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Parliamentary Assembly of the Council of Europe

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Via regular international mail

Via electronic delivery

**Re: PROPOSED PACE DRAFT RESOLUTION
“DISCRIMINATION ON THE BASIS OF SEXUAL
ORIENTATION AND GENDER IDENTITY” (Document
12087)**

The **Alliance of Romania’s Families (“ARF”)** and **PRO VITA - Bucharest branch** submit this Commentary to express and explain its opposition to the Report and to urge all delegates in the PACE to vote against it. The Report contains significant legal and conceptual inaccuracies, is flawed conceptually and intellectually, and is entirely out of touch with the concerns and interests of the overwhelming majority of the citizens of the Council of Europe. The methodology of the Gross Report is likewise lame. Therefore, extending PACE’s legitimacy to the Report under these circumstances would be unwise, divisive, and would further erode the trust of the citizens of the Council of Europe in its institutions.

ARF and PRO VITA are civic, nongovernmental organization which promote family and life values in Romania, the European Union, and in the Council of Europe. The concepts and proposals promoted in the Gross Report are injurious to the interests and values which we promote and to the values and interests of our constituency. We believe that they are not edifying but destructive of the general welfare of society, constitute a radical departure from a European tradition known for its moderation, emphasis on morality and virtue, and lack general consensus. Accordingly, they cannot legitimately constitute the foundation of new or fundamental rights.

We are grouping our concerns in the following major categories, attempting at the same time to track the main legal, sociological, and philosophical arguments outlined in the Report.

I.

A FLAWED METHODOLOGY

Our first ground for opposition to the Gross Report is its **dysfunctional methodology** which makes it one-sided and highly unreliable in its conclusions. The Report laments prejudice, discrimination, and violence against homosexuals. Rightly so. But the processing of the available data to reach this broad conclusion is insufficient to justify the Report's equally broad recommendations. First, the Rapporteur only visited a few countries to gather the necessary evidence and input: Spain in 2006, Latvia in 2007, Poland in 2008, and Lithuania in 2009. The trip to Moldova, planned for May 2009, was cancelled, even though the events which the Rapporteur claims prohibited him from going there occurred during the first week of April 2009. The political situation in Moldova in May 2009 would easily have allowed the planned trip to take place at that time.

Second, the Rapporteur only sought input from favorable "experts" who naturally were expected to provide the necessary input to support the Report's ultimate findings and recommendations. We also note that all "experts" were linked to or associated with NGOs which promote homosexual rights. Consequently, the bias of the experts is readily transparent in the Report, rendering the Report itself biased. Of course, the "experts" do not speak for the citizens of the Council of Europe, and especially for those who would be the most affected, in an adverse manner one might add, by the Report's recommendations.

A third, related observation is that the Rapporteur did not seek the input of NGOs representing the massive majority of the citizens of the Council of Europe who are likely to be directly and adversely impacted by the Report's recommendations, should they ever be adopted. To ensure a balanced presentation of the serious issues outlined in the Report and reach even the most rudimentary degree of consensus on these otherwise highly controversial and divisive matters, it should have been prudent for the Rapporteur to conduct extensive meetings with family, civic and religious organizations and NGOs who also have a stake in the outcome of the Report. The Rapporteur's contrary approach has resulted in the Report simply assuming and repeating the alleged existence of common and standard misconceptions about homosexuality in the member countries of the Council of Europe. The Report alludes to the "very many prejudices and the lack of knowledge surrounding the issues involved" on the part of parliamentarians not sympathetic to the Rapporteur's views. (Paragraph 9) The failure to tap into a broad societal spectrum concerned with the issues raised in the Report is the main reason, we believe, for the Rapporteur's inaccurate perception that the citizens of the Council of Europe are simply prejudiced against homosexuals or lack knowledge about homosexual issues.

We finally note, fourthly, that some events are described by the Rapporteur inaccurately. While the comment in Paragraph 57 that in Moldova "LGBT organisations abandoned plans to hold Pride events in 2009" is accurate, the Report does not cite the reason. The reader is left with the impression that the reason must have been the "prejudice" of the Moldovan public, more

than anything else. Yet, a simple visit to the website of Moldova's association of homosexuals would have determined that the homosexual march, initially scheduled for May 2009, was cancelled because of the events that occurred there in the prior month. The cancellation had nothing to do with the public's feelings about homosexuality.

II.

SEXUAL ORIENTATION OR SEXUAL DISORIENTATION?

Another grave concern we express about the Gross Report is its assumption that the concepts it promotes are accurate, must be accepted as such by all states and citizens of the Council of Europe, that disagreement over these concepts is out of the question, and that those who disagree are doing so because they supposedly are "homophobes" or suffer from irreparable prejudices. We view this as the Report's most dangerous flaw - it suffers from a delusion of infallibility. This reason alone should make it inconceivable for the Council of Europe to cast the weight of its authority behind the Gross Report and give it legitimacy.

First, the Report uncritically reproduces terminology developed during several decades of academic and research studies into human sexuality and, more particularly, homosexuality and gender issues. But it does so in a biased manner and in a singular direction.

The Report also impermissibly lumps together heterosexuality, homosexuality, and bisexuality as constituting various facets of "sexual orientation" and fundamental traits which determine "the identity of each one of us." (Summary) Not so. We believe that homosexuality and bisexuality are pathological conditions which reflect the sexual *dis*orientation of the individual, not his or her identity. This truth, however, has been, and continues to be systematically suppressed by an intellectual and media elite guided by political correctness more than by the imperatives of impartiality, accuracy, or intellectual honesty. We opine that sexually disoriented individuals need sexual *re*orientation, not the affirmance of their pathological lifestyles by academics, legislators, politicians, and the cultural elite.

We further believe, based on the innumerable studies and success stories of former homosexuals, that homosexuality is not innate, but a psychologically determined symptom of underlying conditions in the life of the individual which can be successfully changed, provided that there is a will to do so, along with support from society.

The Report ignores the fact that many homosexuals desire change and suffer from sexual brokenness and conflictedness. These conditions are detrimental to their mental wellbeing and need to be treated not affirmed. Untreated, these conditions reflect themselves in the promiscuity which typifies the lifestyle of most homosexuals. In turn, this promiscuity is responsible for the short life span of homosexuals, and for their constant depression and search for a new 'sexual high' and for heightened and varied sexual experimentation. Untreated, the

obsessive quest for sex becomes the centerpiece of the life of the average homosexual person. As a consequence, perpetual infelicity, not happiness or fulfillment, is the ultimate outcome and trait of the homosexual lifestyle.

Unfortunately, the average citizen of the Council of Europe is not allowed to express these views and is not given a forum to express disagreements with the currently prevailing views on homosexuality. Their views are not found in the mainstream media either. For the gay rights movement has succeeded, through skillful and persistent lobbying, in adumbrating and marginalizing individuals, groups, or institutions that express such currently unorthodox viewpoints. It has been more successful in this respect in the countries on the Western rim of the European continent and Canada, and to a significantly less extent in the United States and the rest of Europe. As a result, we and our children are constantly bombarded with notions of “diversity,” “inclusiveness,” “diversity training,” “sex education,” “anti-harassment,” “sexual minorities,” “tolerance,” “prejudices,” “homophobia,” “sexual and reproductive rights,” in a carefully orchestrated attempt to break down any dissenting views on homosexuality or dissolve any opposition to this chosen lifestyle. Negative labels have also been designed and are applied liberally to those who fail to embrace the homosexual agenda. Individuals who dare proclaim that homosexuality is not innate, that there is “no gay gene,” that homosexuality is a “sin,” “unnatural,” a destructive and promiscuous lifestyle, are extricated to the margins of society. The same attempt is made with respect to entire religious bodies, denominations, the Catholic Church, and entire civilizations. The faithful are relegated to a second class status, their religious sensitivities are trampled upon, their views are ridiculed and marginalized, and their religious views on homosexuality are equated with lunacy. The voices of those who say NO are muted and a psychological weapon is used against them – the labels of prejudice and homophobia. We respectfully state that the Council of Europe fuels this insensitivity by commissioning reports such as the Gross Report which promotes gay-assertive sex education and seeks to infuse every facet of public life in member states with the distinctive and pervasive presence of homosexuality and sexually aberrant behavior.

Similarly, in the last few decades we have been inundated with homosexual propaganda, carried out under the guise of “civil and human rights,” that homosexuality is simply an alternate lifestyle that must be accepted because it is genetically predetermined, that it is akin to race, that those who practice it constitute a “suspect class” for purposes of the laws of nondiscrimination and the equal application of laws, and that it is entitled to the same degree of protection as racial or religious diversity. Additionally, the notion has been promoted, with some degree of aggressivity, that homosexual rights must be given legitimacy by the highest bodies within the Council of Europe and the European Union, including the highest tribunals of the member states and the European Court of Human Rights. And this unfortunate course of action has been taken in spite of the fact that the great weight and preponderance of the clinical evidence shows that homosexuality is harmful to the individual and society alike, and that homosexuality is a form of psychological wounding.

This precisely is what the Gross Report has done. It has embraced, concededly in more diplomatic terms, this broad spectrum of concepts and orthodox beliefs coined and articulated

by academics crusading the cause of homosexuality. At the same time it has irreverently set itself against those who hold contrary views. For this reason, too, the Report should be rejected.

Sexual Disorientation

Homosexuality, bisexuality and other sexually aberrant behavior is sexual disorientation, a departure from the way in which humans have been sexually wired and designed. We cite from an authority on the subject, Arthur Goldberg, an American board certified counselor and relationship specialist. In his recently published Light in the Closet, Torah, Homosexuality and the Power to Change (2008) he concludes, after reviewing much of the extant literature, that "... homosexuality is a developmental adaptation caused by a number of identifiable influences working over time to create a gender-identity deficiency. There are various ways in which the process can begin, but it usually starts in very early childhood, when a boy, for example, owing to perceived rejection by his father and/or his male peers, does not break from the feminine world in which he has initially been raised, and erects defensive barriers to the pain of that rejection by either detaching from or never entering the masculine world. This process may begin as early as age two or three." (Page 15)

Individuals facing such unfortunate situations need help to be redirected to a state of healthy sexuality. They need sexual re-orientation and we believe that they have the right to seek it and to receive it.

