

INPUT
from the Political Network for Values

to the thematic report from by the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity:
“Gender, sexual orientation and gender identity”.

Geneva, 12 March 2021

1. Substantive equality of men and women, regardless of their status, should always be recognized, defended, and promoted by all, especially by the State, and should be expressed positively in the legal order of the peoples. As recognized by the 1948 *Universal Declaration of Human Rights*, this equality is based on the intrinsic dignity of all members of the human family, and from it are derived the same fundamental freedoms and inalienable rights for all, without exception: “All human beings are born free and equal in dignity and rights”¹. The dignity of every human being constitutes an ethical value of a universal and transcultural nature, not limited to a geographical or temporal sphere, which is projected socially as the foundation of the common good of humanity.
2. Persons who experience same-sex attraction or consider themselves, for whatever reason, to have a sexual identity different from that with which they were born and which is determined by their chromosomes and biological constitution have and should enjoy full recognition of their dignity and the same rights and freedoms as everyone else, and existing legislation should protect them from violence or unjust discrimination as it would do with anyone else. The rights referred to here are those recognised by the 1948 *Universal Declaration of Human Rights* and these must be understood in their original meaning and sense.
3. Violence *of any kind*, including violence against people who are attracted to the same sex or consider themselves to have a sexual identity different from that with which they were born, must always be clearly and categorically condemned. States must ensure that everyone can exercise their legitimate rights and live free from violence and unjust discrimination.
4. The State, at the same time, can and should regulate certain sexual behaviours, and also criminalise others that flagrantly offend the dignity of persons, such as incest, paedophilia or rape.
5. It is part of the mandate of the United Nations to promote and defend human rights, however, we consider it wholly inappropriate for an independent expert to purport to produce and present a report that “focuses on the concept of gender”, understood as “inextricably linked with social construct” and which “challenge the assumption that gender identity necessarily correlates with biological sex and recognize the validity of a wide range of sexual orientations and gender

¹ *Universal Declaration of Human Rights*, article 1, United Nations, New York, 1948. The Preamble recognizes the “inherent dignity and of the equal and inalienable rights of all members of the human family”, which will then be listed one by one throughout its 30 articles.

identities"² and not on the basis of an objective approach to the fulfilment or non-fulfilment of human rights as recognized in the 1948 *Universal Declaration of Human Rights*, and recognised by UN Member States.

6. The independent expert, Mr. Victor Madrigal-Borloz, presents the concept of "gender" as a category that enjoys broad scientific consensus; however, nothing could be further from the truth. There are differing opinions among experts in areas of science dealing with the phenomena of human identity, sexuality, bodily development, behaviour, and social or power relations. Such lack of consensus is amply exposed in the report "*Sexuality and Gender*", published in 2016, and elaborated by Dr. Laurens Mayer, renowned psychiatrist, epidemiologist and biostatistician, professor and researcher at the Johns Hopkins and Arizona State Universities. The report reviews, compares, analyses, and synthesises the results of more than 500 studies and research on the subject. The results are striking: they confirm the heterogeneity of results and warn that scientific studies do not corroborate the hypothesis that so-called gender identity is a property independent of biological sex³. Meyer introduces himself: "I am a staunch advocate of equality and I reject discrimination towards the LGBT community and have testified on their behalf as a statistical expert"⁴.
7. Nowadays, the term "gender" is therefore equivocal rather than univocal. When used in one sense it can refer to "male and female", or "feminine and masculine" and used equivalently to sex, as was usually the case until a few decades ago. Certain feminist currents theorised the concept by artificially fragmenting the phenomenon of human sexuality into compartments with no organic link: biological sex, subjective identity, and affective orientation. Thus, as one of its most prominent theorists, Judith Butler, states: "gender is a construct that is radically independent of sex, gender itself becomes an unlinked device; consequently, male and masculine can refer to both the female and the male body; female and feminine, whether a male body, being male or being female is an internal reality"⁵. This is Madrigal-Borloz's perspective for her report and one that is intended to be universally valid.
8. And what would be the purpose of this approach? Butler answers: it is the "subversion of identity" and the destabilisation of the current "*phallogentric*" social structures, "*naturalising* heterosexuality" and based on the "family structure derived from binary sexuality"⁶. Such a perspective, which is clearly ideological in nature, has little to do with human rights claims. A frontal attack on the family, which according to the *Universal Declaration of Human Rights* "is the natural and fundamental group unit of society and is entitled to protection by society and the state", cannot be denied⁷.
9. This protection of the State is granted in the legal system of many countries that openly reject the perspective adopted by the independent expert for the elaboration of the report. It should be

² As the independent expert, Victor Madrigal-Borloz, explains in the introduction and background information published in the [call for inputs to the report "Gender, sexual orientation and gender identity"](#).

³ *Sexuality and Gender: Findings from the Biological, Psychological, and Social Sciences*, Lawrence S. Mayer and Paul R. McHugh, *The New Atlantis*, no. 50, Washington, D.C., 2016, page. 8.

⁴ *Ibidem*, page. 5.

⁵ *Gender Trouble: Feminism and the Subversion of Identity*, Judith Butler, Routledge, 1990, page 26. Butler is a professor in the Department of Rhetoric and Comparative Literature at the University of Berkeley.

⁶ *Ibidem*.

