Convenient Targets
The Anti-“Propaganda” Law & the Threat to LGBT Rights in Russia
August 2013
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Executive Summary

In 2004, State Duma parliamentarian Alexander Chuev reintroduced a bill that would ban “homosexual propaganda.” On the same day, the Duma received a statement opposing the bill. It was sent by the Prime Minister’s office, which pointed out that the legislation would violate both the Russian Constitution and the European Convention on Human Rights.

Three times when Vladimir Putin (2003, 2004, and 2006) was president, Russia’s executive branch opposed “homosexual propaganda” bills. Its enlightened stance mirrored the expanding freedom for lesbian, gay, bisexual, and transgender (LGBT) people in Russia, which had decriminalized homosexuality in 1993. While homophobia and antigay hate crime remained serious problems, LGBT people were beginning to be able to live more openly, especially in cities. As the middle class grew, so did the level of personal freedom of Russians, regardless of ethnicity, religion, or sexual orientation. The growth of freedom from government interference—“negative liberty”—for the silent majority was accompanied by targeted government efforts to undermine the “squeaky wheels” embodied by independent civil society, media, and opposition voices.

Flash forward to June 2013 when Putin signed into law the latest incarnation of a “propaganda” bill, which had passed both houses of parliament virtually unanimously. Alexander Zhukov vividly embodies the rapid regression of Russia’s political class on LGBT rights. In 2004, as deputy prime minister, he signed the statement opposing the bill. Now as both deputy speaker in the Duma and head of Russia’s Olympic Committee, he has voted for the bill and defended it before the international community in anticipation of the Sochi Olympics in February.

The pushback against gay rights is part of a broader crackdown on “positive liberties” and dissent that has its roots in the massive anti-government protests born in December 2011, when Russians took to the streets to protest alleged fraud in the parliamentary elections. The unrest sent shockwaves through the political establishment and prompted President Putin, when he returned to the presidency in May 2012, to use repressive laws and law enforcement to try to weaken civil society. The “Bolotnaya trial” defendants and the members of the feminist punk collective Pussy Riot are merely the most famous victims of persecution, who include other government critics, human rights activists, independent journalists, and whistleblowers.

And now in a populist move designed to strengthen his domestic political standing and divert attention from other topics, Vladimir Putin has embraced the publicly endorsed assault on LGBT rights, which began years ago at the local level and encompasses an array of regional laws and assaults on free expression and association, and now even extends to Russia’s diplomacy on the world stage. Perhaps most importantly, the suppression of freedom for LGBT citizens comes amid—and will only exacerbate—Russia’s persistent problem of anti-LGBT violent hate crime perpetrated largely by ultranationalist groups.

This report examines different aspects of the assault on LGBT rights in Russia:

- Violent hate crime against LGBT Russians
- Local laws banning homosexual “propaganda”—precursors to the federal law
- Prominent court rulings on LGBT rights
- Russia’s support for “traditional” values in the international arena
- The evolution of the federal ban, including the history of the executive branch’s prior opposition
- The 2013 Federal Anti-“Propaganda” Law
- The Anti-“Propaganda” law & the Sochi Olympics

It also includes recommendations for the Obama administration as it opposes Russia’s crackdown on gay rights in the context of mounting tensions between the two countries. Indeed, Russia’s support for the 2013 federal anti-“propaganda” law is, among other things, a politically popular rejection of “Western values.” In an appearance on the Tonight Show in early August, President Obama
condemned the law, saying, “I have no patience for countries that try to treat gays or lesbians or transgender persons in ways that intimidate them or are harmful to them.” His words were consistent with his effort to lead internationally on LGBT rights. Beyond denunciation, however, it’s not clear what he intends to do. What does “no patience” mean?

While the U.S. government must continue to stand up for Russia’s LGBT people, it should also be strategic because in a country where it’s widely believed that homosexuality is a product of the West, external opposition to the anti-“propaganda” law could harden support within. The central goal of U.S. policy should be to bolster those fighting for freedom on the frontlines and to protect LGBT Russians from persecution and violence. This will take a sustained effort, one that lasts well beyond the Sochi Olympics, and it should begin when President Obama travels to St. Petersburg for the G20 Summit on September 5th and 6th.

President Obama should:

- **Meet with human rights activists at the G20 Summit.** Such a meeting would exhibit U.S. leadership and enable the President to hear first what forms of support activists seek.

- **Direct the State Department to Seek Clarification on Anti-“Propaganda” Law.** This vague law has yet to be used. Its ambiguity could allow for discriminatory, targeted use against Russians and Americans traveling to Russia.

