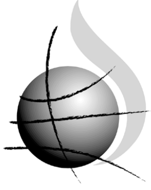

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ICJ LEGAL OPINION ON SECTION 3.10 OF THE RYAZAN OBLAST LAW

I. INTRODUCTION

1. This Legal Opinion is provided by the *International Commission of Jurists* at the request of the Complainant for submission to the Human Rights Committee in relation to the consideration of the case *Irina Fedotova v. Russian Federation*.

2. The *International Commission of Jurists* is an international non-governmental organisation, established in 1952 and headquartered in Geneva, Switzerland. It works to advance the rule of law and to ensure the domestic implementation of international human rights law. In this context it promotes States' compliance with their international human rights legal obligations.

3. At issue in the case of *Irina Fedotova v. Russian Federation* is Section 3.10 of the Ryazan Oblast Law, which provides in relevant part: "Public actions aimed at propaganda of homosexuality (sodomy or lesbianism) among minors shall be punished with administrative fine." The applicant alleges violations of Articles 19 and 26 of the International Covenant on Civil and Political Rights ("Covenant"), arising from her conviction under this provision.

4. The ICJ submits the following: (1) the law at issue here is, on its face, not a permissible limitation on the right to freedom of expression because it is discriminatory; and (2) minors have the right to receive age-appropriate information about sexuality, including sexual orientation. This Legal Opinion addresses the legal basis for each of these conclusions.

5. As a preliminary matter, however, this Opinion considers the effect of the decision of the Human Rights Committee ("HRC") in *Hertzberg v. Finland*. In *Hertzberg v. Finland*, the HRC held that paragraph 9 of chapter 20 of the Finnish Penal Code did not violate the rights of the authors of the communication to freedom of expression as guaranteed under Article 19 of the Covenant. The law at issue provided that anyone "publicly encourag(ing) indecent behavior between persons of the same

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sex" was subject to a six-month prison sentence or a fine.[1] The Finnish Government had invoked the public morals limitation, as provided for in Article 19(3)(b), as a justification, which the Committee accepted.

6. The question necessarily arises whether the outcome in *Hertzberg* is dispositive of this matter. The ICJ's position is that it is not. The reasons are discussed in greater detail below and are presented in summary fashion here. First, *Hertzberg* was decided in April 1982. Equality law, in the jurisprudence of the HRC and other human rights bodies, has developed significantly since that time. Specifically, in 1994 the HRC recognized sexual orientation as a status protected from discrimination under Articles 2(1) and 26 of the Covenant. Other treaty bodies followed suit, as did the UN Special Procedures. A similar development has transpired in the European Court of Human Rights and many national courts. Sexual orientation was simply not recognized as a ground for discrimination in 1982. Now it is.

7. Second, also since 1982, the Human Rights Committee and other institutions have recognized that limitations on rights must not violate the prohibition on discrimination. Even a limitation with a permissible aim – such as the protection of public morality – may not be discriminatory.

8. Third, as the Individual Opinion of Torkel Opsahl in *Hertzberg* noted, conceptions of public morality are subject to change. Laws similar to the law at issue in *Hertzberg* have since been repealed in states such as Austria and the United Kingdom. The enactment of a similar law in Lithuania last year led to widespread condemnation by European Union and Council of Europe organs and, eventually, amendment by the Lithuanian Parliament.[2] What was considered justifiable with reference to public morality is no longer the case today. Indeed, uncertainty about the content of public morals is reflected in decisions of both the Human Rights Committee finding states in violation of their human rights obligations and of the European Court striking down laws that were defended on morality grounds.[3]

II. THE RYAZAN LAW IS AN IMPERMISSIBLE LIMITATIONS ON FREEDOM OF EXPRESSION BECAUSE IT IS DISCRIMINATORY

9. The Ryazan law is facially discriminatory and its application contravenes the Russian Federation's obligations under the Covenant. This argument proceeds as follows. Sexual orientation is a protected ground under Articles 2 and 26 of the International Covenant on Civil and Political Rights. Limitations on rights cannot be discriminatory, whether in law or practice. A law that differentiates on the basis of sexual orientation is therefore discriminatory, in violation of the Covenant, unless it has a reasonable and objective justification and is aimed at a legitimate purpose. Public morality is not a reasonable and objective justification.

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[1] *Hertzberg v. Finland*, Communication No. R.14/61, UN Doc. CCPR/C/15/D/61/1979, 2 April 1982.

