

# Love in the Time of “Propaganda:” Russian Anti-LGBT Laws, the International Legal Response, and Future Implications

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Over the past several years, paralleling the rise of Putin and religious conservatism in Russian society, state-sponsored legislation in Russia has worked to indirectly criminalize homosexuality. A 2013 amendment to the Federal Law of Russian Federation no. 436-FZ “On Protection of Children from Information Harmful to Their Health and Development” designated “propaganda” of “non-traditional sexual relationships” as a harmful material and prohibited its distribution to minors. While the law does not explicitly criminalize homosexuality, in practice it has made Lesbian, Gay, Bisexual, and Transgender (LGBT) visibility and activism within Russia increasingly dangerous on both a legal and societal level. The international community, particularly the United States and Europe, has criticized Russia’s actions. The European Court of Human Rights has even found Russia to be in violation of the European Convention on Human Rights with respect to its treatment of the LGBT community.<sup>1</sup> Despite domestic and international challenges to Russia’s legislative and political crackdown on the LGBT community, Russia continues to codify discrimination against its LGBT citizens.

This Note critiques the practical implications of the Federal Law of Russian Federation no. 436-FZ and analyzes the ways in which the law could be challenged by domestic or international bodies. Part I introduces the history of Russian laws regarding the LGBT community; the rise of social conservatism in Russia; and the international response, particularly the response of the European Court of Rights, to Russian treatment of the LGBT community. Part II analyzes the practical implications of the anti-LGBT propaganda law

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1. *Infra* note 45.

and similar anti-LGBT laws in Russia, examines the obstacles faced by those who would challenge anti-LGBT laws, and proposes alternative ways in which LGBT advocates within Russia and throughout the international community can address Russia's treatment of its LGBT citizens. Finally, Part III reiterates the need for a multi-faceted approach when advocating for LGBT rights within Russia and the international legal community.

## I. BACKGROUND

### A. BRIEF HISTORY OF LGBT LAWS IN RUSSIA

In order to understand the history of laws regarding the LGBT population in Russia, it is necessary to discuss the general structure and public perception of the Russia legal system. The Russian legal system that emerged from the fall of the Soviet Union retained remnants of a socialist system, but more closely resembles a civil system.<sup>2</sup> The general sources of law include the Constitution of the Russian Federation, Federal Constitution Laws, Statutes, Presidential Decrees, Agency Declarations, and Judicial Explanations.<sup>3</sup> Where Russian Federation laws have not yet been adopted, Soviet laws remain in place.<sup>4</sup>

The current Russian legal system is known for its relatively quick resolution of civil trials and inexpensive methods of litigation, particularly for cases involving relatively small monetary values.<sup>5</sup> Judges feel pressure to rule swiftly on civil trials involving relatively small disputes, resulting in quick turnaround and lower courts that are busy, but generally well-reviewed.<sup>6</sup> However, some feel that the Russian judicial system is used to "curb the influence of figures which pose a threat to the Kremlin."<sup>7</sup> In civil cases and criminal cases

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2. See Gennady M. Danilenko and William Burnham, *Law and the Legal System of the Russian Federation*, 48 AM. J. COMP. L. 337, 338 (2000).

3. *Id.* at 342.

4. *Id.* at 342.

5. See Danielle Wiener-Bronner, *The Russian Legal System's Split Personality*, REUTERS, Apr. 26, 2013, available at <http://blogs.reuters.com/events/2013/04/26/russia-courts/>.

6. *Id.* ("[D]espite the perception of high courts as malleable to Putin's influence and the fear of unjust arrest and conviction without trial, Russia's lower courts are flooded with disputants and generally well reviewed.")

7. See *supra* text accompanying note 5; *Id.* ("What emerges is a system

involving larger disputes or more powerful parties, the courts are often viewed as “malleable to Putin’s will” and judicial incentives are seen as subject to political objectives.<sup>8</sup> Russians tend to be more hesitant to challenge laws or bring cases against those viewed as more powerful than themselves or those in a position of authority.<sup>9</sup> As a result, some have contended that public perception of the Russian legal system has become paradoxical. The public views the courts as legitimate at the lower levels, but more likely to be bias toward the government at higher levels.<sup>10</sup>

Following the fall of the Soviet Union, Russia enacted laws and policies that constituted a relative liberalization of its treatment of LGBT, including the decriminalization of homosexual relationships and the ability to change legal gender on identification materials.<sup>11</sup> Despite the liberalization of some LGBT laws on the Federal level, Soviet era practices and regional laws continued to restrict LGBT freedoms. For instance, same-sex marriages continue to be denied state recognition and regional laws tend to have strict prohibitions against LGBT parades, the distribution of LGBT pamphlets, and LGBT non-profits, each of which is categorized as “propaganda.”<sup>12</sup> Recent and pending laws seek to further

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that functions fairly well on a civil level . . . but falters in criminal and other cases, when judicial incentives are often subject to political influence.”).

8. *Id.* (Explaining that Russians have a “keen understanding of how to navigate the system.”).

9. *Id.*

10. *Id.*

11. *See* The Facts on LGBT Rights in Russia, The Council for Global Equality (2014), <http://www.globalequality.org/newsroom/latest-news/1-in-the-news/186-the-facts-on-lgbt-rights-in-russia> (noting that homosexual relationships were decriminalized in Russia 1993 and transgender Russians gained the right to change their gender on legal identity documents in 1997, although many obstacles for the transition remain in place including mandatory invasive surgery).

12. *Id.* (“[W]hile the regional laws are not uniform, like the new federal law, they all tend to advance vague definitions of propaganda that lend themselves to the targeting and ongoing persecution of the country’s LGBT community . . . [and] focuses on “non-traditional” sexual relationships, to contrast with “traditional values” or “traditional family” language that Russia is promoting at the UN to oppose positive statements supporting the human rights of LGBT people.”). *See also* Russia: Anti-LGBT Law a Tool for Discrimination, Human Rights Watch (June 30, 2014), <http://www.hrw.org/news/2014/06/29/russia-anti-lgbt-law-tool-discrimination> (“In the years before the adoption of the federal law, similar laws had EEN passed in 11 Russian regions. In Kaliningrad, providing propaganda for homosexuality was banned for everyone, not just for children.”); Paul Johnson,

restrict the ability LGBT groups to advocate or provide services,<sup>13</sup> the ability for transgender and potentially other members of the LGBT community to obtain driver's licenses,<sup>14</sup> and the ability of LGBT couples to adopt.<sup>15</sup> In addition to laws that specifically target LGBT citizens, actions by authorities – such as frequent denial of parade permits and intimidation of LGBT activists – continue a general practice of discriminating against the LGBT population.<sup>16</sup>

One of the most widely publicized anti-LGBT laws in Russia is a 2013 amendment to the Federal Law of Russia no. 436-FZ entitled “On Protection of Children from Information Harmful to Their Health and Development.”<sup>17</sup> The original law

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*Russia's “Anti-Gay Propaganda Law” and the European Court of Human Rights*, European Court Blog (Apr. 6, 2013), <http://europeancourts.blogspot.com/2013/04/russias-anti-gay-propaganda-law-and.html> (noting several regional Russian laws designed to restrict the dissemination of LGBT information or resources).