- **Lead a Multilateral Coalition to Oppose Discrimination and Violence against LGBT People.** The U.S. should work to oppose the law not just with European allies but also with leaders of countries like Mexico, Brazil, Uruguay, South Korea, and South Africa.

- **Use the Russian Government’s Own Words to Oppose the Law.** By using the Russian government’s own words in its public messaging, the U.S. would make a strong case against the law and expose the cynicism of its about-face on this issue.

- **Call for Leadership from U.S. Olympic Committee within the International Olympic Community.** The IOC has meekly accepted Russia’s defense of the law, and the U.S. Olympic Committee, while condemning the law, has urged American athletes to comply with it.

A full list of recommendations appears at the end of the report.
Introduction

“I should tell you that homosexuality in our country has been overcome once and for all but not entirely,” wrote Venedikt Erofeev in his 1969 masterwork, the prose poem Moscow—Petushki. “Or, entirely but not completely. Or else, entirely and completely but not once and for all. What do people think about now? Nothing but homosexuality.”

Forty-four years later, with both Erofeev and the Soviet Union long gone, the Russian state is trying to “overcome” homosexuality with a legislative and legal assault on the rights of LGBT people. A national bill banning “propaganda of homosexuality to minors” is the centerpiece of this effort, which comes amid a wider government rollback of human rights.

“IT is probably appropriate for us to take a pause, reassess where it is that Russia is going,” said U.S. President Barack Obama, explaining why he had decided to cancel a head-to-head meeting with President Vladimir Putin during the G20 Summit in St. Petersburg. Stressing that the snubbing had more causes than just Russia’s decision to give temporary asylum to NSA leaker Edward Snowden, President Obama cited Russia’s worsening human rights situation and other policy differences.

The economic rise of modern Russia propelled the country’s elite into an unknown territory: no longer in the “hungry nineties,” the Russian Federation continues to grow in strength at home and assertiveness abroad. Though modern Russia is not and should not be compared to the Soviet Union, the country’s bureaucrats who came of age in the Soviet era are taking the “sovereign democracy” of the aughts in a not-new or exciting direction as they nourish around them a crop of younger politicos with no recollection of—but much respect for—the Soviet Days.

The new era of suppression has its roots in the 2011 parliamentary elections when allegations of fraud triggered mass protests that continue on a smaller scale to this day. The government prosecuted and jailed protest leaders, demonstrating an intolerance for dissent that has since deepened and widened. Although there remains a relatively high degree of political freedom in Russia, the creeping authoritarianism threatens to eradicate the progress of recent years.

Civil society activists and independent journalists face mounting persecution, and the fundamental rights of all Russians are undermined by new restrictions on internet freedom and changes—both enacted and pending—to federal laws on treason, civic protest, offending religious beliefs, anti-extremism, and libel. Activists still face threats and physical attacks from security forces—though reports of such incidents are declining—and they are increasingly vulnerable to persecution under a variety of restrictive laws and through the selective application of administrative control measures.

In this climate of increasing repression, LGBT Russians are frequent targets. Cities and towns began the legislative assault, the Church has endorsed it, courts have signed off on it, and national politicians have embraced it. Local governments have passed laws prohibiting the dissemination of “propaganda of homosexuality to minors” and have undermined the right to association and assembly by banning gay pride parades and denying registration to groups that promote nondiscrimination. Two notable recent examples: Moscow banned gay pride parades for one hundred years, and a court denied registration to Sochi Pride House, saying it was an “extremist” outfit bent on undermining the country’s “sovereignty and territorial integrity.”

President Putin, whose government opposed earlier incarnations of the “propaganda” bill, has ridden the populist, homophobic wave. By backing overwhelmingly popular antigay measures, President Putin can curry favor and change the subject away from the question of his own performance. After both houses of the Federal Assembly passed the bill banning the “propaganda of nontraditional sexual relations among minors,” Vladimir Putin signed it on June 29, 2013. The bill, which passed alongside a bill banning same-sex adoption, is unlikely to be the final sally in the battle against LGBT freedom.

No one has yet been charged under the federal law, so why the concern? Because the law further legitimizes
homophobia in the eyes of Russians, with potentially violent results. The government has been reluctant to acknowledge that gays can be targeted and killed because of their sexual orientation, and courts have been unwilling to recognize the bias motivation in such incidents. Courts have already used the regional bans on “propaganda” to deny LGBT people the right to assemble and associate. If you ask twenty judges to explain what it means to disseminate “information on nontraditional sexual relations,” you’ll likely get twenty different responses. Its vagueness will allow antigay agitators and judges to use the law to codify discrimination. With a federal bill that can be used to discriminate against LGBT persons, official rhetoric vilifying “nontraditional” or “deviant” relations has been cheered by the very same ultranationalist groups that the government is targeting for perpetrating ethnic hate crimes.

