1. INTRODUCTION

We often hear people making a distinction between their personally held convictions and the moral principles that they think should underpin the public order: “Personally, I am of course against abortion. But I don’t think that this view should be imposed on all those who believe that abortion is morally acceptable.” Or: “I am against same-sex marriages. But there are so many people who do not share our belief in the sanctity of marriage”. Or: “I personally would not want to use the services of a surrogate mother. But if people think it’s ok, they should be allowed to do it.”

This hesitation to impose one’s own “values” on the rest of society would be understandable if those values were based on a merely subjective and irrational choice. But often they are not. Genuine moral precepts are not based on subjective “values” but on objective truth, and this is why it is not only legitimate, but also necessary, to impose them on those who do not accept them: for a society to live in peace and justice, it is necessary that its legal order is in compliance with Natural Law. Moral principles and positive legislation that are not in conformity with Natural Law will ultimately destroy any society that embraces them. That is why it would be mistaken to view morality as a private matter. The acceptance of divorce, contraceptive practices, abortion, homosexuality, surrogate motherhood, etc., has implications not only for those directly involved, but for society at large, including dissenters. Accepting that these are "private matters" on which everybody should make his own decisions is tantamount to accepting that the person or group of persons with the lowest moral and cultural standards will be allowed to set the standards and make the rules for the rest of us. What results therefrom is a process of de-civilisation.

The moral decline of a society usually takes place in several steps that can easily be distinguished. The first step is that just and equitable laws, while they are still in place, are not complied with. The second is that they are not enforced. The third is that they are publicly derided. The fourth is that they are “liberalized”, so that compliance with the precepts of Natural Law is now an option, but no more an obligation. Later on, they are modified once again, so that acting in contradiction to Natural Law is turned into a “duty”, and complying with Natural Law into a “crime”. As a last step, criticising the novel moral code is turned into a thought crime, and the critics are persecuted for merely expressing their opinion.

It seems therefore hardly appropriate to describe the Cultural Revolution that has transformed (deformed?) the West in the course of the last decades as a process of liberalization. On the contrary: what really has happened is that one moral code has first been denounced as “outdated” and “too rigorous”, and then replaced by a new moral code that is different in content, but enforced with equal, if not greater, rigour. And while the rights and freedoms of some have been widened, the rights and freedoms of others have been radically and brutally rescinded: the right of women to have access to abortion is acquired at the expense of the right to life of the unborn, the right of married couples to get a divorce means that
children have lost their right of growing up with both of their parents, the right of homosexuals to publicly exhibit their proclivities means that the rest of society is exposed to a continuous derision of their moral convictions (or rather: not of their subjective convictions, but of the objective moral truth). This, combined with severe restrictions of the freedom of speech for those who do not accept the novel moral code, has evident implications on their ability to convey moral values to the next generation. The society that accepts the new moral code is by no means a “freer” and “more enlightened” society, but a society enslaved to its own brutal egoism. The real difference between then and now is that the moral code of the past complied with Natural Law, whereas the moral code of today opposes it.

The Cultural Revolution was, more than anything else, a “sexual” revolution. It has profoundly altered the way in which society looks at sexuality, transforming it into a commodity that should be available at all times, for all persons, in all possible forms. For this purpose, the sexual act had to be dissociated from its primary purpose, procreation, and from all the responsibilities associated with it: contemporary society wants sex without procreation, and procreation without sex. That is what is meant by “family planning” and “birth control”, which include not only full control over whether or not a child is conceived, but also over the qualities and characteristics this child should possess. Unavoidably, the very idea of “planning” and “control” implies that, if and where something goes wrong, fortune can be corrected. A child that was not “planned” or that is found not to comply with the parents’ aspirations can easily be disposed of through abortion.

The proliferation of such practices has inevitable consequences for our way of living together. To “plan” and “control” the existence and genetic identity of others means to disrespect their innate human dignity, and ultimately deprive them of their right to life, or to enslave them. At the same time, if it is generally accepted that the sexual act may be dissociated from its procreative purpose, then the idea that sexual relations between persons of the same sex are ‘equal’ to the marital relationship between a man and a woman will suddenly seem plausible. If sexual relationships have the one and sole purpose of procuring pleasure to the “partners”, then it does not seem to matter who or what these ‘partners’ are, and it would seem discriminatory not to allow homosexual or polygamous marriages. The concept of marriage is thus profoundly changed, and with it the concept of a “family”.

In matters related to life, marriage, and the family, all is interconnected with everything, and one decision follows from another. The “Sexual Revolution” comes as a package – one can either accept or reject it, but it seems hardly possible to accept one part and reject the rest. Whoever finds the use of contraceptives ‘normal’ must also accept homosexuality, and whoever has accepted assisted procreation will find it difficult to argue against abortion.

Once this interdependence is understood, a fundamental choice must be made. Those wishing to halt the civilizational decline of the West and to overturn the Cultural Revolution must be consistent in their arguments – otherwise they will not be heard.
With this paper, therefore, our purpose is to offer a coherent overview of life and family issues, explaining how they interrelate and tracing a possible policy agenda to restore a legal order that is consistent with human dignity and Natural Law.

In that context, we also would point out that, in order to be successful in this task, it will not be sufficient to merely have a defensive interest. What we need in addition is a positive agenda that can be achieved step by step as an incremental process. This paper therefore seeks, with regard to each of the issues treated, not only to explain how it should ideally be regulated, but also to identify incremental steps that could be taken to achieve this goal.

Forty to fifty years have lapsed since the Cultural Revolution saw its heyday, and its detrimental effects become more and more visible: disintegrating families, fertility rates falling far below reproduction level, atomized and ageing societies, social welfare systems on the brink of collapse. It has become apparent that the hedonistic ideology and lifestyle that has been promoted by this Cultural Revolution is not sustainable. Indeed, it will quickly destroy any society that embraces it. For those looking at the situation of the West today, the Cultural Revolution has lost all its glamour and credibility.

With this loss of credibility, the chances of reversing the Cultural Revolution are increasing. Indeed, this Revolution is so self-destructive that it must be expected to implode even if there were no one to fight against it. Nevertheless, a strategy conducive to such a reversal is of great urgency. While the "achievements" of the Cultural Revolution" (such as "legal" abortion, "legal" euthanasia, or the recognition of same-sex "marriages") will ultimately defeat themselves, there is reason to fear that before this happens they will inflict irreparable damage on society. If, for example, an entire generation of young people is, due to a false understanding of sexual mores, educated in a way that makes them unable to become good spouses and parents, this will cut off the chain of tradition of the moral values that have built the Western civilization. In other words, we have a narrow time window of ten to twenty years left. If we do not use this time window, then the Western civilization, due to having embraced a perverse ideology, may easily have destroyed itself: rather than to continue living with "new values", it will simply not continue at all.
2. NATURAL LAW

2.1. Natural Law Theory

This paper is based on the assumption that law is not a mere emanation of the human will (be it the will of a tyrannical individual or, in the case of a democratically constituted society, of the majority of the electorate or the its elected representatives), but that, in a higher sense, it has an independent existence of its own. There is a Natural Law, which human reason can discern and understand, but which human will cannot alter. This Natural Law remains the same at all times and in all places, and it is pre-existent to all written legislation. Indeed, it is the task and purpose of all positive legislation to transpose and enforce Natural Law in a way that adapts to the specific needs and circumstances of a given society at a given time. A positive law that stands in contradiction to the precepts of Natural Law has no legitimacy, and nobody is morally bound by it.

Although some want to dismiss it as a ‘religious belief’, Natural Law is in actual fact not the tenet of a particular religion. It is true that Christianity, which has formed and impregnated Western culture, has always asserted the existence of a Natural Law – but the same is true of Islam and other religions. That the age of enlightenment believed in Natural Law becomes apparent when one reads the Virginia Bill of rights of 1776, or the Déclaration des droits de l’homme et du citoyen (adopted by the French National Assembly in 1789).

More importantly, it is easy to demonstrate that already in antiquity, at a time that predates Christianity by several centuries, the existence of Natural Law was generally recognized.

Today Natural Law is in a paradoxical situation. On the one hand, there is an increasing awareness among the sanior pars of politicians and scholars that Natural Law exists, and that respect for it is the pre-condition for a just social order. At the same time, many supporters of the Cultural Revolution aggressively deny the existence of such a Natural Law: they assert, for example, that it is not possible for the human mind to discern any objectively "correct" way of living one's sexuality, or that it is not possible to determine the exact moment in which a human being becomes a "person" that is entitled to human rights. In other words, the new legal order that they promote is based on subjectivism, on a rejection of rational discourse, and on the replacement of reason by will.

But while this abandonment of reason has become the trademark of contemporary law-making in general, reaching far beyond the issues discussed in this paper, it can nevertheless be

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1 The Declaration begins thus: « Les Représentants du Peuple Français, constitués en Assemblée Nationale, considérant que l'ignorance, l'oubli ou le mépris des droits de l'Homme sont les seules causes des malheurs publics et de la corruption des Gouvernements, ont résolu d'exposer, dans une Déclaration solennelle, les droits naturels, inaliénables et sacrés de l'Homme... »
observed that even the supporters of the Cultural Revolution will not fail, whenever it seems suitable to them, to bring forward arguments that imply the existence of Natural Law (albeit, as we contend, of a distorted and falsified Natural Law). Wherever positive law provides no support for their claims, they seek to convince the public that the “self-determination” of women wishing to abort their children or the “equality” of gay couples wishing to “marry” are innate natural rights that must, at last, be recognized by law-makers and society at large. Without implying the existence of some kind of Natural Law, such arguments would not be possible.

Thus, despite some innovators’ aggressive denial of Natural Law, the existence of that Natural Law appears thus less controversial than it might seem on some occasions. The real issue of the controversy is what that Natural Law contains.

2.2. Human Rights or Natural Law?

This controversy is reflected in the way how, in recent years, both supporters and opponents of the Cultural Revolution have tried to use human rights as a basis for their respective agendas. For example, while opponents of abortion have tried to invoke the right to life (which, as the most fundamental of all rights is enshrined in all major human rights documents), the supporters of abortion have sought to demonstrate that a ‘right to abortion’ is implicitly contained in generally recognized international documents such as the CEDAW. Similar disputes have arisen around homosexuality, euthanasia, the use of artificial reproductive techniques, and so forth.

It is not our purpose here to enter into each and every of these debates. It suffices to note that human rights are today viewed as some kind of a supreme moral instance to which anyone who so wishes can turn to demonstrate the legitimacy of his political project, or the illegitimacy of policies and laws he opposes. It is said that human rights are “pre-positive” laws – a higher form of law with which all positive laws must comply. This seems very similar to the Natural Law that has been described above, and one can observe, as a consequence, that there is nowadays some confusion whether human rights and Natural Law are not the same thing.

They are not. In fact, every assertion that human rights are pre-existing to, and supersede, positive law must be wrong. What is generally understood by the term ‘human rights’ is a compound of international treaties defining a variety of rights that are generally recognized. There is no doubt about the importance and value of such documents, yet it is clear that they are themselves positive laws, superseded by the Natural Law they are meant to transpose and implement.

The most important differences between Natural Law and human rights are:

– Human rights have been codified in a number of legal instruments, whereas Natural Law cannot be codified. Human rights therefore are positive law, whereas Natural Law isn’t.
– Human rights consist of isolated rights that are presented as ‘absolutes’, but between which contradictions can arise. In Natural Law, by contrast, there are hardly any absolutes, but there is an appropriate solution for every problem.

– Human rights are the result of a political process (at the UN, the Council of Europe, or elsewhere), whereas Natural Law is independent of politics, or of the human will.

Given the high importance that is nowadays attached to international human rights treaties, it is no wonder that those treaties have become a primary target for politically motivated manipulation and distortion. However, it is unlikely that those documents could be changed to explicitly include references to a ‘right to abortion’, ‘a right to euthanasia’, a ‘right to same-sex marriage’, or similar desiderata, because such changes would require unanimity of all signatory states. After some failed attempts to engineer such changes, the pressure groups seeking to turn those desiderata into ‘rights’ have therefore cleverly adjusted their strategy, focussing on a re-interpretation of existing documents, be it through academic writing or through the activities of treaty monitoring bodies (such as the different UN Committees or the European Court of Human Rights). Over the last years, a considerable number of key positions in the UN, at the European Human Rights Court, at the EU Fundamental Rights Agency, and in various academic institutions have been occupied by people who pursue a consistent agenda of judicial activism, ‘discovering’ new abortion and LGBT rights in internationally agreed texts that, such as the CEDAW or the European Human rights convention, in fact do not contain them. Their hope is that the more often their temerarious interpretations of human rights texts will be repeated, the more they will seem credible to the wider public.

The US Supreme Court’s decisions in the case of Griswold v. Connecticut (1965)² and Roe v. Wade (1973) ushered in an unprecedented era of judicial activism on the national level, in particular in the US, but also in various European countries and, more recently, the European Court of Human Rights. On the international level, the UN Conferences on Population and Women saw attempts to introduce a “right to abortion” through the back door. The strategy was to submit to those conferences texts that contained a multiplicity of vague references to ‘sexual and reproductive health and rights’, with the intention to reveal only after the adoption of those texts that those references were going to be interpreted as containing a right to abortion. Many delegates, however, grew suspicious and refused to agree to those texts until clarifying language was added that explicitly condemned the use of abortion as a means of family planning.

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² This decision, which declared unconstitutional a State Law prohibiting the sale of contraceptives (including to married couples) was remarkable in that it ‘discovered’ a constitutional ‘right to privacy’ that the US Constitution actually did not contain. This newly found ‘right to privacy’ subsequently became the paramount instrument for overturning bans on abortion, sodomy, etc.
It was after these events that UNFPA, the United Nations Division for the Advancement of Women (DAW) and the Office of the United Nations High Commissioner for Human Rights called for a meeting behind closed doors at Glen Cove\(^3\), where, jointly with hand-picked representatives of non-governmental organizations (NGOs) and several UN agencies they devised new strategies to promote their agenda. Following that meeting, the UN treaty monitoring bodies suddenly began issuing reports, comments, and opinions, in which they surprisingly “discovered” that restrictive legislation on abortion might “endanger women’s right to health”, “constitute inhuman treatment”, “violate the right to self-determination”. They were supported by a cantus firmus of press statements issued by the NGOs and academics that had participated in the Glen Cove meeting. Soon, homosexual and transgender activists commenced to appropriate human rights language in order to promote their own particular interest. In Europe, two of the most astounding outcomes of this strategy were (1) a legal opinion of a group of ‘human rights experts’ set up and financed by the European Commission, which found that provisions that allowed medical doctors and nurses to invoke conscientious objection when asked to practise abortions was ‘a violation of human rights of women’\(^4\), and (2) a report issued by the newly founded EU Fundamental Rights Agency, in which it was affirmed that existing human rights standards obliged EU Member States to provide the same legal status to homosexuals living in a durable relationship as to married (male/female) couples.\(^5\) On the international level, a document called the “Yogyakarta Principles”\(^6\) uses human rights terminology to promote an absurd agenda reaching from same-sex “marriage” to homosexual adoption and far beyond. This was later followed by an (unsuccessful) attempt to make the UN General Assembly adopt a resolution to adopt those "Principles".

Another recent and egregious example is a “country report” by which the UN Committee on the Rights of the Child used the sexual abuse crisis in the Catholic Church as a pretext for requesting the Holy See to change the Catholic Church’s doctrine on issues such as abortion, homosexuality, and marriage. The Holy See felt constrained to issue a response in which it exposed the complete lack of legal base for the UN Committee’s request,

\(^3\) An official (albeit perhaps not entirely correct) account of this secretive meeting is found at: [http://www.unfpa.org/rights/docs/rightsrh_eng.pdf](http://www.unfpa.org/rights/docs/rightsrh_eng.pdf)


\(^6\) [http://www.yogyakartaprinciples.org](http://www.yogyakartaprinciples.org)
which in fact itself constituted a brutal attack not only on the well-being of children, but also on the freedom of religion and conscience.\footnote{7}

From a purely legal point of view, such opinions and reports obviously need not be taken seriously, even if they come from the UN or similar institutions. But at the same time they do raise serious concern, highlighting to which extent the very institutions whose task it is to loyally interpret human rights instruments have been infiltrated by people who are willing to brazenly manipulate and distort them. The post-WWII system of human rights is in a deep crisis today, and to resolve this crisis it is necessary to understand that human rights documents are no absolute truths, but the outcome of a political process, and that their interpretation can be the result of gross and deliberate manipulation.

2.3. Political Ideologies Undermining Natural Law

In order to understand these manipulations, it is necessary to look at the political ideologies that inform them. With regard to contemporary attitudes towards life, marriage, and the family, the following ideologies merit particular attention:

2.3.1. Marxism

Throughout the 19th and 20th centuries, the Marxist ideology has proven its devastating consequences for society wherever it has, in part or as a whole, been put into practice. It is for this reason that even today, at the time of a severe and worldwide economic crisis, hardly any political movement would openly declare itself to be Marxist. Yet some of the central tenets of that ideology still infest the minds of a considerable number of people, and have practical implications for their social and political action.

– **Class struggle:** Marxists theory interprets history as a series of class fights, pitting oppressed groups against their oppressors. Whereas previously the oppressed were called ‘proletarians’ and their oppressors ‘capitalists’, the class fights of today pits women against men, “gays” against “straights”, etc. Feminism and Homosexualism (see below) thus must be seen as novel versions of Marxist class struggle. The Marxist approach to politics, consisting in pitting social groups against each other, has remained the same.

– **Big State:** whereas liberals believe in individual self-determination, Marxists tend that all should be controlled and organized by the State. It is for this reason that Marxism has a

\footnote{7}{The UN Committees’ misguided opinion is hardly worth reading. The Holy See’s reply to it is found at: \url{http://www.vatican.va/roman_curia/secretariat_state/2014/documents/rc-seg-st-20140205_concluding-observations-rights-child_en.html}}
generally hostile attitude against the natural family: it is a space of self-determination, where citizens enjoy a high degree of autonomy. In particular, parents educating their children themselves are viewed as a source of elitism inequality, and there is a strong preference for state control of education, which facilitates indoctrination.

2.3.2. Darwinism

Charles Darwin’s evolution theory is a scientific theory and deserves respect as such. Unfortunately, however, it also has inspired political ideologies, and in most cases this inspiration has been utterly nefarious.

The most obvious example is the way in which Darwin’s theory has been used by the Nazis as a source of inspiration for their race theory. Whereas racism may have been rampant at all times, Darwinism seemed to provide a ‘scientific’ justification for it. If the universal history is understood as a process of selection of the fittest, or as a struggle for survival between different species and/or races in which only the fittest will survive, then it may seem to be a perfectly logical behaviour for one nation to attack and annihilate its neighbouring nations, or for one race to eradicate other races. If survival of the selection process is the quintessence of our existence, then it is our task to ensure that we and our offspring, rather than any competitors, are those survivors. And if science proves that only the fittest are destined to survive, then there can be nothing wrong in removing the unfit – this is just accelerating the evolutionary process.

It is no wonder, then, that at a time where evolution theory became increasingly popular, Nazi Germany was far from being alone in pursuing eugenicist policies. Indeed, the Law to Prevent Hereditarily Diseased Offspring, enacted by the Nazis in 1933, closely followed the model of equivalent legislation in America.

In the US, beginning with Connecticut in 1896, many states enacted marriage laws with eugenic criteria, prohibiting anyone who was “epileptic, imbecile or feeble-minded” from marrying. In 1907 Indiana became the first of more than thirty states to adopt legislation providing for compulsory sterilization of certain individuals. The U.S. Supreme Court upheld the constitutionality of a Virginia law allowing for the compulsory sterilization of patients of state mental institutions in 1927. In many states, such legislation remained in force for the greater part of the 20th century.

Similarly, countries like Switzerland, Sweden, Denmark, Finland, Norway, Estonia and Iceland adopted eugenics programs including forced sterilization. In many cases, governments responsible for those policies were not right-wing, but led by liberal or social
democrat parties. And while in Germany such policies were utterly discredited after the Nazi experience, they continued in the Nordic countries and the US for many more years after WWII, as if nothing had ever happened. The last forcible sterilization in the US occurred in Oregon as late as 1981. In Switzerland, coercive sterilisations took place until the 1980s, and in Sweden relevant legislation was abrogated only in 1976. In the Czech Republic and Slovakia there appear to have been coercive sterilizations of Roma women even in the 1990s.

The close entanglement of the international pro-abortion lobby with eugenicist, or indeed racist, ideas is a well-known fact that, however, seldom receives the public awareness it would deserve. Margaret Sanger, the founder of the American Birth Control League (which later was re-baptized into ‘Planned Parenthood’), whose book *Women and the New Race* greatly contributed to popularizing the idea that genetically ‘inferior’ persons should be prevented from procreating, broke the ground for the aforementioned marriage restrictions and enforced sterilizations. She collaborated closely with Ernst Rüdin, the man who had drafted eugenicist legislation for the Nazis, and who also published articles in her *Birth Control Review*. Sanger is reported to have said that “we do not want word to go out that we want to exterminate the Negro population”, and even if that quote is open for different interpretations her strong commitment to racist ideas is highlighted by the fact that she participated in, and spoke at, gatherings of the Ku-Klux-Klan. Planned Parenthood, the organization she has founded, continues promoting abortion as part of development aid programs, thus turning the fight against poverty into a fight against the poor.

A leading contemporary “Darwinist” (at least according to his self-perception) is Richard Dawkins, a British evolution biologist. He pretends to fight “in the name of science” against religion and has (inter alia) made statements according which it were “a moral duty” to abort children with Down Syndrome. Such statements do great injustice not only to children with a handicap, but also to Charles Darwin’s rigorously scientific theory. What they reveal is that those who invoke evolution theory as a counter-proof against all kinds of metaphysical thought (be it religious or not) are simply unwilling or incapable of understanding the inherent limitations of empirical science. What they call “science” is in fact a dangerously nihilistic and anti-human ideology.

2.3.3. Feminism

Following the decline of Marxism, Feminism has established itself as a new secular ideology of worldwide outreach. But, as we have already noted, Feminism is in fact Marxism in new clothing. It
identifies women as a new class of "victims of oppression", pitting them against their male "oppressors" in a new class struggle.

Just as Marxism wanted wealth (rather than poverty) for everyone, Feminism aims at masculinity for everyone. Despite its name, it depreciates and holds in contempt all that is considered typically feminine, especially the role model of a married wife and mother caring for her husband and children. By contrast, it highly valorises male role models, and seeks to make women dress up and behave like men. In actual fact, therefore, Feminism is anti-feminism.

At the same time, feminism promotes "emancipation", i.e. it rejects the idea that, in a marriage, partners should have different tasks and be economically (or otherwise) dependent on each other. According to the feminist agenda, wives should be economically independent of their husbands (and vice versa) – an idea that in a certain sense contradicts the fundamental idea of a marriage (which consists in pooling resources, and thus accepting mutual dependence). Obviously the loss of synergies that results from this individualistic approach to marriage means that the state has to step in: it must subsidize day care for children (so that women are free to pursue their own professional careers), provide extra social benefits for single mothers, etc. In other words, the feminist agenda requires a highly developed welfare state – it cannot function without that. It implies the inefficient use of social resources, thus giving to the ideology of some priority over the interest of all.

The Marxist heritage of Feminism becomes apparent when considering the ideology’s quasi-totalitarian penchant for policies based on the concept of planned economy, reaching from imposing gender quotas and providing state subsidies to nursery schools to detailed instructions on how married couples should share their housekeeping work. While it is self-evident that such regulatory approaches curtail freedom and have negative impacts on economy, Feminism has never been hesitant to use them, thus implying that ‘gender equality’ were a policy objective of higher rank than freedom and economic well-being.

It appears that in the political climate of today the main ideas and objectives of the Feminist ideology are hardly challenged by anyone, and that they are at least partially shared even by many who consider themselves as conservatives. It is high time for Western society to understand that Feminism is a highly destructive ideology that will undermine and destroy any society that commits the error of embracing it.

2.3.4. Homosexualism

In this paper we distinguish between "homosexuality" as an (allegedly innate and inalterable) characteristic of a person, and
"sodomy", which is the term that has traditionally been used to describe sexual intercourse between persons of the same sex. By "Homosexualism" we understand the novel ideology that exalts homosexuality/sodomy as "equal", and hence morally acceptable, inclination and behaviour.

Very similar to Feminism, the Homosexualist ideology seeks to incite yet another novel variant of class struggle, this time between homosexual "victims of heteronormativity" and their heterosexual "oppressors".

The narrative of this ideology is that homosexuals are born as such, and that their (allegedly) innate and inalterable "sexual orientation" should be regarded as "normal". (Suggestions that the homosexual proclivity might be a mental disorder, or that it might be transient rather than permanent, or overcome through therapy, are therefore viewed as a grave insult.) As a matter of consequence, homosexuals should not be "discriminated against" on the grounds of their "sexual orientation". From this right to "non-discrimination" Homosexualist ideologues conclude that a gay or lesbian relationship is essentially the same thing as a marriage between a man and a woman, and demand that it should be treated in exactly the same way.

Whereas Feminism rejects and depreciates femininity, Homosexualism glorifies and adulates sodomy. Special ‘Gay Pride’ events are organised to collectively display and celebrate sodomy, as if it were something to be proud of. By necessity, this implies a distorted view of sexuality: the procreative purpose of sexuality is downplayed and excluded; instead, the gratification of the sexual urge is seen as the one and only purpose of the sexual act. Yet if the gratification of the urge is an end in itself, then it does not matter whether that urge is directed at a person of the other sex, or a person of the same sex, or an animal, or any other object.

The most important objections against the Homosexualist ideology are that:

– its fundamental assumptions are completely unproven. While it might be true that homosexual proclivities are to a certain extent due to an innate pre-disposition, there also is considerable scientific evidence suggesting that they are also caused by social influences and that they might be overcome. In any case, neither of the two theories would prove the "normality" of homosexual proclivities or the moral acceptability of the homosexual act.

– the assumption of homosexuality being normal implies a peculiar naturalistic understanding of "normality", according which everything must be considered "normal" if only it can be encountered in nature. But in the same way, any and every
disease could be described as "normal", and it could be argued that, because of this 'normality, diseases should not be treated. By the same token, paedophilia, alcoholism, drug addiction, etc. could all be termed as "normal", and it could thus be argued that they should not be restricted by any law.

– it is based on a distorted concept of "discrimination". In reality, discrimination is the arbitrary unequal treatment of persons in an equal situation. But even if homosexuality were to be considered "normal", sodomy would not be "equal" to a marital relationship between a man and a woman. Even in the absence of any moral opprobrium against homosexuality/sodomy, differences of treatment between the marriage of (different-sex) spouses and a same-sex relationship would thus still remain legitimate, because both situations are relevantly different. What Homosexualism demands, by contrast, is the equal treatment of unequal situations.

2.3.5. Gender Theory

Gender Theory is a recent spin-off from Feminism and Homosexualism. While it pursues similar objectives, it widely differs from the two aforementioned ideologies in regards of its doctrinal aspects.

Feminism recognizes the existence of two different sexes, alleging that one oppresses the other. Homosexualism asserts that sexual orientations are innate and unalterable, and thus de-responsibilizes the person affected by it with regard to the sexual behaviour it indulges in. Gender Theory, by contrast, assumes that sexual preferences and orientations are, or should be, freely chosen, and that they may change over time. While Gender Theory still accepts that there are physiological differences between men and women, it negates their importance. Instead, it views male and female identity as the result of a mere social convention that, in the name of liberty, must be overcome. "Gender identity" is thus defined as "each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms"."8

In other words, a person's "gender identity" is claimed to be independent of the biological sex, and based on subjective sentiments and choices rather than on verifiable facts. This has led

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8 This definition has first appeared in the “Yogyakarta Principles”. It has no legal value, even though some gay rights activists quote it as if it had.
to a veritable mushrooming of newly discovered "gender identities" – according to a policy recently adopted by the social network "Facebook", it is now possible to choose between 60 possible variants!

While Feminism and Homosexualism can be traced back to Marxist origins, Gender Theory is rooted in a radical liberalism, which exalts subjective emotions and personal choices to such an extent that finally they supersede every objective reality.

Quite obviously, such a theory must be hopelessly unscientific (or even anti-scientific), given that personal sentiments are the only source of insight it accepts.

2.3.6. *Relativism*

Relativism is a philosophical stance asserting that there is no truth, only points of view. Those points of view, it is asserted, are informed by personal experiences and preference, but have no claim on universal validity and should therefore not be imposed on others.

It seems obvious that such an approach to truth could not be applied in the field of empirical science, where a lot of work and money is spent precisely to find insights that are, to the greatest possible extent, objective and verifiable. For natural science, therefore, the generally accepted approach is that a scientific theory is never a definitive truth, but that it can be considered a "preliminary truth" – until it is replaced by a better theory. The approach is thus not that absolute truth does not exist, but that it can never be reached; instead, it only can be approached in incremental steps.  

Relativism, by contrast, negates the very existence of truth, in particular with regard to metaphysics and morality. It denies the existence of a Natural Law, thus adopting a stance of legal positivism: law is what is read in the statute books.

While the supporters of Relativism tend to believe that their stance is an expression of their tolerance, in actual fact it breaks the ground for the worst forms of totalitarianism. If all links between law and the outward reality are severed, then whoever holds political power will be allowed to impose laws that are completely arbitrary. This is a temptation not only for dictatorships, but also for democracies.

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9 This view has found its most widely known expression in Karl Popper's study "Logik der Forschung" (The Logic of Scientific Discovery).
Relativism is therefore, despite its roots in liberal thought, by nature not a liberal, but an intrinsically totalitarian ideology. At the same time, it also is not an expression of rationality, but of the rejection of rationality. By negating the existence of truth, it also radically negates human dignity, which precisely is grounded in the fact that man is capable of rational self-reflection, i.e. that he has the capability and aspiration to discern good from evil, and to act accordingly.

2.3.7. The Anti-Discrimination Ideology

The most recent of contemporary intellectual aberrations is reflected in the recent proliferation of new policies that seek to promote "equality" through "anti-discrimination laws". These policies, which even seek to turn "equality" into a new human right that supplants and supersedes all the others, are the expression of a flawed concept of justice:

- They overstate the value of "equality" over freedom, radically curtailing personal and economic freedoms (in particular the freedom of expression and the freedom of contract) in order to achieve "equality";

- They tend to understand by "equality" neither the equality of all before the law nor a situation where all have equal opportunities, but an equality of result, i.e. a situation where, irrespective of talent or merit, all live under equal conditions; this dissociation between merit and reward turns ‘equality’ into a concept of injustice rather than justice;

- They tend to base their concept of "equality" on comparisons that are drawn on the basis of arbitrarily selected criteria. This turns "equality" itself into an arbitrary concept. Because of its apparent arbitrariness, it only aggrandizes the institutional power of those tasked with enforcing the law, at the expense of citizens' liberty.

- As a result, "equality legislation" often imposes equal treatment of what in fact is unequal, and unequal treatment of what in fact is equal. While some of these measures pretend to be “anti-discrimination” laws, others, such as the recent proposal by the European Commission to provide for fixed quotas of women on corporate boards, in an unprecedented manner openly impose discrimination, thereby laying bare the absurdity and self-contradiction of the underlying ideology.

