



Statement by His Excellency Archbishop Silvano Tomasi, Permanent Observer of the Holy See to the United Nations and Other International Organizations in Geneva at the 19th Session of the UN Human Rights Council Item 3: Panel Discussion on Discriminatory Laws and Practices and Acts of Violence against Individuals based on their Sexual Orientation and Gender Identity
Geneva, 7 March 2012

Mr. Chairman,

The Holy See Delegation has noted with careful attention the Report on “Discriminatory Laws and Practices and Acts of Violence against Individuals based on their Sexual Orientation and Gender Identity”. The Holy See has condemned repeatedly violence against people because of their perceived sexual differences. *The Catechism of the Catholic Church*, in fact, states: “Every sign of unjust discrimination in regard [of homosexual persons] should be avoided.”¹ The teaching of the Catholic Church on this issue was authoritatively set forth in a 1986 letter to all the Catholic bishops throughout the world, as follows: “It is deplorable that homosexual persons have been and are the object of violent malice in speech or in action. Such treatment deserves condemnation from the Church’s pastors wherever it occurs. It reveals a kind of disregard for others which endangers the most fundamental principles of a healthy society. The intrinsic dignity of each person must always be respected in word, in action, and in law.”²

Sections III and IV of the Report cite numerous and lamentable examples of ways in which the dignity and human rights of persons have been transgressed because of their perceived sexual differences. These represent tragic incidents of how some human beings are treated by other members of the human family in a most inhumane manner. Most regrettably, examples of such unacceptable treatment on the basis of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, can be listed in similar fashion. All such behavior, whether fomented between individuals, by social and cultural groups, or by the State itself, should be proscribed and sanctioned since it is not in conformity with the principle of universality enshrined in the Universal Declaration of Human Rights, which states that “all human beings are born free and equal in dignity and rights.”

In this specific regard, the Report refers to the Vienna Declaration and Programme of Action that states: “While the significance of national and regional peculiarities and various historical, cultural, and religious backgrounds must be borne in mind, it is the

¹ *Catechism of the Catholic Church*, #2358.

² Congregation for the Doctrine of the Faith, *Letter to the Bishops of the Catholic Church on the Pastoral Care of Homosexual Persons* (1986), #10.

duty of States, regardless of their political, economic, and cultural systems, to promote and protect all human rights and fundamental freedoms.”³

Mr. Chairman, it is the firm view of the Holy See that the grave problems of discrimination and violence toward the population upon which the Report focuses, or toward any other victimized groups or individuals, must be pursued on the basis of the principle of subsidiarity. Thus, these problems should receive attention and effective action at the level of national and local governments, civil society, religious and cultural leaders. Such situations cannot be resolved by defining new categories, laws or policies that posit rights and privileges to special groups in society.

In Section II of her Report, entitled “Applicable international standards and obligations”, the Report advances compelling arguments, based in the *Universal Declaration of Human Rights*, to affirm the need for protection of the “right to life, liberty and security of persons...” It further argues, on the basis of the Human Rights Committee general comment No. 6, that “The State has an obligation to exercise due diligence to prevent, punish and redress deprivations of life, and to investigate and prosecute all acts of targeted violence.” My Delegation, however, finds both confusing and misleading the High Commissioner’s decision to further develop her argumentation with an exclusive focus on those persons subjected to discrimination and violence on the basis of their perceived sexual differences. The rights cited by the High Commissioner are rights that should and must be universally respected and enjoyed; thus efforts to particularize or to develop special rights for special groups of people could easily put at risk the universality of these rights.

Moreover, the Holy See Delegation wishes to raise serious concern with the insertion of terms such as “sexual orientation” and “gender identity” which do not enjoy mention in binding documents of the United Nations and which are ambiguous in nature since they lack specific definition in international Human Rights instruments. In fact, my Delegation believes that the use of the term “gender identity” was settled, in 1998, during the discussion leading up to the promulgation of the *Statute of the International Criminal Court*, which states, “For purposes of this Statute, it is understood that the term ‘gender’ refers to the two sexes, male and female, within the context of society. The term ‘gender’ does not indicate any meaning different from the above.” Thus, the Holy See notes that the categories ‘sexual orientation’ and ‘gender identity’ “find no recognition or clear and agreed definition in international law.” Any requirement for States to take such terms into account in their efforts to promote and implement fundamental human rights could result in serious uncertainty in the application of law and undermine the ability of States to enter into and enforce new and existing human rights conventions and standards.⁴

In paragraph #68 of her Report, the High Commissioner rightly asserts that “the Human Rights Committee has held that States are not required, under international law, to allow same-sex couples to marry.” She immediately proposes, however, that States have an obligation to “ensure that unmarried same-sex couples are treated in the same

³ A/CONF.157/23, para.5.

⁴ cf. Statement of the Holy See to the 2008 UN General Assembly, discussion under Agenda item 64(b) entitled “Promotion and Protection of Human Rights”, A/63/635.

way and entitled to the same benefits as unmarried opposite –sex couples.” In this regard, the Holy See expresses grave concern that, under the guise of “protecting” people from discrimination and violence on the basis of perceived sexual differences, this Council may be running the risk of demeaning the sacred and time-honored legal institution of marriage between man and woman, between husband and wife, which enjoyed special protection from time immemorial within legal, cultural, and religious traditions and within the modern human rights instruments, starting with the *Universal Declaration of Human Rights*, and extending to numerous other covenants, treaties, and laws. Marriage contributes to society because it models the way in which women and men live interdependently and commit, for the whole of life, to seek the good of each other. The marital union also provides the best conditions for raising children; namely, the stable, loving relationship of a mother and a father; it is the foundation of the natural family, the basic cell of society. States confer legal recognition on the marital relationship between husband and wife because it makes a unique and essential contribution to the public good. If marriage were to be re-defined in a way that makes other relationships equivalent to it, as has occurred in some countries and as the High Commissioner seems to be encouraging in her Report, the institution of marriage, and consequently the natural family itself, will be both devalued and weakened.

In conclusion, Mr. Chairman, the Holy See Delegation condemns discrimination and violence against any human person, including those who are so targeted because of perceived sexual differences. We urge this Council, however, to preserve and maintain the universality of human rights and to fulfill its mandate to promote and monitor respect for the dignity of each and every human person. We raise serious concern with attempts to define new categories, introduce new terms, or posit new rights, for special groups of people, within human rights law and instruments that already enjoy universal consensus. Such attempts pose a threat both to the universality of human rights, to national sovereignty, and to the social, cultural, and religious institutions that are working to promote and attain the common good of all members of the human family.