

INHERENT FREEDOMS AT RISK

IF “SEXUAL ORIENTATION” AND “GENDER IDENTITY” ARE ADDED TO HUMAN RIGHTS AND NON-DISCRIMINATION POLICIES

by Thomas W. Jacobson (7 December 2009)

We should have compassion for those who struggle with sexual and gender identity, extending loving arms and wise counsel to those who want help – including healing from emotional and physical wounds – and freedom from harmful thought patterns and behaviors. Even to those who experience sexual and gender confusion but don’t seek help or freedom, we should show compassion. That is precisely what countless family members, counselors, clergy, churches and organizations do, while at the same time not approving or affirming immoral behaviors. Some of the people I’ve worked with formerly were practicing homosexuals and lesbians, but through a challenging journey of faith and good counsel, they were set free.

The emotional, spiritual, romantic and sexual relationship between a husband and wife was designed as a gift from the Creator to be the most beautiful, intimate, fulfilling, bonding and life-giving experience in human life. But seeking a similar experience, and trying to fulfill similar needs, outside the covenant of marriage is not only frustrating, but also immoral or unnatural, or both. In short, no person has a right to sexual relations with a person to whom they are not married, a child, or a person of the same-sex.

In the realms of business and civil government, when leaders, legislators or officials add “sexual orientation” or “gender identity” to non-discrimination policies, they sanction sexual deviant¹ behaviors and present them as moral, healthy, good for public order, and beneficial to those who participate. That is exactly opposite of the truth, leaving those who are struggling in these areas with no hope of deliverance, and hindering or silencing professional counselors, clergy and others who could help them – due to threats to their freedoms of speech and religion.

Corporations and governments who add these terms to human rights or non-discrimination policies end up sacrificing the inalienable human rights and fundamental freedoms of their own people – rights of conscience, speech and religion. When religious freedom comes head-to-head with the homosexual and transgender “rights” juggernaut, religious freedom nearly always loses. The two objectives are irreconcilable! Individual freedom to pursue immoral pleasure is placed on a collision course with the moral foundations necessary to preserve inherent freedoms. A moral wrong can never be a human right.

Morality and true religion are essential to the preservation of inalienable human rights and the rightful exercise of freedom. Freedom does not exist in a vacuum, and can only be preserved if restrained within the boundaries of morality, civility and self-government.

Civil government by its nature utilizes discrimination to enforce its policies, encouraging certain behaviors and punishing others. However, when it encourages moral wrongs, then instead of protecting citizens who are doing what is right and good (and opposing moral wrongs), a government may find itself discriminating against and punishing the very people it should be protecting.

Mr. Jacobson originally wrote this paper in 2009 when he was serving as Representative to the United Nations for Focus on the Family (U.S.A.), from 2001 to 2010.

While this brief focuses on several inherent freedoms at risk, additional consequences of adding “sexual orientation” and “gender identity” to non-discrimination policies, not covered in this brief, may include:

- Confusing what is moral with what is immoral, leaving no clear moral boundaries;
- Confusing proper with improper discrimination, preventing proper discrimination;
- Confusing legitimate and God-ordained human rights with illegitimate human wants, putting at risk the protection of true human rights;
- Disconnecting sexual behavior from marriage, gender or age restrictions;
- Endangering the sacred and irreplaceable institutions of marriage and family;
- Creating pressure to legalize same-sex and other non-marital unions;
- Corrupting the innocence and consciences of children and youth;
- Causing loss of freedom in education, corrupting its noble purpose, harming children;
- Corrupting the noble purpose of civil government by requiring that it protect what it should prohibit;
- Opening the door to legalization of a wide variety of sexually deviant behaviors;
- Putting adoptive and foster children at risk;
- Coercing churches, synagogues, mosques and other religious or charitable institutions who offer adoption or other social services;
- Mandating hiring, benefits and retention policies;
- Jeopardizing employment for faithful employees;
- Increasing rates of sexually transmitted infections, including HIV/AIDS;
- Disrupting normal and essential male-bonding relationships within military forces;
- Risking the demographic development of communities and nations.

