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The Charter of the Rights of the Family and the Yogyakarta Principles Two Worlds

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1. Introduction

Not longer than a dozen or so years ago the discussion related to the gender outlook on the sexes would have been exclusively academic. The attempts of a radical, political implementation of gender postulates, aimed at redefining matrimony and family, made the discussion emerge in the very middle of the dispute over the shape of social life. It was soon made obvious that the process does not only focus on modifying and naturally developing the views related to the essence of matrimony and family, but is also an attempt to replace their meaning with a new one, based on the idea of gender. It is diametrically different from the one conceived in the bosom of the Judeo-Christian culture.

The Catholic Church belongs to the unquestionable critics of the idea of gender, which was repeatedly stated, both on the local and global plane. What evokes particular objection is the political implementation of the so-called gender studies, which exhibits traits of an ideological expansion. The concern for a stable and sound family has always been one of the main social tasks of the Church. The critics of the Church's standpoint, first of all representatives of the feminist communities, accuse

it of being “family-centric.”¹ The expression of the Church’s firm inclination towards family was the publication of the Charter of the Rights of the Family, published by the Holy See in 1983 (hereinafter referred to as the Charter),² the postulates of which are to a large extent coherent, at least at the level of fundamental principles, with the widely accepted and protected by the law of many countries idea of matrimony and family.

As the Holy See was publishing the Charter of the Rights of the Family, one of the most serious issues was the instability of family, the sign of which was the intensifying scourge of divorces, but also popularization of various forms of living together without formally entering into marriage. A serious threat for marriage and family was also the popularization of the anti-natal mentality, so the increase in instances of abortion and popularization of contraceptives. Those threats not only have not been eliminated but also joined by new, different ones, so far only sporadically and marginally encountered in social space. These can be determined as an attempt to redefine and consequently belittle the family as a fundamental social unit. Furthermore, they are not limited to popularization and promotion of relationship models, but are reflected in implementation of changes in law and educational programmes. Their expression are e.g. the Yogyakarta Principles (hereinafter referred to as the Principles).³ The aim of this article is not an in-depth analysis of the both mentioned documents, but an indication, based on the comparison of a selected document, of a diametric difference of the principles and postulates they comprise.

¹ This notion is used e.g. by Professor Magdalena Środa, for whom it constitutes almost a synonym of a social pathology. In her comment, delivered on July 12, 2012, Środa claims that: “The more family-centric the society is, the less civic society we have” (“Im bardziej rodzinocentryczne społeczeństwo, tym mniej społeczeństwa obywatelskiego”). Cf. http://wyborcza.pl/1,76842,12185403,Rodzina_nepotyzmem_silna.html (accessed 14.2.2014).

² THE HOLY SEE: Charter of the Rights of the Family (October 22, 1983) — http://www.vatican.va/roman_curia/pontifical_councils/family/documents/rc_pc_family_doc_19831022_family-rights_en.html (accessed 14.2.2014). This document was the fruit of the synod of bishops, the subject of which was family and which was held in 1980. The outline of the Charter was formulated in the 1981 exhortation *Familiaris Consortio* (no. 46) that concluded the proceedings.

³ The Yogyakarta Principles: on the application of international human rights law in relation to sexual orientation and gender identity — http://www.yogyakartaprinciples.org/principles_en.htm (accessed 15.1.2014).

2. Gender revolution

When in 1983 the Holy See was publishing the Charter of the Rights of the Family, the gender ideology was a stream of thought known exclusively to a narrow group of specialists and observers. On the international grounds, popularization of the gender ideology and the anthropological-social vision it represents has to be, undoubtedly, ascribed to international conferences committed to women's matters, organized under the auspices of the UN, and especially the third of those conferences, which was held in Beijing in 1995. In the documents of that conference the term gender appears still in the context of men and women equality. Creating, implementing and supervising, accompanied by the interested parties, policies and programmes sensitive to the issues of cultural sex identity (gender)⁴ was one of the main objectives determined therein. Omitting the radical postulates related to e.g. the right to abortion and ideological narrowing, such meaning of gender could be accepted within the context of the Christian family vision. The ambiguity of the term gender and avoiding its explicit, internationally accepted definition⁵ by its proponents, caused the issue of man and woman equality to be connected with a claim for the equality of all other "sexes," as well as people characterized by a "fluid" sex, and consequently, subservient to this claim.⁶

⁴ UNITED NATIONS: "Beijing Declaration." In: *Report of the Fourth World Conference on Women Beijing, 4–15 September 1995*. New York 1996, p. 3, n. 19.