- It results that "equality" is an extremely fluid concept with uncertain meaning that can be twisted and tweaked in any direction. "Anti-discrimination laws" thus risk being turned into an institutionalized sophism, thus favouring misuse of power rather than liberation.
2.4. Which Solutions Must We Seek?

2.4.1. A Legal Order in Conformity with Natural Law

In view of these dangerous and destructive Ideologies, one may legitimately ask whether contemporary "Pluralism" must be interpreted as implying that they must be accorded a place in society. Is the best we can aim for a status of co-existence, where Natural Law is at least not decried as "injustice" and where the righteous man will at least not be punished for his righteousness? Or should it not be our aim to strive for a legal order that is in every aspect guided by Natural Law, and where false and dangerous ideologies such as those mentioned above will be prevented from spreading?

This question must be given a differentiated answer.

In the first place, there can be no doubt that our aim, and indeed the aim of every decent man, must be establish a legal order that fully corresponds to Natural Law, which by necessity implies that actions that stand in contradiction to Natural Law must be duly prohibited and, where necessary and appropriate, placed under dissuasive sanctions. This precisely is the purpose of positive legislation: it should implement and enforce Natural Law. It is thus, for example, perfectly legitimate to strive for legislation that criminalizes abortion, euthanasia, or sodomy, or that rules out the legal recognition of "same-sex marriages", even if there be some citizens who believe abortion, euthanasia, or sodomy, to be morally acceptable. In the ideal situation, Natural Law and positive legislation converge.

However, a certain amount of tolerance may have to be applied in cases where intolerance might lead to greater evils. Such tolerance is never a value in itself, but it can be seen as a prudential strategy to avert the evil of social unrest.

If it is for political reasons impossible to ensure that the legal order complies with Natural Law, then one must at least seek to come to the best attainable solution. However, this should never lead us to give up the ultimate objective, i.e. to attain full compliance with Natural Law at a later stage.

2.4.2. Freedom of Conscience

In countries and at times where the positive legislation is in contradiction to Natural Law, there may be situations where righteous persons come under pressure to act against their conscience. In such situations the only possible solution for them may be to contravene the law and undergo the undesirable consequences.
To avoid such situations, many jurisdictions have legislated for so-called “conscience clauses”, which, for example, provide that no doctor or nurse can be forced to partake in abortions or euthanasia.

It could be argued that such conscience clauses should be considered a minimal human rights standard, but in actual reality this assumption does not hold true. Many countries that have legalized abortion, euthanasia, and other abominable practices, do not provide for such conscience clauses. It remains to be seen whether international human rights legislation such as Art 9 ECHR (freedom of conscience) affords appropriate protection to conscientious objectors and, if so, under which circumstances.

From a Natural Law point of view, the moral obligation to abstain from an evil action exists irrespective of whether or not there is a legal provision to protect freedom of conscience. It is better to suffer injustice than to commit it. Thus, there may even be a moral obligation to contravene the positive law, and a person's readiness to do so should then even be seen as a particularly valuable testimony for a moral truth.

At the same time, conscience clauses are insufficient to make liberal abortion laws human rights compliant. Indeed, it would seem absurd to accept living in a society where murder or theft are legal, as long as nobody is obliged to steal or kill. Every reasonable person will understand that it is legitimate and necessary to work for a society in which murder and theft are illegal for everyone. Such a prohibition does not mean to impose the beliefs and values of a small group on the rest of society, but they are a simple necessity for the well-being of all.

The real sense of conscience clauses is to exceptionally allow people to abstain from doing what is objectively right (because they think it is wrong), or to allow them to do what is wrong (because they think it is right). But this is not our case: we are fighting for a legal order that corresponds to the objective moral truth. This is why our point of view should not be the object of mere toleration.

This notwithstanding, it is a legitimate political objective to work towards the adoption of such conscience clauses in relation to abortion etc. in jurisdictions where they do not exist, always provided it is understood that such clauses do not provide any legitimacy to a law that legalizes what should in fact be prohibited. A "conscience clause" is therefore not an acceptable solution to regulate inherently evil practices, but it is a solution of last resort to provide a minimum of protection for those not wishing to collaborate in evil. The existence of such conscience clauses does not cancel out the obligation to work towards the abrogation of the law by which the inherently evil action is legalized.
2.4.3. **Invoking Religious Freedom**

Very similar to freedom of conscience, an argument that is frequently used to protect those wishing to resist the impositions of the Cultural Revolution is that they enjoy religious freedom, and that this includes the right to act according to one’s deeply held religious beliefs. For this reason, it would be a violation of a human right if somebody were to be forced to partake in abortion, euthanasia, or similar.

While this argument is per se correct, it nevertheless has the serious disadvantage of relativising a moral stance that is founded in objective truth rather than in a subjective belief. Indirectly, it provides some legitimacy to those who argue in favour of what we oppose (e.g. by saying that abortion is ok if one believes that the foetus is not a human being). Indeed, invoking religious liberty in the context of abortion, euthanasia, or sodomy, is tantamount to framing all possible points of view as "beliefs" and putting them on one and the same level, or, even worse, to accept that only the view that opposes abortion/euthanasia/etc. is based on "belief" (whereas, as may be inferred, the view that those practices are acceptable is "objective" or "scientific").

Moreover, the religious freedom argument could be easily used by certain groups to promote inacceptable practices (such as, for example, polygamy, genital mutilation, and many more). It is thus a two-edged sword and should, if at all, be used only with the greatest caution. Within the context of the issues covered by this paper it does not seem necessary or recommendable to invoke religious freedom, given that there are sufficient arguments available to demonstrate that the points of views we are promoting are based on objective truth.

2.4.4. **Reasonable Accommodation**

Another concept frequently used in the wider context of the exercise of religious liberty is "reasonable accommodation". It means that reasonable efforts must be made for example by employers to allow their employees to reconcile their work life with their religious belief. For example, a public transport company would be well advised to ask Muslim bus drivers to work on Sundays rather than Fridays, whereas Christian bus drivers will work on Fridays rather than Sundays. In this way, the religious belief is easily accommodated, and there is the additional advantage that it is possible to find drivers willing to be on duty on weekends. Similarly, it might be argued that in a country that has freshly introduced controversial same-sex "marriage" laws should provide reasonable accommodation for civil registry officials who do not want to preside over such ceremonies. This should in most cases be easily
possible, given that the demand for same-sex "marriages" appears to be limited and the number of conscientious objectors not great.

However, it should be noted that "reasonable accommodation" is an approach that is suitable to address situations arising from the fact that different people have different cultural backgrounds. Fundamental moral questions, by contrast, have nothing to do with a particular religious or cultural background. Repudiating practices like abortion, euthanasia, or homosexuality, is not the expression of a particular culture or religious creed, but of a Natural Law that has universal validity and should be respected by everyone.

Reasonable accommodation of dissenters will therefore not suffice to render legitimate a law that is seriously at odds with Natural Law.

2.5. Conclusion

As will become apparent in further course, the debates on marriage and the family, the right to life, etc. are underpinned by a more fundamental conflict. That conflict concerns the question whether what makes laws just is merely the procedure that has been followed in adopting them, or whether they must be grounded in reason. The latter point of view excludes irrationality and arbitrariness, but it also means that we cannot simply pick and choose our points of view as we like. Once we have decided that positive laws must comply with Natural Law, we must follow that approach consistently. In the areas discussed in this paper, everything is intertwined with everything: accepting one single law that disrespects Natural Law means accepting a principle that will ultimately undermine the entire legal order.
3. **Marriage and the Family**

As we have pointed out in the introductory section, we are currently witnessing a Cultural Revolution that, based on the idea of turning sex into a commodity, seeks to subvert traditional institutions of human society such as marriage and family, but will ultimately result in subverting human life as such. While it seems self-evident that human life must be one of the highest-ranking values in any truly human legal order (and hence the right to life the fundament for any other fundamental right), it appears that many find it difficult to understand that social institutions like marriage and the family are similarly important.

Yet it is family that, being the basic social unit, makes human life possible. Marriage and Family are institutions that are pre-existent to the state; it is these institutions that make the existence of the state possible, not the inverse. A society without families would by necessity a totalitarian, un-free and inhuman society, in which those in power would be able to intrude into all and every aspect of citizens’ lives. It comes at no surprise, then, that the only political visionaries who have seriously thought of abolishing the institution of the family were the likes of Fourier (who wanted to replace it with his “phalanstères”) or Pol Pot (whose stone-age communism involved the total dissolution of families). A dystopian, yet fairly realistic, idea of what a society without families would look like is provided by Aldous Huxley’s *Brave New World*: a society where people do not marry any more, where sexual promiscuity is not only accepted but compulsory, and where procreation is organized by the state and takes place *in vitro* in state-owned fertilization and breeding facilities.

The family creates a sphere of intimacy and autonomy, an inter-generational network of mutual love and solidarity, into which the state is not allowed to interfere as long as he does not need to interfere. The principle of subsidiarity, if correctly understood, means that smaller social units should be allowed to do themselves whatever they are capable of doing themselves, and that the greater unit should only intervene where the smaller unit is not able to achieve the objective. This principle is not only based on the assumption that smaller social units can be more efficient, but it also guarantees the plurality and freedom in a society.

One such smaller unit – indeed the small social unit by excellence – is the family. It serves the purpose of procreation, provides social security, solidarity, and education. It follows that the state’s role in these areas, if correctly understood, can only be ancillary to the role of families. For example, education is a right of parents, which means that the parents are the primary educators of their children, and the state’s role must be limited to providing assistance to the parents. In the same vein, the state should provide social security only if and where family networks and local communities are not capable of providing them.

If the family is in a crisis today, that crisis seems to a large extent due to the emergence of hypertrophic social welfare systems, which, usurping many of the
natural functions of families, seemingly make family and marriage redundant. In actual fact, however, those welfare systems are not sustainable in the long run: they are themselves over-indebted and, at the same time, constitute a major cause for the over-indebtedness of many national economies; they are inefficient and encourage irresponsible and anti-social behaviour. It is only a question of time that, when they will break down, people will again have to rely on their families. But there is a risk that, if families will not exist anymore as a strong social network, our individualistic society will face an unprecedented problem.

3.1. **What Is a Family?**

Given that international human rights treaties as well as national constitutions pay abundant lip-service to the importance of families, it would be impossible for any opponent to say that marriage and family should not enjoy special protection. Instead, the strategy used by the cultural revolutionaries consists in saying that all and everything should be called a “family”: the concept is watered down beyond recognisability.

The problem is that while important human rights documents such as the UDHR or the ICCPR do recognize the importance of families, they contain no definition of what a family is, because this seemed self-evident at the time of drafting.

It is not self-evident any more.

While not so long ago everyone would have agreed that a family consists of a married couple and their common offspring, this concept is nowadays increasingly called into question. For example, the authors of the aforementioned “Yogyakarta Principles” (a pretentious document that seeks to advance legal recognition and privileges for homosexuals) say that laws and policies should “recognise the diversity of family forms, including those not defined by descent or marriage”. A policy paper recently published by the EU Family Platform, a research network set up by the EU to inform the debate on family policy states that there is a need “to move beyond an over-emphasis on the nuclear family and grasp new notions of family relationships, which may include a variety of different networks providing support and resources such as grandparents, relatives, friends and colleagues”. Various politicians have been heard saying that in their view a family is “wherever persons take responsibility for each other”.

More importantly, the idea that the notion "family" could be extended to other social groups, including same-sex couples, seems to gain ground even in institutions such as the European Court of Human Rights, which in its decision in the case of *Schalk and Kopf v. Austria*, went as far as making the following statement:

"The Court notes that ... a rapid evolution of social attitudes towards same-sex couples has taken place in many member States. Since then a considerable number of member States have afforded legal recognition to same-sex couples. Certain provisions of EU law also reflect a growing tendency to include same-sex couples in the notion of “family”."
In view of this evolution the Court considers it artificial to maintain the view that, in contrast to a different-sex couple, a same-sex couple cannot enjoy “family life” for the purposes of Article 8. Consequently the relationship of the applicants, a cohabiting same-sex couple living in a stable de facto partnership, falls within the notion of “family life”, just as the relationship of a different-sex couple in the same situation would.

The Court therefore concludes that the facts of the present case fall within the notion of “private life” as well as “family life” within the meaning of Article 8 (of the European Convention of Human Rights).

As a statement stemming from a high profile human rights body, these affirmations are unique, and it is therefore likely that they will, at least in Europe, be assiduously used by supporters of the cultural revolution as a point of reference in coming years. It is therefore necessary to note that this was a mere obiter dictum, i.e. a corollary statement that expresses the opinion of a majority of judges in one chamber of the Court and has no legal effect at all. It was not based on any other argument than a vague reference to "evolving mores", and stands in open contradiction with the core finding in the same judgment that the right "to marry and found a family" (Article 12 of the Convention) is reserved to "a man and a woman of marriageable age". The notion of "family life" (in Article 8) cannot without loss of consistency be dissociated from the notion of a "family" in Article 12.

Despite these obvious flaws, the Court has in subsequent decisions referenced this misguided obiter dictum as if it were some kind of established doctrine – it did so, however, without providing any additional supportive arguments.

A concept that is overstretched becomes meaningless. That is precisely the danger the family is facing today. If those “new notions of family relationships” were generally accepted, then nearly every group of persons wishing to be called by that name would be a “family”. That would include a school teacher and his pupils, a bus driver and his passengers, an employer and his employees, and of course all and every set-up of persons living in the same household. The concept of family promoted by the “Yogyakarta Principles” offers no criterion at all to determine what a family is – it only says which criteria should not be used: marriage and descent. But if marriage and descent are not the criteria, then the concept becomes arbitrary.

In other words, this seemingly benign idea of extending the concept of family could be the most efficient way of abolishing it.

It has been argued that “traditional” families will suffer no harm or disadvantage if other types of families receive the same legal recognition. One is tempted to wonder whether those making such assertions are really as naive as they pretend. In actual fact, a clear and correct definition of the concept of a family is a pre-condition for any targeted policy for families. Without it, it becomes impossible to speak about the family, impossible to
recognize the specific contribution of families to the common good, and impossible to adopt policies that provide targeted support to families.

Besides, it obviously insults and demeans all parents who raise children to read in the ECtHR's decisions that their relationship is of no greater value and dignity than the (unhealthy and by nature sterile) relationship between two sodomites.

It is therefore of primordial importance to ensure that a correct definition of the word “family” is introduced into the legal and political language. Without this, nothing can be done to protect the interest of the family, and whatever is done could quickly turn out detrimental. To define family as a married couple and their offspring is the first political priority.

3.2. The Procreative Purpose of Marriage

To understand the nature and purpose of marriage, the first and primordial step is to recognize its procreative purpose. This purpose is nowadays often downplayed and discarded by those who see it as an institution that should serve the interests of the two "partners". But in actual fact, the purpose of marriage is to create the stable environment that is necessary for the successful rearing of children. It is therefore the children that stand in the focus of a genuine family.

It is of course true that children can be raised also in a less than ideal environment, e.g. in an orphanage, or (as a result of the premature death of a parent or a family break-up) by one parent alone or by step-parents. But that obviously does not mean that all possible scenarios are equally good, or that any of them is preferable to the classical family (i.e., a married couple and their offspring):

– Anthropological research has amply demonstrated that it is generally preferable for a child to be raised and educated by its natural parents rather than by other educators. It is self-evident that natural parents will usually feel greater emotional attachment and responsibility for a child than a hired educator, who is more likely to entertain a merely professional relationship.

– It equally has been amply demonstrated that a child needs both male and female role models. An environment where a child is confronted with educators of (only) one sex may later on lead to difficulties in developing a healthy relationship to persons of the other sex.

– In contemporary society most children remain dependent on their parents at least until the age of 16, which implies that the parents should stay together at least until the time where the child has reached that age.

– Rearing children requires time and personal commitment, which is why it is usually not possible for both parents to pursue full-time professional activities and, at the same time, manage a household with one or more children. For this reason, it is typically necessary for one of the parents
(usually the mother) to have no or only a part-time job, which implies that this parent needs to be economically sustained by the other parent.

It follows that marriage is first and foremost an institution that exists in the interest of children, and, to some degree, in the interest of mothers who raise children. Marriage only makes sense if it is concluded between a man and a woman who want to have children, and if it provides the stability (in particular for mothers) that is necessary to raise children. And this is why, in most jurisdictions, a marriage is considered invalid if one of the partners or both deliberately exclude the possibility of having children.

By contrast, there is no necessity for two persons to enter into such a relationship, nor for such relationship to be legally recognized or promoted, where procreation is by nature impossible.

At the same time, it should also be noted that marriage is not just one of many options for two persons who want to found a family, but it is the only option that is morally acceptable. The carnal act expresses the wish to be father and mother of common children, which by necessity implies a lifetime commitment. If that is not the intention of the two persons involved, then their act is in itself untruthful. It is thus the respect both for the other person as a partner of equal worth and dignity, as well as for the common children, that makes extra-marital sexual relations morally unacceptable.

Rather than by giving any additional social and fiscal benefits to married couples (and withholding them from non-married ones), today’s crisis of family and marriage can only be resolved by promoting a renewed and deepened understanding of both. This understanding must emphasize that families have an important task in society in which they are not replaceable: that of raising the generation of tomorrow. To fulfil that task, it is necessary that marriages are between persons of different sex, open to procreation, and durable.

### 3.3. The Specific Relationship between Parents and Children

#### 3.3.1. The role of parents as primary educators

As we have mentioned, marriage is, more than anything else, an institution that is designed to protect the interest of children. It must therefore been understood and interpreted from that perspective.

If by nature each child has one (biological) father and one (biological) mother, it must be assumed that being raised by, and living together with, its biological father and mother is what is naturally best for a child’s healthy development. Therefore, a child has a natural right to live with, and be educated by, its own parents. Inversely, while it is clear that there is no right to a child (i.e. a right to become a father or a mother through whatever technical or legal means), it is also clear that parents have not only a natural
responsibility, but also a natural right, to live with, and to be the first educators of, their children.

A healthy and just social order respects this specific relationship between children and their parents. It will therefore:

– protect the right of children to know the identity of, and to have regular contact with, their biological parents;

– protect the right of parents to know the identity of, and to have regular contact with, their biological children;

– provide parents with sufficient support, including moral and economic support, to spend time with, and fulfil the role of primary educators of, their children;

– base their policies on schooling and education on the principle that the state's role as an educator is ancillary to that of the parents: the state must assist the parents in educating their children as they see fit, not the other way round;

– avoid giving undue privilege to the education of children in state-run institutions rather than by their parents (e.g. by prohibiting home schooling, or by providing disproportionate support to day care institutions while not providing similar support to parents who care for their own children, or by withholding appropriate support from privately run schools).10

3.3.2. The Role of Parents as Educators in International Law

The specific role of parents as the primary educators of their children is recognized in international law:

– Article 26 (3) of the UDHR explicitly states that: "Parents have a prior right to choose the kind of education that shall be given to their children."

– Much in the same vein, Article 13 (3) of the ICESC stipulates: "The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions."

10 Very noteworthy, in this context, is Art 41 (2) (2) of the Constitution of the Irish Republic: “The State shall, therefore, endeavour to ensure that mothers shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home.”
– Article 2 of the 1st Protocol to the European Convention on Human Rights states: "No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religions and philosophical convictions."

– Article 14 (3) of the EU Fundamental Rights Charter reaffirms that: "...the right of parents to ensure the education and teaching of their children in conformity with their religious, philosophical and pedagogical convictions shall be respected".

3.3.3. The Rights of the Child in International Law

There is an International Convention on the Rights of the Child at UN level. This convention has been ratified by an overwhelming majority of UN Member States. While there is an inherent risk that it could be used to supersede the natural rights of parents (because the question what corresponds, or does not correspond, to "the best interest of the child" is ultimately to be answered by state authorities rather than by parents), it nevertheless should be noted that, inter alia, the Convention explicitly recognizes the right of children to preserve their identity and family relations (Article 8 (1)) and to have contact with their parents (Article 9), as well as the right of parents to be the primary educators of their children (Article 20). It also states that in the case of adoption it is the interest of the child that must receive paramount consideration, not the interest of adoptive parents (Article 21).

3.4. Marriage and Divorce

Although (or because?) divorce is nowadays very frequent, the severe damage this practice does to society is hardly ever discussed in public.

True love seeks durability and life-long engagement. A young man who, rather than promising his fiancée eternal love, tells her that he will remain married to her until a more suitable person comes along would be very unlikely to win her heart. This life-long commitment is also a necessary precondition for the successful rearing of children. Children remain dependent on their parents for nearly 20 years (if not more), during which time they need not only food, clothing and shelter, but also personal care and attention. This is difficult to provide where families are instable.

That marriage should be life-long corresponds thus both to desire and necessity. But the necessary stability of marriage needs to be provided for by the legal order. The adoption of liberal divorce laws sanctions the breach of a promise. By undermining the stability of marriage it undermines the institution of marriage as such. Although today it may seem that divorce has been socially accepted long ago, the time when in many countries there was no divorce law is not too distant. For example, in Italy divorce was
introduced only in 1974, and in Spain and Portugal even later. Malta was the last European country to legislate for the availability of divorce in 2011.

The current confusion around the meaning of the term “family” certainly has more than just one single reason – but undeniably, the proliferation of divorce and of extra-marital relationships is the most important one. The increasingly frequent breaking up of marriages, and the unwillingness of many couples to build their family on the basis of a binding and life-long mutual commitment, leads to a fragmentation of society: a steadily growing number of persons do not live in stable families any more, but in instable relationships of uncertain nature. This has dire consequences for society: there is a correlation between the instability of relationships and declining birth rates, and children stemming from such relationships have a higher risk of physical and mental health problems, of delinquency, of school failure. Given that this creates a heavy burden for society, it can hardly be said that the issue is merely a private matter. The problem also has a tendency to proliferate: children whose parents divorce themselves have a statistically high risk of divorcing.

While the children concerned are the first victims of family break-up, the wider consequences of the growing instability of families should be a matter of concern for society as a whole.

It is of course very tempting for society to turn a blind eye to this, or to downplay it with embellishing language (either by simply extending the meaning of the term "family" to whichever group of persons want to be called by that name, or by using euphemistic terms such as "patchwork families"), but that does not solve the problem. The proliferation of divorce sets in motion a vicious circle: rising divorce rates lead to calls that "the law should be adapted to modern realities", i.e. that divorce laws should be further liberalized (e.g. by legislating for consensual "express divorce" procedures, or by discarding the issue of culpability in the context of divorce settlements). As a result of more liberal divorce laws, divorce rates will continue increasing, and as a result of increasing divorce rates there will be calls for further facilitation of divorce, as if the breaking up of a family were a banality.

As a result of this development, the legal order has been transformed in a way that is detrimental for the stability of marriages. The terms of a marriage cannot be freely negotiated by the partners, but they contract marriage according to the terms foreseen by law. In countries where divorce is easily available (i.e. where the law protects the interest of the partner who wishes to divorce rather than those of the partner wishing to maintain the marriage) marriage is turned from a permanent into a preliminary status and it is de facto no more possible, in strictly legal terms, to contract a life-long marriage. Each partner must know, even at the time of marriage, that if the other partner wants a divorce, he will be able to get it. And very sadly, that hypothesis must be factored in from the outset. The fact that divorce and separation laws increasingly do not take into account the question of who was responsible for the break up means that the rules of the game are
changing: the laws provide little protection to the partner who remains loyal to his conjugal duties and wants to maintain the marriage; instead, it in some cases even places a reward on infidelity and the deliberate destruction of a marriage. If there are still marriages that last a lifetime, it is not because of, but despite, a legal system that does not favour stability.

It is this profound change in the significance of marriage\textsuperscript{11} that has led some countries to give to cohabiting couples similar or equal rights and benefits as if they were married, even though they are unwilling to enter into any mutual binding commitment between themselves. In a certain sense, this seems quite logical: where marriage does de facto not create a binding commitment for the married partners any more, why should there be a difference in treatment between married couples and unmarried ones?

But if unmarried different-sex couples can receive the same rights and benefits as married couples, why should such rights not be given to any two persons irrespective of their sex? The contemporary discussion around same-sex "marriages" is at least in part imputable to the fact that wide parts of society simply do not understand any more what a marriage is. If the hypothesis of same-sex "marriages" has acquired some plausibility in public debate, it is because people neither understand the purposes nor the level of commitment associated with a marriage. The proliferation of divorce is one of the main drivers of this development.

If the family is to be saved from its gradual destruction, laws must be changed to reflect the purpose and meaning of marriage:

– Marriage shall be between one man and one woman.

– The commitment that marriage is a life-long commitment must be reflected by the law. This means that, ideally, divorce should not be possible. Where it is possible, it should be available only under very restricted circumstances. In any case, laws regulating the consequences of a family break up should be designed to protect the innocent partner, rather than discarding as irrelevant the responsibility of each partner for the break up. They should also discourage subsequent second or third marriages.

\textsuperscript{11} It should be noted in this regard that for many centuries it was held that when a man and a woman privately agreed to found a family, such a marriage was valid in the legal sense (common law marriage). Such a private agreement, however, was different from mere cohabitation without the intent of founding a family. Although marriage was traditionally considered a sacrament by the Church, the Catholic Church formalized the sacrament of marriage as late as 1563 (Decree Tametsi, adopted at the Trent Council). It was only from 1800 onwards that state legislators attempted to introduce civil marriage in order to gain control (and definition power) over it. At the time, the Churches sought to oppose this development. Paradoxically, the development we observe today seems to go in the direct opposite direction: secular politicians seek to dismantle civil marriage, and Church hierarchies seek to preserve what their historic predecessors once opposed.
Fiscal and social advantages should be given only to couples who, being married, have made a real commitment between themselves and towards society. No such advantages, or at least considerably less, should be given to couples who live together but are not married.

3.5. **Marriage in International Law**

3.5.1. **The Fragmentation of the Legal Order**

In the light of what has been said in the preceding sections, it seems useful to open a small parenthesis and to examine the wider implications of the increasing legal uncertainty around the terms "family" and "marriage".

There was a time, and it is not even very long ago, where everybody knew what "marriage" and "family" meant. Even at times where there was a considerable diversity of legislations between different European countries, the concept of marriage was so uniformly understood and applied that this probably was the area in law where uniformity of regulation was strongest. There was thus in principle no problem for one jurisdiction to legally recognize the marriage contracted in another.

This situation has been completely reversed. While organisations such as the UN, the WTO, or the EU strive to harmonize each and every legislative domain at an international or at least regional level, the development in the area of marriage and family law goes in the diametrically opposite direction: there is increasing fragmentation and, as a result of this, increasing incompatibility between the legal concepts used by different countries.

This development is most strongly felt by those living in a different country than their own: if, for example, a man from country A and a woman from country B marry in country C and then settle in country D, the question arises which law will be applicable to the marriage (and eventual divorce) of this couple. If all countries had the same laws, there would be no problems. But since countries have (with varying degrees of "liberalism") begun legislating for divorce, this uniformity has ceased to exist. More recently, the situation has been further exacerbated as a consequence of various types of "registered partnerships" (between persons of the same and/or of different sex, with various degrees of commitment and revocability)\(^\text{12}\) and of "same-sex marriages" in various countries.\(^\text{13}\)

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\(^{12}\) A prototype for such low-grade "marriages" is the French pacte civile de solidarité (PACS), which was open to both same-sex and different-sex couples, whereas marriage remained open only for different-sex couples. In 2013, France re-defined "marriage" to include same-sex couples. The PACS continues to exist.

\(^{13}\) The first country to have legally recognized "marriages" between persons of the same sex was the Netherlands in 2001.
Both at EU and at international level there is today increasing uncertainty how to interpret the term "marriage" when it appears in an international document, and there have even been some frivolous (albeit so far unsuccessful) attempts to use international or EU law to force the legal recognition of same-sex "marriages" on countries that reject this innovation.

Strangely, it is the innovators who, nowadays, deplore the legal fragmentation in matters pertaining to marriage and family, and who seek harmonisation (i.e. that all countries should be forced to introduce their innovations) or at least mutual recognition of laws as a possible solution. But it was precisely themselves who, by recklessly introducing liberal divorce rules, "registered partnerships", and "same-sex marriage", have undermined the convergence of legislation that had existed beforehand.

From the perspective of Natural Law, it would certainly be desirable that there be less fragmentation between different jurisdictions: the true concept of marriage is of universal validity. However, a greater uniformity of laws is not an end in itself: it is more important that those countries who have a legislation that still is vaguely similar to the principles of Natural Law remain able to maintain it, rather than accepting grossly aberrant legislative standards as a common denominator.

For this reason, the long-term objective must be to establish the precepts of Natural Law (i.e. the fact that marriage is between a man and a woman, and that it may not be divorced) as the international legal standard, to the effect that a state allowing for divorce and/or same-sex marriage would be seen as violating international obligations. In the short and medium term, however, the lack of competence of international bodies (notably the UN and the EU) to legislate on marriage and the family is a convenient argument for those seeking to defend society against the imposition, by the EU and other international bodies, of laws that would undermine the family.

In the absence of any internationally accepted standard (or indeed: because the shared understanding on those matters seems to be disappearing...) matters pertaining to marriage and family are regulated by international private law, i.e. by a set of rules that do not regulate the substance of the matter, but merely determine the competence of countries to apply their laws on a given situation if that situation has sufficiently close links to that country. In the case of marriage and family, it is the citizenship of either of the spouses, or the domicile, or the place where marriage has been entered into, that may be considered to establish such a link. However, although there are some international agreements on the matter, it should be noted that international private law generally is a matter of autonomous competence for each country, i.e. that each country
may decide for itself to which situations it chooses apply which laws. With certain countries inventing different types of registered partnerships, legislating for express divorce or same-sex marriage, or even legally recognizing polygamous partnerships, the situation is becoming more and more chaotic.

3.5.2. International Law

3.5.2.1. Marriage is between a man and a woman

Considering the practical importance of family law, there is remarkably little regulation on international level. The only thing that can be said with certainty is that the right to marry and to found a family is internationally recognized as a human right (notably in Art. 16 of the UDHR, in Art. 23 of the ICCPR, and in Art. 12 of the ECMR), and that therefore all countries are obliged to foresee and recognize the institution of marriage and the family.

It is generally held that this international obligation extends only to marriage between a man and a woman. Attempts to create an international obligation for countries to provide for, or accept, "same-sex marriage" or similar, have been utterly unsuccessful both at UN and European level.

In the case of Joslin v. New Zealand, the UN Human Rights Committee held with regard to Art 23 of the ICCPR that:

"Article 23, paragraph 2, of the Covenant is the only substantive provision in the Covenant which defines a right by using the term "men and women", rather than "every human being", "everyone" and "all persons". Use of the term "men and women", rather than the general terms used elsewhere in Part III of the Covenant, has been consistently and uniformly understood as indicating that the treaty obligation of States parties stemming from article 23, paragraph 2, of the Covenant is to recognize as marriage only the union between a man and a woman wishing to marry each other."

