

BURNED, BANNED, AND CENSORED: THE NEED FOR AN INTERNATIONAL FRAMEWORK THAT ADDRESSES THE RIGHT TO READ

MCKENNA DEUTSCH*

Introduction	329
I. Reasons for Banning and Censorship: Case Studies from the United States and China	332
A. The United States Regime.....	332
B. The Chinese Regime	339
II. Assessment of the Current International Human Rights Laws Most Applicable to Banning and Censorship.....	342
A. Rights to Freedom of Information and Freedom of Expression	343
B. Right to Culture.....	346
C. Right to Education.....	350
III. The Role Grassroots Organizations and UNESCO Must Play in Developing an International Human Rights Framework for the Freedom to Read	353
A. Exploration and Analysis of Existing Efforts by NGOs	353
B. UNESCO Should Adapt the Existing Efforts into International Human Rights Law	359
IV. Conclusion.....	362

INTRODUCTION

Banning books gives us silence when we need speech. It closes our ears when we need to listen. It makes us blind when we need sight.

– Stephen Chbosky

* McKenna Deutsch is a J.D. Candidate 2022 at the University of Wisconsin Law School. The author wishes to thank her parents for their unconditional support as well as the members of the *Wisconsin International Law Journal* for their thoughtful contributions. This Comment is dedicated to the banned books that challenge, inspire, and enlighten readers across the globe.

If Ophelia does not commit suicide in Act IV,¹ would one of Shakespeare's greatest works have the same impact? Would it be ironic for the publishers of *Fahrenheit 451*,² a book about the perils of censorship, to censor language in the book? Sadly, both of these hypotheticals were once a reality for readers.³ Book banning and censorship is an issue that has persisted throughout the world for centuries.⁴ From Chinese Emperor Qin burning every book (and scholar) to Julius Caesar burning down the Library of Alexandria to England banning the *Canterbury Tales* in 1873, governments and administrators throughout the ages have imposed laws that ban or censor books to erase unsavory political history or censure "obscene" and immoral literature.⁵

Across the world today, books are *still* removed from libraries, censored, banned, and burned.⁶ Book banning is the process by which individuals, private organizations, schools, or government officials remove books from public access on library shelves or reading lists because they find the content of the books objectionable.⁷ Censorship, which is "the suppression of ideas and information," can occur during or after publication.⁸ Today, many countries, like the United States, still

¹ WILLIAM SHAKESPEARE, *HAMLET* act 4, sc. 7.

² See generally RAY BRADBURY, *FAHRENHEIT 451* (1953).

³ See Jake Goldman, *10 Instances of Literary Censorship*, THE AIRSHIP, <http://airshipdaily.com/blog/1120201310-historic-instances-of-literary-censorship> [<https://perma.cc/A2GP-UM96>] (last visited Jan. 23, 2022).

⁴ *The History of Banned Books*, SPARKPRESS (Sept. 24, 2019), <https://gosparkpress.com/the-history-of-banned-books/#:~:text=for%20crude%20matter-,Banned%20Books%20Week,and%20remove%20restrictions%20from%20books> [<https://perma.cc/2KKK-BAUJ>].

⁵ *Id.*; see also Mette Newth, *The Long History of Censorship*, BEACON FOR FREEDOM OF EXPRESSION (2010), http://www.beaconforfreedom.org/liste.html?tid=415&art_id=475 [<https://perma.cc/LT8S-PWQM>] ("the most famous case of censorship in ancient times is that of Socrates, sentenced to drink poison in 399 BC for his corruption of youth and his acknowledgement of unorthodox divinities").

⁶ See, e.g., Suyin Haynes, *Why a Children's Book Is Becoming a Symbol of Resistance in Hungary's Fight Over LGBT Rights*, TIME (Oct. 8, 2020), <https://time.com/5897312/hungary-book-lgbt-rights> [<https://perma.cc/N3G7-8QZH>]; Alison Flood, *Kuwait Relaxes Book Censorship Laws After Banning Thousands of Titles*, THE GUARDIAN (Aug. 25, 2020), <https://www.theguardian.com/books/2020/aug/25/kuwait-relaxes-book-censorship-laws-after-banning-thousands-of-titles> [<https://perma.cc/7GX4-MP6S>]; Huizhong Wu, *In Echo of Mao Era, China's Schools in Book-Cleansing Drive*, REUTERS (July 9, 2020), <https://www.reuters.com/article/us-china-books-insight/in-echo-of-mao-era-chinas-schools-in-book-cleansing-drive-idUSKBN24A1R5> [<https://perma.cc/2A6H-G7HY>].

⁷ Susan L. Webb, *Book Banning*, THE FIRST AMENDMENT ENCYCLOPEDIA (2009), <https://www.mtsu.edu/first-amendment/article/986/book-banning> [<https://perma.cc/G9HG-YTL8>].

⁸ *Id.*

attempt to ban and censor books that discuss sex or religion.⁹ Other countries still attempt to ban books for political reasons.¹⁰

Despite the long history of book banning and censorship worldwide, there has never been a concerted international effort to recognize and legalize the human right to read. Yet, the need for one remains. Without a concerted international effort, grassroots organizations like the American Library Association have attempted to create movements that celebrate the freedom to read,¹¹ but these grassroots organizations alone cannot solve the global problem. The international community needs to do more. This Comment argues for the long-overdue development of an international legal framework that protects the right to read. The right to read is a fundamental human right;¹² it is time for the UN to declare it so.

This Comment is divided into four parts. Part I of this Comment will provide a general background on book banning and censorship, with the differing legal schemes from the United States and China provided as case studies. Part II of this Comment will review current international treaties and declarations that are most applicable to the issue of book banning and censorship to argue that the existing framework does not sufficiently protect the right to read. Part III of this Comment will review grassroots efforts against censorship and banning and argue that the UN Education, Scientific and Cultural Organization (UNESCO) is the appropriate international body to produce an international framework. In conclusion, this Comment will argue that a comprehensive international framework against book banning is necessary.

⁹ See Emily McConville, *Professors Explore Censorship Around the World During Banned Books Week*, BATES (Sept. 27, 2017), <https://www.bates.edu/news/2017/09/29/professors-explore-censorship-around-the-world-during-banned-books-week/> [<https://perma.cc/TN8P-SAHB>]; Brendan Brown, *A Map of Forbidden Books in 2019*, Global English Editing (Sept. 16, 2019), <https://geediting.com/forbidden-books-2019-map/> [<https://perma.cc/NM2W-8FGZ>].

¹⁰ See Brown, *supra* note 9.

¹¹ Judith Haydel, *American Library Association*, THE FIRST AMENDMENT ENCYCLOPEDIA (2009), <https://www.mtsu.edu/first-amendment/article/1171/american-library-association> [<https://perma.cc/SVT4-36NW>] (the American Library Association's "mission is to enhance learning and ensure free access to information by providing leadership to librarians and the library community.")

¹² To be clear, this Comment does not address the issue of literacy, only the right to read uncensored and unbanned books.

I. REASONS FOR BANNING AND CENSORSHIP: CASE STUDIES FROM THE UNITED STATES AND CHINA

Censorship is the child of fear and the father of ignorance.

– Laurie Halse Anderson

Countries across the world ban and censor books for various reasons and to varying degrees.¹³ It would be impossible to adequately address all the reasons and methods for banning and censorship today. As such, this Comment has chosen to explore just two countries with regimes that juxtapose each other. This Comment will summarize the different regimes of the United States and China. These countries exemplify some of the most common reasons for book banning and censorship around the world. The United States regime represents a decentralized approach.¹⁴ In America, books are banned or censored based on socio-cultural grounds.¹⁵ In contrast, China's book banning and censorship occurs in a centralized manner and is focused on political literature.¹⁶

A. THE UNITED STATES REGIME

The United States has a long history of banning books.¹⁷ Today, book bans predominately occur in two settings: prisons and schools.¹⁸ In both settings, the Supreme Court has ruled that book bans may occur in some circumstances.¹⁹ Both are similar in that these book bans occur in a

¹³ See Bryan Harris, *Banning Books*, 9 J. MEDIA L. & PRAC. 42 (1987).

¹⁴ *Id.* at 43.

¹⁵ *Id.*

¹⁶ See Gerry Shih, *China's Library Officials Are Burning Books That Diverge from Communist Party Ideology*, WASH. POST (Dec. 9, 2019), https://www.washingtonpost.com/world/asia_pacific/in-china-library-officials-burn-books-that-diverge-from-communist-party-ideology/2019/12/09/5563ee46-1a43-11ea-977a-15a6710ed6da_story.html [<https://perma.cc/NUU3-GAMR>].

¹⁷ See Amy Brady, *The History (and Present) of Banning Books in America*, LITERATURE HUB (Sept. 22, 2016), <https://lithub.com/the-history-and-present-of-banning-books-in-america/> [<https://perma.cc/3NXN-G5K9>].

¹⁸ *Id.*; EQUAL JUST. INITIATIVE, *Banning Books in Prisons* (Jan. 7, 2020), <https://eji.org/news/banning-books-in-prisons/> [<https://perma.cc/RKX7-ZC2B>].

¹⁹ See *Thornburgh v. Abbott*, 490 U.S. 401 (1989); *Bd. of Educ. Island Trees Union Free Sch. Dist. v. Pico*, 457 U.S. 853, 864 (1982) (the plurality agreed that school boards have wide discretion in determining what curriculum promotes "community values").

decentralized manner; no two prisons²⁰ or schools²¹ will necessarily have the exact same list of banned or censored books. They differ in that prison bans often occur without public knowledge or input,²² but school bans can sometimes generate anti-censorship protests and media attention.²³

The largest book bans in the United States occur in prisons.²⁴ Prison bans are monumental in numbers and in breadth. Prisons may ban a book by declining to allow it through the mailroom, an individual prison may issue specific rules about types of books allowed, and state correctional departments may have a state-wide list of banned books.²⁵ Generally, all of these methods are employed simultaneously.²⁶ The statewide ban lists are usually substantial. Texas has roughly 11,000 books on its banned list,²⁷ Illinois has about 10,000 listed,²⁸ and Florida has over 20,000 listed.²⁹ These states are not alone; every state in the United States has a considerable list of banned books.³⁰ These bans occur with little restriction and often without any public scrutiny or knowledge.³¹

Prison bans are justified under the guise of a federal regulation that allows prison officials to censor material that is “detrimental to the security, discipline, or good order of the institution or if it might facilitate

²⁰ Lee Gaines, *Who Should Decide What Books Are Allowed in Prisons?*, NPR (Feb. 22, 2020), <https://www.npr.org/2020/02/22/806966584/who-should-decide-what-books-are-allowed-in-prison> [https://perma.cc/2LJJ-T2VL].

²¹ See Talia Lakritz, *10 Books that Have Been Banned in Schools*, INSIDER (Sept. 3, 2019, 8:58 AM), <https://www.insider.com/banned-books-schools-2018-11> [https://perma.cc/5WC6-27LL].

²² See, e.g., Julia O’Donoghue, *At Louisiana Prisons, There’s Some Mystery in What Gets a Book Banned*, NOLA (Dec. 2, 2018, 7:12 AM), https://www.nola.com/news/article_70bc50c2-c96c-58e1-b931-e19cf0d1e3b7.html [https://perma.cc/6JQW-RX6Z].

²³ See *California School District Considers Ban on Classic Books Updated*, NAT’L COAL. AGAINST CENSORSHIP (Dec. 4, 2020), <https://ncac.org/news/california-book-challenge-2020> [https://perma.cc/D4F8-XBU9].

²⁴ James Tager, *Literature Locked Up: How Prison Book Restriction Policies Constitute the Nation’s Largest Book Ban*, PEN AM., Sept. 2019, at 1.

