

October 19, 2005

I, Thomas M. Davies, Jr. declare:

1. Attached to this Declaration as Exhibit A is a true and correct copy of my curriculum vitae.

2. I am a Professor Emeritus of Latin American History, Director Emeritus of the Center for Latin American Studies, and former Chair of Latin American Studies at San Diego State University in San Diego, California. I was at San Diego State (SDSU) for 22 years (1968-2001), and was Director of the Center for 22 years (1979-2001). For more than 40 years, I have devoted my academic studies, teaching, field work, and scholarly research to politics in Latin American countries, with a particular emphasis on Central and South America, Mexico and the Mexico-U.S. border region.

3. I have also held several national-level posts including six (6) years on the Institutional Grant Board of the National Security Education Program in the U.S. Department of Defense, seven (7) years on the Fellowship Board of the Inter-American Foundation, five (5) years as Executive Secretary of the Conference on Latin American History (CLAH) of the American Historical Association, and eight (8) years as the Executive Secretary-Treasurer of the Consortium of Latin American Studies Programs (CLASP). I am also a Past President of both the Pacific Coast Council on Latin American Studies (PCCLAS) and the Rocky Mountain Council on Latin American Studies (RMCLAS).

4. Although my BA, MA and Ph.D. degrees are in history, I have vast experience with and expertise in multi-disciplinary and inter-disciplinary studies of Latin America. As noted above, I was Director of the Center for Latin American Studies at SDSU for 22 years and as such had to learn our faculty's disciplines well enough to be able to make recommendations to the Dean and the Provost on tenure and promotion. Also, I developed an entirely new, multi-disciplinary, inter-disciplinary curriculum.

Moreover, I served long periods on both the Inter-American Foundation Grants Board (1986-1992) and the Institutional Grants

Board of the National Security Education Program in the Department of Defense (1995-2001). Both of those positions required solid expertise in language and area studies. I would never have been appointed to those boards if I did not have a national reputation in multi-disciplinary, inter-disciplinary Latin American Studies.

Over the years, I was asked by 15 university presidents in the United States to prepare formal, outside reviews/evaluations of their programs in Latin American Studies and Language. In each case, I reported directly to the President and Provost of each campus.

In addition, for 22 years, I attended at least one meeting a year in Washington, D.C. at the U.S. Department of Education, concerning the Title VI, National Resource Centers for Latin American Studies Programs. Three times I was asked to chair that meeting. Title VI funded the Center for Latin American Studies at San Diego State University 1976-2003 for a total of over \$4,000,000.00.

Finally, The William and Flora Hewlett Foundation awarded me and Professor Brian Loveman (1997-2002) over \$765,000.00 for collaborative, **interdisciplinary** research on Chile with Chilean scholars, universities and research centers.

5. As part of my research for my first book, Indian Integration in Peru: A Half Century of Experience, 1900-1945 (Winner of the 1973 Hubert Herring Award for the best book on Latin America), I traveled extensively throughout Peru for about two (2) years (by train, car, bus, truck, and on foot) and I know the country as few others do (including the vast majority of Peruvians). I have also traveled extensively in Bolivia, Ecuador, Central America, and, of course, Mexico and the U.S.-Mexico border region. As a direct result of those travels, I learned Hispanic culture and how that culture affects the daily decision-making of people, something very few foreigners are able to accomplish.

6. In addition to my extensive travel in Latin America, I read on a daily/weekly/monthly, basis over six (6) magazines and journals from Mexico, Central America and South America, seven (7) United States newspapers, and more than ten (10) United States and British publications on Brazil, Southern South America and the rest of Latin America. These include: NACLA Report on the Americas, The Journal of Inter-American Studies and World Affairs, Guatemala: Bulletin of Guatemala Human Rights Commission/USA, Mesoamerica, Washington Office on Latin America, all the publications by EPICA (Ecumenical Program on Central

America and the Caribbean) the U.S. Department of State Human Rights Reports on Latin American nations, particularly South America, for the past ten years, CIA World Factbook 2005, CIA Regional Reports on the Caribbean, Central America and South America, and other Country Reports, Amnesty International Reports and Updates on the Southern Cone and the Andean nations of South America and Latin America. World Watch and Americas Watch publications on Latin America. World Refugee Survey 2005 and Refugee Reports of the Immigration and Refugee Services of America, the web pages of all the Latin American Military and Police Forces by Country, and the Latin American Data Base.

I am equally conversant with the literature and available materials on LGBT (lesbian/gay/bisexual/transsexual) themes in Latin America. In addition to the above named international human rights organizations I read on a daily/weekly/monthly basis two LGBT magazines, The Advocate and Out, and monitor a number of internet sites, including the International Gay and Lesbian Human Rights Commission, the Lesbian and Gay Immigration Rights Task Force, the International Lesbian and Gay Association, the Lesbian and Gay Refugee Advocacy Project, the Gay Men's Health Crisis, PlanetOut.com, Gay.com, GayToday.com and the many sites of LGBT and AIDS support groups in the various Latin American nations, including several in Brazil, including The Gay Group of Bahia and the Amazonas Association of Gays, Lesbians, and Transvestites. Please see also my "Selected and Annotated Bibliography" which is appended to this declaration.

Finally, I have installed "Google Alerts" on my computer for Mexico and other Latin American countries, as well a "Google Alert for "Homosexual" in each of the Latin American republics.

7. I also taught a course on Modernization and Urbanization in Latin America and a course on Guerrilla Warfare in the Western Hemisphere, with an emphasis on Central and South America. I am often called upon to offer expert opinion on radio and television (including the Voice of America) and spoke extensively in the greater San Diego community on Mexico, the U.S.-Mexico Border area, Central and South America, as well as U.S.-Latin American relations.

8. I am recognized, both nationally and internationally, as one of the foremost experts on terrorism and guerrilla warfare in Central and South America. Since 1992, I have been asked to serve as an expert witness in over 200 political asylum cases in San Diego, Los Angeles, San Francisco, Sacramento and El Centro, California; Portland and Eugene, Oregon; Seattle and Tacoma, Washington; Eloy, Arizona; Dallas and Harlingen, Texas; Omaha, Nebraska; Chicago, Illinois; Miami, St. Petersburg and

Jacksonville, Florida; Arlington, Virginia; Baltimore, Maryland; New York and Ithaca, New York; and Boston, Massachusetts. The respondents were from Colombia, Venezuela, Ecuador, Peru, Bolivia, Chile, Argentina, Uruguay, Paraguay, Brazil, Panama, Nicaragua, El Salvador, Honduras, Guatemala, Mexico, Haiti and the Dominican Republic. In every case, in all of the above named cities, I was recognized as an expert on Latin America by Judges of the Executive Office of Immigration Review except by one judge in Dallas, Texas.

9. Within the fields of Mexico, Central and South American and Latin American Studies, I have concentrated particularly on the role of the military and guerrilla movements in several Latin American countries. Exhibit A details the books, articles, translations of Latin American military documents, papers and lectures I have prepared or presented on this topic. I would point particularly to the two books I have written with Professor Brian Loveman: The Politics of Antipolitics: The Military in Latin America. Third Edition, Revised and Expanded. Wilmington, Del.: Scholarly Resources Press, 1997; and Che Guevara on Guerrilla Warfare. Third Edition, Revised and Expanded. Wilmington, Del.: Scholarly Resources Press, 1997 (the first edition of which won The Hubert Herring Prize for the best book published in the United States on Latin America in 1985).

The Politics of Antipolitics: The Military in Latin America contains extensive treatment of Brazil.

10. I also authored an internationally-recognized comprehensive, annotated bibliography of the military in the Andean Republics: "The Military in Bolivia, Ecuador, and Peru," in Errol D. Jones and David LaFrance, eds., Latin American Military History: An Annotated Bibliography. New York: Garland Publishing, Inc, 1992, pp. 277-341.

11. In addition, I am a recognized authority on Latin American culture, including Latin American views of sexuality, both heterosexual and homosexual. As noted above, since 1992, I have been asked to serve as an expert witness in over 230 political asylum cases and, while about half of those cases dealt with death threats from the military or the guerrillas of a given nation, I have also testified on behalf of 111 homosexual and transsexual males and females all from Latin America.

12. Mr. Andrew Reding has written extensively on sexuality and homosexuality in all of the countries of Latin America as a part of his duties at the Resource Information Center of the

Immigration and Naturalization Service. His most recent work is Sexual Orientation and Human Rights in the Americas. New York: World Policy Institute at New School University, 2003. I was asked by several groups/individuals to review a draft of that not yet published manuscript which was entitled "Conditions for Gay, Lesbian, Bisexual, and Transgendered Persons in Latin America and the Caribbean." In fact, I spoke by telephone with Mr. Reding for over an hour in early June, 2003 and he has cited me in the final version.

13. For the past ten (10) years, I have conducted extensive research on gender and sexuality in Latin America, particularly on LGBT (lesbian/gay/bi-sexual/transsexual) themes. I undertook this research in order to teach the courses listed below and to prepare affidavits for the above mentioned 108 homosexual and transsexual males and females for use in Immigration Court.