In the case of Schalk and Kopf v. Austria, a case decided by the ECtHR, two gay men filed a complaint in which they argued that Austria had violated its human rights obligations, notably Article 12 (right to marriage) and Articles 8 and 14 (discrimination with regard to right to privacy) by not legislating for same-sex marriage. The Court rejected this claim, finding that:
"The Court notes that Article 12 grants the right to marry to “men and women”. The French version provides « l’homme et la femme ont le droit de se marier ». Furthermore, Article 12 grants the right to found a family. The applicants argued that the wording did not necessarily imply that a man could only marry a woman and vice versa. The Court observes that, looked at in isolation, the wording of Article 12 might be interpreted so as not to exclude the marriage between two men or two women. However, in contrast, all other substantive Articles of the Convention grant rights and freedoms to “everyone” or state that “no one” is to be subjected to certain types of prohibited treatment. The choice of wording in Article 12 must thus be regarded as deliberate. Moreover, regard must be had to the historical context in which the Convention was adopted. In the 1950s marriage was clearly understood in the traditional sense of being a union between partners of different sex."

With regard to Articles 8 and 14 the Court pointed out that:

"Insofar as the applicants appear to contend that, if not included in Article 12, the right to marry might be derived from Article 14 taken in conjunction with Article 8, the Court is unable to share their view. It reiterates that the Convention is to be read as a whole and its Articles should therefore be construed in harmony with one another. Having regard to the conclusion reached above, namely that Article 12 does not impose an obligation on Contracting States to grant same-sex couples access to marriage, Article 14 taken in conjunction with Article 8, a provision of more general purpose and scope, cannot be interpreted as imposing such an obligation either."

3.5.2.2. Is divorce a human right?

No international case law at all seems to exist with regard to the question whether international human rights oblige countries to allow divorce. There are some references to the hypothesis of the dissolution of a marriage (e.g. in Article 23 (4) ICCPR, or in Article 17 (4) of the American Convention on Human Rights), but these are crafted in a way that does not create a "right to divorce".

This question thus seems to fall entirely within the remit of the competence of national legislation, but there is of course one obvious limit: divorce cannot be regulated in
such a way as to turn marriage into a completely empty shell. Arguably, therefore, a marriage law that does not allow for divorce would be in line with international human rights standards, whereas legislation allowing a person to obtain a divorce too easily could be seen as violating the right to marriage.

3.6. Marriage and Family Deserve Specific Recognition and Support

It is not the purpose of this paper to set out a specific program regarding the social or fiscal benefits families should enjoy. There is a great variety of measures that a State can take in order to promote the family and to provide it with a stable basis, and given the great differences of situations existing in different countries, there clearly is no one-size-fits-all solution that is best always and everywhere.

However, there is a recurring theme. Families (i.e. a man and a woman living in a stable marriage and raising children) make an important contribution to the common good that others (such as singles, unmarried couples, gay or lesbian couples, single parents ...) do not make: they not only provide social security for both partners on the basis of a binding commitment, but they also rear the children that will work to sustain the currently active generation when it reaches retirement age. Indeed, all those who do not themselves raise children benefit from the fact that others are doing so.

There is thus an inherent moral hazard in our modern welfare systems. A couple that has no children can earn two incomes instead of one or one-and-a-half, and will usually also accumulate higher pension entitlements, but it does not have to face the expenditure (in terms of need for more living space, food, clothing, schooling costs, etc.) that are associated with the raising of a family.

Because it makes a specific and unique contribution to the common good, marriage is a role model that deserves special protection and support. By contrast, other types of relationships (unmarried cohabitation, "consecutive monogamy", homosexual relationships, etc.), if at all tolerated, should in no case be treated at a par:

- **Unmarried couples** often live a life that is similar to that of married couples, and they often raise children. However, if the unmarried partners do not decide to marry it is because they do not want to make a full and life-long commitment between each other. They are therefore less stable than marriages, and in situations of crisis they break up more easily. While mutual support in situations of crisis is precisely one of the purposes of marriage, the intrinsic – and in a certain sense deliberate - instability of unmarried couples means that this purpose is not fulfilled. Instead, the risk of a break-up is, to a large extent, put on the shoulders of society at large (although, as a result of liberalized divorce laws, the difference admittedly is diminishing...).
• **Single persons** usually do not raise children. Where they do, it usually is the result of a family break-up. While, of course, everybody who raises and educates children contributes to the common good and deserves support, it nevertheless is clear that the upbringing of children by a single parent is not an ideal situation and should not be incentivized. It follows that social welfare systems should not be crafted in a way that makes it attractive to avoid the commitment and responsibility of marriage.

• **Same-sex couples** by nature do not raise their *common* children. Where they do raise children, it usually is the result of a family break-up, and it remains to be asked whether being raised by self-affirmed homosexuals is not something children need to be protected against. In any case, the typical situation of homosexual partnerships is that of two incomes and no kids. Even without entering into any debate on the morality or immorality of homosexual relations, one does not see why each of the partners cannot earn his own salary and acquire his own pension entitlements. It seems therefore highly inappropriate, and would set a perverse incentive, to hand out tax breaks, or survivors' pensions, or similar privileges, to same-sex couples.

Special protection by necessity implies that no other form of togetherness should receive the same protection. Even where a legal system tolerates the living together of unmarried (different sex or same-sex) couples, it should under no circumstances pretend that such constellations merit the same protections and incentives as marriage.

### 3.7. Alternative Forms of Family?

In the light of the preceding considerations the question arises whether there should be any form of acceptance or legal recognition for "alternative forms of family" or not. Do cohabiting partners who live together, or same-sex partners, deserve any form of legal recognition? Where such recognition exists (in the form of "same-sex marriage", "civil partnerships" or simply through laws that treat such couples as if they were married), should those provisions be repealed?

#### 3.7.1. Which Rights for Cohabiting Partners?

3.7.1.1. **Equal treatment with married couples?**

In recent years there has been a growing tendency in many jurisdictions to provide to (different sex) couples living in a "stable relationship" (i.e. couples that are not married but live in the same household) a status similar or identical to that of a married couple. It is argued that, given that those couples de facto are in a similar position, and live similar lives, to that of married couples, they should not be discriminated against.

This reasoning seems erroneous to us. There is a decisive difference that needs to be taken into account: while
married couples have made a public and binding mutual commitment both *ad intra* (between themselves) and *ad extra* (towards the rest of society), cohabiting couples haven't. Indeed, they have made the *deliberate choice* of not binding themselves – so why should they be treated as if they had done so?

The "equal treatment" of cohabiting with married couples can only result in two possible outcomes:

Either:

– the unmarried partners will only receive the social and fiscal benefits associated with marriage, without the legal obligations that apply to married couples (so-called "cherry-picking"). That would obviously constitute a very unequal treatment, as it would set a reward on the unwillingness to accept binding commitments and responsibilities.

or:

– the cohabiting partners would also be held to accept the same obligations and responsibilities as married partners do. But that would mean to impose on them a choice they have never made for themselves (given that deliberately they have not married). Also, this would create considerable legal uncertainty, for it would ultimately be a public authority, and not the couple itself, who, on the base of rather vague criteria, would decide that the conditions for equal treatment are met.

Freedom means that people must be allowed to make decisions that have practical consequences. Therefore, in a free society, the State should respect the free decision of citizens whether they want to marry or not, and should treat them accordingly. The equal treatment of cohabiting with married couples is unjust, discriminatory, disrespects personal freedom, and creates legal uncertainty.

In addition, it may reasonably be argued that international law that obliges States to protect the right to marriage presupposes that the status of married people must significantly differ from the status of cohabiting people. Where this is not the case, the institution of "marriage" is rendered insignificant and nugatory. For this reason, the equal treatment of unmarried with married couples arguably constitutes a violation of human rights law.
3.7.1.2. Should there be more than one type of marriage?

Yet another question is whether, rather than foreseeing one single type of marriage, a State may, or should, legislate for different types of marriage-like institutions. One example for such an approach is France, where, besides marriage, there is a new institution called "PACS" (pacte civil de solidarité) that foresees a lower grade of mutual commitment than marriage, can be more easily divorced, but does not confer the same legal entitlements (notably with regard to the possibility of adoption or medically assisted procreation). It can be entered both by couples of different or same sex. While for the latter it is the only possibility to obtain legal recognition for their relationship, for the first it is a form of "low-grade marriage".

This raises the question: if one accepts that there should be more than just one standard type of marriage, why should there be only two (and not, for example, ten) different types, each one varying with regard to the degree of mutual commitment and social/fiscal benefits? One could imagine legally registered "friendships", "close friendships", exclusive or non-exclusive "intimate friendships", etc., and (why not?) even the possibility, at the other end of the scale, to conclude a type of marriage that nowadays does not seem to exist anymore in most countries, namely a marriage that cannot be divorced.

Ultimately, one might also ask why there should not be complete contractual freedom for people to arrange their own private lives as they see fit.

Against such tendencies, one might raise the following objections:

- The greater the variety of marriage-like institutions, the greater will be the confusion as regards the exact meaning of each of them – not only for third persons, but even for the two persons involved. While today there still is a commonly shared understanding in society on what a "marriage" is, this understanding would soon be completely diluted if there were a variety of different marriages. Marriage would thus lose its status as an institution that is respected in the public sphere, and thus be deprived of its public character.

- One of the very important purposes of marriage is the protection of the socially more vulnerable party (often
the woman). If there were a variety of different "marriages", or (even worse) if the meaning of "marriage" were the result of an individual negotiation between the two persons involved, then it would in all likelihood be the weaker partner who would lose out: he or she would be constrained to settle on more unfavourable terms than if there were only one standard type of marriage.

- It is significant that those arguing in favour of new types of marriage-like institutions (such as the French PACS) usually do so in view of introducing lower-grade marriages, whereas one has never heard of any such initiative to re-introduce a non-divorceable marriage (even though, among couples of marriageable age, there might be a real demand for it). It seems therefore that this is rather a strategy for the surreptitious destruction of marriage than a strategy to restore it.

3.7.1.3. Conclusion

In the light of the preceding considerations, it seems wholly inappropriate for a legislator to provide legal recognition and status of any form to couples that are unwilling or unable to marry. Where such laws exist, they should be repealed. The correct and fair solution is to legally treat those couples as what they are, namely as strangers.

If, however, such couples have children, then the rights of those children must be respected. This includes the right of children to know, and maintain contact to, both their parents. It also should be taken into account that there must be no discrimination with regard to any social benefits that the State grants to people in view of their children.

3.7.2. Which Rights for Homosexual Couples?

As mentioned before, the equal treatment of cohabiting partners is often the entrance door for requests for the equal treatment of homosexual couples, the argument being that where the State provides status and benefits to two persons irrespectively of whether or not they are married, it should also be irrelevant whether they are of different sex.\(^\text{14}\)

\(^{14}\) Recent case-law of the ECtHR still considers it possible (albeit not compulsory) for States parties to provide marriage between a man and a woman with a special and privileged status. At the same time, however, it has fabricated a principle according which unmarried same-sex couples must be given the
It follows from the above considerations on cohabiting couples that *a fortiori* no status and rights should be given to same-sex couples. Inversely, the risk that ultimately such status and rights might have to be granted to sodomites is indeed an additional argument against the equal treatment of cohabiting with married couples:

3.7.2.1. On homosexuality in general

For the purposes of this paper we distinguish between homosexual proclivities, i.e. the fact that certain persons feel (in various degrees of intensity) sexually attracted to persons of the same sex, and homosexual intercourse, i.e. sodomy.

Persons cannot be held morally responsible for sentiments and thoughts that are independent of their will. It should therefore be clear that the homosexual proclivity cannot as such be the subject of moral condemnation.

By contrast, the fact of having sexual intercourse with another person is usually not independent of a person’s will and therefore can be subject to a moral judgment.

Given that the fundamental purpose of sexuality is procreation, it is self-evident that sexual attraction should naturally be felt for persons of the other sex who are of reproductive age. By contrast, a sexual urge that is directed at a person who is not of the other sex and of reproductive age, or the sexual intercourse with such a person, is, objectively speaking, *misguided and contrary to nature*. This reasoning applies to homosexuality in the same way as it applies to paedophilia or to sex with animals.

The question then is: how is the homosexual act to be judged morally?

Traditionally, homosexual intercourse has been viewed merely as gravely sinful (and, indeed, worthy of capital punishment), and no account was taken of whether the proclivity lying beneath it was freely chosen. The term “sodomy”, which was traditionally used to describe it, appears particularly well chosen: it is a vice that brings same status and rights as unmarried different-sex couples. Failure to do so would, in the ECtHR’s view, constitute “discrimination on the ground of sexual orientation”.

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same status and rights as unmarried different-sex couples. Failure to do so would, in the ECtHR’s view, constitute "discrimination on the ground of sexual orientation".
destruction and permanent infertility to the city (or nation) that indulges in it.\textsuperscript{15}

It was only in the course of the twentieth century, under the influence of Freud, that a more accommodating view began to prevail, viewing homosexuality as a sort of mental disease or disorder for which the persons concerned could/should not be held accountable. The term “homosexuality” itself, inexistent until then, made its first appearance only as late as 1869, and it marks a shift of focus from the homosexual act itself to the inclination, which is presented as something for which the person afflicted by it is not, or only partially, responsible.

This view is now also accepted by the Catholic Church (which, however, continues to view the act as objectively sinful), but it is rejected by organized homosexualist lobbies who demand that homosexuality be no more viewed as disorder or pathology, but as "normal".\textsuperscript{16}

Some ideologues go even as far as saying that, because homosexuality has been observed in certain animal species, it should be considered as "normal" also for the human race. Obviously, this type of argument stands in radical contradiction to the very concept of human dignity: it infers that man is nothing else than an animal, or at least that he should behave as if he were one. But in the same way one could legitimize polygamy, sexual promiscuity, or even cannibalism, all of which occur in some animal species. It is stunning that some academics seriously bring forward such arguments.

Considering homosexuality as "normal" pre-supposes a flawed concept of "normality" known as “naturalistic fallacy”. If everything that occurs as a variant in nature is considered "normal", then homosexuality can certainly be described by that term – but it would then still be less "normal" than caries, myopia, obesity, diabetes, or breast cancer, all of which occur with greater frequency. Indeed, in some parts of the world, even suffering from HIV/AIDS is more "normal" than being homosexual. But would that

\textsuperscript{15} cf. Gen 19

\textsuperscript{16} It was a major breakthrough for the gay rights movement that in 1973 the American Psychiatric Association (APA) removed homosexuality from its list of mental illnesses. That decision, however, was the fruit of political pressure rather than of new scientific insights. The fact that APA (and, following it, the WHO) have delisted homosexuality as a mental disorder must therefore not be taken as meaning that it isn’t one.
prevent us from considering caries, diabetes, etc., as medical conditions that require treatment?

It follows that our concept of normality must be based on an understanding of the function and purpose of certain aspects of the human body or, in a wider sense, of the human nature. If the purpose of the eye is to see, then an eye that cannot see is not "normal", even if, in a given population, there were a great number of blind people. In the same way, an ear that cannot hear, a nose that cannot smell, or a leg that cannot walk, are not "normal". And if the purpose of sexuality is procreation, then the homosexual proclivity is not "normal". If there are therapies that can cure homosexuality, then they should be provided at least to those who ask for them, and if there are yet no such therapies, then researchers should be encouraged to look for them.

It is an open question, and a subject of scientific debate, whether homosexuality in a person is innate and predetermined, or whether it is induced through external factors (such as childhood experiences). Homosexual lobbyists clearly prefer the first theory apparently because they believe it supports their theory that homosexuality is "normal" and should be accepted. Gender Theory, by contrast, is based on the assumption that a person's "sexual orientation" is a personal choice that has nothing to do with any innate proclivities, and that people should be freed from conventional behaviour patterns in order to be able to choose whatever orientation they want.

In actual fact, however, the "normality" of homosexuality does not depend on whether it is innate, or how it is acquired.

Does the anomaly of homosexuality mean that homosexual tendencies or proclivities are in themselves immoral? No, because what can be subject to a moral judgment is not a sentiment or proclivity, but only an act that is guided by the free will. Thus, it is only the homosexual act that is, in and by itself, immoral. The immorality lies in the implication that a sexual act can have the sole purpose of procuring physical pleasure, i.e. that it may be dissociated from its procreative potentiality.

Homosexuals are thus in a situation that is not so different from that of heterosexuals: both are required to keep their sexual urge under control. For homosexuals it means that they should abstain from sexual relations,
whereas for heterosexuals it means that they should have sexual relations only with the person they are married with. The idea that a person must by necessity give in to its sexual urges (and that, hence, persons with homosexual tendencies must have homosexual intercourse) is contrary to human dignity, as it is underpinned by the assumption that a man’s actions are driven only by his urges and instars, and not by his insight and free will.

To sum it up, both the gay-rights movement and its opponents do not seem to have a consistent theory on what “homosexuality” actually is, or how someone becomes “homosexual”. These questions can be the subject of an endless and futile debate – mostly because the concept of “homosexuality” is in itself too multifaceted and mercurial to become the object of a precise understanding, and because the ways how a person can be drawn into the homosexual lifestyle (i.e., by recruitment, genetic disposition, or otherwise) might differ widely.

Maybe this whole debate would require a re-formatting. What can be said with certainty is that the “homosexual act” itself, also known as “sodomy”, is intrinsically adverse to the dignity of the human person and hence gravely immoral (or, for a religious mindset, sinful). But is there really such a thing as “homosexuality” in the sense of a fixed condition people may find themselves in? There is every reason to doubt it. The truth is that all of us undergo various temptations to act immorally (with regard to every possible aspect of morality). But the fact that someone feels envious of his neighbour’s wealth does not necessarily mean that he is a kleptomaniac or that he will commit theft, and the fact that someone feels attracted by his neighbour’s wife does not per se make him a rapist or adulterer. Framing “homosexuality” as a condition (or “homosexuals” as a distinct class) is a convenient way of shifting the focus of the debate away from where it belongs: the intrinsic immorality of sodomy, of which the human conscience has been aware from the dawn of times.

3.7.2.2. Sodomy as a health risk

Sodomy is a misuse of the human body and thus a negation of human dignity; this is what makes it objectively immoral. But it also is a behaviour associated with serious health risks. Exposing oneself and other
persons to such health risks is in and by itself gravely immoral.

Not only is homosexual activity between males the one of the main causes for the worldwide spread of the HIV/AIDS pandemic, which since 1980 has cost the lives of millions of people\textsuperscript{17}, but it also is associated with a great number of other serious (and potentially lethal) diseases, including various forms of cancer, papilloma (HPV), etc. Many of these diseases also have the side-effect of causing permanent infertility.

It is estimated that engaging in a permanent lifestyle involving homosexual activity reduces the life expectancy of a person by up to 20 years; this means that the statistical health risks associated with homosexuality by far exceed those associated with smoking or alcohol abuse. The low life expectancy of homosexuals is not the result of any mean-spirited “discrimination” by non-homosexuals, but has its main cause in their self-chosen lifestyle.

From a public health perspective (and quite irrespective of any moral opprobrium), it seems an absurdity that many governments, while on the one hand running relentless campaigns to reduce smoking and/or drug and alcohol abuse, on the other hand promote tolerance (or even acceptance) of homosexual behaviour. At the same time, it appears not only understandable, but perfectly reasonable, that parents do not want to see their children exposed to any influence that might draw them into a homosexual lifestyle.

3.7.2.3. Should homosexual couples have the right to marry?

Given that marriage has a procreative purpose (i.e. to create a stable basis for a man and a woman to raise children), it is an absurdity to adopt laws that allow "marriages" between persons of the same sex. Such same-sex "marriages" have nothing to do with the true meaning and purpose of marriage. Instead, they turn this institution into a mockery and distort its meaning: where marriage includes same-sex "marriage", it is reduced to a two-person partnership with an unclear purpose, and thus no more marriage in the true sense of the word.

\textsuperscript{17} According to studies published by The Lancet in 2012, "men having sex with men" (MSM) are eighteen times more likely to become infected with HIV than the general population.
It is therefore wrong to say that the legal recognition of same-sex "marriages" has no negative impact on the existing concept of marriage between a man and a woman. If the concept of marriage is diluted, it becomes impossible to adopt targeted policies to favour and protect it. The introduction of same-sex "marriage" deprives, in a certain sense, all non-homosexuals of the right to contract an authentic marriage, and thus arguably constitutes a violation of human rights provisions such as Art. 16 UDHR or Art. 12 ECHR. Where such laws exist, they should be repealed.

3.7.2.4. Should homosexuals have the right to adopt children?

Article 21 of the Convention on the Rights of the Child (CRC) stipulates that: "State Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration."

It is clear from this provision that it creates no obligation for States to recognize and/or permit adoptions. It follows therefrom that there is in international law no "right to adoption" for any person, be it single or married, be it heterosexual, lesbian or gay. The purpose of adoption is not to procure children to would-be parents, but to find the best possible solution for children who have lost their parents. The only criterion that should guide decisions with regard to adoption is thus the best interest of the child as set out in Art. 21 CRC.

By contrast, the ECtHR in E.B. v. France has decided that if and where a State allows single persons to adopt children, a deviant sexual orientation should not serve as a criterion to prevent them from doing so. This decision, which deals with "anti-discrimination" rules rather than with a right to adoption, appears ill-founded, given that it seems to misunderstand the applicable French laws, interpreting them as if they conferred a subjective "right to adoption" to single persons, which in actual fact is not the case. But even this mistaken decision does not, in and by itself, create a "right to adoption" for anyone.

A more recent ECtHR decision, X. and Others v. Austria, has, however, set yet another disturbing precedent by affirming that a woman should be given the “right” to adopt her lesbian “partner”’s child in order to replace the child’s biological father and construct the fiction of same-sex “parents”. Even this decision, however, stops short of affirming a “right to adoption”; instead, it is based upon a
grotesquely misguided concept of “discrimination on the ground of sexual orientation”, arguing that if a country allows the possibility of “stepchild adoption” in unmarried heterosexual couples, it must provide the same possibility for same-sex couples.

If it is the "best interest of the child" that must be the only criterion in decisions regarding adoption, then it is clear that homosexuals not only have no "right to adoption", but that they should indeed be excluded by law from adopting any children, lest they might draw them into their self-destructive lifestyle. For if nature foresees for children that they should grow up with a father and a mother then the purpose of adoption should be to find the best possible substitutes for those roles. Scientific research has demonstrated that children need both a male and a female role model to develop their own sexual identity. The absence of either a father or a mother poses considerable risks for the child’s development, and even if such risks do not in all cases result in lasting damages, it is nonetheless clear that they should not be artificially created (e.g. by allowing a same-sex couple to adopt children).

3.7.2.5. Should lesbian women have access to medically assisted reproduction?

As we will explain in more detail further below, medically assisted reproduction (IVF and other) are in and by themselves immoral. Nobody, irrespective of his or her sexual orientation, should make any use of them.

In the case of lesbian women, the circumstances further aggravate the matter:

- The procedure will always be homologous, i.e. involve sperm cell donation. The child is thus intentionally deprived of its biological father;

- A lesbian woman, be she single or living together with another woman, does not provide an appropriate environment in which children should be raised. Such situations should at least not be created deliberately. (We refer to what has been said above with regard to a child’s need to be raised by a mother and a father.)

It follows that lesbian women should even less than anybody else have access to medically assisted reproduction.
3.7.2.6. Should homosexual couples enjoy the same social and fiscal benefits as married couples?

While married couples typically have children and, in doing so, provide an important contribution to the common good, homosexual couples typically do not make such a contribution, given that by nature they do not have children. They neither bear the expenses nor the loss of income possibilities that is normally associated with rearing children; instead, they normally have two salaries and less expenses. Their pensions are paid by the work of children other persons have raised.

It is therefore self-evident that society must compensate married couples that raise children for the specific contribution they make to the common good, e.g. by providing them specific tax cuts, social benefits, or extra pension rights. At the same time, it would be absurd and completely inappropriate to provide similar “compensations” to homosexual couples. A legislation that treats marriage and homosexual relationships on a par with regard to social and fiscal benefits is therefore deeply unjust and immoral. Where such laws exist, they should be repealed.

3.7.3. Polygamy?

The progressive dissolution of the concept of marriage, and in particular the idea that the terms and conditions of a "marriage" can be modified at will by the partners, ultimately opens the door even for polygamy. For example, in the Netherlands it is possible that three or more persons conclude a "contract on common life" ("samenlevingscontract"), which in fact is assimilated to a marriage between three persons.

It is self-evident that polygamy, whether regulated by law or not, stands in contradiction to human dignity. The typical case (e.g. in the Islamic culture) is that one man is allowed to have more than one woman, which diminishes the rights and standing of each of the women involved and thus implies their value and status to be inferior to that of men.

The practice of polygamy has, in cultures where it exists, often been justified with the need to place women under the protection of a provider, which is considered to be better for them than having to provide for themselves. Whatever one thinks of this reasoning, it hardly seems applicable to the egalitarian societies of modern times.

Yet even today there are pressure groups advocating the legalization of polygamy. They are to some extent allied to the
homosexualist movement\textsuperscript{18}, and the legalization of same-sex marriage in some countries, as well as the acceptance of homosexuality and sexual promiscuity, is a great encouragement for them. It seems thus that if and where a society accepts homosexuality, polygamy is a logical next step.

3.8. Other issues related to sexual identity

3.8.1. Further Issues Related to Homosexuality

3.8.1.1. Should sodomy be placed under criminal sanctions?

As pointed out above, sodomy is not only an inherently immoral act, but it is also associated with severe public health risks. Society therefore has a legitimate interest in repressing it. More than 80 countries still have laws that place the homosexual act under criminal sanctions. Allegedly, seven countries even provide for the death penalty.

As a general principle, any sanctions that are foreseen for any kind of offense should be proportionate to its social harmfulness. The state is thus neither obliged, nor even allowed, to place all and any immoral behaviour under criminal (or other) sanctions, but it should use criminal sanctions (only) where it can be demonstrated that certain behaviours need to be repressed and that this cannot be achieved by other means.

It could thus be argued that, even in societies where it is considered deeply immoral, sodomy should not be placed under the threat of criminal sanctions, or that sanctions should be only foreseen where that act is performed in public, or with minor persons, or with regard to activities that promote and propagate sodomy. This approach seems plausible, given that it is not self-evident that sodomy among consenting adults, even if considered immoral for the reasons exposed above, constitutes a threat to the public good that warrants criminal sanctions as the only appropriate response. It is at least the principle of proportionality that must come into consideration here.

However, the experience in past years (especially in Europe and America) shows that, where criminal sanctions against sodomy have been repealed, such

\textsuperscript{18} cf. Jaime M. Gher, Polygamy and Same-Sex Marriage - Allies or Adversaries Within the Same-Sex Marriage Movement, 14 Wm. & Mary J. Women & L. 559 (2008), http://scholarship.law.wm.edu/wmjowl/vol14/iss3/4
tolerance has had the effect of encouraging the homosexualist lobby to come forward with more far-reaching requests: within 20 years or less, the suspension of criminal laws was followed by campaigns to legalize homosexual propaganda at schools, to legalize "same-sex marriages", or even to criminalize the expression of the opinion that homosexuality is not "equal". As it appears, the dangerous effects of de-criminalizing sodomy have been underestimated. This provides strong arguments in favour of working for the re-introduction of laws that repress homosexual activity.

This point is also understood within the homosexualist movement itself. As gay activists Marshall Kirk and Hunter Madsen observed already in 1989, the anti-sodomy laws that at the time existed in nearly all US states were not enforced with great rigour – but, expressing opprobrium against sodomy, they nevertheless constituted the most important bulwark against the gay agenda. Once this bulwark was removed, the implementation of the remaining agenda was merely a matter of time.

The European Court of Human Rights, in Dudgeon v. the United Kingdom, has found already in 1980 that a Northern Irish statute criminalising male homosexual acts violated Article 8 of the European Human Rights Convention. The law was subsequently abrogated. In the United States, the Supreme Court’s decision Lawrence v. Texas (2003) struck down a State law prohibiting sodomy, thus effectively fabricating a constitutional “right to sodomy”. Neither of the two decisions seems to be based on sound legal reasoning.

Outside the US and Europe, however, there is nothing in international law to prevent states from adopting and applying criminal sanctions against the homosexual act, provided that they are not disproportionate. States with anti-sodomy laws should therefore be encouraged to maintain them, and states where such laws have been abolished should re-introduce them. In the EU and the US this will require the overturning of decisions by the ECtHR and the SCotUS, which makes this target difficult to attain, but not unattainable.

3.8.1.2. Should the promotion of homosexuality be prohibited?

So far, all attempts to demonstrate that homosexuality is innate and unalterable have failed. It therefore must be presumed that homosexual tendencies can be acquired,
and that propaganda and practical example plays a role in its expansion.

It is perfectly legitimate for society to resist such propaganda. In particular, it is perfectly legitimate and normal for parents to wish that their children should not be exposed to it. Therefore, it seems legitimate, and even highly desirable, to prohibit homosexual propaganda, in particular when it is directed at minors.

In the light of the fundamental right of freedom of expression, the legitimacy of homosexualist propaganda must be subject to the same criteria as any other political propaganda. Many countries put a high emphasis on the importance of this democratic right, which is why they tolerate even public manifestations of Neo-Nazi movements. Where this is the case, homosexualist manifestations cannot as such be prohibited. But it is certainly possible and legitimate to restrict them, i.e. to keep them away from schools and similar institutions.

3.8.2. Which Rights for Transgender Persons?

3.8.2.1. On transgender persons in general

By the term "transgender" we understand persons who "believe to have been born with the wrong sex": men dressing up as, and behaving like, women, and vice versa. In other words, the "self-identification" of those persons does not correspond to their biological sex.

It would be wrong to generally dismiss the sincerity of such misguided "self-identifications" or to downplay the psychic suffering that may be associated with them. However, one must ask the question whether the problem is of a physical or of a psychological nature: have those people really "been born in the wrong body", or do they have a psychological problem? Is it their sex that needs to be changed, or is it their "self-identification"?

Quite obviously, the biological sex of a person is objective and verifiable, whereas "self-identification" will always remain subjective. It would thus seem logical to say that a man who identifies himself as female, or a woman who identifies herself as male, have a grave psychological disorder for which a treatment should be sought.

This, however, is not the approach underpinning the legislation that several countries have adopted in recent years.
Indeed, those countries seem to consider that the "self-identification" of a person should be made to prevail over that person's biological sex. They provide for legal procedures to "re-assign" a person's sex: for example, a man who identifies as female may obtain the right (or entitlement?) to dress up as a woman and to use a female first name. He may even, under certain conditions, get the mention of his sex changed in his personal documents, so that from then on he is legally treated as a "woman", which in principle allows him to marry another man. In most countries, such re-assignment of the "legal sex" requires the man to undergo surgery in which he is sterilized, and his male sexual organs removed (and replaced with something that resembles a female sexual organ); at the same time, he will be treated with hormones in order to provide him with a more "female" appearance. But all this surgery will of course never transform him into a real woman; he remains a man whose physical appearance has been manipulated to resemble that of a woman, and whose procreative faculty has been destroyed. This kind of surgical "treatment" is, in fact, a kind of deliberate self-mutilation.

Some countries, for example Germany, have gone one step further: they allow legal sex re-assignment without any such surgery, solely on the basis of a person's "self-identification". This implies that a man, while fully retaining his physical appearance as well as his procreative faculty, can be transformed into a "woman" by a simple judicial or administrative decision, allowing him to "marry" another man. It is then also possible for a child to descend, in the legal sense, of two women, one of them in fact being a transsexual man.