⁷ *Universal Declaration of Human Rights*, article 16.3; 1948

noted that the first time the United Nations system began to use the term "gender", at the IV World Conference on Women, held in Beijing in 1995, there was firm opposition to its insertion, as can be read in the final report, which recorded reservations regarding the interpretation of the Declaration and Platform for Action, and obliged the president of the conference to make a statement on the term "gender", clarifying that "it should be interpreted and understood as it was in ordinary, generally accepted usage", that is, referring to men and women⁸.

10. The manifest partiality of the independent expert, in favour of a theory such as the one outlined here, which is not part of international law and which is placed as the determining approach for the analysis of the human rights situation, compromises the entire future report. A document of this nature must take into account the existing, consolidated, accepted, and ratified norms of all member states.
11. It should be noted that the only legally binding definition of the term gender is found in the 1998 *Rome Statute* of the International Criminal Court: "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."⁹
12. There are some interpretations of the rights recognised in international human rights law by gender analysis. However, neither "sexual and reproductive rights" nor "LGBT rights" have been recognised in any binding treaty signed or ratified by the Member States. There have been groups of academics, special procedures, or lobbyists who have promoted declarations or principles such as, for example, the "*Yogyakarta Principles*", which have no validity in international law.
13. The questions that make up the consultation launched by the independent expert to obtain material for the elaboration of his report are clearly biased and stigmatize those who think differently. It is claimed to promote tolerance, non-discrimination, and respect, but what is really being promoted is intolerance and a single way of thinking, while curtailing and limiting ideological freedom, freedom of thought and freedom of opinion. It is a serious accusation to claim that those who consider "gender theory" an ideology, "fuels violence and discrimination". Mr Madrigal-Borloz confuses freedom of conscience, thought and expression, and even a legitimate opposition of ideas based on opinions, religion, or cultural aspects with incitement to hatred and segregation. Affirming that a person's identity is organically linked to the biological sex they were born with, and opposing the opposite, does not mean discriminating against or violating the rights of others. Where there are regrettable cases where opposition in ideas leads to acts of violence, they should be investigated, prosecuted and, where appropriate, condemned and punished.
14. The promotion of so-called comprehensive sexuality education not infrequently involves compulsory ideological indoctrination of children and young people that does not respect the rights of parents or legal guardians in relation to their children's education or even sexualises and manipulates children and young people from an early age. School should not be the place for the state or lobbies to pressure children and young people with ideology or the promotion

⁸ *Report of the Fourth World Conference on Women*, United Nations, Beijing, 1995, Annex IV, page 223

⁹ *Rome Statute* of the International Criminal Court. Art. 7.3.

of controversial agendas, especially if their parents reject them. Any sex education provided in school must be biologically based, scientific, and should respect the subsidiary nature of this institution and having always the authorisation, consultation, and active collaboration of parents, who have the primary responsibility for their children's education.

15. The questions released by the independent expert mix, perhaps self-serving, the promotion of an ideological gender perspective and an LGBT political-ideological agenda with the eradication of violence and public policies of non-discrimination. We consider that a report such as the one being prepared should focus on the eradication of objective violence and unjust discrimination without any ideologization, while respecting the legitimate sovereignty of states to legislate, for example, on issues such as marriage or the adoption of minors.
16. In the consultation he has undertaken, the Expert seeks to know what religious, traditional, or family protection values might hinder the promotion of his "gender perspective". We reject any attempt to ridicule, stigmatize or associate with violence or discrimination the religion and faith of individuals, as well as the values deeply rooted in the cultures of our peoples, which value life, children, women, marriage, and the family.
17. Madrigal-Borloz also asks for names of people, organisations and governments that oppose his "gender" approach, considering it false, ideological or harmful to their communities. He wants to know who they are, how they operate, and where. This "mapping" sought by the independent expert goes beyond the mandate given to him and that of the United Nations itself. It is a clear attempt to stigmatise, censor, and persecute. We understand that it is a reaction, as he acknowledges, to the growing resistance that member states have been offering to the ideological agenda promoted by some officials and structures of the multilateral body. An example of this resistance is the *Geneva Consensus Declaration on Promoting Women's Health and Strengthening the Family*, signed in 2020, by 35 countries with a population of more than 1.7 billion people.
18. We consider it particularly grave that fundamental rights recognised in international treaties negotiated, signed, and ratified by free and sovereign states should be eroded or eliminated for the sake of an ideological perspective or so-called "sexual and reproductive rights". Freedom of thought, conscience, and religion; freedom of opinion and expression - which implies freedom from interference because of one's opinions - and freedom of assembly and association are rights explicitly recognised in articles 18, 19, and 20 of the 1948 *Universal Declaration on Human Rights*.



Annexes:

The Universal Declaration of Human Rights, UN, New York, 1948.

<https://www.un.org/en/universal-declaration-human-rights/index.html>

Sexuality and Gender: Findings from the Biological, Psychological, and Social Sciences, Lawrence S. Mayer and Paul R. McHugh, *The New Atlantis*, no. 50, Washington, D.C., 2016.

<https://www.thenewatlantis.com/publications/preface-sexuality-and-gender>

Report of the Fourth World Conference on Women Beijing, UN, Beijing, 1995.

<https://undocs.org/en/A/CONF.177/20/Rev.1>

Rome Statute of the International Criminal Court, Roma, 1998.

<https://treaties.un.org/doc/Treaties/1998/07/19980717%2006-33%20PM/English.pdf>

Geneva Consensus Declaration on Promoting Women's Health and Strengthening the Family, Geneva, 2020.

<https://undocs.org/en/A/75/626>



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