Inherent Dignity and Inalienable Human Rights

The opening paragraphs of the International Covenant on Civil and Political Rights (ICCPR) declare the foundation of the Covenant:

“(R)ecognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,
“Recognizing that these rights derive from the inherent dignity of the human person” (Preamble, pars. 1-2).

The term “inherent dignity” means the dignity bestowed by the Creator upon every person, as created in His image, as male and female. It is a dignity entirely independent of, and not bestowed by, the state.

The term “inalienable rights” refers to those rights bestowed upon every person by the Creator, not by the state, and which cannot rightly be deprived of any person except through rightful due process of law as a consequence of a crime committed.

Freedoms of conscience, religion and speech are among those inalienable rights, and are rightly included in human rights charters and treaties, and are not at risk from any sound moral provisions within those documents. However, these same rights are directly threatened when provisions are incorporated that promote immoral relations under the guise of “sexual orientation” or “gender identity.”

Limitations Only for Morality and Public Order

Morality and public order are essential to protecting and preserving inalienable human rights. Both the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) recognized these requirements and limitations:

“In the exercise of his rights and freedoms, *everyone shall be subject only to such limitations as* are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of *morality, public order* and the general welfare in a democratic society” (Article 29, par. 2, UDHR, emphasis added).

“The exercise of the rights ... carries with it special *duties and responsibilities*. It may therefore be subject to *certain restrictions*, but these shall only be such as are provided by law and are necessary: (a) *For respect of the rights or reputations of others*; (b) For the protection of national security or of *public order*, or of *public health or morals*” (Article 19, par. 3, ICCPR, emphasis added).

To create and sustain a culture where inalienable rights are protected and the people are truly free requires an enduring commitment to godly morality and public order. If a government uses its same powers of force to promote immoral behavior, then it creates conflict between upholding inalienable rights (including of those who are legitimately expressing opposition to immoral behavior) and appeasing a special interest or identity-based group (that is promoting their “right” to practice that behavior).

Causing Loss of Freedom of Conscience

Both the UDHR and ICCPR affirm the inherent freedoms of reason, thought, conscience and belief; that these rights are “endowed” (by the Creator, not the state); and include the right to “manifest” one’s thoughts and beliefs. No person or government ever has the right to force someone to go against his conscience. Being “endowed with reason and conscience” helps a person discern right from wrong, and encourages them to choose the good.

“All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood” (Article 1, UDHR).

“Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a ... belief of his choice, and freedom ... in public or private, to manifest his ... belief in worship, observance, practice and teaching” (Article 18, ICCPR; nearly identical to Article 18, UDHR).

“Everyone shall have the right to hold opinions without interference” (Article 19, par. 1, ICCPR).

The following are a few examples where governments forced officials, clergy or individuals to perform duties or take actions that violated their conscience, when they refused to support behaviors that they found objectionable based on their religious or moral convictions.

CANADA: In 2004, the government of British Columbia put the province’s marriage commissioners in an untenable position by ordering them to perform same-sex marriage ceremonies or resign.²

SWEDEN: In 2003, the Swedish Government began forcing priests to perform homosexual partnership ceremonies, threatening that if they refuse, they will lose the right to officiate at marriages between heterosexuals.³

UNITED KINGDOM: In 2008, “Gary McFarlane, a psychosexual therapist for the national counseling service Relate,” was “fired after he refused to provide sexual advice to homosexual couples.” He informed his employer that “his Christian faith prevented him from promoting homosexual sex.” Some of his fellow counselors “claimed McFarlane was homophobic, and he was suspended and later terminated.”⁴

UNITED STATES: In 2008, Elaine Huguenin, a professional photographer and Christian from Albuquerque, New Mexico, declined a request by two lesbians “to photograph their ceremony.” One of them, Vanessa Willock, filed a “human rights complaint with the New Mexico Human Rights Division,” that “investigates claims of discrimination,” including those based on “sexual orientation and gender identity.”⁵ Elaine’s small business was fined \$6,600.⁶

UNITED STATES: In 2002, the Eastman Kodak (film) Company fired Rolf Szabo, a 23-year veteran employee, after he objected to a corporate pro “gay, lesbian, bisexual and transgendered” memo to celebrate “Coming Out Day.” Szabo responded politely: “Please do not send this type of information to me anymore, as I find it disgusting and offensive.” The company promptly sent an e-mail apologizing for Szabo’s e-mail. Then they asked him to sign an “employee commitment plan” that included an apology and steps he must take to never repeat the incident; and if he refused, he would be terminated. Szabo refused, and said, “I would not submit and cave in to their trying to browbeat me into a confession.”⁷