Even the American Psychological Association, while advocating acceptance of homosexuality, has nevertheless changed its views and has abandoned its previously held view that homosexuality is innate. In 2008 it published a pamphlet distancing itself from a politically correct view of homosexuality and has migrated toward a more scientifically correct and neutral position. Since that time it has maintained that "There is no consensus among scientists about the exact reasons that an individual develops a heterosexual, bisexual, gay, or lesbian orientation. Although much research has examined the possible genetic, hormonal, developmental, social, and cultural influences on sexual orientation, no findings have emerged that permit scientists to conclude that sexual orientation is determined by any particular factor or factors." American Psychological Association, "Answers to Your Questions For a Better Understanding of Sexual Orientation & Homosexuality;" online at: <http://www.apa.org/topics/sorientation.html>. (Accessed April 4, 2010).

The eminent Spanish psychiatrist Enrique Rojas, too, has long held the view that homosexuality is "a clinical process that has an etiology, pathogeny, treatment, and cure". In his masterpiece Goodbye, Depression (2006) Rojas characterized homosexual orientation as a "disorder" rather than an illness and stated his opinion that in the 95% of the cases he has studied homosexuality was caused by environmental factors. The homosexual disorder, according to Rojas, is the result of an absent father, overweening mother, or sexual abuse in childhood. Rojas has also criticized the promotion by the homosexual movement of homosexual tendencies in young people, and has cautioned against allowing homosexual couples to adopt children. By being

forced to live in a same-sex environment, Rojas argues, the child is deprived of a right to grow up "in a normal environment, heterosexual," which is the standard. "Heterosexuality is what is normal, the natural condition of human beings," Rojas concludes.

In agreement with Rojas' thesis is the research detailed in Richard J. Wolitski, et al.'s Unequal Opportunity: Health Disparities Affecting Gay and Bisexual Men In the United States (2008), a pro-homosexual book. The book discusses 17 studies undertaken over 15 years and reflecting that men who have sex with men are three times more likely than heterosexual men to have been sexually abused as children. Therefore, it was concluded that sexual abuse in childhood is a known factor that leads to homosexuality because it derails a boy's growing sense of masculinity and identity.

As for the supposed immutability of homosexuality, current research trends suggest that it is not biologically engrained but socially engineered – hence that it can be redirected. Sexual self-identification is fluid and therefore militates against the argument of the homosexuality's alleged immutability. On this point we cite the conclusion of an article by Joseph P. Stokes, "*Predictors of Movement Toward Homosexuality: A Longitudinal Study of Bisexual Men*," 43 **Journal of Sex Research** 304, 305 (1997): "We realize that homosexuality is not some monolithic construct one moves toward or from in a linear way. ... We also acknowledge that changes in sexual feelings and orientation over time occur in all possible directions."

Fluidity in sexual orientation is even more heightened in women. Lesbian self-identification appears particularly vulnerable to fluctuations over time. Scholars and researchers increasingly uncover many women who insist that their lesbian self-identity is in fact a personal choice rather than an innate constraint. See, Lisa M. Diamond and Ritch C. Savin-Williams, "*Explaining Diversity in the Development of Same-Sex Sexuality Among Young Women*," 56 **Journal of Social Issues** 297 (2000). Diamond and Savin-Williams found that "50% of the respondents had changed their identity label more than once since first relinquishing their heterosexual identity."

More categorical, however, is the conclusion of another fairly recent study that "[T]he assertion that homosexuality is genetic is so reductionistic that it must be dismissed out of hand as a general principle of psychology." Richard C. Friedman and Jennifer I. Downey, Sexual Orientation and Psychoanalysis: Sexual Science and Clinical Practice 39 (2002).

Also, the June 2009 edition of the peer-reviewed *Journal of Human Sexuality* published a report finding that homosexuality is not immutable and that individuals who wish to abandon it can do so successfully and without risk of harm. Titled "What Research Shows: NARTH's Response to the American Psychological Association Claims on Homosexuality," the report examined professional and scientific literature and over 600 reports stretching over of period of more than 100 years from clinicians, researchers, and former clients principally published in professional and peer-reviewed journals. <http://www.narth.com/docs/journalsummary.html>

We conclude therefore by reaffirming our position that bad or disoriented choices should not serve as the basis for legislation or legitimation by societal institutions, foremost among them the Council of Europe.

Promiscuity

The homosexual lifestyle is highly promiscuous. Once a supposition, the accuracy of this statement has been confirmed by many studies undertaken over many decades. The conclusion of these studies has invariably been the same: homosexuality does not lend itself to stable relationships, monogamy is alien to the homosexual lifestyle, it is fueled by promiscuity, fosters mental disturbances, and is not suited for establishing family-type frameworks.

From the massive amount of evidence supporting this view we point out the 2008 BBC3 British documentary "*The Trouble With Gay Men.*" Created by Simon Fanshawe, himself a homosexual and a long time advocate for homosexual rights, the documentary depicts the wretched homosexual lifestyle in the United Kingdom. "We're hooked on vanity, Fanshawe said, and regard older men with contempt. Despite AIDS we're still chasing the ultimate sexual high and, what's more, we're determined to wreck ourselves on designer drugs. We're happy to assist the straight world in keeping alive the image of all gay men as limp-wristed queens." "Extreme vanity," the documentary stated, has been "sewn into gay culture." It "is now so mainstream in the gay community that otherwise intelligent young men are happy to be treated as sex objects on a demeaning meat rack." Homosexual men, Fanshawe added, are so "hardwired" towards finding casual sexual encounters, some of them going to the extreme of inserting into their bodies plastic implants to enhance their appearance, that finding genuine intimacy is "practically impossible." "Vast amounts of our leisure time are organised around sex, straight or gay," noted Fanshawe. "But what gay men have done is organise our identity around sex. And that is corrosive. And to make things worse, promiscuity has become the norm." The documentary additionally referenced statistics showing the deadly consequences of the homosexual lifestyle. It cited that one in nine gay men in London was HIV infected and that new cases of HIV have doubled in London in five years. During the same time period the incidences of syphilis among London's homosexuals also increased 616%. <http://www.lifesitenews.com/ldn/2008/sep/08091011.html>

Researchers have also found that the homosexual lifestyle is significantly more lethal than the lifestyle of the general population. Medical, psychological, and relational pathology among homosexuals is more prevalent than within the general population. Disfunctionality for homosexuals at these levels is three times higher than among the population at large. As asserted in the NARTH findings reported in June 2009 in the *Journal of Human Sexuality*, "Despite knowing the AIDS risk, homosexuals repeatedly and pathologically continue to indulge in unsafe sex practices. Homosexuals represent the highest number of STD ("sexually transmitted diseases") cases. Many homosexuals' sex practices are medically dangerous, with or without protection. More than one-third of homosexual men and women are substance abusers. Forty percent of homosexual adolescents report suicidal histories. Homosexuals are

more likely than heterosexuals to have mental health concerns, such as eating disorders, personality disorders, paranoia, depression, and anxiety. Homosexual relationships are more violent than heterosexual relationships. Societal bias and discrimination do not, in and of themselves, contribute to the majority of increased health risks for homosexuals.”
<http://www.narth.com/docs/journalsummary.html>

Studies are also legion that the life span of homosexuals, both gay and lesbian, is significantly shorter than that of heterosexuals and that homosexuals suffer to a greater degree from mental and physical ailments, and from obesity and higher rates of drug use and alcoholism than the rest of society. A survey of these studies appears in Arthur Goldberg’s Light in the Closet, Torah, Homosexuality and the Power to Change (2008), at 91-95. Goldberg additionally cited a Canadian study reflecting that the average life span of lesbians is 49 years, and that of homosexual males 42. *Id.* at 93.

We also mention a study by Dawn Harbatkin, MD, “Lesbians and Women Who Partner With Women: Taking Charge of Your Health,” **NYC LGBT Pride Guide** (2006) which concluded that in comparison to heterosexual women, lesbian women on the average are more overweight or even significantly overweight, smoke at a higher rate, drink more heavily or have an alcohol problem, higher rates of heart attacks, strokes, breast cancer, lung cancer, and emphysema.”

The latest study on the promiscuity of homosexuals known to us was released on March 10, 2010 by the United States Center of Disease Control and Prevention. It revealed that the rate of new HIV diagnoses among homosexuals is more than 44 times that of heterosexual men and more than 40 times that of women. Similarly, the rate of primary and secondary syphilis among homosexuals is more than 46 times higher that of heterosexual men and more than 71 times that of women. <http://www.cdc.gov/nchhstp/Newsroom/msmpressrelease.html> The trends are worsening and the social and economic cost of this behavior on society is staggering.

Domestic Violence Among Homosexuals

Domestic violence is also more prevalent among homosexuals. A study published in October 2007 in the **Journal of Urban Health of The New York Academy of Medicine** reported that 32 percent of homosexual and bisexual men are victims of intimate partner abuse. The study focused on the homosexual population of Chicago and additionally revealed that nonheterosexual men are also more likely to suffer from serious health problems such as heart disease, hypertension, depression, and anxiety. They also were more likely to engage in unhealthy behaviors, particularly substance abuse and unprotected sex, placing the gay/bisexual population at elevated risk of spreading and contracting HIV/AIDS and other sexually transmitted diseases (STDs). See, "Intimate Partner Abuse among Gay and Bisexual Men: Risk Correlates and Health Outcomes,"
<http://www.springerlink.com/content/r6q02560022h4276/?=eec72...>

Homosexual Relationships Lack Fidelity and Duration

Homosexual relationships score very low, in comparison with heterosexual relationships, with regard to the fundamental values of fidelity and duration. A 1997 national survey reviewed by Edward O. Laumann in The Social Organization of Sexuality: Sexual Practices in the United States found that 75% of American husbands and 85% of American wives never had sexual relations outside of marriage. At 216.

By contrast, both the concept and practice of sexual fidelity among homosexuals are nearly absent. Research indicates that the average homosexual male has hundreds of sex partners during his lifetime. This is a universal finding, and studies on this topic around the world are practically legion. For instance, a Dutch study published in 2003 in the journal **AIDS** found that men with a steady partner had an average of eight sexual partners a year. Maria Xiridou et al. "The Contribution of Steady and Casual Partnerships to the Incidence of HIV Infection Among Homosexual Men in Amsterdam," **AIDS** 17 (2003): 1031.