14. I developed three courses which contained extensive treatments of sexuality, family and religion:

- A. Modernization and Urbanization in Latin America, a 500-level course which at SDSU means senior undergraduates and graduate students.
- B. A Graduate Seminar on "The Andean Peoples and Their Cultures: Collision and Syncretism" which dealt with Iberian, pre-Columbian, colonial, mestizo, and Afro-Andean cultures, as well as the development of national culture after independence.
- C. A Graduate Seminar on "Traditional and Syncretic Religion and Medicine in Latin America. The religions covered included indigenous, Roman Catholic, Folk Catholic, Yoruba-based African (Condomblé in Brazil, Santería in the Caribbean and New York, and Vodun in Haiti) and Pentecostal Evangelical Protestantism. Included were in-depth analysis of traditional medicine, medieval Spanish medicine (*casera*), folk medicine and magic, and so-called "modern" medicine. Deeply interwoven into all of these are attitudes on sexuality, homosexuality, family and gender roles and discrimination.

15. After my arrival in San Diego in 1968, I had 50-60 openly gay and lesbian students and many others who came to me confidentially (as have my Peruvian family members and most of my homosexual friends in Latin America). Over fifty percent of

those students were Hispanics who were terrified to tell any of their family members or friends. Several have since died of AIDS, which, for me, was akin to losing my own child. Moreover, between 1979-2001, I had four gay or lesbian Graduate Assistants in the Center for Latin American Studies with whom I worked closely.

16. Moreover, my step-daughter (I remarried after my Peruvian wife's death) is lesbian and very active in promoting gay and lesbian rights and causes. I have worked with her on several occasions and I am now working with various LGBT groups here in Albuquerque, New Mexico.

17. My testimony concerning the treatment of Mexican gay males was discussed prominently by the United States Court of Appeals for the Ninth Circuit in the case of Hernández-Montiel v. INS F.3d 1084 (9th Cir. 2000). See below.

Subsequently, the 9th Circuit Court of Appeals reaffirmed the above decision in *Reyes-Reyes v. Ashcroft*, 384 F.3d 1163, 1172 (9th Cir. 2004). I served as the expert witness for the appeal of this case to the 9th Circuit Court of Appeals.

18. For almost twenty-seven years, I was married to a Peruvian national, Eloísa Carmela Monzón Abate de Davies, who died of cancer eleven years ago. As a result of that marriage, I became part of a very large, extended Peruvian family which contained several homosexuals (none of them "out" to the family because they were/are terrified of the family's reaction). Everyone in the family knows about the incident of one of my aunts-in-law who was literally driven out of the country by her family. She currently lives in Guayaquil, Ecuador with her partner. Over the past thirty-five years, I have also developed friendships with dozens of male and female homosexuals in Peru, Ecuador, Bolivia, Brazil, Argentina, Central American nations, Mexico, and, particularly, along the U.S.-Mexico border.

19. Another result of that marriage was that I developed unusually broad and deep personal and professional friendships with military and paramilitary police officials, not just from Peru, but also from a number of South American countries. My Peruvian father-in-law, Gen. José Monzón Linares, was a Lieutenant General (Three-Stars) in and former *Director General* (Commander-in-Chief) of the *Guardia Civil del Perú* (Civil Guard of Peru, the nation's paramilitary police force). General Monzón's brother, Guillermo Monzón Linares was the *Inspector General* (Inspector General) of the *Policía de Investigaciones*

Peruana (Peruvian Investigative Police, Peru's FBI). General Monzón Linares' friends were almost all military personnel from Peru and neighboring republics. I thus had an incredible opportunity to know, interact with and develop close interpersonal relationships with dozens of military and police personnel. My more than thirty years living on the U.S.-Mexico border has enabled me to know and interact with dozens of Mexican military and police personnel, as well. The fact that I was the son-in-law of a Peruvian general, of course, helped me a great deal.

20. All these officers taught me their own particular versions of military lore and ideology, ideologies which were always identical in two areas: the preservation of *La Patria* (The Fatherland) through the maintenance of internal order, and the need to "cleanse" *La Patria* continuously by riding it of traitors and sexual deviates (two groups they believe to be identical). The truth is that the Peruvian *Guardia Civil*, as well as officers from all of Latin America's various paramilitary police organizations are often even more vehement in their attacks so as not to appear less patriotic than the regular military. The point of this is that the police and military forces of Honduras, Mexico, Central America and South America, etc. are imbued with virulent homophobia from their very first day of service.

21. The military and police in Brazil (particularly the federal police, the civil police and the military police have the same attitudes and prejudices as the security forces in the rest of Latin America. The Portuguese (colonizers of Brazil) come from exactly the same cultural, religious and historical tradition as do the Spanish. Indeed, Spain and Portugal were united until 1385 when the Portuguese broke off to form an independent kingdom.

Moreover, Brazilian military ideology and military lore is almost identical to that of Spanish America and Brazil is always included in any discussion of the Latin American military and civil-military relations. Please see Brian Loveman and Thomas M. Davies, Jr., The Politics of Antipolitics: The Military in Latin America. Third Edition, Revised and Expanded. Wilmington, Del.: Scholarly Resources Press, 1997, particularly the sections on Brazil (pp. 41-51; 75-82; 171-180 and 239-267). See also Chapters 1-2: "The Politics of Antipolitics" and "Instability, Violence, and the Age of the Caudillos" and Chapters 27-28: "'Protected Democracies': Antipolitics and Political Transitions in Latin America, 1978-1994" and "Human Rights, Antipolitics, and Protecting the *Patria* An (Almost) Military Perspective."

22. I do not know Mr. XXXX, but I have been asked by his attorney to assist with this case. After reviewing the facts of his case and reading his affidavit with care, I agreed to help because I find his situation to be particularly compelling. As I will explain in this affidavit, I believe Mr. XXXX' fear of persecution as a homosexual in Brazil to be well-founded. Indeed, his sexual orientation constitutes a serious threat to his life, let alone to his basic human rights.

23. The definitions of homosexuality in Anglo-America and Latin America are very different. In Anglo-America, little attention is paid to the "role" of the two sexual partners. Although there are often references to "effeminate" and "swishy" males or "masculine" and "bull dyke" females, Anglo-Americans do not really recognize an appreciable difference, i.e., both of the partners are homosexual and are thus treated equally.

24. In Latin America, on the other hand, a sharp distinction is drawn between the two, each according to his/her supposed role in the relationship, i.e., either the male or the female role. It is assumed that each homosexual partnership has a clearly defined male and an equally clear female. Indeed, this fact is of transcendental importance for male homosexuals and lesbians, for it literally determines whether one or the other is partially acceptable or totally unacceptable in Latin American society as a whole.

25. At this point it is of transcendental importance to point out that Latin Americans look for any indicator, mannerism, life interests and/or relationships with the opposite sex to determine if a person is homosexual or not. In the United States, we do not look for these mannerisms. Very often in a store I will see an obviously homosexual couple and no one pays them any attention at all. However, in Latin America, family members, religious leaders, people in the street, etc. are always attune to any sign of feminine mannerisms in a male or masculine mannerisms in a female. These include the way a person walks, talks, holds his/her shoulders and gestures with his/her hands. Moreover, the community pays close attention to such things as whether a person is dating someone of the opposite sex or is married with children. Those who are not married by at least thirty years of age are suspected of being homosexual.

The simple truth is that we are who we are and we can not change the way we walk, talk, carry our hands and shoulders, etc. We should not have to try and change to fit arbitrary gender roles imposed by a given society (see the comments by the Honorable A. Wallace Tashima in #63 below). Moreover, our

mannerisms tend to become more pronounced as we grow older, and we become more truly ourselves, i.e., any homosexual mannerisms will become more and more obvious.

For example, by the age of seventeen, Mr. XXXX identified with the feminine, rather than the masculine role in society. "I felt as if my whole path was becoming more feminine, like everything related to a woman. I started to observe women. I would observe a girl -- how she dressed, how she wore makeup, how she wore rings, I liked that. ... I wanted to look like a woman more than a man. I wanted to dress like a woman, to try on makeup. I wanted to try on my sister's clothes, but I never asked her because I knew my mother and sisters would not let me."

Mr. XXXX goes on to say that: "when I became conscious that I wanted to date men, I realized that I had to present myself in a certain way. Gradually, I started to change my image by wearing accessories like rings. I plucked my eyebrows. I wore women's clothing. I allowed my behavior to become more feminine -- through the way I talked, walked, sat, used my hands."

26. Even if he had not tried to change his appearance, Mr. XXXX' clearly feminine mannerisms had already become obvious to his fellow students, family and people in the street. As he notes so poignantly: "Homosexual men in Brazil with feminine mannerisms don't have to exaggerate their mannerisms in order for other people in Brazil to conclude that they are gay. One time I went to the store to buy some bread. **When I went up to the counter to buy the bread, one of the clerks turned to the other one and asked, 'Why do gays exist?' Why else would this clerk ask the other one this question in front of me unless my mannerisms communicated to her that I was gay? If I talk to a stranger, no matter how hard I try to hide that I am gay, they figure it out.**" Emphasis Mine.

27. Culturally speaking, all Latin Americans are Iberians (Spaniards and Portuguese), and are much more Moorish than they are European. In fact, I have always taught that Iberia belongs to Eastern Mediterranean-North African culture far more than to Western European and must therefore be studied and treated differently. Even their music and literature are strikingly different.