²⁵ *Id.* at 4.

²⁶ *Id.*

²⁷ Nila Bala, *Opinion: There’s a War on Books in Prisons. It Needs to End.*, WASH. POST (Feb. 8, 2018), https://www.washingtonpost.com/opinions/theres-a-war-on-books-in-prisons-it-needs-to-end/2018/02/08/c31cd122-02b3-11e8-8acf-ad2991367d9d_story.html [https://perma.cc/8EZ6-7Z7E].

²⁸ ECON. JUST. INITIATIVE, *supra* note 18.

²⁹ Mihir Zaveri, *Prison Book Bans Called ‘Arbitrary and Irrational’*, N.Y. TIMES (Sept. 27, 2019), <https://www.nytimes.com/2019/09/27/us/banned-books-week-prisons.html#:~:text=A%20report%20from%20PEN%20America,Updike%20and%20Joyce%20Carol%20Oates.&text=A%20prison%20in%20Ohio%20blocked,concerns%20that%20it%20contained%20nudity> [https://perma.cc/2GWD-LDPU].

³⁰ ECON. JUST. INITIATIVE, *supra* note 18.

³¹ Zaveri, *supra* note 29.

criminal activity.”³² Against First Amendment challenges, the Supreme Court upheld this regulation in *Thornburgh v. Abbott*.³³ The Court, applying a reasonableness standard, held that the government had a legitimate interest in prison security and that the regulation was neutral and rationally related to the government’s objectives.³⁴ The effect of this ruling is that prison officials are given wide latitude in deciding what books to ban.³⁵ In practice, there are no requirements that a book reviewer be independent of the prison.³⁶ Further, book reviewers are not required to possess any formal qualifications to make the decision to refuse or allow a book to enter the prison.³⁷ Prison bans occur without fear of judicial scrutiny.

In connection to the federal regulation, prisons ban books for sexual content, violence, depictions of criminal activity, depictions of escape, and more.³⁸ These justifications produce wide-ranging results, and the bans are often criticized by prison reform advocates as arbitrary rather than rationally related to the federal regulation.³⁹ For example, Ohio banned a biology textbook for its depiction of nudity, New York attempted to ban a book of maps of the Moon arguing that it could “present risks of escape,” several states ban civil rights literature like *The New Jim Crow*, and Texas has banned several Nobel Prize-winning authors.⁴⁰ Likewise, Texas has banned *Where’s Waldo*, but not *Mein Kampf*.⁴¹

In addition to bans on specific books, prisons have begun to institute policies that restrict access to books more broadly. For example, prisons force inmates to pay for books they receive, restrict family members from sending books, and limit the number of approved vendors that can donate books.⁴² These types of bans are also premised on security

³² 28 C.F.R. § 540.70 (2019).

³³ *Thornburgh v. Abbott*, 490 U.S. 401, 404 (1989).

³⁴ *Id.* at 414–16.

³⁵ Bala, *supra* note 27.

³⁶ Tager, *supra* note 24, at 6.

³⁷ *Id.*

³⁸ *See id.* at 3.

³⁹ *See Zaveri, supra* note 29.

⁴⁰ *See id.*; Tager, *supra* note 24, at 3, 5.

⁴¹ Harrison Smith, *Coloring Books, Klingon Dictionaries and Other Books Banned by State Prisons*, WASH. POST (Sept. 10, 2019), https://www.washingtonpost.com/lifestyle/magazine/coloring-books-klingon-dictionaries-and-other-books-banned-by-state-prisons/2019/09/06/96b00e86-c03c-11e9-9b73-fd3c65ef8f9c_story.html [https://perma.cc/U5FV-TS8Z].

⁴² Tager, *supra* note 24, at 8.

concerns, arguing that books can be used to smuggle in contraband.⁴³ Notably, little to no evidence is offered to justify this concern.⁴⁴

Next, book bans in schools are also prevalent across the United States. School book bans usually occur because parents and conservative groups bring challenges to books in school libraries and curricula.⁴⁵ In 2019, there were 377 reported challenges to school libraries and 566 books at issue across the country.⁴⁶ Notably, between 82 and 97 percent of book challenges remain unreported, so the actual number of challenges is presumably much higher.⁴⁷ In addition to book bans that occur on an individual basis within a single school board, some states have passed legislation that results in school book bans.⁴⁸ For example, in 2010, Arizona passed a bill that prohibits courses that promote “resentment toward a race or class of people” or “promotes the overthrow of the US government.”⁴⁹ This bill was passed by legislatures directly targeting the Mexican-American ethnic studies programs at Tucson Unified School District.⁵⁰ As a result, over one hundred books were removed from Arizona’s curriculum, many of them were by Chicano/a authors, but also included works like *Tempest* by Shakespeare.⁵¹

When challenges to books in school libraries occur today, the Supreme Court’s decision in *Board of Education v. Pico* factors into the analysis.⁵² In *Pico*, a school board tasked the Supreme Court with deciding whether the First Amendment limits school boards’ ability to remove books from school libraries.⁵³ A local school board, after requests from

⁴³ *Id.* at 10.

⁴⁴ *Id.*

⁴⁵ Adam Sullivan, *Book Banning Sadly Persists as an American Tradition*, THE GAZETTE (Sept. 28, 2018, 10:50 AM), <https://www.thegazette.com/subject/opinion/staff-columnist/book-banning-sadly-persists-as-an-american-tradition-20180928> [<https://perma.cc/JN44-63MA>].

⁴⁶ Nick Duffy, *Library Books Are Still Being Censored Over LGBT+ Content on a Horrifying Scale. Oh, and Harry Potter*, PINK NEWS (Sept. 28, 2020), <https://www.pinknews.co.uk/2020/09/28/banned-books-week-lgbt-american-library-association-tango-makes-three-beyond-magenta/> [<https://perma.cc/Q6JH-BC7M>].

⁴⁷ *Id.*

⁴⁸ See NAT’L COUNCIL OF TCHRS. OF ENG., CENSORSHIP NOW: REVISITING *THE STUDENTS’ RIGHT TO READ*, A POLICY RESEARCH BRIEF 1 (2014) [hereinafter NCTE BRIEF].

⁴⁹ H.R. 2281, 49th Leg., 2d Reg. Sess. (Ariz. 2010).

⁵⁰ Julie Depenbrock, *Federal Judge Finds Racism Behind Arizona Law Banning Ethnic Studies*, NPR (Aug. 22, 2017, 11:08 PM ET), <https://www.npr.org/sections/ed/2017/08/22/545402866/federal-judge-finds-racism-behind-arizona-law-banning-ethnic-studies> [<https://perma.cc/P26D-UUHF>].

⁵¹ NCTE BRIEF, *supra* note 48.

⁵² See generally *Bd. of Educ. Island Trees Union Free Sch. Dist. v. Pico*, 457 U.S. 853 (1982).

⁵³ *Id.* at 855–56.

conservative parents, removed nine books from a high school library.⁵⁴ The landmark ruling of *Tinker v. Des Moines Independent Community School District* guided the Court.⁵⁵ In *Tinker*, for the first time, the Supreme Court held that students have First Amendment rights in schools.⁵⁶ The *Pico* plurality held that school boards do not have absolute discretion to remove books from libraries.⁵⁷ The Court further declared that books could not be removed simply because they displease board members.⁵⁸ If school boards intend to deny students access to ideas that board members do not like, it violates students' First Amendment rights.⁵⁹ *Pico* also held, however, that if a book is "pervasively vulgar," it is not a First Amendment violation to remove the book.⁶⁰ There was no attempt to define further what "pervasively vulgar" means.⁶¹ Furthermore, *Pico* is a plurality decision.⁶² As a result, the authority of this decision is limited, and lower courts are not necessarily bound by *stare decisis*.⁶³ No other case relating to school library censorship has made it to the Supreme Court however, so lower courts do tend to consider *Pico* in similar cases.⁶⁴

Parents in the United States challenge books in schools to prevent exposure to subject matter they believe is "sexually explicit, violent, harmful, or troubling" for youths.⁶⁵ In recent memory, classic literature

⁵⁴ See *id.* at 856–58.

⁵⁵ See generally *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503 (1969).

⁵⁶ See *id.* at 511–14.

⁵⁷ See *Pico*, 457 U.S. at 871–72.

⁵⁸ *Id.*

⁵⁹ *Id.* at 871.

⁶⁰ *Id.*

⁶¹ See generally *id.*

⁶² *Id.*

⁶³ See Helen M. Quenemoen, Case Comment, *Board of Education v. Pico: The Supreme Court's Answer to School Library Censorship*, 44 OHIO STATE L. REV. 1103, 1114–15 (1983).

⁶⁴ See April Dawkins, *The Pico Case – 35 Years Later*, INTELL. FREEDOM BLOG (Nov. 7, 2017), <https://www.oif.ala.org/oif/?p=11481> [<https://perma.cc/3BWQ-SCQ9>]; ACLU of Fla., Inc. v. Miami-Dade Cnty. Sch. Bd., 557 F.3d 1177, 1199 (11th Cir. 2009); Monteiro v. Tempe Union High Sch. Dist., 158 F.3d 1022, 1027 n.5 (9th Cir. 1998); Campbell v. St. Tammany Par. Sch. Bd., 64 F.3d 184, 188–89 (5th Cir. 1995); Case v. Unified Sch. Dist. No. 233, 908 F. Supp. 864, 875 (1995).

⁶⁵ See Jonathan Zimmerman, *Book Banning is a Bipartisan Game*, DALL. MORNING NEWS (May 8, 2020, 1:30 AM), <https://www.dallasnews.com/opinion/commentary/2020/05/08/book-banning-is-a-bipartisan-game/> [<https://perma.cc/HA53-S9MD>] (highlighting that both conservative and liberal parents today argue for book bans). See also *Top 100 Most Banned and Challenged Books: 2010-2019*, AM. LIBR. ASS'N, <http://www.ala.org/advocacy/bbooks/frequentlychallengedbooks/decade2019> [<https://perma.cc/X9UL-4VVF>] (last visited Jan. 29, 2022) (noting that the "Captain Underpants" series is the second most challenged book of the decade); MARY E. HULL, CENSORSHIP IN AMERICA: A REFERENCE HANDBOOK 6 (1999).

that has been challenged in schools includes *The Catcher in the Rye*, *To Kill a Mockingbird*, *Beloved*, and *Of Mice and Men*.⁶⁶ Although still clearly challenged, classic literature is not the most pervasive genre banned in schools today. Instead, the trend in the United States today centers around LGBTQ+ literature.⁶⁷ In 2018, nearly half of the eleven most commonly challenged books in the United States featured LGBTQ+ characters or themes.⁶⁸ In 2019, eight of the top ten banned books in the United States had LGBTQ+ characters.⁶⁹ One frequently challenged and banned book is *George* by Alex Gino, which is about a fourth-grade girl trying to live in a world where everyone thinks she is George, a boy.⁷⁰

An important aspect of the *Pico* holding that lower courts apply is that school boards are prohibited from banning books to suppress ideas.⁷¹ In practice, this aspect of *Pico* requires school boards to have a rational and structured approach to any removal process.⁷² School boards are authorized to select books for school libraries.⁷³ The process of banning a book today typically begins when a parent challenges a book in a school curriculum or library.⁷⁴ Parents find the book's themes are against their views and, instead of preventing their child from reading it, campaign to have the book entirely removed from the school library or curriculum.⁷⁵

⁶⁶ *Banned & Challenged Classics*, AM. LIBR. ASS'N, <http://www.ala.org/advocacy/bbooks/frequentlychallengedbooks/classics> [https://perma.cc/8JZ2-5XAN] (last visited Oct. 24, 2020).

