooperation, but SRs cannot act without some level of state cooperation.

Another reason that the SR system is the weakest is because SRs lack broad international scrutiny. Unlike the UPR, which involves multiple UN Member States, or the HRC complaints mechanism, which results in official UN findings, SRs work individually and their reports have limited political weight. The UPR mobilizes multiple countries and stakeholders to pressure Russia, while Special Rapporteurs only present their findings, often without direct state engagement. The HRC complaints procedure, while confidential, at least results in a formal decision from the UN Human Rights Council. Thus, UPR findings may be more legitimate than the work of SRs given the circumstances surrounding their structure.

VIII. CONCLUSION

To make the UPR as effective as possible in challenging Russia's Foreign Agent Law, several strategic steps should be taken. First, civil society organizations and NGOs need to be actively involved by submitting detailed reports that document how the law impacts non-profits and activists. These reports should include specific cases and clear recommendations for legal changes.

Second, UN Member States should push for strong, specific recommendations that directly call for repealing or reforming the law, rather than just general human rights concerns. For example, one recommendation may be to define "political activity" more clearly so that the law would be applied less arbitrarily. These recommendations

¹⁵⁸ *Russia 2024*, AMNESTY INTERNATIONAL <https://www.amnesty.org/en/location/europe-and-central-asia/eastern-europe-and-central-asia/russia/report-russia/> [<https://perma.cc/KBH2-ZM42>] (last visited March 14, 2025).

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should also include clear benchmarks and timelines to hold Russia accountable.

Third, follow-up mechanisms need to be prioritized to make sure Russia does not simply ignore its recommendations. This means keeping the issue on the agenda in future UN sessions and incorporating UPR findings into diplomatic and trade discussions with Russia.

Finally, NGOs should amplify UPR findings to keep public attention on the issue and increase pressure on Russia to act. By focusing on these strategies, the UPR can be a much stronger tool in challenging restrictive laws and holding Russia accountable.

Russia's Foreign Agent Law has severely impacted civil society, disproportionately harming NGOs and groups serving vulnerable populations. Organizations advocating for human rights and community welfare face restrictions that hinder their ability to operate effectively, leading to financial instability, forced closures, and self-censorship. By restricting essential support and advocacy for marginalized groups such as members of the LGBTQ community, HIV patients, domestic violence victims, and ethnic minorities, Russia is in violation of various international human rights obligations. The Law violates economic, social, and cultural rights such as protection from discrimination, cultural life, and the right to work and favorable working conditions. The Law also violates civil and political rights such as freedom of assembly, expression, and association as well as the right to participate in public affairs, to have privacy, and a fair trial. While Russia may justify these infringements by arguing that the Law is necessary to protect national security, it is evident that the Law was passed in order to quell dissent and discourage public engagement.

Despite the challenges posed by the Law, Russian NGOs should continue to use international legal mechanisms, fighting for the protection of fundamental rights and freedoms. The UPR is the most appropriate legal mechanism available, but in order to be used to its full potential, the international community must take certain strategic steps such as detailing specific recommendations and prioritizing follow-up mechanisms.