

# ***UN Human Rights Committee Violates UN Charter and Convention on Civil & Political Rights, Unlawfully Pressuring Poland to Change Its Good Laws***

*Thomas W. Jacobson (9 November 2004)*

The Human Rights Committee (HRC) of the United Nations has egregiously and lawlessly exceeded its authority by seeking to usurp the legitimate authority of the people and elected officials of the sovereign nation of Poland. On 4 November 2004, the HRC issued its “recommendations,” worded as directives, telling Poland to change its laws to conform to the Committee’s misinterpretations of the Covenant on Civil and Political Rights (CCPR). (See HRC document number CCPR/C/SR.2251).

***First*** of all, the United Nations Charter—by which Member Nations formed the UN and set the boundaries of its authority—declares in its founding “Purposes and Principles” that the United Nations (which includes the subsequently formed Human Rights Committee) is not authorized “to intervene in matters which are essentially within the domestic jurisdiction of any” nation, and further guarantees that no Member Nation shall be required “to submit such matters to settlement (to the UN or its subsidiaries) under the present Charter” (UN Charter, Article 2, par. 7).

Contraceptives, abortion, family-planning services, so-called “sexual orientation,” wages, employment laws, how many women are employed in public service, length of military or alternative service, etc. – all addressed by the HRC with directives to Poland – are all matters “essentially within the domestic jurisdiction” of Poland.

***Second***, the UN Charter defines and limits the “Functions and Powers” of the Economic and Social Council (under which is the Human Rights Committee) as follows: to “make or initiate studies and reports with respect to international economic, social, cultural, educational, health, and related matters and to make recommendations”; and to “make recommendations” regarding the promotion of respect for “human rights and fundamental freedoms for all” (UN Charter, Article 62, pars. 1, 2).

The HRC still uses some terminology consistent with the Charter in its heading, opening and concluding paragraphs – “observations,” “comments,” “recommendations” – but the entire body of its “recommendations” to Poland are written as directives or commands, some with a deadline for compliance or improvement:

“The State Party should ensure that all Views issued by the Committee under the Optional Protocol are complied with ...” (HRC, Poland, par. 7).

“(T)he State Party should provide, within one year, additional information on the assessment of the situation and implementation of the Committee’s recommendations ...” (HRC, Poland, par. 22).

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Mr. Jacobson originally wrote this paper in 2004 when he was serving as Representative to the United Nations for Focus on the Family (U.S.A.), from 2001 to 2010.

**Third**, the HRC is misusing the International Covenant on Civil and Political Rights (CCPR) by perverting its provisions to mean the opposite of its agreed language and intent, and then trying to force Poland to change its laws to accommodate the HRC's errant interpretations.

In paragraph 8, the HRC directs the nation of Poland to:

- make abortion legal,
- take its recommendations on abortion “into account when” Parliament considers “the draft Law on Parental Awareness,” and
- track and provide documentation to the HRC of doctors who refuse to perform abortions based on “conscientious objection” (HRC, par. 8).

In paragraph 9, the HRC tells Poland it:

- “should assure the availability of contraceptives and free access to family planning services and methods,” and that
- “The Ministry of Education should ensure that” the “sexual education” curricula meets with the approval of the HRC.

However, for its authority to issue these directives, the HRC refers to Article 6 of the CCPR, which contains *no provisions* regarding abortion, contraceptives, family planning, or education. By complete contrast, paragraph 1 states:

“Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life” (CCPR, Article 6, par. 1).

Abortion is the deliberate and arbitrary deprivation of life of an unborn child, and violates his or her “inherent right to life,” guaranteed in this Covenant. (Historically, “inherent rights” referred to God-given, rather than man-granted, rights.) The HRC is now using this guaranteed protection of life to justify the taking of innocent human life. How schizophrenic! Under the shroud of protecting women from possible dangers of illegal abortions, the HRC is misinterpreting and misusing the CCPR.

**Fourth**, the HRC is seeking to impose its own sexual “rights” agenda on Poland by its statements in paragraphs 8 and 9 above, and by using controversial, undefined terms.

“The State Party should provide appropriate training to law enforcement and judicial officials in order to sensitize them to the *rights of sexual minorities*. Discrimination on the ground of *sexual orientation* should be specifically prohibited in Polish law” (HRC, Poland, par. 18; emphasis added).

The terms “sexual orientation” and “sexual minorities” do not appear in the CCPR and are not defined in any United Nations documents. The term “sexual orientation” is assumed to refer to homosexuals and lesbians, but because it is not defined as such, it may soon be construed to include bestiality, transgender, bisexual, pedophilia, exhibitionism and 15 other sexually deviant behaviors. The term “sexual minorities” is new and undefined, and is an attempt to classify homosexuals as a legal “minority” with special protected rights.

While some people indulge in various types of sexually deviant behaviors, no person has a “right” to have sexual relations with any person they are not married to, with their own children or any other children, with another person of the same sex, or with animals. Nor should such behaviors be protected in law. All countries have laws against some or all of these sexually deviant behaviors.

Regarding “discrimination,” every person should be guaranteed equal protection under the law, but sexually deviant behaviors and so-called “sexual orientation” should not be included among criteria protected in non-discrimination laws and policies. Indeed, the current battles in the United States over the very definition of marriage as between one man and one woman stem from the addition of “sexual orientation” to non-discrimination laws and policies years ago. It was a mistake and a misunderstanding of true discrimination.

For its assertion that Poland should protect “sexual minorities” and add “sexual orientation” to its laws, the HRC cited Article 26 of the CCPR:

“All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

In 1966, when this document was approved by Member Nations of the United Nations, they understood that such guarantees against discrimination should be universally recognized. At that time, and still in many nations today, homosexuality was not considered a “right” because it was recognized as a deviant form of sexual behavior.

One example of the universal nature of these rights may be applied to marriage. Article 23 of the CCPR states: “The right of men and women of marriageable age to marry and to found a family shall be recognized.” The provisions regarding discrimination (quoted above, just three articles later) were not inconsistent with this provision. Every person of age has the right to marry another person of the opposite sex. Homosexuals and lesbians have this right, but are denied the “right” to marry someone of the same sex, just as everyone else is.

**Fifth**, by doing so, the HRC is violating the sovereign authority of the elected members of Poland’s Parliament to make the laws of Poland, particularly those laws governing its domestic affairs.

**Conclusion:** Poland is a nation that restored respect for the sanctity of life, sexuality, marriage and family, which are the foundations necessary for a healthy, life-giving, positive and prosperous nation. However, if Poland rejects its good laws and policies, and adopts the HRC’s “recommendations,” doing so will eventually destroy it from within.

Poland may review and consider the HRC’s recommendations, but has no legal obligation to incorporate the Committee’s directives into its laws and policies, especially where the HRC has exceeded its authority.