

March 7, 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 33 years (1968-2001), and was Director of the Center for 22 years (1979-2001). For more than 30 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 and Mexico.

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, Northern South America, 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 Latin America, three (3) United States newspapers, and more than ten (10) United States and British publications on Chile, Peru, Colombia and 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 Venezuela, Colombia, South America and Central America, for the past ten years, CIA World Factbook 2004, CIA Regional Reports on the Caribbean, Central America and South America, and other Country Reports, Amnesty International Reports and Updates on Venezuela, Colombia and Latin America. World Watch and Americas Watch publications on Venezuela and Latin America. World Refugee Survey 2004 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.

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 was often called upon to offer expert opinion on radio and television (including the Voice of America) and speak 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.

9. For almost twenty-six (26) years, I was married to a Peruvian national, Eloísa Carmela Monzón Abate de Davies, who

died of cancer in 1994. One 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, particularly Chile and the Chilean *Carabineros*. I thus had an incredible opportunity to know, interact with and develop close interpersonal relationships with dozens of military and police personnel.

10. Each of these military and police 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* (Civil Guard—a paramilitary national police force), as well as officers from similar police units in Chile, particularly the *Carabineros* (the uniformed, paramilitary police force), the civilian Investigations Police and officers of the National Intelligence Agency, were and are 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 Chile, Peru, Argentina, El Salvador, Guatemala, and Colombia, etc., are imbued with virulent homophobia from their very first day of service.

11. These family contacts, together with my more than forty years of travel and study in Latin America, provided me with an extensive network of individuals from every social, political, and economic strata of the country: my Peruvian extended family (including my brother-in-law, Pedro Monzón Abate, who was one of four Vice Presidents of the *Banco de la Nación*—National Bank of Peru), my relationships with individuals inside and outside of the family through the ritual kinship of *compadrazgo* (entering into compact to be the godparent of a child), the Latin American academic community with whom I have worked closely, huge numbers

of social friends, high-ranking military officers, government officials, congressmen and senators, private businessmen, and the thousands of Latin Americans I have interviewed, both formally and informally, over the years. I continually renew these contacts through long-distance phone conversations, e-mail correspondence and travel. Therefore, I have an intimate knowledge of current political, economic and social conditions in these nations, particularly northern and western South America.

12. Within the fields of Andean American and Latin American Studies, I have concentrated particularly on the role of the military and guerrilla movements in several Latin American countries, including Venezuela. My curriculum vita 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 this work won a national prize, the 1985 Hubert Herring Award for the best book of the year on Latin America). The Politics of Antipolitics contains extensive treatment of Chile.

13. In addition, I am the author of an internationally recognized, comprehensive and annotated bibliography on the Andean militaries: "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

14. I am also a recognized authority on Latin American culture, including Latin American views of sexuality, both heterosexual and homosexual. When I married my Peruvian wife, I became part of a very large, extended Peruvian family which contained several homosexuals (none of them "out" to the family). In fact, one of my Peruvian aunts-in-law was literally driven out of the country. She currently lives in Guayaquil, Ecuador with her partner.

15. As noted above, since 1992, I have been asked to serve as an expert witness in over 200 political asylum cases and, while the majority of those cases dealt with death threats from the military or the guerrillas of a given nation, I have also testified on behalf of 98 homosexual males and females, all from Latin America, 12 from Chile.

16. 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 homosexual/transsexual males and females for use in Immigration Court.

17. 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, Afro-Andean, and 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.

18. Since my arrival in San Diego in 1968, I have been an active supporter of gay and lesbian rights. I have 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 have been Hispanics who are 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.

19. 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 (lesbian/gay/bisexual/transsexual) groups here in Albuquerque, New Mexico.

I am equally conversant with the literature and available materials on LGBT 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.

The most important in Chile are the Unified Movement of Sexual Minorities (*Movimiento Unificado de Minorías Sexuales*, MUMS), The Movement for Homosexual Liberation (*Movimiento de Integración y Liberación Homosexual*, MOVILH), and the Lambda Chile Center (*Centro Lambda Chile*). Chile's first LGBT newspaper, *OpusGay*, began publication in May, 2002, and is an extremely important source. Please see also my "Selected and Annotated Bibliography" which is appended to this declaration.

I would point particularly to Mr. Andrew Reding's work for the Resource Information Center of U.S. Citizenship and Immigration Services. Although he has written extensively on all of the individual countries in Latin America, his most recent and most important work is Sexual Orientation and Human Rights in the Americas. New York: World Policy Institute at New School University, 2003. I was asked 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 and a half in early June, 2003 and he has cited me in the final version.

20. My testimony concerning the treatment of gay men with "female" sexual identities 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)

21. I do not know Ms. XXXX, but I have been asked by her attorney to assist with this case. After reviewing the facts of her case and reading his affidavit with care, I agreed to help because I find her situation to be particularly compelling and very typical of any like person in her circumstances. As I will explain in this affidavit, I believe Ms. XXXX's fear of persecution as a homosexual/lesbian in Chile to be well-founded.

22. Although the percentage of homosexuals in Latin America is the same as it is everywhere, Latin Americans, historically and to the present, have refused to recognize it as anything other than a "demonic lifestyle." The view and treatment of homosexuals, particularly males, is that they are the "lowest of the low" and strenuous, even violent persecution of them is not only accepted, it is praised in Latin American society.

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, for it literally determines whether one or the other is partially acceptable or totally unacceptable in Latin American society as a whole.

25. Culturally speaking, Latin Americans are Spaniards and Spaniards are much more Moorish than they are European. In fact, I have always taught that Spain belongs to Eastern Mediterranean-North African culture far more than to Western European and must be studied and treated differently.

26. 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).

27. 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.

28. 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. In fact, a high percentage of these men will openly brag about their "conquests" of both females and effeminate males, particularly when drinking in male-only social situations. Please see my

"Selected and Annotated Bibliography" on these subjects which is attached to this declaration.