More than seventy countries have antigay laws that expressly criminalize same-sex relations and are even more draconian than Russia’s ban on “propaganda,” but none have generated such an international outcry, which will only grow louder as the Sochi Olympics approaches because the story has so much to offer: the lure of the Winter Games; Russia’s growing brand in world economy and affairs; the country’s eternal mystique; the vibrant protests over elections, draconian laws, and government restrictions that create the ambiance out of which the anti-“propaganda” bill was born.

Violent Hate Crime in Russia

Over the last decade, the rise of the Russian right-wing sympathizers, who number in the tens of thousands, has led to a wave of violent hate crime, claiming as many as 500 lives of ethnic, religious, and sexual minorities since 2004. The ability of Neo-Nazis to attack people with impunity has been a threat to both public safety and the credibility of the Russian government.

In December 2010, the murder of a Russian soccer fan provoked a spontaneous ultranationalist rally, thousands-strong, that turned violent in downtown Moscow. The police were, as usual, late in responding to the riots, which spawned ethnically motivated attacks on people in the streets and on the subways. Both President Medvedev and then-Prime Minister Putin condemned the attacks, but the authorities made no arrests. Smaller rallies took place across the country.

Violent hate crime peaked in 2008-2009. Now, after a significant decrease due to improved law enforcement, NGOs are again observing an upward tick. Ethnic and religious minorities have always been the principal targets, but as Russia’s LGBT communities become more visible, statistics show a growing number of antigay attacks and acts of vandalism. In June, three men on the Kamchatka peninsula stabbed and trampled to death a 39-year-old man. According to investigators, he was killed because he was gay. Less than a month earlier, authorities in Volgograd, said a 23-year-old man was tortured and killed after revealing his sexual orientation during a drinking session. But because authorities usually refuse to identify antigay violence as such, most documented attacks occur at public events in Moscow and Saint Petersburg; with most recent beatings taking place at the Mars Field in Saint Petersburg on June 29, 2013.

The SOVA Center’s monitoring of hate crime cites one murder and thirteen beatings motivated by antigay bias during the first half of 2013, eclipsing the number of attacks reported by the nongovernmental group in 2012 (twelve) and 2011 (three), when both public protests for equality and against the federal bill were rare. This data focuses on “visible” attacks against frontline defenders. There is no data on day-to-day violence and harassment targeting LGBT people. The Russian LGBT Network’s monitoring for 2012 cites sixteen incidents of violence motivated by sexual orientation and gender identity bias, though the police seldom investigate the bias. The government’s data on hate crime is not aggregated between types of biases or between violent and speech-related offenses. The police record “extremist” crimes, which often include nonviolent incidents and even cases initiated against human rights defenders. Furthermore, there is no official data that tracks the response of police to crimes with a suspected bias motivation or the disposition of hate crime cases prosecuted in the courts. As in many other countries, widespread underreporting by hate crime victims in Russia calls into question the extent to which official records or nongovernmental monitoring could capture the true extent of the problem. The
“propaganda” law makes it even less likely that police and prosecutors will openly address antigay hate crime because they could be “disseminating propaganda” by acknowledging that a victim was killed because of his or her sexual orientation. The continuous stigmatization and discriminatory legislative initiatives make it ever more difficult for people to report that they were targeted because of their sexual orientation or gender identity.

Regional “Propaganda” Bans

Since 2006, ten regional legislative bodies have adopted laws prohibiting “propaganda” of homosexuality, and several more were considering similar bans when the federal law was enacted: Vladimir Oblast, Kirov Oblast, the city of Moscow, Moscow Oblast, Perm Krai, Sverdlovsk Oblast, and the Sakha (Yakutia) Republic. Although in each case the goal of lawmakers is the same—discriminatory restrictions on the rights of LGBT people—the measures have subtle differences that are worth noting. The legislators of Krasnodar Krai banned all forms of “propaganda of sexual deviance.” In Kaliningrad Oblast, minors were left out of the bill; in Kaliningrad Oblast, Kostroma Oblast, Krasnodar Krai, Samara Oblast, and Saint Petersburg, “propaganda” of pedophilia is likewise banned even though pedophilia is a criminal offense while same-sex relations between consenting adults were decriminalized in 1993. Seldom applied, the laws have been used selectively to deny or disrupt public demonstrations by prominent gay rights activists, perhaps revealing the true purpose of instituting administrative fines for engaging in “propaganda.”