Causing Loss of Freedom of Speech

The UDHR and ICCPR affirm the inherent freedom of speech, including the right to hold and express “opinions without interference” or punishment. However, when “sexual orientation” or “gender identity” is added to non-discrimination policies, it distorts and destroys the noble purpose of those policies. Inexorably, people who are opposed to governmental sanctioning of homosexual, bisexual and “transgender” behaviors, are often silenced or punished if they speak, write or publish anything critical of these protected behaviors.

“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers” (Article 19, UDHR, emph. add).

“Everyone shall have the right to hold opinions without interference.

“Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds

“The exercise of the rights . . . carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order, or of public health or morals” (Article 19, pars. 1-3, ICCPR, emphasis added).

While it is the duty of civil governments to protect and preserve these rights and freedoms, here are just a few examples of courageous people who took a stand publicly for good morals and public order, but were prosecuted by the very organizations or governments that should have defended or protected them.

BRAZIL: The National Vision for a Christian Conscience (VINACC) launched a campaign “In Defense of the Family” that included a billboard reading: “Homosexuality: And God made them man and woman and saw that it was good.” In 2008, the Paraíba State Court upheld a 2007 lower court ruling convicting the organization of “homophobia” (which

is not a crime in Brazilian law), and ordering them to stop the campaign and remove the billboard; plus decreed that VINACC would be fined 500 reais (\$287 USD) per day if they violate the order.⁸

CANADA: In 2008, out of deep concern for children in his community, Rev. Stephen Boissoin sent a letter to his local newspaper warning that, “Children as young as five and six years of age are being subjected to psychologically and physiologically damaging pro-homosexual literature and guidance in the public school system; all under the guise of equal rights.” Dr. Darren Lund, professor at the University of Calgary, filed a complaint. The Alberta Human Rights Tribunal found Rev. Boissoin guilty of a “hate crime,” charged him with “inciting hatred against homosexuals,” ordered him to cease publishing or speaking any “disparaging” statements about homosexuals, and to pay \$7,000 in “damages for pain and suffering.”⁹ Just last week, a Canadian court overturned this unjust ruling.

UNITED KINGDOM: In 2004, an elderly preacher made a sign with the words, “Stop Immorality. Stop Homosexuality. Stop Lesbianism.” A crowd of 30-40 gathered around him. Then some of the homosexuals and their supporters attacked the preacher. The police came and *arrested the preacher, not the attackers*, for breach of the peace. He was charged and found guilty by a court for violating the public order against harassment and inciting violence [Public Order Act 1986, s 5(1), (3)], even though the European Convention on Human Rights guarantees him freedom of speech [Articles 9 & 10].¹⁰

UNITED STATES: In 2004, in Philadelphia, Pennsylvania, Christians conducted a peaceful protest and outreach to those attending the “Outfest” homosexual street fair, held on public grounds. Eleven Christians carried signs, handed out literature and sang hymns. Soon they were confronted by the “Pink Angels,” who locked arms, blocked their path, shouted obscenities, used shrill whistles to drown out their message, and shoved large Styrofoam angels in their face. *When police arrived, they arrested all eleven Christians, but none of the Pink Angels. The Christians were charged with three felonies and five misdemeanors, totaling a possible 47 years in prison.* One of the charges was “ethnic intimidation,” which is part of the state’s hate crime law to which “sexual orientation” was recently added. After a long legal process, all charges were finally dropped in 2005.¹¹

Causing Loss of Freedom of Religion – by silencing or punishing any preaching, teaching, publications or other communications.

Both the UDHR and ICCPR recognize and seek to protect the inherent right to religious freedom. Throughout history, people have gone to great lengths, risking even their lives, to gain, defend or preserve religious freedom. Most of the colonists who came to the American Colonies in the 1600s and 1700s fled their countries in search of religious and civil liberty. Geneva, London, Prague, Worms and many other cities and nations in Europe are full of history and monuments remembering courageous individuals and movements who stood for religious liberty, and civil liberties to protect rights of conscience, speech and religion directly related to religious freedom.