28. From 711-1492, the Moors occupied the Iberian Peninsula (now Spain and Portugal), transferring to the Iberian population not only their architecture, building skills, etc., but their views of sexuality as well. In Moslem culture (and therefore Spanish and Latin American culture), a male is not considered to

be homosexual if he is performing the role of the male, i.e., he inserts his penis into the other. Before marriage, it is considered to be quite normal and even after marriage, it is barely denigrated. For example, Mohammed Daud, a resident of Kandahar, Afghanistan, is unmarried and has sex only with men and boys. But he does not consider himself to be homosexual, at least not in the Western sense. "I like boys, but I like girls better. "It's just that we can't see the women to see if they are beautiful. But we can see the boys" (quoted in a brilliant article, "Kandahar's Lightly Veiled Homosexual Habits," by Maura Reynolds, *Los Angeles Times*, April 3, 2002. p. 5).

29. For a Latin American viewpoint on this same subject, one need only turn to Octavio Paz, one of the greatest thinkers and writers in Latin American history, and recipient of the 1990 Nobel Prize for Literature. In his world renowned *El laberinto de la soledad* (The Labyrinth of Solitude), Paz wrote: "It is likewise significant that masculine homosexuality is regarded with a certain indulgence insofar as the active agent is concerned. The passive agent is an abject, degraded being. This ambiguous conception is made very clear in the word games or battles--full of obscene allusions and double meanings--that are so popular in Mexico City. Each of the speakers tries to humiliate his adversary with verbal traps and ingenious linguistic combinations, and the loser is the person who cannot think of a comeback, who has to swallow his opponent's jibes. These jibes are full of aggressive sexual allusions; the loser is possessed, is violated, by the winner, and the spectators laugh and sneer at him. Masculine homosexuality is tolerated, then, on condition that it consists in violating a passive agent. As with heterosexual relationships, the important thing is not to open oneself up and at the same time to break open one's opponent" (The Labyrinth of Solitude. Translated by Lysander Kemp (New York: Grove Press, Inc., 1985), pp. 39-40.

30. In his groundbreaking book, Life is Hard: Machismo, Danger, and the Intimacy of Power in Nicaragua (Berkeley: University of California Press, 1992) Roger N. Lancaster explains the passive/active in more explicitly sexual terms. "There is clearly stigma in Nicaraguan homosexual practice, but it is not a stigma of the sort that clings equally to both partners. Only the anal-passive *cochón* is stigmatized. His partner, the active hombre-hombre, is not stigmatized at all; moreover, no clear category exists in the popular language to classify him. ... Indeed, a man can gain status among his peers as a vigorous *machista* by sleeping with *cochones* in much the same manner that one gains prestige by sleeping with many women. I once heard a Nicaraguan youth of nineteen boast to his younger friends: 'I am very sexually experienced, I have had a lot of women, especially

when I was in the army, over on the Atlantic coast. I have done everything. I have even done it with *cochones*.' No one in the group thought this a damning confession, and all present were impressed with their friend's sexual experience and prowess. This sort of sexual boasting is not unusual in male drinking talk" (p. 241).

31. Richard G. Parker has applied this model to Brazil in a superb article entitled "Changing Brazilian Constructions of Homosexuality:"

"Within the folk model of sexual life in Brazil, cultural emphasis seems to have been focused not merely on sexual practices in and of themselves, but on the relationship between sexual practices and gender roles -- in particular, on a distinction between masculine *atividade* (activity) and feminine *passividade* (passivity) as central to the organization of sexual reality."

"Perhaps nowhere is this distinction between *atividade* and *passividade* more evident than in the popular language that Brazilians use in describing sexual relations, in verbs such as *comer* (eat) and *dar* (give). *Comer*, for example, is used to describe the male's active penetration of the female during sexual intercourse. It implies a kind of symbolic domination that is typical of Brazil's traditional culture of gender." ... *Dar*, on the other hand, is used to describe the female's passive submission to her male partner, her role of being penetrated during intercourse. ... Drawing on these categories, the sexual universe is continually structured and restructured, in even the simplest and most common verbal exchanges, along the lines of a rigid hierarchy: a distinction between sexual *atividade* and *passividade* that is translated into relations of power and domination between *machos* and *femeas*, between *homems* (men) and *mulheres* (women)."

"What is particularly important to understand in the present context, however, is not simply the structure of the hierarchy, but the fact that within the traditional context of Brazilian popular culture it has been used to organize and conceptualize sexual relations both between members of the opposite sex and between members of the same sex. The symbolic structure of male/female interactions seems to function in many ways as a kind of model for the organization of same-sex interactions in Brazilian cultures. Within the terms of this model, what is centrally important is perhaps less the shared biological gender of the participants than the social roles that they play out -- their *atividade* or *passividade* as sexual partners and social persons. A *homem* who enters into a sexual relationship with another male does not necessarily sacrifice his *masculinidade*, so

long as he performs the culturally perceived active, masculine role during sexual intercourse and conducts himself as a male within society."

"... The same cannot be said, however, of the errant partners in such sexual exchanges. On the contrary, the male who adopts a passive female posture -- whether in sexual or social interaction -- almost invariably undercuts his own *masculinidad*, just as a female, in adopting an active, dominating, masculine posture undercuts her *feminilidade*" (in: Stephen O. Murray, Latin American Male Homosexualities. Albuquerque: University of New Mexico Press, 1995, pp. 243-244).

32. Indeed, I have known many Latin American males, who consider themselves to be very manly (*muy macho*) even though they engage in both heterosexual and homosexual relations. Please see my **"Selected and Annotated Bibliography"** on these subjects which is attached to this Declaration.

33. As explained above, however, the view and treatment of the "female" partner (the receptor) could not be more diametrically opposed to that of the "male." The "fem" is despised as the "lowest of the low" and strenuous, even violent persecution of "fems" is not only accepted, it is praised in Latin American society. At the family level, male "fems" are perceived as constituting a threat to the *machismo* of all the males in the family, most particularly the father.

For example, Mr. XXXX' father attacked him violently when he was about seventeen years old. "He stopped me and said, 'Wait a minute. You're not leaving. I want to clear up something. I want to know about this story about you being gay.' And I responded, 'No, I won't tell you.' I didn't tell him yes or no. ... **He said he was tired of people making jokes to him about me being gay. He started getting angry. He started hitting my face and punching me all over my body.** He continued to beat me without stopping. He said that he wanted to know the truth or he would beat me more." Emphasis Mine.

"I didn't do anything to make him do that. **I think he beat me because he is machista and felt like he needed to defend his image of being a father. Brazilian fathers feel their masculinity is threatened if their son is gay.**" Emphasis Mine.

"Men in Brazil are *machista*, which is when a man feels he is superior to women and gays. The man is in control of the family, the boss, a real man. The man is always right. He never admits he's wrong because it means he doesn't have control. *Machista* is all over Brazil. And it is expected for all men to be *machista*."

"When my father finished beating me, he told me that if he ever found out for sure that I was gay, he would beat me every day. I had bruises all over my body -- by my ribs, on my face. And my face was really swollen."

34. I have personally read over 200 affidavits/declarations of Latin American homosexuals who are seeking political asylum in the United States based on their sexual orientation and they all contain accounts of persecution, verbal abuse, and physical attacks from a wide range of actors in the society.

Tragically, it is not uncommon for the father, the grandfathers, the brothers, the cousins, etc. to harass unmercifully their homosexual relative. In addition, it is common to attempt to "beat that relative into being a man," "to teach him a lesson." Indeed, many young men and women have been killed all over Latin America as a result of beatings.

Mr. XXXX' uncles also acted well within this cultural milieu. "I think many of my uncles figured out I was gay about this time. Many things were happening, like my father doing what he did, my mother finding out about my father beating me, me not bringing girls over, me hanging out with my boyfriend, Lucas. All these actions made it more concrete to the rest of my family that I was gay."

"My family gatherings became very tense. My uncles started to make comments and little jokes. When we were together, they would ask 'How are the girls? Have you had sex yet? How many girls have you gotten?' And I would say nothing because I didn't want to talk about that part of my life with them. When I didn't say anything, they would say, 'Well, if you aren't going out with girls, you must be gay.' They would joke and laugh. **By me not going out with girls, not sleeping with girls, to them that means I must be gay.**" Emphasis Mine.

"My uncles have made more threatening comments around me like, 'If I had a gay son, I would beat him day and night until he became a man!' Or, 'If I had a gay son and I won the lottery, I'd use the money to have them all killed!' (Referring to all gays). They don't make these comments directly at me, but they make them while I am in the same room so that they know that I hear them."

35. Young homosexuals are also usually taunted, abused and attacked by school mates, teachers, people in the neighborhood and thugs on the street who have noticed their feminine mannerisms.

When Mr. XXXX began to dress differently, he lost his friends. "Around this time, my friends started to treat me differently. They noticed the changes in my behavior and my style. I became the butt of their jokes. They stopped being my friends because they were too worried about what others would think since they were friends with me, a gay."

36. Mr. XXXX' classmates reacted in the same way. "I attended three *escolas secundarias*. At each school, the other students mistreated me once they found out I was gay. My classmates would not get close to me once they figured out I was gay. I would not be invited to social events like dances. So, I closed up because people would not get close to me. I started missing school because I did not want to hear jokes or be criticized. I hated it. I had to shut down, go deeper and deeper into myself because I could not express who I was. I felt alone and very excluded. I couldn't trust anyone."