13. *Id.* (warning that the recently passed “foreign agents” law, which requires NGOs receiving foreign funding to register as foreign agents if they engage in vaguely defined “political activity,” has disproportionately targeted LGBT advocacy groups).

14. *Russian Government has Restricted the Rights of LGBT, Amputee and Color-Blind to Drive a Vehicle*, ASSOCIATION OF RUSSIAN LAWYERS FOR HUMAN RIGHTS (Jan. 7, 2015), <http://eng.rusadvocat.com/node/167> (“First time Russia included to the list of medical contraindications to driving the group of diseases, according to the International Classification of Diseases □10, the personality disorders and behavior in adulthood F60 - F69. All transgender people, bigender, asexuals, transvestites, crossdressers, people who need in a sex reassignment were recognized by Russian Government as a people with the deviations. The state deprived these groups their rights to drive a vehicle.”).

15. *See Russian MP Moves to Strip Gays of Parental Rights*, RUSSIAN TIMES (Sep. 5, 2013), <http://rt.com/politics/gay-families-no-kids-447/> (noting a draft bill proposed by Deputy Akexey Zhuralev which would amend Article 69 of the Family Code and allow the government to “terminate the parental rights of individuals raising children with same-sex partners, as well as those who are simply suspected of engaging in homosexual behavior”).

16. *See The Facts on LGBT Rights in Russia*, The Council for Global Equality (2014), <http://www.globalequality.org/newsroom/latest-news/1-in-the-news/186-the-facts-on-lgbt-rights-in-russia> (“Russian authorities have routinely denied permits for Pride parades, intimidated and arrested LGBT activists and condoned anti-LGBT statements by government officials.”).

17. *Federal'nyy Zakon o Ynesenii Izmeneniy v Stat'i 5 Federal'nogo po Zashchite Detey ot Informatsii Prichinyayushchey vred ikh Zdorov'yu i Razvitiyu i v Otdel'nyye Zakonodatel'nyye akty Rossiyskoy Federatsii v Tselyakh Zashchity Detey ot Informatsii chto Sposobstvuyet Otritsaniye Traditsionnykh Semeynykh Tsennostey*

[Federal Law on Amendments to Article 5 of the Federal on Protecting Children from Information Harmful to Their Health and Development and to Certain Legislative Acts of the Russian Federation with the Aim of Protecting

passed in 2010, seen as mirroring a similar 1988 law,<sup>18</sup> prohibited the distribution of “harmful” materials to minors, specifically targeting materials deemed to depict violence; crime; drug-use; self-harm; or otherwise “elicit fear, horror, or panic in children.”<sup>19</sup> In 2012, the law was amended to require a rating system for content distributed through television or the internet, singling out a specific list of websites which contained descriptions of suicide, drug use, or child pornography.<sup>20</sup> The 2013 amendment added “propaganda” of “non-traditional sexual relationships” to the list of harmful material that could not be distributed to minors.<sup>21</sup> Specifically, the amendment prohibits the promotion of “non-traditional sexual relationships” through the “dissemination of information aimed at forming non-traditional relationships, attractiveness of non-traditional sexual relationships, and distorted interpretation of social equivalency of traditional and non-traditional relationships.”<sup>22</sup>

Punishments for Russian citizens who violate the amendment include individual fines ranging from 4000 to 5000 rubles (\$77.49 – \$96.86) for the general public and 40,000 to 50,000 rubles (\$774.90 – \$968.60) for civil servants.<sup>23</sup> The law also levies harsher fines, 800,000 to 1,000,000 rubles (\$15,497.13 – \$19,371.41), against Russian non-government organizations (“NGOs”) that violate the amendment, with greater fines resulting if the internet or social media is used to disseminate the “propaganda.” Additionally, NGOs found to have violated the amendment through the internet or social

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Children from Information that Promotes Negation of Traditional Family Values] 2010.

18. Paul Johnson, *Russia's “Anti-Gay Propaganda Law” and the European Court of Human Rights*, European Court Blog (Apr. 6, 2013), <http://europeancourts.blogspot.com/2013/04/russias-anti-gay-propaganda-law-and.html> (referring to the “section 28 of the Local Government Act 1988 which created a ‘prohibition on promoting homosexuality’”).

19. *Amendments to the Law on Protecting Children from Information Harmful to Their Health and Development*, PRESIDENT OF RUSSIA (July 31, 2012), <http://eng.kremlin.ru/acts/4246>.

20. Federal'nyy Zakon No. 139 - FZ , O Ynesenii Izmeneniy v Federal'nyy Zakon o Zashchite Detey ot Informatsii, Prichinyayushchey vred ikh Zdorov'yu i Razvitiyu i Drugiye Zakonodatel'nyye akty Rossiyskoy Federatsii [Federal Law No. 139-FZ, on Amending the Federal Law on Protection of Children from Information Harmful to their Health and Development and Other Legislative Acts of the Russian Federation], Chernyy Spisok Zakon [Blacklist Law] 2012.

21. *Supra* note 15 at § 6.21(1)

22. *Id.* at § 6.21(1)

23. *Id.* at § 6.21(2).

media can be suspended from activities for 90 days.<sup>24</sup> The law also applies to foreigners working within or having contact with Russia, who face harsher fines and the possibility of deportation.<sup>25</sup>

The amendment received widespread attention as the Sochi Winter Olympics approached in 2014 due to concerns that LGBT athletes might be prosecuted under the law.<sup>26</sup> In addition to widespread outcry in popular culture,<sup>27</sup> many governments and human rights organizations in the international community expressed concern over the amendment.<sup>28</sup> However, these critiques of the Russian propaganda law may be too little and too late.

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24. *Id.* at § 6.21(20).