⁵ Definitions of the gender ideology sprouted in the outcome of an extremely harsh criticism of the Polish Episcopate's pastoral letter read out on the Holy Family Sunday 2013. The Polish Secretary of State and Government Representative for Equal Treatment Agnieszka Kozłowska-Rajewicz in her statement, published on December 20, 2013, claims that "both in politics and law, both in Poland and abroad, *gender* is related to the equal treatment of women and men," and accusation which suggests promoting it means "destroying family, sexualizing children, freedom of choosing ones sex, or neglecting matrimony" are the effects of ignorance and ill will of its opponents and critics. See <http://www.rownetraktowanie.gov.pl/aktualnosci/oswiadczenie-w-sprawie-nieprawdziwych-interpretacji-pojecia-gender> (accessed 26.5.2014). Unfortunately, both the content of the Principles and some European Union documents firmly contradicts such belittling of the problem.

⁶ Dale O'Leary, presenting the evolution process of the term gender, states that since it is originally meant to mean a socio-cultural construction of sex, conducting binary transgressions of such categories as man/woman or natural/unnatural seems unavoidable. See D. O'LEARY: *The gender agenda. Redefining equality*. Lafayette 1997, pp. 89–94. For Judith Butler, believed to be the author of the *queer theory*, so the theory of individualized and fluid sexual identity, the binary, masculine-feminine sex scheme is oppressive and should be subjected to deconstruction. See J. BUTLER: *Uwikłani w płęć. Feminizm i polityka tożsamości*. Warszawa 2008, pp. 50–53.

Presumably, the majority of the society took no notice of the press release from 29 June 2013, which informed that during the 22nd Session of the Parliamentary Assembly of the Organization for Security and Co-operation in Europe (OSCE), the resolution calling for the acceptance of the Yogyakarta Principles was rejected (in ratio 23 to 4).⁷ However, this hardly known document deserves a more meticulous analysis, since it clearly unveils the idea of social changes, which the gender ideology proponents aim at. It renders expectations and claims, which organizations connected with the gender ideology formulate in societies worldwide. Their recent, offensive and very often aggressive presence in the public sphere is not accidental. It is the effect of a consistently realized plan of action, the goal of which is to win influence over the international legislative and opinion-forming bodies. Mobilizing and enlarging the group of proponents who, taking into consideration their number could win majority in democratic elections, remains effective only if utilized as a long-term strategy. In order to achieve faster results, the gender ideology proponents concentrated on influencing the legislature (the so-called top-bottom strategy). The first step in this strategy is to place gender activists on influential posts in the UN, EU or other international institutions (or non-governmental organizations these institutions support). Under pressure from groups comprising such people, resolutions, bills and recommendations, which initially do not have the power of codified law, are compiled. Putting them to a vote and adopting by more and more influential bodies causes them to become sets of guidelines for governments. As a result particular countries and societies have to face “international standards,” and even ready-made legal requirements, over the shape of which they have no influence, and the implementation of which is often related with, e.g. subsidies in some sphere of social life. Very often groups of people derived from non-governmental organizations, despite the lack of any democratic legitimacy, are also asked to supervise the process of implementing the gender model of social relations into life by particular countries.⁸

⁷ The initiative to reject the project of the resolution was supported, among others, by the Polish delegates. According to the legal evaluation of the *Ordo Iuris* Institute for Legal Culture, the Yogyakarta Principles threaten the Polish constitutional order, among others, in the principles: of social justice (article 2), of protection of matrimony and family (articles 18 and 71), of equality in the face of law (article 30), of religious freedom (article 53, passage 1) and the rights of parents that stem from it (article 53, passage 3). Additionally, the Principles are in contradiction to the impartial outlook of the country (article 25, passage 2) — <http://www.ordoiuris.pl/zgromadzenie-parlamentarne-obwedorzucilo-dokument-promujacy-polityczne-cele-lgbt,3278,i.html> (accessed 15.1.2014).