Another study by A.P. Bell and M.S. Weinburg revealed that over their lifetime 43 percent of the white male homosexuals subjected to the study had sex with 500 or more partners, with 28 percent having one thousand or more sex partners. Homosexualities: A Study of Diversity Among Men and Women (1978).

More staggering statistics were reported by Paul Van de Ven et al. in "A Comparative Demographic and Sexual Profile of Older Homosexually Active Men," **Journal of Sex Research** (1997). The study featured in that article was conducted on 2,583 older homosexuals and revealed that "the modal range for number of sexual partners ever [of homosexuals] was 101-500." In addition, 10.2 to 15.7 percent of the surveyed homosexuals had between 501 and 1,000 sex partners. Others reported having had more than one thousand sexual partners during their lifetime, a shocking figure indeed. Only 2.7 percent of older homosexuals reported having had only one sexual partner in their lifetime.

Similarly gruesome statistics were published by the homosexual magazine **Genre** which found that 24 percent of the respondents to a survey indicated that they have had more than one hundred sexual partners in their lifetime. "Sex Survey Results," **Genre** (October 1996).

Homosexual relationships are also short lived, and even those that are self-styled "committed relationships" are non-monogamous. A Canadian study of homosexual men who had been in "committed" relationships for longer than a year revealed that only 25% of them had maintained a monogamous relationship. According to the study's author, Barry Adam, "Gay culture allows men to explore different ... forms of relationships besides the monogamy coveted by heterosexuals." Ryan Lee, "Gay Couples Likely to Try Non-Monogamy, Study Shows," **Washington Blade** (August 23, 2003).

Similarly, a study by University of Chicago sociologist Edward Laumann concluded that the “typical gay city inhabitants spend most of their adult lives in “transactional” relationships, or short-term commitments of less than six months.” Adrian Brune, “City Gays Skip Long-Term Relationships: Study says,” **Washington Blade** (February 27, 2004), at 12. In the Netherlands the duration was found to be longer, 1.5 years. Xiridou (2003), *supra*, at 1031. Another study on male homosexuality, M. Pollack’s “Male Homosexuality,” published in Western Sexuality: Practice and Precept in Past and Present Times, (1985) found that “few homosexual relationships last longer than two years, with many men reporting hundreds of lifetime partners.” At 40-61. Other researchers have found the average male homosexual relationship to last between 2 and 3 years. M. Shagir and E. Robins, Male and Female Homosexuality (1973) at 225.

Another study also revealed that homosexual males view monogamy as a form of oppression which they obstinately reject. David P. McWhirter and Andrew M. Mattison, The Male Couple: How Relationships Develop (1984), at 252-253. The study also found that “the majority of couples ... and all of the couples together for longer than five years, were not continuously sexually exclusive with each other.”

Countless studies and surveys have likewise consistently revealed that stable or durable homosexual relationships are few and far between. Michael Bailey, a psychologist and long time researcher and supporter of the rights of homosexuals, has candidly admitted this much in his landmark The Man Who Would be Queen – The Science of Gender Bending and Transsexualism (2003). On point, he concluded that “... there will always be fewer gay men who are romantically attached. Gay men will always have many more sex partners than straight people do. Those who are attached will be less sexually monogamous. And although some gay male relationships will be for life, those will be many fewer than among heterosexual couples. ... The aspects of gay men’s relationships that cause discomfort -- the preeminence of sexuality, the relatively short typical duration, the sexual infidelity – are indeed destructive in the heterosexual context, but they are much less so among gay men.” (Pages 100-101)

Homosexual Culture Is Inimical to Marriage

Homosexual culture also is not amenable to marriage or committed relationships. In 1993 Bradley P. Hayton published the study “To Marry or Not: The Legalization of Marriage and Adoption of Homosexual Couples” (Newport Beach: The Pacific Policy Institute), concluding that “Homosexuals are taught by example and belief that marital relationships are transitory and mostly sexual in nature. Sexual relationships are primarily for pleasure rather than procreation. And they are taught that monogamy in a marriage is the norm and should be discouraged if one wants a good “marital” relationship.” At 9.

Most homosexual couples practice “open marriage” or “open relationships” in which the partners agree to allow one another to maintain sexual relationships with third or even multiple parties, serially or concomitantly. San Francisco University’s The Gay Couples Study released

in 2010 revealed just how open the sexual relationship is among homosexuals and lesbians in San Francisco. Of the 556 couples inducted into the research program, over 50 percent admitted to having had sex outside of their relationship with the consent and knowledge of the other partner. See, Scott James, Many Successful Gay Marriages Share an Open Secret," **The New York Times** (January 20, 2010) www.nytimes.com/2010/01/29/us/29sfmetro.html The objective, observers say, seemingly is to rewrite the traditional rules of matrimony and, oddly, say homosexual advocates, to ensure the survival of the marriage institution, through "the fresh perspective [which] gay couples bring to matrimony." Open marriage seemingly is the answer.

III.

HOMOSEXUAL PARENTING IS HARMFUL TO CHILDREN

Homosexual parenting is harmful to children and their developing sexual identity. The reasons are legion. First, as already indicated, homosexual couples are promiscuous, practice "open" marriages, and reject monogamy, the healthiest framework for the upbringing of children. In turn, the promiscuity inherent in homosexual parenting impacts their psychological wellbeing. A classical depiction of the serious harm of homosexual parenting is Dawn Stefanowicz's Out From Under: The Impact of Homosexual Parenting (2007). It is based upon the real life story of a young Canadian girl who had the misfortune of being born in a family where the father abandoned his wife in favor of serial and multiple male partners. The father ceased maintaining a marital relationship with the children's mother and entertained homosexual relationships with his male partners in the same house in which his children and wife also lived. Unavoidably, the children were exposed to sexual promiscuity from an early age, causing them to develop significant emotional and mental disturbances.

Second, homosexual parenting increases the likelihood that children will themselves become homosexual. In 2008 Trayce L. Hansen, Ph.D., a licensed psychologist, published her review of the available research on homosexually parented children and concluded that they are more likely to engage in homosexual behavior themselves. See "Pro-Homosexual Researchers Conceal Findings: Children Raised by Openly Homosexual Parents More Likely To Engage in Homosexuality;" and "Love Isn't Enough: Five Reasons Why Same-Sex Marriage Will Harm Children." www.drtraycehansen.com/Pages/writings_prohomo.html Studies revealed that between 8% and 21% of homosexually parented children ultimately identify as non-heterosexual, in comparison with approximately 2% of the general population. Therefore, children reared by homosexuals have a 4 to 10 times greater likelihood of developing a non-heterosexual preference than other children. Though every researcher working in this field could be expected to display some bias, it is commonsensical that children raised by homosexuals have a greater likelihood of themselves becoming homosexual. For a review of the research studies on this subject, as well as additional analysis and references, we recommend the monograph, "A Review and Analysis of Studies Which Assessed Sexual

Preference of Children Raised by Homosexuals."
www.drtraycehansen.com/Pages/writings_sexpref.html

The Gross Report simply glosses over this very harmful aspect of homosexual parenting, stating, in a conclusory fashion, that “children brought up by homosexual parents are usually more tolerant.” Possibly so, but also “different,” in the sense that they are more likely to grow up with a distorted sexual identity and to experience sexual conflictedness. This, in turn, would constitute a serious violation of children’s rights.

The contours of this exclusively modern phenomenon of sexual conflictedness in children are becoming more noticeable. On this point we recommend Dr. Albert Mohler’s “Boys Wearing Skirts to School? What’s Going on?,” a commentary which analyses this phenomenon in the public schools of the United States. www.albertmohler.com/.../boys-wearing-skirts-to-school-what’s-going-on/

IV.

CREATING RIGHTS TO DESTROY RIGHTS

The Gross Report is intended to pave the way for the creation of special rights for homosexuals. In this regard it is symptomatic of a greater anomaly which permeates the structures of the Council of Europe. For years the PACE and the Council of Europe have been in the forefront of creating, ex nihilo, new rights to the detriment of existing rights. Seemingly, the last few decades have catapulted humanity into its present “age of rights,” an age where illusory human rights are becoming global and “fundamental,” regardless of whether they are practical, relevant, or necessary.

We are witnessing a genuine inflation of rights, a proliferation of rights, and a sharpening conflict among the various rights which the Council of Europe and the PACE are purportedly protecting and creating. The new rights conflict with traditional, historical, and fundamental rights and destroy existing rights. New rights are declared which by and large are illusory, theoretical, academic, impossible to implement, or whose implementation would necessarily result in the displacement or limitation of other rights which are fundamental, truly universal, and practical. We sense that the Council of Europe has not been prudent or careful about seeking or preserving a careful balance between the truly universal, historical, and fundamental rights of the individual, and the new rights which are not universal, concern a limited or even a very limited number of individuals, but where the latter are given primacy over the former in the name of political correctness.

We view the recommendations of the Gross Report as being precisely this – an attempt to promote new and highly controversial rights that would benefit a very limited number of

individuals, to the detriment of the universal and fundamental freedoms of most citizens of the Council of Europe.

Prestigious scholars and experts in the field of international human rights share our concern. Some of them point out that the proliferation of human rights “cheapens the human rights tradition, erodes consensus on rights, dilutes the moral power of rights, and weakens enforcers’ will.” On this subject we recommend Clifford Bob, *The International Struggle for New Human Rights* (2008), at 10-11.

We opine that for the Council of Europe and the PACE to maintain, or even regain, their credibility and the confidence of citizens, they must focus on rights that are meaningful, pragmatic, truly fundamental, universally recognized, legally enforceable, and guaranteed to everyone. Philip Alston, “Conjuring Up New Human Rights: A Proposal for Quality Control,” *American Journal of International Law* 78:3 (1984), 607, 616. Regretfully, we seem to witness just the opposite, the creation of highly theoretical rights, aspirations endowed with doubtful legitimacy, and rights which lack practicality and usefulness.

We are not alone in making this observation or expressing this concern. The European Court of Human Rights has also sounded the alarm and has recommended caution. In *Tysiac v. Poland* (Application No. 5410/03, 20 March 2007) at #113 it pointed out that “the Convention is intended to guarantee not rights that are theoretical or illusory but rights that are practical and effective(see *Airey v. Ireland*, judgment of 9 October 1979, Series A no. 32, p. 12-13, § 24).”

Prudence requires that the PACE proceed with caution, especially where proposed rights are highly controversial and insufficiently tested by history, as those recommended in the Gross Report.