“Everyone has the *right to freedom of thought, conscience and religion*; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and *in public or private, to manifest his religion or belief in teaching, practice, worship and observance*” (Article 18, UDHR).

“Everyone shall have the *right to freedom of thought, conscience and religion*. This right shall include freedom to have or to adopt a religion or belief of his choice, and *freedom, either individually or in community with others and in public or*

private, to manifest his religion or belief in worship, observance, practice and teaching.

“No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

“Freedom to manifest one’s religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or fundamental rights and freedoms of others” (Article 18, pars 1-3, ICCPR).

*“Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law”
(Article 20, par. 2, ICCPR).*

The following are examples of manifestations of hatred and discrimination toward honorable citizens, clergy, churches and religious schools for teaching or standing up for what is good, and opposing immoral behavior. Opponents or their own governments violated their religious freedoms and rights of conscience and speech.

BELGIUM: In 2004, after Cardinal Gustaaf Joos explained the Church’s teaching on the nature of homosexuality, a lawsuit was filed against him, claiming he violated Belgium’s anti-discrimination laws.¹²

CANADA: In 2002, a court in Ontario forced a local Catholic school board, contrary to its own teachings, to allow a student to bring his same-sex partner to the high school prom.¹³

IRELAND: In 2003, bishops and clergy were warned by the government not to distribute a Vatican statement opposing same-sex relationships, or they could be prosecuted under Irish hate laws.¹⁴

SPAIN: In 2003, Cardinal Antonio Maria Rouco Varela preached a sermon in the Madrid Cathedral against homosexuality. Afterwards, a lawsuit was filed against him.¹⁵

SWEDEN changed its constitution in January 2003, making it a criminal offense to agitate “against a national...group” by expressing “contempt for a people ... on account of ... sexual orientation” — a crime punishable by “imprisonment for a maximum of two years, or ... a fine” (Ch. 16, Sec. 8, Penal Code). SWEDEN also created a national office, the Ombudsman for Sexual Orientation, with a substantial budget to pursue, prosecute and silence anyone in Sweden who speaks negatively about homosexuality or “sexual orientation.” This, of course, had a chilling effect on freedoms of speech and religion.

Courageously, that same year, Rev. Åke Green delivered a sermon to his small congregation, explaining what the Bible says about marriage, sexual relations, homosexuality and redemption. He was accused of “hate speech” and indicted for saying homosexuality is wrong. He lost at the District Court level (case no. B 57-04, District Court of Kalmar), but won at the Appeals Court and Supreme Court levels in Sweden because the latter courts could not justify his words as hateful, or inciting contempt or hatred.¹⁶

UNITED KINGDOM: In 2003, Rt. Rev. Dr. Peter Forester, an Anglican Bishop of Chester, England, said some people with homosexual inclinations can overcome those desires. He was investigated for violating hate crimes statutes, and reprimanded by the local Chief Constable.¹⁷

Concluding Comments

Most corporations and governments which – out of pressure from the pro-homosexual and pro-“transgender” lobby groups, or self-interest – added “sexual orientation” or “gender

identity” to their non-discrimination policies did not anticipate the harmful consequences. Sweden added “sexual orientation” in 1987, and European Union nations decided in 1997 to “combat discrimination based on ... sexual orientation.”¹⁸ For decades, homosexual groups have targeted corporations in the United States, pressuring them to add the terms mentioned above. The list of resulting violations of true human rights in these countries cited herein is only a sampling of the incidents.

There are “rights and freedoms” common to all mankind, but there is no “right” to promote or participate in immoral sexual behavior, and force governments or schools to affirm and celebrate them. Both the UDHR and ICCPR speak against misusing human rights provisions to engage in, or support, activities or acts that destroy true human rights.

“Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein ...” (Article 5, ICCPR; similar in Article 30, UDHR).

Clearly, adding “sexual orientation” or “gender identity” to human rights or non-discrimination policies undermines and corrupts the noble purpose of human rights declarations and covenants, and of civil government itself – whose purpose is to encourage what is moral, right and good, and punish acts that are morally and criminally wrong. When governments fail to discern accurately between right and wrong, and instead protect those who commit moral wrongs while punishing those who promote what is right, they tear down the moral and religious foundations essential to preserve their own nation.