Finally, the language on “nontraditional sexual relations” used in the regional bans identifies homosexuality as a primary example of such relations, which helps us understand what the federal lawmakers were really after when they banned “propaganda of nontraditional sexual relations among minors.”
<table>
<thead>
<tr>
<th>REGION</th>
<th>YEAR</th>
<th>WHAT’S BANNED</th>
<th>HISTORY OF USE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ryazan Oblast</td>
<td>2006</td>
<td>- Public actions aimed at “propaganda” of homosexuality (sodomy and lesbianism) among minors</td>
<td>- Administrative Offences Code Updated (Article 3.10)¹⁰</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>- Activist fined</td>
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<tr>
<td>Kostroma Oblast</td>
<td>2011</td>
<td>- “Propaganda” of homosexuality (sodomy and lesbianism), bisexuality, and transgenderism among minors; - “Propaganda” of pedophilia</td>
<td>- Administrative Offences Code Updated (Articles 20.1 &amp; 20.2)⁸</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>- Charges dropped</td>
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<td></td>
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<td></td>
<td>- Public event banned</td>
</tr>
<tr>
<td>Arkhangelsk Oblast</td>
<td>2011</td>
<td>Public actions aimed at “propaganda” of homosexuality among minors; repeat offenders face higher fines</td>
<td>- Administrative Offenses Code Updated (Article 2.13)¹⁰</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- Activist fined</td>
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<td></td>
<td></td>
<td></td>
<td>- Public event banned</td>
</tr>
<tr>
<td>City of Saint Petersburg</td>
<td>2011</td>
<td>- Public actions aimed at “propaganda” of sodomy, lesbianism, bisexuality, transgenderism among minors; - Public actions aimed at “propaganda” of pedophilia</td>
<td>- Administrative Offenses Code Updated (Articles 7_1 &amp; 7_2)¹¹</td>
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<tr>
<td></td>
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<td>- Charges dropped</td>
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<td>- Activist fined</td>
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<td>- Public events denied</td>
</tr>
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<td>Novosibirsk Oblast</td>
<td>2012</td>
<td>- “Propaganda” of homosexuality among minors</td>
<td>- Administrative Offenses Code Updated (Article 4.11)¹²</td>
</tr>
<tr>
<td>Magadan Oblast</td>
<td>2012</td>
<td>- Public actions aimed at popularizing sodomy, lesbianism, bisexuality among minors; public actions are defined as activities aimed at inflicting moral and spiritual harm to minors’ development, including through formulating skewed understanding about social equivalence of traditional and nontraditional marriage.</td>
<td>- Administrative Offenses Code Updated (Article 3.16)¹³</td>
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<tr>
<td>Samara Oblast</td>
<td>2012</td>
<td>- Public actions aimed at “propaganda” of homosexuality, bisexuality, transgenderism among minors; Public actions are defined as activities aimed at “purposeful and uncontrolled” dissemination of information that can harm health, moral, or spiritual development of minors; - “Propaganda” of pedophilia</td>
<td>- Administrative Offenses Code Updated (Articles 2.28 &amp; 2.29)¹⁴</td>
</tr>
<tr>
<td>Krasnodar Krai</td>
<td>2012</td>
<td>- Actions aimed at disseminating information that can harm health, moral, or spiritual development of minors, including through formulating skewed understanding about the social equivalence of nontraditional sexual relations (homosexuality or pedophilia)</td>
<td>- Administrative Offenses Code Updated (Article 2.9.1)¹⁵</td>
</tr>
<tr>
<td>Bashkortostan Republic</td>
<td>2012</td>
<td>- Public actions aimed at “propaganda” of homosexuality, bisexuality, and transgenderism among minors</td>
<td>- No sanctions defined, Law on the Rights of Child Updated (Article 14.4)¹⁶</td>
</tr>
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<td>Kaliningrad Oblast</td>
<td>2013</td>
<td>- “Propaganda” of pedophilia, sexual relations with minors, sodomy, lesbianism, bisexuality among anyone (not just minors); repeat offenders face higher fines</td>
<td>- Administrative Offenses Code Updated (Article 26)¹⁷</td>
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Key Legal Challenges

The battle over LGBT rights has played out not just in the streets and in legislatures but also in courts and committees, both in Russia and internationally, where legal arguments for and against laws targeting LGBT Russians have been presented.

**Alekseyev v. Russia, the European Court of Human Rights**

LGBT rights activist Nikolai Alekseyev’s work at the European Court of Human Rights in Strasbourg was groundbreaking, resulting in the first verdict against Russia’s violation of freedom of assembly, which the country’s constitution guarantees.18 Alekseyev’s Pride Parade was one of many nonstarter pro-LGBT rights events in Moscow, but it was the first to receive the European court’s attention. The Russian government argued that pride parades should be banned “as a matter of principle, because propaganda promoting homosexuality was incompatible with religious doctrines and the moral values of the majority, and could be harmful if seen by children or vulnerable adults.” In October 2010, the court ruled that the 164 bans on gay pride marches and events between 2006 and 2008 violated the right to freedom of assembly. The European court thereby rejected the Russian government’s arguments that a public event can be prohibited based on the majority’s disapproval of the theme—yet this reasoning persists in the internal decision making of municipal authorities and courts: despite Alekseyev’s victory, in May 2012, a district court in Moscow banned gay pride parades until May 2112.