⁶⁷ See, e.g., *Banned Books Week: The Most Challenged Books in the US*, CNN (Sept. 27, 2020), <https://www.cnn.com/ampstories/us/banned-books-week-the-most-challenged-books-in-the-us> [https://perma.cc/P4SF-656B].

⁶⁸ See Mary Cadden, *It's Banned Books Week: Here are the 11 Most-Challenged Books*, USA TODAY (Sept. 25, 2019, 5:13 PM ET), <https://www.usatoday.com/story/entertainment/books/2019/09/25/banned-books-week-how-many-have-you-read/2442370001/> [https://perma.cc/N9DY-LHL2].

⁶⁹ Scottie Andrew, *Some of the Most Frequently Banned Books Feature LGBTQ Stories*, Library Association Says, CNN (Sept. 30, 2020, 2:15 PM ET), <https://www.cnn.com/2020/09/30/us/banned-books-week-lgbtq-trnd/index.html> [https://perma.cc/3DMH-ZHKK].

⁷⁰ See *id.*; Alex Gino, *George*, GOODREADS (last visited Oct. 25, 2020), <https://www.goodreads.com/book/show/40948486-george> [https://perma.cc/RF3D-SKQC].

⁷¹ Jane L. Wexton, Comment, *Board of Education, Island Trees Union Free School District No. 26 v. Pico*, 12 HOFSTRA L. REV. 561, 572, 576 (1984).

⁷² *Id.* at 576.

⁷³ Sharon Brook Shivley, Comment, *Book Banning in Public Schools: Don't Tinker with Tinker*, 1982 ARIZ. STATE L.J. 939, 951 (1982).

⁷⁴ See Michael Brenyo, *[Censored]: Book Banning in the US Education System*, 40 J.L. & EDUC. 541, 545, 547 (2011).

⁷⁵ See Samantha Havela, *Banned Books Week Asks You to Discover Your Right to Read*, STUDY BREAKS (Oct. 17, 2020), <https://studybreaks.com/culture/reads/banned-books-week/> [https://perma.cc/9GCT-DQK9].

School boards then hold hearings and vote to remove the book.⁷⁶ The process is often accompanied by a contentious debate on both sides of the argument.⁷⁷

Finally, it is also worth noting that the Supreme Court's decision in *Hazelwood School District v. Kuhlmeier* also plays a role in the school book banning process in the United States because it governs what books may be banned in school curricula.⁷⁸ In *Hazelwood*, a student brought an action against the school for a First Amendment violation after a principal refused to publish several student articles in the school's newspaper.⁷⁹ The articles were about the experiences of pregnant students and children of divorce.⁸⁰ The Court held that the school newspaper was not entitled to the same protections as traditional papers because the school newspaper was part of a school curriculum.⁸¹ Further, the Court granted the school board discretion in choosing its curriculum, and stated that the board is allowed to remove anything that is inconsistent with their lesson plans.⁸² Although this holding focused on school newspapers, it can, and has been, applied more broadly to all curriculum-based censorship decisions.⁸³ In sum, the Supreme Court gave express permission to educators and school boards to ban and censor any works in a curriculum that they deem run contrary to the school's educational mission.⁸⁴

The *Hazelwood* decision has awarded school boards and courts the unfettered right to uphold challenges to textbooks and books in curricula.⁸⁵ Unlike *Pico*, where the bar for removing books from libraries is based on a "pervasively vulgar" standard, *Hazelwood* grants schools the right to remove books from school curriculums with a much lower bar.⁸⁶ For example, in 2017, a school district in Mississippi removed *To Kill A Mockingbird* from the curriculum after receiving complaints from parents

⁷⁶ See, e.g., Laura Zornosa, *Why an L.A.-Area School District Banned, Then Quietly Reinstated Toni Morrison's 'The Bluest Eye,'* L.A. TIMES (Oct. 1, 2020, 7:30 AM PT), <https://www.latimes.com/entertainment-arts/books/story/2020-10-01/banned-book-reinstated-toni-morrison-the-bluest-eye> [<https://perma.cc/VPV7-JCRM>].

⁷⁷ See *id.*

⁷⁸ See generally *Hazelwood Sch. Dist. v. Kuhlmeier*, 484 U.S. 260 (1988).

⁷⁹ *Id.* at 262.

⁸⁰ *Id.*

⁸¹ See *id.* at 267.

⁸² *Id.* at 266–71.

⁸³ Brenyo, *supra* note 74, at 544, 547.

⁸⁴ See generally *Hazelwood*, 484 U.S. 260.

⁸⁵ See Brenyo, *supra* note 74, at 547; *Virgil v. Sch. Bd. of Columbia Co., Fla.*, 862 F.2d 1517, 1520–21 (11th Cir. 1989).

⁸⁶ See Brenyo, *supra* note 74, at 541.

that the book made them “uncomfortable.”⁸⁷ Although the decision was met with national outrage, the board maintained their position.⁸⁸ Notably, the school district kept the book in the school library,⁸⁹ a decision in line with *Pico*.

B. THE CHINESE REGIME

Unlike America’s documented case law and administrative proceedings, China’s history of banning and censorship is clouded in secrecy and is constantly shifting.⁹⁰ In general, the Communist Party’s Central Publicity Department (CPD) is in charge of approving or banning books.⁹¹ It is nearly impossible, however, to find clear laws and administrative regulations from the CPD that can guide readers, authors, publishers, or bookshop owners.⁹² For example, Chinese citizens cannot type 1984 in sequence into an internet search but can find and purchase a copy of *1984* by George Orwell.⁹³ Sometimes China cracks down directly on authors in addition to books and has, on several occasions, sentenced authors to jail.⁹⁴ It appears that the fluctuations and inconsistencies in Chinese policies are the results of a recognition that cracking down too hard on access to books could incite serious political problems.⁹⁵

Nonetheless, book banning and censorship have increased significantly in mainland China in recent years.⁹⁶ Today, policies by the Chinese government are reminiscent of Mao’s Cultural Revolution and the

⁸⁷ Julia Zortian, *People Are Not Happy That This School District Banned Harper Lee’s To Kill a Mockingbird*, TIME (Oct. 16, 2017, 11:57 AM EDT), <https://time.com/4983786/biloxi-mississippi-school-ban-to-kill-a-mockingbird/> [<https://perma.cc/4YYT-4CHV>].

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ See Beimeng Fu, *It’s Actually Really Hard to Figure Out What Counts as a “Banned Book” in China*, BUZZFEED NEWS (Feb. 29, 2016, 6:55 PM ET), <https://www.buzzfeednews.com/article/beimengfu/banned-books-in-china> [<https://perma.cc/B7QY-URSL>].

⁹¹ Callum Reeves, *Chinese Escalation of Literature Censorship*, ORG. OF WORLD PEACE (Dec. 29, 2019), <https://theowp.org/chinese-escalation-of-literature-censorship/> [<https://perma.cc/LTA5-GXQV>].

⁹² See Fu, *supra* note 90.

⁹³ Amy Hawkins & Jeffrey Wasserstrom, *Why ‘1984’ Isn’t Banned in China*, ATLANTIC (Jan. 13, 2019), <https://www.theatlantic.com/ideas/archive/2019/01/why-1984-and-animal-farm-arent-banned-china/580156/> [<https://perma.cc/55GN-U64U>].

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ See Reeves, *supra* note 91.

Qin Dynasty.⁹⁷ During the Cultural Revolution, Mao banned both classic western works, and works from Chinese political authors, because they failed to conform to the Chinese government's ideologies.⁹⁸ Likewise, Emperor Qin buried over 400 scholars alive and burned countless books in 213 BCE to maintain political power.⁹⁹ In October 2019, public library staff in northwest China were photographed burning books in front of the library in accordance with a Ministry of Education directive ordering schools to dispose of "illegal works."¹⁰⁰ The Ministry failed to provide a list of specific titles and instead spoke generally about disposing of books that endanger national security or promote inaccurate global values.¹⁰¹ Again, as schools prepared to reopen in 2020, the Ministry of Education directed schools to remove books that were considered politically incorrect.¹⁰² Political analysts view these directives as an attempt to push patriotism and "ideological purity" on youth by President Xi Jinping.¹⁰³ Books that do not align with socialism or defame the CPD and its leaders are banned from schools, as well as any pirated or "shabby" books.¹⁰⁴ Data from four of China's regions show that school officials have removed over 60,000 books from school libraries since October 2019.¹⁰⁵

⁹⁷ See *id.* The Cultural Revolution was a period of social and political turmoil in the country. In the middle of May 1966, Mao issued a "notification" that stated that the party was under attack from "counter-revolutionary 'revisionists' who were plotting to create a 'dictatorship of the bourgeoisie.'" See Tom Phillips, *The Cultural Revolution: All You Need to Know About China's Political Convulsion*, THE GUARDIAN (May 10, 2016, 22:04 EDT), <https://www.theguardian.com/world/2016/may/11/the-cultural-revolution-50-years-on-all-you-need-to-know-about-chinas-political-convulsion> [<https://perma.cc/W3ME-XQ8B>]; Phoebe Zhang, *Chinese Library Sparks Outrage Over Report Staff Burned 'Banned Books,'* S. CHINA MORNING POST (Dec. 9, 2019), <https://www.scmp.com/news/china/society/article/3041230/chinese-library-sparks-outrage-over-report-staff-burned-banned> [<https://perma.cc/73RL-FPG2>].

⁹⁸ Ami Li, *A Very Brief History of Banned Books in China*, ASIA SOC'Y (Sept. 24, 2019), <https://asiasociety.org/new-york/very-brief-history-banned-books-china> [<https://perma.cc/5TVA-3QYT>].

⁹⁹ See Carrie Gracie, *Qin Shi Huang: The Ruthless Emperor who Burned Books*, BBC NEWS (Oct. 5, 2012), <https://www.bbc.com/news/magazine-19922863> [<https://perma.cc/4Y23-ZP3Q>].

¹⁰⁰ Lily Kuo, *Book Burning by Chinese Library Sparks Fury*, THE GUARDIAN (Dec. 9, 2019, 06:02 EST), <https://www.theguardian.com/world/2019/dec/09/book-burning-by-chinese-county-library-sparks-fury> [<https://perma.cc/G5PP-7NVY>].

¹⁰¹ See *id.*

¹⁰² See Huizhong Wu, *In Echo of Mao Era, China's Schools in Book-Cleansing Drive*, REUTERS (July 9, 2020, 7:04 AM), <https://www.reuters.com/article/us-china-books-insight/in-echo-of-mao-era-chinas-schools-in-book-cleansing-drive-idUSKBN24A1R5> [<https://perma.cc/YN3U-H7KT>].

¹⁰³ *Id.*

¹⁰⁴ *Id.* (appearing to use "shabby" to refer to old or outdated books, but the CPD provided no further guidance).