⁸ This strategy is an element of an entire set of strategies connected with the political correctness. See M. KACPRZAK: *Pułapki poprawności politycznej*. Radzymin 2012, pp. 127—231.

The Yogyakarta Principles can be perceived as a classic example of the top-bottom strategy. They were passed by a body of 29 lawyers from 25 countries, acting on behalf of a coalition of non-governmental organizations. Some of those were special UN observers for equality, which means that it was not a small group manifesto that could be perceived as marginal.⁹ The claim expressed by the Principles signatories is total: the aim at formulating “binding international legal standards with which all States must comply.”¹⁰ The document does not comprise detailed justification of such standpoint, but at the same time decrees that it stems directly from the human rights. It is supposed to constitute a “further development” of human rights within the scope of sexual identity and sexual preferences. In the document the classic human rights are referred to very often and therefore it contains a set of statements, the justness and truthfulness of which leave no room for doubt. The means in which these human rights were connected with the claims put forward by the gender ideology proponents in fact brings about a subordination of all fundamental human rights to the gender identity and sexual orientation.

These two terms appear in the entire document so often that it is beyond any doubt that they constitute the most important reference points. They were defined in the Preamble to the Principles. The term sexual identity is determined as “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).”¹¹ Based on this “personal feeling” the term sexual preferences is defined as “each person’s capacity for profound emotional, affectional and sexual attraction to, and intimate and sexual relations with, individuals of a different gender or the same gender or more than one gender.”¹² Gabriele Kuby claims that such a wide definition

⁹ Amid the co-authors and signatories of the Principles is also a Pole, Professor Roman Wieruszewski, director of the Poznan Human Rights Centre, vice-chairman of Scientific Council of the Institute of Legal Studies, member of Scientific Committee of the EU Fundamental Rights Agency.

¹⁰ The Yogyakarta Principles. Introduction. Professor Roman Wieruszewski believes that the aim of the Principles is not striving for a particular treatment of this issue, or promoting defined patterns of behaviour or anything similar — R. WIERUSZEWSKI: “Zasady Yogyakarta — geneza i znaczenie.” In: *Zasady Yogyakarta. Zasady stosowania międzynarodowego prawa praw człowieka w stosunku do orientacji seksualnej oraz tożsamości płciowej*. Ed. K. REMIN. Warszawa 2009, p. 19. However, the total awaiting for the general recognition of the gender view together with the repeated claims for penalization of the opposite stances explicitly belies such opinion.

¹¹ The Yogyakarta Principles. Preamble.

¹² *Ibidem*.

of sexual orientation does not exclude any preference or sexual activity, including pedophilic, incestuous, polygamous, polyamoric (simultaneous relationship with several partners), and even zoophilic.¹³ Both definition leave no room for terms “man” and “woman,” but only “the human sex assigned at birth,” which, however, is deprived here of any meaning. The entire document, in which the word gender appears a dozen or so times on every page, does not include references to men and women, and instead includes the term “everyone,” which is devoid of a clear sexual reference. Alternatively, the document mentions the “person’s gender identity.” Without additional justification in the Principles, it is claimed that despite the contrary opinions “a person’s sexual orientation and gender identity are not, in and of themselves, medical conditions and are not to be treated, cured or suppressed.”¹⁴ In the Principles the new understanding of sex and the notion of sexual orientation, which it is based on, was not only elevated to become one of the most fundamental personal features, but also its recognition and protection became the reference point for all other values.¹⁵