Discrimination and isolation were not, however, the only things Mr. XXXX had to endure in school. In his first secondary school, the students threatened him by saying "'If you come outside, we'll hit you.'" In the second school, it was far more serious. "There would always be some little group, the bad group that would try to attack me. They named the school corridor 'The Corridor of Death.' When school started, they were inside the door. When they saw me enter, they said 'Let's do the Corridor of Death.' They would form a line along the staircase inside the entrance of the school. You have to pass through this corridor in order to enter the school. The kids would line up on either side of the staircase and wait for me when I got to school and when I left school. I had no choice but to walk by them. **They would punch and hit my chest, my behind and head. They kicked me. Some would slap me on my head and face. Some would punch me on my side and back.**" Emphasis Mine.

37. In every culture and country, teachers and administrators are the only protection which students have in school. They are responsible for maintaining order and discipline and ensuring that each student has an equal opportunity to learn.

As is clear from the above, Mr. XXXX's school teachers and administrators did nothing to help him, thereby leaving him open to constant harassment and physical abuse. This is not only abhorrent and unconscionable, it is also quite common in Brazil and Latin America where effeminate male students are left to fend for themselves.

38. Mr. XXXX was also accosted and attacked on the street by strangers. "I walked into the men's bathroom. It was full of men. I walked up to an available urinal. The man using the urinal next to me accused me of looking at him. I told him I wasn't looking at him and I tried to mind my own business. **The man grabbed my neck and started choking me. He pushed me against the wall yelling 'What are you looking at? Are you gay?' He started using foul language like 'Filo da puta! [Son of a bitch!] Viado tem que morrer!' [Fags must die!]** The other men in the bathroom stood around us, laughing and encouraging my attacker. **No one tried to help me.** The man let me go and I locked myself in a stall for 30 to 40 minutes crying. I was afraid to leave the bathroom because I thought the man was waiting for me outside. I did not know what else he planned to do to me." Emphasis Mine.

"When I was twenty years old, I was walking on a street in my neighborhood when a couple of men stopped me. They called me 'veadinho' [diminutive of viado] **They stood there with their pit bulls. They threatened to put the pit bulls on me if I didn't walk where they told me to walk, which was around the block.**" Emphasis Mine.

39. Clearly there is a sustained pattern here, not just an isolated incident or two. The reactions of the father, classmates, teachers, neighbors and strangers in the street are exactly the type of reactions I have heard in Latin America since I first attended the National Autonomous University of Mexico (UNAM) in 1961. In fact, I have heard such reactions in every Latin American country I have visited over the past 44 years.

40. Since having to confront the horrors of being a homosexual often results in depression and thoughts of suicide, the almost overwhelming desire to "end it all," the issue of "mental illness" deserves special mention. It is a common belief in Latin America that homosexuality is a "sickness," which can be "cured." The use of psychiatry and psychology to "cure" homosexuality is very common in Latin America, as it was in the United States until very recently. Please see my discussion of homosexuality and psychiatry which is appended to this declaration.

41. In addition, the male "fem" is also a threat to all the females of the family because the female is always responsible for the maintenance of family values, family morals and the image of the family in the outside world.

Since the vast majority of Latin Americans (including Brazilians) are raised in the Roman Catholic Church, homosexuals quickly find that their sexual orientation conflicts with their religious beliefs, particularly those of the females in the family who are usually the most devout and most closely adhere to the tenets of Catholicism.

The ideal female in Christianity is, of course, the Virgin Mary, Mother of God, who is idealized and revered in Latin America to a much greater degree than anywhere else in the world. In Spanish, devout "femininity," i.e., devotion to Mary, is called *marianismo* which is the direct opposite of *machismo*. In Latin America, as in all of Western and Middle Eastern societies, women are the keepers of culture, defined broadly to include religion and sexuality.

This is nowhere better seen than with Pope John Paul II's canonization of Juan Diego Cuauhtlahtoztzin on July 31, 2002. Juan Diego is the Chichimeca Indian to whom the Virgin of Guadalupe appeared in 1531. She is the most revered Virgin in Latin America, worshiped as the ultimate, perfect female, the model for every female in the nation. At the same time, Juan Diego Cuauhtlahtoztzin is revered for his humility, modesty and self-effacement, AND, his total acceptance of his position on the bottom of society, a compliant Indian, just as all women are expected to accept, comply with and submit to the wishes of males.

42. A homosexual represents a total rejection of this cultural/religious norm, thereby constituting a direct, frontal attack on the Virgin Mary, the Virgin of Guadalupe and all that is sacred and holy in the Roman Catholic Faith.

Mr. XXXX' mother's reaction to his homosexuality, while unusually tolerant for a Latin American mother, is nevertheless reflective of this attitude. "Even my mother, who has tried to accept my sexuality, has difficulty accepting that her son is gay. She would try to get me to date women and she was always suspicious of my male friends. I could never have an open relationship if I lived in her house. She has told me that the stress of me not 'changing to like women' has made her have health problems."

43. Furthermore, Mr. XXXX takes note of the religious conflicts which he has suffered as a result of his sexual orientation. "I am Catholic and when I was in Brazil, I would go to Church a lot. I felt good going to Church because when I have Church, I feel a spiritual peace. But I felt uncomfortable because I know that the Catholic Church does not accept me. It

was hard for me to go to Church in Brazil because Catholics see marriage between a man and a woman, and they don't believe in homosexuality. They don't like it; they don't accept it."

In fact, a woman in Mr. XXXX' parish church threatened to tell the priest that he is gay so he stopped attending services because he was afraid that the priest would have pointed at him and said "'Hey you, what's your name? Are you gay? If so, you should leave the Church!'" I did not want to feel humiliated and I was afraid that the people at Church would harm me if they discovered I was gay. Having to hide who you are is like having to crawl outside of your own skin and put on someone else's. The Church is very strict and I can't go and pray, and be who I really am."

44. The truth is that, in recent years, the dangers for LGBT peoples emanating from one of the principal players in Latin American culture and society, i.e., the Roman Catholic Church, have increased enormously. The Catholic Church in Latin America has long been one of the most conservative in the world. That conservatism and the concomitant homophobia was battle-hardened during the military dictatorships which rocked the area in the period 1964-1990 (1965-1985 in Brazil) and the Liberation Theology movement which challenged the hierarchy of the Church (particularly the Boff brothers, Leonardo and Clodovis in Brazil). That homophobia has been strengthened and intensified over the past decade. Indeed, the Church's attack on homosexuality has increased exponentially in the past decade, not only in Brazil, but in all of Latin America and the world as well.

For the pronouncements of Pope John Paul II and Joseph Cardinal Ratzinger (now Pope Benedict XVI), please see my "Homosexuality and the Roman Catholic Church" which is appended to this affidavit.

45. One Latin American example of the Church's stand on homosexuality is that of Cardinal Javier Lozano Barragán, a prominent member of the Mexican Church hierarchy who, in October, 2004, denounced a Spanish proposal to legalize same-sex marriages, saying it would be like considering cats or cockroaches part of a family. "They even give cockroaches the rank of family now because they live under the same roof. If there's a cat, a dog, two lesbians and everything living there, it's a family" (*The Los Angeles Times*, October 13, 2004).

46. Moreover, as elsewhere in the world, the Roman Catholic Church in Brazil has recently stepped up its attacks on

homosexuality through both its own pronouncements and its public support of and adherence to a recent publication in Peru. At the request of the Cardinal of Lima, Archbishop Juan Luis Cipriani Thorne, the Pontifical Catholic University of Peru (*La Pontífica Universidad Católica del Perú*) published (2002) a pamphlet entitled *Identidad Sexual: ¿Es Posible Escoger?* ("Sexual Identity: Is It Possible to Choose?") which describes homosexuality as a curable illness: "There are innumerable psychological studies from the past 40 years that describe childhood problems that form part of the history of persons with homosexual inclinations: distorted maternal and paternal role models; peer group problems in childhood; sexual abuse in childhood, among others. ... Like any other behavioral problem, homosexuality can be reversed" (Centro de Asesoría Pastoral Universitaria de la Pontífica Universidad Católica del Perú, 2002).

Then, in a May 31, 2005, interview with Fides news service Cardinal Cipriani Thorne, said: "We are presented with a new sort of feminism which fails to recognize maternity as God's most valuable gift to women and upholds homosexuality as a sexual option rather than the disordered inclination which it is" (Catholic World News web site).

The concept that homosexuality is "curable" is common in Brazil and the rest of Latin America. Please see my description of "Homosexuality and Psychiatry" which is appended to this declaration.

47. Other Roman Catholic Church attitudes in Latin American are abundant. For example, in 2004, for example, Observatori de Les Llibertats Sexuals posted an article on its web site entitled "Iglesias de México y Nicaragua Quieren Ahogar Derechos de Trans y Homosexuales (The Churches of Mexico and Nicaragua Want to Smother the Rights of Transsexuals and Homosexuals).

"The Episcopal Conference of Nicaragua and the Evangelical Alliance of the Apostolic Christian Center Ministry, agreed that the proposed law, the Equal Opportunities Law, recently approved by the Commission of the Women, Children, Youth and Family of the National Assembly **'seeks to impose a new standard of conduct which would question the role of the female within society and within God's design.** "These Christian groups claim that the initiative, as it was presented, **'seeks to achieve equality for women, granting them special new rights such as the right to abortion and the right to lesbianism.'**"

"This proposed law contains a deceptive new vocabulary,' states the pronouncement of the Episcopal Conference of Nicaragua referring to the Law of Equal Opportunities."