¹⁰⁵ *Id.*

Unlike the ambiguity on mainland China, book banning in Hong Kong today is attributed to a single, well-documented law.¹⁰⁶ In response to major protests in 2019,¹⁰⁷ Beijing forced Hong Kong to pass a sweeping national security law in June 2020.¹⁰⁸ The four crimes specifically described in the new security law are secession, subversion against the central Chinese government, terrorism, and collusion with foreign agents to “endanger national security.”¹⁰⁹ In essence, animosity towards mainland China’s government is now a crime.¹¹⁰ Relevant here, a vital component of the new law is the introduction of “national security education” in schools.¹¹¹ Almost immediately after the passage of this new law, mainland Chinese government officials started removing books critical of the Chinese Communist Party from libraries in Hong Kong.¹¹² From a publishing perspective, China is now editing out topics of social disobedience in school textbooks.¹¹³ Book banning and censorship appear to effectuate Beijing’s goal to “transform freethinking students into patriots loyal to the motherland through punishment, coercion, surveillance, and propaganda-style education.”¹¹⁴

¹⁰⁶ Hong Kong was a British Colony handed over to China in 1997. As part of the handover agreement, Hong Kong was supposed to have special freedoms in a model of governance commonly referred to as “one country, two systems.” Jessie Yeung, *China Has Passed a Controversial National Security Law in Hong Kong. Here’s What You Need to Know*, CNN (July 1, 2020, 7:54 AM ET), <https://www.cnn.com/2020/06/25/asia/hong-kong-national-security-law-explainer-intl-hnk-scli/index.html> [<https://perma.cc/WMK4-V5UM>]. It is worth briefly mentioning that recent banning actions in Hong Kong are not necessarily new or unheard-of. See, e.g., Colin Dwyer, *China Seizes Publisher of Banned Books Again — Just Months After Releasing Him*, NPR (Jan. 23, 2018, 1:55 PM ET), <https://www.npr.org/sections/thetwo-way/2018/01/23/579784671/china-seizes-publisher-of-banned-books-again-just-months-after-releasing-him> [<https://perma.cc/4QYW-GFW9>].

¹⁰⁷ *See Hong Kong Security Law: Pro-Democracy Books Pulled from Libraries*, BBC NEWS (July 5, 2020), <https://www.bbc.com/news/world-asia-china-53296810> [<https://perma.cc/CSP9-5TGA>].

¹⁰⁸ Yeung, *supra* note 106 (“[A] backdoor in [Hong Kong’s] mini constitution allows Beijing to make law[s] in the city. . .”).

¹⁰⁹ *Id.*

¹¹⁰ *See Hong Kong Security Law, supra* note 107.

¹¹¹ Yeung, *supra* note 106.

¹¹² Helen Regan et al., *Hong Kong Schools Told to Remove Books that Violate New Law as Police Powers Extended*, CNN (July 7, 2020), <https://www.cnn.com/2020/07/07/china/hong-kong-schools-national-security-intl-hnk/index.html> [<https://perma.cc/W2SN-VYVN>].

¹¹³ *See* Porter Anderson, *IPA Announces ‘Extreme Concern’ About Book Censorship in Hong Kong*, PUBL’G PERSPS. (July 20, 2020), <https://publishingperspectives.com/2020/07/ipa-hong-kong-statement-banned-books-censorship-china-national-security-law-covid19/> [<https://perma.cc/9EVR-SCEG>].

¹¹⁴ Shibani Mahtani & Timothy McLaughlin, *Teachers Face Threats, and Books are Banned as China Pushes Party Line in Hong Kong Schools*, WASH. POST (July 7, 2020), https://www.washingtonpost.com/world/asia_pacific/hong-kong-security-law-school-teachers-

Finally, it is worth briefly noting that these Chinese policies have clear international ramifications as well. The Chinese government has recently burned books in manufacturing warehouses that are written by international authors and are for international export only.¹¹⁵ Government officials in China are required to inspect all books in the country, even if they are solely for export.¹¹⁶ On occasion, this has led Chinese officials to destroy recently printed books.¹¹⁷ China's inspection and destruction of books in publishing warehouses is a problem because China has a monopoly on the affordable publishing market; it is roughly 40 percent cheaper to publish books in China than anywhere else.¹¹⁸ For some publishers, China's enforcement of book banning has resulted in the abandonment of several publishing projects because Chinese suppliers have refused to manufacture their books.¹¹⁹ As such, Chinese policies on book banning have a unique effect on the international right to read.¹²⁰

II. ASSESSMENT OF THE CURRENT INTERNATIONAL HUMAN RIGHTS LAWS MOST APPLICABLE TO BANNING AND CENSORSHIP

The ashes of burnt books tell of the barbarism to which a society can descend.

— Archie Dick

The United States and China are not the only countries that ban and challenge books,¹²¹ yet there is no express international framework

china-patriotic-education-death-threats/2020/07/06/793d813a-ac59-11ea-a43b-be9f6494a87d_story.html [https://perma.cc/6756-6YQ9].

¹¹⁵ See Andrew Girdwood, *The Chinese Government Just Burned Every Copy of This Cthulhu Kickstarter*, GEEK NATIVE (Mar. 28, 2019), <https://www.geeknative.com/65006/the-chinese-government-just-burned-every-copy-of-this-cthulhu-kickstarter/> [https://perma.cc/3UML-F9KF].

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ See Reeves, *supra* note 91.

¹¹⁹ See, e.g., *id.* (occurring to Australian publisher Hardie Grant).

¹²⁰ Recently, Chinese skiers even attempted to have books removed from a Norwegian library. Didi Tang, *China Can't Censor Us, Norwegian Library Says*, THE TIMES (Jan. 6, 2020), <https://www.thetimes.co.uk/article/china-cant-censor-us-norwegian-library-says-08fnfdbnr> [https://perma.cc/9Q57-8VVG].

¹²¹ See, e.g., *Brazil Court Overrules Rio Mayor on Gay Kiss Book Ban*, ABC NEWS (Sept. 8, 2019, 3:19 PM), <https://abcnews.go.com/International/wireStory/brazil-court-overrules-rio-mayor-gay-kiss-book-65470768> [https://perma.cc/H77U-T7CN]; Alison Flood, *Turkish Government Destroys More Than 300,000 Books*, THE GUARDIAN (Aug. 6, 2019, 12:05 EDT), <https://www.theguardian.com/books/2019/aug/06/turkish-government-destroys-more-than->

that aims to tackle the problem. In fact, there is no international human rights treaty that addresses “the right to read” in any capacity.¹²² There are, however, broader human rights that may be applied and understood in connection to a right to read.¹²³ Therefore, it is necessary to review leading international human rights declarations and treaties to assess generic human rights protections that may be incorporated into a new international framework on the right to read. Likewise, it is important to understand why each of these rights requires further development in a new international framework for the right to read.

A. RIGHTS TO FREEDOM OF INFORMATION AND FREEDOM OF EXPRESSION

Many international human rights treaties recognizes the right to information and the right to freedom of expression.¹²⁴ These two fundamental rights promote stability within society by ensuring equal access to important information and opportunities for expression.¹²⁵ Typically, freedom of expression is a right that focuses on the provider.¹²⁶ In comparison, the right to information is a right that focuses on the consumer.¹²⁷ Notably, the two rights are considered indispensably interconnected in the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights.¹²⁸ They are so interrelated that freedom of expression is only fully realized when all members of

300000-books [https://perma.cc/3PPP-4U4J]; Laura Hensley, *Certain Books Continue to Cause an Uproar in Canadian Education—Here’s Why*, GLOB. NEWS (Oct. 19, 2018, 3:23 PM), <https://globalnews.ca/news/4571476/banned-books-in-canadian-schools/> [https://perma.cc/22HE-CGHD]; Emmanuel Ifeduba, *Book Censorship in Nigeria: A study of Origin, Methods, and Motivation, 1805-2018*, LIBR. PHIL. & PRAC. (2018); Rama Lakshmi, *Book Censorship Prompts Freedom of Expression Fears for Indian Publishers*, THE GUARDIAN (July 14, 2014, 9:00 EDT), <https://www.theguardian.com/world/2014/jul/14/dinanath-batra-india-book-censorship> [https://perma.cc/XG32-GGN6].

¹²² Lea Shaver, *The Right to Read*, 54 COLUM. J. TRANSNAT’L L. 1, 5 (2015).

¹²³ *Id.*

¹²⁴ Maeve McDonagh, *The Right to Information in International Human Rights Law*, 13 HUM. RTS. L. REV. 25, 26 (2013).

¹²⁵ See Ada Bogliolo Piancastelli de Siqueira, *It’s in the Way That You Use It: Revisiting Trade and Human Rights in the Case of Online Censorship*, 20 SW. J. INT’L L. 101, 125–26 (2013).

¹²⁶ McDonagh, *supra* note 124, at 29.

¹²⁷ *Id.*

¹²⁸ See International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171, 178 [hereinafter *ICCPR*]; G.A. Res. 217 (III) A, Universal Declaration of Human Rights, art. 19 (Dec. 10, 1948) [hereinafter *UDHR*].

society have access and the ability to read the information that others seek to express.¹²⁹

Freedom of opinion and expression is the right “to seek, receive and impart information and ideas through any media.”¹³⁰ More specifically, adults and children have the right to “receive and impart information and ideas of all kinds . . . in writing or in print, in the form of art, or through any other media.”¹³¹ The right to access information is a fundamental human right that perpetuates the enjoyment of other human rights.¹³² States that control information control their people.¹³³ Information allows everyone the opportunity to understand their social and political rights as well as their cultural rights.¹³⁴ The right to receive information similarly ensures that everyone is capable of demanding that they receive their basic human rights.¹³⁵

Freedom of expression and information often concern political rights, but they have a broad scope.¹³⁶ Information about one’s culture and heritage is as important as access to information about one’s government. As such, states should encourage the spread and existence of diverse media, including books on all subjects, as well.¹³⁷ One of the most important places to receive information and share ideas is a library.¹³⁸ That is why libraries are considered “the bedrock of democracy.”¹³⁹ In the United States, for example, more Americans visited libraries than they did a movie theater in 2019.¹⁴⁰ The importance of libraries in a society means that these institutions must have accessible information and resources for

¹²⁹ See McDonagh, *supra* note 124, at 29–30.

¹³⁰ UDHR, *supra* note 128, art. 19.

¹³¹ ICCPR, *supra* note 128, at 178; G.A. Res. 44, Convention on the Rights of the Child, art. 13 (Nov. 20, 1989) [hereinafter *CRC*] (using nearly identical wording in both conventions).

¹³² See Lida Ayoubi, *Deciphering the “Right to Read” Under International Human Rights Law: A Normative Framework for Equal Access*, 36 WIS. INT’L L.J. 425, 465 (2019).

¹³³ Geoffrey A. Hoffman, *In Search of an International Human Right to Receive Information*, 25 LOY. L.A. INT’L & COMPAR. L. REV. 165, 165 (2003).

¹³⁴ CECELIA BURGMAN ET AL., COMMONWEALTH HUM. RTS. INITIATIVE, OUR RIGHTS OUR INFORMATION 10, 39 (Maja Daruwala & Venkatesh Nayak eds., 2007).

¹³⁵ *Id.* at 11.

¹³⁶ Shaver, *The Right to Read*, *supra* note 122, at 24.

¹³⁷ *Id.*

¹³⁸ *Access to Library Resources and Services*, AM. LIBR. ASS’N (Oct. 23, 2015), <https://www.ala.org/advocacy/intfreedom/access> [<https://perma.cc/6K69-NEM2>].

¹³⁹ Zach Wilson & Libby Berry, ‘A Revolutionary Act’: *The Power of a 21st Century Library Card*, NPR (Feb. 3, 2020), <https://www.npr.org/local/309/2020/02/03/802237827/a-revolutionary-act-the-power-of-a-21st-century-library-card> [<https://perma.cc/74TH-95VM>].

¹⁴⁰ *Id.*

all individuals.¹⁴¹ Thus, libraries serve as physical manifestations of the right to receive information.