The size of the claim directed at the governments of countries worldwide specifies the issue of sexual orientation or sexual identity discrimination included in the Principles. It is supposed to denote every possible “discrimination on the basis of sexual orientation or gender identity includes any distinction, exclusion, restriction or preference based on sexual orientation or gender identity which has the purpose or effect of nullifying or impairing equality before the law or the equal protection of the law, or the recognition, enjoyment or exercise, on an equal basis, of all human rights.”¹⁶ According to this definition all moral criteria related to the sexual sphere, formulated, e.g. within the context of Christian faith, would not only constitute a different conception,

¹³ See G. KUBY: *Globalna rewolucja seksualna. Likwidacja wolności w imię wolności*. Kraków 2013, p. 102. The pedophile orientation seems to be, at first glance, ruled out owing to an introduction of a limit of sexual contacts into the Principles. Still it is very vaguely defined as a limit “the age of consent to sexual activity” (the Principles, 6a). If the society approved the lawfulness of the sexual intercourse with children, as it was demanded in the 1980s by, for instance, the German Green Party, it would not require any changes in the content of the Principles. Pedophilia would constitute yet another sexual identity.

¹⁴ The Yogyakarta Principles, 18.

¹⁵ Hanna-Barbara Gerl-Falkovitz asks whether the gender view accepts any valuing which would be free from the gender category. Maybe an attempt to reason beyond the gender categories has to be perceived as politically incorrect and pre-Enlightenment. Cf. H.-GERL-FALKOVITZ: *Frau — Männin — Mensch. Zwischen Feminismus und Gender*. Kevelaer 2009, p. 193.

¹⁶ The Yogyakarta Principles, 2.

but also would need to be determined as a sign of illegitimate discrimination.

What the definitions included in the Yogyakarta Principles really mean, in relation to the matrimony and family, will be presented below, in a comparison with the corresponding fragments of the Charter of the Rights of the Family.

3. The most threatened rights of the family

The period of over 20 years that separated the Charter of the Rights of the Family from the Yogyakarta Principles was a period of growing dissonance between the prevalent vision of matrimony and family, based on the personalistic vision of human being, and the gender understanding of these fundamental institutions. The comparison of fragments of both documents, displays how diametrically different these two visions are, and consequently the concepts of human being and society, which stem from them.

Perception of the sexes and the family

In harmony with the notion included in the Charter, the family “is based on marriage, that intimate union of life in complementarity between a man and a woman which is constituted in the freely contracted and publicly expressed indissoluble bond of matrimony and is open to the transmission of life.”¹⁷ Family as such, despite the fact that its substantial shape has changed together with the evolution of cultures, remains a natural relationship, which is primary in relation to the country or any other community. Hence, it has its own inalienable rights,¹⁸ and other extramarital relationships cannot be treated equally with the matrimony of a man and a woman, on which a family is based.¹⁹

Within the context of the Principles the very understanding of sex as masculinity and femininity (together with knowledge regarding e.g.

¹⁷ The Charter of the Rights of the Family, Preamble B.

¹⁸ The Charter of the Rights of the Family, Preamble D.

¹⁹ The Charter of the Rights of the Family, article 1c.

the hormone differences, brain, psyche, etc.) has to be acknowledged as a form of illegitimate differentiation, thus a deed of discrimination. The two-sex dichotomy is replaced with “different sex” and “various sexes.”²⁰ The consequence of many equal sexes is the claim that “families exist in diverse forms.”²¹ The extent to which this claim strays away from the classic family concept is visible in the shape of the recommendation offered to the state authorities, which result from it: “[States shall] ensure that laws and policies recognize the diversity of family forms, including those not defined by descent or marriage.”²² Any relationship, based on a defined sexual orientation, deserves, according to the Principles, to be given the status of a matrimony (and family) together with the entire scope of social privileges. It would mean a complete thwarting of the exceptionality of a family, which owing to the natural fertility is capable of giving beginning to a new life and raise citizens.