The United States and other nations became great because they adhered to the same natural law principles articulated in the UDHR and ICCPR. However, it is a tragic pattern throughout history that once nations prosper, their leaders and people drift away from good moral standards, religious principles and natural law; they become increasingly immoral, leading to the decline of their civilization, and their demise, unless they return to their core principles.

It would be one of the greatest tragedies in human history if developed nations who are in moral decline – especially the United States and European nations – pulled the rest of the world down with them as they continue on a path of self-destruction. However, what a wonderful turn of events it would be if developing nations took a courageous stand, did not yield to coercion, and succeeded in preserving the moral values of their countries by holding onto what is good and right. An equally wonderful turn would be for developed nations to return to the foundations that made them great.

Endnotes

¹ Described as “sexual deviations” or “abnormal sexual behaviors” under the category of “paraphilias” in the manual used by psychologists and psychiatrists around the world, titled, the Diagnostic and Statistical Manual of Mental Disorders (DSM-IV).

² *CBC News Online*, 21 January 2004.

³ Speech to United Nations Diplomats, by Swedish attorney Per Karlsson, Geneva, Switzerland, 25 March 2004.

⁴ “Christian Counselor in U.K. Fired after Refusing to Give Sex Advice to Gay Couples,” by Devon Williams, *Citizenlink*, 28 October 2008.

⁵ “Artist hit for refusal on beliefs,” by Peter Vere, *Washington Times*, 25 February 2008.

⁶ “Same-Sex ‘Marriages’ Erode Religious Freedoms,” by Jennifer Mesko, editor, *Citizenlink*, 17 June 2008. Web: <http://www.citizenlink.org/content/A000007649.cfm>

⁷ “Kodak Fires Man over ‘Gay’ Stance: 23-year veteran of global film giant objected to pro-homosexual memo,” by Joe Kovacs, *WorldNetDaily.com*, 24 October 2002. Web: <http://tgcrossroads.org/news/archive.asp?aid=440>

⁸ “Brazilian Government Punishes Dissenters of Pro-Homosexual Policy,” by Matthew Cullinan Hoffman, *LifeSiteNews.com*, 27 March 2008.

⁹ “Canadian Pastor Fined after Speaking Against Homosexuality,” *Citizenlink*, 12 June 2008.

¹⁰ “Hammond v Director of Public Prosecutions,” *All England Direct* law report, Division Court, May LJ and Harrison J, 13 January 2004, forwarded by U.K. barrister Paul Diamond.

¹¹ “Christians arrested at homosexual ‘Outfest,’” Nov.-Dec. 2004. *American Family Association Journal* online. Web: <http://www.afajournal.org/2004/nov-dec/11-1204noi.asp>. See also, “Christians arrested face felony charges, 47 years of prison,” by Robert Knight. *Family Voice from Concerned Women for America*, March-April 2005. Web: http://www.cwfa.org/familyvoice/2005-03/philadelphia_march_april.pdf

¹² As referenced in, “Senate Passes Bill C-250 – A Chill is in the Air,” Catholic Civil Rights League (CCRL), Press Release, 29 April 2004 and 14 June 2004; www.ccrl.ca.

¹³ “Same-Sex ‘Marriage’ in Canada: A Guide for American Legislators,” by Watson, Bradley C.S. The Heritage Foundation. 20 July 2005. Web: <http://www.heritage.org/Research/LegalIssues/bg1870.cfm>

¹⁴ *The Irish Times*, 2 July 2003, as referenced in, op. cit., “Senate Passes Bill C-250” CCRL.

¹⁵ *Washington Post*, 3 January 2004, as referenced in, op. cit., “Senate Passes Bill C-250” CCRL.

¹⁶ Court documents in author’s possession.

¹⁷ *The Telegraph*, 11 October 2003, as referenced in, op. cit., “Senate Passes Bill C-250” CCRL.

¹⁸ *Treaty of Amsterdam Amending the Treaty on European Union, the Treaties Establishing the European Communities and Certain Related Acts*, Part One – Substantive Amendments, Article 2, par. 7, insert ‘Article 6a’.