Libraries that fail to support a broad range of ideas fail to fulfill their duty to the public. Libraries have a unique responsibility to their community to provide quality access to ideas and information on a range of topics.¹⁴² When books are banned from library shelves, libraries cannot fully realize their responsibility to ensure that everyone has a right to receive information. Banning and censorship equate to erasing information. For example, the removal of literature about civil discourse from Hong Kong libraries has prevented youth from effectively engaging with their government using important lessons about civil disobedience tactics that history books possess.¹⁴³ Likewise, libraries that do not have books that help immigrants engage with their new culture also deny people their human right to receive information.¹⁴⁴

Finally, there is one important caveat that the law provides to the rights of information and expression. The International Covenant on Civil and Political Rights states that any restrictions to these rights shall be necessary to respect the rights of others, for national security, or morals.¹⁴⁵ Firstly, this means that restrictions may, in fact, occur.¹⁴⁶ Secondly, this vague language is dangerously open to interpretation in the book banning context. Some book bans in place today are currently justified on national security or moral grounds.¹⁴⁷ Yet, governments and school districts should not be permitted to ban books that they disagree with or dislike. Instead, strict, clear measures should be articulated that encourage books with competing and challenging ideas to give full effect to the rights to freedom of expression and freedom of information. Thus, without a clear human rights declaration on the freedom to read, states may be able to use this provision to continue to ban books and undermine the freedom of expression and freedom of information.

¹⁴¹ *Id.*

¹⁴² Joan C. Durrance et. al, *Libraries and Civil Society*, in *LIBRARIES & DEMOCRACY* 49, 49 (Nancy C. Kranich, ed., Am. Libr. Ass'n 2000).

¹⁴³ See Anderson, *supra* note 113.

¹⁴⁴ See Durrance, *supra* note 142, at 53–54.

¹⁴⁵ ICCPR, *supra* note 128, art. 19, § 3; CRC, *supra* note 131, art. 13, § 2(b).

¹⁴⁶ See, e.g., Farid Y. Farid, *Egypt's War on Books*, *THE ATLANTIC* (Dec. 4, 2017), <https://www.theatlantic.com/international/archive/2017/12/egypt-sisi-books-freedom-of-speech/547259/> [<https://perma.cc/EN5N-9H66>] (noting that Egypt is a signatory to the ICCPR).

¹⁴⁷ BBC NEWS, *supra* note 107.

B. RIGHT TO CULTURE

The right to culture is another important right to analyze because over fifty percent of books challenged or banned today feature culturally diverse content, which includes topics on “race, religion, gender identity, [and] sexual orientation.”¹⁴⁸ The right to culture is an underdeveloped human right, but what is known can be connected to a right to read. This section will review what is known about the right to culture. Next, it will explain how the current right to culture directly implicates a right to read. Finally, this section will argue that because the right to culture, as currently developed, has significant shortcomings, a declaration on the freedom to read would be one great opportunity for international bodies to clarify and expand upon the right to culture.

The right to culture is one of the most underdeveloped rights in international law.¹⁴⁹ The right to access information, freedom of expression, and the right to culture are all interrelated.¹⁵⁰ Culture is the set of traditions, values, beliefs, and standards that communities pass down from generation to generation.¹⁵¹ Very little legal scholarship has delved into the contours and implications of the right to culture, which was first recognized in the Universal Declaration of Human Rights.¹⁵² The provisions in international treaties and declarations that convey a right to culture are not abundantly clear and are scarcely applied.¹⁵³ Many scholars argue that the lack of general clarity about the right to culture might render it unenforceable in human rights law.¹⁵⁴ Notably, a new international framework can provide an opportunity for the international community to further develop the right to culture.

What is clear about the right to culture can be broken down into three categories: the right to participate in culture, the right to enjoy arts and science, and the right to copyright protection for authors.¹⁵⁵ State

¹⁴⁸ Paul Ringel, *How Banning Books Marginalizes Children*, THE ATLANTIC (Oct. 1, 2016), <https://www.theatlantic.com/entertainment/archive/2016/10/how-banned-books-marginalize-children/502424/> [<https://perma.cc/F3WM-P8GN>].

¹⁴⁹ Ayoubi, *supra* note 132, at 453–54.

¹⁵⁰ *Id.* at 455.

¹⁵¹ Marina Hadjioannou, *The International Human Right to Culture: Reclamation of the Cultural Identities of Indigenous Peoples under International Law*, 8 CHAP. L. REV. 193, 196 (2005).

¹⁵² Lea Shaver, *The Right to Science and Culture*, 2010 WIS. L. REV. 121, 125–26 (2010).

¹⁵³ Alesia Kousch, *Right to Culture: Value Education for Culture, Peace and Human Development*, 17 J. ART CRIME 59, 59 (2017).

¹⁵⁴ *Id.*

¹⁵⁵ Shaver, *The Right to Read*, *supra* note 122, at 20.

Parties to the International Covenant on Economic, Social and Cultural Rights must “recognize the right of everyone . . . to take part in cultural life”¹⁵⁶

Supporting the right to read diverse books is a way of engaging with the right to cultural diversity. UNESCO’s Declaration on Cultural Diversity, and their subsequent Convention on Cultural Diversity, have attempted to link the right to cultural diversity with the concept of universal human dignity,¹⁵⁷ arguing that respect for cultural diversity “implies a commitment to human rights and fundamental freedoms.”¹⁵⁸ First, UNESCO argues that cultural diversity is guaranteed when everyone has access to forms of cultural expression.¹⁵⁹ UNESCO further recognizes that states should ensure that cultural industries are able to circulate ideas and cultural works freely.¹⁶⁰ The right to cultural diversity is important because access to cultural goods ensures that everyone is able to have a “more satisfactory intellectual, emotional, moral and spiritual” life.¹⁶¹ For example, research has shown that low-income individuals with increased access to cultural resources have better health, security, and education.¹⁶² Specifically, researchers found that an increase in cultural resources led to an 18 percent increase in the number of students scoring at the highest level on standardized math and English exams.¹⁶³ Access to diverse books supports the right to cultural diversity and human dignity because readers are provided with opportunities to engage with diverse content that can enrich their lives.

Next, the subcategory of the right to culture, the right to participate in culture, is also directly implicated in the right to read. Every person has a right to pursue “social and cultural development.”¹⁶⁴ The right to culture further implicates reading because “the right to science and culture points

¹⁵⁶ International Covenant on Economic, Social, and Cultural Rights, art. 15, Dec. 16, 1966, 993 U.N.T.S. 3 [hereinafter *ICESCR*].

¹⁵⁷ Hadjiannou, *supra* note 151, at 193, 200.

¹⁵⁸ United Nations Educ., Sci. and Cultural Org. [UNESCO], *Universal Declaration on Cultural Diversity*, art. 4, 31 C/Res 25 (Nov. 2, 2001) [hereinafter *UDCD*].

¹⁵⁹ *Id.* art. 6.

¹⁶⁰ *Id.* art. 9.

¹⁶¹ *Id.* art. 3.

¹⁶² Paulette Parker, *Access to Arts and Culture May Improve Outcomes in Low-Income Communities*, STATE OF OPPORTUNITY: MICH. RADIO (Apr. 7, 2017, 4:44 PM), <https://stateofopportunity.michiganradio.org/families-community/2017-04-07/access-to-arts-and-culture-may-improve-outcomes-in-low-income-communities> [<https://perma.cc/F9NB-2UGP>].

¹⁶³ *Id.*

¹⁶⁴ *ICESCR*, *supra* note 156, art. 1, ¶ 1. G.A. Res. 45/111, ¶ 6 (Dec. 14, 1990) (noting that this right extends to prisoners).

to a life-long right to continue to learn and to develop the human personality through interactions with texts.”¹⁶⁵ Importantly, the ability to contribute to culture requires the ability to access culture.¹⁶⁶ Robust and diverse libraries are excellent examples of cultural access. Literature has the power to encourage individuals to learn about themselves and others, ask deep questions, and combat misinformation.¹⁶⁷ Through a reading of diverse literature, individuals have an access point to the right to culture principle, especially as exposure to diverse literature encourages individuals to reflect on their own personal experiences and interests.¹⁶⁸

The right to participate in culture through reading is manifest by access to libraries. Public libraries provide access to a wide range of topics to people of all backgrounds and therefore act as community hubs by bringing people together.¹⁶⁹ As community hubs, libraries have an obligation to provide books that represent the diversity of their patrons.¹⁷⁰ As such, minorities should have access to books with characters that are reflective of their identities. Similarly, diverse books are also important opportunities for others to learn about other cultures.¹⁷¹ Denying opportunities to access this type of information is detrimental to the right of culture. When a book is banned it “implies that some ideas and experiences are valuable and worthy of discussion, and others are not.”¹⁷² The more access readers have to different perspectives, the more open-minded people become.¹⁷³ That is why books like *To Kill a Mockingbird* and *Beloved* are so important in American libraries. They teach the majority-white population of this country about the hardships and history

¹⁶⁵ Shaver, *The Right to Read*, *supra* note 122, at 20.

¹⁶⁶ Ayoubi, *supra* note 132, at 457.

¹⁶⁷ Matt Reimann, *A Brief History of Banned Books in America*, BOOKS TELL YOU WHY.COM (Dec. 26, 2015, 9:00 AM), <https://blog.bookstellyouwhy.com/a-brief-history-of-banned-books-in-america> [<https://perma.cc/M2BD-4LPR>].

¹⁶⁸ Shaver, *The Right to Read*, *supra* note 122, at 39.

¹⁶⁹ Molly Raphael, *Why Libraries Matter*, HUFFPOST (Jan. 22, 2012, 11:01 AM), https://www.huffpost.com/entry/why-libraries-matter_b_1107419 [<https://perma.cc/8V3V-RP9J>].

¹⁷⁰ *Diverse Collections: An Interpretation of the Library Bill of Rights*, AM. LIBR. ASS’N, <https://www.ala.org/advocacy/intfreedom/librarybill/interpretations/diversecollections> [<https://perma.cc/D5J5-TNLL>] (last visited Jan. 27, 2022).

¹⁷¹ See Mary Ellen Flannery, *Why We Need Diverse Books*, NAT’L EDUC. ASS’N: NEA NEWS (Oct. 26, 2020), <https://www.nea.org/advocating-for-change/new-from-nea/why-we-need-diverse-books> [<https://perma.cc/Z7JS-2MG6>].

¹⁷² Emma Greguska, *ASU Experts: Banning Books is ‘Just Wrong’*, ASU NEWS (Sept. 25, 2016), <https://news.asu.edu/20160925-creativity-asu-experts-banning-books-just-wrong> [<https://perma.cc/A3CF-QW7W>].

¹⁷³ See Flannery, *supra* note 171.

of black communities. Robust and full libraries thus help support the right to culture and the right to read by providing access to a wide range of materials and information.

One significant shortcoming of the right to culture is that it does not expressly protect rights of LGBTQ+ individuals.¹⁷⁴ Notably, the Universal Declaration of Human Rights specifically lists groups of individuals that are entitled to basic protections.¹⁷⁵ It does not, however, explicitly include protections for sexual orientation or gender identity.¹⁷⁶ As this Comment touched on in Part I, LGBTQ+ works are disproportionately targeted by book bans. When LGBTQ+ individuals cannot find literature that reflects their culture “they are being told that their existence doesn’t count.”¹⁷⁷ All people require access to books that “reflect their culture” and personal identity.¹⁷⁸ Reading literature that reflects one’s own cultural identity is a gratifying experience that is especially important for youth attempting to discern their own identity.¹⁷⁹ In addition to protecting culture generally, a new international framework on the right to read should include provisions that protect marginalized cultures, including the LGBTQ+ community. This will help develop and expand the right to culture to vulnerable populations.