29. While the three paragraphs above seemingly deal only with gay males, the truth is that they are also applicable to transsexuals and female homosexuals. First, the theme of domination is the same except now it has to do with male domination of females. Moreover, there is the same attention paid to the role of each partner. *Machismo* assumes, of course, that males will also dominate females. This is an essential part of Mexican/Latin American patriarchy. The male to female (M-F) transsexual and the lesbian violate all canons of *machismo* in that the female is denying male dominance. In addition, the "masculine" partner in the female relationship is asserting her own form of "patriarchy," thereby rejecting totally the Mexican norm of gender relationships. As Elsa Martínez states so forcefully: "Patriarchy, based on a network of sexual and class restrictions, supports the psychological and physical repression of women. Restrictions imposed on women's sexuality are central to the subjection of women's lives and experiences in general, but in the case of lesbians there is a double exclusion, since they break with the discourse of the official (heterosexual) sexuality" (Elsa Martínez, Lesbian Voices From Latin America: Breaking Ground. New York: Garland Publishing, Inc., 1996), p. xii.

30. The view and treatment of the "female" partner (the receptor), however, could not be more diametrically opposed. The lesbian, the male to female transsexual and the so-called "fem" (or a homosexual who is sexually active ONLY with other men, rather than those males who have an affinity for both males and females, as noted above) is despised as the "lowest of the low" and strenuous, even violent persecution of them is not only accepted, it is praised in Latin American society. At the family level, lesbians and male "fems" are perceived as constituting a threat to the machismo of all the males in the family, particularly to the father and brothers of the individual.

31. The fact that Ms. XXXX's family has totally disowned her is entirely consistent with the above. In the words of her mother (see below) "all of our family has renounced her and we are treating her as if she never existed."

32. Mr. XXXX's political party, the ultra-conservative National Renewal Party (Partido Renovación Nacional--PRN) not

only "disowned" her by expelling her from the party, they embarked upon a campaign of phone calls threatening her life because she was lesbian. Often calling multiple times in a single day, the PRN claimed that they needed to "teach her" the correct way and that homosexuality was not permitted within the party. They also strongly implied that her life was in danger if she did not renounce her lesbianism and "go straight."

The National Renewal Party is the second most conservative/reactionary party in Chile, behind the Independent Democratic Union (Unión Democrática Independiente--UDI) with whom it is allied in the electoral realm. The PRN is violently anti-homosexual and views itself as the last bastion of defense against the world-wide homosexual conspiracy which threatens Western, Christian Civilization. As such, they do indeed represent a serious threat to Ms. XXXX's physical well being should she be forced to return to Chile.

This is exactly the type of reaction I have heard 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.

33. In addition, the lesbian and the male "fem" are threats 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.

It is here that the Roman Catholic Church's dogma on the role of females and family is particularly visible. The ideal female in Christianity is, of course, the Virgin Mary, Mother of God, who is idealized and revered in Mexico and 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*.

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 Mexico and Latin America, worshiped as the ultimate, perfect female, the model for every female in the nation.

34. Simply stated, Ms. XXXX's lesbianism 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. After all, the lesbian is "breaking with the patriarchal view that has insisted upon seeing sexuality as a function of reproduction" (Elsa Martínez, Lesbian Voices From Latin America: Breaking Ground. New York: Garland Publishing, Inc., 1996, p. xii). As a consequence of these beliefs, 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.

Carol H. Browner expands on this point when she states: "Female behavior in male-controlled societies is carefully monitored by others, female reproduction behavior is usually given closest attention because women's value largely lies in their ability to produce" (Carol H. Browner, "Women's Secrets: Bases for Reproductive and Social Autonomy in a Mexican Community," American Ethnologist, Vol. 15, No. 1, February, 1988), p. 84.

35. Indeed, in recent years, the dangers for LGBT peoples emanating from one of the principal players in Chilean culture and society, the Roman Catholic Church, have increased enormously. The Catholic Church in Chile has long been one of the most conservative in Latin America, not far behind the Church in Colombia which is generally considered to be the most conservative and reactionary in Latin America. That conservatism strengthened and intensified over the past decade. Indeed, the Church's attack on homosexuality has increased exponentially over the past ten to fifteen years, not only in Chile, but in all of Latin America and the world as well.

36. For example, in October, 2004, a prominent member of the Mexican Church hierarchy, Cardinal Javier Lozano Barragán, 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).

37. The Roman Catholic Church in Chile has also lent its public support and adherence to recent anti-homosexual publications in Latin America and the rest of the world. For example, the Archbishop of Concepción, Monseñor Antonio Moreno Casamitjana, wrote a 22-page introduction to the Chilean edition of a book by the *Sociedad Americana para la Defensa de la Tradición, Familia y Propiedad* (TFP--Tradition, Family and

Property), the most reactionary Catholic group in the world. The fundamental thesis of TFP is that the world needs to return to the seventeenth century, reject liberalism and adopt a new Divine Right kingship. Archbishop Moreno Casamitjana attacked not only same-sex marriage, but also all forms of civil union and went on to attack the activities of the MOVILH (Movimiento de Integración y Liberación Homosexual). He said: "The legalization of the vice against nature is but one of the principal victories that this cultural revolution in Chile seeks to accomplish. ... We are faced with a world lobby whose supporters can be compared to the fundamentalists of Mohammedan who razed to the ground the Twin Towers [of New York]" MOVILH, January 6, 2005.

38. Another famous work oft-cited by the Chilean Catholic Church is that of the Cardinal of Lima, Archbishop Juan Luis Cipriani Thorne, who ordered the Pontifical Catholic University of Peru (*La Pontífica Universidad Católica del Perú*) to publish a pamphlet entitled *Identidad Sexual: ¿Es Posible Escoger?* ("Sexual Identity: Is It Possible to Choose?") In it homosexuality is described 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 problems, homosexuality can be reversed" (Centro de Asesoría Pastoral Universitaria de la Pontífica Universidad Católica del Perú, 2002).

In Chile and throughout Latin America, there is a belief that homosexuality can somehow be "cured." Please see my discussion of this belief structure in my short essay "Homosexuality and Psychiatry" which is appended to this declaration.

39. Ms. XXXX's mother not only reacted within the cultural paradigm outlined above, she did so with uncommon viciousness. Over the past forty (40) years, I have personally witnessed Latin American families "disown" children and other relatives for one transgression or another. The majority have resulted from the child/relative marrying someone unacceptable to the family, but the vast majority recently have been the result of a child's homosexuality. It is one of the most tragic and rending things I have ever seen in my life. Indeed, I have been put in the position of trying to counsel and comfort my students, my friends and my relatives in Peru as they lost the most important component in Latin American culture—one's own family (both

nuclear and extended). Never, however, have I seen such bitterness and hatred as that exhibited in the SWORN AND NOTARIZED DECLARATION which Ms. XXXX's mother signed on February 8, 2001.