[2] See Council of Europe Commissioner for Human Rights, *Letter to Andrius Kublius, Prime Minister of Lithuania*, dated 9 December 2009; *European Parliament Resolution of 17 September 2009 on the Lithuanian Law on the Protection of Minors against the Detrimental Effects of Public Information*, P7 TA(2009)0019; European Union Agency for Fundamental Rights, *Annual Report 2010*, at 94.

[3] See *Toonen v. Australia*, Communication No. 488/§992, UN Doc. CCPR/C/50/D/488/1992 (1994); *Dudgeon v. United Kingdom*, Application no. 7525/76, Judgment dated 22 October 1981.

10. The Human Rights Committee held in *Toonen v. Australia* that sexual orientation is protected under Articles 2(1) and 26 of the Covenant.[4] This decision was followed in its consideration of *Young v. Australia* and *X v. Columbia* and has been reiterated by a number of other treaty bodies.[5] In General Comment No. 20, the Committee on Economic, Social and Cultural Rights stated that "other status" in Article 2 of the International Covenant on Economic, Social and Cultural Rights includes sexual orientation.[6] The Committee on Economic, Social and Cultural Rights previously recognized "sexual orientation" as a ground covered by Article 2 in its General Comment Nos. 14 (right to health), 15 (right to water), 18 (right to work) and 19 (right to social security).[7] The Committee Against Torture affirmed sexual orientation to be a protected ground in its General Comment No. 2.[8] Likewise, the Committee on the Rights of the Child has included children's sexual orientation within the grounds covered by Article 2 of the Convention on the Rights of the Child.[9] The Committee on the Elimination of Discrimination Against Women has expressed concern about laws that criminalize same-sex relationships and has commended states for protecting against discrimination on the basis of sexual orientation.[10]

11. Many UN Special Procedures have also consistently held sexual orientation to be a prohibited ground of discrimination and have critiqued governments that treat people differently on the basis of sexual orientation.[11]

12. In the context of Article 19, the relevant UN Special Procedures have reaffirmed that the right to freedom of expression is a right held by everyone, regardless of sexual orientation and/or gender identity. For example, the Report of the Special Representative of the Secretary-General on the situation of human rights defenders commented on draft legislation in Nigeria introducing penalties for public advocacy or associations supporting the rights of LGBT people. "In particular, serious concern is expressed in view of the restriction such law would place on freedoms of expression and association of human rights defenders and members of civil society, when advocating the

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[4] *Toonen*; *Young v. Australia*; Communication No. 941/2000, UN Doc. CCPR/C/78/D/941/2000 (2003); *X v. Columbia*, Communication No. 1361/2005, UN Doc. CCPR/C/89/D/1361/2005 (2007).
[5] *X v. Columbia*, UN Doc. CCPR/C/89/D/1361/2005.
[6] CESCR, General Comment No. 20 (Non-discrimination in Economic, Social and Cultural Rights), UN Doc. E/C.12/C/20, 2 July 2009, at para. 32.
[7] See CESCR, General Comment No. 14 (Right to the Highest Attainable Standard of Health), UN Doc. E/C.12/2000/4, 11 August 2000, at para. 18; CESCR, General Comment No. 15 (Right to Water), UN Doc. E/C.12/2002/11, 20 January 2003, at para. 13; CESCR, General Comment No. 18 (right to work), UN Doc. E/C.12/GC/18, 6 February 2006, at para. 12; CESCR, General Comment No. 19 (right to social security), UN Doc. E/C.12/GC/19, 4 February 2008, at para. 29.
[8] CAT, General Comment No. 2 (Implementation of article 2 by States Parties), UN Doc. CAT/ITA/CO/4, 16 July 2007, at para. 21.
[9] CRC, General Comment No. 4 (Adolescent health and development in the context of the Convention on the Rights of the Child), UN Doc. CRC/GC/2003/4, 1 July 2003, at para. 6.
[10] See, e.g., CEDAW, Concluding Observations on Kyrgyzstan, UN Doc. A/54/38, 20 August 1999, at para. 128; Concluding Observations on Ecuador, UN Doc. CEDAW/C/ECU/CO/7, 2 November 2008, at para. 28.
[11] See, e.g., Working Group on Arbitrary Detention, Opinion No. 22/2006 (Cameroon), UN Doc. A/HRC/4/40/Add.1, February 2007, at para. 19; Special Representative of the Secretary-General on the situation of human rights defenders, Summary of cases transmitted to Governments and replies received, UN Doc. A/HRC/10/12/Add.1, 4 March 2009, at paras. 350-353; Report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health, UN Doc. A/HRC/14/20, 27 April 2010, at paras. 6-10; Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism, UN Doc. A/HRC/64/150, 3 August 2009, at paras. 20-21. See generally, ICJ, *Sexual Orientation and Gender Identity in Human Rights Law: References to Jurisprudence and Doctrine of the United Nations Human Rights System* (4th ed. 2010).