A second vital shortcoming of the current doctrines on the right to culture is that it currently focuses on the cultural producer. Despite the importance of culture for everyone, most often, when arts and literature are discussed in international law, treaties focus on protecting the creator.¹⁸⁰ Specifically, in the Universal Declaration on Cultural Diversity, UNESCO recognizes that particular emphasis must be provided to authors and artists so that their art is not treated as “mere commodities or consumer goods.”¹⁸¹ Likewise, international law also calls for the protection of

¹⁷⁴ David Langlet, *Unfolding from Nonexistence: The Dynamic but Contested Evolution of LGBT-Human Rights*, 55 SCANDINAVIAN STUD. L. 339, 344 (2010).

¹⁷⁵ UDHR, *supra* note 128, art. 2.

¹⁷⁶ *See id.*

¹⁷⁷ Greguska, *supra* note 172.

¹⁷⁸ Shaver, *The Right to Read*, *supra* note 122, at 39.

¹⁷⁹ *See* Soli Guzman, *Why Every Child Should Read Books About Diverse Culture*, GLSEN, <https://www.glsen.org/blog/why-every-child-should-read-books-about-diverse-cultures> [<https://perma.cc/2BLZ-F8GH>] (last visited Nov. 13, 2020).

¹⁸⁰ *See e.g.*, Berne Convention for the Protection of Literary and Artistic Works art. 1, Sept. 9, 1886, 828 U.N.T.S. 221 (revised at Paris on July 24, 1971 and amended in 1979).

¹⁸¹ UDCD, *supra* note 158, art. 8.

authors and artists by protecting their creative works from censure.¹⁸² While protections for authors are undoubtedly important, these protections do not equate to a right to read. Authors should be protected from the burdens of censorship. Yet, readers also need protection from book banning, because the freedom to read most often affects the rights of the reader. Even when books are protected from censure, libraries and schools that choose not to purchase or display the book render the protection almost meaningless. Therefore, a declaration on the right to read is as necessary as existing protections for creators. This will help highlight that the right to culture also is a right for consumers.

C. RIGHT TO EDUCATION

The right to education is a very important one because book banning and censorship disproportionately affect children in schools. To expound on these problems, the section will explain how education is a fundamental right. Then it will review how the right to read connects to current doctrines on the right to education. Finally, it will evaluate where the right to education should expand to help support a new framework on the right to read.

The right to basic education is explicit in international human rights law.¹⁸³ Education is a basic right that is best interpreted as an obligation for all countries to provide access to free primary education.¹⁸⁴ Education should also enable everyone to participate in society and should strengthen the respect for “human rights and fundamental freedoms.”¹⁸⁵ Through education, individuals can more effectively participate in society by entering the workforce, engaging with culture, and developing a value system. Further, education is a “precondition for the effective enjoyment” of all other basic human rights.¹⁸⁶ Education paves the way for enjoyment of rights to culture and freedom of expression.¹⁸⁷ Also, exercising the right

¹⁸² See ICESCR, *supra* note 156, art. 15, § 1(c); Roger O’Keefe, *The Right to Take Part in Cultural Life Under Article 15 of the ICESCR*, 47 INT’L & COMPAR. L. Q. 904, 910–11 (1998).

¹⁸³ UDHR, *supra* note 128, art. 26, § 1; CRC, *supra* note 131, art. 28, § 1(a).

¹⁸⁴ Shaver, *The Right to Read*, *supra* note 122, at 13–14.

¹⁸⁵ UDHR, *supra* note 128, art. 26, § 2.

¹⁸⁶ Ayoubi, *supra* note 132, at 443.

¹⁸⁷ *Id.*

to education means that the right to information is simultaneously being exercised.¹⁸⁸

In order for students to participate in society, states should take affirmative steps to ensure quality education.¹⁸⁹ Quality education aims to develop a “child’s personality, talents and mental and physical abilities to their fullest potential.”¹⁹⁰ Quality education also helps children develop their own cultural identity, respect for human rights, and respect for other cultures.¹⁹¹ To guarantee quality education, countries must ensure that curricula are relevant and culturally appropriate for all learners, including minorities.¹⁹² Quality education occurs when children have their basic rights, including the rights to culture, information, and expression realized in the classroom.¹⁹³

Notably, international human rights law recognizes that humanities are just as valuable to quality education as math and science.¹⁹⁴ The right to education also supports the right to access a range of textbooks and educational materials.¹⁹⁵ The UN Committee on the Rights of the Child, supports this fact and recommends that budgetary support be provided for children’s books.¹⁹⁶ Expanding access to books beyond just educational textbooks is important because literature “plays an important role in development, and one of the aims of education is to develop young people’s appetites to read.”¹⁹⁷

Although the UN has recognized the right to quality humanities education and has subsequently acknowledged the right to books, there is more to the freedom to read than access to textbooks. The right to read

¹⁸⁸ Sandy Feinzig & Swasti Rana, *The Importance of Right to Information in Education: Putting a Human Face on a Fundamental Right*, COMMONWEALTH HUM. RTS. INITIATIVE, <https://www.humanrightsinitiative.org/programs/ai/rti/india/articles/Imp%20of%20RTI%20in%20Edu.pdf.pdf> [https://perma.cc/N39G-F6FG] (last visited Jan. 30, 2022).

¹⁸⁹ Comm. on Econ. Soc. & Cultural Rts., General Comment No. 13: Implementation of the International Covenant on Economic, Social and Cultural Rights, ¶ 47, U.N. Doc. E/C. 12/1999/10 (Dec. 8, 1999).

¹⁹⁰ CRC, *supra* note 131, art. 29, § 1(a).

¹⁹¹ *Id.* art. 29, § 1(b)–(d).

¹⁹² Fons Coomans, *Justiciability of the Right to Education*, 2 ERASMUS L. REV. 427, 440 (2009).

¹⁹³ See generally Jukka Kangaslahti, *Human Rights, Human Responsibilities and Education: Prerequisites to Happy Life*, 5 COGITO: MULTIDISC. RSCH. J. 7 (2013).

¹⁹⁴ *Id.* at 9.

¹⁹⁵ Shaver, *The Right to Read*, *supra* note 122, at 15.

¹⁹⁶ Convention on the Rights of the Child, *Comm. on the Rights of the Child Rep. on the Thirteenth Session*, U.N. Doc. CRC/C/57, ¶ 256 (Oct. 31, 1996).

¹⁹⁷ Shaver, *The Right to Read*, *supra* note 122, at 15.

should not be “limited to education[al] materials or nonfiction works.”¹⁹⁸ Children should have access to books that bring joy, spark imagination, encourage cultural participation, and support freedom of expression.¹⁹⁹ Schools need to support access to diverse ideas to produce intelligent and informed adults.²⁰⁰ In sum, international human rights law must recognize that a quality education also includes access to books for pleasure and personal enrichment. Censorship of these types of books only serves to marginalize and discriminate against students who may only see themselves reflected in the books librarians and teachers choose to censor.²⁰¹ Likewise, researchers linked reading banned books, like *Harry Potter* and *Thirteen Reasons Why*, for pleasure to increases in civic engagement and lower risks of antisocial behavior.²⁰² Further, quality education also requires educators to teach honestly; they should not be allowed to remove books depicting slavery or political turmoil.

Further, while international human rights law has recognized the right to formal education, book banning also occurs outside of the classroom. The right to formal primary education is discussed overtly in primary international human rights law instruments.²⁰³ Informal education, which is education that occurs outside of a classroom, is also discussed, including in Committee on the Rights of the Child comments and UNESCO documents.²⁰⁴ Access to books in school libraries is a prime example of informal education. Books placed on school library shelves provide opportunities for students to discover interests and information

¹⁹⁸ *Id.* at 40.

¹⁹⁹ *The Importance of Reading to Your Children*, CHILDREN’S BUREAU (Mar. 3, 2017), <https://www.all4kids.org/news/blog/the-importance-of-reading-to-your-children/> [<https://perma.cc/5BHR-EBHR>]; LOIS BRIDGES, *THE JOY AND POWER OF READING: A SUMMARY OF RESEARCH AND EXPERT OPINION 5* (2014).

²⁰⁰ See Frances R. Niccolai, *The Right to Read and School Library Censorship*, 10 J.L. & EDUC. 23, 23 (1981).

²⁰¹ Ringel, *supra* note 148, at 3.

²⁰² STETSON TODAY, “Banned” Books Study Has Surprising Results (Mar. 6, 2014), <https://www2.stetson.edu/today/2014/03/banned-books-study-has-surprising-results/> [<https://perma.cc/MQC5-7C2B>].

²⁰³ See UDHR, *supra* note 128, art. 26.

²⁰⁴ Ayoubi, *supra* note 132, at 444, 447. For an example of a comment by the Committee on the Rights of the Child see Committee on the Rights of the Child, *Concluding Observations: Azerbaijan*, U.N. Doc. CRC/C/AZE/CO/2 (Mar. 17, 2006). See, e.g., MADHU SINGH, UNESCO INST. FOR LIFELONG LEARNING, *GLOBAL PERSPECTIVES ON RECOGNIZING NON-FORMAL AND INFORMAL LEARNING: WHY RECOGNITION MATTERS* (Rupert Maclean et al. eds., 2015); *The Global Observatory of Recognition, Validation and Accreditation of Non-formal and Informal Learning*, UNESCO: INST. FOR LIFELONG LEARNING, <https://uil.unesco.org/lifelong-learning/recognition-validation-accreditation> [<https://perma.cc/CDY3-WYG9>] (last visited Jan. 25, 2022).

that is not found in their curricula. The importance of school libraries should not be discounted. Research shows that robust libraries positively correlate with academic success in formal settings.²⁰⁵ Therefore, a new international framework should recognize the importance of quality school libraries as a part of the right to education. A new international framework should seek to further expand the right to education beyond classroom instruction in primary school.

III. THE ROLE GRASSROOTS ORGANIZATIONS AND UNESCO MUST PLAY IN DEVELOPING AN INTERNATIONAL HUMAN RIGHTS FRAMEWORK FOR THE FREEDOM TO READ

You don't have to burn books to destroy a culture. Just get people to stop reading them.

– Ray Bradbury

Without any current efforts from the international community to develop a new framework for the right to read, it is helpful to review smaller grassroots efforts. First, UNESCO can utilize these smaller efforts as building blocks for the new regime. The right to read clearly implicates the rights to expression, information, culture, and education. Yet, as demonstrated by the international treaties and declarations discussed in Part II, the international community has taken no direct, affirmative steps to address book banning and censorship. As such, it is now necessary to turn to non-governmental organizations (NGOs) that work to combat book banning and censorship. These organizations provide useful context and information to help create an international framework. Then, it is important to consider why UNESCO should play a role in creating the new framework.

A. EXPLORATION AND ANALYSIS OF EXISTING EFFORTS BY NGOS

In the absence of government intervention, writers, librarians, teachers, advocates, and journalists have created various organizations that combat banning and censorship. Each of these organizations have something to offer when developing a new international framework, and

²⁰⁵ Keith Curry & Debra E. Kachel, *Why School Librarians Matter: What Years of Research Tells Us*, PHI DELTA KAPPAN (Mar. 26, 2018), <https://kappanonline.org/lance-kachel-school-librarians-matter-years-research/> [<https://perma.cc/Z3A7-C3AZ>].

all of them have limitations that the new framework should tackle. These NGOs can be roughly categorized into three groupings. First, some of these organizations have drafted declarations that can serve as foundations for an international framework.²⁰⁶ Second, other organizations provide direct advocacy to victims and targets of censorship.²⁰⁷ Finally, additional groups focus on informing the public of their rights against book bans and censorship.²⁰⁸ The following discussion will review the strengths and weaknesses of each of these groups.