V.

CONFLICTS OF RIGHTS

A related observation is that the recipes outlined in the Gross Report also create conflicts among rights. Freedom of religion and conscience are some of our main preoccupations. Religious freedom and freedom of conscience and sexual orientation are not analogous but mutually exclusive in most respects. There is minimal diversity of views within the religious communities of the Council of Europe on issues of sexual orientation, with the state-sanctioned protestant denominations of the United Kingdom and the Scandinavian countries maintaining a liberal view on sexuality, and the Catholic Church in the rest of Europe, the Orthodox countries of the Council of Europe, the Muslim states of the Council of Europe, and Evangelical Protestants of all countries in the Council of Europe professing and maintaining a Biblical view on homosexuality. The Gross Report is plainly insensitive to this fundamental aspect which for most religious persons amounts to an irreconcilable conflict. Europe’s religious tradition is

largely incompatible with the relatively new notion of sexual orientation nondiscrimination. It only emerged as a legal doctrine in 1999 with the Treaty of Amsterdam. Additionally, sexual orientation means many things to many people. In addition to being a doctrine of recent currency, it also is in constant flux without well defined or stable parameters. Religious doctrine, on the other hand, is largely stable and for most of its adherents it is inflexible on certain fundamental issues, sexual orientation being paramount among them. Consequently, indiscriminately forcing sexual orientation nondiscrimination on religious bodies is discriminatory to religion. At bottom, the Gross Report is a departure from the norm and evinces hostility toward religion.

Religion is a matter of deep conviction which binds the conscience and most individuals cannot act, or be forced to act or think in opposition to it. By contrast, sexual orientation is a matter of choice. It is not an unavoidable or permanent condition. Consequently, we are of the opinion that laws or normative pronouncements by institutional frameworks should not protect choices from discrimination especially when such choices amount to nothing more than mere fads. From the perspective of most religious persons homosexuality is a sin and they believe that society should not protect sinful conduct. Imposing nondiscrimination based on sexual orientation on religious bodies, therefore, violates religious freedom at several levels.

First, sexual orientation nondiscrimination conflicts with **freedom of speech** for religious bodies. The conflict between sexual orientation and religious bodies already exists in religious teaching and the training of religious personnel for the ministry. It is improper for the PACE to urge the secular states to use their coercive power to impose their views on religious bodies or to ensure a correlation between their secular positions on social norms and those of religious bodies. The Gross Report, if catapulted into a coercive trajectory for the Member States, will likely have the effect of preventing religious bodies from promoting the authentic biblical view on sexuality or sexual immorality in general and from criticizing it. This conflict has already manifested itself in recent years in CE member states, and in particular in European Union Member States which have adopted at the national level similar legislation, in particular Sweden and the United Kingdom. The same has been the outcome even outside the EU, notably in Canada and the United States. In some cases religious personnel have been arrested, convicted, fined, or exposed to public ridicule for the sole reason of expressing the Biblical view on sexuality. The net result of the expansion of sexual orientation nondiscrimination has been the persecution of religious individuals and bodies.

Second, sexual orientation nondiscrimination conflicts with **freedom of association**. The Gross Report's proposals can potentially be interpreted to prevent seminaries and religious bodies from not admitting in their theological establishments persons that practice deviant sexual lifestyles or promote such lifestyles. Religion calls for separation between the holy and the unholy, and between it and immoral lifestyles. We are aware of course that in some EU member states certain religious bodies have rejected biblical views on homosexuality, in Sweden or the United Kingdom, for instance, but the majority of others religious establishments continue to oppose it. And specifically with respect to Romania, an opinion poll taken in 2009 indicated that 91% of its citizens reject homosexuality and that up to 99% of

them consider themselves to be religious. Thus, the blanket prohibitions contained in the Gross Report ignore this reality and adversely impact the freedom of religion of many.

A related impact of the recommendations of the Gross Report might be to compel religious associations to admit among their members individuals who claim a sexual orientation which is incompatible with biblical views on the subject or to prohibit them from denying such persons positions in church hierarchy.

Third, people of faith possess **human rights** as well, some of them recognized in truly global international treaties and accepted in practice for hundreds of years. The tendency of European courts and of the European Court of Human Rights has been to foster inconsistency in the interpretation and implementation of human rights. And the trend in recent years has been to resolve such conflicts against religious believers. In fact in the aftermath of the 1999 Treaty of Amsterdam religious freedom has constantly lost out to sexual orientation nondiscrimination. The Gross Report now places this very important issue at a cross-roads for the Council of Europe. And this, too, adds to the deep worries and reservations toward the Gross Report of the constituency we represent.

VI.

PROBLEMS WITH TERMINOLOGY

Concern must also be expressed regarding some of the terminology employed in the Gross Report. The terminology is politically charged, and the Gross Report seeks to obtain legitimacy for it through a formal document of the Council of Europe. We believe this is imprudent. Any legitimization of terminology has the potential of impeding the evolution, use or promotion of different terminology, concepts or contrary views in future formal documents of the Council of Europe.

Sexual Orientation

“Sexual orientation” is defined in the Gross Report as “each person’s capacity for profound emotional, affectional and sexual attraction to, and intimate and sexual relations with, individuals of a different gender or of the same gender or of more than one gender.” This definition is duplicated from the so-called Yogyakarta Principles adopted in November 2006.

We object to this definition and to the source from which it is derived. The “capacity” for same-sex sexual intimacy is at bottom a disorder, a deviance from the innate sexual disposition of all humans for sexual fulfillment with persons of the opposite sex. The “capacity” for same-sex sexual intimacy is a personal choice cultivated intimately, a drifting away, sometimes

intentional and sometimes coerced, of individuals in various stages of life from the heterosexual nature inherited at birth. It is an option some choose to pursue for various reasons. For this reason, homosexuality should not be denominated a sexual orientation but should more properly be termed sexual *dis*orientation in need of reparation and *re*orientation. Even evolutionary biologists support this view, stressing that homosexuality is not the innate condition of humans, or else the human specie would not have procreated or would have stopped procreating a long time ago. See, Miron Baron, "Genetic Linkage and the Male Homosexual Orientation," *British Medical Journal*, Vol. 307 (August 7, 1993), at 337.

The vast number of homosexuals who have exited the homosexual lifestyle and have become happy and fulfilled husbands or wives, mothers and fathers, all over the world attests to the fallacy of the "sexual orientation" definition promoted by the Gross Report. Unfortunately, the homosexual movement has been very successful in muting the voice or efforts of former homosexuals to promote their perception of the truth about homosexuality. The books on the successful exodus from homosexuality are legion. We cite here Arthur Goldberg, Light in the Closet, Torah, Homosexuality and the Power to Change (2008); Richard Cohen, Coming Out Straight (2000); Jan Clausen, Apples & Oranges: My Journey Through Sexual Identity (1999); Michael Glatze, former editor of the newspaper Young Gay America; Erin Eldridge, Born That Way? (1994); Alan Medinger, Growth into Manhood (2000); Joe Dallas, A Strong Delusion (1996).

As for the Yogyakarta Principles, their use as a definitional guidepost for the Gross Report is misplaced. The Yogyakarta Principles alone will not convert "sexual orientation" and "gender identity" into "suspect grounds." The Principles were created ex nihilo in 2006 by law professors and representatives of LGBT organizations who simply seek, and have sought for many years, to promote their agenda through international law. However, no court has cited to the Principles, adopted them, or ruled that they constitute an authoritative statement of existing international law on the subject.

It is further to be noted that the conference which birthed the Principles was not attended by official delegations of states or by subjects of international law, did not speak in the name of states, and did not outline the official position of states on the status of sexual orientation under international law. The Yogyakarta Principles were adopted by 29 organizations and individuals from 25 countries. Only 10 were law professors or legal scholars. The remaining 19 individuals who signed the Principles were mere representatives of LGBT organizations from various countries. While Article 38(1)(d) of the Statute of the International Court of Justice recites that "the teachings of the most highly qualified publicists of the various nations" may constitute a "subsidiary means for the determination of rules of [international] law," it is doubtful that any of the 10 legal scholars who affixed their signatures on the Yogyakarta Principles have attained that status.

Gender Identity

Another artificial term inserted in the Gross Report is “gender identity,” defined as “each person’s deeply felt internal and individual experience of gender, which may or may not correspond to the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modifications of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerism.”

This definition, too, was taken from the Yogyakarta Document. It defies the quasi-unanimous conclusion of scientists that “gender identity” is a disease, a disorder in need of therapy not affirmation. Even the otherwise politically correct American Psychiatric Association has referred to “transgenderism” as a “physical ailment.” Gender identity and transgenderism are nothing more than an individual simply deciding for himself or herself the gender with which s/he “chooses” to identify in specific opposition to the biological sex inherited at birth. It is a form of gender-bending, gender-shopping, a deliberate process by which individuals who claim unhappiness with the biological sex with which they were born demand, as a matter of legal right, that their biological sex be changed into the sex selected by that individual.

Transsexualism, known clinically as gender dysphoria, also is a highly fluid concept. Gender reassignments are mostly connected with aesthetic proclivities and, therefore, deference should be given to the prevailing opinion in the medical and psychological community that transsexualism is a psychological deformity which needs to be cured through therapy. Dr. Paul McHugh, “Surgical Sex,” First Thing, 147 (November 2004) It is symptomatic of deep-seeded emotional problems. See Kenneth Zucker and Susan Bradley, Gender Identity Disorder and Psychological Problems in Children and Adolescents (1995) (“Seeking sex reassignment surgery is a defensive solution and a mechanism for control of anxiety.”)