"The Episcopal Conference of Nicaragua argues that the terms 'Sexual Health' and 'Reproductive Health' are internationally recognized as euphemisms for forced abortion and for the promotion of homosexuality. Meanwhile, the term 'gender' denaturalizes the essence of the male and the female, denying the natural differences which exist between the sexes and **substituting six genders for the genders masculine and feminine: homosexual, bisexual, transsexual, indifferent, heterosexual, and transgender.**" The translation is mine and the emphasis is mine.

48. Every religion and every denomination of course has the right to establish its own dogma and doctrine in matters of faith. What it does not have the right to do is to deny basic human and civil rights to those individuals who do not agree with it or who do not accept that dogma. The Roman Catholic Church has walked that extremely delicate line on homosexuality for decades, but it has not crossed the line.

The problem for this case is that the official Vatican position provides the military and police forces of Brazil and Latin America with seeming religious support, indeed Divine sanction, for their homophobic attacks on LGBT peoples in their country. They have always claimed that they are doing what they are doing to protect and save *La Patria* and Western Christian Civilization. Now they can, and do claim to be doing God's work as they carry out their mission of cleansing *La Patria* of all that is evil and corrupt in order to "save *La Patria* and its children."

49. As noted above a consequence of these beliefs has been that families have been known to kill the male "fems" and lesbians rather than risk the opprobrium called down upon them by their "fem" or lesbian relative. Mr. XXXX' father's threat to kill him is a good example.

50. At the same time, however, there will often be family members and/or friends of the family who will seek to take sexual advantage of the gay male in the family. Such was the case with Mr. XXXX' stepfather who mistreated Mr. XXXX and his sister and then crossed the line to attempted rape.

"I was about eighteen years old when my stepfather tried to rape me. Only my stepfather and I were at home. I went to my room after I took a shower and my stepfather followed me into my room. He told me 'Today is the day I'll get what I want!...I want to know if you're really gay or not. I want proof. If you're gay, why are you refusing me?' He said, 'I'll show you you're gay!' He said this to me with the same tone that a parent

uses to tell their child 'Come here and I'll show you how to break a vase,' after a child breaks a vase. My stepfather pulled down his pants and tried to get me to have oral sex with him. Then he threw me on the bed and forced me onto my hands and knees, grabbed my arm and waist, and tried to penetrate me. I tried to get out and he pushed me on the bed again. I started crying and yelling and asking him to stop. I could not escape from the room because my stepfather blocked the door with his body. He had physical control over me and I could not fight back. He did not complete the act of raping me. He stopped because someone was at the door and rang the doorbell."

In a very important insight into his stepfather's motivations, Mr. XXXX notes: "I don't know exactly why my stepfather tried to rape me but I don't think he did it because he was gay. **He had no reason to do this to me other than to humiliate me because of my homosexuality and to preserve his masculine image. I think my stepfather is ashamed of the fact that I'm a gay and thought that if people knew I was gay then they would think he was gay too. He had to preserve his image as a man.** I think the fact that I'm gay affects my stepfather as if he were he my biological father. But the fact that he's my stepfather makes it worse for me because it's easier for him to assault me since there is no biological connection." Emphasis Mine.

For similar attitudes among male policemen, please see below.

51. Since the concept of *machismo* is so critical to an understanding of a homosexual's treatment by his family and other members of Latin American society, an explanation or definition is needed here. Please see my brief discussion of *machismo* which is appended to this declaration.

52. Unfortunately, the danger to gay males and lesbians is not confined to the family. In Brazil, Mexico, Guatemala, Honduras, El Salvador, Panama, Ecuador, Peru, Chile and Argentina, for example, it is common for the police, without provocation, to detain gay males and lesbians, beat them up, rape them, insert batons or other foreign objects in the vagina or anus, force them to perform oral sex and otherwise abuse them physically, always accompanied, of course, by verbal and psychological abuse. As a result of these beatings/rapes, many gay males and lesbians have died in those countries, but the perpetrators are almost never prosecuted because such abuse is tacitly accepted and often encouraged.

There have been hundreds of such attacks over the past decade. Please see the web site of the International Gay and Lesbian Human Rights Commission, as well as those of international human rights groups such as Amnesty International and World Watch.

It is not unusual for police to wait outside gay and lesbian bars and pick up those who leave and harass and attack them. Or the police may notice someone on the street with homosexual mannerisms (mannerisms which they are looking for), stop them for a routine document check and then attack them. Members of the nation's military establishment are guilty of these acts as well.

53. Mr. XXXX was fully cognizant of the danger which the police represented and, therefore, never reported any of the attacks upon him. "I also realized that I couldn't go to the police for protection. After my father attacked me, I paid even more special attention to the media reports about police abuse against gay men. I realized that this could actually happen to me. In Brazil, the police are very corrupt and discriminate against homosexuals. I especially don't trust the police because I'm afraid they will hurt me since I am gay. I never reported any of the times I was attacked because the police have a reputation for disrespecting, abusing and even persecuting gay people."

After expressing fear of the police in the State of Minas Gerais, Mr. XXXX states: "There's a place in Belo Horizonte where gay guys hang out. It's a food trailer. Someone must have reported something to the police because one time, all these police came with their batons and started hitting people. Some started running away. I was on the other side of the trailer, so they did not see me. The men didn't do anything to provoke the police into hitting them. Also, a friend of a friend who knows some police told me that there's an area in Belo Horizonte that the police go to in the middle of the night and pick up gay prostitutes. They take their money and hit and beat them. Also, I have heard reports on T.V. about how the police and street gangs beat and sometimes kill gay men. I remember seeing a T.V. report about a gang of skinheads who beat a homosexual couple to death. I heard a story that police attacked young gay people in Brasilia (the capital). I saw another T.V. report about a mayor who banned gays from living in his town in Brazil. The local police enforced his law by patrolling the streets."

54. Indeed, the sexual abuse which gay males and lesbians in all Latin American countries suffer at the hands of the police and other security forces is not only horrific, it is common. Moreover, it is absolutely vital here to make clear that the

police who harass and sexually abuse gay males are not, in their own minds, homosexual. As noted above, it is common for heterosexual males to have sexual relations with gay males, but only as long as they are assuming the male role. Moreover, there exists a strange interpretation of *machismo* which holds that a male is somehow enhancing his *macho* image by dominating a "queer." In addition, rape is employed as a weapon of control. Rape is, after all, the most morally degrading and physically violative method of attack and perceived as the ideal way to establish total domination of both males and females.

Simply stated, police abuse and torture of male and female homosexuals is so common that it is mentioned almost in passing in accounts of "gay-bashing" in Latin America. Homosexuals who are forced to return to their native Latin American are extremely likely to encounter problems with the police. If this happens, they risk police abuse, rape and torture. Please see the last five to ten years of reports by Amnesty International, World Watch, Brazilian human rights NGO's, and the Department of State, Bureau of Democracy, Human Rights and Labor, Country Reports on Human Rights Practices of all the Latin American republics. In fact, these reports are consistent with everything I have read, heard and seen in my forty-three years of experience in Latin America.

55. Moreover, Latin American police never investigate charges of violence against gay males and lesbians, nor do they ever prosecute those who have attacked homosexuals. In fact, gay males and lesbians in Latin America can not count on protection from assault on the part of any civil or military official in local, state or national governments. On the contrary, gay males and lesbians are considered to be a threat to *La Patria* and must be eliminated so that *La Patria* will be "clean."

In fact, homosexuals who report the violent incidents committed against them to the police are very often arrested themselves for having "provoked" the attack.

56. Gay males and lesbians are subject to regular and brutal persecution in Latin America. Not only are they targets because they starkly offend the Latin American ideal of *machismo*, but they are also viewed by the police as easy targets because they are presumed to be prostitutes. It is quite common for policemen to demand both money and sexual favors from gay males and lesbians and then threaten them with jail if they do not comply. This is a very effective threat because a gay male or lesbian placed in jail can expect to be repeatedly raped or even gang-raped by other inmates. Gay males and lesbians who do not comply are also beaten, raped, jailed or murdered. Policemen can

subject gay males and lesbians to such abuse, including extrajudicial execution, with impunity, because of the total failure of law enforcement to investigate crimes against gay males and lesbians in Latin America.

Tragically, there is not one Latin American police force which is not engaged in "gay bashing," a fact proven by all the available literature on the subject.

57. It should be noted here that the Latin American Governments and police treat crimes which result in the abuse, injury or death of a gay male or a lesbian as "common crimes," committed by "common criminals," never as hate crimes against homosexuals. This is particularly true, of course, when the police themselves are the perpetrators. These matters will simply be "dropped" and there will never be an official investigation, as there would be if homosexuals were not the target.

58. As noted above, there are myriad examples of harassment--even violence against homosexuals in Latin America, harassment and assaults which are never investigated by the police. The pattern is clear indeed. Obviously, gays and lesbians cannot file complaints because the police will always protect their own and refuse to take his/her statement. Nor will the police ever investigate such incidents or prosecute the perpetrators because such abuse is tacitly accepted and often encouraged. In fact, gay males and lesbians in Latin America can not count on protection from assault on the part of any civil or military official in local, state or national governments. On the contrary, gay males and lesbians are viewed as constituting a threat to *La Patria* and must be eliminated so that *La Patria* will be "clean." This attitude all but codifies police indifference to crimes committed against gays and lesbians.