The case-law of the European Court of Human Rights has played an important role in promoting confusion around supposed "transgender rights", and in pressuring countries to adopt legislation that stands in open contradiction to reality. The most important of those cases is Christine Goodwin v. the United Kingdom, in which the Court found it a violation that national laws prevented transgender persons from marrying a person of the sex opposite to their re-assigned gender. In the decision, the judges wrote that "it is artificial to assert that post-operative transsexuals have not been deprived of the right to marry .... The applicant in this case lives as a woman, is in a relationship with a man and would only wish to marry a man. She has no possibility of doing so. In the Court's view, she may therefore claim that the very essence of her right to marry has been infringed." But
what precisely is "artificial" here, if it is not the suggestion that a man can be turned into a woman by having his genitalia mutilated? It is, by the way, noteworthy that the Court wrote that the applicant "lives as a woman", not that he "is a woman"....

In other words, where this kind of legislation is enacted we finally arrive at a situation where there is a complete rupture between the law and the objective reality. The persons requesting such a “sex change” play a comedy, and the law obliges the rest of society to play it with them.

Where "sex" is used as a legal term, it does not correspond any more to a person's objectively verifiable biological sex, but to its subjective "self-interpretation". We have crossed a line where subjective desires and sentiments replace objective reality.

The patent absurdity of such approaches is best seen when they are applied to other situations. For example, a man aged 40 might say that subjectively he identifies as 65, and that, for this reason, he should be entitled to a retirement pension. A man without any academic qualification might say that his self-identification is that of a medical doctor, and that he should therefore be allowed to exert that profession. Another man might say that he subjectively identifies as the son of Warren Buffet, and that he should therefore be entitled to inherit Mr. Buffet's estate. Where subjective "self-identification", or other wishful thinking, is allowed to prevail over reality, nothing remains impossible.

Given that transgender persons constitute only a very marginal minority in society, the legal provisions that have been adopted specifically to deal with their situation are hardly likely to meet any broader interest. But what is happening here should in fact be a matter of great concern for all and everyone: rather than just accommodating the specific needs of a small target group, these laws erect a novel and unprecedented super-dogma of relativism.

One cannot help wondering whether the issue of transgender persons is not used as a Trojan horse by the advocates of the Gender Ideology, of which the above-mentioned legislation is a perfect expression: sexuality (or, as it is now called: "sexual identity") is a matter of subjective self-identification, not of a pre-ordained reality. Following this path to its logical end, one should be
allowed to change one's (legal) sex back and forth as often as one might desire, which would finally result in the complete dissolution of the concept of "sex". Apply this approach to other areas, and the consequence will be the dissolution of the entire legal order.

As we have pointed out before, it is a requirement for a just law that it must correspond to reality. A law that allows men to be legally treated as women, and vice versa, is a perfect example for a law that does not correspond to reality. Where such laws exist, they should be abolished.

It follows that there should be no specific laws on the sex-reassignment for transgender persons. Instead, transgender persons should be entitled to appropriate counselling and treatment to overcome their misguided "self-identification", and to help them accept their biological sex.

3.8.3. Which Rights for Intersex Persons?

Another minority group that is much spoken of recently are "intersex persons". Contrary to transgender persons, intersex persons do have a physical problem: their biological sex cannot be identified. They are neither clearly male nor clearly female, but, due to genetic anomalies, may have biological characteristics of both the male and the female sexes.

Given that a person's sex is an important part of his/her identity, intersex persons are in a pitiable situation where it is difficult for them to accept their own identity and, hence, to form relationships with other people. One can imagine that they are very often the object of mockery and discrimination.

Society has the obligation to protect these individuals, and to enable them to live a life in dignity. Wherever possible, assistance and counselling should be offered to them, and efforts should be made to find therapies.

However, the hypothesis of providing intersex persons with a right to marriage, or with the possibility of adopting children, seems inappropriate. In order to marry, one must be, and accept to be, a man or a woman.

Concerning adoption rights, we refer to what has been said above with regard to homosexual adoption.
3.9. **Contraceptive practices**

The reason to treat contraception here rather than under the section dedicated to the right to life is that it does not undermine the right to life, but the dignity of the sexual act, and hence of marriage.

This is not easily understood, and indeed negated, by many - especially by those who argue that the purpose of such practices is not to facilitate sexual promiscuity, but to allow married couples to have a joyful and unrestricted sex life while at the same time keeping under control the number of their children.

Such reasoning seems somewhat naïve to us. It has been amply demonstrated by social research that there is a direct link between the availability of contraceptive practices and the increasing social acceptance of extramarital sexual relations. Contraception creates the illusion that the fertility of the human body could at will be "switched off", and then "switched on" again. This, however, is a mere illusion: no contraceptive method is 100% certain, wherefrom it follows that the use of contraceptive means does not help to avoid, but in actual fact increases, the risk of unwanted pregnancies (and, indirectly, of abortions).

But if the illusion were true, i.e., if contraception were 100% efficient, then the detrimental effect of contraceptive practices on interpersonal relationships would be even more apparent. For if the fertility of the human body could indeed be "switched off", then there would be hardly any argument left to restrict sexual relationships to marriage. Indeed, the significance of the sexual act would be completely changed: from the expression of an unconditional love that is oriented towards a common life and shared responsibility as parents of a family, it would be transformed into, at best, a rather banal sign of affection (one might then have sex with any person one feels a vague sympathy for), or, at worst, into a leisure activity for people who, rather than expressing through this act their mutual love, merely want physical pleasure. In this way, the use of contraceptive means generally undermines the dignity of the sexual act and, indeed, human dignity as a whole: the other person involved is no more the person to whom one freely dedicates one's entire present and future life, but it is turned into an object that is needed to fulfil one's own sexual desires.

The use of artificial contraceptive techniques is therefore by nature an inherently immoral act, and a source of grave social evils.

3.9.1. **Definition**

By contraception we understand practices that envisage the prevention of conception during or after sexual intercourse. By “artificial” contraception we understand contraceptive practices that rely either on technical devices (such as condoms or diaphragms) or on the use of hormones (such as the anti-baby-pill).
Besides this, there are “natural” contraceptive methods, that rely on the observation of the natural cycle of fertility of a women and imply that she abstain from sexual activity during her fertile days.

Some practices and devices that are described as "contraceptive" do not prevent conception, but the implantation of the embryo into the uterine lining. Such practices and devices (for example the ‘morning-after-pill’, or the spiral) are in fact not contraception, but must be seen as a form of abortion.

While abortion means to kill a human being, the same is not true of contraceptive practices, which merely prevent that a new human being may come into existence. In order to make an appropriate moral judgment, it is therefore necessary to carefully distinguish between abortion and contraceptive practices.

3.9.2. The moral implications of contraceptive practices

This, however, does not mean that artificial contraceptive practices were not highly objectionable from a moral point of view. While they do not imply killing a human person, they deprive the sexual act of its inherent dignity, transforming it from an act of procreation through which both partners express their willingness to have children and share a common destiny as a family into a commodity that has no other purpose than the procurement of physical pleasure. The use of artificial contraception means that the sexual act is assimilated to an act of mutual masturbation, in which each partner is not more than an object to be used for sexual purposes. In this way, the partners turn each other into “objects” of their lust, and the sexual act is deprived of its true meaning as an act of mutual love and responsibility.

It was not abortion, but artificial contraception that stood at the origin of the cultural revolution of our time. With the easy availability of hormonal contraception, it suddenly seemed plausible that the link between the sexual act and marriage should be given up, and that sexual intercourse should be viewed as a trivial leisure activity in which every man could engage with any woman at any time. It seemed plausible that adolescents should engage in sexual activity as soon as they felt a desire for it, as long as they “acted responsibly”, i.e., avoided undesired pregnancies. It seemed plausible that they should be taught in school how to make use of contraceptive methods; by contrast, it seemed no longer plausible that they should be taught the virtue of chastity and self-control.

Ultimately, if the purpose of sex is not procreation but the mutual procurement of physical pleasure, then it also becomes perfectly plausible to accept (consensual) homosexual and lesbian sex, and to view it as morally equivalent to a heterosexual relationship. Indeed, even paedophilia might be viewed as an acceptable variant of
sexuality, the only possible objection being that children might lack the “maturity” to engage in sex. But what kind of maturity is needed if we do not anymore believe that the sexual act should be embedded in a lasting emotional relationship in which both partners are committed to each other for a lifetime? What kind of maturity is needed if pregnancy can be avoided either through using contraception or abortion?

The acceptance of homosexual, lesbian, and (ultimately) paedophile relationships seems thus a logical and nearly unavoidable consequence of accepting artificial contraception.

Given that artificial means of contraception are never 100% effective, “sex without responsibility” turns out to be a false promise. It comes as no surprise, then, that artificial contraception has triggered a huge demand for abortion. It is the exactly same ideological background, namely the idea of turning the sexual act into a commodity available for all at any time, that creates a demand for both contraception and abortion. Where the first does not work out, the second will be used. The idea that the number of abortions could be reduced by making contraceptive means more easily available seems implausible from the outset, and has been disproven many times. On the contrary, widespread use of artificial contraception leads to widespread abortion.

3.9.3. The moral acceptability of “natural” contraceptive practices

“Natural” contraceptive practices are contraceptive methods that do not use any technical devices or medication, relying solely on the observation of the natural cycle of fertility of women. These practices are not immoral, given that they do not include any attempt to manipulate the female body by “switching off” its natural fertility. The sexual act thus remains in principle open for procreation, even if that probability is reduced.

3.9.4. Under which circumstances is the use of “artificial” contraceptive practices morally acceptable?

The use of contraceptives (such as the morning-after-pill or the spiral) that are, in actual fact, abortifacients, is never morally acceptable.

The use of hormonal contraception may be morally acceptable in exceptional cases where the intention is not to undermine the dignity of the sexual act. For example, for a woman living in a war zone who must fear rape or sexual assaults there is nothing objectionable in taking the pill in order to minimize the risk that such rape or assault might lead to an unwanted pregnancy.

In the case of a (male or female) prostitute, it is the fact of prostitution that is morally objectionable. But prostitution is in itself
a violation of the dignity of the sexual act, and does not become more objectionable if contraceptive practices are used, or less objectionable if no contraception is used. In this specific circumstance, therefore, the use of contraceptives does not alter the morality of the act, and may even (e.g. when a condom is used) have the beneficial effect of reducing the risk of contagion with sexually transmissible diseases.

3.9.5. *Should condoms be used to prevent the spread of HIV/AIDS?*

Some people argue that the use of condoms should be promoted as a means of preventing the spread of sexually transmissible diseases (in particular HIV/AIDS). Such proposals, if their purpose is not merely to open the door for a general acceptance of condoms and other contraceptive means, seem highly problematic, as they appear to be based on very unrealistic assumptions regarding the effectiveness of condoms as a means to prevent the transmission of HIV. Even under the best of conditions *condom use can only reduce, but never totally eliminate, the risk of contagion*, so that the promise of “safe sex” remains dangerously misleading. Realistically, however, it must be assumed that those ideal conditions are hardly ever met: the quality of condoms rapidly deteriorates if they are not stored under adequate conditions, and there is no guarantee that they will be correctly used.

The promotion of a false assumption of security (“safe sex”) can instead lead to the spread of irresponsible sexual behaviour, notably to sexual promiscuity. And even if the use of a condom may reduce the risk of contagion for each single sexual act, this increase in “safety” is more than outweighed by the increased contagion risk entailed by the spread of promiscuous sexual behaviour. Empirical research has amply demonstrated that the distribution of condoms does not prevent the spread of HIV/AIDS, whereas awareness raising campaigns that advocate sexual abstinence for unmarried people and conjugal fidelity for the married have led to impressive results.\(^{19}\)

3.9.6. *Should the use of artificial contraceptive practices be prohibited by law?*

In contemporary society, most people believe that the choice whether or not to use artificial contraception pertains exclusively to their private lives, and that therefore the state should not be allowed to regulate this matter. This assumption underpinned the 1969 US Supreme Court decision *Griswold v. Connecticut*, which declared unconstitutional a State Law that banned the sale of

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contraceptives. That decision, which was the first one in the US to be based on a newly discovered “right to privacy”, has not only paved the way for the wide acceptance of artificial contraceptive practices in the US and worldwide, but it also set an important precedent for Roe v. Wade, the Supreme Court decision that, based on an identical argumentative pattern, legalized abortion.

Upon closer examination, however, one finds that the use of artificial contraception is not merely a matter of private life, but that it severely affects societal interests:

- it undermines not only the dignity of the sexual act, but, by transforming persons into objects, is detrimental to the concept of human dignity as a whole;
- it leads to a distorted understanding of human sexuality that, being included in school curricula, is turned into a compulsory part of education, and imposed even on those who do not agree to it;
- it opens the door for the acceptance of homosexuality, paedophilia, and all other forms of sexual activity that presuppose a dissociation between the sexual act and its procreative purpose;
- it leads to an increased frequency of abortion;
- it encourages conjugal infidelity and leads to a destabilization of the institution of marriage (hence to higher divorce rates with all their negative impact on the social tissue);
- it encourages sexual promiscuity and thus contributes to the spread of sexually transmissible diseases;
- some contraceptive methods pose severe (if often denied) health risks for those using them.

The above list is by no means exhaustive, but it provides ample reasons why the use of contraceptives is not merely a private decision. Indeed, it appears perfectly legitimate for a State to adopt legislation that restricts or prohibits the use of artificial contraceptives.

3.9.7. *Voluntary Sterilization*

Another practice used by certain persons who want to have an intensive sex life without having to assume the risk of a pregnancy is voluntary sterilization. This is done through a surgical intervention, and usually leads to permanent and irreversible sterility.
Sterilization means to mutilate a healthy body, and to voluntarily destroy its procreative faculty. The underlying motivation is the same as for contraception, i.e. to dissociate the sexual act from its reproductive purpose, and to transform it from an expression of love into an expression of egoism.

Both the motivation and the act itself are therefore morally unacceptable.

3.9.8. “Wrongful conception”

On the practical side, it should be noted that failed sterilization surgery and failed contraception have often led to frivolous civil action (“wrongful conception”), with the objective of holding the surgeon who provided the unsuccessful sterilization, or the pharmacist who sold the inefficient contraceptive, liable for the fulfilment of their contractual obligations. Various times this has led to judgments where an unplanned child was described as a “tort”, for which compensation (usually the full cost of its rearing and education) had to be paid.

This type of litigation implies thus the somewhat cynical assumption that the existence of a child could be a tort, and that contracts that have the purpose of preventing the coming into existence of a child be legally valid. Such assumptions obviously stand in clear contradiction to human dignity. The correct solution would therefore be to consider as null and void all such contracts, and to reject any compensation claims based upon them.

3.9.9. The Current Legal Situation

Given the wide array of different (artificial) contraceptive practices, and given that in most countries some of those practices are subject to restrictive legal provisions whereas others are not, any attempt to provide a full picture of the current legal situation regarding the access to artificial contraceptive methods seems nearly impossible and would most certainly exceed the scope of this paper. Instead, we limit ourselves to a brief examination of the issue under international law.

Two important points must be made:

– international law does recognize the right of persons to decide whether they want to have children and, if so, how many;

– at the same time, it does not recognize a right to have recourse to any specific technique of artificial contraception.

In this context, it seems commendable to take a close look at the definition of the term “sexual and reproductive health”, as defined in the IGPD Programme for Action, which, albeit not a legally
binding document, must be considered the only document of international stature to comprehensively deal with the matter.

In this definition (which is contained in its Chapter 7.2), the Programme for Action states the following:

“Reproductive health therefore implies that people are able to have a satisfying and safe sex life and that they have the capability to reproduce and the freedom to decide if, when and how often to do so. Implicit in this last condition are the right of men and women to be informed and to have access to safe, effective, affordable and acceptable methods of family planning of their choice, as well as other methods of their choice for regulation of fertility which are not against the law, and the right of access to appropriate health-care services that will enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant.”

As can be clearly seen from this text, the right to have access to safe, effective, affordable and acceptable methods of family planning is recognized in this text, but this does not imply the right to have access to any particular family planning method. As there is no definition of "acceptable", it is left to legislators to decide whether any particular method of contraceptive is acceptable or not. It is even possible for a country to decide that none are acceptable. The main direction this text gives is that it excludes discrimination (in the sense that using a given method of contraception should not be permitted to some while being prohibited for others).

Most certainly, the text does not create any entitlement for family planning methods that are against the law. In principle, therefore, States may prohibit the use of certain contraceptive devices, if they can demonstrate that the use of those devices is unsafe or for other reasons unacceptable. The reasons set out above appear to provide ample justification for such decisions, which legitimately may go as far as prohibiting all artificial contraceptive methods.
4. **THE RIGHT TO LIFE**

This section deals with policy issues related to the right to life. A first section deals with horizontal issues (i.e. the question of what "life" is and when it begins or ends). Subsequent sub-sections deal with individual policy issues. With regard to each of these issues, we offer a factual and legal analysis as well as some strategic suggestions for communication and practical action.

4.1. **Fundamental Issues**

Despite rampant moral relativism, the commandment "thou shalt not kill" is as such not in dispute: it is generally considered immoral to kill other people. For this reason, much of the debate around right-to-life issues actually has to do with the question when life begins and ends. Abortion providers and women seeking abortion will try to define the begin of life in a way that allows them to say that a foetus is not a human being; surgeons specialized in organ transplantation and their clients must be expected to argue that a person can be considered "dead" even at a time when their organs are still fit for transplantation. Such arguments are thus usually driven by the personal interest of those making them. Psychologists call this "the avoidance of cognitive dissonance": people generally do not like to admit to themselves and the rest of the world that what they are doing is wrong; therefore they happily use and accept any argument, no matter how absurd, that seems to provide justification for their actions.

The opponents of abortion or organ transplantation, by contrast, usually do not have any comparable interest: they have no personal benefit from abortions not taking place, and they even cannot exclude that, on some day in the future, they might come in a situation where their own lives could be prolonged through the implantation of donated organs. Thus, their point of view usually is that of a neutral observer, or even that of a person (potentially) arguing against its own interest. They can claim not to have any self-interest in mind, which provides their views with a greater credibility.

4.1.1. **When Does Life Begin?**

Life does not begin, but it is passed on from one generation to the next. A female egg cell and a male sperm cell are both living human cells. But it is at the moment of conception, when egg cell and sperm cell merge, that a new human individual with a unique genetic identity comes into being. Therefore, conception means the beginning of a new human existence.

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20 This corresponds to the criterion of the "veil of ignorance", developed by John Rawls in *A Theory of Justice*
Arguments that seek to establish a later stage of development as the beginning of life set aside the essential criterion of a new genetic identity. Instead, they make the existence of "life" dependent on accidental criteria, such as consciousness, self-consciousness, personhood, the ability to care for oneself, the ability to form a personal will, the ability to feel pain, or similar. According to these arguments, it would be no injustice to kill someone who feels no pain, or who is unable to form a will to survive. It should be noted, however, that some of these criteria are not even fulfilled by all children after their birth, others not even by all adult persons. While they have been crafted to justify abortion, those arguments could equally be used to justify the killing of adult persons.

In addition, those criteria are vague and leave unlimited room for manipulations. While it is fairly easy to objectively distinguish an unfertilized egg cell from an embryo, it is nearly impossible to define the moment in which a person acquires personhood or self-consciousness. Such arguments therefore do nothing else than to confer nearly unlimited powers over the unborn child to those who are in a position to impose their terminology.

Some argue that the implantation of the embryo should be identified as the moment where human life begins. This approach would lead to the opening of a time window between conception and implantation during which the embryo would enjoy no legal protection, whereas embryos created in vitro would remain without legal protection even for an unlimited period of time. To such proposals it must be objected that (1) the human embryo is ‘alive’ even before the moment of implantation, and (2) that its genetic identity differs from that of both parents.

There can therefore be no reasonable doubt that life begins at conception. That position is not grounded in "religious belief", but in reason and science.

4.1.2. When Does Life End?

Death is the cessation of all biological functions that sustain a living organism. The cessation of some biological functions, for example the loss of consciousness, even if that loss seems permanent, is not death.

Progress in the medical sciences has led to a number of grave ethical dilemmas with regard to the appropriate treatment of persons at the end of their lives. One of these dilemmas concerns the treatment of persons who have fallen into coma, i.e. into a (seemingly) permanent status of unconsciousness, but who can, with the help of modern technology be kept alive for many years or even decades. Indeed, cases have been reported where persons...
woke up from coma after as much as 19 years, and the longest reported coma was that of a woman that who fell into coma at the age of six (following a mishandled anaesthesia) and died 37 years later, aged 43. While there is a controversy around the question whether or not comatose persons, whose situation some consider to be an unacceptable violation of their human dignity, should be euthanized rather than being artificially kept alive, the fact that they are alive is not controversial.

By contrast, the development of organ transplantation technologies has led a very different dilemma, namely the question whether a person whose organs are still apt to be harvested and transplanted can really be considered ‘dead’. Very paradoxically, what is needed for transplantation are "living" organs of "dead" persons.

The criterion of "brain death", which is currently used to determine whether the organs of a person may be harvested for transplantation purposes, was developed in 1968 by an ad hoc committee at Harvard Medical School precisely for the purpose of making available organs for organ transplantation, thereby responding for an increasing demand. Legislation adopted in several countries appears to serve a similar interest, providing that the consent of a person to be an organ donor may be presupposed if there is no explicit declaration to opt out. But even in countries where an explicit consent ('opt-in') is required, that consent usually relates to the person’s willingness to donate its organs "after its death", and one may wonder whether the criterion of "brain death" corresponds to that condition.

In recent times, there have been increasing doubts with regard to the criterion of "brain death". Critics point out that some cases are known where people who already had been declared "brain-dead" have recovered from that state, and that the criterion does not take into consideration all cerebral functions. It has been demonstrated that several bodily functions have continued for considerable time after "brain death", including the case of the "Erlangen baby", where a "brain-dead" woman was kept alive with artificial means in order to allow her to carry to term the child she was pregnant with. The attempt to save the baby’s life finally remained unsuccessful, but it nevertheless is an established fact that the "brain-dead" woman remained alive for several weeks. In all these cases, it remains unclear whether "brain death" was simply a wrong diagnosis, or whether the criterion itself is flawed.

The situation can be summarized by saying that it is not possible to determine the moment of death in a similarly straightforward way as one can define conception as the beginning of a new human life. Nonetheless, it is clear that a precautionary principle must be applied, so that in case of reasonable doubt a human person should
be assumed to live rather than to be dead. The definition of “brain death” currently in use cannot be considered a valid criterion.

4.1.3. Exceptions from the Right to Life

Without doubt, in each and every catalogue of human rights, the right to life must be the most high-ranking: a person that loses its life loses the enjoyment of all other rights as well.

Yet even the right to life is not an absolute: it can be superseded in particular situations where the lives of other persons are at stake.

Examples include:

– Legitimate self defence: a person may legitimately kill another person in self-defence, provided that no other means of self-defence is available.

– A person can legitimately be required to risk his/her life in order to defend the common good. This may include the obligation to military service (including in war times), in order to contribute to the collective self-defence of a country. It may also include the obligation to risk one’s life in a situation of danger, e.g. for members of a fire squad, or for policemen defending the public order.

– Capital punishment: the death penalty is not in and by itself illegitimate, if it is proportionate to the crime that must be sanctioned ad/or to the danger that the delinquent represents for society. People arguing against the death penalty usually do not argue that the death penalty is in all cases unjust, but they point at the risk of judicial errors and express discomfort at the idea that the State should have the right to kill. Such arguments are certainly worthy of consideration, but they do not suffice to demonstrate the general illegitimacy of capital punishment.

As one can clearly see from the first and the last indent of the above list, a difference should be made between innocent life (which enjoys absolute protection) and the life of an aggressor (which may enjoy less protection). Also, there is a difference between situations where a person’s life is taken and other situations where a person may be required to put its life at a risk.

4.2. Abortion

Abortion is the deliberate destruction of a child while still inside the womb of its mother. Given that life begins at conception, it is irrelevant whether the destruction of the embryo takes place at an early or late stage of the pregnancy, before or after implantation, before or after the foetus has
reached the status of ‘viability’. It also is irrelevant whether the pregnancy is confirmed or whether it is only suspected.²¹

4.2.1.  Should Abortion Be Legal?

Abortion in all cases destroys the life of an innocent and defenceless human being. A directly willed abortion can in no case and under no circumstances be justified.

Laws that "legalise" abortion or that fail to provide adequate legal protection for the life of the unborn child stand in clear contradiction to the natural law of morality. Such laws are injustice vested in a false appearance of legality. Nobody is obliged to obey them, but everyone is under a moral obligation to work towards their abolition.

4.2.1.1.  Abortion on demand?

In several countries legislation allows abortion “on demand” (i.e. without any further justification) during the first stages of a pregnancy. The underlying assumption is that during those early stages of its existence the child is “not yet” a human being, or that it lacks certain qualities (such as (self)-consciousness, “viability”, the capability of feeling pain, or similar) that would make it worthy of legal protection. These assumptions are erroneous: the individual existence of a human being begins at conception, and the legal protection of a human being should not be made dependent on any accidental qualities. A legislation that allows abortion “on demand” is therefore not justifiable.

Using a concept that seems increasingly popular in contemporary legal debates, it could be said that abortion on demand is a particularly radical form of “age discrimination”: children are deprived of all legal protection because they are young.

4.2.1.2.  Abortion in case of rape and incest?

A child that has been conceived as a result of rape or incest is nevertheless an innocent human being that is

²¹ A commonly used strategy to obfuscate widespread abortion consists in providing “menstrual regulation”: when a woman’s menstruation is overdue, the abortion procedure is carried out without any verification whether or not the woman is pregnant. Organisations like Planned Parenthood or Marie Stopes International routinely provide “menstrual regulation” as a part of their “sexual health” programmes in developing countries, thereby trying to conceal that what they are actually providing is abortion. Many providers of funding for these programmes (such as the European Commission) seem quite happy not to be informed more correctly.
deserving of protection. The injustice of rape and incest in no way “compensated” or alleviated by the injustice of killing an unborn child. Rape and incest therefore do not justify abortion.

4.2.1.3. Abortion in case of the child suffering from malformation or impairment?

In many countries abortion is legal when there is reason to believe that the child will be suffering from a malformation or genetic impairment. The stated aim of such provisions is to “prevent unnecessary suffering” (either of the child affected by the impairment, or of the parents having to cope with that child). As a result, prenatal diagnostics have been developed to track down and eliminate children with impairments before they are born. In this way more than 90% of children with Down Syndrome are killed before birth.

It is absurd to eliminate suffering through the elimination of those who suffer. Aborting children are handicapped is a perverted form of “compassion”. In reality, these abortions rather seem to take place in the interest of healthy persons who do not wish to take on responsibility for a handicapped child.

It remains that a handicapped child is as much a human being as a healthy child, just as a handicapped adult person is as much a human being as a non-handicapped person. Legislation allowing abortion on grounds of a suspected malformation or impairment is thus discrimination on grounds of disability.

The situation is further exacerbated by a lax interpretation of laws, according which even minor malformation (such as a cleft lip) provide sufficient justification for abortion.

But the slippery slope does not end there. Once it is taken for granted that babies that do not conform to the wishes of their parents may be aborted, there will be an inevitable trend towards the creation of “designer babies”. For example, recent research in the UK has revealed that many babies are aborted not because of any handicap, but for no other reason than their sex. In several countries (notably in China and India), sex-selective abortion has led to a significant gender imbalance among new-born children, with dire implications for the future. Obviously, this so-called “gendercide” is one of the worst forms of gender
discrimination: it costs the lives of girls, but ultimately it will also (although they seem to be the preferred gender) severely impair the lives of boys.

4.2.1.4. Abortion in the case of the pregnancy posing a risk for the mother’s health?

In some countries abortion is legal in cases where the continuation of the pregnancy is suspected to pose a risk for the pregnant woman’s health. This is called “therapeutic abortion”.

The term is cynical and misleading. Abortion is never a “therapy”, because pregnancy is not a disease.

While in some countries the interpretation of this restriction is rather restrictive (i.e. that there must be a very serious threat for the mother’s health), other countries have a more permissive approach (the expectation that raising and educating the child will cause stress and exhaustion is sufficient to assume a “health risk” for the mother). In the latter case, “therapeutic abortion” is in all but terminology assimilated to “abortion on demand”. Ultimately, each and every pregnancy is associated with health risks for the mother, so that “therapeutic” arguments will always be easily available. It is for this reason that sweeping legal provisions allowing abortion in the case of a perceived “health risk” for the pregnant woman are morally unacceptable. If interpreted liberally, they de facto come close to allowing abortion “on demand”.

The life of one person is a greater value than the health of another person. The legalisation of so-called “therapeutic” abortion is therefore in contradiction to the principle of the equal dignity of all human persons. A directly willed abortion is therefore never legitimate in such circumstances. By contrast, if a pregnant woman requires a medical treatment that, as an unwanted collateral effect, may cause the loss of the child, it is acceptable to apply this treatment (e.g. chemotherapy against cancer).

4.2.1.5. Abortion in the case of the pregnancy posing a risk for the mother’s life?

Cases where the life of a pregnant woman can only be saved through abortion are extremely rare. In such cases where only the life of the mother or that of the child can be saved, it is, from the viewpoint of Natural Law, perfectly acceptable to save the life of the mother rather
than that of the child. This is similar to the dilemma described by the classical Greek philosopher Carneades: when two shipwrecked sailors hold on to a plank that will carry only one of them, it is legitimate for each of them to push the other away. Nobody is morally obliged to sacrifice his own life, even if it may be heroic to do so.

But even here, the interpretation must be cautious. Some, for example, have argued that situations where a woman threatens to kill herself if not allowed to have abortion would constitute such a “risk for the mother’s life”\(^\text{22}\). But this interpretation is temerarious: in such a situation, it is not the pregnancy that poses a risk, but the mother’s attitude. And there is a risk that such suicide threats, albeit insincere, might become an easy way to circumvent a legal ban on abortion.

4.2.1.6. Conclusion

It follows from the above that abortion should be permitted only in the cases described under 4.2.1.5 above.

In all other cases abortion should be prohibited and subject to efficient and dissuasive sanctions, including criminal sanctions, for all persons involved (i.e. not only the mother, but also the person performing the abortion). Civil sanctions are insufficient to provide adequate protection, given that the unborn child cannot itself take legal action and that its legal representatives (i.e. its parents) are, in the context of abortion, usually the persons against whom the child must be defended. For these reasons, it is also imperative that abortion be ex officio persecuted by the State.

While under normal circumstances it would seem sufficient to prohibit abortion by a simple law, the persistent attacks to which the unborn life is nowadays exposed make it necessary to strive for stronger protection. This might include constitutional provisions that clearly state a State’s obligation to protect or

\(^{22}\) This was the wedge that was used to force a first step towards "liberalization" of abortion in Ireland, where the Supreme Court decided that suicide threats were to be considered as an equivalent to a serious threat to the life of the pregnant woman and, as a consequence, granted permission to the applicant to travel abroad for an abortion. The pregnancy itself, however, was not associated to any health risks beyond those usually associated with pregnancy and childbirth.
vindicate the life of unborn children\textsuperscript{23}, or international treaty law.