25. *Id.* at § 6.21(3)-(4). *Cf.* The Facts on LGBT Rights in Russia, The Council for Global Equality (2014), <http://www.globalequality.org/newsroom/latest-news/1-in-the-news/186-the-facts-on-lgbt-rights-in-russia> (noting that in some instances, foreigners have been subject to deportation after 15 days in prison).

26. *See generally* Kathy Lally, *Russia Anti-Gay Law Casts a Shadow Over Sochi's 2014 Olympics*, WASH. POST (Sep. 29, 2013), [http://www.washingtonpost.com/world/russia-anti-gay-law-casts-a-shadow-over-sochis-2014-olympics/2013/09/29/3646344c-27a6-11e3-9372-92606241ae9c\\_story.html](http://www.washingtonpost.com/world/russia-anti-gay-law-casts-a-shadow-over-sochis-2014-olympics/2013/09/29/3646344c-27a6-11e3-9372-92606241ae9c_story.html); *Sochi 2014: Gay Rights Protests Target Russia's Games*, BBC NEWS (Feb. 5, 2014) <http://www.bbc.com/news/world-europe-26043872>; David Crary, *Russian Anti-Gay Law Protests Focus on Sochi Olympics*, HUFFINGTON POST (Jan. 31, 2014) [http://www.huffingtonpost.com/2014/01/31/russia-anti-gay-law-sochi\\_n\\_4704795.html](http://www.huffingtonpost.com/2014/01/31/russia-anti-gay-law-sochi_n_4704795.html).

27. *See generally* *AT&T Becomes First Major US Corporation to Condemn Russia's Anti-LGBT Law*, HRC Blog, Feb. 4, 2013, available at <http://www.hrc.org/blog/entry/att-condemns-anti-lgbt-law-in-russia-sets-example-for-other-olympic-sponsor>; Keith Perry, *More Than 200 Leading Authors Protest Against Russia's Anti-Gay and Blasphemy Laws*, TELEGRAPH (Feb. 6, 2014) <http://www.telegraph.co.uk/news/worldnews/europe/russia/10620893/More-than-200-leading-authors-protest-against-Russias-anti-gay-and-blasphemy-laws.html>.

28. *See generally* Concluding Observations of the Human Rights Committee, Russia, U.N. Doc. CCPR/C/RUS/CO/6 (2009) (expressing concern over the rise in violence against LGBT people); Ian Ayres, *US Hypocrisy Over Russia's Anti-Gay Laws*, Huffington Post, Jan. 31, 2014, available at [http://www.washingtonpost.com/opinions/us-hypocrisy-over-russias-anti-gay-laws/2014/01/31/3df0baf0-8548-11e3-9dd4-e7278db80d86\\_story.html](http://www.washingtonpost.com/opinions/us-hypocrisy-over-russias-anti-gay-laws/2014/01/31/3df0baf0-8548-11e3-9dd4-e7278db80d86_story.html); Russia: Anti-LGBT Law a Tool for Discrimination, Human Rights Watch (June 30, 2014), <http://www.hrw.org/news/2014/06/29/russia-anti-lgbt-law-tool-discrimination>.

## B. RISE OF RELIGIOUS CONSERVATISM AND HOMOPHOBIA IN RUSSIA

The fall of the Soviet Union, which sought to discourage religious fervor as an ideological and social control measure, brought on a revival of religious and patriotic feeling.<sup>29</sup> Amidst social upheaval and uncertainty regarding the Russian national identity, many looked to religion and conservative ideology as a source of stability and tradition.<sup>30</sup> The revival of a predominantly Christian, conservative ideology corresponded with a rise in religious activism at both a grassroots and national level designed to promote “traditional” values.<sup>31</sup>

Vladimir Putin’s rise to power was closely tied to the revival of religious conservatism in Russia. Seizing upon the seemingly right turn of popular culture, Putin positioned himself as the defender of a strong national identity, “coupled with a more religious and family-oriented culture,” and promoted Russian religiosity and “traditional values” by exploiting latent frustration with Western culture and post-modernism in general.<sup>32</sup> In addition to appealing to Russian conservative leanings, Putin has managed to achieve tangible improvements in the standard of living, the restoration of political order, and the redemption of Russia’s reputation in international affairs.<sup>33</sup> These factors have contributed to the development of a virtual “cult of personality” surrounding

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29. Ethan Alexander-Davey, *The Rebirth of Russian Conservatism*, 44 U. BOOKMAN (2006) available at: <http://www.kirkcenter.org/index.php/bookman/article/the-rebirth-of-russian-conservatism/>

30. *Id.* (“A widening perception that Russia’s current problems are, at bottom, moral ones, has made Russian society increasingly receptive to conservative ideas.”).

31. *Id.* (“Russia is fortunate to have a Church that is working with parents at the grass roots level to give Russian children a Christian education, as well as learned men of the cloth and conservative academics who are not afraid to make their voice heard on issues that are of vital importance to Russian society.”).

32. David Ernst, *Putin’s Right Hook: The Strategic Implications of Russia’s New Conservatism*, FEDERALIST (Fed. 26, 2014) <http://thefederalist.com/2014/02/26/putins-right-hook-the-strategic-implications-of-russias-new-conservatism/>.

33. *Id.* (noting that although Russia under Putin has seen a rise in standard of living, he can no longer rely solely on that fact to “secure his people’s affection”); *Russia’s Economy Under Vladimir Putin: Achievements and Failures*, RIANOVOSTI, <http://en.ria.ru/analysis/20080301/100381963.html> (last visited October 1, 2014).

Putin.<sup>34</sup>

As a cornerstone of Putin's promotion of "traditional values," he has supported legislation and made public remarks discriminating against and demonizing the LGBT community.<sup>35</sup> These legislative initiatives have received widespread support in the public, with some figures estimating that 85% of Russians oppose gay marriage and 87% of Russians support the ban on LGBT pride parades.<sup>36</sup> There is also evidence that, despite international trends of increased tolerance towards the LGBT community, Russia has seen a significant increase in homophobic sentiment during the past fourteen years.<sup>37</sup> Although there are significant grass-roots and NGO efforts to provide resources for and advocate on behalf of LGBT rights,<sup>38</sup> some scholars worry that the conservative swing in Russia will only grow worse the more international attention is drawn to the issue of LGBT rights, the longer Putin remains in power,

34. Julie A. Cassiday & Emily D. Johnston, *Putin, Putiniana and the Question of a Post-Soviet Cult of Personality*, 88 SLAVONIC & E. EUR. REV. 681, 681 (2010) ("[Putin] has inspired expressions of adulation the likes of which Russia has not seen since the Stalin era.").