59. This indifference to abuse is no where better seen than in official and unofficial views of Acquired Immune Deficient Syndrome (AIDS), or *Síndrome de Inmunidad Deficiente Adquirida* (SIDA) as it is known in Latin America. Latin Americans will rarely admit that AIDS even exists in their country, but if they do they will describe the disease as an abomination, caused by the Devil or an angry God who has cursed a person or a family. The fact remains, however, that HIV+ or AIDS patients are lumped together with all homosexuals into one horrific abomination, *maricones* (queers), whose existence is a threat to every individual, every family, yes, to the nation (*La Patria*) itself. According to this way of thinking, therefore, abuse of these people is deemed to be deserved.

60. Peter Aggleton, Richard Parker and Mirima Maluwa stated: "HIV/AIDS plays to some deep-seated fears and anxieties-- fear of germs and disease, fear of death, and anxieties about sex.

"All over the world, and especially in Latin America and the Caribbean, it has systematically played to, and reinforced, existing prejudices and anxieties about homo- and bisexuality, about prostitution and sex work, and about injecting drugs." Please see Peter Aggleton, Richard Parker, Mirima Maluwa, "Stigma, Discrimination and HIV/AIDS in Latin America and the Caribbean." Washington, D.C.: Inter-American Development Bank, 2003, p. 3.

61. This is vital to an understanding of the attitudes so prevalent in Latin America. According to the United Nations, Latin America has an extremely high rate of HIV/AIDS. Very few of the governments are genuinely committed to the treatment of HIV/AIDS. Such programs are hardly popular with the general citizenry who view HIV/AIDS as a curse from God, inflicted upon people (homosexuals) whom they view as less than human. In the popular view, food, jobs, schools and economic development are far more important. See United Nations Development Programme, Human Development Report 2002. New York: Oxford University Press, 2002. See also Agua Buena, et. al., "Informe sobre la situación de los derechos humanos de las personas que viven con VIH-SIDA (PVVS) y acceso a la atención integral y los tratamientos antiretrovirales (ARV) en América Latina y el Caribe," report presented to the Inter-American Commission on Human Rights, Washington, D.C., 16 October 2002.

For data on AIDS in every Latin American country, see Andrew Reding, Sexual Orientation and Human Rights in the Americas. New York: World Policy Institute at New School University, 2003. Reding devotes a section of each country analysis to the number of HIV/AIDS patients in every country in the Western Hemisphere.

For the most up-to-date world rankings on AIDS prevalence, see "HIV/AIDS Adult Prevalence Rate Rank" at AllYouCanRead.com

62. That the situation has not improved to the present represents a disaster for homosexuals (and other HIV+/AIDS patients all over the Western Hemisphere) because not only are many of them HIV positive, many also exhibit clearly defined homosexual mannerisms. Moreover, there is no way for these individuals to alter their homosexual mannerisms (feminine or masculine). They are what they are, thereby complicating

enormously their efforts to obtain true medical assistance rather than some meaningless palliative substitute.

63. There is no doubt that lesbians, male "fems" and other homosexuals are members of a particular social group and that Mr. XXXX is in danger due to that membership. As The Honorable A. Wallace Tashima, Judge, United States Court of Appeals for the Ninth Circuit wrote in *Geovanni Hernández-Montiel v. Immigration and Naturalization Service*: "Geovanni's female sexual identity must be fundamental, or he would have changed years ago. ... Geovanni should not be required to change his sexual orientation or identity. ... Because we conclude that Geovanni should not be required to change his sexual orientation or identity. ... we need not address whether Geovanni could change them. Geovanni's credible and uncontradicted testimony about the inherent and immutable nature of his sexual identity compels the conclusion that Geovanni was a member of the particular social group of gay men in Mexico with female sexual identities."

64. It must be noted here that homophobia is particularly virulent in Latin America where the military and civilian elites have a long history of extreme political views and of even more extreme violence against their peoples whenever they were really challenged. Liberal democracy is often touted by the elites, particularly in the twentieth-first century, but it has never been implemented over the past 250 years. Some regions such as Central America (El Salvador, Guatemala, Honduras, Nicaragua) and southern South America (Peru, Chile, Argentina, Brazil, Uruguay) suffered more than others, but no nation escaped the military and police brutality which has wracked the area for centuries. For an in-depth analysis of civil-military relations and security force violence in Latin America, see Brian Loveman and Thomas M. Davies, Jr., The Politics of Antipolitics: The Military in Latin America. Third Edition, Revised and Updated. Wilmington, Delaware: Scholarly Resources, Inc., 1997.

65. No Latin American nation has had an even marginally acceptable human rights record. On the contrary, the political opposition, indigenous peoples and other dissident groups have long suffered at the hands of the nation's security forces. During the 1970s, 1980s and 1990s, and particularly in the period of the United States reaction to civil wars in Central America and the perceived threat from Communism in South America, the human rights records of these nations worsened perceptibly. See Amnesty International and World Watch reports for the past two decades.

66. In addition to the denial of human and civil rights, the economies of these nations declined precipitously during the period 1960-2000, thereby contributing to the growth of street gangs and increased crime, particularly assaults and robberies.

67. Of transcendental importance for this case are these Latin American gangs' attitudes on homosexuality. Not only are they responsible for murder, theft and mayhem, they are notoriously homophobic. In the past fifteen years, gang attacks on homosexuals have increased exponentially all over Latin America, including Brazil. Even more than robbing liquor stores, "gay-bashing" became a favorite gang pastime.

68. In addition to the military, the national police, and street gangs, homosexuals are in extreme danger from the *Esquadrones de Muerte*. These Death Squads, composed of active-duty and recently-retired police and military personnel, are responsible for the deaths of hundreds of thousands of Latin Americans, particularly homosexuals and other perceived "threats" to *La Patria*, in the period 1980-2005. Like the police and the military, the members of these Death Squads sincerely believe that they are the last bulwark of defense against traitors, criminals, gangs, street children and "social deviates" (read homosexuals). If they do not take action, their beloved Fatherland (*La Patria*) will be overrun and destroyed. In their opinion, theirs is a fight to the death. Their countries must be saved from Armageddon, the end of Western Christian Civilization.

69. The "cure" for this pandemic violence and societal chaos and its threat to *La Patria* was and is the same for the police, the military, the death squads, and the private and vigilante security forces which have sprung up recently, i.e., the elimination of homosexuals, traitors, street youth, and all gang members. This is the very essence of "social cleansing" and it is as prevalent today as it was ten or twenty years ago.

The truth is that violent crime continued to fuel the growth of private, often unlicensed guard services, and of volunteer groups that patrolled their neighborhoods or municipalities to deter crime. Vigilante justice led to the killing of known and suspected criminals, as well as homosexuals, youth in gangs, street children, and youth not known to be involved in criminal activity. Neighborhood watch groups have also been accused of taking the law into their own hands.

70. The United States Department of State in its Country Reports on Latin American nations, 1992-2004, offer lengthy

sections on this ubiquitous violence. The State Department also repeatedly takes note of the fact that the gay and lesbian population is singled out in most countries.

71. Moreover, the economic situation of gays and lesbians is far graver than that of most people in Latin America. The vast majority of Latin American-owned large and medium firms and businesses, as well as most foreign companies in Latin America, will simply not hire obviously homosexual men and women, or, if they find out later, will simply fire the individual.

Moreover, as noted above, all homosexuals are presumed to be infected with HIV/AIDs (which is not true) and all those who are infected are presumed to be homosexual (which is likewise false). When the individual exhibits homosexual mannerisms, the situation is even more critical. Given this prejudice, AND, the horrendous economic situation in Latin America, there is no way that a gay or lesbian could earn enough money to feed himself/herself adequately, let alone obtain decent housing or medical treatment.

Mr. XXXX himself has faced this type of discrimination. "I think people in Brazil make generalizations that gay men have AIDS or will get AIDS, and that men with AIDS are gay. When I was 22 years old, my neighbors made a comment about me having AIDS. After a guy in my neighborhood died of AIDS, one of my neighbors approached me and said 'Hey, you don't want to end up like that do you.'"

72. As noted above the natural result of economic collapse is almost always a breakdown in law and order and a diminution of basic human and civil rights for all citizens, but most particularly for homosexuals and other perceived "enemies" of *La Patria*.

Even a casual perusal of the U.S. Department of State Country Reports on all of the Latin American nations, including Brazil, reveals a horrific picture of human rights violations. Members of the police and other security forces commit extrajudicial murders, torture suspects, arrest people without cause, and organize death squads and vigilante groups. Conditions in the prisons are indescribably terrible and detainees were beaten, verbally abused, denied necessary medical attention, crowded together under inhumane conditions, and forced to survive on starvation food rations which is often substantially less than \$1.00 per day per prisoner.

There is also considerable impunity for members of the economic, military, and official elite, a situation exacerbated by weak, underfunded, and often corrupt judicial systems.

Moreover, many of those held in prison were, in effect in pretrial custody, often waiting several years before their cases could be heard.