"I state that as a result of my daughter's, Vivian Edith XXXX, sexual inclination towards lesbianism, she was banished by me and my entire family, all of us wishing no further contact with her, it is intended that she should be disinherited on account of the serious outrage to honor that she has wrought upon our whole family, she has forsaken our home because I did banish her and only wish that she should never return and we never wish to see her again." Emphasis Mine.

40. As a consequence of the above belief structures, Latin American and Chilean families have been known to kill their lesbian and male "fem" relatives rather than risk the opprobrium called down upon them by their existence. Never has this threat been more real than in the case of Ms. XXXX because there was not and will not be any escape for Ms. XXXX because her masculine mannerisms are simply too obvious. Moreover, I genuinely fear that her own family might very well murder her because of her lesbianism. Her life is in real danger!

41. Since the concept of *machismo* is so critical to an understanding of Ms. XXXX's treatment by her family, the police, the Death Squads, the gangs and other members of Chilean society, an explanation or definition is needed here. Please see my brief discussion of *machismo* which is appended to this declaration.

42. The simple truth is that Ms. XXXX has masculine mannerisms which are obvious. All the people around her immediately recognize those mannerisms. No one can or should have to change his/her mannerisms because we are what we are. Therefore, there is no escape for Ms. XXXX. The horrific fact is that Ms. XXXX faces aggravated opposition from every conceivable direction: her family, her religion, the government and the state security forces. Her situation could not be more precarious. Moreover, she will suffer this abuse in every corner of the country if she is forced to return to Chile (see below).

43. Unfortunately, the danger to lesbians is not confined to the family. In Chile, Mexico, Guatemala, Honduras, El Salvador, Panama, Ecuador, Peru, Chile and Argentina for example,

it is common for the police, without provocation, to detain lesbians and other homosexuals, 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 lesbians and homosexuals have died in those countries, but the perpetrators are almost never prosecuted because such abuse is tacitly accepted and often encouraged.

44. The sexual abuse which lesbians and gay males in Chile suffer at the hands of the police is not only horrific, it is common. Moreover, it is absolutely vital here to make clear that the police who harass and sexually abuse lesbians are, in their own minds, enhancing their *macho* image by dominating a "queer woman." 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 therefore perceived as the ideal way to establish male dominance of females. Moreover, it is consistent with the old male canard that lesbians are women who have never had sexual relations with a "real man." Such relations are held to be a "cure" for lesbianism.

45. 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 Chile. If Ms. XXXX is forced to return to Chile, it is quite likely that, in time, she will encounter problems with the police. If this happens, she risks police abuse, rape and torture. Please see the last five to ten years of reports by Amnesty International, Human Rights Watch, Chilean human rights NGO's, including the LGBT organizations noted above (most particularly the website of MOVILH), and the Department of State, Bureau of Democracy, Human Rights and Labor, Country Reports on Human Rights Practices—Chile. In fact, these reports are consistent with everything I have read, heard and seen in my forty-four years of experience in Latin America.

46. Moreover, Latin American and particularly Chilean police never investigate charges of violence against lesbians and other homosexuals, nor do they ever prosecute those who have attacked homosexuals. In fact, lesbians and gay males in Chile 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, lesbians and gay males are considered to be a threat to *La Patria* and must be eliminated so that *La Patria* will be "clean."

47. Lesbians and gay males are subject to regular and brutal persecution in Chile. Not only are they targets because they starkly offend the Chilean 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 lesbians and gay males and then threaten them with jail if they do not comply. This is a very effective threat because a lesbian or gay male placed in jail can expect to be repeatedly raped or even gang-raped by other inmates. Lesbians and gay males who do not comply are also beaten, raped, jailed or murdered. Policemen can subject lesbians and gay males to such abuse, including extrajudicial execution, with impunity, because of the total failure of law enforcement to investigate crimes against lesbians and gay males in Chile.

48. At this point it is extremely important to point out that recognition of a person's homosexuality by other members of the society is not an absolute. The physical appearance of homosexual men and women varies greatly, i.e., some homosexuals appear to be more or less homosexual than others. For example, the picture I have seen of Ms. XXXX, as well as my conversations with her attorney and his staff, have convinced me that she tends toward the feminine end of the lesbian continuum, but the process of recognition is much more complex than just physical appearance and includes culture and living patterns. A word commonly used in the gay and lesbian community is "gaydar," a play on the word radar, i.e., the ability to recognize a homosexual person.

49. Thus, as demonstrated clearly in the above description of the problems she encountered in her family and in her job, Ms. XXXX was recognized as a lesbian. The truth is that Latin Americans, unlike the dominant culture in the United States, are constantly "looking for" homosexuals, either through appearance or lifestyle. Even if Ms. XXXX's initial impression did not lead one to regard her as lesbian, over time, her life style as a single woman living alone or with another woman would immediately raise doubts and suspicions among her co-workers and neighbors. Even in cosmopolitan Santiago, the only single, unmarried females who live apart from their families are either prostitutes or lesbians. Since no males will be frequenting her apartment, the obvious conclusion will be that she is lesbian. There is no way that she could hide her homosexuality for very long. Moreover, the instant she is recognized, she will encounter serious verbal and physical abuse. Also, as noted above, the police will do nothing to help her.

50. The Chilean police (*Carabineros*) are particularly brutal, even in an area known for brutal police and security forces. Long the principal agency for repression and social control in Chile, the *Carabineros* reached their apex of power under the military dictatorship of General Augusto Pinochet (1973-1989). Following the bloody, military coup of 1973 in which over 10,000 Chileans were murdered or "disappeared," the *Carabineros* were placed under the Ministry of Defense and charged with "rooting out subversives" which included gays and lesbians. The massive, brutal, human rights violations have been well documented, but the active participation of the *Carabineros* in those violations is often overlooked. See particularly, Chile, Comisión Nacional de Verdad y Reconciliación, Report of the Chilean National Commission on Truth and Reconciliation. 2 Volumes. Translated by Phillip E. Berryman. Notre Dame: Published in Cooperation With the Center for Civil and Human Rights, Notre Dame Law School, by the University of Notre Dame Press, 1993.