Like homosexuality, however, transsexualism, too, has been politicized and this explains to a large extent its inclusion in the Gross Report. The psychological community is well aware of the politics for the “emancipation of transsexuality” and has cautioned against a rush to a political solution to what is in fact an emotional and mental disorder. See, Dr. Kenneth J. Zucker, Gender Identity in Children and Adolescents (2006). Noting “[T]he politics of sex and gender in postmodern Western culture,” Dr. Zucker, who together with Dr. McHugh probably is the world’s greatest expert on transsexuality, has lamented that the politics of transsexuality raise “complex social and ethical issues.” He has urged clinicians not to cave in to political pressure to identify gender identity disorders (“GIDs”) as a “normal variant of gendered behavior,” and has concluded that “[T]hese and other questions force the clinician to think long and hard about theoretical, ethical, and treatment issues.” On balance, Dr. Zucker counsels against gender reassignment, and Dr. McHugh, University Distinguished Service Professor of Psychiatry at Johns Hopkins University, has completely removed himself from transsexual issues. Dr. McHugh has also remarked that the psychological profession’s involvement with transsexuality has irreversibly blotted the profession: “As for the adults who came to us

claiming to have discovered their “true” sexual identity and to have heard about sex-changing operations, we psychiatrists have been distracted from studying the causes and natures of their mental misdirections by preparing them for surgery and for a life in the other sex. We have wasted scientific and technical resources and damaged our professional credibility by collaborating with madness rather than trying to study, cure, and ultimately prevent it.” First Thing, supra, 147 (November 2004)

These are serious charges leveled by world-renowned experts and authorities. They suggest that the Council of Europe would do a disservice to sexually conflicted individuals by legitimizing their pathology instead of promoting for them a culture of change and rehabilitation. Specifically with respect to transsexuality the Gross Report would best serve the needs of transsexuals by encouraging their treatment through therapy, not by giving in to their self-damaging fantasies and desires. In this manner, respect for collective rights would also be ensured, and an undue and unnecessary burden on society would be removed.

VII.

THE GROSS REPORT AND “PREJUDICES”

The Gross Report calls on the PACE to legitimize the standard views of the homosexual movement on what it labels as “prejudices” of heterosexuals about homosexuality. This is quite disconcerting, and the call for such radical action unprecedented. Apparently, if adopted as a resolution, the citizens of the Council of Europe may be obligated to identify, admit and confess their “prejudices” against homosexuality and educate themselves to reject them. This would be a form of indoctrination, totalitarianism at its worst.

Furthermore, the Gross Report would have the Council of Europe adopt and legitimize its warped views on homosexuality. For instance, the fact that nearly 20 years ago the World Health Organization ruled that homosexuality is not an illness, does not mean that it is not. The World Health Organization made its ruling as a matter of political correctness, not as a matter of scientific proof. The voice of experts who hold a different point of view has been silenced. Their scholarly research is being rejected and attacked, and they have difficulties finding sympathetic venues to air their views.

These comments apply particularly to the conclusion that “mainstream scientific and medical opinion holds that homosexuality is a natural variant of human behaviour.” Not so. The number of scholars that opt for intellectual integrity on this subject is increasing, not decreasing. They hold that homosexuals suffer from sexual conflictedness in need of cure not affirmation. In recent years the number of organizations which help homosexuals abandon their unwanted homosexuality has grown and their impact on the debate on the nature and genesis of homosexuality is likewise expanding. These organizations include Exodus International,

Exodus-North America, Living Waters (UK), Re-Alignment (UK), People Can Change, International Healing Foundation, International Federation for Therapeutic Choice, Evergreen International, JONAS (Jews Offering New Alternatives to Homosexuality), NARTH (National Association for Research & Therapy of Homosexuality), The Truth Project (promoted by the NGO Focus on the Family in the United States), Joseph's Coat Ministries, Harvest USA. On the subject of positive homosexual reorientation we recommend "Gays Can Change: Reparative Therapy Works," an April 27, 2009 interview with Dr. Joseph Nicolosi, a California therapist and expert in the cure of homosexuality. <http://www.virtueonline.org/portal/article.php?storyid=10335>

We further detect in the Report's insistence that there is only one truth about homosexuality an implied phobia that the efforts of former homosexuals to dispel the many myths about homosexuality are beginning to gain ground in the battle for the minds and hearts of the yet uneducated public on the issues of homosexuality and the homosexual agenda. It is logical, therefore, that the Report seek to secure legitimacy for politically correct views and at the same time silence opposing views.

The Gross Report invites the PACE to accept its recommendations as dogma, no matter how specious. One such example is the "prejudice" that "homosexuality is immoral," which, according to the Report "is a subjective view usually based on religious dogma. In a democratic society it cannot be a basis for limiting the rights of others." A cheap statement indeed! We find this comment offensive, insensitive, and strongly object to it. The average citizen of the Council of Europe is religious. This might not be a reality in some parts of Europe but it is in most. The citizens who choose to align their secular values in conformity with Sacred Writings have the right to do so. They also have the right not be affronted by such a comment or asked to change their convictions simply to please those who disagree with their religious views. Nor should they be required to abandon their morality when exercising their civil and constitutional rights. For they have not only rights but also obligations, owed to their own conscience and belief in a Supreme Being.

We are now addressing the "prejudices" listed in the Gross Report seriatim.

Homosexuality Is an Illness

The Gross Report labels this long held view as a "prejudice." But is it? The fact that the World Health Organization ("WHO") ruled nearly 20 years ago that homosexuality is not an illness does not mean that it is normal or acceptable. And it certainly does not justify morphing sexuality into a human right. The WHO made its decision for reasons of political correctness, as did the American Psychological Association (APA). For many years, and as recently as 2005, the APA published on its website the following paragraph: "Can therapy change sexual orientation? No ... [H]omosexuality is not an illness. It does not require treatment and is not changeable." But one detects a significant shift in the last few years toward a growing acceptance of the notion that homosexuality is in fact a disturbance, an emotional and

psychological anomaly in need of cure which can, in fact, be cured. One recent study which debunked the APA's long promoted myth about the immutability of homosexuality and that it is "not an illness" was presented by a courageous duo of American psychologists during the 2009 proceedings of the annual convention of the American Psychological Association. Staton L. Jones, Ph.D. and Mark A. Yarhouse Psy.D. (Wheaton College, Illinois, USA) presented the study "Ex Gays? An Extended Longitudinal Study of Attempted Religiously Mediated Change in Sexual Orientation." ([Ex Gays? An Extended Longitudinal Study of Attempted Religiously ...](#)) The study concluded that "the findings of this study would appear to contradict the commonly expressed view of the mental health establishment that sexual orientation is not changeable and that the attempt to change is highly likely to produce harm for those who make such an attempt."

Another recent study which refutes the averments in the Gross Report and which we referenced *supra*, is the pamphlet "What Research Shows: NARTH's Response to the American Psychological Association's (APA) Claims on Homosexuality," published in the **Journal of Human Sexuality**, 1, 1-128 (2009). NARTH's vast study surveyed 600 peer-reviewed scientific articles and studies done over a period of more than 100 years, and concluded that: (1) there is substantial evidence that sexual orientation may be changed through reorientation therapy; (2) efforts to change sexual orientation have not been shown to be consistently harmful or to regularly lead to greater self-hatred, depression, and other self-destructive behaviors; and (3) there is significantly greater medical, psychological, and relational pathology in the homosexual population than the general population.

What then is the right conclusion? Is homosexuality an illness? Considering the evidence about the pathology of the homosexual lifestyle outlined in our note it seems that the answer would necessarily have to be affirmative.

Homosexuality Is Abnormal

The Gross Report would likewise have the PACE embrace the opposite view that "mainstream scientific and medical opinion holds that homosexuality is a natural variant of human behaviour." Our research has not validated this view. On the contrary, we have uncovered a disturbing trend in the scientific community where scientists and medical professionals who hold the opposite viewpoint are marginalized and even excluded from the relevant scientific and professional organizations. The war by homosexual activists against professional organizations that consider homosexuality an anomaly is ferocious and has been largely successful. Earlier this year even the California Association of Marriage and Family Therapists (CAMFT) has slowly begun to disavow pro-family views on sexuality in favor of presenting homosexuality as a "normal and positive" variant of sexuality. But this sharp turn has only come about because of the enormous pressure from homosexual groups. Simply stated, with respect to homosexuality it has become fashionable today to affirm as untrue the positions which only a generation ago were unanimously held to be true. In a comment on this intellectually and politically disturbing trend, Dr. Trayce Hansen, a respected family

psychologist in the United States, has lamented that political correctness has inflicted “damage [on] the integrity of the psychological sciences as well as the professional organizations who capitulate to [the] demands” of the homosexual lobby. See, Kathleen Gilbert, “Gay ‘Marriage’ Activists Forcing Pro-Family Views out of California Therapist Association.” www.lifesitenews.com/ldn/2010/mar/10031511.html

Moreover, the fact that prestigious professional organizations are willing to sacrifice their scientific integrity for political correctness is not a compelling reason to conclude that homosexuality is a “natural variant of human behaviour,” as the Gross Report urges. This approach, however, also carries tempestuous implications. For, it stands to reason that when the transitory conclusions of the scientific and medical community on homosexuality shift in the opposite direction, then so must the notion that sexual orientation deserves to be protected against discrimination or that homosexuals be declared a “suspect class.” A related implication concerns pedophilia. Suppose in the future the WHO declares pedophilia a normal sexual variant. Will the PACE then find such a shift in position compelling enough to recommend that pedophiles be recognized a right to sexual intercourse with minors and pressure Member States to legislate such a right domestically?

Homosexuality Is Immoral

The Gross Report calls this averment a prejudice “usually based on religious dogma.” This assertion is false. And even if it were true, it would be wholly irrelevant to the debate at hand, for the exercise of one’s citizenship rights cannot be divorced from the individuals’ value system, regardless of its source, religious or secular.

We start out by noting the obvious - the earliest pages of recorded history reflect society’s perception that homosexuality is immoral, even apart from the pronouncements of religion or of the sacred texts on this subject. The rational founders of Western civilization, among them Aristotle, Plato, and countless Roman writers, unambiguously and categorically condemned homosexuality as being immoral and called for its criminalization. Their views were rooted in natural morality, in the law of nature, in the ancient Roman concept of virtue (“virtu”) and were not religiously inspired. And on the basis of the same moral impetus they likewise condemned and rejected not only homosexuality but all forms of sexual immorality.