73. As noted above, prisons are particularly dangerous for homosexuals. Not only are they raped and gang-raped, beaten severely, even killed by other prisoners, but prison guards and other prison employees also harass, beat, rape, and force homosexuals to perform oral sex. The fact is that **HOMOSEXUAL PRISONERS ARE ALWAYS TREATED THE WORST IN LATIN AMERICAN PRISONS**, a gruesome prospect for any homosexual deported back to Latin America.

74. Given this scenario of life in Latin America, it would be absolutely impossible for gays and lesbians to receive any type of protection from state security forces. If Latin American security forces wantonly torture, murder and illegally detain their citizens, and otherwise violate basic human rights of women and children, how could anyone expect them to respect their rights as homosexuals who may or may not be infected with HIV/AIDS? The answer is that they will not and they will harass and abuse gays and lesbians physically, verbally and emotionally, perhaps even kill them, very soon after their arrival.

75. As noted above, homosexuals are particularly high profile targets. The military, the police, the death squads, and the gangs firmly believe that they are "cleansing" the body politic and therefore *La Patria* of all that is dirty, undesirable, and dangerous to the morality of *La Patria* and its children. Indeed, given the climate in Latin America and the role the authorities play in denying basic human and civil rights, it is my considered opinion that the deported homosexual is at high risk for arrest at the airport and imprisonment. At best, there would be some form of preventive detention with the same end result: either going directly to jail or being tortured or killed "while trying to escape," or some such scenario. Their chances of avoiding the authorities and detention are nil. Moreover, once incarcerated, the general prison population will immediately target the homosexuals for massive abuse and most probably death. As outlined above, neither the government nor the police can or will do anything to help them.

76. Moreover, people in all cultures begin to look for scapegoats to explain THE CRISIS THROUGH WHICH THEY ARE PASSING AND ON WHOM THEY CAN VENT THEIR FRUSTRATIONS. Homosexuals have been singled out for centuries and it is no different in the Latin America of 2005. Homosexuals are and will be in danger not

only from the security forces, but also from the mobs in the street which have become increasingly larger and bolder.

77. If not death, then jail, without adequate food or any degree of safety, is the most likely fate for gays and lesbians. Moreover, if they are deported from the United States, their arrivals will be well known to all relevant government agencies. Their names will be on the flight manifest and if they should enter by land, they will be logged in and their whereabouts known immediately.

78. All Latin American republics have elaborate systems of national identification documents which must be carried on one's person at all times. Although the exact terminology might vary from country to country, they all use the following: military ID (for males), electoral identification, and tax identification. All of these must contain current address information under penalty of arrest and incarceration. Latin American citizens may be and are stopped by security forces, AT WILL, and they had better have up-to-date documents or they will be sent directly to jail. Those people who have resided in the United States for more than one year do not have up-to-date documents at all and they will therefore have to apply in person to various government agencies and ministries. Thus, their whereabouts will always be known.

79. In sum, then, admitted homosexuals and/or those who exhibit mannerisms on the "feminine" or "masculine" ends of the gender spectrum, are high profile targets who would clearly be in extreme danger if they were forced to return to any Latin American country, including Brazil. It is my considered, professional opinion that the Latin American military and police not only possess the desire to eliminate all criminals, gang members, undesirables and moral deviates (read homosexual) and thereby "cleanse" the polity, they have the power necessary to find and eliminate them. Moreover, the police will be both unable and unwilling to help homosexuals should they be attacked by the police themselves, by the military, by people on the streets or by street gangs which are operating almost freely. Indeed, it is my judgment that one party or the other will kill Mr. XXXX either in the short run or the long run, with a high degree of effectiveness.

I hereby certify, under penalty of perjury, that the above is true and correct, to the best of my knowledge, information and belief.

Thomas M. Davies, Jr.
Professor Emeritus of Latin American History
Director Emeritus, Center for Latin American Studies
Former Chair, Latin American Studies

Date

GAY CITATIONS FOR SPAIN AND LATIN AMERICA

For a brilliant collection of scholarly essays on homosexuality in Iberia (Spain and Portugal), see Josiah Blackmore and Gregory S. Hutcheson, eds., Queer Iberia: Sexualities, Cultures, and Crossings From the Middle Ages to the Renaissance. Durham: Duke University Press, 1999.

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The best historiography of gay and lesbian themes is Martin Nesvig, "The Complicated Terrain of Latin American Homosexuality," Hispanic American Historical Review, Vol. 81, Nos. 3-4 (August-November, 2001), Special Issue: Gender and Sexuality in Latin America, pp. 689-729. See also Daniel Balderston and Donna J. Guy, "Bibliography of Gender and Sexuality Studies on Latin America," in Daniel Balderston and Donna J. Guy, eds., Sex and Sexuality in Latin America. New York: New York University Press, 1997, pp. 259-277.

Of vital importance for this case is Stephen O. Murray's sensitive and incisive Latin American Male Homosexualities. Albuquerque: University of New Mexico Press, 1995. It is particularly valuable for Murray's analyses of the gendered roles of the male (*activo* or active) and the female (*pasivo* or passive).

Particularly important for this case is the section in Murray's book on Brazil which contains several superb articles: Peter Fry, "Male Homosexuality and Afro-Brazilian Possession Cults" (pp. 193-220); Luiz Mott, "The Gay Movement and Human Rights in Brazil" (pp. 221-230); Frederick L. Whitham, "*Os Entendidos*: Gay Life in Sao Paulo in the Late 1970s" (pp. 231-240); Richard G. Parker, "Changing Brazilian Constructions of Homosexuality" (pp. 241-255); and Wayne R. Dynes, "Portugayese" (pp. 256-263).

Also of transcendental importance is Roger N. Lancaster, Life Is Hard: Machismo, Danger, and the Intimacy of Power in Nicaragua. Berkeley: University of California Press, 1992. Lancaster shows that there is a certain class of passive homosexuals in Nicaragua, known as *cochones*, who affirm rather than contest *machismo* (see particularly Chapter XVIII: "Subject Honor, Object Shame").

Particularly helpful on the broad subject of Hispanic *machismo* (the culture of manliness, see Ray González, ed., Muy Macho: Latino Men Confront Their Manhood. New York: Doubleday, 1996; Matthew C. Gutmann, The Meanings of Macho: Being a Man in Mexico City. Berkeley: University of California Press, 1996; and Alfredo Mirandé, Hombres y Machos: Masculinity and Latino Culture. Boulder: Westview Press, 1997.

The two best encyclopedias are: Robert R. Francoeur, The International Encyclopedia of Sexuality, 4 vols. (New York: Continuum, 1997); and Bonnie Zimmerman and George Haggerty, eds., The Encyclopedia of Lesbian and Gay Histories and Cultures, 2 vols. (New York: Garland, 2000).

Additional works of interest are:

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Ramón A. Gutiérrez,, When Jesus Came, The Corn Mothers Went Away: Marriage, Sexuality and Power in New Mexico, 1500-1846.

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THE MEANING OF MACHO

Some years ago, the great Chicano writer and thinker, Rudolfo Anaya, wrote: "The word *macho* has one of the shortest definitions in the Spanish language dictionary, and yet the cult of macho behavior (machismo or the macho image) is as ambiguous and misunderstood as any aspect of Hispanic/Latino culture. To be macho is to be male, that's simple, but when the term is applied to Hispanic male behavior, then the particulars of the role are defined according to the particular culture. From Spain to Latin America, from Mexico to the Chicanos in the USA, one gets a slightly different definition of the macho image at every turn" (see Rudolfo Anaya, "'I'm the King:' The Macho Image," in: Ray González, ed., Muy Macho: Latino Men Confront Their Manhood. New York: Anchor Books Doubleday, 1996, p. 59).

In Anglo-American culture (i.e., The United States), *machismo* is usually defined simply as male domination of females, or as Omar S. Castañeda noted, "reduced to self-aggrandizing male bravado that flirts with physical harm to be sexual, like some rutting for the right to pass on genes" (see Omar S. Castañeda, "Guatemalan Macho Oratory" in: Ray González, ed., Muy Macho: Latino Men Confront Their Manhood. New York: Anchor Books Doubleday, 1996, p. 37).

In the end, the complexity of the word *macho* derives from the fact that it can be used in both a negative and a positive manner. In a brilliant book on the subject, Alfredo Mirandé offers two very contradictory lists of descriptors:

Bravado	Brave
Cowardly	Courageous
Irresponsible	Responsible
Disrespectful	Respectful
Selfish	Altruistic
Pretentious	Humble
Loud	Soft-Spoken
Abusive	Protective
Headstrong/Bullish	Intransigent
Conformist	Individualistic
Dishonorable	Honorable

Hombres y Machos: Masculinity and Latino Culture. Boulder: Westview Press, 1997, p. 78.

Stated simply, "historical" *machismo* is actually male dominance of other males in all aspects of life: bravery, fighting, drinking, gambling, domination of females, etc. This concept, however, is changing in the "cradle" of *machismo*—the nation of Mexico. See Matthew C. Gutmann, The Meaning of Macho: Being a Man in Mexico City. Berkeley: University of California Press, 1996. Still, as is often the reality in matters of ideology, the "taught" have lagged behind the "teacher."