See also: Brian Loveman, Por La Patria: Politics and the Armed Forces in Latin America. Wilmington, Delaware: Scholarly Resources, Inc., 1999; and Loveman and Davies, The Politics of Antipolitics.

Moreover, like all police forces in the Western Hemisphere, the *Carabineros* have been and are, by definition, extremely homophobic and view their role as one of extirpating and surgically removing the disease from the body politic before it infects everyone in the *La Patria*.

51. It should be noted here that the Chilean Government and police treat crimes which result in the abuse, injury or death of a lesbian or a gay male 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.

52. Contrary to popular belief, Chile is one of the three most homophobic countries in the Western Hemisphere (together with Guatemala and El Salvador). Lesbians, effeminate males and transsexuals are routinely stopped by the police, harassed, detained, abused, raped and beaten.

53. In fact, in a detailed study of 29 countries, Chile emerged as one of the most homophobic in the world. On a scale of 100, the Netherlands had the highest level of tolerance at 77. Chile, on the other hand, was the next to lowest at nine; the Philippines was last at eight, while the United States scored a 31 (Jonathan Kelley, "Attitudes Toward Homosexuality in 29 Nations," *Australian Social Monitor*, Vol. 4, No. 1 (June 2001), pp. 15-22). I called Professor Kelley in Australia and spoke with him for almost an hour and he was even more emphatic about the depth and breadth of Chilean homophobia than he was in this study.

54. One of the best overall analyses of Chilean views of sexuality is from *The Economist*: "Divorce and abortion are still banned, some films cannot be shown and few homosexuals dare come out in the open. This prudishness is tribute to enduring influence in Chile of the Roman Catholic Church" ("Ultramontane," U.S. Edition, 1 June 2002). The group that has felt this "prudishness" the most is the gay and lesbian community.

Another indicator of these views is the fact that after more than a century of struggle with the nation's Roman Catholic Church hierarchy, the Chilean Congress finally passed a civil divorce law in May, 2004 (the last country in the Western Hemisphere to do so). Nevertheless, that law "still imposes lengthy waiting periods between filing for divorce and issuance of a final decree" (U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, 2004 Country Reports on Human Rights Practices-Chile, February 28, 2005), p. 7. Hereafter cited as 2003 Country Report on Chile.

55. In addition, in his ground-breaking study, Sexual Orientation and Human Rights in the Americas, Andrew Reding points to other examples. "According to Alejandro Silva, Secretary of the Office of the National Human Rights Coordinator, Chilean society remains deeply prejudiced against homosexuals, and the country has yet to seriously confront the issue of discrimination based on sexual orientation" (Reding, Sexual Orientation and Human Rights in the Americas, p. 30).

Reding goes on to note that: "Despite the restoration of democracy in 1990, **hostile public attitudes make disclosure of one's sexual identity hazardous for sexual minorities. Activists estimate that only about one percent of homosexuals are open about their orientations.** Carlos Sánchez Soto, one of eight

directors of the Unified Movement of Sexual Minorities (*Minorities Unificado de Minorías Sexuales*, MUMS), says no one will hire him in his profession as a computer technician now that he is known as a gay activist" (Reding, Sexual Orientation and Human Rights in the Americas, p. 31). Emphasis Mine.

56. No better example of that homophobia is the fact that Chile passed a detailed law in the 1920s which forbade outright any homosexual activity, even between consenting adults, something unique in Spanish-speaking Latin America. Not surprisingly, the law was passed during the neo-fascist era/regime of Carlos Ibáñez del Campo, 1924-1931. Homosexuals were rounded up and "disappeared." Many were thrown into the ocean, predating similar treatment in Argentina and Chile in the 1970s and 1980s. See Frederick M. Nunn, Chilean Politics, 1920-1931: The Honorable Mission of the Armed Forces. Albuquerque: The University of New Mexico Press, 1970. See also Nunn's The Military in Chilean History: Essays on Civil-Military Relations, 1810-1973. Albuquerque: The University of New Mexico Press, 1976; Brian Loveman, Chile: The Legacy of Hispanic Capitalism. 2nd Edition. New York: Oxford University Press, 1988, particularly Chapters 9 & 10; and Brian Loveman and Elizabeth Lira, Las ardientes cenizas del olvido: vía chilena de reconciliación política, 1932-1994. Santiago, Chile: LOM, DIBAM, Dirección Bibliotecas, Archivos y Museos, 2000.

57. The anti-homosexual legislation was finally repealed in 1998, but neither attitudes nor the actions of the police and military have changed. Gay and lesbian persons are still harassed, arrested, abused, and, in many instances, murdered.

58. Finally, a recent telephone survey of 603 individuals in 10 major Chilean cities by Fundación 21, a Chilean think tank, found that 68% of those interviewed believe that there is more acceptance and tolerance towards homosexuals than in the past. Nevertheless, 12% of those interviewed believe that homosexuality and lesbianism "represents a moral deviation that cannot be tolerated by society," and a full 30% believe that homosexuality "is derived from morally depraved persons who should receive psychological treatment."

These are very high percentages for urban dwellers in the twenty-first century and reflect the deep-seated homophobia in Chile. While it is true that 58% believed that homosexuality "represents a sexual lifestyle that is as legitimate as any other," Chile has a long road ahead.

59. More importantly, however, these figures do not reflect the attitudes of the security forces, particularly the police (*Carabineros*) and the military. As I noted at the outset of this declaration, military and police officials in Chile and the rest of Latin America have had homophobia instilled since the first day of their training, homophobia which has been reinforced again and again throughout their careers.

60. Some have argued recently that changes in anti-homosexual laws have improved the climate in Chile. For example, as noted above (#57.), in 1998, the Chilean Parliament repealed the 1920s Penal Code, the Code for Criminal Procedures and Law 18216 which criminalized same-sex sexual relations between consenting adults. In 1989, the Chilean Parliament had deleted Article 8 of the Constitution which provided a legal provision for persecution of gays and lesbians. For an absolutely superb, indeed incomparable analysis of world laws regarding homosexuality, particularly those of Chile, see The International Lesbian and Gay Association, World Legal Survey. Brussels, Belgium: ILGA, 2000.