35. David Ernst, *Putin's Right Hook: The Strategic Implications of Russia's New Conservatism*, FEDERALIST (Fed. 26, 2014) <http://thefederalist.com/2014/02/26/putins-right-hook-the-strategic-implications-of-russias-new-conservatism/> (noting "Putin's call to return to traditional values and scorn for elites who willfully promote 'abortion on demand, homosexual marriage, pornography, promiscuity, and the whole panoply of Hollywood values.'").

36. *Vast Majority of Russians Oppose Gay Marriage and Gay Pride Events*, RUSS. TODAY (Mar. 12 2013) <http://rt.com/politics/most-russians-oppose-gay-marriage-and-gay-pride-events-poll-140/>. See also Katie Reilly, *Russia's Anti-Gay Laws in Line with Public's Views on Homosexuality*, PEW RESEARCH (Aug. 5 2013), <http://www.pewresearch.org/fact-tank/2013/08/05/russias-anti-gay-laws-in-line-with-publics-views-on-homosexuality/> ("74% of Russians said homosexuality should not be accepted by society, while just 16% said it should be accepted, according to a recent Pew Research Center Survey.").

37. *Russia's Anti-Gay Laws: The Politics and Consequences of a Moral Panic*, The Disorder of Things, Jun. 23, 2013, <http://thedisorderofthings.com/2013/06/23/russias-anti-gay-laws-the-politics-and-consequences-of-a-moral-panic/> (noting that between 1998 and 2012, percentage of the Russian public which viewed homosexuality as "debauchery" increased from 35% to 43%, and the percentage of the Russian public which agreed with the statement that "homosexuals should enjoy the same rights as others in Russia" fell from 51% to 46%).

38. Jay Michaelson, *Homophobia in Russia is Taking a Kafkaesque Turn*, DAILY BEAST (June 9, 2014) <http://www.thedailybeast.com/articles/2014/06/09/homophobia-in-russia-is-taking-a-kafkaesque-turn.html> (noting that efforts by various LGBT organizations are repeatedly thwarted by systematic discrimination).



and the more Putin is perceived to be a champion against American interference in international affairs.<sup>39</sup>

### C. RESPONSE OF THE EUROPEAN COURT OF HUMAN RIGHTS

The European Court of Human Rights (ECHR) is in a unique position to address the alleged violations of Russian LGBT citizens' human rights by the Russian Federation. The ECHR has the ability to hear cases brought by individual citizens, groups, companies, or NGO's against member states of the ECHR Convention.<sup>40</sup> The Convention secures fundamental rights – including the right to life, the right to respect for private and family life, freedom of thought, and freedom of speech – for everyone within its jurisdiction.<sup>41</sup> Recent ECHR jurisprudence regarding the recognition LGBT rights within the European community has been relatively progressive and has created broad protections for the LGBT community, including protections against hate speech, protection of same-sex adoption rights, and protections for the right to free speech, particularly with respect to public marches.<sup>42</sup>

When finding in favor of LGBT rights and protections, the ECHR frequently finds discriminatory laws to be in violation of Article 14, which prohibits discrimination on the basis of “any ground such as sex, race, color, religion, political or other opinion, national or social origin, association with a national

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39. David Ernst, *Putin's Right Hook: The Strategic Implications of Russia's New Conservatism*, *Federalist* (Fed. 26, 2014) <http://thefederalist.com/2014/02/26/putins-right-hook-the-strategic-implications-of-russias-new-conservatism/>.

40. EUROPEAN COURT OF HUMAN RIGHTS, *THE ECHR IN 50 QUESTIONS* 4 (2014) *available at*: <http://www.echr.coe.int/Pages/home.aspx?p=court&c=>.

41. *Id.* at 3.

42. *See generally*, *Vejdeland v. Sweden*, App. No. 1813/17 Eur. Ct. H.R. (2012) (holding that there had been no violation of the right to free speech where anti-gay leaflets had been banned, further holding that discrimination based on sexual orientation was as serious discrimination based on race, origin, or color); *E.B. v. France*, App. No. 43546/02 Eur. Ct. H.R. (2008) (holding that there had been a violation of Article 14 in conjunction with Article 8 where a lesbian couple had been denied an adoption application); *Baczkowski v. Poland*, App. No. 1543/06 Eur. Ct. H.R. (2007) (holding that refusal to allow a public march to raising awareness for minority rights was in violation of Articles 11, 13, and 14 of the ECHR Convention). *But see* *Frette v. France*, App. No. 36515/97 Eur. Ct. H.R. (2002) (holding in a case where a gay man was denied the right to adopt that there was no violation of his Article 14 or Article 8 rights); *Schalk & Kopf v. Austria*, App. No. 30141/04 Eur. Ct. H.R. (2010) (holding that a state was not obliged to grant same-sex marriages).

minority, property, birth, or other status,”<sup>43</sup> and Article 8, which provides for the right to respect for private and family life.<sup>44</sup> On the other hand, the ECHR has consistently avoided finding protections for LGBT plaintiffs under Article 10, which provides for the freedom of expression,<sup>45</sup> and Article 11,<sup>46</sup> which provides for the freedom of assembly.<sup>47</sup>

The ECHR had the chance to hear a case challenging Russian treatment of its LGBT citizens in *Alekseyev v. Russia*.<sup>48</sup> In *Alekseyev*, the court found that the prohibition against the 2006, 2007, and 2008 Moscow Pride parades constituted a violation of Articles 11, 13, and 14 of the ECHR Convention.<sup>49</sup> Many viewed this ruling as a significant victory for the Russian LGBT community.<sup>50</sup> Despite these rulings, however, the Russian government has continued to pass legislation similar to those ruled incompatible with the Convention.<sup>51</sup>

Anti-LGBT legislation within Russia has received significant worldwide attention in recent years. While the international community, both in legal and political spheres, largely criticizes Russia’s treatment of its LGBT citizens, Russia continues to defy global trends in the recognition of LGBT rights and protections. Part II examines the practical implications of Russian anti-LGBT legislation, the successes

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43. European Convention on Human Rights art. 14.

44. *Id.* art. 8.

45. *Id.* art. 10 (including the right to “hold opinions and to receive and to impart information,” though subject to restrictions including those based on the “protection of health and morals”).

46. *Id.* art. 11.

47. Paul Johnson, *Russia’s “Anti-Gay Propaganda Law” and the European Court of Human Rights*, EUROPEAN COURT BLOG (Apr. 6, 2013), <http://europeancourts.blogspot.com/2013/04/russias-anti-gay-propaganda-law-and.html> (noting that the ECHR has yet to find in favor of a LGBT applicant lodging an Article 10 complaint and has rarely found in favor of an LGBT applicant lodging an Article 11 complaint).