**Irina Fedotova v. Russian Federation, the United Nations Human Rights Committee**

In March 2009, Irina Fedotova’s protest near a Ryazan school building was interrupted by police, and she was fined 1,500 rubles (less than 50 USD) by a local court for participating in a public action aimed at “propaganda” of homosexuality. Having exhausted possible domestic remedies, the activist pleaded her case at the U.N. Human Rights Committee, which determined that Russia had violated the International Covenant on Civil and Political Rights, arguing that she “was giving expression to her sexual identity and seeking understanding for it.”19

**The Russian Supreme Court Upholds Regional Law**

In August 2012, the Russian Supreme Court rejected the Russian LGBT Network’s challenge of the Arkhangelsk regional law banning public actions aimed at dissemination of gay “propaganda.”30 The Court, however, referenced the ruling in *Alekseyev v. Russia*, underscoring that simply mentioning homosexuality or discussing the social status of sexual minorities does not constitute “propaganda.” The Supreme Court also determined that not all public activities constitute “propaganda” and that a ban on “propaganda” should not infringe upon the right to receive and disseminate information with “general, neutral content” about homosexuality or to conduct public activities, including open debates about the social status of sexual minorities.

According to the Court, “propaganda” is “active public acts” aimed at making nontraditional sexual orientation attractive and at arguing for the equivalence of traditional and nontraditional marriage. Though the Court’s arguments are no less broad and vague than the legislative bans on “propaganda” and are devoid of scientific or medical facts, there is value in the ruling that *some* events and *some* information sharing are allowed.

The Russian LGBT Network has launched other legal challenges to “propaganda” bans, but the Supreme Court has yet to introduce new language into this debate. The activists hope to use the “clarification” supplied by the Supreme Court to prevent persecution under the guise of regional “propaganda” laws, yet other notable cases of selective targeting of dissent or misuse of Russian laws—particularly, in the application of anti-extremism laws—show that lower courts routinely ignore clarifications and legal explanations issued by the Supreme Court.
A Regional Court Overturns a Ban on Protest

In March 2013, a regional court in Kostroma Oblast declared illegal a municipal ban on a public demonstration. Nikolai Alekseyev’s request for a protest against the 2012 Kostroma ban on “propaganda of homosexuality” had been denied by Kostroma city authorities. The Court disagreed that a public protest of the law constituted “propaganda.” The same court decision, however, upheld two bans on protests in front of children’s libraries.

Antigay Russia on the World Stage

The assault on LGBT rights is registering in the international arena, where Russia has been trying to assert its leadership. Since 2009, the Russian Foreign Ministry has promoted resolutions on “traditional values” at the United Nations Human Rights Council. The most recent resolution, adopted by the Council in September 2012, requested that the Office of the High Commissioner for Human Rights collect information “on best practices in the application of traditional values while promoting and protecting human rights and upholding human dignity.”

In April 2012, the foreign ministers of the G8 (minus Russia) countries “reaffirmed that human rights and fundamental freedoms are the birthright of all individuals, male and female, including lesbian, gay, bisexual or transgender individuals.” The ministers of the United States, Canada, France, Germany, Italy, Japan, and the United Kingdom said, “These individuals often face death, violence, harassment and discrimination because of their sexual orientation in many countries around the world.” The Russian delegation disassociated itself from the language, citing a footnote and explaining that the foresaid acknowledgement constitutes “aggressive propaganda.” Indeed, under the federal “propaganda” law, a Russian official could now be fined for endorsing statements like the G8 proclamation. If acknowledging violence based on sexual orientation is “aggressive propaganda,” what isn’t?

The Government’s Prior Opposition to Federal Antigay Laws

Prior to President Putin’s third term, the Russian government fought efforts to impose a federal ban on “propaganda” of homosexuality. State Duma parliamentarian Alexander Chuev spearheaded three attempts—in 2003, 2004, and 2006—to ban “propaganda” of homosexuality. The executive branch has expressed its opposition in official rebuttals to the Duma.