Nevertheless, repealing laws is one thing, changing police and civilian attitudes and behavior is quite another. As a former volunteer in the United States civil rights movement in the 1960s, I can attest to the fact that the 1964 Civil Rights Act and the 1965 Voting Rights Act had no effect on policemen in Mississippi, Alabama, or in most other states for that matter. Acceptance at the lowest levels of law enforcement, i.e., the police on the street, always takes years to accomplish. Police and military acceptance of gay and lesbian rights in Chile will also take years.

61. There are a number of sources which provide ample documentation of discrimination against and violent physical abuse of gays and lesbians in Chile. These include The International Gay and Lesbian Human Rights Commission and the Movement for Homosexual Liberation (*Movimiento de Liberación Homosexual*, MOVILH) both of whom have identified dozens of attacks on lesbians, gay males, transvestites and transsexuals during the period 2002-2005. Indeed, MOVILH has available on its website over 180 newspaper articles regarding anti-homosexual incidents, as well as articles from its own publication *OpusGay*. Eighty three of those articles are from 2004 alone.

Moreover, MOVILH has published two extraordinarily important works in the past two years: Informe 2002: Los principales hechos

que involucran a las minorías sexuales chilenas. Santiago de Chile: Movimiento de Integración y Liberación Homosexual, 2003; and II Informe anual sobre derechos humanos de las minorías sexuales chilenas: 2003. Santiago de Chile: Movimiento de Integración y Liberación Homosexual, 2004.

Although all of the MOVILH and *OpusGay* articles are on line, Andrew Reding has also mentioned many of the below listed incidents in his Sexual Orientation and Human Rights in the Americas, pp. 30-35.

63. Clearly, there are far too many incidents to cite within this limited space. Nevertheless, several stand out, not only because of their seriousness, but also because they are clear indicators of the attitudes of the security forces of Chile.

For example, on March 6, 2002, fifteen young men attacked and savagely beat and knifed a group of transvestite sex workers in Viña del Mar with sticks, knives and their fists. Included in the those attacked were four transvestites who were known as Jasna, Wendy, Milenka, and Nancy (MOVILH, Informe 2002: Primer informe anual sobre los principales hechos que involucran a las minorías sexuales chilenas. Santiago: MOVILH, 2003), p. 11. Hereafter cited as MOVILH, Informe 2002.

In May, 2002, a transvestite sex worker, Wladimir Ibáñez Carrasco, was murdered and his body thrown into a waterway.

Then on May 25, 2002, the body of Mauricio Ortega Julio was found on the banks of another river. According to MOVILH, a *Carabinero* cap was found close to the body. The murdered man had been having an affair with a local *Carabinero* officer and a short time before the murder, an officer of the Police Intelligence Directorate of the *Carabineros* had tried to confiscate a videotape which had been filmed by Ortega Julio (MOVILH, Informe 2002, p. 14; and International Gay and Lesbian Human Rights Commission, "Chile: Demand Police Accountability in Trans Murders," December 17, 2002).

On August 2, 2002, Hugo Andrés Godoy, a transvestite, was almost beaten to death with a baseball bat in the town of Los Andes (MOVILH, Informe 2002, p. 14).

In November 2002, Carlos Muñoz who was a member of an AIDS support group, *Vida Optima*, was found murdered on the banks of the Mapocho River (MOVILH, Informe 2002, p. 15; and International

Gay and Lesbian Human Rights Commission, "Chile: Demand Police Accountability in Trans Murders," December 17, 2002).

On November 24, Amanda Jofré Cerda, a 23 year old transvestite was found dead in the apartment of a famous drug trafficker. Previously, she had been raped by police officers in Police Station 19 in Santiago de Chile. (International Gay and Lesbian Human Rights Commission, "Chile: Demand Police Accountability in Trans Murders," December 17, 2002).

On December 6, 2002, another gay rights leader, Edgardo Vega, was found beheaded in his apartment (International Gay and Lesbian Human Rights Commission, "Chile: Demand Police Accountability in Trans Murders," December 17, 2002).

On December 12, 2002, a gang of young males attacked a man in downtown Santiago for no other reason than he was gay (MOVILH, Informe 2002, p. 12).

Finally on December 24, 2002, a transsexual individual named Marion was attacked with a knife in the town of Los Andes, suffering severe wounds (MOVILH, Informe 2002, p. 12).

At this point, there was an international outcry against the murders in Chile. See The International Gay and Lesbian Human Rights Commission, "Chile: Demand Police Accountability in Trans Murders," December 17, 2002. According to the IGLHRC, about 24 transvestites were murdered in Chile in the period 2000-2002 and the police have still not solved one of the murders. In fact, they did not even mount serious investigations in any of the cases. MOVILH was very active in pushing for an international investigation by the United Nations, Amnesty International and the Organization of American States. See (MOVILH, Informe 2002).

64. During 2002 there were also a number of police attacks on and abuse of gays and lesbians in Chile. For example, in June, 2002, as noted above, police officers of Santiago Police Station #19 arrested Amanda Jofré Cerda a transvestite sex worker. He claimed that he was raped by the officers (MOVILH, Informe 2002, pp. 12 and 15).

In July, 2002, TravesChile "denounced death threats they had received from a Police sergeant and a corporal from Santiago Police Station #4. Activists managed to record the corporal's plate number (947521), but in spite of the fact that they took their claims to the media and to authorities like the Carabineros Order and Security Department Chief, General Nelson Godoy, the

case received no further investigation or resolution" (The International Gay and Lesbian Human Rights Commission, "Chile: Demand Police Accountability in Trans Murders," December 17, 2002).

On October 31, 2002, two *Carabinero* officers arrested two gay males for kissing each other in downtown Santiago. According to MOVILH, the two officers beat the men, took them to the police station and stole all of their money (MOVILH, Informe 2002, p. 13).

On November 29, a trans activist, Michel Clementi was arrested in Viña del Mar. "Police officers asked to see her ID and then realized that Ms. Clementi was wanted under charges of 'contempt of public authority.' In 2001, Ms. Clementi had been arrested and subjected to physical abuse by the Police Investigations Department in the city of Viña del Mar. Activists from TravesChile and Movimiento Unificado de Minorías Sexuales regard the arrest of Michel Clementi as a statement of intimidation" (The International Gay and Lesbian Human Rights Commission, "Chile: Demand Police Accountability in Trans Murders," December 17, 2002).