Plato directly condemned homosexuality around 348 B.C. in his Laws (636c) where he allegorically related the recollection of an unnamed Athenian about “an ancient law concerning sexual pleasures ... a law laid down even in nature... [I]t should be understood that the pleasure is given according to nature, it seems, when the female united with the natures of males for procreation. *Males coming together with males, and females with females, seems against nature*; and the daring of those who first did it seems to have arisen from lack of self-restraint with regard to pleasure.” [8] In another passage Plato described homosexuality as an “enormity” or “crime” (“tolmema”), and explained that it derived from one being enslaved to pleasure. He plainly rejected homosexual behavior as “unnatural” (“para physin”): “When male

unites with female for procreation the pleasure experienced is held to be due to nature, but contrary to nature when male mates with male or female with female”.[9][10] Notably, Plato described homosexuality as being universally regarded as shameful and by barbarians and those who lived under despotic governments alike. [11]

But Plato went even further and condemned not only homosexuality but the full display of sexual immorality, including prostitution and adultery. Through the words of the unknown Athenian Plato remarked: “The principle of piety, the love of honour, and the desire of beauty, not in the body but in the soul. These are, perhaps, romantic aspirations; but they are the noblest of aspirations, if they could only be realised in all states, and, God willing, in the matter of love we may be able to enforce one of two things --either that no one shall venture to touch any person of the freeborn or noble class except his wedded wife, or sow the unconsecrated and bastard seed among harlots, or in barren and unnatural lusts; or at least we may *abolish altogether the connection of men with men*; and as to women, if any man has to do with any but those who come into his house duly married by sacred rites, whether they be bought or acquired in any other way, and he offends publicly in the face of all mankind, we shall be right in enacting that he be deprived of civic honours and privileges, and be deemed to be, as he truly is, a stranger. Let this law, then, whether it is one, or ought rather to be called two, be laid down respecting love in general, and the intercourse of the sexes which arises out of the desires, whether rightly or wrongly indulged.”

Another array of sexual impurity is condemned by Plato in Laws I 636a-d where he writes: “And, in particular, this practice is generally held to have corrupted the ancient and natural rule in the matter of sexual indulgence common to mankind with animals at large ... we must not forget that this pleasure is held to have been granted by nature to male and female when conjoined for the work of procreation; *the crime of male with male, or female with female, is an outrage on nature and a capital surrender to lust of pleasure.*” (Laws I 636a-d)

And in what might be viewed as a prelude to modern attempts to legislate or impose same-sex marriage, Plato spoke his mind and was categorically opposed to it: “That was exactly my own meaning when I said I knew of a device for establishing this law of restricting procreative intercourse to its natural function by abstention from congress with our own sex, with its deliberate murder of the race and its wasting of the seed of life on a stony and rocky soil, where it will never take root and bear its natural fruit, and equal abstention from any female field whence you would desire no harvest.” (Plato’s Laws VIII 838e-839a).

Aristotle, too, condemned homosexuality in his Necomachaen Ethics (1138b30) calling it “the result of disease or of habit,” or of childhood sexual abuse. Notably, his latter conclusion was borne out by modern researchers.

Likewise, the list of ancient Roman writers who disapproved of homosexuality, either directly, or indirectly by condemning the sexual exploits of Nero or Domitian, for instance, is fairly lengthy. Thus, it seems rather evident that the substratum of European civilization is not universal acceptance of homosexuality but its quasi unanimous rejection and disapproval.

The statement then, in the Gross Report, that religious dogma is to blame for the “prejudice” that homosexuality is immoral is not only inaccurate but especially and mostly an affront to the religiously and spiritually minded citizens of the Council of Europe. No wonder than that the Rapporteur encountered lukewarm reception in some of the countries he visited to compile his Report.

We additionally take issue with another glaring inaccuracy in the Gross Report, namely its assertion that “the first legal prohibition on homosexuality in Europe was, reportedly, introduced in 390 AD.” (Footnote 14) We read into this factually erroneous assertion the implication that the advent of Christianity propelled the criminalization of homosexuality. Not so. Sodomy was known to have been a crime under Roman law as early as 225 BC and it was first codified as a crime about 149 BC in the Lex Scantinia. See, Beert Verstraete and Vernon Provencal, Same-Sex Desire and Love in Greco-Roman Antiquity and in the Classical Tradition of the West (2006). In 17 B.C. Lex Scantinia was amended through the Lex Iulia de Adulteris Coercendis to also ban adultery and to make it a capital offense. And in the 3rd century AD Lex Iulia was further amended by the Sententiae of Julius Paulus to make same-sex behavior a capital offense as well.

We see, therefore, that Roman jurists and legislators alike focused on the whole spectrum of what they deemed to constitute sexual immorality. The suggestion that homosexuality be criminalized was made hundreds of years before Lex Scantinia by Plato. In fact, the calls for the criminalization of homosexuality and sexual immorality in general came about well before the advent of Christianity and can be tied chronologically to the rise of rationalism among the ancient Greeks, specifically to the Fourth Century BC, a time which a noted British historian called “a period of intellectual ferment in Athens[,] the first sophistic, or the Greek enlightenment,” an age which “changed the course of western civilization.” Carolyn Dewald, Herodotus – The Histories (Introduction) (1998). Notably, during the classical period the Romans, too, began to pass laws designed to strengthen the institution of marriage by protecting it from sexual immorality and intruders. Augustus’ Julian Laws, passed between 18 and 17 B.C. were designed specifically to elevate the morals of Roman citizens, encourage population increase and marriage, and protect the institution of marriage. Of course, these attempts had no religious but exclusively rational undertones.

Homosexuality Is Increasing

The PACE is further invited to extend its legitimacy to the doubtful view in the Gross Report that homosexuality is not increasing but that it is rather becoming more visible. We attribute this distorted perception, possibly erroneously but yet respectfully, to the Rapporteur’s limited personal experiences. It reflects ignorance of realities in most Council of Europe member states where until a few years ago very few people knew any homosexuals or even what homosexuality was. To the shock of many, in recent years they have learned what they did not know before, that there are men who have sex with men, and women with women. We also

note that the Report is woefully deficient in supporting its allegation that homosexuality is not increasing. It can more accurately be denominated as a fad, a trend that ebbs and lows, a choice currently in vogue.

It is appropriate here to also note that the spread of homosexuality is being spearheaded through funding by the wealthy states of the Council of Europe. But for financial support from European institutions the practice of homosexuality would still be rare in many countries of the Council of Europe and around the world. And we also believe that it is appropriate, also in this context, to object to the practice of the wealthy states of the Council of Europe which tie economic assistance to the poorer countries to acceptance and promotion by them of the homosexual agenda of the European Union and of the Council of Europe. This practice is deplorable to say the least, insensitive, demeaning to the recipient states, and offensive to their culture. It should not occur among sovereign states which, after all, are subjects of international law equal in status and dignity.

Homosexuality Is Worsening the Population Crisis

The Gross Report insists on the opposite but illogical proposition that homosexuality cannot be viewed as a cause for demographic decline. This proposition is conclusory at best. And giving the Nordic states in the Gross Report as an example to substantiate the claim that the spread of homosexuality has no negative impact on demographics does not help. This example truly is tortuous logic. The obvious fact is that but for the significant immigration which the Nordic states experienced in recent decades, their population would have diminished significantly. Coupled with the pervasive abortion practiced in these countries, it is beyond debate that but for immigration in only a few generations the Nordic states would have been in jeopardy of biological extinction.

On point, we draw attention to a scholarly article on the dangers of demographic decline in Europe which appeared in the January-February 2010 issue of the internationally acclaimed American magazine Foreign Affairs, “**The New Population Bomb: the Four Mega Trends That Will Change the World**” <http://www.scribd.com/doc/24424882/The-New-Population-Bomb-the-Four-Mega-Trends-That-Will-Change-the-World> Authored by Jack A. Goldstone, Professor at the George Mason School of Public Policy, the article paints a very bleak picture for Europe’s future, which it principally attributes to its demographic decline. The article adduces statistical evidence that the population of, roughly speaking, the countries which today comprise the Council of Europe, accounted for approximately 20% of the world’s population at the beginning of the eighteenth century. By 2003 the combined populations of Europe, the United States, and Canada accounted for only 17% of the world’s population, a percentage which is expected to decline to 12% by 2050. The article suggests that the impact of this demographic shrinkage on Europe’s economic and security interests will be lethal: the proportion of the global GDP produced by Europe, the United States and Canada jointly in 2050 will be less than 30%, smaller than it was in 1820. And we note that there already are

signs that the EU is becoming increasingly irrelevant globally. Undoubtedly, demographics is among the reasons.

Naturally, Professor Goldstone does not attribute the sharp decline in Europe's demographic misfortunes to homosexuality. Nevertheless, any common-sensical analysis will lead to the inevitable conclusion that the root causes of Europe's demographic decline consist of the spread of abortion, the decline of family and marriage as institutions, and the proliferation of lifestyles inimical to procreation, chief among them homosexuality and cohabitation. The viability of this empirical observation is validated by another truism identified in Professor Goldstone's article: there is no demographic decline in Africa, the Middle East, Central Asia, South Asia, and the Americas south of Texas. We note that these countries and sections of the globe by and large disapprove of homosexuality and do not practice it on the scale it is known to be practiced in Western Europe.

The Gross Report's attempt to unlink homosexuality from demographic decline is further undermined by the historical evidence. We cite here a book which today probably is largely forgotten and considered politically incorrect but which in our opinion encapsulates historical accuracy. In 1934 British anthropologist J.D. Unwin published Sex and Culture in which he chronicled the historical decline of 86 primitive and civilized societies over 5,000 years. Unwin's findings caused him to propose a correlation between increasing sexual freedom and social decline. Unwin posited that he found no society which retained its creative energy after abandoning "absolute monogamy." (at p. vii) In 1940 J.D. Unwin published another book, Hopousia: The Sexual and Economic Foundations of a New Society, in which he reasserted the same thesis, concluding, on pages 84-85, that "in human records there is no instance of a society retaining its energy after a complete new generation has inherited a tradition which does not insist on pre-nuptial and post-nuptial continence." Unwin also remarked that his studies detected "no exception to these rules." (p. 89)

Sigmund Freud, too, expressed similar views in famous essay Civilization and Its Discontents (1930).

