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BILL ON GENDER IDENTITY, GENDER EXPRESSION AND SEX CHARACTERISTICS
COMMENTS AND CONCERNS

SYNOPSIS

The statement is meant to be a contribution in the consultation process on the Bill concerning the *Gender Identity, Gender Expression and Sex Characteristics*. It is considered as a step in the right direction since it promotes “an inclusive culture of recognition between human beings” and seeks “to address the needs of a category of people who very often find it socially hard and painful in trying to deal with a fundamental dimension of their own self-identity”.

However, the statement maintains that “it is important to recognize the complexity of the problem and be guided by a set of ethical principles” to strike the right balance between “the rights of the individual and the legitimate interests of the others and the community as a whole”.

The four ethical principles outlined by the statement are the following:

- a) Human dignity: every citizen, irrespective of nationality, status, sexual orientation, gender, age or achievement, has the right to live in an inclusive culture of recognition between human beings
- b) Proportionality: the provisions of the proposed legislation should be proportionate to the objective that is being set. In trying to protect its members from unnecessary hardship and pain, a society is truly expressing a human face. But one is justifiably concerned about a legislation that would be making a change in one’s gender practically as simple as a change in one’s identity card. The matter involves clearly a fundamental aspect of individual and social life. An over-simplified solution to a complex problem would trivialize the issues clustering around it.
- c) Precaution: prudence and foresight are necessary to avoid drastic consequences on the life of individuals and society in general given that some of the propositions of the Bill seem to be complex and far-reaching and have serious anthropological repercussions.



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- d) Transparency: the Bill surely calls for a decision-making procedure that is transparent and open to the widest possible public participation. A properly structured consultation process in which civil society is given the opportunity to engage in a fruitful discussion on what is at stake would still be a wise way forward.

The Statement refers to three main areas of concern:

- a) The Bill's vague definition of gender identity, leaving its interpretation wide-open. This invariably results in a wide arbitrariness in the application of the law and to conflicting interpretations.
- b) The Bill's consideration of gender identity as a purely subjective matter left solely to the personal preference of the individual. A necessary distinction ought to be made between the real and concrete situation of persons who experience an interior conflict between their physical sex and their gender identity, and the gender ideology according to which people can freely determine whether they want to be male or female and freely choose their sexual orientation arbitrarily
- c) The best interests of the child are properly guaranteed by the protection of the child's right to seek and receive information, regardless of frontiers. This should include mandatory counselling to provide the opportunity to better understand one's sexual orientation and identity, which will promote the child's social, spiritual and moral well-being and physical and mental health (CRC, Article 17).

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