On December 27, 2002, police detained Gonzalo Cid and Nicolás Ramírez, leaders of the *Movimiento Unificado de Minorías Sexuales* (Unified Movement of Sexual Minorities--MUMS) for no other reason than they were distributing condoms (MOVILH, Informe 2002, p. 13).

In addition to the murders, there were other examples of extreme discrimination against gays and lesbians. For example, on September 16, 2002, Mayra Espinoza, a high school student in Viña del Mar was expelled from school for kissing a female classmate while saying goodbye at the door. After what the International Gay and Lesbian Human Rights Commission called "difficult negotiations that involved the Ministry of Education, the school issued Ms. Espinoza an early graduation certificate (the school term in Chile ends in December), effectively preventing her from returning to classes" (IGLHRC, "Student Expelled for Lesbian Behavior," September 30, 2002).

65. That conditions did not improve in 2003 is clear from a April 23, report by the International Gay and Lesbian Human Rights Commission: "In the early hours of April 13, 2003, the headquarters of TravesChile in Santiago (transgender organization with representation in several Chile cities) were attacked by more than 20 young men. The attackers used sticks, stones, and

firearms to practically destroy the place. Shots were fired in the air, valuables stolen and the trans activists were severely beaten. The organization's vice-president, Alejandra, is currently hospitalized. **Police officers took more than a half an hour to reach the place and failed to arrest any of the attackers**" (IGLHRC, "Chile: Brutal Attack Against Offices of Trans Group; Demand Immediate Investigation and Protection for the Activists," April 23, 2003). Emphasis Mine.

On July 15, 2003, in the town of Los Andes, four truck drivers attacked the president of TravesAcongua, Rodrigo López, with a baseball bat, wounding him seriously (MOVILH, II Informe Anual Sobre Derechos Humanos de las Minorías Sexuales Chilenas: 2003. Santiago de Chile: MOVILH, 2004, p. 25). Hereafter cited as (MOVILH, II Informe Anual, 2003).

Two days later on July 17, 2003, a transsexual, Alemendra Cansner, was attacked with a broken bottle by a man who identified himself as a neo-Nazi. Ms. Cansner had 30 puncture wounds in her face (MOVILH, II Informe Anual, 2003, p. 25).

On November 3, 2003, twenty-five males severely beat a transsexual, Jennifer (Héctor Carrasco) who was engaged in sex work (MOVILH, II Informe Anual, 2003, p. 25).

On November 26, 2003, twenty-five skinheads attacked a group of transsexuals with a Molotov cocktail in Valparaíso (MOVILH, II Informe Anual, 2003, p. 26).

On December 20, 2003, the social center of TravesAconagua was machine-gunned from a car with smoked windows (MOVILH, II Informe Anual, 2003, p. 26).

On December 22, 2003, unknown individuals, shouting "maricones, burn up, just like in the Divine, die," [a reference to the 1993 fire in the gay discotheque Divine] threw two incendiary bombs into a workshop on the prevention of HIV/AIDS in the town of Los Andes (MOVILH, II Informe Anual, 2003, p. 26).

Finally, on December 24, 2003, four men dressed in black attacked a transsexual in Valparaíso, kicking and beating him, wounding him seriously (MOVILH, II Informe Anual, 2003, p. 26).

66. Police abuse and arbitrary arrest of gays and lesbians also continued in 2003. On March 1, 2003, a squad of Carabineros raided a house in Santa Rosa de Calama claiming that it was a subversive gathering place of gays and lesbians. They took all their liquor and arrested sixteen persons who were later freed

from the city jail for lack of evidence (MOVILH, II Informe Anual, 2003, p. 26).

On March 27, *Carabineros* from a Santiago de Chile station arrested a transsexual, Karin Marshall, for "crimes against modesty, morality and good behavior" because she kissed her partner in public (MOVILH, II Informe Anual, 2003, p. 27).

On July 9, 2003, the president of TravesChile, Silvia Parada, was arrested by *Carabineros* in downtown Santiago for "crimes against modesty, morality and good behavior." She was held incommunicado for seventeen hours before being released with no charges filed (MOVILH, II Informe Anual, 2003, p. 27).

Finally, on July 11, the president of TravesNavia, Juana Iris Rubio was arrested in La Cisterna for the same offense-- "crimes against modesty, morality and good behavior." She was taken to the police station, insulted verbally because of her sexual orientation, prevented from calling either a lawyer or a family member and fined (MOVILH, II Informe Anual, 2003, p. 27).

67. In Chile, as in the rest of Latin America, there are fewer incidents involving lesbians than gay males, transvestites and transsexuals for a number of very important cultural reasons. First, lesbians are far less visible than gay males, transvestites and transsexuals. Alejandra Sardá, the Latin America and the Caribbean Regional Program Officer for the International Gay and Lesbian Human Rights Commission, points to two factors for this in her superb study, "Documenting Lesbians in Latin America: A Few Considerations." The first reason is that the "Macho culture still prevalent in the region can not conceive of women's sexuality outside the limits of motherhood and family." The second is the "lack of economic resources forces women to be more dependent on their families and limits their possibilities for access to public places" (p. 2).

Ms. Sardá goes on to point out that **"Invisibility 'protects' lesbians from the type of violence that affects gay men and transgender people in the region, perpetrated by police officers, death squads and skin-heads groups. But it renders them more vulnerable to domestic violence. In almost all documented murder cases affecting lesbians in the region, the murderer was either a family member, a former husband or a former boyfriend. ... Physical, verbal and sexual abuse perpetrated by family members (or neighbors) is a common thread to lesbian life stories, particularly in rural areas. Migration to urban areas-with the**

subsequent loss of community ties--is very often the only solution" (p. 2). Emphasis Mine.

"However, when lesbians occupy public spaces--a tendency that is growing in urban areas--they immediately become targets for the same kind of abuses that gay men and transgender people endure. Lesbian bars have been raided in Mexico, Argentina, Peru and Chile, and patrons subjected to verbal harassment and extortion" (p. 2). Clearly, Ms. XXXX has been and will be affected by this factor.