Granting legal recognition to same-sex couples is a danger to the traditional family

The Gross Report further aims to have the PACE validate the erroneous proposal, as demonstrated by the mounting evidence to the contrary, that "granting recognition to same-sex couples has no influence on whether heterosexuals marry or have children." This rather lame framing of the issue is, of course, inaccurate and distorted. For the countries that have experimented with social structures alternate to the family institution have reached critical levels of social disintegration and decay. Cohabitation is on the rise in the Nordic countries, stands at about 20% of the adult population in Denmark, and the family is on the verge of extinction in the UK. The British media reports frequently on the disintegration of the family institution in Great Britain. Years ago Britain legislated civil unions as an alternative to the

traditional family. Successive British generations have opted for civil unions, same-sex or heterosexual, to the detriment of marriage and the family unit. The results have been catastrophic as described in John Ware's "Yes Family Breakdown IS Behind Broken Britain," *Daily Mail* (July 11, 2009) www.dailymail.co.uk/.../Yes-family-breakdown-IS-broken-Britain-Top-judge The article cited the UK's most senior Family Court judge who described family breakdown as a national tragedy and called on the government to promote marriage to halt "social anarchy" in the country. And the statistics behind this cry for the rehabilitation of the traditional family are appalling. According to the Millennium Cohort Study undertaken in the UK, by the age of three the children of cohabiting parents were generally three times more likely to have suffered the break-up of their families than the children of married persons.

Propaganda Can Convert Young People to Homosexuality

The Gross Report gratuitously labels as a "prejudice" the view that "propaganda can convert young people to homosexuality," and states that there is no evidence to support it. One legitimately asks then why homosexuals focus so intensely on the young generation, for the specific aim to reengineer its thinking away from disapproval into approval and practice of homosexuality. The minds of the young are impressionable and fragile, untrained and unschooled in discerning between wrong and right. Consequently, they have become logical and easy targets for the promotion of homosexuality. In fact, in recent years the homosexual agenda has moved away from the objective of simply achieving "tolerance" for homosexuality among the youth, to active encouragement and indoctrination into homosexuality. The young are encouraged to "try" homosexuality with the promise that they will like it.

This subject is vast but the phenomenon very much pronounced in several countries in Western Europe, the United States, and Canada. We suggest an article right on point with an equally appropriate title, Judith A. Reisman, "Crafting Bi/Homosexual Youth," **Regent University Law Review**, Vol. 14 (2002). Active homosexual materials designed to arouse homosexual feelings in students are disseminated in public schools in Massachusetts, Quebec, New York, and California. Homosexual groups also push for acceptance of pedophilia. They promote a "right to sex" for children and even aim to amend the 1989 Convention on the International Rights of the Child to insert a child's "right to sex." Sexual intercourse between adults and minors is good, aver some academics. Why worry then? Pedophilia is described as a form of sexual expression, a form of "intergenerational intimacy," a lifestyle choice. Children, they argue, must be given this right. For these extreme but increasingly strident views we cite Judith Levine: Harmful to Minors: The Perils of Protecting Children from Sex (2002).

Homosexuality and Pedophilia

The Gross Report stresses that homosexuality is not connected with pedophilia. There is growing evidence that it is. In the United States homosexuals actively seek the decriminalization of pedophilia and promote sexual relations between made adults and minors.

Called, “male intergenerational intimacy,” this trend was exposed in Steve Baldwin’s “Child Molestation and the Homosexual Movement,” 14 *Regent University Law Review*, 2 (2001-2002), at 274-278. In fact, some academics even go as far as to argue in favor of homosexual pedophilia. See, Judith Levine, Harmful to Minors: The Perils of Protecting Children from Sex (2002). To attain their objective, homosexuals have been actively pursuing the lowering of the legal age above which minors can engage in sex. They also promote the notion of “sexual autonomy” in children, an objective which is now promoted with increasing visibility in the United Nations as well.

Puzzlement needs to also be expressed that the Netherlands has allowed for many years the legal existence of a political party founded on a supposed right to pedophilia.

American Psychological Association

In an effort to legitimize the dicta of the Gross Report, reliance is placed on the American Psychological Association. But the reliance is misplaced. The APA has succumbed to political correctness and has discarded the rigors of scientific evidence in favor of affirming that homosexuality is a normal life style. This was done under the pressure of homosexual activists, a process described in Roger H. Wright & Nicholas A. Cummings, Destructive Trends in Mental Health: The Well Intentioned Path to Harm (2005). In the very recent past, however, the APA has hinted, as explained above, that it intends to redeploy itself in an equidistant position and affirm, contrary to past positions, that the evidence is *inconclusive* on whether homosexuality is innate or not.

VIII.

INTERNATIONAL ASPECTS OF SEXUAL ORIENTATION

The Gross Report is fraught with inaccuracies when discussing the “rights of LGBT people under international law.” Simply stated, homosexuals do not benefit from recognition of a special status or special rights under international law. With the sole exception of the Treaty of Amsterdam (1989), no other international legal instrument recognizes sexual orientation as a protected trait on the basis of which discrimination or differentiation in treatment would be disallowed. Simply stated, sexual orientation as a ground for nondiscrimination has not received the imprimatur of the world community, *de jure* or *de facto*.

The lone Treaty of Amsterdam is insufficient to create an internationally recognized right to nondiscrimination based on sexual orientation. It came into force on May 1, 1989 as the first ever international treaty to explicitly mention and protect sexual orientation, urging Member States to “combat discrimination” based on “sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.” At best, the Treaty of Amsterdam creates regional international law, not international law of universal applicability of the type recognized as

binding on nation states and envisioned in Article 38 of the Statute of the International Court of Justice. Moreover, the Treaty of Amsterdam currently applies to only 27 states of the world community, to a relatively and geographically small part of the world, and to a fairly small percentage of the world's population. Notably, it reached the number of 27 states through economic coercion, not the free acquiescence of states. In 1989 when the Treaty of Amsterdam entered into force, the European Union only consisted of 15 states. It was only binding on 15 states, and the further joining of the European Union was predicated upon the applicant states decriminalizing sodomy and agreeing to the terms of the Treaty of Amsterdam. It can hardly be argued then that the principle of nondiscrimination based on sexual orientation reflects the freely given consent of each member state. This observation is warranted because modern international law, having rejected natural law, is based on consensus. Consent must be freely given and it must be uncoerced. The Treaty of Amsterdam imposed sexual orientation as a ground for nondiscrimination on states where homosexuality was virtually unknown by the time an interest was shown in joining the European Union. Therefore, it can be said that an undemocratic process is at work in the recommendations of the Gross Report.

Of some additional relevance to the status of sexual orientation under international law is the fact that 90 countries around the world still ban sodomy. While this evidence is not presented to suggest that criminalizing sodomy is acceptable, it supports the argument that no internationally recognized right to sexual orientation nondiscrimination exists.

The Gross Report's reliance on UN instruments for the proposition that some sort of an international legal regime exists for sexual orientation in international law is equally faulty. The Gross Report cites to a May 20, 2009 UN Committee General Comment 20 venturing a specious interpretation of the International Covenant on Economic, Social, and Cultural Rights ("ICESCR") as including, in Article 14, sexual orientation and gender identity as grounds for nondiscrimination. Comments of UN committees have no legal consequence and, therefore, the Gross Report should not even have alluded to it. The Gross Report, however, fails to inform the PACE delegates, as it should have, that on December 21, 2009 the UN General Assembly voted to delete the language on sexual orientation in General Comment 20 from a proposed UN resolution. Consequently, the representation in the Gross Report that "sexual orientation is a concept covered by Article 14" of the ICESCR (#40) is inaccurate.

Nor is the Report's credibility enhanced by referencing another UN document, the December 2008 "Statement on human rights, sexual orientation and gender identity" initiated by France and signed by 66 states, including 41 countries of the Council of Europe. (See Paragraph 53 of the Report) The Gross Report fails to inform that the French sponsored Statement was opposed by a contrary Statement initiated by Egypt which received the support of 60 states. Romania signed the French-sponsored Statement along with the other member states of the European Union. But in so doing, Romania did not express the views of its citizens, and the Romanian government did not act with respect to that Statement out of conviction but was guided by reason of state, like most of the other states. Romanian citizens were disturbed by the vote cast by their government and reacted with a note of their own addressed to their own government and to the French Ambassador to the UN, the originator of the Statement, invalidating their

government's adoption of the Statement. We are confident believing that the majority of citizens of the Council of Europe share our views and disapprove of the favorable votes cast by their respective governments.

Similarly, citing, as the Report does, to the Yogyakarta Principles on the Application of International Human Rights in Relation to Sexual Orientation and Gender Identity in support of the proposition about the existence of an international legal regime applicable to sexual orientation is equally disingenuous. We expressed our reasoning on this point earlier.

We note, more generally, that throughout the Report the Rapporteur references and relies heavily for argument on the Yogyakarta Principles. We reject this reliance for several reasons. First, it is an attempt by the Rapporteur to legitimize through the Council of Europe principles, terminology, and the agenda of the international homosexual movement. Second, it seeks to clothe the Principles with international legitimacy thereby facilitating their incorporation as principles of international law. Third, the Principles are nothing more than activism, a biased proclamation of the desires of the homosexual movement. Therefore, we reiterate our view that the Yogyakarta Principles do not constitute a statement of international human rights law.

As a result of the unfounded assumption about the existence of an international legal regime for sexual orientation, the Report posits a number of incorrect arguments and recommendations. They are listed in Paragraph 40 of the Report. In order to streamline the arguments and avoid their duplication, we will only address a few of them.

IX.

LEGALIZED SAME-SEX FRAMEWORKS HAVE NO SOCIAL UTILITY

While the Gross Report properly concedes that international law does not currently recognize a right to same-sex marriage or same-sex unions, it nevertheless proposes a multitude of alternate frameworks for CE Member States, ranging from legislating same-sex marriage or same-sex civil unions to ensuring absolute equality between opposite-sex marriage and same-sex marriage or civil unions. The call for such radical actions and sexual experimentation should be rejected.

The institution of marriage is not a grant by society to heterosexual couples because of their sexuality. In contrast, same-sex marriage would be a grant bestowed on homosexual couples exclusively and precisely because of their sexuality. This conceptual distinction is important because, if carried to its logical conclusion, it reveals discrimination based on sex against heterosexual couples. Rather, marriage is a grant from society to heterosexual couples because of the unique and exclusive function which they fulfill and the social utility which their union bestows upon society, namely procreation, the potential for procreation, and the perpetuation

of the human race. Same-sex marriage does not fulfill this social function and is void of any social utility. Marriage is unique and a uniquely valuable social institution precisely because of its procreative role. For this reason, too, it benefits and should continue to benefit from a peculiar and heightened societal protection.