Moreover, of tremendous importance for this case is the warped definition of *machismo*, often believed by police and the military in Latin America, which holds that harassment, abuse, assault, even rape of homosexual males somehow makes a man even more *macho*. One must remember that these attacks also serve as "reassertions" of the absolute and unmitigated control over all people sought by security forces in Latin America. See Brian Loveman and Thomas M. Davies, Jr., The Politics of Antipolitics: The Military in Latin America. Third Edition, Revised and Expanded. Wilmington, Del.: Scholarly Resources Press, 1997;

HOMOSEXUALITY AND PSYCHIATRY

Latin American parents/families (like their counterparts in most of the world) have often sought to "cure" their gay/lesbian relatives by sending them to psychologists/psychiatrists for medical "treatment." Beginning in the 1930s, homosexuality was formally defined as a mental disorder, a type of psychopathic personality disorder. In 1952, in its first *Diagnostic and Statistical Manual of Mental Disorders* (DSM), the American Psychiatric Association (APA) "included a category called sexual deviation as a subtype of sociopathic personality disturbance. Homosexuality was mentioned as one example of the sexual deviations. In the second edition (*DSM-II*), published in 1968, the reference to homosexuality continued to be included under the heading for personality disorders, a type of sociopathic personality disorder, and specifically as one of the sexual deviations."

Then, "the APA reviewed the findings from more recent research on gay men and lesbians. Following a period of intense political engagement and of considerable scientific evaluation, the Board of Trustees of the APA voted in December 1973 to remove homosexuality from its list of mental disorders. ... Remnants of the diagnosis of homosexuality as a type of disease were finally removed from the official list of diagnoses in 1986, and currently sexual orientation is not a consideration in defining mental health or illness in American psychiatry."

"Hostility toward homosexuality persisted among some psychiatrists after the nomenclature change and is maintained today by groups of psychiatrists and other mental health professionals who continue to advocate an illness model of homosexuality and offer treatment for it. These professionals do not represent the official view of American psychiatry regarding homosexuality and gay men and lesbians" (see Terry S. Stein, M.D., "Psychiatry and Homosexuality," in Bonnie Zimmerman and George E. Haggerty, The Encyclopedia of Lesbian and Gay Histories and Cultures, Volume II, George E. Haggerty, ed., Gay Histories and Cultures: An Encyclopedia, New York: Garland Publishing Inc., 2000, pp. 713-715). See also Dr. Stein's articles "Psychological and Psychoanalytic Perspectives on Homosexuality," and "Psychotherapy" in ibid, pp. 715-718.

On May 17, 1990, the General Assembly of the World Health Organization (WHO) removed homosexuality from its list of mental disorders. This action served to end more than a century of medical homophobia in the world at large.

In 2001, the United States Surgeon General issued a landmark report entitled "The Surgeon General's Call To Action to Promote Sexual Health and Responsible Sexual Behavior." Regarding homosexuality, the report stated: "Sexual orientation is usually

determined by adolescence, if not earlier, and there is no valid scientific evidence that sexual orientation can be changed. Nonetheless, our culture often stigmatizes homosexual behavior, identity and relationships. These anti-homosexual attitudes are associated with psychological distress for homosexual persons and may have a negative impact on mental health, including a greater incidence of depression and suicide, lower self-acceptance and a greater likelihood of hiding sexual orientation."

Then in July, 2004, in a complete and final reversal of the American Psychiatric Association's 1952 position, the American Psychological Association announced at its annual convention that it would take a leadership role to help repeal laws that make marriage for gay couples illegal. The group said the fact that gay couples can't marry could psychologically harm the individuals, as well as their relationships. "Discrimination of all kinds takes a toll on people's health and psychological well-being" (Jen Christensen, "U.S. Psychologists Favor Marriage Equality," PlanetOut Network, July 29, 2004).

In another landmark step, the American Counseling Association elected an openly gay male, Mark Pope, as the Association's 2004 President. See The Advocate, December 9, 2003.

Psychiatrists, psychologists and other health professionals in Latin America, however, continue to view homosexuality as a "treatable, curable illness," and families continue to seek medical treatment for their families and friends. I personally know of members of my extended family in Peru who have been sent to psychiatrists and psychologists to "be cured." Moreover, just last year (2004) my Mexican-American son-in-law's mother wanted to send her younger son to a psychiatrist for that same reason.

HOMOSEXUALITY AND THE ROMAN CATHOLIC CHURCH

There exists a voluminous literature on the Roman Catholic Church and homosexuality, but one must begin with Joseph Cardinal Ratzinger's two Letters to the Bishops of the Catholic Church. Cardinal Ratzinger, then Prefect of the Congregation for the Doctrine of the Faith and now Pope Benedict XVI, issued the first on October 1, 1986. Entitled "Letter to the Bishops of the Catholic Church on the Pastoral Care of Homosexual Persons" it is the document most often cited by people on both sides of the controversy: "Explicit treatment of the problem was given in this Congregation's 'Declaration on Certain Questions Concerning Sexual Ethics' of December 29, 1975. That document stressed the duty of trying to understand the homosexual condition and noted that culpability for homosexual acts should only be judged with prudence. At the same time the Congregation took note of the distinction commonly drawn between the homosexual condition or tendency and individual homosexual actions. **They were described as deprived of their essential and indispensable finality, as being 'intrinsically disordered,' and able in no case to be approved of.**

In the discussion which followed the Declaration, however, an overly benign interpretation was given to the homosexual condition itself, some going so far as to call it neutral, or even good. **Although the particular inclination of the homosexual person is not a sin, it is a more or less strong tendency ordered toward an intrinsic moral evil; and thus the inclination itself must be seen as an objective disorder.**

Therefore special concern and pastoral attention should be directed toward those who have this condition, lest they be led to believe that the living out of this orientation in homosexual activity is a morally acceptable option. It is not." Emphasis Mine.

Appended to the Letter is the following statement: "During an audience granted to the undersigned Prefect, His Holiness, Pope John Paul II, approved this Letter, adopted in an Ordinary Session of the Congregation for the Doctrine of the Faith, and ordered it to be published."

The second Letter is entitled "Letter to the Bishops of the Catholic Church on the Collaboration of Men and Women in the Church and in the World," was published on May 31, 2004, and stated the Question as follows:

"Recent years have seen new approaches to women's issues. A first tendency is to emphasize strongly conditions of subordination in order to give rise to antagonism: women, in

order to be themselves, must make themselves the adversaries of men." ...

"A second tendency emerges in the wake of the first. In order to avoid the domination of one sex or the other, their differences tend to be denied, viewed as mere effects of historical and cultural conditioning. In this perspective, physical difference, termed sex, is minimized, while the purely cultural element, termed gender, is emphasized to the maximum and held to be primary. The obscuring of the difference or duality of the sexes has enormous consequences on a variety of levels. **This theory of the human person, intended to promote prospects for equality of women through liberation from biological determinism, has in reality inspired ideologies which, for example, call into question the family, in its natural two-parent structure of mother and father, and make homosexuality and heterosexuality virtually equivalent, in a new model of polymorphous sexuality.** Emphasis Mine.

Appended to the Letter is the following statement: "The Sovereign Pontiff John Paul II, in the Audience granted to the undersigned Cardinal Prefect, approved the present Letter, adopted in the Ordinary Session of this Congregation, and ordered its publication."

Pope John Paul II was a strident foe of homosexuality as indicated by his approval of Cardinal Ratzinger's two Letters and this statement in his last book, published just before his death in April, 2005: "Nor are other grave violations of God's law lacking. I am thinking, for example, of the strong pressure from the European Parliament to recognize homosexual unions as an alternative type of family, with the right to adopt children. **It is legitimate and even necessary to ask whether this is not the work of another ideology of evil, more subtle and hidden, perhaps, intent upon exploiting human rights themselves against man and against the family**" (Pope John Paul II, Memory and Identity: Conversations at the Dawn of a Millennium. New York: Rizzoli International Publications, Inc., 2005, p. 11).

For a recent Latin American example, one only need to cite Cardinal Javier Lozano Barragán, a prominent member of the Mexican Church hierarchy, who, in October, 2004, denounced a Spanish proposal to legalize same-sex marriages, saying it would be like considering cats or cockroaches part of a family. "They even give cockroaches the rank of family now because they live under the same roof. If there's a cat, a dog, two lesbians and everything living there, it's a family" (*The Los Angeles Times*, October 13, 2004).

Moreover, Roman Catholic clergy all over Latin America have publically supported and adhered to a recent publication in Peru. At the request of the Cardinal of Lima, Archbishop Juan Luis Cipriani Thorne, the Pontifical Catholic University of Peru (*La*

Pontífica Universidad Católica del Perú) published (2002) a pamphlet entitled *Identidad Sexual: ¿Es Posible Escoger?* ("Sexual Identity: Is It Possible to Choose?") which describes homosexuality as a curable illness: "There are innumerable psychological studies from the past 40 years that describe childhood problems that form part of the history of persons with homosexual inclinations: distorted maternal and paternal role models; peer group problems in childhood; sexual abuse in childhood, among others. ... Like any other behavioral problem, homosexuality can be reversed" (Centro de Asesoría Pastoral Universitaria de la Pontífica Universidad Católica del Perú, 2002).

The concept that homosexuality is "curable" is common in Brazil. Please see my short description of "Homosexuality and Psychiatry" which is appended to this declaration.