rights of gays and lesbians."[12] When the "Anti-Homosexuality" Bill was introduced in Uganda in 2009, two Special Rapporteurs issued a joint statement that said in part:

> This Bill would further unjustifiably obstruct the exercise of the right to freedoms of opinion and expression, peaceful assembly and association, by prohibiting the publication and dissemination of materials on homosexuality, as well as funding and sponsoring related activities.[13]

13. In his report on his visit to Colombia, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression wrote, "[A]ll citizens, regardless of, inter alia, their sexual orientation, have the right to express themselves, and to seek, receive and impart information . . . Gay and lesbian groups and individuals' right to freedom of opinion and expression is hindered by the opposition they find in the media where sexual issues, especially homosexuality, are treated in a prudish and traditional way and never broadcast on prime time."[14] When three writers were sentenced to prison in Kuwait for the "crime" of mentioning lesbian relationships, the Special Rapporteur transmitted an urgent appeal on their behalf.[15]

14. Within the past year, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, has appealed to governments in Lithuania and Uganda concerning restrictions based on sexual orientation. The Special Rapporteur sent an urgent appeal to Lithuania about the Law on the Protection of Minors against the Detrimental Effect of Public Information.[16] In the case of Uganda, the Special Rapporteur sent a letter of allegations concerning the "Anti-Homosexuality Bill" which would have criminalized the publishing or dissemination of "homosexual materials." The Special Rapporteur wrote, "According to information received, the Bill will prohibit any kind of community or political organizing around non-hetero-normative sexuality. It . . . implicitly encourages the persecution of sexual minorities by private actors."[17] Following general comments adopted by the Human Rights Committee, the Special Rapporteur has stated that any restriction or limitation "must be consistent with other rights recognized in the Covenant and in other international human rights instruments, as well as with the fundamental principles of universality, interdependence, equality and non-discrimination."[18]

15. Enjoyment of all Convention rights without discrimination means both that the freedom of expression of LGBT individuals cannot be restricted and that expression concerning sexual orientation and same-sex relationships cannot be restricted in a discriminatory manner. Any restriction on expression about sexuality must be neutral with respect to

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[12] *Report of the Special Representative of the Secretary-General on the situation of human rights defenders, Hana Jilani, Addendum: Summary of cases transmitted to Governments and replies received,* UN Doc. A/HRC/4/37/Add.1, 27 March 2007, at para. 511.

[13] *Joint Statement from the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*, 1 March 2010.

[14] *Report of the Special Rapporteur on the right to freedom of opinion and expression, Ambeyi Ligabo, Addendum Mission to Colombia*, UN Doc. E/CN.4/2005/64/Add.3, 26 November 2004, at paras. 75 & 76.

[15] *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Abid Hussain,* UN Doc. E/CN.4/2001/64, 13 February 2001, at para. 176.

[16] *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue,* UN Doc. A/HRC/14/23/Add.1, 26 May 2010, at paras. 1400-1414.

[17] UN Doc. A/HRC/14/23/Add.1, 26 May 2010, at para. 2511.

[18] *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue*, UN Doc. A/HRC/14/23, 20 April 2010, at para. 79(k).

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sexual orientation. In this respect, within the Council of Europe human rights system, the Committee of Ministers recently issued a recommendation calling on member states to ensure "that the right to freedom of expression can be effectively enjoyed, without discrimination on grounds of sexual orientation or gender identity, including with respect to the right to receive and impart information on subjects dealing with sexual orientation or gender identity."[19]

16. Under international law, any restriction on the right to freedom of expression must meet the following conditions: it must be provided by law, must address one of the aims set out in paragraph 3 of Article 19, and must be necessary to achieve a legitimate purpose.[20] Laws restricting freedom of expression must be compatible with the aims and objectives of the Covenant and must not violate its non-discrimination provisions.[21] They may not be imposed for discriminatory purposes or applied in a discriminatory manner.[22] This means that even the proportionate use of a permissible aim, such as public morality, cannot be the basis for a restriction on freedom of expression if it is applied in a discriminatory manner.