A subset of this argument is the illogical result of heterosexual same-sex couples who choose to marry one another instead of persons of the opposite sex. In this case marriage would be bestowed upon heterosexual same-sex couples based not on their sexuality or sexual orientation but on their friendship or associational proclivities. This indeed would be absurd, but nevertheless possible under the framework proposed in the Report. Once more, the net result would be the ordaining of a social institution devoid of any social utility.

Societies legislate and protect only institutions which have social value, such as marriage, education, courts, democratic institutions, the state, the government, the church, the military establishment, the arts, expression, or basic liberties, among others. Precisely because social institutions vary widely in their respective degree of social utility they are afforded different degrees of constitutional or legal protection. No doubt marriage and the family have always been and continue to remain the most important institutions and the institutions with the greatest social utility. They have made possible the emergence and survival of all other social institutions. For good reason, therefore, they deserve a degree of legal protection proportionate to the benefit they confer on society. Conversely, it is contorted logic to assign a place of any importance or meaning in the hierarchy of social institutions to same-sex frameworks which are inherently devoid of any social utility.

Here we seek to inject some pragmatism in the otherwise highly academic narrative of the Gross Report. As the Texas Supreme Court stated years ago, the lofty goals of nondiscrimination and equality must of necessity be “tempered somewhat by the practical reality that the mere act of governing often requires discrimination between groups and classes of citizens. A state simply cannot function without classifying its citizens for various purposes and treating some differently than others. For example, able-bodied citizens may be required to serve in the armed forces, while the infirm are not.” Sullivan v. U.I.L., 616 SW2d 170, 271 (Tex. 1981).

Furthermore, we reiterate some of the arguments made above that same-sex relationships are not suited for marriage or legalized same-sex frameworks. Homosexual relationships are complex, based on sex not affection, unstable, not amenable to monogamy and fidelity, the latter being the foundational blocks of heterosexual relationships and marriage. Homosexual relationships are “open” to sexual experimentation and the sharing simultaneously of multiple sexual partners. Sex is the rationale and the centerpiece of homosexual relationships. It seems misguided then to even suggest that legal protection and recognition be extended to relationships which are based on sexual interest, only last several months, and are characterized by promiscuity and multiple sexual partners. It is not in the society’s best interest to expend its legal resources on such relationships.

We note, additionally, that the institutionalization of same-sex marriage has come about by undemocratic means in some of the countries cited in the Gross Report, notably Canada and South Africa. We also note that anytime citizens were allowed to vote on whether or not they wished to institutionalize same-sex marriage they rejected it. This has been the case in the United States where in most cases citizens overcame the opposition of politicians and banned same sex marriage. Most notably and remarkably, in November 2009 the citizens of Maine repealed a law adopted by Maine's legislature in May of that year which institutionalized same-sex marriage.

This point is important to make and understand because in most of the countries of the Council of Europe the citizens are overwhelmingly opposed to same-sex marriage and same-sex frameworks. The most recent poll on this subject was taken in Romania in the fall of 2009 and reflected that 90.5% of its citizens reject same-sex marriage. In Poland, a poll taken in March 2010 reflected that 79% of Poles oppose same-sex marriage and a whopping 93% reject adoptions of children by homosexuals. ("Poles Resolute on gay marriage, gay adoption and abortions on demand," Warsaw Business Journal, March 23, 2010) Similar levels of opposition to institutionalized homosexual frameworks predominate in the other countries of Central, eastern, and southern Europe, the Ukraine, Russia, and the Caucasus. It should then come as no surprise that the impression of many is that the PACE is acting undemocratically in drafting and legislating illusory rights out of thin air.

We are also opposed to any attempts to reengineer the family as an institution. We view the Gross Report as such an attempt. (Paragraphs 78-80) Children have the right to live in families where parents are not promiscuous and where sexual partners do not change from one month to the next. Homosexual relationships are a hardship on children precisely for this reason. Children additionally have the right to a mother and a father, not to two mothers or two fathers. Children raised in binary marriages have the opportunity to develop healthy emotionally and to develop a healthy sexual identity. Studies are countless that the proper upbringing of children mandates the existence of a father and a mother in the life of every child. See, Anna Sarkadi, Robert Kristiansson, Frank Oberklaid and Steven Bremberg, "Father's Involvement and Children's Developmental Outcomes: A Systematic Review of Longitudinal Studies," Acta Paediatrica (Stockholm) (February 2008).

Unlike the heterosexual family, in the homosexual framework parental identity and responsibility for children do not flow from biology but from choice and intent. Homosexual parenting excludes the biological parent from this equation in order to satisfy the homosexual couple's "right" to choose. And here lies the unnaturalness of the homosexual framework – it divorces procreation and parenting from their biological roots and imposes on them a socially reengineered concept of family to the detriment of the biological parent. Simply restated, the homosexual couple makes use of someone else's sex organs and biology and is thus severed from parental responsibility for the life conceived by the third person. Admittedly, the decoupling of biology from parental responsibility has been around for thousands of years and it involved the rearing of orphans and abandoned children. But in all those situations the children were given back that which biology gave them in the first place – a mother and a father. In contrast, the contemporary homosexual relationship entails an absent parent, either

the father or the mother. Ultimately, it means the severing of the genetic contribution from parenting.

In opposition to the Gross Report on the family variants and the call to legislate them regardless of how harmful they are to children, we refer to the Doha Declaration (2004) which, unlike the Yogyakarta Principles, was issued by representatives of governments and members of civil society gathered at the Doha International Conference for the Family which commemorated the 10th Anniversary of the International Year of the Family. Tracking language in the Universal Declaration of Human Rights, the Doha Declaration proclaimed that “the right of men and women of marriageable age to marry and to found a family shall be recognized ...” Thus, it can more accurately be stated that the prevalent view of the world community is that sexual orientation is not a suspect class in matters of marriage. Simply stated, no source of international law establishes a right to found a family or marry regardless of sexual orientation.

We further note an even more relevant event which took place on December 26, 2004 when the United Nations General Assembly observed the final event of the International Year of the Family. The Assembly adopted Resolution A/59/L.21 which was signed by 149 of the then 191 member states of the world community. The Resolution reaffirmed the commitment of the international community to marriage and the family. The only dissenting view was presented by the Dutch ambassador who, claiming to speak on behalf of the European Union, stressed that “although the family is the basic unit of society, its concept and composition has changed in the course of time.” He further asserted that “it is not up to the state to impose limitations [on the right to found a family] on the basis of race, nationality, religion, sexual orientation, or any other status.” The Dutch ambassador was the lone voice in the vast family of nations and his subjective opinion is insufficient to convert sexual orientation into a suspect category. The Alliance of Romania’s Families rejects this view as being inaccurate and not representative of our views and values.

We additionally cite to this UN Resolution to contrast it with the 2004 PACE Recommendation to the Committee of Ministers favoring a “broad interpretation of the concept of family.” (Paragraph 86)

X.

CONCLUDING REMARKS

All trends start with radical ideas. We therefore submit that it might be appropriate to pause for a while. For many decades the Council of Europe has been defending human rights - a noble purpose. To the outside observer, however, recent directions point to a worrisome trend within the institution. Rights are created or proclaimed at a sustained pace, which conflict with other rights, and lead to competition between various groups for the assertion of their rights at the expense of the rights of others. The aggressive and wealthy have their voices heard and their

claims are transformed into “human rights.” The voices of the more prudent are ignored, never hoping to see their claims converted into human rights. The PACE adopts resolutions which proclaim the existence of “new rights” which ring hollow to most citizens of the Council of Europe. Only a few months ago the PACE adopted the McCafferty Report proclaiming, for the first time in an international instrument, the existence of “sexual and reproductive rights.” The Gross Report is another example typifying the same trend. And we detect a similarly disconcerting trend within the European Agency for Fundamental Rights as well. The speed at which the reports and resolutions which call for the creation of new rights are adopted has also become remarkable. By now, the process is well known. In the beginning a new claim is conceived, the claim is transformed into a recommendation, the PACE commissions a rapporteur, the rapporteur creates a report, the report is voted as a resolution, the Committee of Ministers transforms the resolution into a recommendation, and the Member States are pressured to transform the recommendations into national laws.

And so, we ask: where will this lead us and what is to be done? Will this take us to a more prosperous, tolerant, or enlightened Europe? Or to more strife and conflicts among groups which cling to rights in conflict? One observation seems certain, however. When the very notion of human rights took form a few centuries ago, the framers contemplated a reasonable, noncontentious formula for determining what those rights should be. They were determined by consensus. The Declaration of Independence of the United States reflects that consensus in its Preamble, “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights . . .” Rights were determined, accepted, and given legitimacy in law, to the extent they were “truths,” “self-evident,” and truly universal.

In contrast, today’s human rights landscape evinces a frightening state of gestation. Rights are created with the stroke of a pen, and claims, no matter how absurd or illusory, are transformed into rights by the thin majority vote of parliamentarians. No thought is seemingly given to the notion that prior to receiving the status of rights the principles which embody them have to be self-evident and universally viewed truths. This trend is not limited to just the Council of Europe or the European Parliament. It manifests itself at the United Nations as well where its various committees have become laboratories which incubate new human rights. We express concern and recommend, in this respect, Susan Yoshihara’s “How the UN’s Advocacy of Economic, Social, and Cultural Rights Undermines Liberty and Opportunity,” in Brett D. Schaefer, Conundrum, The Limits of the United Nations and the Search for Alternatives (2009), at 169-208.

The expansion of the “new” rights has undermined the fundamental liberties and freedoms of citizens, including ours. Creating rights for some while destroying the freedoms of others is unacceptable and likely to generate social strife not harmony. The inflation of rights, especially those that are controversial and illusory, denudes the Council of Europe of its credibility and cheapens human rights generally. Does this matter? We think so. And it matters especially to the faithful with particular regard to the Gross Report. The spiritually minded citizens of the Council of Europe are willing to give Caesar what is Caesar’s, but ask that Caesar allow them

to give God what is God's. They have not only rights, but obligations as well. For this reason we propose that thought be given to emphasizing through the structures of the Council of Europe not only human rights but also human obligations, the latter being as important to a democracy as the former. Rights alone will not make Europe's citizens fulfilled or happy. However, a harmonious balance between obligations and rights likely will.

In closing we thank the PACE for the opportunity to submit this Brief. We respectfully request that it be filed among its official papers and be disseminated to all PACE delegates. We urge all delegates to reject the Gross Report.

Very truly yours,

Peter Costea, PhD, President
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Bogdan Stanciu
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