2003. Mr. Chuev’s first bill called for amending Russia’s criminal code to ban “propaganda” of homosexuality.
Proposed punishment was a ban from holding “certain public offices” and from engaging in “certain activities” for 2 to 5 years. The parliamentarian’s explanatory note stated that gay “propaganda” in mass media and education programs was widespread in Russia.24

The official statement from the Prime Minister’s office, signed by Deputy Prime Minister Galina Karelova, said that sexual privacy rights for men and women in Russia, including in regards to sexual orientation, can only be regulated in cases of violence or threats of violence—and, if mutually agreed, even violence cannot be regulated by either criminal or administrative law. Furthermore, “propaganda” of homosexuality cannot be punished in the absence of punishment for homosexuality. Finally, mass media regulations only permit bans on information whose distribution is forbidden by federal laws.25 In April 2004, after 8 months on the docket, the bill was removed from consideration by the Duma.

2004. It took Chuev less than a month to reintroduce the legislation in its original form. On the same day the bill was introduced—May 20, 2004—then-Deputy Prime Minister Alexander Zhukov submitted an official recall to the legislation, pointing out that the bill contradicts article 29 of the Russian Constitution, as well as articles 8, 10, and 14 of the European Convention on Human Rights.” The bill was returned to the lawmaker in June 2004.26

2006. On February 20, 2006, Alexander Zhukov signed another official rebuttal to the very same language in a third antigay bill proposed by Mr. Chuev. The rebuttal argued that the bill contradicted Russia’s criminal code, which does not permit the propagation of noncriminal behavior to be criminalized, and said the bill contains “a row of mistakes and judicial-technical inexactitudes,” and relies on definitions that do not allow to clearly formulate corpus delicti. In 2009, Chuev’s bill went through a first reading at the Duma and was dismissed.

The concerns expressed by the Prime Minister’s office and various Duma committees explain why banning “propaganda” of homosexuality or nontraditional sexual relations contradicts Russia’s laws, constitution, international commitments—and logic. Before 2009, the Kremlin made significant, if selective, strides toward fulfilling its international human rights obligations. The turnaround on these commitments—the calculated political decision to clamp down on opposition, fundamental rights, and minorities—grew out of the political turbulence triggered by the 2011 parliamentary elections. Allegations of fraud sent tens of thousands of people into the streets—the largest post-Soviet protests—which, in turn, sent shivers through the political establishment. That’s why people like Alexander Zhukov, who strongly opposed Chuev’s bills in 2004 and 2006, voted for the federal “propaganda” bill (he is currently a deputy speaker in the Duma) and defended the bill before international audience (he is also head of Russia’s Olympic Committee).

The Evolution of the Current Federal Anti-“Propaganda” Law

In March 2012, the Novosibirsk City Council introduced a “propaganda” bill at the federal level, submitting to the State Duma an accompanying note that said that “Propaganda of homosexuality has taken a broad scope in modern Russia. This propaganda is conducted through mass media and through frequent public actions promoting homosexuality as a norm of behavior.” The note relied heavily on the regional laws, calling for a ban on “purposeful and uncontrolled” distribution of information that harms health, moral, and spiritual development of minors and stressing that while “propaganda” is to be punished, “homosexual orientation” would be allowed. It included no details about what type of information sharing should be considered “propaganda.”

First Reading. It took almost a year, but the federal bill made it through a first Duma vote on January 25, 2013. The State Duma’s Legal Division said the federal bill needed work, pointing out that “homosexuality’ is not defined in the legal system.” Yet the Committee on Family, Women, and Children backed the bill and submitted several supporting documents. The committee argued that “in modern Russia, propaganda of homosexuality is widespread: gay pride parades, demonstrations, daytime programs on all TV and radio channels in support of homosexual unions.” Regional bans weren’t sufficient, the committee said, because the Russian Constitution says that only federal laws can regulate the rights of citizens, including the right to freedom of expression. The Committee attempted to define “propaganda,” saying it
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Human Rights First was “holding entertaining events with participation by homosexuals in places accessible to children, and calls for or approving of same-sex relations on TV and radio during hours accessible to children.”

Second Reading. It took drafters six months to amend the legislation, which was reintroduced to the State Duma on June 6, 2013. The new bill overcame the lack of definition of homosexuality by calling for a ban on the promotion of nontraditional sexual relations to minors. The Duma’s Legal Division at first raised concerns in official commentaries to the bill. On May 23, 2013, the legal experts stressed that the bill contains terminology not defined in either proposed legislation or Russian law, including “nontraditional sexual orientation,” “instilling nontraditional sexuality,” “skewed understanding of social equivalence between traditional and nontraditional sexual relations,” and “public acts.” The Legal Division noted that the absence of these definitions makes the proposed bill prone to multiple interpretations. Without addressing any of these concerns, at 5:26 pm on June 11, the Duma voted for the bill in the second reading.