48. *Alekseyev v. Russia*, App. No. 4916/07, 25924/08 & 14599/09, Eur. Ct. H.R. (2010).

49. *Id.*

50. Nikolay Alekseyev, *Fighting the Gay Fight in Russia: How Gay Propaganda Laws Actually Only Help*, RUSSIAN TIMES (Aug. 24, 2013), <http://rt.com/op-edge/russia-gay-rights-sochi-945/> (arguing that *Alekseyev v. Russia* constituted a victory for international legal recognition of LGBT rights, but the major victories were taking place and will continue to take place through domestic activism).

51. Council for Global Equality, *supra* note **Error! Bookmark not defined.**

and failures of the international legal response to these laws, and possible ways in which such a response could be altered and improved.

## II. ANALYSIS

### A. PRACTICAL EFFECTS OF RUSSIAN ANTI-LGBT LEGISLATION

Russian anti-LGBT legislation has numerous practical implications, both domestically and abroad. By creating a legal shield for discrimination against its LGBT citizens, Russia has signaled to its citizens and international peers that the Russian Federation approves of homophobia, legitimizing and possibly increasing pre-existing stigma against LGBT citizens. This legal “othering”<sup>52</sup> of LGBT citizens has contributed not only to homophobic attacks and anti-LGBT popular Russian opinion, but has also provided a relatively unique issue over which the battle between Russia and the perceived foreign interference of the United States is being fought.

Due to the structure and perceptions of the Russian domestic civil and criminal legal systems, anti-LGBT legislation creates significant obstacles for LGBT citizens, activists, and NGOs. Because the legislation is predominantly federal and regional, the majority of the discriminatory laws enable the government, as opposed to ordinary citizens, to restrict the rights of LGBT citizens and deny LGBT citizens and groups the ability to effectively advocate. If LGBT citizens and groups wish to challenge discriminatory laws and practices, they will be forced to effectively challenge the Russian federal and regional governments. As previously noted, the Russian civil and criminal systems are not seen as particularly favorable to citizens or relatively less powerful parties attempting to bring complaints against the

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52. See generally Sara Rismyhr Engelund, *Introductory Essay: “The Other” and “Othering,”* NEW NARRATIVES, <http://newnarratives.wordpress.com/issue-2-the-other/other-and-othering-2/> (describing the process of “othering” as a “manifestation of power relations” in which viewing groups as fundamentally different is used a method to delegitimize and devalue those groups); Paul Flowers & Darren Langdrige, *Offending the Other: Deconstructing Narratives*, 46 BRIT. J. PSYCHOL. SOC’Y 679, 686 (2007) (noting the damaging process of “othering” gay men through a focus on their “deviance” from mainstream heterosexual behavior).

government.<sup>53</sup> Because of the mere perception of judicial bias toward the Kremlin and Duma,<sup>54</sup> ordinary citizens or NGOs might be deterred from challenging discriminatory laws. Furthermore, the failure of recent domestic challenges to anti-LGBT legislation provides a jurisprudential grounding for upholding these laws and a judicial shield against complaints of government favoritism.<sup>55</sup>

In addition to creating obstacles to challenging discriminatory laws in court, Russian anti-LGBT legislation codifies the unequal status of its LGBT citizens, legitimizing and perhaps increasing pre-existing anti-LGBT sentiment in Russian popular opinion. The very language of Russian anti-LGBT laws, particularly that of the propaganda law 436-FZ, explicitly deems LGBT relationships unequal and prohibits the mere portrayal of LGBT relationships as equal to heterosexual relationships:

Promotion of non-traditional sexual relationships among minors expressed in the dissemination of information aimed at forming *non-traditional* sexual orientation, attractiveness of *non-traditional* sexual relationships, *distorted interpretation of social equivalency of traditional and non-traditional* sexual relationships or touting of information that attracts interest in such relationships in minors, if these actions do not contain a criminal offense.<sup>56</sup>

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53. Wiener-Bronner, *supra* note 5.

54. Duma is the legislative branch of the Russian government. See more about "Duma" at <http://www.britannica.com/EBchecked/topic/173419/Duma>.

55. See generally, *Russia's Anti-Gay Laws: The Politics and Consequences of a Moral Panic*, THE DISORDER OF THINGS (Jun. 23, 2013), <http://thedisorderofthings.com/2013/06/23/russias-anti-gay-laws-the-politics-and-consequences-of-a-moral-panic/> (noting that many crimes against LGBT in Russia go unpunished and that many legal challenges brought against anti-LGBT laws in domestic Russian courts have failed).

56. Federal'nyy Zakon o Ynesenii Izmeneniy v Stat'i 5 Federal'nogo po Zashchite Detey ot Informatsii Prichinyayushchey vred ikh Zdorov'yu i Razvitiyu i v Otdel'nyye Zakonodatel'nyye akty Rossiyskoy Federatsii v Tselyakh Zashchity Detey ot Informatsii chto Sposobstvuyet Otritsaniye Traditsionnykh Semeynykh Tsennostey [Federal Law on Amendments to Article 5 of the Federal on Protecting Children from Information Harmful to Their Health and Development and to Certain Legislative Acts of the Russian Federation with the Aim of Protecting Children from Information that Promotes Negation of Traditional family Values], ROSSIISKAIA GAZETA [Ros. Gaz.] Dec. 29, 2010 (emphasis added).

First, classifying heterosexual and same-sex relationships as traditional versus non-traditional indicates that same-sex relationships are not only legally different from heterosexual relationships, but are also inferior to “traditional” relationships. Second, the reference to the “distorted interpretation of social equivalency of traditional and non-traditional sexual relationships”<sup>57</sup> goes further, implying that information that argues that same-sex and heterosexual relationships are equivalent is misinformation aimed at “harming” children. Third, the very purpose of the law and the classification of pro-LGBT information as “propaganda” implies that same-sex relationships are not only inferior to “traditional” relationships, but are actually a harmful and negative influence on children. Despite the availability of significant social and scientific research to the contrary regarding the health and social equivalency of same-sex relationships,<sup>58</sup> the terms and language of the law perpetuate dangerous stigmas against same-sex relationships.<sup>59</sup> By couching the law as an attempt to protect children from negative influences and describing same-sex relationships as harmful to children, the law clearly implies that same-sex relationships are abnormal, amoral, and harmful to society at large.<sup>60</sup>

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57. *Id.* at art. 3.