68. Ms. Sardá's contributions to our knowledge of lesbians in Latin America is not confined to physical attacks. It also has to do with the economic ability to earn a living sufficient to pay for the most basic of necessities, i.e., food, housing and medical care. "But the worst violations experienced by lesbians nowadays in Latin America are those related to their economic and social rights. In the region [for my analysis of the situation in Chile, see below], women are in a disadvantaged position vis-à-vis men in terms of wages and employment opportunities. Women get paid between 45% and 62% less (than men) for the same work across the region, and they constitute the majority of workers in the informal sector. Considering that most lesbians have to support themselves--and sometimes their children and/or partner--without any help from their families or communities, their situation becomes dramatic" (p. 3).

"Unemployment has made women more vulnerable to sexual harassment in the workplace. 'Good appearance'--that is, being attractive to men--is a prerequisite for almost all jobs in the region, ranging from unskilled to professional. Employers select women workers on the basis of their 'attractiveness' and potential sexual availability. Even though such a situation is humiliating and outrageous for all women, it becomes particularly unbearable for lesbians" (p. 3).

69. Given Ms. Sardá's conclusions, it is particularly disturbing to note that lesbians in Chile were targeted more frequently in 2004 than ever before in Chilean history. Although MOVILH's III Informe (2004) has not yet been published, a careful perusal of the articles from 2004 and 2005 which are listed on its website reveal that not only did violence against and abuse of gays and lesbians continue unabated, there was increased attention paid to lesbians.

In one high profile case, the Supreme Court of Chile denied a lesbian mother custody of her children, overturning an appeal

court decision. The Supreme Court held in part that Karen Atala's open lesbianism disqualified her from the right to custody that separated mothers in Chile enjoy unless barred by exceptional circumstances. The Court went on to say that the children's emotional and sexual development could be harmed by the absence of a father in the home and "his replacement by another person of the female gender," and that Atala's children could suffer from discrimination and rejection since "their exceptional family situation is significantly different from that of their classmates and neighborhood peers" (Human Rights Watch, "Chile: High Court Discriminates Against Lesbian Mother," June 2, 2004). See also MOVILH, "Entregan a Corte Suprema Informe Favorable a Maternidad Lésbica," 06 abril 2004; MOVILH, "Relatoria de la ONU Revisará Caso de Madre Lesbiana Chilena," 08 abril 2004; and MOVILH, "Movimiento Homosexual Denuncia ante Gobierno Chileo Discriminación a madre lesbiana," 17 agosto 2004.

70. Other incidents directed at lesbians included the following:

A young women was expelled from the Centro Politécnico de San Ramón because an administrator saw her, several blocks away from the school, holding hands with her girlfriend (MOVILH, "Denuncian Ante Ministerio de Educación Expulsión de Alumna Lesbiana," 21 junio 2004).

In August, 2004, there was uproar over TV Channel 13's decision to censure a Smartcom commercial because in it two women kissed. Channel 13 has a long history of being openly homophobic in its programming, even, according to MOVILH, of inciting violence (MOVILH, "Repudian Censura a Beso Entre Dos Mujeres en Televisión Chilena," 24 agosto 2004).

According to MOVILH, the *Carabineros*, in 2004, were stepping up their harassment of lesbian night clubs all across the country. One example given was that of the lesbian discotheque "Máscaras" in downtown Santiago de Chile. The police entered "Máscaras" constantly, verbally abused the patrons by yelling "what garbage" and "where is the wife of the manager," entered the dressing rooms of the entertainers without knocking, and issued citations because there were pictures of MOVILH's presidential candidate on the walls (MOVILH, "MOVILH Denuncia Ante Gobierno Chileno Hostigamiento Policial a Discoteca Lésbica," 12 octubre 2004).

In November, 2004, two young women were expelled from the Escuela España Concepción because the directors said that they had identified them as lesbians (MOVILH, 03 noviembre 2004).

71. Apart from the increased discrimination against lesbians, there were a number of other incidents in 2004 which were extremely troubling, particularly because they are frightening portents for the future.

In an incident horribly reminiscent of past years, a transsexual, Clara Canto, was beaten so badly that he almost died. His face was totally disfigured and both of his lungs were injured. Moreover, the *Carabineros* refused to do anything about the attack (MOVILH, "Golpiza Deja a Transgénero Chilena al Borde de la Muerte," 17 mayo 2004).

A few months later, another transsexual was murdered in his home by someone who had apparently come to purchase sex (MOVILH, 22 noviembre 2004).

In September, two students were expelled from the Liceo Metropolitano for being gay (MOVILH, "Inédito: Rebelión de Estudiantes por Expulsión de Alumnos Gays," 13 septiembre 2004).

72. There were a number of other indicators that homophobia in Chile had hardly decreased in 2004.

A May, 2004, survey conducted by medical students in Concepción revealed that 52.8 percent of the inhabitants of that city believed that "Doctors should increase their research on the causes of homosexuality in order to prevent more of them from being born" (MOVILH, 19 mayo 2004).

Judge Sergio Muñoz ordered the Mayor of Valparaíso, Hernán Pinto, to undergo a rectal exam in order to determine his sexual orientation to insure that he would not be molesting young boys (MOVILH, 06 julio 2004).

The Secretary General of the Chilean Army, Gonzalo Santelices, stated publically that homosexuals were unfit to serve in the Army because their "conduct is abnormal, sick and contrary to nature." Juan Hernández, a MOVILH activist, noted that General Santelices' comments were particularly ironic because MOVILH had just completed an exhaustive study of the homophobia of *Carabineros* as exhibited by their beatings, physical abuse and arbitrary detentions of gays and lesbians (MOVILH, "MOVILH Repudia 'Homofobia' del Ejército Chileno," 10 septiembre 2004).

The Faculty of Medicine and the Schools of Psychology and Nursing of the University of Los Andes hosted a seminar on how to

cure homosexuality. Moreover, they invited the leading "expert" in the world on curing homosexuality, Gerard J.M. van den Aardweg from the University of Amsterdam in the Netherlands to be the principal speaker (MOVILH, "Repudian a Universidad de Los Andes Por Promover en un Seminario la 'Cura de la Homosexualidad'" 30 septiembre 2004).