Third Reading. Twenty-six seconds after the second reading, the bill went through a third vote and the Duma passed the bill 436-0 with one abstention. It then went to the upper chamber, the Federation Council, which passed it 137-0 with one abstention on June 26th, then to the President Putin, who signed the bill into law on June 29th.

Thus, Article 6.21 on “propaganda of nontraditional sexual relations among minors” was born in the Code of Administrative Offenses of the Russian Federation.

The 2013 Federal Anti-“Propaganda” Law

At the last moment, the Duma removed explicit references to homosexuality or sexual orientation from the bill. Instead, the law refers to “nontraditional sexual relations.” According to Article 6.21,28 “propaganda” is the act of distributing information to minors that 1) is aimed at the creating nontraditional sexual attitudes 2) makes nontraditional sexual relations attractive 3) equates the social value of traditional sexual relations with that of nontraditional sexual relations; or 4) creates an interest in nontraditional sexual relations.

Russian citizens who violate the law can be fined 4,000 to 5,000 rubles, public officials can be fined 40,000 to 50,000 rubles, and registered organizations can be either fined or ordered to stop operations for 90 days. Disseminating information in the media or on the internet increases the fines: 50,000 to 100,000 rubles for individuals, 100,000 to 200,000 rubles for public officials, and one million rubles and more or a 90-day suspension for organizations.

Foreign citizens or stateless persons are subject to a fine of 4,000 to 5,000 rubles, or they can be deported from the Russian Federation and/or serve 15 days in jail. If a foreigner uses the media or the internet to engage in “propaganda,” the fines increase to 50,000-100,000 rubles or a 15-day detention with subsequent deportation.

Without a legal definition of “propaganda,” “distributing information,” or “nontraditional sexual relations,” the article’s interpretation is left to the police and the courts. Reinforcing local bans on “propaganda” and other antigay measures, it offers the government a powerful tool to persecute activists and other dissenting voices, and the clause targeting foreign citizens allows the government to exhibit its opposition to “Western values.” Other questions for the Russian courts to grapple with: What sort of information creates an interest in nontraditional sexual relations or makes them attractive? What is the social value of traditional sexual relations versus that of other types of sexual interaction? What’s the process of creating nontraditional sexual attitudes?

The Anti-“Propaganda” Law and the Sochi Olympics

The Black Sea Riviera resort’s mystique—and branding—relies on its Dark Nights, Tyomnye Nochi. That’s going to change come February 2014 when Sochi hosts the Winter Olympics. The price tag of the Games has eclipsed $50 billion, and Russia will try to get its money’s worth in terms of international ooh-and-ahs. “Southern hospitality” is a
concept equally cherished by Americans, Europeans, and Russians, and with a chance to showcase itself in the best possible light, the Russia government will try to make sure everything about Sochi is radiant.

But now the anti-“propaganda” law is casting a shadow over the Games. In fact, Russia’s crackdown on LGBT rights touched the Olympics long before the federal “propaganda” bill was introduced. In March 2012, the Pervomai district court of Krasnodar, Russia, published the full text of its decision that upheld a 2011 Krasnodar Ministry of Justice verdict denying registration to Sochi Pride House—a civil society group that, like many advocacy organizations, planned to capitalize on the upcoming 2014 Winter Olympic Games in Sochi to promote their cause. The court ruled that “propaganda of nontraditional sexual orientation” is a direct threat to Russian society and that attempts to confront homophobia are “extremist” because they inherently “incite social and religious hatred.” It was, in other words, the Russian government’s responsibility to protect LGBT individuals who incite hatred by being themselves.

After initially providing contradictory messages, the Russian government confirmed that the law would not be suspended for the Games. That doesn’t mean it will be enforced. The anti-“propaganda” law—as well as laws on extremism, treason, and libel—are so ambiguous that authorities have considerable leeway in deciding whether to apply them. At this summer’s World University Games in Kazan and the World Athletics Championship in Moscow, athletes and spectators spoke out against the “propaganda” law without repercussions, and there is little chance that Russia would invite international derision by arresting someone for “propagandizing.” On the other hand, President Putin’s credibility in Russia may suffer if he silently allows a major pro-LGBT protest to take place. In an attempt to avoid just such a circumstance—and other unwarranted public displays of affection, dissent, or solidarity—he recently issued a decree banning protests during the Olympics and severely limiting access to the city.
Conclusion

Although there is much confusion over what the anti-“propaganda” law means, not even its strongest proponents argue that it amounts to the criminalization of homosexuality. President Putin and his lieutenants go out of their way to describe it in the most benign terms, claiming, for example, that it isn’t discriminatory because it applies to everyone. While this claim is absurd, of course, it’s one indication of the amorphousness of the law. Its meaning and impact will depend on how the government interprets and enforces it.