58. See generally, Pre-publication Draft by Gregory M. Harek, *Stigma, Prejudice, and Violence Against Lesbians and Gay Men*, DEPARTMENT OF PSYCHOL. AT UNIVERSITY OF CALIFORNIA AT DAVIS, [http://psychology.ucdavis.edu/rainbow/html/spssi\\_91\\_pre.PDF](http://psychology.ucdavis.edu/rainbow/html/spssi_91_pre.PDF) (last visited Mar. 3, 2015) (arguing that social stigma suffered by LGBT individuals may be more harmful than their perceived harm to society); CAN. PSYCHOLOGICAL ASS'N, MARRIAGE OF SAME-SEX COUPLES: 2006 POSITION STATEMENT (2006) *available at* <http://www.cha.org.ar/docs/matrimonio/CanadianPsychologicalAssociation.MarriageofSame-SexCouplesPositionStatement.pdf> (clarifying that in reference to children “there are no reliable differences in their mental or social adjustment and that lesbian mothers and gay fathers are not less fit as parents as than are their heterosexual counterparts”); *LGBT-Sexual Orientation*, AM. PSYCHIATRIC ASS'N, <http://www.psychiatry.org/lgbt-sexual-orientation> (last visited Oct. 13, 2014) (arguing that all major psychiatric organizations have removed homosexuality from lists of mental disorders and that homosexuality in causes no “impairment in judgement [sic], stability, reliability, or general social or vocational capabilities”).

59. See generally, Harek, *supra* note 58 (arguing that social stigma suffered by LGBT individuals may be more harmful than their perceived harm to society).

60. See Explanatory Note to the Draft Federal Law “On Amendments to the Code of the Russian Federation on Administrative Offences,” *Full English*

The language of the law, and domestic jurisprudence surrounding it, has practical effects on the restriction of LGBT rights. Because the language is particularly vague with respect to what constitutes “information” and what constitutes “public” dissemination of that information; some argue that the law could potentially outlaw any perceived or actual public, homosexual behavior, as such behavior may harm any children that are in the public space.<sup>61</sup> It is for this very reason that parades have been prohibited under judicial interpretation of the law, and some worry that more extreme interpretations of the law could go so far as to outlaw simple public displays of affection between same-sex couples.<sup>62</sup>

By harshly distinguishing between heterosexual and same-sex relationships the legislation explicitly allows for discriminatory treatment of information about LGBT issues and some have argued that the law condones other forms of discrimination against LGBT citizens outright.<sup>63</sup> According to some sources, anti-LGBT legislation in Russia has flourished because of anti-LGBT sentiment in Russian popular opinion and the legislation is merely reflective of social values.<sup>64</sup> On the other hand, even if anti-LGBT legislation has widespread

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*Text of Russia's Anti-gay Law*, DAILY KOS (Apr. 11, 2012, 10:01 PM) <http://www.dailykos.com/story/2012/04/11/1082469/-Full-English-text-of-Russia-s-anti-gay-law> (“By itself, the prohibition of such propaganda as an activity of purposeful and uncontrolled dissemination of the information that could harm the health and moral and spiritual development, as well as form misperceptions about the social equivalence of conventional and unconventional sexual relationships, among individuals who, due to their age, are not capable to independently and critically assess such information cannot be regarded as violating the constitutional rights of citizens.”).

61. See, *Russia: Federal Laws Introducing Ban of Propaganda of Non-traditional Sexual Relationships*, ARTICLE 19 (June 27, 2013), <http://www.article19.org/resources.php/resource/37129/en/russia:-federal-laws-introducing-ban-of-propaganda-of-non-traditional-sexual-relationships>; *The Facts on LGBT Rights in Russia*, THE COUNCIL FOR GLOBAL EQUALITY, <http://www.globalequality.org/newsroom/latest-news/1-in-the-news/186-the-facts-on-lgbt-rights-in-russia>. (last visited Mar. 2, 2014).

62. See generally, ARTICLE 19 *supra* note 61 (noting that ambiguities in the law could be seen as prohibiting any public displays of homosexual behavior).

63. See U.S. DEP'T STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, RUSSIA HUMAN RIGHTS REPORT 2013 1-2 (2013) (noting that there has been an increased number in reported attacks with alleged homophobic intent).

64. See *Russia Anti-Gay Bill Passes With Overwhelming Majority*, SPUTNIK INT'L (June 11, 2013), available at <http://en.ria.ru/society/20130611/181618460/Russian-Anti-Gay-Bill-Passes-With-Overwhelming-Majority.html>.

support, such legislation actually increases or exacerbates anti-LGBT sentiment by creating at least the appearance that the government approves of homophobia.<sup>65</sup> Since the passage of 436-FZ, similar regional laws, and other federal laws that either explicitly deny LGBT rights or describe same-sex relationships as unequal, there has been a marked increase in homophobic attacks in Russia.<sup>66</sup> Many LGBT Russian citizens contend that although homophobia has long been present in Russian popular opinion, it has become at least more visible and, in many instances, more violent in recent years.<sup>67</sup>

In addition to anti-LGBT legislation having widespread support due to anti-LGBT popular opinion, the issue has become a key point for Putin, Russia's position in global politics and international influence, and perceived interference in Russian affairs by U.S. and other western interests.<sup>68</sup> Because Putin consistently utilizes social conservatism as a pillar of his political agenda to gain popular support, he often uses the issue of LGBT rights as a way of exploiting the "us versus them" mentality that characterizes the Russian public's view of the United States.<sup>69</sup> Putin describes U.S. recognition of LGBT rights as indicative of the United States' departure from traditional moral values and warns that if Russia were to do the same, it too would slip into moral decline.<sup>70</sup> As a result, Russian popular anti-LGBT sentiment has become intertwined with nationalism, patriotism, and anti-U.S. sentiment. Conversely, support for LGBT rights is seen as amoral and anti-Russian, creating additional stigma that those who advocating for LGBT rights within Russia must overcome.<sup>71</sup>

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65. *Supra* note 61.

66. See U.S. DEP'T STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, RUSSIA HUMAN RIGHTS REPORT 2013 1-2 (2013).

67. Nikolay Alekseyev, *Fighting the Gay Fight in Russia: How Gay Propaganda Laws Actually Only Help*, RUSSIAN TIMES (Aug. 24, 2013), available at <http://rt.com/op-edge/russia-gay-rights-sochi-945/>.