First, the American Library Association (ALA) has a Bill of Rights that could serve as a starting point for an international declaration against book banning because the articles in their Bill of Rights connect to existing international human rights laws. The ALA, formed in 1876 to provide leadership and improvement of library services,²⁰⁹ originally drafted the Library Bill of Rights in 1939 to articulate “the basic principles that should govern the services of all libraries.”²¹⁰ The Library Bill of Rights, and the official interpretations,²¹¹ connect to many of the international human rights discussed in Part II. Article I of the Library Bill of Rights states that “materials should not be excluded because of the origin, background, or views” of the author.²¹² Likewise, Article II states that materials should not be removed due to “partisan or doctrinal disapproval.”²¹³ This provision directly implicates the author’s freedom of expression that all writers have in international law. Additionally, excluding materials dealing with “sex, gender identity, or sexual orientation” is prohibited.²¹⁴ Instead, libraries should host a diverse collection reflecting different cultures, ideas, experiences, and

²⁰⁶ See, e.g., *Library Bill of Rights*, AM. LIBR. ASS’N, (June 30, 2006), <http://www.ala.org/advocacy/intfreedom/librarybill> [<https://perma.cc/4LYZ-LBQT>] [hereinafter *Bill of Rights*].

²⁰⁷ See, e.g., *The PEN Charter*, PEN INT’L, <https://pen-international.org/who-we-are/the-pen-charter> [<https://perma.cc/4SP2-8TVC>] (last visited Jan. 28, 2021).

²⁰⁸ See, e.g., *About*, BANNED BOOKS WEEK, <https://bannedbooksweek.org/about/> [<https://perma.cc/2XUY-QW7D>] (last visited Jan. 28, 2021).

²⁰⁹ *About ALA*, AM. LIBR. ASS’N, <http://www.ala.org/aboutala/> [<https://perma.cc/F3BA-TMPR>] (last visited Jan. 29, 2021).

²¹⁰ *Bill of Rights*, *supra* note 206.

²¹¹ *Interpretations of the Library Bill of Rights*, AM. LIBR. ASS’N (July 30, 2007), <http://www.ala.org/advocacy/intfreedom/librarybill/interpretations> [<https://perma.cc/EC3D-5XUF>] [hereinafter *Interpretations*].

²¹² *Bill of Rights*, *supra* note 206, art. 1.

²¹³ *Id.* art. 2.

²¹⁴ *Interpretations*, *supra* note 211.

viewpoints.²¹⁵ This interpretation of the Bill of Rights connects directly to the right to culture. The ALA also states that libraries should promote free expression and “[facilitate] the exchange of ideas.”²¹⁶ It is important for the new framework to also connect to each of these international human rights. Also, while the ALA does discuss diversity in broad strokes, it will be important to explicitly discuss the right to have LGBTQ+ literature protected in the new framework, as that is currently a major target of book bans.

The ALA also addresses the proper role of school libraries, which should be an important aspect of a new international framework. School libraries, according to the ALA, play a “unique role in promoting intellectual freedom.”²¹⁷ School libraries should account for the educational level of the students they serve, but the principles of the Library Bill of Rights apply equally to school libraries.²¹⁸ Account for the educational level of students does not diminish the need for the school library to serve as a place of information for all.²¹⁹ In creating an international framework, it is important to expressly extend the right to read protections to students. Students already have rights to information, culture, and education,²²⁰ but the new framework will need to connect these existing rights to the expanded rights against book censorship. Furthermore, as the case study of the United States in Part I shows, censorship in schools occurs in two places: the library and the classroom. As such, an international framework should address the problem in both spaces, which is a current shortcoming of the ALA due to its limited scope. Ultimately, the discussion on school libraries from the ALA is true but broad. A new framework will need to spend more time addressing the issues students and minors face because school banning is so prevalent and far-reaching.

One shortcoming of the ALA is that its work is exclusively directed to librarians, whereas an international framework will need to place burdens on all sectors connected to literature: governments, administrators, publishers, authors, librarians, and teachers. While librarians maintain a responsibility for building a “foundation of

²¹⁵ *Id.*

²¹⁶ *Id.*

²¹⁷ *Id.*

²¹⁸ *Id.*

²¹⁹ *Id.*

²²⁰ CRC, *supra* note 131, arts. 12, 19, 30.

intellectual freedom” by ensuring diverse, accessible collections,²²¹ the ALA has shouldered the burden of protecting readers for too long. Librarians should not have to carry the weight of protecting democracies on their backs alone.²²² Librarians are only one group in an intricate web of connections that participate in book banning.²²³ In conclusion, an international framework on banning and censorship should place an affirmative requirement to protect readers on governments and administrators as well.

Next, PEN International and PEN America (collectively, “PEN”) ²²⁴ are organizations that work against book banning by conducting extensive research on banning and censorship, and providing direct advocacy to authors facing censorship.²²⁵ PEN offers financial assistance to authors fleeing persecution, helps fund their litigation, and provides humanitarian assistance to struggling authors.²²⁶ Their research arm studies global trends in the exercise of free expression.²²⁷

PEN’s work is valuable for two reasons. First, PEN’s research helps quantify the issue of banning and censorship. It is necessary to understand the scope of the problem to solve it. Second, PEN’s advocacy is important because when governments and administrators ban books, they need to be held accountable.²²⁸ The new international framework should be proactive, and further research is required to understand and address root causes of book banning. Additionally, the new framework

²²¹ *Intellectual Freedom: Issues & Resources*, AM. LIBR. ASS’N, <https://www.ala.org/advocacy/intfreedom> [<https://perma.cc/3899-D9CE>] (last visited Jan. 29, 2021); *Office for Intellectual Freedom*, AM. LIBR. ASS’N (June 9, 2008), <https://www.ala.org/advocacy/intfreedom> [<https://perma.cc/B2ZT-NMMU>].

²²² See, e.g., Durrance et al., *supra* note 142, at 49, 50.

²²³ See Michelle Goldberg, *A Frenzy of Book Banning*, N.Y. TIMES (Nov. 12, 2021), <https://www.nytimes.com/2021/11/12/opinion/book-bans.html> [<https://perma.cc/6833-F959>] (noting that school boards, governors, and parents participate in the process of banning books).

²²⁴ *About us*, PEN AM., <https://pen.org/about-us/> [<https://perma.cc/AHQ8-4SCW>] (last visited Jan. 29, 2022).

²²⁵ *Our Protection Work*, PEN INT’L, <https://pen-international.org/protecting-writers-at-risk/our-protection-work> [<https://perma.cc/Y2VW-CD23>] (last viewed Jan. 30, 2021).

²²⁶ *Id.*; *Fifty Years of the PEN Emergency Fund: From Couriers to Bank Transfers*, PEN INT’L, (Jan. 13, 2021) <https://pen-international.org/news/fifty-year-of-the-pen-emergency-fund-from-couriers-to-bank-transfers> [<https://perma.cc/392X-ZPXM>].

²²⁷ *Research & Resources*, PEN AM., <https://pen.org/research-resources/> [<https://perma.cc/WXQ8-5JC8>] (last visited Jan. 30, 2021).

²²⁸ See *Day of the Imprisoned Writer 2021*, PEN INT’L, <https://pen-international.org/campaigns/day-of-the-imprisoned-writer-2021> [<https://perma.cc/LKV3-LXFT>] (last visited Jan. 23, 2022) (noting that PEN has a yearly campaign supporting imprisoned writers by calling for government action).

will need to have mechanisms in place to help combat instances of banning through international pressure and any available legal avenues.

PEN also has a notable shortcoming: they disproportionately focus on the rights of authors. While protecting authors is important, it is not the same as protecting the general public's right to read. The international framework proposed in this Comment extends beyond the rights of the author and focuses primarily on the rights of the reader. Furthermore, protecting authors from persecution does not protect their works from the same fate. An author might be released from jail, but that does not equate to their books being placed back on shelves.²²⁹ As such, the new framework will need to address the reader's right to have books on shelves, not just the rights of authors to write the books.

Next, groups like the Banned Books Week Coalition provide an important final component that an international framework should adopt: raising public awareness.²³⁰ The Coalition hosts a week-long event every year in various community spaces such as libraries, schools, and bookstores, that encourages public engagement on the issue of censorship.²³¹ The event addresses historical and contemporary censorship attempts and also features a collection of books that have been challenged, in order to communicate to the public the severity and wide-spread issue of censorship.²³² Banned Books Week events are important because every year members of the public who encounter the event are surprised to hear that the problem still persists.²³³ An international framework would likely benefit from a sub-committee designed to generate public content regarding the issue.

Similarly, the National Coalition Against Censorship (NCAC), a United States-based organization, also focuses on raising public

²²⁹ See Scottie Andrew, *Libraries Oppose Censorship. So They're Getting Creative When It Comes To Offensive Kids' Books*, CNN (Mar. 3, 2021, 11:37 AM), <https://www.cnn.com/2021/03/03/us/offensive-childrens-books-librarians-wellness-trnd/index.html> [<https://perma.cc/2WWH-Z4WZ>] (indicating that librarians make selective efforts regarding what books to promote, especially controversial ones).

²³⁰ *The Coalition*, BANNED BOOKS WEEK, <https://bannedbooksweek.org/sponsors/> [<https://perma.cc/X9UE-SLRR>] (last visited Jan. 30, 2021).

²³¹ Betsy Gomez, *Don't Miss These Banned Books Week Coalition Events!*, BANNED BOOKS WEEK (Sept. 21, 2021), <https://bannedbooksweek.org/dont-miss-these-banned-books-week-coalition-events/> [<https://perma.cc/4FTT-UAGH>].

²³² *Banned Books Week (Sept. 26–Oct. 2, 2021)*, AM. LIBR. ASS'N, <http://www.ala.org/advocacy/bbooks/banned> [<https://perma.cc/J69G-8DN5>] (last visited Jan. 30, 2021).

²³³ Betsy Gomez, *Find your Freedom to Read During Banned Books Week!*, BANNED BOOKS WEEK (Apr. 20, 2020), <https://bannedbooksweek.org/find-your-freedom-to-read-during-banned-books-week-2020/> [<https://perma.cc/W7SD-RQD6>].

awareness.²³⁴ The NCAC was formed in response to a Supreme Court decision²³⁵ narrowing First Amendment protections for sexual expression.²³⁶ The NCAC has produced a variety of resources to combat censorship challenges.²³⁷ The NCAC fights against censorship on First Amendment grounds.²³⁸ The NCAC has created multiple resources that focus on protecting youth against book challenges. For example, the Kids' Right to Read Project provides direct support to schools facing a book challenge by providing information regarding student's First Amendment rights, as well as sample letters to help students protest the attempted ban.²³⁹ Similarly, the Defend LGBTQ Stories project confronts the problem of censorship of LGBTQ+ books by providing counterpoints to most arguments made by challengers.²⁴⁰

While the NCAC and Banned Books Week undoubtedly offer important information to the American public, it is imperative to recognize the limited scope of their work. Book banning and censorship are international problems. However, both the NCAC and Banned Books Week focus primarily on the United States.²⁴¹ International problems require international solutions. Furthermore, banning and censorship is a complex issue, and public awareness of the problem requires a diverse array of information. A book challenge in America *might* be successfully defeated with pushback at a local school board hearing, but the same cannot be said for speaking about against book bans in authoritarian regimes.²⁴² With a heavy concentration of organizations in America,

²³⁴ *About Us*, NAT'L COAL. AGAINST CENSORSHIP, <https://ncac.org/about-us> [<https://perma.cc/44L6-T7MY>] (last viewed Jan. 30, 2021) [hereinafter *NCAC About Us*].

²³⁵ See *Miller v. California*, 413 U.S. 15, 33 (1973).