And how the government interprets and enforces it could, in turn, depend on if and how the international community presses Russia on this issue. While the United States and other countries that support LGBT equality should seek the ultimate repeal of the law, they should in the interim work to see that the Russian government doesn’t use it to engage in widespread persecution of LGBT citizens. For the United States, this will be challenging, both because American pressure could intensify support among Russians, many of whom already believe homosexuality is a Western import, and because the controversy over the anti-“propaganda” law is enmeshed in a broader diplomatic battle between the two countries.

But the difficulty of the task is no reason for the United States not to undertake it. Beginning with the G20 Summit in St. Petersburg on September 5th and 6th and extending past the Sochi Olympics, President Obama should lead on this human rights issue, as he has pledged to do.

Recommendations for President Obama and the U.S. Government

- **Meet with human rights activists in St. Petersburg at the G20 Summit.** A meeting, followed by a public statement from the White House, would signal American leadership, and enable the President to hear firsthand what forms of U.S. support would be most helpful. The anti-“propaganda” laws are opposed by a wide range of civil society groups operating in Russia, and a meeting with a group of defenders will show that the assault on LGBT rights must be considered in the context of the overall backslide in human rights.

- **Direct the State Department to Seek Clarification on Anti-“Propaganda” Law.** This vague law has yet to be used. Its ambiguity could allow for discriminatory, targeted use against Russians and American citizens traveling in Russia. By pressing the Russian government to provide guidance on its application, the U.S. Government will be better positioned to advise its citizens on travel to Russia—through updating the State Department’s consular travel information.

- **Lead a Multilateral Coalition to Oppose Discrimination and Violence against LGBT People.** The U.S. should work to oppose the law not just with European allies but also with leaders of countries like Mexico, Brazil, Uruguay, South Korea, and South Africa. By uniting with countries beyond “the usual suspects,” the United States would combat the misperception that the fight for gay rights is a “Western cause” rather than a fundamental human rights issue.

- **Use the Russian Government’s Own Words to Oppose the Law.** In its public messaging against the law, the U.S. government should highlight the previous positions of the Russian government, which articulately opposed earlier versions of the anti-“propaganda” law four times. The Prime Minister’s office exposed the law’s illogic and illegality, explaining how the “propaganda” bans violated the Russian constitution, the country’s criminal code, and Russia’s international obligations. By using the Russian government’s own words, the U.S. would make a strong case against it and expose the cynicism of its about-face on this issue.

- **Support Russia’s Efforts to Tackle Hate Crimes, Including those Perpetrated by Neo-Nazi groups.** Russia has an interest, especially in this climate of heightened scrutiny, in deterring hate crime violence. Russia faces a serious threat to public safety and
societal cohesion in the form of ultranationalist groups—historically, the primary perpetrators of attacks on racial, religious, ethnic, and sexual minorities—yet even the country’s official statistics on violent hate crime are unreliable and faulty. By sharing U.S. strategies and technical assistance for combating hate crime—which rely on consistent public messaging, training programs for law enforcement on investigating incidents and collecting data, and working with communities threatened by violence—the U.S. government could ultimately help Russia better protect minorities from violence.

- **Call for Leadership from U.S. Olympic Committee within the International Olympic Community.** Even though the anti-“propaganda” law violates the Olympic Charter, which bans discrimination, the IOC has refused to challenge the Russian government. The U.S. Olympic Committee, which Congress charters, has condemned the law as inconsistent with human rights principals but urged American athletes to comply with it. As the International Olympic Committee prepares to elect a new president, the U.S. government should make clear its expectation that the ICO will abide by the human rights components of its charter. At the same time, the Obama administration should work with Congress to ensure that the U.S. Olympic Committee stands strong in opposition to the anti-“propaganda” law.

- **Continue Opposing Consideration of a Boycott of the Olympic Games.** A boycott would not advance the human rights climate in Russia, and it would also fuel anti-American sentiment. The U.S. should use the Games to engage with the Russian people to demonstrate support for the universal ideal of equality, as expressed by the Olympic Charter’s ban on “any type of discrimination.”

- **Exert Strong, Consistent Leadership on LGBT rights.** The U.S. should call for a repeal of the anti-“propaganda” law and ground that position in broad, consistent leadership. President Obama’s track record in advancing gay equality at home and abroad gives him credibility to press Russia and other countries on this issue. Yet a more consistent pro-LGBT rights position on the global stage vis-à-vis countries that criminalize homosexuality would demonstrate that President Obama’s opposition to the antigay law in Russia is a matter of fundamental human rights, not a political move in an increasingly testy bilateral relationship.
Endnotes


Convenient Targets