68. David Ernst, *Putin's Right Hook: The Strategic Implications of Russia's New Conservatism*, FEDERALIST (Feb. 26, 2014), available at <http://thefederalist.com/2014/02/26/putins-right-hook-the-strategic-implications-of-russias-new-conservatism/>.

69. *Id.*

70. See generally Kathy Lally, *Putin: Gay People Will be Safe at Olympics if They "Leave Kids Alone,"* WASH. POST (Jan. 17, 2013), available at [http://www.washingtonpost.com/world/putin-gays-will-be-safe-at-olympics-if-they-leave-kids-alone/2014/01/17/e6f8c47e-7f7d-11e3-95c6-0a7aa80874bc\\_story.html?hpid=z4](http://www.washingtonpost.com/world/putin-gays-will-be-safe-at-olympics-if-they-leave-kids-alone/2014/01/17/e6f8c47e-7f7d-11e3-95c6-0a7aa80874bc_story.html?hpid=z4).

71. Ernst, *supra* note 68.

The practical implications of Russia's anti-LGBT laws are not limited domestically to Russia – they extend to those who view Russian denial of LGBT rights as a model for the protection of “traditional” values. Many socially conservative groups within the U.S. applaud the efforts of Putin and Russian legislators to curb the “gay agenda,” and view Russia as a “protector” of morality and Christian values.<sup>72</sup> Similarly, socially and religiously conservative countries in the Middle East and Africa that have enacted anti-LGBT laws within their own countries and have cited Russian legislation as both a model for their laws and evidence that anti-LGBT sentiment is widespread.<sup>73</sup> Due to its position as a world power, Russian anti-LGBT sentiment serves as a legitimizing force for homophobia around the world.

In sum, Russian anti-LGBT legislation, particularly 436-FZ, has far more practical implications than merely prohibiting the distribution of LGBT information to minors. The language of the law, explicitly, implicitly, and through interpretations of various courts, creates the appearance of government approval of homophobia, exacerbating homophobic sentiments in the Russian populous. Because anti-LGBT sentiment has become intertwined with complex notions of Russian nationalism and its potential position as a protector of traditional values, such legislation has become a legitimizing force for homophobia both within Russia and throughout the international community.

#### B. IMPLICATIONS OF ECHR JURISPRUDENCE

In light of the numerous practical effects of Russian anti-LGBT legislation, it is all the more important to use international law to address and potentially curb the increase in homophobic legislation and sentiment in Russia and elsewhere. The ECHR has addressed only one complaint brought by Russian citizens alleging human rights violations due to discrimination against the LGBT community in Russia,

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72. James Kirchik, *Why American Social Conservatives Love Anti-Gay Putin*, DAILY BEAST (Aug. 1, 2013), available at <http://www.thedailybeast.com/articles/2013/08/01/why-american-conservatives-love-anti-gay-putin.html>.

73. See generally *Human Rights Groups Support Russia's Law to Protect Children from Homosexual Propaganda*, LIFESITE (Sep. 5, 2013), available at <http://www.lifesitenews.com/news/human-rights-groups-support-russias-anti-gay-propaganda-law>.



but it has substantial jurisprudence expanding the recognition and protection of LGBT rights within the European community. This jurisprudence could have substantial implications for Russia should support complaints brought by Russian citizens, particularly if a complaint were to be brought regarding 436-FZ.

Three ECHR cases in particular could serve as precedents for a case alleging that 436-FZ violates of the Convention. *Baczowski v. Poland*, which held that the refusal to allow a public march raising awareness for minority rights was a violation of Articles 11, 13, and 14 of the ECHR Convention,<sup>74</sup> and *Alekseyev v. Russia*<sup>75</sup> would both apply to 436-FZ, which has been interpreted to allow for the prohibition of gay pride parades in Russia.

Although the Convention allows for certain limitations on speech and expression for the protection of “health and morals,” the ECHR has explicitly rejected that particular justification with respect to the limitation of LGBT information and expression. On the contrary, the Court ruled in *Vejdeland v. Sweden* that there had been no violation of free speech where anti-gay leaflets had been banned.<sup>76</sup> Thus, the implied justification for the discriminatory nature of 436-FZ, the protection of health and morals of children, would likely not be persuasive to the ECHR.

ECHR jurisprudence reflects a growing international trend in favor of the recognition and protection of LGBT rights and many argue that the Court would likely find that Russian anti-LGBT actions and legislation violate the Convention.<sup>77</sup> However, despite hopes that the ECHR might provide an avenue for the Russian LGBT community to challenge anti-LGBT laws, there are many limitations to the effectiveness of the ECHR with respect to Russia’s treatment of its LGBT citizens.

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74. *Baczowski v. Poland*, App. No. 1543/06 Eur. Ct. H.R. (2007).

75. *Alekseyev v. Russia*, App. No. 4916/07 Eur. Ct. H.R. (2010).

76. *Vejdeland v. Sweden*, App. No. 1813/07 Eur. Ct. H.R. (2012) (holding that there had been no violation of the right to free speech where anti-gay leaflets had been banned, further holding that discrimination based on sexual orientation was as serious discrimination based on race, origin, or color).

77. See generally, *Sexual Orientation Factsheet*, EUROPEAN COURT OF HUMAN RIGHTS [http://www.coe.int/t/dg4/lgbt/CoELGBTIssues/LGBTIssuesCourt\\_EN.asp](http://www.coe.int/t/dg4/lgbt/CoELGBTIssues/LGBTIssuesCourt_EN.asp) (last visited Mar. 3, 2015).

## C. DEFICIENCIES OF THE INTERNATIONAL LEGAL RESPONSE

ECHR jurisprudence on the recognition and protection of LGBT rights, though expansive and relatively progressive, has been inconsistent and leaves important protections under the Convention relatively unassociated with the protection of LGBT rights. Importantly, although the ECHR has consistently found discrimination against LGBT individuals on the basis of sexuality in violation of Articles 8 and 14, the ECHR has failed to rule in favor of an LGBT applicant lodging a complaint under Article 10 and has rarely ruled in favor of an LGBT applicant lodging a complaint under Article 11.<sup>78</sup> Article 10 provides for the protection of the right to “hold opinions and to receive and to impart information,” which would appear to be applicable to a law that prohibits the dissemination of LGBT information. Though Article 10 is subject to restrictions, including those based on the “protection of health and morals,” it appears likely that, if the ECHR were to hear a complaint against 436-FZ, it would not view protection of the health of children as a valid justification for the prohibition of dissemination of LGBT information.<sup>79</sup> Similarly, Article 11 – which provides for the freedom of assembly and association, though again subject to restrictions including those based on the “protection of health morals” – could likely provide protections against the prohibition of gay pride parades.<sup>80</sup>

While Article 11 seems best suited to protect gay pride parades, Article 10 would seem to be the best option for protecting the general dissemination of LGBT information. While gay pride parades are certainly more visible forms of activism and support for LGBT, basic information and advocacy efforts, not to mention the wide range of activities that could be included under broad interpretations of 436-FZ,

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78. Paul Johnson, *Russia's "Anti-Gay Propaganda Law" and the European Court of Human Rights*, EUROPEAN COURT BLOG (Apr. 6, 2013), <http://europeancourts.blogspot.com/2013/04/russias-anti-gay-propaganda-law-and.html>.