4.2.2. \textit{"Pragmatic" Arguments for and against Abortion}

Both opponents and supporters of abortion often use "pragmatic" arguments to advance their respective points of view. For opponents, these include the health risks associated with abortion (in particular, the so-called Post–Abortion Syndrom, PAS) and the "demographic winter" in countries where abortion and contraception are widespread practice. For supporters, they include the risk of "overpopulation", or the (somewhat counterintuitive) assumption that "legal" abortions are "safe", and that, where abortion is not legal, women will in any case take recourse to illegal abortions which are unsafe and cost many lives.

It is not our purpose here to discuss each of these arguments. It is certainly true that today the world does not face any immediate risk of overpopulation - but it may well be that the widespread use of abortion and contraception, including forced abortion policy in China, have played a great role in averting this risk. However, reduced population growth inevitably leads to reduced economic growth, which might be one of the reasons for the current economic crisis.

On the other hand, it seems rather naïve to assume that "legal" abortions are always safe, or that they are much safer than illegal ones. It seems counter-intuitive to assume that a legal ban would have no effect on the incidence of abortion. It is a known fact that the statistics frequently used by pro-abortionists about the high incidence of illegal abortion (and maternal mortality caused by it) in countries where abortion is not legal are the result of gross manipulation.

The important point that needs to be made here that it is wrong to approach the issue of abortion from a "pragmatic" angle, when the ethical implications, namely that abortion means to kill a human being, are so obvious. If the embryo is a human being, which doubtlessly is the case, then there are no "pragmatic" considerations that can ever justify abortion. On the other hand, abortion would not become morally acceptable if there were no PAS and no demographic decline. There clearly is a risk of getting trapped in one's own argument: if demographic decline is the

\textsuperscript{23} A good example for such a constitutional provision is provided for by Article 40.3.3 (first sentence) of the Constitution of Ireland: \textit{"The State acknowledges the right to life of the unborn and, with due regard to the equal right to life of the mother, guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate that right."} (The two remaining sentences of Article 40.3.3, which have been introduced at later stages to open the door for abortion abroad, have the deplorable effect of limiting the protection afforded by this provision.)
decisive argument against abortion, then there would be no objection against legalizing abortion in countries with high population growth.

It seems therefore problematic and not to the point for opponents of abortion to use this type of arguments. Although they may seem seducing, they direct the discussion around abortion into a direction where it does not belong.

4.2.3. The Current Legal Situation

According to a recent survey by the abortion advocacy group “Center for Reproductive Rights”, about two thirds of the world’s countries have laws that restrict abortion.

According to that survey, 68 countries either prohibit abortion or permit it only where necessary to save the mother’s life, and another 59 countries permit abortion only when necessary to preserve the mother’s life or health. About a third of these countries also have exceptions for rape, and a few also have exceptions for incest and/or fetal impairment. While not all of these 127 laws afford unborn children the full scope of appropriate legal protection, they clearly reflect a continuing recognition by the overwhelming majority of the world’s nations that unborn children deserve protection and that there is no human right to abortion. In contrast, only 56 countries permit abortion for any reason, and only 22 of these are without restriction such as gestational period. Another 14 countries prohibit abortion but provide exceptions for socioeconomic reasons.

Assertions by pro-abortionist pressure groups that access to abortion is an internationally recognized fundamental right are therefore false not only for moral reasons, but they are also demonstrably false with regard to the positive legislation currently in force and applied in a majority of States.

Nevertheless, the restrictive legislation currently in force in most countries is in most cases not sufficient by the standards set out above. Moreover, the efficiency of those laws is often impaired by lax interpretation and inadequate enforcement.

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25 Fact Sheet, supra.

26 Some abortionist lobbies seek to provide to their assertions a false appearance of scientific credibility by having them published in the scientific press. See, for example, Ch. Zampas and J. Gher, Abortion as a Human Right - International and Regional Standards. Human Rights Law Review, Vol. 8, Issue 2, pp. 249-294, 2008
Although abortion clearly is a very severe and radical form of discrimination (in most cases related to the age of the victims, in other cases related to other suspicious grounds such as sex or disability), anti-discrimination legislation has hardly ever been used to fight abortion. The problem mainly seems to consist in the fact that anti-discrimination laws usually require discrimination victims to themselves file charges. Given that instances where a baby survives an attempted abortion are very rare (in some countries it is in such cases even possible to kill the baby extra utero!), this is nearly impossible. There is thus also a lack of enforcement in regard to anti-discrimination laws, which, in theory, would outlaw abortion.

In this section, we will examine the current situation regarding abortion under UN Treaty Law (4.2.3.1) and regional Human Rights Treaties (4.2.3.2). An assessment of the legal situation under the domestic law of individual countries might follow at a later stage.

4.2.3.1. International Treaty Law

In recent years, various UN Treaty monitoring bodies have come forward with temerarious re-interpretations of the international treaties that have been entrusted to them, pretending that an implicit “right to abortion” lay somewhere hidden in those treaties. Those interpretations are false and pretentious, and rather than providing credibility to any claim that abortion is a human right they undermine the credibility of the institutions and persons making them. It has been clearly demonstrated that those deliberately false interpretations of international treaty laws can be traced back to a meeting that took place at Glen Cove in 1996 behind closed doors, to which the UN bureaucracy had invited the representatives of those treaty monitoring bodies as well as representatives of various pro-abortionist lobby groups to discuss “Human rights approaches to women’s health, with a focus on sexual and reproductive health and rights”27. As it emerged later, the main focus of that meeting was to promote a radical re-interpretation of UN Treaty Law, given that attempts undertaken during the UN Conferences on Population (Cairo, 1994) and Women (Beijing, 1995) to make the international community agree on texts in which abortion was explicitly mentioned as a human right had failed.

Since that time, the UN treaty monitory bodies have become the source of pervasive attempts to manipulate the international treaties that are entrusted to them.

27 http://www.unfpa.org/rights/docs/rightsrh_eng.pdf
They criticize individual countries for having “too restrictive” and issue “General Recommendations” in which it is asserted that legislation criminalizing abortion should be repealed. 28

It should be noted in this context that the reports and comments of those bodies have no binding effect. If inaptly drafted, such reports and comments undermine the credibility and authority of those drafting them, which is what we currently see happening. It should also be noted that the members of those bodies are appointed under rather opaque procedures, and that many of them have rather poor academic records. Those bodies cannot be considered an authoritative source of interpretation for the treaties concerned, but – despite having no mandate to do so - they act as political bodies with an agenda of their own.

The correct interpretation of relevant UN Human Rights treaties, in line with the interpretative rules set out in the Vienna Convention on the Law of Treaties, is as follows:

4.2.3.2. Universal Declaration on Human Rights (UDHR):

**Article 3 of the UDHR** recognizes that “**everyone has the right to life, liberty and security of person.**” No specific provision is made with regard to abortion. However, given the fact that the unborn child is, from the moment of conception onwards, an individual human being that is different from its mother, there can be no reasonable doubt that it must be included in “everyone”.

Even if there were reasonable doubts with regard to the status of the unborn child (quod non), a precautionary principle would impose an interpretation that includes the unborn child under “everyone”, rather than running the risk of depriving a human being of its right to life.

The exclusion of the unborn child from the protection granted under Art 3 UDHR would seem legitimate only if there were certitude that it is not a human being. But such certitude does not exist.

28  CEDAW General Recommendation No. 24 on Art 12 of the CEDAW (1999), par. 31
4.2.3.3. International Covenant on Civil and Political Rights (ICCPR):

**Article 6 of the ICCPR** recognizes that “every human being has the inherent right to life”.

The ICCPR goes beyond the UDHR in providing two important clarifications.

Firstly, it recognizes that “this right shall be protected by law”. This means that the State must not only itself abstain from violating this right, but it must take adequate measures to protect others from doing so. This is of particular importance in the context of abortion.

Secondly, the ICCPR foresees (in Art. 6.5) that “sentence of death ... shall not be carried out on pregnant women”. While the Convention does not as such exclude the possibility of capital punishment for serious crimes, it does exclude the execution of pregnant women. The obvious reason is that the Convention recognizes that the unborn child is a different person than its mother, that it is innocent, and that it is the bearer of its own right to life.

It is therefore logically impossible to interpret Art. 6 ICCPR as not prohibiting abortion, or, even more important, as not imposing on States an obligation to protect the unborn child against abortion.

4.2.3.4. Convention on the Elimination of Discrimination against Women (CEDAW):

**Article 12 of the CEDAW** runs thus:

“1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

2. Notwithstanding the provisions of paragraph I of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.”

It is this provision that has been interpreted by the UN CEDAW Committee as implying that “legislation
criminalizing abortion should be amended, in order to withdraw punitive measures imposed on women who undergo abortion”.

As one can easily see, this temerarious interpretation has absolutely no basis in the text, given that:

- the text makes no explicit reference to abortion;
- it is generally recognized that abortion is not a legitimate means of family planning; and
- it would be absurd to interpret CEDAW in a way that stands in open contradiction to the ICCPR (see above).

The Right to Health, even in its “feminist” version (i.e. that set out in CEDAW), therefore does not include any right to abortion.

4.2.3.5. Regional Human Rights Treaties

4.2.3.6. European Convention on Human Rights (ECHR)

The ECHR is unique among the world’s Human Rights Instruments because it is endowed with a binding enforcement mechanism. The European Court of Human Rights (ECtHR) cannot order a State to change its legislation or administrative practice, but it can condemn a State to pay compensation to victims of human rights abuses. If a State is repeatedly found guilty of the same type of abuses, these compensation payments may increase. Generally, States respect the judgments of the ECtHR.

Article 2 of the ECHR, using similar language as the UDHR and the ICCPR, recognizes that “everyone’s right to life shall be protected by law”. However, there is no particular provision comparable to Art. 6.5 of the ICCPR to protect the life of the unborn. This

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29 CEDAW General Recommendation No. 24 on Art 12 of the CEDAW (1999), par.31

30 This is explicitly stated in the ICPD Programme of Action adopted at the UN Conference on Population and Development (Cairo 1994), which says in paragraph 8.25 that “in no case should abortion be promoted as a method of family planning”. The Programme of Action is not an international treaty, and has no legally binding effect on any State. However, it is so far the only international document explicitly dealing with abortion. Contrary to the assertions made by certain pro-abortionist lobby groups, the Programme does not recognize any “right to abortion”, but explicitly excludes abortion as a means of family planning – which might arguably be considered a first step towards an explicit prohibition of abortion.
notwithstanding, and for the reasons already set out with regard to the UDHR and the ICCPR, it is clear that a correct reading of Art 2 ECHR would grant full protection to children before birth.

Lamentably, the case law of the ECtHR (and the European Commission of Human Rights, EComHR) falls short of effectively granting that protection – a circumstance that reveals the weaknesses of this institution. When the first countries began to legalize abortion, it was reasonable to expect that the institutions monitoring the application of the Convention would find that this was incompatible with the State Parties’ obligation to protect the right to life. But strangely the Commission and the Court have, under varying pretexts, always avoided taking such a position:

– In Paton v. the UK, the applicant argued that his wife should be prevented from aborting the foetus based on the foetus’ right to life. But the EComHR argued that the foetus’ (potential) right to life did not outweigh the interests of the woman, since it “is intimately connected with, and cannot be separated from, the life of the pregnant woman”. This does not go as far as saying that the foetus has no right to life, but it subordinates the right to life of one human being to the “interests” of another, without even making an attempt to define those interests. It is obvious that the EComHR obeyed the spirit of the day rather than the words of the Convention, and that both its reasoning and its conclusions were erroneous. However, from that decision onwards the ECHR has remained completely ineffective when it comes to protecting the life of the unborn.

– In Boso v Italy, the ECtHR held that a law that allowed abortion under the pretext of “protecting the pregnant woman’s physical or mental health” was not in breach of Article 2, but that “such provisions strike a fair balance between, on the one hand, the need to ensure protection of the foetus and, on the other, the woman’s interests”. Strangely, the reference is not to the foetus’ right to life, but to the need to protect the foetus (which, in the Court’s view, is important, but apparently not primordial). Once more, there is no clear statement that the foetus has no right to life, but only a wobbly statement that renders this right theoretical and ineffective.
In **Vo vs. France**, the applicant was a woman who had suffered miscarriage due to a doctor’s malpractice and who complained that the doctor had not been subject to criminal persecution. Yet once again, the ECtHR avoided taking a position on whether the foetus had a right to life under Article 2, saying that even if the foetus had a right to life, a State Party could in such a case discharge its obligation of protecting it through other means than criminal sanctions. The decision is also noteworthy for the fact that, for the first time, the Court made the protection of Article 2 contingent on a human being’s status as "a person" (rather than simply a human being). At the same time, it stated that it was "neither necessary nor desirable" to determine who can claim to be a "person". In this way, it opened the door to the most frivolous misinterpretations not only of Article 2, but of the ECHR as a whole, given that most of its provisions relate to "persons" rather than "human beings".

It clearly results from these decisions that the ECtHR is in a dilemma: it would be outrageously absurd (and thus detrimental to the Court’s own standing) to openly assert that the embryo has no right to life. On the other hand, the open acknowledgement that the foetus is a human being and, by consequence, a holder of a right to life would outlaw the abortion laws and practice of nearly the totality of the 47 signatory states. The Court does not appear to have the courage that such a statement would require.

The ECtHR’s regrettable failure to protect the right to life of the unborn child has encouraged pro-abortion groups to use the Court as a forum for a frivolous activity called “strategic litigation”, claiming that, rather than a right to life for the unborn child, the Convention contains (at least under certain circumstances) a right for women to have abortion. It is lamentable that the Court gives any consideration to these manifestly ill-founded claims, rather than dismissing them *a limine*. This notwithstanding, the “strategic litigation” so far has not been crowned by success:

- In **Tysiac v. Poland**, the applicant claimed that her right to privacy (Article 8 of the Convention) had been violated by the fact that the law did not allow her to have access to abortion when she believed that the continuation of her pregnancy might endanger her eyesight. Although the Court did
criticize Poland for the fact that no formal procedures were available to challenge a doctor’s assessment that there was no danger to the pregnant woman’s health that might justify an abortion under the applicable domestic law, it also stated that the Convention did not contain a “Right to Abortion”.

– Similarly, in A, B, and C, v. Ireland, the Court - contrary to what had been intended by the applicants and the lobby groups using them - explicitly stated that the Convention did not contain a “Right to Abortion”. It did, however, find that the rights of one of the three applicants had been violated by the fact that there was no legal procedure to determine ex ante whether, in her specific situation, an abortion would have been licit under the applicable Irish law.

The situation under the ECHR can thus be summarized by saying that, by adopting an ill-founded position of “neutrality” between those who seek to protect the right to life and those who seek to undermine it, the ECtHR has rendered the Convention ineffective and futile. On the other hand, the temerarious attempt of the abortion lobby to make the Court “discover” that the Convention contain an implicit “Right to Abortion” have so far also remained unsuccessful. Nevertheless, decisions like Tysiac v. Poland and A, B, and C, v. Ireland disturbingly reveal a willingness of certain ECtHR judges to fabricate a de facto “right to abortion” by imposing on Member States prohibiting abortion a number of (merely) procedural requirements that are impossible to fulfil.

4.2.3.7. The EU and the European Court of Justice (ECJ):

Since the beginning of this century, the European Union (EU) has shown increasing ambition to be seen as an institution that promotes human rights rather than just economic interests. This has led to a new human rights document, the EU Fundamental Rights Charter. Since 2009, the Charter is a binding part of the EU’s primary law, so that it can be invoked before the European Court of Justice. The scope of application of the Charter is, however, limited to the legal acts of the EU and to the acts adopted by Member States when implementing EU legislation.
The European Court of Justice has so far issued two judgments that have to do with the right to life of the unborn. Neither of these decisions was based on the new Fundamental Rights Charter:

- In *Society for the Protection of the Unborn Ltd. v. Grogan*, the ECJ described abortion as a “service” under EU Law, which means that such service should in principle be allowed to be offered across borders within the EU. However, the Court also recognized that the Irish ban on abortions served a legitimate aim.

- In the case of *Brüstle v. Greenpeace*, the Court had to determine the meaning of the term human embryo” in the context of an EU Directive that prohibits the patenting of inventions involving uses of human embryos for industrial or commercial purposes. The Court deducted from the common meaning of words that the term applies to the fertilized human egg from the moment of conception. This judgment, which is binding on all EU Member States, is of immense importance for at least the three following reasons: firstly, it recognizes that the fertilized egg is a “human” being; secondly, it acknowledges that it has this status as from the moment of conception; thirdly, although the judgment had not directly to do with abortion, it sets an important precedent that, given the EU’s obligation to be coherent in its policies, must unavoidably have consequences for the legal orders of all Member States.

4.2.3.8. The *American Convention on Human Rights (ACHR)*

Article 4 of the ACHR explicitly recognizes that “every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception”. It includes a provision prohibiting the execution of the death penalty against pregnant women.

The legal situation could therefore not be clearer: a State failing to protect children against abortion violates its obligation under the Convention.

The ACHR is thus the international text that affords the clearest and most explicit recognition of the right to life of unborn children. Latin America therefore remains a region where the unborn life continues to...
enjoy a comparatively high standard of protection, although some countries have now (often under pressure from UN bodies) liberalized their legislation. It remains yet to be seen how the Inter-American Human Rights Court will apply the Convention with regard to these countries.

The US and Canada are not parties to the ACHR.

4.2.3.9. The African Women’s Protocol (“Maputo Protocol”)

The Maputo Protocol is the one and only international “human rights” document to explicitly articulate, under the pretext of catering for women’s health, a “right to abortion”. Under Article 14 of the Protocol, States are required to “protect the reproductive rights of women by authorising medical abortion in cases of sexual assault, rape, incest, and where the continued pregnancy endangers the mental and physical health of the mother or the life of the mother or the foetus.”

Having been ratified by just 28 countries with rather weak (if any) democratic tradition, it can hardly be viewed as a trend-setter.

4.2.3.10. The United States of America

Even if it cannot be considered as “international law”, the legal situation in the USA is of such importance that it needs to be mentioned here. With the 1973 decision Roe v. Wade, the Supreme Court of the United States (SCotUS) has, in a very negative sense, set a highly influential precedent and opened the door for a world-wide trend to legalize abortion.

The case challenged the constitutionality of a Texas statute banning abortion, on the grounds of a “right to privacy”. Although such a right is mentioned nowhere in the US constitution, the Supreme Court held the Texas statute to be unconstitutional, thus preventing all US States from adopting or maintaining legislation that affords the unborn child effective protection against abortion.

This case, which is the most dramatic example of “judicial activism” in known history, has severely undermined the standing of the SCotUS itself. A majority of states would wish to adopt restrictive measures against abortion, but in most cases such measures would be unconstitutional under the Roe decision. The only ways out of this impasse would be a
new SCotUS decision reversing Roe v. Wade, or an explicit modification of the US Constitution. The legal and political barriers for both are high.

The US is thus a nearly unique case in the Western world, with the shift towards liberal abortion laws having been brought about not through legislative change, but through a revolutionary (but poorly argued) court decision. As a consequence of that decision, the US has now an extremely liberal legislation on abortion (abortion on demand), which at the same time is extremely difficult to overturn.

4.2.4. *The San José Articles*

In 2011, an international group of lawyers, medical scientists, and other experts, met in San José (Costa Rica) to adopt a declaration called the San José Articles, which refutes the false claim that access to abortion is an internationally recognized human right. The document is available on the internet at www.sanjosearticles.com.

4.3. *Pre-natal Diagnostics*

Closely linked to the issue of abortion is the issue of pre-natal diagnostics, i.e. of diagnostic procedures that allow verifying whether an unborn child suffers from a malformation or genetic impairment or any other health problem.

The act of screening an unborn child for possible impairments is not in itself an immoral act. Instead, its morality depends on the intention with which it is undertaken.

If the intention is to screen the child for any health problems that can be subject to a curative treatment even prior to its birth, the practice is not objectionable, provided it does not create more health risks than it serves to avert. In such cases, it should nonetheless be noted that pre-natal diagnostic procedures are highly invasive, and that they may themselves lead to risks for the health of both mother and child.

By contrast, it would be objectionable if the purpose of such diagnostic procedures were solely to cater for an unhealthy curiosity. And if the underlying intention is to abort the child if it is found not to correspond to the parents’ wishes, then the use of pre-natal diagnostics is turned into a mere instrument of selection, and the moral verdict falling on it is the same as for the act of abortion itself.

4.3.1. *Wrongful Birth*

In several countries, law courts have upheld compensation claims brought by parents of handicapped children who argued that they would have had recourse to abortion if they had known that their
child was suffering from a handicap. Those claims were made against doctors who were accused of medical malpractice, i.e. of not having discovered a handicap that, according to the state of the art, they might have been able to identify.

While these adjudications, which are termed “wrongful birth” by legal experts, caused scandal and consternation when they first occurred, they seem in the meanwhile to have become normal court practice in several countries. They constitute a deeply worrying phenomenon, both with regard to the assumptions that underpin them and with regard to their practical consequences.

For a judge to adjudicate damages in a case of “wrongful birth”, he must assume the following:

- that the law provides an entitlement to abort children suffering from a handicap (rather than just tolerating this lamentable practice);

- that, according to the will of both contracting parties (i.e. the doctor and the pregnant woman) the purpose of the diagnostic services carried out by the doctor was to screen the foetus for impairments that were not accessible to any pre-natal curative treatment (and thus served a purpose of selection);

- that such a contract (which in fact envisages the killing of a third person) is not contrary to public morality.

The possibility of obtaining a financial compensation for a “missed occasion to kill another person” is not only a frightening indicator for moral decay, but it also has practical implications. In order to avoid malpractice charges, doctors will tend to advise rather too often than too seldom that the unborn child carries a risk of impairment. Very often, such a verdict relates to a possibility rather than a certainty – and the availability of genetic screening will open a further Pandora’s box of health scares. Indeed, it seems likely that, with the increasing knowledge about genetic dispositions, a doctor will hardly ever be able to assert that the unborn child does not have the one or other such disposition.

4.3.2. Wrongful Life

In some jurisdictions, the law courts have even upheld compensation claims for “wrongful life”. Such complaints are brought on behalf of handicapped children whose handicap has not been discovered by a doctor as a result of negligence. Although in such cases the doctor’s negligence has not caused the child’s impairment (it rather has prevented the parents from deciding to kill the child), he is nevertheless held responsible for the child’s condition, the assumption being that the child, if it had been asked,
would have preferred to be aborted rather than being born with a handicap.\textsuperscript{31}

4.3.3. \textit{Sex Selection and Gendercide}

An even more appalling use of pre-natal diagnostic is “social sexing”, i.e. making the continuation of a pregnancy depend on whether the child has the desired sex. The practice seems to be fairly widespread in Asia, where it has led to huge gender imbalances, with a reported shortage of 30 million girls in China and a further 20 million in India.

As it appears, abortion, which is often termed a “women’s right”, is particularly detrimental for female children. But ultimately the practice of sex selection is detrimental also for boys, given that in adult age they will find it difficult to find a spouse. Political scientists fear that the high quantity of “angry young men” who have no hope of founding a family could become a serious threat for world peace.

But even in the EU “social sexing” appears to be a frequent practice, even if, due to the desire of many couples to have a balance between sons and daughters, the gender imbalance it generates is far less extreme.

4.3.4. \textit{The Current Legal Situation}

Pre-natal diagnostics have so far not been the subject of any regulation at international level. At national level, the provision of such services is usually subject to the general legislative provisions regulating the exercise of the medical profession. We do not know about any country having adopted legislation to restrict access to pre-natal diagnostics, even if the practice has lately come under some criticism.

4.3.5. \textit{Possible Legislative Approaches}

In the light of the preceding, it clearly appears that pre-natal diagnostics are hardly ever put to a use that is beneficial to the child

\footnotesize{\textsuperscript{31} The first decision of this kind in Europe was the "Perruche" case, in which the French Cour de Cassation adjudicated a compensation payment on the grounds of "wrongful life" to a complainant who, due to his mother having been ill with (undiagnosed) rubella during her pregnancy, had been born with serious handicaps. The decision provoked consternation and protest among the wider population. In reaction to this, the French National Assembly adopted a so-called Anti-Perruche-Law, which with retroactive effect explicitly prohibited such adjudications. This, in turn, was challenged before the ECtHR, which (in the decision \textbf{Maurice and Draon v. France}) found that the retroactive application of the law constituted a violation of the applicants’ right to property. Once again, the ECtHR has failed to deal with the nub of the matter, preferring instead to focus on a mere side-aspect: as it seems, a compensation claim can enjoy protection as "property" even if it stands in clear contradiction to basic assumptions on human dignity.}
that is subject to them. The practice is in most cases a severe and direct assault on both the dignity and the life of the child.

It is therefore a requirement of justice to effectively restrict the practice of pre-natal diagnostics to cases where they demonstrably contribute to the health and well-being of the unborn child.

Given that pre-natal diagnostics are often used to prepare abortion, a general prohibition of abortion, if appropriately enforced, will probably be the best way of rooting out the lamentable practice of pre-natal selection. In addition, pre-natal diagnostics should be explicitly prohibited, except if they demonstrably serve the purpose of identifying health problems for which curative treatments are available before or immediately after birth.

In the domain of contract law, it seems necessary to clarify that contracts that have the purpose of killing a third person (e.g. contracts establishing a commitment to perform an abortion) or to prepare the killing of third persons (e.g. a contract on pre-natal diagnostics) must be considered invalid on grounds of their immorality (ob turpem vel iniustam causam), and hence not enforceable.

4.4. Medically Assisted Procreation

By medically assisted procreation we do not understand medical treatments against infertility (i.e. treatments that restore the procreative faculty of a person that, for medical reasons, has lost it), but procedures that have the purpose of “making a baby” for persons who, for whatever reasons, so request. Another term frequently (and almost synonymously) used in this context is “in-vitro fertilization” (IVF), because those procedures typically involve the fertilization of a female egg cell outside the human body in a test tube (in vitro).

Even in our time it is still fairly easy to convey that killing an innocent human being is wrong. But what about such acts that have the purpose of creating a new human being that otherwise would never have come into being? If human life is the highest of values, is it not a noble cause to create new human life and to help women and men who desperately long to become mothers and fathers? Should not all who want to defend family values happily embrace assisted procreation as a means to make family life possible?

There are at least three points that might be made in this respect:

- **The fact that human life is one of the highest ranking values does not mean that every and any action that might bring a new human being into existence is in and by itself morally acceptable.** For instance, it is morally unacceptable to rape a woman (even if this cannot be seen as a justification for killing a child that has been conceived as a result of rape).
It is naïve and factually inaccurate to pretend that procedures related to medically assisted procreation lead only to the creation of new life. In actual fact, these procedures typically imply the creation of more embryos than are needed. One may be carried to term, but the others are deep-frozen and, after a certain time has lapsed, destroyed. **Medically assisted procreation kills many more human beings than it helps to be born.**

If procreation is dissociated from the sexual act, then the creation of a human being is turned into an act of bio-technological engineering. The child is no longer a *gift* to the parents that must be accepted as it is, but it is turned into a *product* that must meet the expectations of those who have ordered it. If those expectations are not met, the product may be rejected and another ordered. **Assisted procreation thus undermines the equal dignity of all human beings**, implying that some human beings have the right to “make” other human beings according to their tastes and preferences.

### 4.4.1. Is Assisted Procreation a Therapy?

In many countries, assisted procreation is (at least partially) funded by public health insurance. Without this funding, it would be used much less frequently.

The use of health insurance funds to finance assisted procreation procedures is an absurdity for at least the following reasons:

- While infertility may be seen as a disease, childlessness cannot be considered as such. It may therefore appropriate for a public health insurance to finance treatments against infertility. But an assisted procreation procedure is not a "treatment against infertility".

- Given the widespread moral reservations against assisted procreation, the financing of such procedures by public health insurance forces the conscience of people who, through their contributions to the scheme, are obliged to financially support activities they find morally unacceptable.

Where a public health insurance scheme finances assisted procreation procedures, such funding should be stopped.

### 4.4.2. Homologous Assisted Procreation

We distinguish “homologous” from “heterologous” assisted procreation. “Homologous” means that the man and the women whose gametes (sperm and ovular cells) are used to "make" the child are those who actually want to be the child's social parents. By contrast, “heterologous” means the involvement of the gametes of a third or even a fourth person (who are called "donors").
Homologous assisted procreation is where the procedure seemingly comes closest to the natural process of procreation, except that conception takes place \textit{in vitro} rather than in the mother’s womb. The additional moral objections that can be made against heterologous artificial procreation do not apply to the homologous procedure, which nevertheless remains totally unacceptable for the following reasons:

- The dissociation between the conjugal act and its procreative purpose;
- The creation of "surplus embryos" which are frozen and, at a later stage destroyed;
- The use of eugenic practices (i.e. the selection of the "best" of several artificially created embryos, while the other ones are disposed of, according to criteria such as sex or certain genetic qualities)

In the light of the last two points, homologous assisted procreation is assimilated to abortion (in the sense that it implies the destruction of an innocent human being).

But even where no “surplus embryos” are created and destroyed, it remains that medically assisted procreation procedures turn the child into an object that is “made”, and which must correspond to the quality criteria set by its makers, with all the moral and legal implications this may have (such as “guarantee claims” against the reproductive doctor...).

It follows that \textit{in-vitro fertilization and similar practices are gravely immoral under all and any circumstances}, and that they should be prohibited by law.

4.4.3. \textit{Heterologous Assisted Procreation}

If medically assisted procreation is morally unacceptable under all and any circumstances, the moral verdict falling upon it is still exacerbated in the case of the involvement of third persons.

This involvement can consist in the use of donated egg cells, or sperm cells, or both. The child that is created in this way is thus \textit{not} the child of those who order its creation. One might as well ask another woman to have sexual intercourse with one’s husband, or another man to have intercourse with one’s wife, or an altogether alien couple to have intercourse with each other, just to get a child: it seems all the same. This is not very far from going to a shop and buying a child as one would buy a guinea pig.

And of course, one wants to have a child made of the “best” genetic material, which is why one would make sure to get hold of the egg
cells and sperm of “good” donors (good looking, healthy academics with no criminal record, etc.).

It should be self-evident that these practices severely undermine human dignity:

– They deprive the child of its own identity, and of its right to know, grow up with, and be educated by, its real (viz. biological) parents.

– Those parents, in turn, are deprived of their role as parents.

– Instead the “donors” are reduced to the role of “breeding bulls”, which in itself is a serious violation of human dignity.

– It also must be suspected that, despite assertions to the contrary, such egg or sperm donations are usually not free of charge, but that they result in a trade in human gametes. This undermines the dignity of the donors, but also of humankind in general: the gametes are turned into a tradable commodity. One could describe this as a modern form of slave trade.

4.4.4. Surrogate Motherhood

Besides using the gametes of third donors, one can also use the services of a surrogate mother if one is oneself unwilling or unable to become pregnant. One could indeed imagine situations in which A goes to a reproduction clinic where he purchases a child that is created from the gametes of B and C and then born by D.

If the surrogate mother receives a payment, one speaks of “commercial”, otherwise of “altruistic”, surrogacy.

It is self evident that, however the compensation paid out to the surrogate mother may be named, surrogate motherhood is a form of commercializing the female body. It is a form of exploiting vulnerable persons, similar to slave trade, or to prostitution.