The right to start a family

The Charter formulates essential conditions that the right to start a family is guaranteed: the prohibition to discriminate refers both to men and women, able to start a family, who after reaching a proper age decide to do so. Whatever “legal restrictions to the exercise of this right, whether they be of a permanent or temporary nature, can be introduced only when they are required by grave and objective demands of the institution of marriage itself and its social and public significance.”²³

According to the declaration, included in the Principles, “everyone has the right to found a family, regardless of sexual orientation or gender identity.”²⁴ It represents the claim to recognize the marriage of same-sex person, as well as, at least theoretically, also other relationships, corresponding with e.g. the preferences of bisexual people, or those who declare “fluid” sexual orientation. Furthermore, the statement that “no status, such as marriage or parenthood, may be invoked as such to prevent

²⁰ Kuby points to a certain contradictions in the content of the Principles. On the one hand the plasticity and changeability of sexes and sexual orientations is postulated, whereas on the other hand every non-heterosexual orientation is regarded as invariable and not apt for any therapy. See G. KUBY: *Globalna rewolucja seksualna...*, p. 104.

²¹ The Yogyakarta Principles, 24.

²² The Yogyakarta Principles, 24b.

²³ The Charter of the Rights of the Family, article 1a.

²⁴ The Yogyakarta Principles, 24.

the legal recognition of a person's gender identity,"²⁵ in fact it means the permission to adopt children by people who live in non-heterosexual relationships, which anyway was clearly formulated in the Principles: "[States shall] take all necessary legislative, administrative and other measures to ensure the right to found a family, including through access to adoption or assisted procreation (including donor insemination), without discrimination on the basis of sexual orientation or gender identity."²⁶

The right to life

Leaving aside the dubiousness of the two key notions, the statement included in the Principles: "everyone has the right to life. No one shall be arbitrarily deprived of life, including by reference to considerations of sexual orientation or gender identity,"²⁷ could be easily also embedded in the Charter, since it is unarguably true. Similarly, it is no use having objections towards the postulate that declares the right of every person to "the highest attainable standard of physical and mental health, without discrimination,"²⁸ which is connected with the above statement. However, the interjection included in the last postulate, according to which "sexual and reproductive health is a fundamental aspect of this right,"²⁹ has to arouse justified controversies. The notion of sexual or reproductive health, which sounds favourably, contains in the international discussion the rights to abortion and subsidized contraception, financed from the society's health insurance contributions. The implementation of international developmental programmes dedicated to the developing countries, is often related to the readiness to introduce a strict birth control behind the facade of the concern for the reproductive health.

Such situation is not new, therefore in the Charter the Holy See demanded: "in international relations, economic aid for the advancement of peoples must not be conditioned on acceptance of programmes of contraception, sterilization or abortion."³⁰ As it is emphasized, "human life must be respected and protected absolutely from the moment of

²⁵ The Yogyakarta Principles, 3.

²⁶ The Yogyakarta Principles, 24a.

²⁷ The Yogyakarta Principles, 4.

²⁸ The Yogyakarta Principles, 17.

²⁹ *Ibidem*.

³⁰ The Charter of the Rights of the Family, article 3b.

conception,”³¹ and “abortion is a direct violation of the fundamental right to life of the human being.”³²

The right to freedom of conscience

The enormous discrepancy between the both analysed documents concerns the freedom of conscience and the rights to raise children that it is related to. In the Charter, within the context of the freedom of religion, the right to the freedom of conscience is declared. With reference to family it means that e.g. a condition for entering into a marriage cannot be the demand for conversion.³³ Additionally, parents possess the right to organize the religious life of their family, “the right to profess publicly and to propagate the faith, to take part in public worship and in freely chosen programmes of religious instruction, without suffering discrimination.”³⁴

On the surface, the statement inscribed in the Principles, which claims that “everyone has the right to freedom of thought, conscience and religion, regardless of sexual orientation or gender identity,”³⁵ sounds alike. However, its elaboration does not leave room for doubt. It suggests that whoever in the name of freedom of thought, conscience and religion dares to call the LGBTQ³⁶ communities’ claims into question has to face consequences. An instance of discrimination would be e.g. referring, by a given country, to the freedom of conscience and religion as a justification of rules of law, programmes or practices contradictory with the gender outlook on sexual orientation or gender identity.³⁷ Expressing, practicing and promoting manifold opinions, beliefs and convictions concerning issues related to sexual preferences or identity by the citizens, would be rationed by the country in a way that, according to the Principles, would not infringe the human rights.³⁸ It is even better explained by Principle 2: “Everyone is entitled to equality before the law and the equal protection of the law without any such discrimination [on

³¹ The Charter of the Rights of the Family, article 4.