²³⁶ *NCAC About Us*, *supra* note 234.

²³⁷ *Resource Overview*, NAT'L COAL. AGAINST CENSORSHIP, <https://ncac.org/resources> [<https://perma.cc/NS99-DHRY>] (last visited Jan. 30, 2021).

²³⁸ *What We Do*, NAT'L COAL. AGAINST CENSORSHIP, <https://ncac.org/project/what-we-do> [<https://perma.cc/8BQC-KMDG>] (last visited Jan. 29, 2022).

²³⁹ *Kids Right to Read Project*, NAT'L COAL. AGAINST CENSORSHIP, <https://ncac.org/project/the-kids-right-to-read-project> [<https://perma.cc/FT3J-DHSB>] (last visited Jan. 30, 2021).

²⁴⁰ *Defend LGBTQ Stories: A Resource*, NAT'L COAL. AGAINST CENSORSHIP (Feb. 28, 2019), <https://ncac.org/resource/defend-lgbtq-stories-a-resource> [<https://perma.cc/94DR-DT8S>].

²⁴¹ *Banned Books Week*, GA. S. UNIV., <https://georgiasouthern.libguides.com/bannedbooksweek> [<https://perma.cc/HAT6-U3HD>] (last visited Jan. 29, 2022); NAT'L COAL. AGAINST CENSORSHIP, *supra* note 238.

²⁴² See Allison Flood, *Chinese Writer Tianyi Sentenced to Decade in Prison for Gay Erotic Novel*, THE GUARDIAN (Nov. 20, 2018, 11:08 AM), <https://www.theguardian.com/books/2018/nov/20/chinese-writer-tianyi-sentenced-to-decade-in-prison-for-gay-erotic-novel> [<https://perma.cc/XB6A-U5HX>] (sentencing author to 10 years in prison for knowingly ignoring censorship laws).

countries like China, Turkey, and Russia are left without vocal advocates. An international framework that can review the problem through a comprehensive and well-informed lens will be able to discern the best ways to provide the global public with the right knowledge and resources. Therefore, it is necessary for an international governmental organization to tackle the issue because only then can real changes occur.

A common theme amongst all the organizations discussed in this section is that they are reactionary and only focus on the symptoms of book banning. Independent organizations fail to solve the root of the problem because they do not have control over government officials, teachers, and parents who support book banning. As such, their work focuses on how to handle a challenge to a book. Additionally, each of these organizations has a particular focus group they want to protect or engage with, for example the ALA is for librarians and PEN is for authors. There is not a single, cohesive organization tackling the issue from all angles. A successful international framework will need to be proactive and inclusive.

B. UNESCO SHOULD ADAPT THE EXISTING EFFORTS INTO INTERNATIONAL HUMAN RIGHTS LAW

Each of the independent organizations above provide important contributions to the fight against book banning, but for an international framework to work, an international body is required. Accordingly, UNESCO is the most appropriate choice. First, UNESCO was founded to promote education.²⁴³ Second, UNESCO is equipped to promote international cooperation on cultural issues.²⁴⁴ Finally, UNESCO has successfully created a popular international program that encourages international participation and sparks conversations, a necessary component of a successful international framework.²⁴⁵

UNESCO is the most appropriate international body to draft a declaration or treaty against banning and censorship, and they are also the most equipped to lead the effort to eradicate the persistent book bans across the globe. UNESCO is responsible for developing and facilitating programs that promote education, science, and culture for the betterment

²⁴³ *UNESCO In Brief—Mission and Mandate*, UNESCO, <https://en.unesco.org/about-us/introducing-unesco> [<https://perma.cc/Z57C-CHCG>] (last visited Jan. 27, 2020) [hereinafter *UNESCO In Brief*].

²⁴⁴ Constitution of the United Nations Educational, Scientific and Cultural Organisation (UNESCO) pmbl., Nov. 16, 1945, 59 Stat. 1883, 4 U.N.T.S. 52 [hereinafter *UNESCO Constitution*].

²⁴⁵ See *About World Heritage*, UNESCO WORLD HERITAGE CONVENTION (last visited Jan. 28, 2021), <https://whc.unesco.org/en/about/> [<https://perma.cc/LJ7M-KG7C>].

of people's lives as global citizens.²⁴⁶ Further, UNESCO prides itself as a "laboratory of ideas" capable of adopting "international standards and manag[ing programs] that foster the free flow of ideas and knowledge sharing."²⁴⁷

UNESCO was founded in 1945 with the idealistic goal of fostering world peace through education.²⁴⁸ UNESCO's preamble to their constitution argues "that the wide diffusion of culture, and the education of humanity for justice and liberty and peace are indispensable to the dignity of humankind."²⁴⁹ Further, their preamble states that ignorance is a root cause of war and violence throughout human history and that international peace will only be secured through "intellectual . . . solidarity."²⁵⁰ In line with these goals, UNESCO should concern itself with book banning and censorship. Without access to information provided in the types of books that are banned (both political and cultural), humanity suffers from ignorance. Books help diffuse culture and educate individuals about life, history, and humanity. Without free access to literature, authoritarian governments can control narratives and rewrite histories. Likewise, school libraries can continue to ostracize LGBTQ+ students.

Moreover, UNESCO is committed to realizing international peace by collaborating amongst nations to share mutual knowledge "through all means of mass communication," increasing and diffusing knowledge, and recommending international agreements that "promote the free flow of ideas by word and image."²⁵¹ As an organization, UNESCO is meant to set standards for the international community.²⁵² UNESCO, at its best, offers itself as an "intellectual forum where ideas, opinions and experiences on current cultural educational problems are exchanged at a global level."²⁵³ Literature advocacy is one opportunity for UNESCO to actualize these ideals. Literature is a form of communication that diffuses knowledge, and an international commitment against book banning and censorship will directly promote the free exchange of information. Throughout its history, UNESCO has promoted literature programs,

²⁴⁶ *UNESCO In Brief*, *supra* note 243.

²⁴⁷ *Id.*

²⁴⁸ KLAUS HUFNER, WHAT CAN SAVE UNESCO? 15 (2016).

²⁴⁹ UNESCO Constitution, *supra* note 244, pmb1.

²⁵⁰ *Id.*

²⁵¹ *Id.* art. 1, § 2.

²⁵² HUFNER, *supra* note 248, at 43–44.

²⁵³ *Id.* at 58.

including an early effort to translate classic literature.²⁵⁴ Regulating censorship is a natural extension of this program because it ensures access to meaningful works of literature.

UNESCO has successfully taken on more ambitious and costly projects in the past. Namely, World Heritage Sites are a concerted effort by UNESCO and the international community to protect and preserve cultural property and natural heritage that UNESCO deems globally important.²⁵⁵ This program is the product of a UNESCO convention on cultural property and natural heritage,²⁵⁶ as well as a previous convention on the protection of cultural property in war zones.²⁵⁷ All UNESCO members signed this convention, and it remains a popular program to this day.²⁵⁸ In fact, countries lobby to have their sites designated World Heritage.²⁵⁹ This program generates substantial positive socio-economic impacts, including tourism revenue and world-recognition for countries with sites listed.²⁶⁰

If UNESCO can garner an international agreement on book banning and censorship, its success could achieve other important goals. What's more an international agreement will likely require fewer financial resources,²⁶¹ and have fewer negative impacts than the World Heritage program.²⁶² Popular recognition of the problem is key to the successful eradication of censorship and banning. Currently, small organizations use their sway to work against book bans with some success. For example,

²⁵⁴ Sarah Brouillette, *UNESCO and the World-Literacy System in Crisis*, AMODERN (Dec. 2015), <https://amodern.net/article/unesco-brouillette/> [<https://perma.cc/2JU7-9384>].

²⁵⁵ UNESCO WORLD HERITAGE CONVENTION, *supra* note 245.

²⁵⁶ See Convention for the Protection of the World Cultural and Natural Heritage, Nov. 16, 1972, 27 U.S.T. 37, 1037 U.N.T.S. 15511.

²⁵⁷ Convention for the Protection of Cultural Property in the Event of Armed Conflict, May 14, 1954, 249 U.N.T.S. 3511.

²⁵⁸ HUFNER, *supra* note 248, at 51.

²⁵⁹ *What is UNESCO World Heritage?*, NAT'L GEOGRAPHIC (May 11, 2018), <https://www.nationalgeographic.com/travel/world-heritage/article/about-1> [<https://perma.cc/JH2W-3KDK>].

²⁶⁰ *Socio-economic Impacts of World Heritage Listing*, UNESCO WORLD HERITAGE CONVENTION, <https://whc.unesco.org/en/socio-economic-impacts> [<https://perma.cc/3LPP-LCFH>] (last viewed Jan. 28, 2021).

²⁶¹ See e.g., *Issues Brief: Natural World Heritage*, International Union for Conservation of Nature IUCN (Nov. 2018), https://www.iucn.org/sites/dev/files/natural_world_heritage_issues_brief_final.pdf [<https://perma.cc/7TWW-7KXD>] (recommending international conservation and management benchmarks).

²⁶² See Mizuho Aoki, *World Heritage Listing has its Price*, JAPAN TIMES (Oct. 4, 2011), <https://www.japantimes.co.jp/news/2011/10/04/reference/world-heritage-listing-has-its-price/> [<https://perma.cc/B99S-LBVW>].

PEN America created the Freedom to Write award in 1987.²⁶³ Between 1987 and 2019, forty-one of the forty-seven jailed writers who have received the award have been released from prison as a result of public pressure generated by the global attention.²⁶⁴ In American schools, the National Coalition Against Censorship produces a Book Censorship Toolkit that provides students and parents with advice and information to combat book challenges.²⁶⁵ A significant portion of the advice includes ways to spread awareness and start campaigns to counteract the challenge.²⁶⁶ UNESCO has the benefit of international popularity and the resources to serve as a voice against censorship that these smaller organizations lack. Therefore, UNESCO has the power to magnify these successes.

IV. CONCLUSION

Where they have burned books, they will end in burning human beings.

– Heinrich Heine

The problem of book banning has persisted since 213 BCE,²⁶⁷ yet there are no concerted international efforts to eradicate this global problem. Banning and censorship occur today when individuals in positions of power attempt to suppress ideas for socio-cultural or political reasons. As it stands, banning and censorship implicate the international human rights of information, expression, culture, and education. In the absence of an international effort by the UN, grassroots organizations have attempted to develop solutions to the problem. While admirable, none of these organizations have the capacity, reach, or power to eradicate book banning in a way that an organization like UNESCO can.

A new international framework, developed and operated by UNESCO, is a long-overdue solution to this persistent, global problem. An UNESCO declaration against book banning and censorship can affirm and expand the existing pertinent international rights. UNESCO can also

²⁶³ Karin Deutsch Karlekar, Summer Lopez, & Veronica Tien, *Freedom to Right Index 2019*, PEN AM., <https://pen.org/report/freedom-to-write-index-2019/> [<https://perma.cc/VFC5-6FY2>].

²⁶⁴ *Id.*

²⁶⁵ *Kid's Right to Read Action Kit*, NAT'L COAL. AGAINST CENSORSHIP (2019), <https://ncac.org/wp-content/uploads/2017/09/KRRP-Action-Kit-2019-1-1.pdf> [<https://perma.cc/F7XD-3JUM>].

²⁶⁶ *Id.*

²⁶⁷ SPARKPRESS, *supra* note 4.

fund awareness campaigns to teach individuals about their rights. Additionally, a UNESCO framework has the potential to become a force for change by utilizing its popularity to signal when countries and groups attempt to ban and censor literature. Each of these components is necessary for a successful framework to tackle the problem. The international community needs to affirmatively recognize the right to read.