4.4.5. Eugenic Practices

4.4.5.1. Pre-Implantation Diagnostics

Medically assisted procreation typically includes techniques that seek to ensure the “quality”, or even to pre-determine the genetic identity, of the child that is being created. These techniques usually involve “pre-implantation diagnostics”: several embryos are created and subject to a genetic screening procedure that allows to select the “best” embryo. The selection criteria may involve the sex of the child, or certain genetic characteristics, such as the absence of certain genes that indicate a predisposition for certain diseases, or the
presence of genes that would make the child a potential tissue donor ("saviour child") for a sick sibling. The "surplus embryos" are disposed of: either they are frozen in order to be used for future pregnancies, or they are "donated" for research purposes, or simply destroyed.

4.4.5.2. Cloning

Another eugenic practice is "cloning": the nucleus of a somatic cell of an existing adult person is transferred into a female egg cell (from which the nucleus has been removed) and then induced to develop into an embryo that is genetically identical to the adult "donor" of the somatic cell. This is a technology that potentially could be used to produce genetically identical copies of a human person.

There was considerable concern about "cloning" several years ago, when it was feared that it could soon become a current practice. As one of very few reproductive technologies the cloning of human persons is explicitly forbidden in many jurisdictions, notably in the EU by virtue of the EU Fundamental Rights Charter. However, the scope of that prohibition is very limited, given that it makes a rather artificial distinction between "reproductive" and "therapeutic" cloning. 32

"Reproductive cloning" is the cloning of a person with the purpose of creating a genetically identical embryo that is then implanted into a woman’s womb and carried to term by her. This idea of creating genetically identical copies of existing persons was found so appalling that it was possible at the European level to agree on a prohibition of "reproductive cloning".

By contrast, "therapeutic cloning" is a procedure in which the embryo, instead of being implanted into a woman’s uterus, is kept alive solely for a few days until its stem cells can be harvested. These stem cells, it was thought, could be used for a variety of therapeutic purposes that would benefit the (genetically identical) "donor" of the cell that has been cloned. Given the expectation that "therapeutic cloning" could result in new therapeutic uses, the grave ethical concerns against the procedure were brushed aside, and "therapeutic cloning" was not

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32 Article 3 (2) of the Charter provides: “In the fields of medicine and biology, the following must be respected in particular ... the prohibition of the reproductive cloning of human beings”
explicitly prohibited in the EU Fundamental Rights Charter.

Besides the EU Fundamental Rights Charter, there is no international human rights document that explicitly deals with cloning.

Whoever takes a closer look at the substance of the matter will find the distinction between “reproductive” and “therapeutic” cloning artificial and not to the point:

– Cloning is always “reproductive”, because a new human being is created.

– “Therapeutic” cloning is not therapeutic, because actually the cloned embryo is killed when its stem cells are harvested.

– Given that the cloning procedure remains the same irrespective of whether it is undertaken for “reproductive” or “therapeutic” purposes, it always affects human dignity in the same way: a human being is made the object of a manipulation that determines its genetic identity. Both “reproductive” and “therapeutic” cloning is therefore morally unacceptable.

– If any distinction must be made, then “therapeutic” cloning is even less acceptable than “reproductive” cloning, given that, besides the morally unacceptable genetic manipulation, it also involves the destruction of the cloned embryo, which is an innocent human being. It appears therefore absurdly hypocritical to prohibit “reproductive”, but not “therapeutic” cloning.

4.4.5.3. Eugenic practices are a form of slavery

Given that this is a relatively new field of technology, reproductive medicine, including pre-implantation diagnostics, is so far hardly subject to any legislation at national or international level. This creates a certain legal vacuum, in which unscrupulous practitioners find it easy to operate.

However, it is arguable that existing moral and legal principles, if correctly applied, would be sufficient to set an end to the abominable practice. In actual fact, all the different reproductive technologies described in this chapter, and in particular those involving genetic testing and selection, are a modern form of slavery.
Indeed, they are worse than prior forms of slave trade. While a slave is ordered \textit{what he must do}, the human being that is subject to IVF and genetic manipulation is told \textit{who it must be}. And while a slave might at least try to run away from his slavery or fight for his freedom, the slavery of the artificially created child is something that it can never get rid of, but that will be passed on to all future generations.

All forms of procreation that deviate from the natural conjugal act undermine the equality of all human beings, given that they subject some of them (the artificially created) to others (their creators). This is a technology that will always be controlled by a very restricted number of engineers, whereas the rest of humanity will simply be subject to it.

It would therefore seem possible and appropriate, once the true character of this technology is more widely understood, to use existing prohibitions against slavery to prohibit it.

\textbf{4.4.6. Medically Assisted Procreation in International Law}

International Law to a large extent remains silent with regard to medically assisted reproduction techniques, leaving a wide margin of appreciation to national legislators. But even at the level of national legislation the matter is hardly regulated.

The only country in the world that is known to have constitutionally prohibited medically assisted procreation is Costa Rica, due to a judgment by its Constitutional Court in which it was pointed out that, given (1) that medically assisted procreation typically involves the creation and destruction of “surplus embryos” and (2) that Costa Rican Constitution protects the right to life from the moment of conception, such practices are unconstitutional.\(^{33}\)

Some countries regulate certain assisted reproduction procedures and prohibit others, while many other countries (especially developing and least developed countries) leave the matter widely unregulated.

This opens a huge legal grey zone, in which clever and unscrupulous providers of such procedures can operate without any real risk of being disturbed. If necessary, they can always take recourse to

\(^{33}\) That prohibition was, however, overturned by an extremely ill-argued decision of the Inter-American Human Rights Court in 2012 (case of \textit{Gretel Artavia Murillo and Others (Fecundacion In Vitro) v Costa Rica})
forum-shopping, i.e. move on to countries where the legal standards are conveniently low.

The only international treaty to deal with questions related to reproductive medicine is the Oviedo Convention of the Council of Europe (1997), which, however, has been ratified only by 29 countries. Important European countries like the UK, Germany, or Russia, have not even signed the Convention yet, and countries like the Netherlands, Italy, and Sweden, have not yet ratified it. The Convention does not provide full-fledged and complete protection against eugenic practices, but it does prohibit:

- discrimination against a person on grounds of his or her genetic heritage,
- the use of the human body as a source of financial gain, and
- the production of human embryos solely for research purposes.

Beyond these three prohibitions, the ambition of the Convention is rather limited. Instead of prohibiting ethically questionable practices, it places them under vague restrictions such as the approval of “ethics committees” for research projects, or the “consent” of the person who is made the object of biomedical research or from whom tissues or organs are to be removed.

Some of the provisions of the Convention regarding “consent” are in themselves highly questionable, if not unacceptable. For example, Article 20 allows for organ or tissue removal from minors under the condition that (a) consent is obtained from their parents and (b) the removed organs or tissues are used to save the life of a sibling. This is the case of the “saviour baby” discussed above.

There is an additional Protocol to the Convention that explicitly prohibits the cloning of human beings, which has so far been ratified by 21 countries. Contrary to the EU Fundamental Rights Charter, this Protocol does not differentiate between “reproductive” and “therapeutic” cloning.

In the absence of more specific rules, it is certainly arguable that general rules such as the right to life or the prohibition of slavery could be applied to medically assisted reproduction techniques. This, however, has so far hardly been attempted in academic literature, and there appears to be no case law of international human rights bodies. It must be concluded that international law, as things currently stand, offers little protection.

Inversely, however, the same can be said with regard to the question as to whether international law obliges states to legalize any of the medically assisted reproductive practices set out above. This appears not to be the case, and there
is therefore nothing to prevent a state from prohibiting those practices altogether. The attempt to establish a "right to assisted procreation" on the basis of an "equality" argument ("if a State has legalized some methods of reproductive medicine, it must also legalize all the others, so that all persons may fulfil their desire to have a child") has ultimately remained unsuccessful in Europe, when the ECtHR Grand Chamber in the case of S.H. and others v. Austria reversed a prior Chamber judgment in which such a right had been "found".

4.5. The Use of Embryonic Stem Cells

The current discussion around the use of, and research on, embryonic human stem cells (heSCs), cannot be understood if it is not placed in context with the issues of abortion and IVF. Both abortion and IVF have in common that they make available a considerable quantity of foetal tissue (the aborted foetuses) or even complete human embryos (the "surplus embryos" that are created in the context of an IVF procedure, but not transferred into a female uterus). These foetuses and embryos are the much sought-after raw material for biomedical research.

In a certain sense, the aspirations and ambitions of biomedical researchers (and of the industry that finances them), and the promises they make with regard to the potential outcome of their research activities, are today one of the main driving forces for the pro-abortion and pro-IVF movement: the pharma industry wants foetal tissue and heSCs to be available, and it therefore does not want that the fact that these are in fact human bodies be discussed and understood by wider circles in society. It is for this reason that it provides strong support, financial and otherwise, to the pro-abortion movement. Without aborted foetuses and "surplus embryos" this branch of scientific research could simply not exist. And if ever any therapeutic application were to be developed on the basis of this research, such therapies would inevitably require the use of such foetal tissue or of heSCs obtained from an embryo that is destroyed in the process.

4.5.1. Current State of Play and Expected Development

The expectations that have been raised with regard to the potential therapeutic uses of heSCs are indeed very high. HeSCs are cells that can be obtained from human embryos at the very first stages of their development and that have the potential to develop into any kind of body cells. It is hoped that they could be used to replace any cells in a human body that, for whatever therapeutic purpose, need replacement. In this way, researchers hope to develop therapies in which heSCs could be used to regenerate, or even completely replace, human organs that are befallen by a disease, or to cure degenerative diseases such as Alzheimer, Parkinson, etc.

One problem here (like in transplantation medicine) is, however, that the human immune system rejects cells and tissue that are
transferred from another human organism. This is why researchers thought that “therapeutic cloning” might be a possible solution, as this would allow transferring stem cells obtained from an embryo that was genetically identical to the recipient. One could thus create clones for each adult person in order to use them as source for the supply of "spare parts".

While the ethical controversy around stem cell research and cloning did not prevent research on heSCs (often with political support and funding from governments or the EU) from taking place, it now appears that the euphoria was premature: the results that were obtained have fallen far behind the expectations. It appears that heSCs, when they are transferred into another human organism, cannot be easily controlled and have a tendency of behaving like cancer cells. Nearly all test animals that have been subject to tests with embryonic stem cells developed cancers. It is under these circumstances very unlikely that any therapeutic use of heSCs can be developed in the near or medium term future.

Furthermore, heSC research is affected by a serious credibility crisis, following a series of cases of scientific fraud.

4.5.2. The Ethical Issue

The ethical objection against the research on, or therapeutic use of, heSCs is easily summarized: those stem cells are obtained by destroying the embryo, who is a human person. And even if the embryo were not destroyed, it would still remain that he would be “made” and “used”, without his consent, for no other purpose than to act as a supplier of stem cells. A human being is turned into raw material, a person into a thing: an exemplary case of a violation of human dignity.

As things currently stand, the attempt to develop such “therapeutic” uses has currently suffered some severe set-backs. But if such “therapies” ever were to be developed in the future, then it would be therapies whose application each time requires the destruction of a human being. The ethical dilemma is therefore not that a few “surplus embryos” must be sacrificed to achieve important scientific progress (which would be unacceptable anyway, given that those embryos are in fact human beings), but that we are searching for therapies that, if generally used, would require a constant supply of such “surplus embryos”. In this way, medical progress would have the truly perverse effect of dividing humanity into two groups: one has to supply the material (or should we say: it is the material?) that is needed to cater for the needs of the other one. Once again, we could speak of a class of slaves and a class of masters, or even of “therapeutic cannibalism”.

94
There is absolutely no purpose that could ever justify the development of such therapies. The problem with the therapeutic use of heSCs is not that it currently does not yet work (an obstacle that, at some point in future, might be overcome), but that it is intrinsically and profoundly immoral.

We should therefore be grateful that the lack of success of the research directed at therapeutic uses of heSCs has, at least until today, spared us the dilemma of seeing such “therapies” being applied in practice. But it is for reasons of principle rather than in view of its lack of success that such research activities should be stopped and, if possible, internationally outlawed.

4.5.3. The Alternative: Adult Stem Cells

While research on heSCs has so far not yielded any therapeutic use, research on adult stem cells has been far more successful.

Adult stem cells are obtained not from an embryo that is killed in the process, but from the adult person itself, notably from the spinal marrow. Contrary to heSCs, adult stem cells are not “totipotential” (i.e., they cannot develop into all kinds of somatic cells), but they are still capable of developing into a wide variety of cells and do not carry the same “carcinogenic” risks. They are unproblematic from an ethical point of view, and at the same time have already successfully been used for a wide variety of therapeutic purposes.

4.6. Euthanasia

4.6.1. General Considerations

Among the issues related to the right to life, euthanasia is perhaps the least trivial one. This has to do with the fact that progress in the medical science allows it nowadays not only to heal many diseases, but also to sustain alive (for at times a considerable period) people who are terminally ill or who have fallen into a coma. At least in societies with a high standard of healthcare, death is today typically not a sudden event, but a protracted process that takes place under the surveillance of, and is controlled by, doctors, nurses, and (possibly) the family of the moribund person.

Another problem is that, despite all medical progress, there is an increasing shortage of resources when it comes to providing care for sick persons who cannot care for themselves. Many families find it difficult to cope with the responsibility of caring for a sickly elderly parent or grandparent, who needs to be washed, dressed, fed, and led to the toilet. In aging societies, the number of those who need care increases, whereas the number of those who can provide it diminishes. According to some statistics, a person’s last year usually is the most expensive one in terms of health care needs, often
accounting for more than 50% of the healthcare expenses incurred during the entire life span.

At the same time, there is in many parts of society a mindset that does not accept pain and suffering, to the effect that many consider it legitimate, and even charitable, to eliminate suffering at the cost of eliminating the person who suffers. In some cases, such considerations seem to be inspired by a genuine (if misguided) sentiment of compassion for the sick person, whereas in other cases this seeming compassion may in fact conceal the egoism or self-interest of those who feel overwhelmed by their responsibility to provide care, and who feel they cannot continue sacrificing their time and financial resources in the service of a sick family member with whom they maybe cannot even communicate any more.

All this confronts the present generation with an enormous moral dilemma for which there is no real precedent in history. Yet it is clear that this dilemma cannot be solved simply by killing the sick, the unproductive, and those who have no money left to pay for their health care.

Indeed, the moral imperative not to kill anyone forecloses even the possibility of killing those who say they want to be killed. For who can be certain that such a statement expresses a genuine desire, rather than a cry for help that could better be answered by more love and better care? It is true that many people nowadays say that they would rather die quickly and painlessly than going through a protracted process of deceasing: but does that actually mean that, when the time has come, they want to be killed? Does such a statement, which has been made maybe years ago, or in a moment of depression, provide legitimacy to such an act when the person concerned has lost conscience and cannot be asked anymore? Do such statements, when they are made by people that depend on the care provided by others, not rather reflect a will not to be a burden to those others rather than a will to die? Is there not a risk that people could feel pressured, or indeed be pressured into making such statements?

4.6.2. Some Guiding Principles

The list of dilemmas is long, and it is not possible here to discuss each of them. We believe that the issue is best dealt with through a set of clear principles:

– It is always wrong to kill a human being, even if it is likely to die soon.

– This applies also in situations where a person asks to be killed. On the one hand, there always will remain uncertainty whether such a request expresses a genuine will, or whether it is due to pressure, a state of momentous depression, or irrational fear. On
the other hand, no one has the right to impose on another person the task of killing.

− In particular, if doctors or nurses were to accommodate such requests, the deontology of their profession would be undermined. *The task of doctors and nurses is to cure, not to kill.*

− *There is a difference between (1) killing a person and (2) abstaining from actions that, while not being apt to heal the patient, might prolong his life.* It is legitimate for a terminally ill person not to want such life-prolonging treatments. If it expresses such a will, that should be respected. Even where the patient is no more able to express a will, doctors should be careful to avoid the useless prolongation of suffering.

− *It is legitimate to provide to a terminally ill patient palliative treatments, even if such treatments may have the collateral effect of shortening the patient’s life.* “Collateral” means here that this must not be the purpose of the measure, but a side-effect that, albeit not desired, is accepted in exchange for the pain-easing effect. This does therefore not legitimize the direct killing of a person.

− *In any case, it is not legitimate to withhold ordinary care (such as feeding the patient, or providing him with oxygen) in order to cause the patient’s death.*

4.6.3. **The Legislation on Euthanasia in Various Countries**

Although there is a discussion on the possible legalization of euthanasia going on in nearly all countries of the West, very few have actually legalized it. The first country to do so were the Netherlands, followed by Belgium and Luxemburg. In the US, the states of Oregon and Washington have laws that legalize euthanasia. Those laws exempt doctors who kill their patients at their request, or who assist them in killing themselves, from prosecution.

Those who proposed and enacted these laws have always argued that the purpose was to bring a frequent but hidden practice out of the legal grey zone and to provide legal certainty for all involved. They also argued that euthanasia would remain the solution of the last resort, and that it would be subject to restrictive rules and to the strictest controls. Those warning against these laws have, by contrast, argued that adopting them would mean to enter on a slippery slope and that soon the scope for euthanasia would be gradually widened, until the situation finally would be out of control.

While the statistics may be a subject of debate, there can be no doubt with regard to a tendency in countries where euthanasia has
been introduced, to gradually widen its scope. In the Netherlands, for example, euthanasia for children under twelve years is in principle prohibited, but doctors nevertheless provide it. The Belgian law goes as far as legalizing euthanasia for handicapped persons as well as for new-born children. According to reports, a high proportion of euthanasia cases there is actually “without request or consent”. There appears to be a considerable rate of underreporting. The latest development is that in Belgium (healthy) prisoners serving life sentences have requested (and obtained) “euthanasia”, thus turning it into a “voluntary death penalty”.

4.6.4. International Law

Supporters of euthanasia argue that human dignity includes the right to be master of one’s own death and that, therefore, euthanasia should be considered a human right. There is, however, no international human rights convention in which a “right to euthanasia” is explicitly recognized. Attempts to obtain, through strategic litigation, a declaration from the ECtHR that a “right to euthanasia” is implicit in Article 8 ECHR (Right to respect for private life) have so far been unsuccessful (case of Haas v. Switzerland).

No attempts have so far been made to ascertain whether the obligation for States to protect the right to life includes an obligation to prohibit euthanasia.

4.6.5. Advance Health Care Directives

Some consider that the use of “advance health care directives”, and the adoption of laws that provide them with binding effects, might constitute a solution for the problem. The idea is to make the patient’s own will the supreme criterion for what is going to happen with him.

An advance health care directive, also known as “living will”, is a set of written instructions through which one may specify what actions should be taken for one’s health in case one were no longer able to make decisions due to illness or incapacity. The instruction may also appoint someone, usually called an agent, to make such decisions on their behalf. In that way, the will (or the suspected will) of the patient provide legitimacy to a doctor’s decision to continue or discontinue treatment. The doctor may, as a result, not feel pressed to maintain all life-prolonging measures until the very end.

While the intention seems understandable, the idea of legally regulating such advance health care directives, and to provide them with binding effect, merits to be met with the highest degree of scepticism. Advance directives are obviously not needed for situations in which the patient is still able to decide for himself, but it remains questionable whether, when making such a directive, he is actually capable of knowing what his will is likely to be in a
situation he neither could foresee nor imagine. Indeed, the problem is that average persons who are no medical experts will hardly be capable of foreseeing all possible situations that might befall them, nor of assessing the usefulness or uselessness of any given medical treatment in such a situation. There are strong reasons to think, therefore, that the invitation to draft an advance health care directive is, in most cases, asking too much from the patient, and there is an evident risk for him to make choices that, based on a misjudgement, might cost him his life.

There is furthermore the risk that such advance directives might create some perverse liability risks for doctors who save the lives of people who then say they would have preferred to die. Let us for example consider the case of a young man who, having stipulated in his advance will that in the case of illness or accident he would prefer to die quickly rather than being dependent on care for the rest of his life, has a crash with his motorcycle. Thanks to the prompt intervention by an emergency doctor his life is saved, but unfortunately his spinal cord is injured with the result that he is paraplegic and has to spend the rest of his lifetime in a wheelchair. Can he sue the emergency doctor for “wrongful life”, saying that he would prefer to be dead? Will the doctor have to take in charge all the expenses caused by the paraplegic’s continued existence?

4.7. Organ Transplantation

Organ transplantation is the moving of an organ from one body to another, for the purpose of replacing the recipient’s damaged or absent organ. Organs that can be transplanted include the heart, kidneys, liver, lungs, pancreas, intestine, and thymus. Worldwide, the kidneys are the most commonly transplanted organs, followed closely by the liver and then the heart. The cornea and musculoskeletal grafts are the most commonly transplanted tissues; these outnumber organ transplants by more than tenfold.

While the procedure may be beneficial, and often life-saving, for the recipient, it nevertheless raises a number of serious concerns:

– the concern that the organs to be transplanted could be obtained from people without their consent. For example, in China most of the organs used for transplantation stem from prisoners who have been sentenced to death. Allegedly, it even occurs that executions take place, and death sentences are issued, in function of demands for transplantable organs (including from outside China).

– the concern that the practice of organ transplantation could give rise to a “transplantation tourism” from rich to poor countries: poor people might be pressured to sell one or more of their organs, or even those of their children, in order to get some money.
the concern that, where the organ to be transplanted is obtained from a deceased “donor” (as is necessarily the case when a liver or a heart is transplanted), the donor might in fact still be living when the organs are removed, making the removal of the organs the true cause of his death. There are widespread doubts in the scientific community with regard to the criterion of “brain death”, a criterion that has been developed precisely with the intention of increasing the availability of donor organs for transplantation.

the concern over rampant corruption among those who have the power to decide who should enjoy priority in receiving an organ transplantation. (Recent revelations in Germany have shown that it is a frequent practice among transplantation doctors to accept bribes in return for manipulating the waiting lists of possible recipients of donated organs. If those on the waiting list are considered to hold some kind of “entitlement” to an donated organ, then it could be argued that those manipulations were tantamount to murder: the live-saving organ that was given to one patient was withheld from the other…)

With regard to the first two points, it is self-evident that taking organs from people without their consent is an extremely serious violation of human dignity as well as of the right to bodily integrity. As we have pointed out before, such practices are similar both to cannibalism and to slave trade.

While the moral principle appears to be widely recognized, the protection offered by international law seems weak. The availability of transplantation surgery has created a demand for donated organs, and as this type of surgery is increasingly seen as a standard therapy this demand is likely to increase. Already now, politicians dealing with public health deplore the "lack of organ donations" and seek ways to increase them, including, in some countries, by establishing (rather questionable) legal presumptions that anyone who does not object is to be considered a presumptive "donor". By contrast, there is not a similar concern for the rights of the persons from whom the “donated” organs are obtained.

The Oviedo convention of the Council of Europe appears to be the only international treaty worldwide to deal with the issue of organ donation, but the requirements it establishes for "consent" seem rather weak (see above). In addition, a number of Council of Europe Member States have neither signed nor ratified this Convention. The explicit provision that "the human body and its parts shall not, as such, give rise to financial gain" (Article 21 of the Oviedo Convention) applies thus only to a small number of countries. But even assuming that there were world-wide agreement on this rule, there would still be a need to step up global efforts to prevent trafficking.

With regard to the increasing doubts around the "brain death" criterion it should be noted that this criterion should be made the subject of a renewed scientific debate. In the meantime, however, a precautionary principle leads us to consider that "brain death" is not an apt criterion, and that the
removal of transplantable organs from "brain dead" people is in fact a morally unacceptable practice.
5. **Equality and Anti-discrimination**

A relatively new phenomenon in western legal culture is the proliferation of legislation that is designed to "fight discrimination" and to "promote equality". In the United States, such policies acquired certain notoriety as "affirmative action" from the 1960s onwards, whereas in Europe the EU has adopted a series of "Anti-Discrimination Directives" and has defined "equality" as one of the fundamental rights in the EU. From the perspective of this paper, "equality" and "anti-discrimination" policies have a double nature. They may, on the one hand, be viewed as mere instruments to promote a social and political agenda one may, or may not, like. (As it turns out, they are mostly used to promote the homosexualist agenda we are opposing, but that does not per se mean that they could not also be creatively used to promote our own agenda...) On the other hand, reaching beyond this merely instrumental approach, we may ask ourselves whether "anti-discrimination" and "equality" are not the expression of a new social heresy that needs to be made subject of a fundamental critique. In this section, we will begin with examining this assumption.

5.1. "Equality" and the Traditional Concept of Justice

The traditional concept of justice, which has underpinned western moral and legal thinking from antiquity to modern times, is aptly summarized in the following two sentences:

- "Iustitia est constans et perpetua voluntas suum cuique tribuendi" – Justice is the constant and perpetual will to render to every man his due.

and

- Justice means to treat the equal equally, the unequal unequally, and everything according to its merit.

It is obvious that the fundamental principle here is "what is due to someone" (in other words: merit), not "equality". Equality is only a secondary principle: equal merit should be equally rewarded, but there should be no equal reward for unequal merit.

But what is equal? Should A and B receive equal pay because their work output is of equal value, or because they have worked an equal amount of time (albeit with unequal output), or because they have spent the same amount of years working for their employer, or because they both have a wife and two children to feed? It is obvious that justice to a very large extent depends on the choice of the right criterion for comparison, i.e. the tertium comparationis.

Looking at contemporary "anti-discrimination" policies, one quickly finds that their core tenet is to outlaw certain criteria such as race, religion, descent, gender, disability, or sexual orientation. These criteria, oftentimes
called "suspect criteria" must never be used as a criterion for any decision, except where it can be proven that the application of such criteria is necessary and justified.

On the surface, this looks harmless, given that there still is, at least in theory, still some leeway to apply those criteria whenever there is a justification for doing so: Catholic schools, for example, may continue employing Catholic rather than non-believing teachers. A theatre may still continue to give female roles to female actors, male roles to male actors, and reserve the role of Othello to a negro or the role of Dzinghis Khan to a Chinese. The necessary exceptions are in place. On the face of it, there seems to be no disagreement between the classical concept of "suum cuique" and contemporary "equality", given that we all agree that the criteria that are used must be appropriate.

So, where is the catch?

It consists in two elements. One is that anti-discrimination policies, if applied to the contractual/commercial decisions of private persons, lead to a loss of liberty, given that people are required to provide justifications for decisions they were, until now, free to make as they liked (for more detail, see the following sub-section). The second, and more important, is that those assessing the appropriateness of the criteria used may use their power to impose their own opinions, and in particular their own moral views, on the rest of society. And those moral views are oftentimes questionable, especially when it comes to issues related to "sexual orientation".

Indeed, while the principle that men and women should have the same rights, or that nobody should be discriminated against because of his race, does not seem to spur much controversy, there is no similar consensus with regard to criteria like religion or "sexual orientation". The decisive difference is that, even if some may argue that most people have never chosen their religion or "sexual orientation", such criteria have a strong bearing on morality that is inextricably associated with them. For example, while many Muslims are perfectly peaceful and honourable people, one cannot simply discard the fact that Islam is viewed by a certain quantity of its believers as a religion that must be propagated "with fire and sword", and hence justifies violence and terror against non-believers. Is it then so irrational for non-Muslims to oppose the idea of Muslim mass immigration? Is it really unwise for those responsible for airport security to avoid hiring Muslim employees? There are good reasons to argue that it is wise to grant tolerance with regard to religious communities such as Islam as long as such tolerance does not undermine the common good. But there is a wide difference between tolerance and granting an entitlement to equal treatment to all religious communities irrespective of their beliefs.

With particular regard to "sexual orientation" it must be noted that this is clearly the most controversial of all "suspect grounds". While some say that nobody should suffer any disadvantage because of his "sexual orientation", which is innate and unalterable, and that everyone should be
entitled to act in accordance to this orientation, others reply that the problem is not any "sexual orientation", but a deliberately willed behaviour that is counter-natural and intrinsically immoral, and that "anti-discrimination" should not be the sanctimonious pretext for promoting such immorality.

This is thus, to say the least, a conflict of values on which society is deeply divided, and there is ample ground to argue that it would be absurd to frame this debate in terms of "discrimination" and "equality". By prohibiting "discrimination on grounds of sexual orientation", the law attempts to exclude all moral judgments from a debate on what is essentially a moral issue. In fact, the true question here is not about the discrimination of a group, but about the morality of that group’s behaviour, and whether it should be tolerated, accepted, or even promoted. Indeed, one could even question the applicability of the auxiliary word "to be" to issues related to homosexuality: can one really "be" homosexual in the same sense as one is male or female, black or white, old or young, healthy or handicapped? Are homosexuals really discriminated because of an innate "orientation", or is it not their behaviour that is found repulsive by many? If any unwelcome behaviour can be traced back to innate "orientations", would it then not be a discrimination of kleptomaniacs to prohibit theft, a discrimination of alcoholics to prohibit drunk driving, or a discrimination of pyromaniacs to prohibit arson?

It is not our purpose here to answer all these questions. But it can safely be said that sodomy is with good reasons considered both immoral and unhealthy by many, and that, as a consequence, the inclusion of "sexual orientation" in laws on anti-discrimination appears to be a strategy to promote a cultural revolution that is widely disapproved both in western societies and, even more so, abroad. Of course it is possible to imagine situations where homosexuals may be victims of discrimination (for example if, in a given country, real or suspected homosexuals were prevented from obtaining a driving license, or if violence directed against them were not punishable). But such situations do not appear to occur frequently. Instead, it is more than obvious that anti-discrimination legislation, where it exists, is used to inappropriately curtail the freedom of opinion and expression of all those who have moral reservations against sodomy (e.g. persons who express the view that sodomy is not a normal sexual behaviour, or parents who try to educate their children in conformity with their own moral values), and to silence them. It can thus with right be said that "sexual orientation" is the free-rider among the individual anti-discrimination issues: uncontroversial issues such as the protection of handicapped people are used to surreptitiously advance a highly controversial agenda.

5.2. "Equality" and Freedom

It is uncontested that the state should treat all citizens equally, and that politicians or public servants are not free to distribute benefits and advantages, or to impose disadvantages in whatever way they like. But for private persons the possibility of making their own choices is one of the
constitutive elements of personal freedom. Each and every attempt to extend the applicability of "anti-discrimination" rules to the domain of contracts between private persons or privately owned companies is thus tantamount to a restriction of liberty: entrepreneurs are no longer free to decide whom they want to hire, house owners are no longer free to decide whom they want to have as tenants, etc.

Besides mere communication, the conclusion of contracts is the most important means of social interaction. Restrictions of the freedom of contract are therefore a restriction of freedom at large — and they must therefore be applied only with the greatest caution. While the application of anti-discrimination rules to the state has been put in place to protect the liberty of citizens, this very same liberty is undermined when anti-discrimination policies interfere with their private lives. What is benign in one case, is insidious in the other. The question is whether "equality" is such important a policy objective as to justify such restrictions of contractual liberty.