17. By penalizing "public actions aimed at propaganda of homosexuality" – as opposed to propaganda of heterosexuality or sexuality generally – the Ryazan Oblast law enacts a difference in treatment that cannot be justified. It singles out one particular kind of sexual preference for differential treatment. It does so even though sexual relationships between consenting adults of the same-sex are not illegal in the Russian Federation. Although not every differentiation of treatment will constitute discrimination, the criteria for such differentiation must be reasonable and objective and the aim must be to achieve a purpose that is legitimate under the Covenant.[23]

18. Because sexual orientation is a prohibited ground, a difference in treatment founded on sexual orientation constitutes discrimination, in violation of the Covenant, unless there is a "reasonable and objective" justification.[24] Public morality does not amount to such a justification. Since *Hertzberg*, public morality arguments have carried diminished weight. In *Toonen*, the Human Rights Committee held that the state's public morality argument was insufficient to justify laws criminalizing same-sex sexual activity. "The Committee cannot accept either that for the purposes of article 17 of the Covenant, moral issues are exclusively a matter of domestic concern."[25]

19. Similarly, in *Open Door and Dublin Well Woman v. Ireland*, the European Court of Human Rights rejected the contention that Ireland's views of public morality and specifically Irish disapproval of abortion permitted it to restrict freedom of expression about the

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[19] Committee of Ministers Recommendation CM/Rec(2010)5 at para. 13.

[20] *Faurisson v. France*, Communication No. 550/1993, UN Doc. CCPR/C/58/D/550/1993 (1996) at para. 9.4; *Ross v. Canada*, Communication No 736/1997, UN Doc. CCPR/C/70/D/736/1997 (2000), at para. 11.2.

[21] Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights, Annex, UN Doc E/CN.4/1985/4 (1984) at Principle 2; HRC, General Comment No. 22 (right to freedom of thought, conscience or religion), UN Doc. CCPR/C/21/Rev.1/Add.4, at para. 8 ("In interpreting the scope of permissible limitation clauses, States parties should proceed from the need to protect the rights guaranteed under the Covenant, including the right to equality and non-discrimination on all grounds specified in articles 2, 3 and 26").

[22] HRC, General Comment No. 22; Individual Opinion of Torkel Opsahl in *Hertzberg v Finland*.

[23] HRC, General Comment No. 18 (the right to non-discrimination) at para. 13; CESCR, General Comment No. 20 at para. 13 (permissible scope of differential treatment.)

[24] CESCR, General Comment No. 20 at para. 13.

[25] *Toonen v. Australia*, Communication No. 488/1992 at para. 8.6.

availability of abortion services outside the country.[26] The European Court observed, "Limitations on information concerning activities which, notwithstanding their moral implications, have been and continue to be tolerated by national authorities, call for careful scrutiny by the Convention institutions as to their conformity with the tenets of a democratic society."[27] It concluded that Article 10 of the European Convention on Human Rights had been violated.

20. Courts around the world have held that public morality is not a sufficient reason to justify a difference in treatment. Their jurisprudence establishes that concerns about public morality cannot serve to defend disparate treatment based on sexual orientation.

21. In the case of *Romer v. Evans*, the U.S. Supreme Court struck down a state constitutional amendment that had the effect of removing gays and lesbians from the protection of anti-discrimination laws. The Supreme Court rejected the idea that "moral disapproval of homosexual conduct" was a sufficient rationale. "If the constitutional conception of 'equal protection of the laws' means anything, it must at the very least mean that a bare . . . desire to harm a politically unpopular group cannot constitute a *legitimate* government interest."[28]

22. In *Lawrence v. Texas*, the U.S. Supreme Court invalidated a state statute criminalizing same-sex sexual conduct. Justice O'Connor, in her concurrence, emphasized, "Moral disapproval of this group, like a bare desire to harm the group, is an interest that is insufficient to satisfy rational basis review under the Equal Protection Clause" of the U.S. Constitution.[29]