³² The Charter of the Rights of the Family, article 4a.

³³ The Charter of the Rights of the Family, article 2b.

³⁴ The Charter of the Rights of the Family, article 7.

³⁵ The Yogyakarta Principles, 21.

³⁶ LGBTQ is an acronym that stand for Lesbian, Bisexual, Gay, Transgender, Queer.

³⁷ Ibidem.

³⁸ The Yogyakarta Principles, 21b.

the basis of sexual orientation or gender identity — M.M.] whether or not the enjoyment of another human right is also affected. The law shall prohibit any such discrimination and guarantee to all persons equal and effective protection against any such discrimination.”³⁹ It means that all other human rights, including the freedom of conscience and religion, are valid as long as they do not call into question the gender outlook on sex. To put it another way, the sexual orientation and gender identity and the rights they are connected with, are the most significant reference point, and simultaneously the verification criterion of all other human rights.

The parents’ right to raise children and rights of the child

The afore-mentioned challenging of the right to freedom of conscience and of religion by the gender outlook proponents, develops into calling into question parents’ right to raise children in harmony with their conscience. Naturally, it is hard to reject the claim for such a state legal system, which would in all its actions or decisions regarding children perceive the wellbeing of child as the paramount criterion. However, adding here the Yogyakarta Principles and demanding at the same time “the sexual orientation or gender identity of the child or of any family member or other person may not be considered incompatible with such best interests,”⁴⁰ means not only a free access for the same-sex couples, or other relationships based on a free selection of sexual orientation, to the adoption of children, but also e.g. the prohibition to refuse accepting a babysitter for a child based on his/her sexual orientation. Since, according to the Principles, also education should be organized in a spirit of “understanding, peace, tolerance and equality, taking into account and respecting diverse sexual orientations and gender identities,”⁴¹ all school curricula that are critical towards the gender outlook on sex would not be tolerated. In practice it would mean an imposed system of education, which would be deprived of the religious formation (since such, at least in the case of Christianity, calls into question the gender approach). As opposed to those claims the Charter demands the freedom for parents to select such schools for their children that are not against their own

³⁹ The Yogyakarta Principles, 2.

⁴⁰ The Yogyakarta Principles, 24c.

⁴¹ The Yogyakarta Principles, 16c.

moral and religious beliefs. “In particular, sex education is a basic right of the parents and must always be carried out under their close supervision, whether at home or in educational centres chosen and controlled by them.”⁴²

4. Conclusions

Leaving aside the tedious promotion of such notions as sexual identity and sexual orientation, present in almost every sentence of the Yogyakarta Principles, this document includes a multitude of statements, with which everyone who identifies himself with the spirit and letter of the Charter of the Rights of the Family would automatically agree. Despite this fact, as it was proved by the afore-mentioned examples, both documents present so diametrically dissimilar systems of values and different visions of matrimony and family that without exaggeration they can be perceived as voices of two disparate cultural “worlds.” For it is not about a peculiar “report of discrepancy,” accompanying a basic agreement on ethical and axiological foundations, but about a diametric contradiction related to the very foundations of thinking about sex, matrimony and family. The Principles postulate a radical re-reading of the present human rights codices, as a part of which the sexual identity and orientation will not only be included but also will become the reference point and interpretation key or even the criterion for the binding power of other fundamental rights. The attempt to put the Principles to the OSCE vote, shows that gender community aspirations, clearly declared, are to make the Principles a set of recommended guidelines, which with the passing of time would become the binding law.

In light of the Principles, the proponents of the Charter have to be classified as “perpetrators of human rights violations related to sexual orientation or gender identity,” who, as it is emphasised, “should not be left unpunished.”⁴³ In connection with the repeated, aimed at many countries,

⁴² The Charter of the Rights of the Family, article 5c.