In a free society, people should be allowed to have personal preferences, and to act accordingly without being subject to any censure or scrutiny. This includes also the possibility to make choices that are "discriminatory". Where such a liberty is not respected, society will soon become totalitarian. As the historical experience clearly shows, equality always stands to some extent in contradiction with liberty, and a society can only be free if a certain degree of inequality is accepted. In a certain sense, therefore, contemporary "anti-discrimination" policies appear to be a new strategy to re-animate socialism, albeit under a different name. They lead to expropriation as well as to a severe curtailing of personal freedom and to a totalitarian intrusion of state authorities into the private sphere.

An egregious example of the liberty-killing effects of "anti-discrimination" legislation is provided by a recent decision of a British law court, in which the owners of a bed and breakfast who had followed a policy of giving rooms with double beds only to married (different-sex) couples were condemned to pay £ 3.600 in punitive damages for to a homosexual couple who claimed to be victims of "discrimination". The judgment is not to be criticised because the judge correctly applied the relevant legislation, the Equality Act (Sexual Orientation) Regulations 2007. Nevertheless, the judge made a remarkable statement when he said:

"I am quite satisfied as to the genuineness of the defendants’ beliefs and it is, I have no doubt, one which others also hold. It is a very clear example of how social attitudes have changed over the years for it is not so very long ago that these beliefs of the defendants would have been those accepted as normal by society at large. Now it is the other way around."

"It is clearly in my view the case that each side hold perfectly honourable and respectable, albeit wholly contrary, views."
What the judgment spells out in remarkable clarity is that the new law makes it a punishable offence for the defendants to act in accordance with their "perfectly honourable and respectable views". We obviously do not share the view that sodomy is honourable and respectable, but that is not the point here. But even supposing (for argument's sake), as the judge does, that the views of both parties were "honourable and respectable", the Equality Regulations would result in privileging the views of one side, and in outlawing the equally respectable views of the other. This is not "equality", but it creates a new, and more radical, form of discrimination. Previously, sodomy was not tolerated because it was, on the basis of sound arguments, viewed as immoral. Nowadays, the legislator simply forbids people to act in accordance with their convictions, even if those convictions are "perfectly honourable and respectable".

Furthermore, the judgment (or rather the legislation it applies) reveals a totalitarian and distorted concept of democracy: supposedly, if the "social attitudes" of a majority in society changes, that majority has the right to arbitrarily impose its new attitudes on the minority that does not share them, even if the minority's views are found to be "perfectly honourable and respectable". This results in a "dictatorship of the majority", which clearly is at odds with democratic principles.

The necessity to preserve individual liberty is thus a strong argument against any "anti-discrimination" laws to apply to the private sector.

5.3. "Affirmative Action": Anti-Discrimination = Discrimination

In some countries, legislators seek to achieve "equality" (in particular between men and women) through "positive discrimination", which is also known by the term "affirmative action". For example, Norway imposes a quota of 40% of female board members for public companies. The EU is currently discussing whether such a quota should be imposed Europe-wide. Article 23 of the EU Fundamental Rights Charter explicitly legitimates such practices, by providing:

"Equality between men and women must be ensured in all areas, including employment, work and pay. The principle of equality shall not prevent the maintenance or adoption of measures providing for specific advantages in favour of the under-represented sex."

This raises fundamental doubts about the meaning of "equality". What provisions like Article 23 of the EU FRC, or the measures described there, do, is that they cancel out the concept of "equal rights" and replace it with "equal benefits". In this perspective, membership in a company board is not a job that carries high responsibilities for the property of other people (i.e. the company's shareholders), and hence should be occupied with the most suitable candidate, but it merely is a "privilege" or a "social benefit" that must be distributed evenly according to fixed gender quotas (or maybe, if
This is allowed to go on, according to "diversity" criteria such as race, disability, or sexual habits).

This is the point where "anti-discrimination" rhetoric turns out to be self-defeating. Rather than eliminating discrimination, “anti-discrimination laws” institutionalize it, and rather than prohibiting the use of inappropriate/irrelevant criteria, they turn it into a mandatory obligation. In addition, such policies create a new class of super-privileged people (e.g. the relatively few women who actually qualify for, and are interested in, board room positions, and accumulate them), and risk to seriously jeopardize the economic competitiveness of any country that embraces them (it is hardly likely that investors will like the idea that companies should be managed by any other than the best qualified people...).

Policies such as gender quotas are revelatory of the fact that "anti-discrimination" has a truly Orwellian character. It does the exact opposite of what it pretends to do, it undercuts personal and economic freedom, and it uses benign rhetoric to conceal a truly totalitarian outlook on society.
6. Reflections on Strategy

While the preceding sections of this paper have dealt with subject matter, this section deals with strategy. Its purpose is twofold:

– First, to develop general strategic assumptions and to explain the tools and techniques that are at our disposition, and how they can be used;

and

– Second, to define our long term objectives and to identify possible intermediate steps that can realistically be achieved in the short and medium term future.

6.1. The Need for an Offensive Agenda

We are in the midst of a culture war which we will inevitably lose if we remain in the defensive.

The rules of the game in democratically constituted societies are fairly simple. Politics are made by pressure groups rather than by people who seek to promote the common good. When one such pressure group wants to obtain something that is opposed by no one, it will get it. If, by contrast, there is opposition, the likely outcome is that there will be a political compromise that gives the pressure group some of what it wants.

The success of the pro-abortion and LGBT lobbies in recent years is thus easily explained. The agenda of those lobbies was met either with no resistance at all, or (more frequently) with resistance that merely sought to defend the status quo. This defensive strategy certainly did help in somewhat delaying the advancement of the Cultural Revolution, but it did not stop it. Whenever a compromise had to be made, it was half-way between the status quo and the most extreme proposals made by the revolutionaries. This put the revolutionaries in a comfortable position: whatever they asked for, they could be sure to obtain at least half of it. And whenever such an achievement had been reached, they could pocket it and go on pressing for the remaining half, and then for the remaining half of that half, and so on. This is what once was baptized "salami-tactics" by the communist revolutionaries in post-war Hungary.

If our strategy does not change, the development can only go into one direction, and the revolutionaries will never face the risk of losing what they have already achieved. It is therefore necessary to develop an offensive agenda, i.e. a list of policy objectives that will hurt our opponents. This offensive agenda has thus a double purpose:

– To make sure that the advancement of the Cultural Revolution is halted: if our agenda deviates from the status quo as much as theirs, then the maintenance of the status quo will be a likely compromise. Every radical
proposal they make should therefore be answered by an equally radical proposal from our side.

– **To roll back the Cultural Revolution** which has advanced too far for the current status quo to be an acceptable situation.

**We should therefore not be afraid to be "unrealistic" or "extremist" in choosing our policy objectives. On the contrary, the seemingly "unrealistic" objectives may be helpful in achieving the more "realistic" ones. And once we begin achieving the “realistic” objectives, the “unrealistic" ones will no longer be out of reach.**

Nevertheless, it is clear that besides those "unrealistic" long term objectives we also need realistic objectives that can be reached in the short and medium term.

The long term strategic objective is a universal one (i.e., it remains the same for all countries and all times), namely to ensure that the secular legal order is under all aspects conform to the unalterable precepts of Natural Law. The short term objectives may, however, considerably vary from one country to another, depending on the status quo in that given country. There is no status quo that could not be improved.

In order to identify possible short and medium term objectives, it might be useful to start by chartering the situation in the various jurisdictions. This might be done by sending a questionnaire to reliable respondents in each of those jurisdictions in order to collect information on the current legal situation with regard to each of the issues discussed above. On this basis, a "**Scoreboard on Life, Marriage and the Family**" could be established. This could be published to raise awareness, and at the same time it could give us orientation for our work.

**6.2. The Need to Understand, and Learn from, our Opponents**

There is no need to conceal the truth from ourselves: our opponents have been highly successful in promoting their agenda during the last fifty years. If that is so, the reason must be that they have developed a highly successful strategy. And if that strategy was successful, we might try to learn from it.

That is not to say that we should simply use the same strategies as they. Indeed, simply copying them would be an impossibility for two reasons:

– firstly, because – as we will elaborate in further course - some of those strategies are as intrinsically immoral as the aims that are pursued through them; and

– second, because the same strategies are not suitable for all purposes.

Nevertheless, it appears useful to familiarize ourselves with our opponents as well as with the way in which they operate.
6.2.1. *Their organizations*

The fact that all the different issues of the Cultural Revolution are inextricably intertwined is well understood by our opponents. This is why they work together on all of these issues, even if they may have very different backgrounds and motivations.

At EU as well as on international level, we can observe that there is a long-standing, mutually supportive coalition between the abortion and “reproductive services” industry, the lesbian and gay lobby, the radical feminist lobby, and militant atheist and masonic networks. On the Brussels/Strasbourg turf, the most relevant representatives of these different groups are:

- the abortion lobby: International Planned Parenthood Federation (IPPF), the European Parliamentary Forum for Population and Development (EPF), Deutsche Stiftung Weltbevölkerung (DSW), Marie Stopes International (MSI)
- the lesbian and gay lobby: ILGA-Europe and its various affiliates, Interights, the International Commission of Jurists
- the radical feminist lobby: the European Women’s Lobby (EWL)
- militant atheists: European Humanist Federation (EHF).

The close-knit co-operation between these groups becomes manifest through the fact that they not only take a mutual interest in each other’s affairs, but also openly support each other, including on issues that one might expect not to be on the agenda of each of them. (For example, why should the gay lobby support liberal abortion laws? And why should the abortion industry support same-sex “marriage”?) The above-mentioned groups have often been observed to address joint letters to the political institutions of the EU, to jointly organize events, or to hold joint strategy meetings. It is also conspicuous that they draw support always from the same (mostly socialist, communist, green/ecologist, or liberal) politicians.

Despite their converging interests, these groups are actually quite different one from another. The rough analysis we can offer is as follows:

6.2.1.1. *The abortion/contraception/“reproductive rights” lobby:*

Amongst the pressure groups mentioned here, this is probably the most business-like. Abortion and “reproductive health services” are big business with huge turnovers and profits.
There also is reason to suspect a strong involvement of the pharma industry (one of the wealthiest and most powerful industry lobbies on the Brussels turf), given their business interest in selling contraceptives and other drugs, - notably including drugs against the HIV/AIDS. (It should be noted that AIDS has been spread around the globe by "men having sex with men", and that this group remains the most affected by it, creating a stable demand for these rather expensive drugs.)

The lobbying of the abortion industry is therefore very similar to the lobbying of other industries that seek to protect their vested interests: they seek a business-friendly legal environment and social respectability. This is why they frequently vest their agenda in development and human rights language to make it look “philanthropic”. But this “philanthropy” is a highly efficient business model, worth millions of Euros of development aid funds.

6.2.1.2. The lesbian and gay lobby

The lesbian and gay lobby has a peculiarity that we, as its opponents, should always be mindful of: it is absolutely not representative of the people it claims to represent.

We have already indicated why it is problematic to speak of “homosexuality” as a condition, or “homosexuals” as a group. Both concepts are part of the lobby’s highly sophisticated rhetoric, but have little to do with reality.

In actual fact, people identifying as gay/lesbian can roughly be subdivided into three categories: (1) those who, being painfully aware of the immorality of sodomy, suffer from their proclivities and want to get rid of them; (2) those who “prefer to remain in the closet” (i.e., those who, regarding their sex life as a purely private matter, simply want to get on with their lives and see no interest in asserting the “equality” of what they do with what others do), and (3) highly ideologized gays and lesbians who assert the “equality” of sodomy with marriage.

There is good reason to believe that (1) is the biggest group of the three, whereas (3) is by far the smallest. But it is only group (3) that ILGA-Europe represents, whereas (1) and (2) are completely sidelined. In the case of group (1) this has the tragic implication that, not at all being in line with the ILGA-Europe dogma, it is discriminated against and silenced.
The reason for this is that ILGA-Europe is completely independent of the gays and lesbians it claims to represent. It does not live on the financial contributions made by this constituency, but (to a very large extent) on operative grants made by the European Commission and (to a far lesser extent) on donations by a very small number of wealthy individuals such as George Soros. The fact that ILGA-Europe receives huge subsidies from the EU budget is also evidence that it represents, more than anything else, a socio-political project that is dear to the hearts of certain politicians.

6.2.1.3. The radical feminist lobby

With regard to women’s rights the situation is very similar. The European Women’s Lobby (EWL) is not at all representative of all European women, but only of feminists. Again, the reason is that this pressure group receives its funds directly from the European Commission, which makes it independent from the millions on women with real lives – in particular those who actually have families and raise children. Instead, this fake “NGO” is promoting the radical policies of its political sponsors, which are typically found on the (extreme) left end of the political spectrum.

The fundamental problem is that women with a family and a job in the real economy usually are too busy to engage in politics. As a matter of consequence they are under-represented in politics, whereas childless and/or lesbian women are over-represented. The result is that policy on “women’s rights” often is openly hostile to marriage and the family, as these are not the choices that those female politicians have made for themselves.

6.2.1.4. The atheist militants

Contrary to ILGA-Europe and EWF, the European Humanist Federation (EHF) has a real constituency, albeit a very small one. Although a large majority of Europeans still adhere to the Christian or another faith, there are also many whose religious life is of very low intensity, if it exists at all. The strategy of the EHF is to pass itself off as the representative body of all those who do not actively follow any particular faith. This claim, however, is spurious: The militantly anti-religious ideology of EHF, which is at times termed as “humanism”, at times as “secularism”, is itself a religion-like ideology to which (even among non-religious people) not many adhere. The
real Europe-wide constituency of EHF may thus be estimated at not more than a few thousand.

6.2.2.  *Their strategies*

Our opponents’ strategy follows two different tracks that may (at times, even to themselves) seem contradictory, but in fact perfectly complement each other: (1) persuasion through clever propaganda, and (2) intimidation of those who fail to be persuaded.

The primary objective is to appropriate human rights language in order to create for themselves a benign image (as "victims of oppression", "human rights defenders", "philanthropists", etc.), and to denigrate and vilify all those who steadfastly refuse to agree with their agenda. Where these strategies do not suffice, intimidation and even physical aggression will be used.

Obviously, the (consistent!) use of intimidation and violence against opponents, which right from the beginning has been the trademark of the abortionist and homosexualist movements, does not square well with the benign image they are striving to fabricate for themselves. If only for tactical rather than moral reasons, some of their strategists have therefore warned against the use of violence, recommending to rely exclusively on propaganda. But ultimately the strategic dilemma for them is inescapable: truth is not on their side, and they will therefore never be able to prevail in a serious-minded and fair debate. This leaves them with propaganda, intimidation, and brutal force as their only methods of choice.

Obviously, we must not copy those methods. But we can expose them.

6.2.2.1.  *Forestalling rational debate*

As we believe to have shown above, the defenders of marriage, family, and the right to life need not be afraid of any debate. The positions they defend are not based on any prejudice or superstition, but on objective and rational reasons. It is the homosexualist and abortionist lobbies who, in order to defend their point of view, must reject the fundamental premise that morality has got something to do with reason, and that it is possible for the human mind to discern what is objectively right from what is objectively wrong. They are therefore not defending a false opinion on one or two specific issues, but they are fighting against rationality at large.

A rational debate, if it were ever allowed to take place, would inevitably lead to our victory, and to the total defeat of our opponents.
Our opponents know this perfectly well. They are therefore aware that if there is something they must avoid at all cost, it is a rational and fair debate based on objective and verifiable facts.

In particular:

– they seek to emotionalize debates by building up an imagery of "victimhood" and "liberation", and by framing their agenda in terms of "rights";

– they do all they can to prevent people from discussing or (even worse!) visualizing what the debate really is about. The abortion lobby do not want people to become, or remain, aware what abortion is: the killing of an innocent child. Nor do the gay lobby want people to know, or to visualize, the acts that homosexual "love" usually involves.

– Very much in the same vein, our opponents must avoid any objective and principled debate about the true moral implications of acts such as surrogacy motherhood, pre-natal selection, in-vitro-procreation, etc. They could only lose if those subjects were allowed to be debated.

6.2.2.2. Propaganda

While rational arguments are not available to our opponents, propaganda is.

It is not possible here to analyse every detail of the communication strategies used by our opponents. A valuable source of information in this regard is, however, the ground-breaking study "After The Ball- How America will conquer is fear & hatred of Gays in the '90s" by Marshall Kirk and Hunter Madsen, which as early as 1989 laid out the strategy that has allowed the gay lobby to radically change the way in which sodomy is represented in American and European public discourse. Although this book displays an incredible amount of self-delusion with regard to the authors' own perception of homosexuality, it nevertheless provides very valuable insights, which (at least partially) can also be transferred to the abortion debate and similar issues.

The first and foremost insight is that our opponents are well aware of their need to avoid rational debate, and have made a very conscious choice. Their strategy is not information, but manipulation.
"The campaign we outline in this book ... depends centrally upon a program of unabashed propaganda, firmly grounded in long-established principles of psychology and advertising."  

Several tenets of that propaganda can be traced within the strategies of all the lobbies identified above. These are the key messages our opponents want to pass to the public. Once this is understood, we can think about adequate responses:

- **Overstating their numbers**: in order to assert its "normality", the gay and lesbian lobby systematically and grossly overstate the prevalence of "homosexuality" in human. The key message is that "10% of all human beings are homosexual", whereas the actual number of persons regularly and consistently engaging in homosexual conduct is between 1 and 2%. The 10% go back to the estimates published by Alfred Kinsey in the late 1950s, which however have already long ago been shown to be an ideologically motivated fabrication. Despite this apparent lack of scientific basis, it remains one of the greatest strategic achievements of the gay lobby that "when straights are asked by pollsters for a formal estimate, the figure played back most often is the ‘10% gay’ statistic which our propagandists have been drilling into their heads for years".

Similarly, for the abortion industry, it has been a highly successful strategy to overstate the number of (clandestine) abortions taking place each year, multiplying the true figure by a factor of nearly 50. More recently, similar manipulations are carried out with regard to "maternal deaths" occurring in developing countries, with the purpose of making believe that those deaths could be avoided through so-called “safe and legal abortion”.

34 Kirk/Madsen, After the Ball, p.xxviii
35 Kirk/Madsen, After the Ball, p.15
36 Bernard Nathanson, a long-time pro-abortion campaigner who later converted and became an outspoken defender of the right to life recalled how the abortion lobby manipulated public opinion: "We aroused enough sympathy to sell our program of permissive abortion by fabricating the number of illegal abortions done annually in the U.S. The actual figure was approaching 100,000 but the figure we gave to the media repeatedly was 1,000,000. Repeating the big lie often enough convinces the public. The number of women dying from illegal abortions was around 200-250 annually. The figure constantly fed to the media was 10,000."
Asserting the "normality" of the un-normal. The "normality" of sodomy is itself another important, if not the most important, communicative objectives of the gay lobby. The purpose is to make sodomites look "like everyone else". Public exhibitions of sexual licence and extravagancy (such as in so-called "Pride Events") do not square well with this key strategy, which is why Kirk/Madsen caution against it. Instead, they want to give sodomites a (low, but) sympathetic profile, showing them as caring "family people", loving "parents", etc. This imagery is created to win sympathy, but it has nothing to do with the (well-documented) reality of the homosexual lifestyle. A film like "Broadback Mountain" has as much to do with the reality of sodomy, as the films of L. Riefenstahl and S. Eisenstein had with Nazism and communism.

Keeping the facts out of the debate: one of the most important parts of the strategy is therefore to avoid anything that might make people realize what the debate really is about. The gay lobby does not want the public to be aware what gays actually do when they "have sex". The abortion lobby reacts with panic whenever images showing a dismembered foetus are shown in public. The reason is that our opponents know that they have lost the debate when the public becomes aware of those realities.

Posturing as (a class of) "victims". Another key feature in the Kirk/Madsen strategy is to consistently represent sodomites as "victims", and those opposing their agenda as "aggressors". Every single bit of communication is designed to suit this narrative: gays/lesbians must "look good", their opponents must "look bad". This is done to "give potential protectors a good cause". (Those "potential protectors", as we must suppose, are the mass media, politicians, public servants, etc.). At the same time, opponents of the homosexual agenda should be made feel ashamed of themselves.

Holding "society" responsible for everything: if sodomites are "victims" they cannot themselves be responsible for the moral or physical evil that befalls them. Rather than they, it is either their "oppressors" or "society" who are to blame. If homosexuals are the primary victims of AIDS, that must in no way be associated with their own sexual behaviour; instead, it must be the result of some form of "discrimination". It is therefore not those "victims", but society who
should foot the bill for the ensuing healthcare needs. Likewise, if homosexuals have a particularly high incidence of suicide, the reason for this must not lie within themselves, but in the moral opprobrium against them.

- **Appealing to "ambivalent skeptics":** An important aspect of the Kirk/Madsen strategy is that the gay/lesbian lobby should never communicate with the sole purpose of expressing or affirming themselves. Instead, they should always communicate in a way that might appeal to "ambivalent skeptics", i.e. to people whom they might convert to their cause. Communication should "desensitize", i.e. hide rather than emphasize the particularities of the homosexual lifestyles and sexual practices. "Shocking" expressions of gay lifestyle should be avoided. (The exhibition of homosexuality, such as in "Gay Pride" events, is therefore not considered helpful!)

6.2.2.3. **Intimidation and Physical violence: bullying opponents into submission**

Despite the seemingly peaceful and unspectacular character of the propaganda techniques developed by Kirk/Madsen, the use of intimidation and outright physical violence does play an important role in the promotion of abortion as well as of the gay agenda. Although they are rarely reported by the mass media, incidents involving the use of intimidation and/or violence by gay rights activists, feminists, or abortion campaigners, are very frequent and well-documented. Rather than isolated cases, they do seem to be part of a larger strategy.

The reasons for this appear to be the following:

- Violence is intrinsic in our opponents' agenda: abortion, i.e. the killing of defenceless and innocent children, is the very quintessence of violence. The same applies also not only to all other acts related to "assisted procreation", to euthanasia, but also to sodomy (which does violence to human dignity). It seems normal that where violence is the ultimate objective, violence must also be a "legitimate" means to achieve it.

- Our opponents are aware of the intrinsic injustice and irrationality of their agenda. In seeking to "rationalize" (i.e., to "normalize") abortion, sodomy, euthanasia, etc., they want society to become collusive in their
attempt to delude themselves: the whole comedy will function only when everyone takes part in it. As we know from H.C. Andersen’s famous tale, it suffices that one little child cries out loud that "the Emperor has no clothes", and the illusion breaks down. This is why the abortionist and homosexualist lobbies cannot accept the existence of any opposition, however weak and small it may be.

– But, unfortunately for the abortionist and homosexualist lobbies, opposition to their agenda will never cease to exist. There will always be some people who stay rational, and who will neither be corrupted, nor swayed by propaganda. Where persuasion fails and continued dissent cannot be accepted, intimidation and violence are the only available tools. They are, so to say, the plan B where propaganda fails to produce its effect.

It is by no means coincidental that the history both of the abortionist and the homosexualist movements are, from the origins until today, tainted with violent incidents.

6.2.3. **What we must therefore do**

It is self-evident from what has been explained in the precedent section that we cannot simply copy the strategies that our opponents have so successfully used. We cannot answer propaganda with propaganda, or physical assaults with physical assaults. Not only would this be below our (and our cause’s) dignity, but it would also turn out ineffective. Not every strategy is suitable for every cause.

Nonetheless, there are a few things that, without compromising our own moral stance, we might learn from the Kirk/Madsen strategy. Notably the following:

– Not just express ourselves, but communicate.

– **Appeal to the skeptics**; they are our main audience.

– **Give our audience a good cause to fight for**.

– At times, we might, like our opponents, frame our issues in terms of "rights" (e.g. the right of fathers to prevent the abortion of their children; the right of parents to be the first educators of their children; the right of children to receive correct information, not propaganda, on sodomy…)

At the same time, we must think of ways that would efficiently neutralize our opponents’ propaganda. Knowing their key
messages, we must debunk those messages. Knowing the topics they want to avoid, we must draw the public’s attention precisely to these topics:

– Where our opponents want to spread **false** information, we must provide the **correct** facts and figures;

– Where the opponents **propagandize**, we must **inform**;

– Were they want to "**desensitize**" we must **sensitize** the audience. *(Attention! Contrary to our opponents we need not be afraid of "shocking" the audience, provided that the shock does not then turn against us. Some people attack the bringer of the bad message...)*

– Where the opponents seek to avoid certain subjects (e.g. the health risks associated with sodomy), we must be sure to bring precisely those subjects to the public attention.

– We must **turn our opponents' discourse against themselves** (e.g.: "sex education" is ok, but it should provide correct information, not propaganda. "Equal treatment" is ok, but only in equal situations. Everybody should have the right to marry, but marriage is not between persons of the same sex. "Safety at school" is good, but it includes protection against sexual grooming; “Sexual and reproductive health” is important, but it should be provided through programmes that are **really** conducive to health....)

– In the same vein, it could be a winning strategy to ourselves develop programmes on “sexual education” and “reproductive health” that, while fully in line with the moral principles set out in this paper, would nevertheless qualify for funding by public donors. The remarkable success of the pro-abortion lobby “Planned Parenthood” in recent decades was not that they won the public debate on abortion (which in fact they didn’t), but that they managed to monopolize the market for “reproductive health programmes”.

– We must **debunk the opponents' claim to "victim status"**. *(If anything, they are the victims of their own behaviour: e.g., sodomy is a source of illnesses)*

– We must **show to the audience that our opponents are not victims, but oppressors** (physical assaults on pro-lifers and marriage defenders are well-documented and provide ample evidence. There also are numerous reports on attempts by the opposition to force people to act against their own conscience.)

– If the gay lobby want to present gays as "normal", we should debunk that claim (the exhibition of obscenities at so-called and
“gay pride events” might be helpful in this. Most people find it repugnant.)

In all our communicative efforts, we should however never fall into the trap of being aggressive, or of exaggerating. Instead be factual and friendly. We must appeal to the good instincts of people, e.g. to protect their children.

6.3. The Need for Networking

The fight for our values is a global fight, taking place at the national and local level in each country, as well as on an international level. Our adversaries act globally, having set up closely knit networks of non-governmental organizations, politicians, and public servants. To be successful in our fight, we need to set up a similar network. In this context, it should be noted that such a network must be capable of acting locally (at the level of each country) as well as globally (at the level of the UN, the EU, or similar fora). It appears to be the best solution to have one or more different organizations in each country, and a roof organization that acts internationally. In such a structure, the independence and individual character of each member organization, as well as the capability to act autonomously at the local level, should be maintained and valorised. However, each member organization should adhere to the problem analysis set out in this paper, as well as to the long term strategic targets. In particular, it is necessary to understand and accept that the issues discussed here are intrinsically linked, and that the solution of one problem depends on the solution of the other. One cannot, for example, be in favour of liberal divorce law and at the same time protect marriage against a re-definition that might include same-sex marriage. One cannot be against abortion and be in favour of artificial contraceptive practices or of IVF. Thus, to adhere to this network, it is necessary to adhere to the package of values and policy targets set out in this paper.

While individual organizations should be acting on local or national level, a roof organization should be set up to act internationally/globally. This is necessary for the following reasons:

– local/national organizations are better adapted to work at local level, as they are more familiar with local conditions, such as the local political situation, legislative environment, etc. Moreover, in order to have legal standing, an organization usually must be set up according to the rules governing such associations in the respective country.

– At the same time, to be recognized and respected as an interlocutor at international or UN-level, organizations must demonstrate their capacity to act globally, i.e. to represent people and organizations from a great variety of countries. Organizations like the EU or the UN often make accreditation dependent on this quality.

– The EU provides considerable financial support for civil society that act EU-wide. Our opponents profit from such funding and support, as well as
from a direct access to EU Institutions. Although those funding mechanisms seem to have been tailor-made for our opponents, it certainly would be possible also for us to benefit from them, if we meet the conditions. This would increase our budget and, at the same time, diminish that of our opponents (because the available resources are limited).

In the aftermath of the European Citizens' Initiative ONE OF US, there is now a momentum towards a European Federation of pro-life organizations. This is a new and very positive development. There could be similar federations to specifically deal with other issues set out in this paper, such as marriage and family, religious freedom, etc.

6.4. The Need to Adapt to the Political/Legal Environment

In order to be successful, we need to make sure that we understand and use the tools and mechanisms that the different political systems put at our disposition. This is the reason why we need to have organizations at national and local level who understand the political system of a given country and know how best exert influence within that system.

On the international level, the following strategic considerations seem to be of vital importance:

6.4.1. Bring the Right People into the Right Positions

The success of much of our lobbying effort, and in particular any kind of "strategic litigation", will depend on whether in the institutions to which it is addressed it will meet like-minded people. It is therefore crucial to ensure that among the nominees for relevant positions there is always a sufficient number of persons who are not imbued by the erroneous ideology that lies at the basis of the cultural revolution, and who have the intellectual capacity to challenge those ideologies.

It would be necessary to draw up a list of key positions that will become vacant, and to develop a policy of proactively identifying and promoting suitable candidates. Realistically, this must in each case be done well ahead of the point in time in which the appointment will ultimately be made.

Such key positions include:

- key UN Personnel
- Members of relevant UN Treaty Monitoring Bodies
- UN Special Rapporteurs
• The judges of the US Supreme Court, the European Court of Justice, the European Court of Human Rights, and similar international law courts

• Constitutional judges and Supreme Court judges in all countries

• In the EU, the EU Commissioner for Fundamental Rights, and the newly created post of High Representative for Human Rights in the EEAS.

6.4.2. Influence the Academic Debate

If we want to change common sense thought and intellectual certainties in our society, the academic world is of crucial importance. It is necessary that the (very numerous) academics who share our positions do not keep their opinions to themselves, but that they are encouraged to defend those positions in public, in particular in academic publications that can be quoted when necessary.

As a first step, it would be necessary to draw up a list of such academics, and to develop a digest of relevant academic writing that we can use for argumentative purposes.

It would also be useful to have one or more periodical publications in which such contributions can be published. (Good example: the German "Zeitschrift für Lebensrecht".)

6.4.3. Create a Network of Like-minded Journalists

Much in the same vein, it would be useful to set up a worldwide network of likeminded journalists who are capable of defending natural justice in the mass media. (Example: the forced abortion issue in China, or the problem of gendercide, are issues that might be covered in more depth than is currently the case...)

6.4.4. Use the weapons of our opponents and turn them against them

We should not be afraid to draw upon the ideas and concepts that are currently prevailing in public debates and make them work for our purposes. For example, concepts like "freedom of opinion" can be used or "freedom of assembly" can be used not only by the organizers of "Gay Pride" events, but also by their opponents. "Anti-discrimination" laws can be used also by families who are socially disadvantaged with regard to double-income-no-kids couples. Contemporary mainstream culture paradoxically gives rewards to groups who manage to posture in the role of "victims of discrimination". Even if one can find this posturing questionable, there is no doubt that we can use it very successfully as a strategy (e.g. the Observatory on Christianophobia). If we use this strategy...
consistently, the least that we can achieve is that it will become less efficient for our adversaries.

6.4.5. Strategic litigation

“Strategic Litigation”, i.e. the strategic submission of complaints to “friendly-minded” judicial fora with the purpose of provoking judicial activism, has been one of the preferred strategies of our opponents in the last years. It has been quite successful for them because they could rely on the fact that in many of the relevant judicial fora (such as the various UN Treaty monitoring bodies or the ECtHR) their complaints would be heard by like-minded judges. One extreme case was the Legal Opinion, issued by a semi-official “EU Network of Experts on Fundamental Rights” that had been instituted by the European Commission, according which the “right of women to have access to abortion” superseded the freedom of conscience of doctors who do not wish to perform abortions. Another well-known case was the Lautsi-Decision of the ECtHR, in which the Court ordered all crucifixes to be removed from class rooms in public schools.