23. The permissibility of restrictions on the freedom of association and expression rights of LGBT individuals and organisations was litigated in the United States in a series of appellate courts under the First Amendment of the U.S. Constitution. Uniformly, these courts held that universities could not restrict the free speech rights of LGBT organizations. Prior restraints on speech, denials of registration, and restrictions on peaceful assembly all were held to violate the constitutional guarantee.[30]

24. In *Gay Students Organization v. Bonner*, the Court of Appeals for the First Circuit squarely confronted the issue of restrictions on a campus group that "stands for sexual values in direct conflict with the deeply imbued moral standards of much of the community." The task for judges, the court reasoned, was to find a generally applicable standard and not an arbitrary one. "At this point troubles arise. How are the deeply felt values of the community to be identified? . . . Assuming that 'community-wide values' could be confidently identified, and that a university could limit the associational activity of groups challenging those values, such an approach would apply also to socialists, conscientious objectors, vivisectionists, and those favoring more oil refineries. As to each

[26] *Open Door and Dublin Well Woman v. Ireland*, Application no. 14234/88, 14235/88, Judgment dated 29 October 1992, at para. 65.
[27] Id. at para. 72.
[28] *Romer v. Evans*, 517 U.S. 620, 634 (1984).
[29] *Lawrence v. Texas*, 539 U.S. 558, 582 (2003).
[30] See *Gay Student Services v. Texas A & M University*, 737 F.2d 1317 (5th Cir. 1984); *Gay Lib v. University of Missouri*, 558 F.2d 848 (8th Cir. 1977); *Gay Alliance of Students v. Matthews*, 544 F.2d 162 (4th Cir. 1976); *Gay Students Organization v. Bonner*, 509 F.2d 652 (1st Cir. 1974).

group, there are sectors of the community to whom its values are anathema."[31] The First Circuit recognized that the university might have a legitimate interest in, for example, regulating "overt sexual behavior" that offended the community's sense of propriety, but it nevertheless had to do so in a "fair and equitable manner."[32] Under this standard, a law that regulated only one kind of overt sexual behavior, or only one kind of speech about sexuality, would surely fail.

25. In the case of *National Coalition for Gay and Lesbian Equality v. Minister of Justice*, the Constitutional Court of South Africa considered whether public morality was an appropriate justification for a law criminalizing sodomy. The Court held, "The enforcement of the private moral views of a section of the community, which are based to a large extent on nothing more than prejudice, cannot qualify as such a legitimate purpose."[33]

26. In the Philippines, the Supreme Court considered a petition for writ of certiorari from Ang Ladlad, an LGBT organization that had been denied permission to register as a political party by the Commission on Elections. The Supreme Court reversed the Commission's decision, finding that "moral disapproval of an unpopular minority" was not a "legitimate state interest" under the equal protection clause.[34]

27. Similar decisions rejecting public morality as a rationale for a difference in treatment based on sexual orientation come from courts in India, Hong Kong, and Fiji.[35] The European Court of Human Rights, in cases concerning bans on gays in the military and high ages of consent for same-sex sexual activity, has held that "a predisposed bias on the part of a heterosexual majority against a homosexual minority" cannot amount to a sufficient justification for interference with rights "any more than similar negative attitudes towards those of a different race, origin or colour."[36]

28. The Ryazan Law is clearly intended to target any information about homosexuality, including information that is in no manner "obscene" under criminal law. As applied, it was used to convict Irina Fedotova for displaying posters that read, "Homosexuality is normal" and "I am proud of my homosexuality." The ICJ's position, however, is that even if this law were to be judicially confined to only obscene expression, any obscenity restriction must itself be neutral with respect to sexual orientation. Bans on sexually titillating or pornographic material are required to be non-discriminatory under international law.

29. Therefore, because sexual orientation is protected under the Covenant and because the Ryazan law enacts a distinction based on sexual orientation that cannot be justified with