⁴³ The Yogyakarta Principles, 29. According to the Principles “[States shall] undertake programmes of education and awareness to promote and enhance the full enjoyment of all human rights by all persons, irrespective of sexual orientation or gender identity” (The Yogyakarta Principles, 1c). Taking into consideration the fact that any forms of differentiation are perceived as discrimination, what could be subjected to penalization would not only be such statements as, e.g. homosexuality is an psycho-sexual disorder, but also that a matrimony of a woman and a man is a unique relationship. What

appeal to utilize “all means possible” to implement the Principles at the legal plane and support them in culture and social life,⁴⁴ the proponents of the classic definition of a family, critical towards the idea of gender and its ideological implementation in culture, have to prepare themselves for quite difficult times. To conclude, it is worth recalling one of the last Pope Benedict XVI’s comments, which he delivered less than one month before he stepped down from office. As the Pope stated, “the shadows that hide God’s plan,” having in mind above all “the tragic anthropological reduction that repropose the age-old hedonistic materialism, but to which a ‘technological Prometheanism’ is added.”⁴⁵ In a clear opposition to this outlook the “the Church reaffirms her great ‘yes’ to the dignity and beauty of marriage as an expression of the faithful and generous bond between man and woman, and her no to ‘gender’ philosophies, because the reciprocity between male and female is an expression of the beauty of nature willed by the Creator.”⁴⁶

deserves attention is the postulate which suggests that such manifestations of discrimination should be countered also in the private life.

⁴⁴ These claims are emphasized by the additional recommendations, which crown the Principles. The recipients of the recommendations are global institutions, respective UN agencies, or the World Health Organization (WHO), non-governmental and humanitarian organizations, as well as mass media and entities administering funds. These institutions are called to, if possible, eliminate all instances of behaviour or initiatives contradictory with the letter of the Principles, and also promote “the acceptance of diversity of human sexual orientation and gender identity” — The Yogyakarta Principles. Additional Recommendations, o).

⁴⁵ BENEDICT XVI: *Address to Participants in the Plenary Meeting of the Pontifical Council “Cor unum”*, 19.1.2013 — http://www.vatican.va/holy_father/benedict_xvi/speeches/2013/january/documents/hf_ben-xvi_spe_20130119_pc-corunum_en.html (accessed 14.2.2014).

⁴⁶ Ibidem.

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MARIAN MACHINEK

The Charter of the Rights of the Family and the Yogyakarta Principles Two Worlds

Summary

In the current hot debate of the Polish feminist community they further the opinion that the word *gender* is a notion that describes the domain of scientific research on the cultural dimension of sex and similarly conditioned masculine and feminine role, and therefore has nothing to do with an ideology. The Yogyakarta Principles analysis, however, completely contradicts this viewpoint. While in this 35-page-long document, passed in 2006, the word *gender* is omnipresent and appears a dozen or so times on every page, striking seems the lack of such words as “man” and “woman.” This document contains a re-reading of the fundamental human rights within the context of sexual identity and orientation, while the two notions are so strongly emphasised that they can be perceived as a reference point and interpretation key, or even a criterion for the existence

of other fundamental human rights. Utilizing e.g. the right to the freedom of conscience and religion or the right to raise children in harmony with ones conscience is dependent on the approval of the gender outlook on sex. The document expresses clear claims for making equal the rights of relationships based on various sexual orientations with those of a married couple based on a relationship of a man and a woman, with emphasis on the right to have children through adoption or assisted reproductive technology. The juxtaposition of these claims, in the article, with the Charter of the Rights of the Family, published in 1983, showed a diametric discrepancy between the Christian and gender vision of matrimony and family, not only in the issues of secondary importance but also with reference to those fundamental ones.