79. *Sexual Orientation Factsheet*, EUROPEAN COURT OF HUMAN RIGHTS, [http://www.coe.int/t/dg4/lgbt/CoELGBTIssues/LGBTIssuesCourt\\_EN.asp](http://www.coe.int/t/dg4/lgbt/CoELGBTIssues/LGBTIssuesCourt_EN.asp) (last visited Mar. 3, 2015).

80. Paul Johnson, *Russia's "Anti-Gay Propaganda Law" and the European Court of Human Rights*, EUROPEAN COURT BLOG (Apr. 6, 2013), <http://europeancourts.blogspot.com/2013/04/russias-anti-gay-propaganda-law-and.html> (noting that in three cases the ECHR has provided protections for gay pride parades under Art. 11).

may provide more daily support and validation for LGBT citizens. Without a ruling in favor of an Article 10 complaint, the ECHR continues to fail to adequately address the prohibition of dissemination of LGBT information and therefore fails to protect the most direct advocacy efforts for and expressions of Russian LGBT.

A more practical limitation of the ability of the ECHR and the international legal community to protect the rights of Russian LGBT citizens is the fact that Russia does not appear to view the rulings of the ECHR or the opinion of the international community as influential, let alone dispositive. Despite ECHR precedents, Russia has continued to enact anti-LGBT legislation that appears to fly in the face of ECHR rulings.<sup>81</sup> Additionally, recent events in Ukraine and elsewhere indicate that Russia may view its actions as above international laws and precedents.<sup>82</sup> As a result, even if the ECHR were to hear more complaints against Russia by its LGBT citizens and rule in favor of the LGBT community, Russia may continue to act and legislate in an anti-LGBT manner

#### D. A MULTI-FACETED APPROACH TO SECURING PROTECTIONS FOR RUSSIAN LGBT CITIZENS

In light of increased anti-LGBT legislation and increased homophobic sentiments and incidents in Russia, improved protections and solutions for Russia's LGBT community and LGBT activists are particularly important. However, due to the nature of Russia's legal system, Russian society, and Russian response perceived international interference, securing adequate protections for its LGBT citizens will require a nuanced and multi-faceted approach.

Despite the perception that Russian domestic courts are unlikely to rule in favor of LGBT parties challenging the Kremlin, several LGBT groups have brought and continue to bring complaints against the discriminatory nature of laws like

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81. U.S. DEPT STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, RUSS. HUMAN RIGHTS REPORT 2013 1-2 (2013).

82. *See generally* Mark Lyall Grant, Remarks as the UN Ambassador to the UN Sec. Council Meeting on Ukr. (Mar. 19, 2014) (transcript available at: <https://www.gov.uk/government/speeches/russia-cannot-be-granted-impunity-to-disregard-international-law-and-the-un-charter>).

436-FZ.<sup>83</sup> Legal challenges to anti-LGBT legislation will be important, not only to create awareness that such laws are not acceptable to those that are affected the most, but also create legal and social momentum for challenging the legitimacy of anti-LGBT sentiment.

The rise in social conservatism and the perception that anti-LGBT sentiment is intertwined with patriotic fervor complicate these efforts and pose unique obstacles for those advocating for LGBT rights within Russia. Many activists remain hopeful that public opinion is shifting, as younger Russian generations are more favorable to LGBT rights.<sup>84</sup> Public support will be particularly important if domestic courts remain reluctant to find in favor of LGBT groups challenging federal and regional laws. Activists are also quick to point out that international public support is equally important.<sup>85</sup> Although anti-LGBT legislation in Russia has become hot-button issue and was widely discussed during the Sochi Winter Olympics, anti-LGBT laws and sentiment have long been present in Russia. Continued international pressure through public sentiment, business practices, and political sanctions may help bring change, though they are unlikely to be sufficient to protect Russian LGBT citizens on a daily basis.

International jurisprudence, particularly that of the ECHR, should continue to expand upon the rights and protections of the LGBT community. The ECHR should expand LGBT protections under the Convention to Articles 10 and 11, which would likely bring LGBT pride parades, political demonstrations, and dissemination of information about LGBT issues under the protection of the right to free speech. In order to address the lack of complaints heard alleging violations under Articles 10 and 11, the ECHR might make hearing complaints from Russian LGBT a priority. Although additional rulings in favor of LGBT complainants under these articles may not sufficiently influence overall Russian treatment of LGBT, it will at least provide multiple avenues under which the LGBT community could seek redress against

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83. Nikolay Alekseyev, *Fighting the Gay Fight in Russia: How Gay Propaganda Laws Actually Only Help*, RUSSIAN TIMES (Aug. 24, 2013) <http://rt.com/op-edge/russia-gay-rights-sochi-945/> (noting that several LGBT have lodged complaints both domestically and abroad challenging Russian official actions and legislation).

84. *Id.*

85. *Id.*

discriminatory legislation and actions.

### III. CONCLUSION

Anti-LGBT legislation and popular sentiment are not new issues in Russia. Although Russia had taken some relatively progressive steps towards the liberalization of LGBT laws following the fall of the Soviet Union, more recent legislation has created very real obstacles to securing and advocating for LGBT rights. Legislation like 436-FZ brought international attention to anti-LGBT sentiment in Russia and highlights the various negative, practical implications of the perception or reality of state approved homophobia. A rise in social conservatism and the popularity of Putin, who is perceived as a champion of “traditional” values, pose unique obstacles for LGBT activists advocating for increased protections. LGBT complainants face practical difficulties when challenging discriminatory laws in domestic Russian courts, as well as international courts, which may not hold significant influence over Russian behavior. In light of this complex array of obstacles to securing LGBT protections, it will be important to develop a multi-faceted, integrated strategy for advancing LGBT rights within Russia – a strategy that incorporates grass-roots and international activism and domestic and international legal actions.