There is strong reason to doubt whether that strategy would work equally well for us, given the strong prevalence of highly motivated supporters of the Cultural Revolution in those international fora who have slowly but systematically infiltrated the judicial systems since the 1960s and are now, in many countries, well placed to exert influence on the recruitment of new judges and "academic experts". In a very unhealthy way, the system reproduces and reinforces itself. The success of our adversaries’ strategic litigation is in reality not the success of their arguments, but of their cadre policies.

Nonetheless, it must be noted that the judicial activism of our opponents, which for some years did not attract much public attention, has recently met increasing public awareness and criticism. This obliges the judicial bodies to be more careful: they know that unsound decisions might ultimately undermine their own prestige and position. Recent decisions by the ECtHR that (1) there is no explicit Convention right to abortion, (2) no right to same-sex marriage, and (3) no right to assisted procreation, show that the strategy of our opponents is meeting its limits, and that it may even backfire.

It is therefore of utmost importance to keep up the pressure. Any “strategic litigation” launched by our opponents should be followed closely, and relevant counter-arguments should be brought to the attention of the decision making bodies (e.g., through amicus curiae briefs). We must also be sure to publicly criticize activist decisions, and point to the argumentative flaws they comprise. If this is done systematically, the authority of
institutions such as the ECtHR, the UN monitoring bodies, or the EU Fundamental Rights Agency, will soon collapse.

With regard to the question whether we should ourselves use “strategic litigation”, we need to remain very cautious: we should only bring cases where we have, on the basis of prior case law, a solid expectation of making our point of view prevail. Generally, the situation may be better at the national courts of some jurisdictions. Where that is the case, judges should be openly encouraged to ignore the ECtHR case law, on the basis of the latter’s poor quality.

Generally speaking, “strategic litigation” currently is not a strategy of choice at the ECtHR and the UN, given that those institutions are controlled by our adversaries. The situation may be different within the judiciary systems of some countries. With regard to the ECtHR or the UN, a better strategy is to fight these institutions from the outside, in particular by closely monitoring and criticising their output.

6.4.6. Set the right targets, and lobby at the right place

Specifically at the level of the EU (but similar observations could probably be made with regard to the UN), our agenda has so far been too defensive, i.e. too focused on preventing the advance of our opponent’s agenda, rather than advancing an agenda of our own.

However, if we want to promote our own agenda, we must make sure that our lobbying efforts are addressed to the right targets, i.e. to the persons who have the power to advance our agenda. In the context of the EU, this means that greater efforts must be made to target not only the European Parliament, but also the European Commission, which is the sole EU institution to possess a "right of initiative". However, this can only be done within the margins of the EU’s closely circumscribed competences, and on the basis of concrete and realistic legislative proposals. (In other words, we should know what we want before we can expect others to do what we want.

6.4.7. The Problem of "Human Rights Institutions"

Whoever follows the activities of human rights institutions such as the various UN treaty monitoring bodies, the European Court of Human Rights, or the EU Fundamental Rights Agency (FRA) cannot avoid the conclusion that those institutions are, to a high degree, controlled by persons who strongly sympathize with the Cultural Revolution that is described in this paper. Indeed, in many cases it seems that those persons have been hand-picked and selected precisely in view of their willingness to use their positions in order to exert a new world-wide magisterium that puts (their vision of)
human rights in the place of the perennial moral insights of humanity.

It would be illusory to expect from these institutions a contribution towards a genuine culture of law and justice, unless they were to undergo a fundamental reform process, which would result in a clear circumscription of their competences and constrain them to work on the basis of a fundamental doctrine that subordinates contemporary human rights to Natural Law.

One institution that currently seems to be under strong reform pressure is the European Court of Human Rights. In other cases (e.g. the FRA or the EU Agency for Gender Equality) one might ask whether it would not be better to simply dismantle the institutions concerned.

In both cases, it is necessary to:

– Closely follow the work of those institutions with a critical eye;

– Identify erroneous decisions and statements, and criticise them publicly;

– Identify and publicise the systemic shortcomings of those institutions (e.g. their recruitment, their self-reference and lack of openness, their lack of transparency), and make proposals for changes,

– Call into question the legitimacy of statements and decisions that are not in line with Natural Law.

6.5. The Need for Glossary

6.5.1. General Observation

In all cultural wars, particular attention has to be given to "glossary", i.e. to the words that are used, and the meaning that different sides ascribe to them. To a large extent, such cultural wars are about who can impose his use of terminology.

With regard to the issues discussed in this paper, it has been observed for many years that, in all legal and political documents that were the subject of discussion, the strategy used by the cultural revolutionaries was to push for an "inclusive" interpretation of all terminology that they considered to be obstacles for their agenda (e.g., "family", "spouse", "marriage", "maternal health"), or to promote the use of well-sounding neologisms that attracted no suspicion and were easily agreed upon, but which could be made the object of temerarious and manipulative interpretations ex post (e.g., "reproductive health", "reproductive rights"). This appears to be part of a large-scale strategy, which essentially consists in making
people sign up to texts that are afterwards subject to manipulations.

The problem is that, while such a strategy may work out in the short term, it will totally lose its momentum once the bad faith of those using it has been discovered. This is why the cultural revolutionaries, after some first successes they had a decade ago, find it increasingly difficult to include their "glossary" in international documents. In this way, international politics are turned into a sort of shadow fight around words that are considered "essential" by one side, and "dangerous" by the other. For example, in the "Rio +20" Conference on sustainable development, it was considered a major success for the pro-life cause, and a defeat for the abortion lobby, that references to "reproductive rights" were eliminated from the texts that were adopted.

This, however, leads to a more general question: should all words that are considered "dangerous" be generally avoided? Or would it not be a better strategy to fill these words with a correct meaning, and to clarify that meaning through official statements?

The reason why this question needs to be asked is that the list of "dangerous" words does neither begins nor ends with "reproductive rights". In actual fact, our opponents are capable of "contaminating" any and every word they want to contaminate, and if our reaction were always to abstain from further using those words, then we would soon find that no vocabulary is left to express our own ideas.

It therefore seems to be a much better strategy to use all those words, including neologisms such as "reproductive rights", but at the same time making clear what meaning those words have for us. If that is done consistently, we might even succeed in "contaminating" (or in, fact, rectifying) the vocabulary that our opponents have crafted, so that they cannot use them anymore. If, for example, a sufficient number of governments clearly state that "reproductive rights" means that anybody has the right to reproduce, but that they do not imply any right to have access to abortion or artificial contraception", then all existing references to this term could be used in our favour.

By contrast, if we fight assiduously against the terms "reproductive rights" or "reproductive health" in any international document, it might be inferred that we ourselves interpret those terms as including abortion. Thus we would actually do the work of our opponents.

Another problem is the use of euphemistic or misleading vocabulary by our opponents in order to embellish their agenda. For example, few are nowadays aware of the fact that the term "homosexuality"
was coined by the (gay) Hungarian writer Karl-Maria Kertbeny as late as 1869. Before that, this word didn't exist; instead the word that was of current usage was "sodomy". While "sodomy" relates to an indecent sexual act between persons of the same sex, "homosexuality" evokes an (innate? inalterable?) "condition", for which those affected by it are not responsible. It is this claim of homosexuality being a "condition" (not an act based on free will) that everything else (e.g., "victim status", the claim to be a social class, the claim for "equal treatment") hinges. While "sodomy" comes with the connotation of having destroyed the homonymous city (cf. Gen, 19), "homosexuality" sounds (rather misleadingly) like a clean medical terminology, as if it were a mere physiological or psychological phenomenon without any moral dimension.

In view of these and other considerations, we must strive for the correct and unambiguous use of language. Ultimately, the need for glossary is not so much a need to create our own neologisms, but rather the need to correctly interpret existing terminology.

6.5.2. Some Examples

Attached are two lists. One comprises of terminology that could be subject to diverging interpretations, and the interpretations attributed to those terms by our opponents and ourselves. The other is a list of misleading concepts used by our opponents and their translation into common language

a) list of ambiguous words

<table>
<thead>
<tr>
<th></th>
<th>What our opponents mean by it</th>
<th>What it really means</th>
</tr>
</thead>
<tbody>
<tr>
<td>Family</td>
<td>Any group of two or more persons who take responsibility for each other</td>
<td>A married couple and its common descendants</td>
</tr>
<tr>
<td>Marriage</td>
<td>A union of two persons, which, provides them with formal legal recognition and with social and fiscal benefits</td>
<td>The life-long union between a man and a woman, which has the purpose of founding a family</td>
</tr>
<tr>
<td>(Sexual and) Reproductive Health</td>
<td>A happy sex life, which includes the possibility of sex without responsibility. This necessarily includes the possibility to &quot;switch off&quot; the procreative potential of each sexual cat.</td>
<td>Health of the sexual organs, preservation of the sexual faculty</td>
</tr>
<tr>
<td>(Sexual and) Reproductive Rights</td>
<td>The right to have access to abortion and contraception. Essentially, the right to have sex without reproduction.</td>
<td>The right to have children without interference from the state</td>
</tr>
<tr>
<td>Love</td>
<td>(Casual) sexual activity; mutual sexual attraction; the mutual procurement of sexual pleasures</td>
<td>A comprehensive personal relationship that cares for the good of the other and strives for permanence and responsibility</td>
</tr>
<tr>
<td>Dignity</td>
<td>A status conferred to human persons by virtue of international human rights documents. Can be used as an argument to claim novel &quot;rights&quot;, but is generally not understood to be linked</td>
<td>An innate quality of each human being, which implies rights and duties.</td>
</tr>
</tbody>
</table>
with any duties.

<table>
<thead>
<tr>
<th>Life</th>
<th>A status that can be defined by legislators according to their convenience.</th>
<th>Begins at conception, ends with the natural death.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Homophobia</td>
<td>Any opposition against the LGBT agenda, however it is manifested. Includes also any rational and principled arguments that are proffered by social conservatives.</td>
<td>Irrational fear and hatred against persons with homosexual orientation.</td>
</tr>
<tr>
<td>Discrimination</td>
<td>Any difference in treatment between different situations, if such terminology seems politically opportune</td>
<td>The unequal treatment of equal situations on the basis of inappropriate criteria</td>
</tr>
<tr>
<td>Right to information</td>
<td>Exposure to propaganda</td>
<td>Right to correct information</td>
</tr>
<tr>
<td>Healthcare</td>
<td>Includes abortion</td>
<td>Does not include abortion, given that pregnancy is not a disease</td>
</tr>
<tr>
<td>Prevention</td>
<td>Includes contraception</td>
<td>Does not include contraception, as pregnancy is not a disease</td>
</tr>
<tr>
<td>Fight against AIDS and other sexually transmissible diseases</td>
<td>Free distribution of condoms</td>
<td>No condoms, but (1) medical care, and (2) correct information about infection risks associated to sexual promiscuity, homosexuality, etc.</td>
</tr>
</tbody>
</table>

b) list of euphemistic terminology

<table>
<thead>
<tr>
<th>How they call it</th>
<th>What it is</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rainbow families</td>
<td>broken-up families</td>
</tr>
<tr>
<td>Patchwork families</td>
<td>broken-up families</td>
</tr>
<tr>
<td>Freedom of choice</td>
<td>Freedom to kill; i.e. the State fails to protect those who are in greatest need for protection, namely unborn children</td>
</tr>
<tr>
<td>Brain death</td>
<td>A status where brain functions appear to have ceased, but where the person concerned is still alive. Potentially, this status can last several months.</td>
</tr>
<tr>
<td>Equal treatment of homosexuals</td>
<td>Privileges for homosexuals</td>
</tr>
<tr>
<td>Reproductive rights</td>
<td>Free abortion</td>
</tr>
<tr>
<td>Homosexual love</td>
<td>Sodomy</td>
</tr>
</tbody>
</table>
6.6. Short Term, Medium Term and Long Term Targets

6.6.1. Marriage and Family

6.6.1.1. Long term targets:

– Clear definition of marriage as between a man and a woman in an international agreement, explicitly excluding same-sex marriages. A prohibition for states to introduce same-sex marriages or similar.

– Repeal of all existing laws on same-sex partnerships and civil partnerships.

– Constitutional amendments to define marriage as between a man and a woman in all constitutions.

– Repeal of all laws allowing for divorce.

– Adoption of anti-sodomy laws

– Repeal laws that allow gay adoption, and adopt laws that clarify that the adoption of minors should be permitted only for married couples. If possible, adopt an international convention with such content (update of CRC?).

6.6.1.2. Short and medium term targets:

– Prevent states from introducing same-sex partnerships and civil partnerships.

– Adopt laws that make divorce more difficult: e.g. only under a limited number of specifically circumscribed circumstances; only the innocent party should have the right to demand divorce, etc.

– In social and tax law, ensure that marriage is treated more favourably than cohabiting partners or single parents, so as to avoid perverse incentives.

– Improve education for marriage at schools, in the media, etc.

– Adopt laws to prohibit gay propaganda in schools or other public places, in particular when directed at children
− Defund the LGBT lobby (ILGA etc.). Cut the funding they get from public donors such as the UN, the EU, or national governments.

− Prohibit the funding of, and support for, LGBT propaganda by public authorities (including the UN and the EU Commission).

− In each country, tax law and social laws should be revised, in order to avoid perverse incentives (i.e. undue privileges for singles, single parents, divorced parents, etc.).

− Legalize home schooling in all countries.

− Where home schooling is legal, parents should receive financial support from the state equivalent to state expenditure for children attending public schools.

− Revision of curricula for sex ed classes in public and private schools, in order for them to reflect Natural Law (rather than conveying a distorted morality or just providing "technical" knowledge).

− If such revision of curricula is not possible, laws should foresee the possibility of "opting out" of such sex ed classes.

− A resolution (EP, CoE) against surrogate motherhood in Europe.

6.6.1.3. Possible strategies:

− Affirm right (for those willing to do so) to contract a “marriage without divorce”. Thus enable citizens to contract a true marriage.

− Expose gay marriage to ridicule (e.g., through apparent misuse obvious purpose of getting access to fiscal privileges). Protest against exclusion of non-gays from such marriages (cf. ECtHR Burden case).

− Petitions at EU and national level to support definition of marriage as between a man and a woman.

− Where marriage is already correctly defined at the level of ordinary law, such protection should be re-enforced through constitutional amendments.

− Set focus on children’ rights (rather than “right to a child”)

131
– Draft an answer to the "Toledo Guiding Principles" to speak in favour of affirmative teaching of religion.

– Deepen the understanding of the role of the state in the regulation of family life and law (the purpose of marriage is not to reward love, but to create a stable environments for the upbringing of children)

– Inform about risks associated with sodomy (in particular health risks such as AIDS, etc.)

– when speaking of sodomy, consistently use that term

– Reject the notion of “homosexuality”, or of people being “born that way”. Emphasise the “choice” aspect of sodomy.

6.6.2. Contraception

6.6.2.1. Long term targets:

– prohibition of sale of pharmaceutical contraceptives (the pill) or contraceptive devices

– contracts having as their objective the provision of services related to contraception and/or sterilization should be considered void and unenforceable.

6.6.2.2. Short and medium term targets:

– restrict the sale of contraceptive pharmaceuticals, based on health risks associated with them

– certain devices could be restricted because their effect is abortifacient (and not contraceptive)

– restrict sale of contraceptives to minors (only with parental permission)

– provide full and realistic information on contraceptives in school sex ed classes

– conscience clause for doctors and pharmacists: nobody should be obliged to recommend the use of contraceptives, or to sell them.

6.6.2.3. Possible strategies:

– Emphasize health risks associated with medical contraception
– Improve sexual education, emphasizing the inherent meaning of the sexual act, and explaining why that inherent meaning is contradicted by the use of contraceptive means.

– Improve content of sex-ed curricula (the problem currently is not necessarily that there are such classes, but that they spread false or misleading information... the argument that adolescents have a right to information could in fact be used in our favour, and turned against the sex industry)

– In the context of HIV/AIDS and similar sexually transmissible diseases: dismantle the concept that sex with condoms is "safe sex". Use of condoms may reduce infection risks with regard to each sexual encounter – but if people are induced to have more frequent sexual encounters with HIV-positive persons, the overall result of promoting condom use will be to spread the disease.

6.6.3. Abortion

6.6.3.1. Long term targets:

– Legal ban on abortion in all jurisdictions

– Explicit legal ban on abortion in international law

6.6.3.2. Short and medium term targets:

– Limited bans on abortion: e.g. restriction of abortion periods, restriction of abortion to limited cases (such as threat for mother's life and health, rape, incest, etc.). While even such restrictive laws are objectively insufficient, they may represent a step in the right direction.

– Parental rights (they should be informed and agree to abortion, if the mother is of minor age)

– Promote mandatory counselling on what is happening in an abortion and the possible consequences 48 hours before an abortion, with the legally defined goal to protect the unborn.

– No abortion if the father of the child does not also agree (argument: equal treatment of sexes, therefore unacceptable that the decision is taken by the mother alone)
– Introduce restrictive hygiene standards and supervision for abortion clinics.

– Prohibit the providing of abortion on a commercial scale.

– Introduce conscientious objection clauses to prevent medical staff from being forced to perform abortions against their will

– Contracts on abortion shall be legally void and unenforceable, in order to prevent medical staff from being forced to perform abortion. Likewise, no civil liability for the doctor if the child survives abortion ("wrongful birth")

– Defund the abortion lobby (e.g. IPPF and Marie Stopes). Cut the funding they get from public donors such as the UN, the EU, or national governments

– Prohibit funding of abortion through public health insurance. Where that is not possible, ensure that health insurance schemes exist that are cheaper and do not cover abortion.

– Introduction of official abortion statistics, combined with an obligation for practitioners to notify (albeit anonymously) abortions to the public authority. This will help to shed light on statistics and to understand the size of the problem.

– Introduce government funded pro-life counselling and poster campaigns (good example: Hungary)

– Prohibition of pro-abortion propaganda (following the model of tobacco advertising)

– Provide government funds for mothers and children in distress.

– Worldwide ban on eugenic abortions (argument: prevent discrimination on grounds of disability)

– No Gendercide: Restriction in Foreign Aid

– No Funding of Abortions Overseas through development aid.
6.6.3.3. Possible strategies:

- Follow-up on ONE OF US: reiterate the demands of the successful petition at every occasion, until the EU takes action.

- Use ONE OF US as model for similar petitions at national level.

- Make abortion visible, e.g. through films, posters, pro-life events, or through erecting monuments to the unborn (in churchyards or similar).

- Introduction of a World Day or Thematic Year of Unborn Life (25 March?)

- Create special places of remembrance for unborn children (e.g. a specific monument on each cemetery).

- Use sex-selection (gendercide) or the forced abortions in China as arguments. Use them to build consensus, including with feminists.

- Use "equality" and "discrimination" (between persons of different sex, or of persons with disability) as an argument against abortion

- Use demographic decline as argument

- Use freedom of conscience as an argument

  Interpret "right to information" (contained in "reproductive rights") as including an obligation for States to ensure that everybody is correctly informed what an abortion is. The right to information might be used for our purposes.

6.6.4. Pre-natal Diagnostics

6.6.4.1. Long term targets:

- Prohibit pre-natal diagnostics, except for diseases that can be treated through pre-natal therapy;

6.6.4.2. Short and medium term targets:

- Exclude pre-natal diagnostics from being funded by public health insurance,

- Contracts on pre-natal diagnostics shall be legally void and unenforceable, in order to avoid "wrongful birth" cases
6.6.4.3. Possible strategies:

– When speaking of PND, consistently use the term "selection" rather than "diagnostics"

– Generally speaking, it seems difficult to decisively argue against PND if one does not at the same time oppose abortion and assisted procreation.

6.6.5. *Medically Assisted Procreation*

6.6.5.1. Long term targets:

– Prohibition of IVF, i.e. of all procedures involving the extracorporeal fertilization of a human egg cell, including or not its transfer into the female womb. Such prohibition should be foreseen at international and national level.

– To be effective, such prohibition should be framed in a way that prevents "IVF-tourism"; therefore it should have exterritorial effect.

6.6.5.2. Short and medium term targets:

– If a complete prohibition of IVF is out of reach, provisions should be made to restrict the practice.

– In particular, only one egg cell should be fertilized per treatment cycle. The creation of "surplus embryos" should be prohibited.

– Prohibition of heterologous IVF (involving gametes of a third person). If that is not attainable, then "donors" should receive neither payment nor any other form of compensation for their donated gametes.

– The access to IVF of persons above a certain age, single women, lesbian couples, and cohabiting couples should be restricted.

– Prohibition of surrogate motherhood. If that is unattainable, then at least there should be no financial gain associated with surrogate motherhood.

– If legislation prohibits financial gain for "donors" of gametes and for surrogate mothers, then it would seem logical to also prohibit financial gain for all medical practitioners involved in IVF.

– IVF should not be funded by the public health insurance systems or any other public funds.
– Prohibition of advertising of IVF, and in particular of procedures that, while illegal in the country of destination, are legal abroad.

Prohibition of IVF tourism to countries with liberal legislation, in particular developing countries.

6.6.5.3. Possible strategies:

– It should be noted that if the practice of IVF is accepted, there is hardly an argument left to oppose pre-natal diagnostics, the creation and destruction of embryos for research purposes, or any other eugenic practice.

– Communicate the moral implications of IVF, especially the creation and destruction of "surplus" embryos, and the practice of "selecting" human beings according to their genetic identity.

– Raise the issue of the relationship between the child and its biological parents. Emphasis the child’s right to its (biological parents)

– raise the issue of surrogate motherhood (exploitation of women). Use cases like “Baby Gammy”.

– In communication, emphasise the connection between IVF, surrogacy, and human trafficking.

6.6.6. Therapeutic Use of, and Research on, heSCs

6.6.6.1. Long term targets:

– International convention to prohibit all uses of, and research on, heSCs (except if such research is for the embryos own benefit), including through criminal sanctions

– Prohibition of such use and research on national level

6.6.6.2. Short and medium term targets:

– cut funding for heSC research, both at national and international level. Follow-up on ONE OF US petition.

– ensure that inventions involving the use of human embryos cannot be patented
6.6.3. Possible strategies:

- Promote alternative research on adult stem cells. Main argument: research on adult stem cells has yielded therapeutic uses, heSCs haven’t. Resources for funding of research are scarce. Scarce funds should be allocated to research that is uncontroversial and leads to useful results.

- It is necessary to remain consistent: therefore heSC research is not a stand alone issue. We need to consistently argue against IVF, pre-natal diagnostics, etc. in order to remain credible on the heSC issue.

6.6.7. Euthanasia

6.6.7.1. Long term targets:

- International convention to prohibit euthanasia.

- Repeal existing laws on euthanasia, e.g. in Belgium and Netherlands

- Adopt laws against "assisted suicide"

6.6.7.2. Short and medium term targets:

- Communicate on palliative care

- Where existing euthanasia laws cannot be repealed immediately, search for possible restrictions (e.g. no euthanasia for depressive persons, persons with mental illness, minors, etc.,)

- conscience clauses for doctors, pharmacists, and healthcare staff

6.6.7.3. Possible strategies:

- "Everybody could be a victim": explain to people, esp. elderly people, that they could be the victims of euthanasia

- Refer to historical experiences, esp. Nazi Germany

- Popularize the message, e.g. through film, literature (there have been an astonishing number of pro-euthanasia films recently, such as "The Million Dollar Baby" or "Amour". There is a need to counterbalance)
– In countries where it is legal, insist on regular statistics on euthanasia. Strengthen the procedural requirements
– Collect statements of prominent people against euthanasia
– Develop living concepts in aging societies.

6.6.8. *Equality and “Anti-Discrimination” laws*

6.6.8.1. **Long term targets**

– Abolition of controversial “equality” legislation at EU level. In particular, repeal Art 21 and 23 of the Fundamental Rights Charter at the next Treaty revision.
– Abolition of controversial “equality legislation” at national level.
– Affirm the “freedom to contract” (i.e. the freedom to choose one’s contract partner) as a fundamental right

6.6.8.2. **Short and medium term targets:**

– Prevent adoption of 5th Equal Treatment Directive at EU level, and of similar bills at national level

6.6.8.3. **Possible strategies:**

– Build coalition of small/medium enterprises, business corporations, house owners
– Communicate on impending threat of restriction of civic freedoms through “anti-discrimination” laws
– Communicate on legal uncertainty and (unproductive) administrative burden caused by “anti-discrimination” laws
– Emphasise cost for the national economy caused by “anti-discrimination” laws
– Criticise the case made by supporters of “anti-discrimination” laws (for example, the controversial “LGBT-Survey” published by FRA in 2013)
Table of Content

1. INTRODUCTION .................................................................................................................................. 3

2. NATURAL LAW .................................................................................................................................. 7
   2.1. Natural Law Theory ...................................................................................................................... 7
   2.2. Human Rights or Natural Law? ................................................................................................... 8
   2.3. Political Ideologies Undermining Natural Law ......................................................................... 11
      2.3.1. Marxism ............................................................................................................................... 11
      2.3.2. Darwinism ............................................................................................................................ 12
      2.3.3. Feminism .............................................................................................................................. 13
      2.3.4. Homosexualism .................................................................................................................. 14
      2.3.5. Gender Theory .................................................................................................................... 16
      2.3.6. Relativism ............................................................................................................................ 17
      2.3.7. The Anti-Discrimination Ideology ...................................................................................... 18
   2.4. Which Solutions Must We Seek? ................................................................................................. 19
      2.4.1. A Legal Order in Conformity with Natural Law ................................................................. 19
      2.4.2. Freedom of Conscience ...................................................................................................... 19
      2.4.3. Invoking Religious Freedom ............................................................................................... 21
      2.4.4. Reasonable Accommodation ............................................................................................. 21
   2.5. Conclusion .................................................................................................................................... 22

3. MARRIAGE AND THE FAMILY ................................................................................................. 23
   3.1. What Is a Family? .......................................................................................................................... 24
   3.2. The Procreative Purpose of Marriage ......................................................................................... 26
   3.3. The Specific Relationship between Parents and Children ....................................................... 27
      3.3.1. The role of parents as primary educators .......................................................................... 27
      3.3.2. The Role of Parents as Educators in International Law .................................................... 28
      3.3.3. The Rights of the Child in International Law ..................................................................... 29
   3.4. Marriage and Divorce .................................................................................................................. 29
   3.5. Marriage in International Law .................................................................................................... 32
      3.5.1. The Fragmentation of the Legal Order .............................................................................. 32
      3.5.2. International Law ................................................................................................................ 34
   3.6. Marriage and Family Deserve Specific Recognition and Support ......................................... 36
   3.7. Alternative Forms of Family? .................................................................................................... 37
3.7.1. Which Rights for Cohabiting Partners? .................................................. 37
3.7.2. Which Rights for Homosexual Couples? .............................................. 40
3.7.3. Polygamy? ............................................................................................. 48
3.8. Other issues related to sexual identity .......................................................... 49
  3.8.1. Further Issues Related to Homosexuality .............................................. 49
  3.8.2. Which Rights for Transgender Persons? .............................................. 51
  3.8.3. Which Rights for Intersex Persons? ..................................................... 54
3.9. Contraceptive practices ............................................................................... 55
  3.9.1. Definition .............................................................................................. 55
  3.9.2. The moral implications of contraceptive practices .............................. 56
  3.9.3. The moral acceptability of “natural” contraceptive practices .............. 57
  3.9.4. Under which circumstances is the use of “artificial” contraceptive practices morally acceptable? ................................................................. 57
  3.9.5. Should condoms be used to prevent the spread of HIV AIDS? ........... 58
  3.9.6. Should the use of artificial contraceptive practices be prohibited by law? ........................................................................................................... 58
  3.9.7. Voluntary Sterilization ........................................................................... 59
  3.9.8. “Wrongful conception” .......................................................................... 60
  3.9.9. The Current Legal Situation ................................................................. 60
4. THE RIGHT TO LIFE ....................................................................................... 63
  4.1. Fundamental Issues .................................................................................. 63
    4.1.1. When Does Life Begin? .................................................................... 63
    4.1.2. When Does Life End? ...................................................................... 64
    4.1.3. Exceptions from the Right to Life ..................................................... 66
  4.2. Abortion .................................................................................................... 66
    4.2.1. Should Abortion Be Legal? ............................................................... 67
    4.2.2. "Pragmatic" Arguments for and against Abortion ............................. 71
    4.2.3. The Current Legal Situation ............................................................. 72
    4.2.4. The San José Articles ....................................................................... 82
  4.3. Pre-natal Diagnostics ................................................................................. 82
    4.3.1. Wrongful Birth ................................................................................. 82
    4.3.2. Wrongful Life ................................................................................... 83
    4.3.3. Sex Selection and Gendercide ............................................................ 84
    4.3.4. The Current Legal Situation ............................................................. 84
    4.3.5. Possible Legislative Approaches ....................................................... 84
4.4. Medically Assisted Procreation ................................................. 85
  4.4.1. Is Assisted Procreation a Therapy? ........................................ 86
  4.4.2. Homologous Assisted Procreation .......................................... 86
  4.4.3. Heterologous Assisted Procreation .......................................... 87
  4.4.4. Surrogate Motherhood .......................................................... 88
  4.4.5. Eugenic Practices ............................................................... 88
  4.4.6. Medically Assisted Procreation in International Law .................. 91
4.5. The Use of Embryonic Stem Cells .............................................. 93
  4.5.1. Current State of Play and Expected Development ....................... 93
  4.5.2. The Ethical Issue .................................................................. 94
  4.5.3. The Alternative: Adult Stem Cells ........................................... 95
4.6. Euthanasia .................................................................................. 95
  4.6.1. General Considerations ......................................................... 95
  4.6.2. Some Guiding Principles ....................................................... 96
  4.6.3. The Legislation on Euthanasia in Various Countries.................... 97
  4.6.4. International Law ................................................................. 98
  4.6.5. Advance Health Care Directives ............................................ 98
4.7. Organ Transplantation ............................................................... 99
5. EQUALITY AND ANTI-DISCRIMINATION ...................................... 103
  5.1. "Equality" and the Traditional Concept of Justice ......................... 103
  5.2. "Equality" and Freedom ............................................................. 105
  5.3. "Affirmative Action": Anti-Discrimination = Discrimination ........... 107
6. REFLECTIONS ON STRATEGY ...................................................... 109
  6.1. The Need for an Offensive Agenda ............................................. 109
  6.2. The Need to Understand, and Learn from, our Opponents ............... 110
    6.2.1. Their organizations ............................................................ 111
    6.2.2. Their strategies ................................................................. 114
    6.2.3. What we must therefore do ................................................. 119
  6.3. The Need for Networking ........................................................ 121
  6.4. The Need to Adapt to the Political/Legal Environment ................... 122
    6.4.1. Bring the Right People into the Right Positions ....................... 122
    6.4.2. Influence the Academic Debate .......................................... 123
    6.4.3. Create a Network of Like-minded Journalists .......................... 123
    6.4.4. Use the weapons of our opponents and turn them against them .. 123