MARIAN MACHINEK

Charte des droits de la famille face aux principes de Yogyakarta Deux mondes

Résumé

Au cours du débat qui se déroule intensément en Pologne, les milieux féministes propagent l'opinion que le terme de « genre » est lié à un champ d'études en sciences sociales s'occupant de l'aspect culturel du sexe et désignant les différences non biologiques entre les hommes et les femmes et, en tant que tel, n'a rien en commun avec l'idéologie. Cependant, l'analyse des principes de Yogyakarta est en pleine contradiction avec une telle constatation. Ce qui surprend dans ce document adopté en 2006, c'est bien une absence quasi absolue des mots homme et femme, tandis que le terme omniprésent de « genre » y apparaît une quinzaine de fois sur chacune des 35 pages. Ce document contient une nouvelle interprétation des droits de l'homme présentée dans le contexte de l'identité de genre et de l'orientation sexuelle, et en plus, ces deux notions y sont hissées au rang de traits de personnalité si importants que l'on peut les considérer comme un point de repère et un moyen d'interprétation, et voire comme un critère déterminant l'application des autres, aussi fondamentaux, droits de l'homme. L'exercice, par exemple, du droit à la liberté de conscience et de religion ou encore de celui permettant d'élever les enfants selon sa propre conscience se trouve sous la dépendance de l'acceptation de la vision « genriste » du sexe. Ce document revendique explicitement aussi que les États égalisent les droits des couples basés sur diverses orientations sexuelles et ceux du mariage basé sur la relation d'un homme et d'une femme, tout en soulignant l'importance des droits qui permettent d'avoir des enfants grâce à l'adoption ou grâce aux techniques de la procréation assistée. La comparaison, présentée dans cet article, de ces revendications avec la Charte des droits de la famille publiée en 1983 révèle une énorme différence entre la vision chrétienne du mariage et de la famille et celle liée à la conception genriste. Ces différences concernent non seulement les questions secondaires, mais également celles qui sont fondamentales.

Mots clés : Charte des droits de la famille, principes de Yogyakarta, genre, orientation sexuelle, protection des enfants, conception de l'homme

MARIAN MACHINEK

La Carta dei Diritti della Famiglia ed i Principi di Yogyakarta Due mondi

Sommario

Nell'intenso dibattito in corso in Polonia, gli ambienti femministi propagano l'opinione secondo la quale il termine gender (genere) indica il campo di ricerche scientifiche sulla dimensione culturale del sesso ed ugualmente sui ruoli maschili e femminili condizionati, e come tale non ha nulla in comune con l'ideologia. Tuttavia l'analisi dei Principi di Yogyakarta contraddice completamente tale affermazione. Con l'onnipresente, in questo documento approvato nel 2006, parola gender che appare più di una decina di volte su ciascuna delle oltre 35 pagine, colpisce la mancanza quasi completa delle parole "uomo" e "donna". Il documento contiene una rilettura dei diritti fondamentali dell'uomo nel contesto dell'identità e dell'orientamento sessuali, ma comunque entrambe le nozioni vengono sollevate in esso al livello delle caratteristiche talmente importanti di una persona da poter essere riconosciute come punto di riferimento e chiave interpretativa, e persino come criterio di validità di altri diritti fondamentali dell'uomo. L'esercizio, ad esempio, del diritto alle libertà di coscienza e di religione oppure al diritto di educare i figli secondo la propria coscienza, viene subordinato all'approvazione della visione "gender" sul sesso. Il documento esprime anche rivendicazioni chiare di uguagliamento da parte dello stato dei diritti delle coppie basate su diversi orientamenti sessuali con i diritti del matrimonio basato sull'unione di un uomo e una donna, sottolineando il diritto di avere figli mediante l'adozione o la tecnica della procreazione assistita. Il confronto di tali rivendicazioni, incluso nell'articolo, con la Carta dei Diritti della Famiglia pubblicata nel 1983 presenta una differenza diametrica tra la visione cristiana e quella gender del matrimonio e della famiglia, non solo nelle questioni di importanza secondaria, ma rispetto alle problematiche fondamentali.

Parole chiave: Carta dei Diritti della Famiglia, Principi di Yogyakarta, gender (genere), orientamento sessuale, tutela dei figli, concezione dell'uomo