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[31] 509 F.2d 652 at 658.
[32] Id. At 663.
[33] *National Coalition for Gay and Lesbian Equality v. Minister of Justice*, (1998) ZACC 15, at para. 37.
[34] *Ang Ladlad LGBT Party v. Commission on Elections*, Supreme Court of the Philippines, 8 April 2010 (en banc) at 13.
[35] See *Naz Foundation v. Union of India*, WPC No. 7455/2001, 2 July 2009, at para. 86; *Leung v. Secretary for Justice,* HKAL 160/2004, at para. 123; *Secretary for Justice v. Yau Yuk Lung and Another,* (2006) 4 HKLRD 196, at 202; *Nadan & McCoskar v. State*, High Court of Fiji at Suva, 26 August 2005.
[36] See *Lustig-Prean and Beckett v. United Kingdom*, Application nos. 31417/96 and 32377/96, Judgment dated 27 September 1999, at para. 89; *Smith and Grady v. United Kingdom*, Application nos. 33985/96; 33986/96, Judgment dated 27 September 1999, at para. 97 (same); *S.L. v. Austria*, Application no. 45330/99, Judgment dated 9 January 2003, at para. 44 (same); *L and V. v. Austria*, Application nos. 39392/98 and 39829/98, Judgment dated 9 January 2003, at para. 52 (same).

reference to public morality, it is not a permissible restriction on freedom of expression under Article 19.

III. CHILDREN HAVE A RIGHT TO RECEIVE AGE-APPROPRIATE INFORMATION ABOUT SEXUALITY AND SEXUAL ORIENTATION

30. Although the author of this communication is not a child, the Ryazan law also has serious implications for the right of children to receive information. Article 19 protects the right to impart and to *seek* and *receive* information and ideas of all kinds. In addition to Article 19, the right of children to receive information concerning sexuality is specifically protected under Article 13 of the Convention on the Rights of the Child. In General Comment No. 3, the Committee on the Rights of the Child stated: "States parties are reminded that children require relevant, appropriate, and timely information which . . . enables them to deal positively and responsibly with their sexuality in order to protect themselves from HIV infection. The Committee wishes to emphasize that effective HIV/AIDS prevention requires States to refrain from censoring, withholding or intentionally misrepresenting health-related information, including sexual education and information."[37]

31. Confronted with a law that was factually similar to Section 3.10 of the Ryazan Oblast Law, the Committee on the Rights of the Child urged the British government to repeal it.[38] The law in question was Section 28 of the United Kingdom Local Government Act 1998. It stated that local authorities may not "intentionally promote homosexuality" or "promote the teaching of . . . the acceptability of homosexuality as a pretended family relationship." The law was eventually repealed in Scotland in 2000 and in England and Wales in 2003.

32. The right of children to receive information about sexuality and sexual orientation is related to their rights to education and to health. In 2007, the Special Rapporteur on the Right to Education expressed his concern about legislation proposed in Poland that would have banned the "promotion of homosexuality" in all schools. The Special Rapporteur had earlier sent a communication to the Government of Poland concerning the dismissal of the director of the National In-Service Training Centre due to his role in the publication and distribution of a Council of Europe handbook that contained chapters on sexuality and sexual orientation. In both cases, the Special Rapporteur was worried about the denial of access to sexual health information for students.[39]

33. Within the Council of Europe, the European Committee of Social Rights concluded that there had been a violation of the right to non-discrimination and the right to health, protected under the Preamble and Article 11 of the European Social Charter, in regards to educational material used in Croatia. The Committee found that passages in the biology course textbook used at the secondary school level "stigmatize homosexuals and are based upon negative and degrading stereotypes about the sexual behavior of all

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[37] CRC, General Comment No. 3 (HIV/AIDS and the Rights of the Child), UN Doc. CRC/GC/2003/3, 17 March 2003, at para. 16.

[38] CRC, *Concluding Observations (United Kingdom of Great Britain and Northern Ireland)*, UN Doc. CRC/C/15/Add.188, 9 October 2002, at para. 44(d).

[39] *Report of the Special Rapporteur on Education, Vernor Muñoz Villalobos*, UN Doc. A/HRC/8/10/Add.1, 13 May 2008, at paras. 79-84; *Report of the Special Rapporteur on Education, Vernor Muñoz Villalobos*, UN Doc. A/HRC/4/29/Add.1, 15 March 2007, at paras. 34-37.

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homosexuals." Therefore "the Croatian authorities have failed in their positive obligation to ensure the effective exercise of the right to protection of health by means of non-discriminatory sexual and reproductive health education which does not perpetuate or reinforce social exclusion and the denial of human dignity."[40]

IV. CONCLUSION

34. For the foregoing reasons, the ICJ concludes that Section 3.10 of the Ryazan Oblast Law contravenes the obligations of the Russian Federation under the International Covenant on Civil and Political Rights.

[40] European Committee of Social Rights, *INTERIGHTS v. Croatia*, 45/2007, 30 March 2009.