73. Finally, in 2004, MOVILH released its long-awaited, second and definitive study of the September 4, 1993 fire in the gay discotheque "Divine" in Valparaíso in which at least thirty persons died. Originally treated by the authorities as a simple accident, MOVILH's study proved that it was arson committed by a number of individuals who were motivated by homophobia (MOVILH, "Tras 11 Años se Conoce Nómina de Fallecidos, Heridos y denuncias por torturas en el Case de Discoteca Gay Divine," 05 septiembre 2004).

74. These homophobic attitudes are 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. That the blame for AIDS always falls upon the "fem" in the homosexual encounter is an even more powerful rationale for persecuting "fems" and cleansing *La Patria* and/or the family of all AIDS. The fact remains, however, that HIV+ or AIDS patients are lumped together into one horrific group whose existence is a threat to every individual, every family, yes, even to the nation (*La Patria*) itself. According to this way of thinking, therefore, abuse of these people is deemed to be deserved.

75. Ms. Mirta Roses Periago, Director of the Pan American Health Organization noted: "Important gains in child health and life expectancy in the continent are being swept back by AIDS, destroying the efforts and investments of past decades. The poor get infected, and those infected become poor and isolated by stigma and sickness, rejected from schools and jobs" (quoted in 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, pp. 1-2).

76. In this same incredibly important report, 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. There are major similarities between HIV/AIDS-related stigma and discrimination and some of the negative social reactions triggered by diseases such as leprosy, tuberculosis and cancer."

"But the stigma and discrimination that HIV/AIDS has given rise to is much more than this. 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.

77. This becomes an even more dangerous situation in Chile when one looks at the increasing prevalence of HIV/AIDS in the country. In 2001, the rate was 0.3 percent of adults aged 15-49, about 50% of the rate in the United States. By the end of 2001, UNAIDS estimated there were 20,000 persons living with HIV/AIDS out of a total population of 15.4 million (United Nations Development Programme, Human Development Report 2002. New York: Oxford University Press, 2002, p. 171). These data have increased homophobia exponentially, with the result that the state security forces and mobs in the street have become much more dangerous to the gay male and lesbian populations, and therefore to Ms XXXX. Moreover, according to *OpusGay*, despite promises to the contrary, the government is treating only 60% of those infected, thereby all but guaranteeing that the virus will spread at an increasingly rapid rate in the future. See MOVILH, Primera Encuesta Sobre Prevención de VIH/SIDA aplicada en población homosexual y nueva propuesta comunicacional de intervención en Chile. Santiago de Chile: MOVILH, 2004. See also United Nations Development Programme, Human Development Report 2003. New York: Oxford University Press, 2003, p. 258; UNAIDS, Epidemiological Fact Sheets on HIV/AIDS and Sexually Transmitted Infections: Chile, 2002, Update; and Reding, Sexual Orientation and Human Rights in the Americas, p. 34.

Although Ms. XXXX is NOT infected with HIV, she is a lesbian who exhibits homosexual mannerisms which is the same thing to Chileans, i.e., all homosexuals are HIV+ (which is, of course, false) and that everyone who has HIV/AIDS is homosexual (which is likewise patently false). Simply stated, there is no way for Ms.

XXXX to alter her masculine mannerisms. She is what she is and she will, therefore will be perceived as HIV+.

78. To make things even worse, doctors, nurses, dentists and other health providers in Chile very frequently refuse to treat persons with HIV/AIDS. They are frightened of contracting the virus themselves so those who are infected are unable to secure even minimal medical care. In short, HIV/AIDS patients (or those perceived to be infected, such as gays and lesbians) are denied medicine and medical care and allowed to die, in or out of a hospital setting.

Finally, all Chilean and foreign companies test for the HIV virus before hiring an individual. Moreover, those same companies will not knowingly hire a homosexual because they too make the assumption that all homosexuals are HIV+ and that everyone who has HIV/AIDS is homosexual. Should one contract the virus after being employed, or should his/her homosexuality be discovered, the company will summarily fire that individual as they did Ms. XXXX.

79. There is no doubt that male "fems" and other homosexuals are members of a particular social group and that Ms. 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."

80. In that same case, the Honorable Melvin Brunetti, Judge, United States Court of Appeals for the Ninth Circuit, in a concurring opinion stated: "The evidence presented by Professor Davies supports the legal conclusion that in Mexico, gay men who have female sexual identities constitute a particular social group for asylum purposes. Hernández-Montiel's uncontradicted testimony regarding his physical and mental state is sufficient to establish that he is a member of this particular social group. Professor Davies testified that gay men with female sexual

identities are persecuted in Mexico. Hernández-Montiel's testimony before the Immigration Judge that he suffered persecution on account of his membership in this social group was found credible by both the Immigration Judge and the Board of Immigration Appeals. Hernández-Montiel is therefore entitled to asylum and withholding of deportation based on his well-founded fear of persecution should he be returned to Mexico."

81. The situation in Chile is actually much worse than in Mexico since the Hernández-Montiel case was heard. As I will show below, Ms. XXXX's life is in much greater danger in Chile than all but two or three other countries in Latin America. Indeed, it is my expert opinion, which I will detail below, that Ms. XXXX is an extremely high profile target and would be in grave danger of being killed if she were forced to return to Chile.

82. The first threat to Ms. XXXX's life, of course, comes from the fact that she is a lesbian, a homosexual, who is to be deported back to her native country of Chile.

83. As noted above, Ms. XXXX's homosexuality makes her a particularly high profile target. Both the military and the police 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.

84. Indeed, given the climate in Chile and the role the authorities play in denying basic human and civil rights, it is my considered opinion that Ms. XXXX will be arrested at the airport and sent directly to prison. At best, there would be a form of preventive detention with the same end result: Ms. XXXX either going directly to jail or being tortured or killed "while trying to escape," or some such scenario. Her chances of avoiding the authorities and detention are nil. Moreover, once incarcerated, the general prison population will immediately target Ms. XXXX for massive abuse and most probably death. As outlined below, neither the government nor the police can or will do anything to help Ms. XXXX.

85. Although touted for years as a model for neo-liberal economics, Chile is the very epitome of a country which has been devastated by those economic policies. The United States Department of State, in its 2002 Country Report on Chile, noted

that: In 1999 the export-led free-market economy experienced its first recession after 15 consecutive years of expansion, and the economy has yet to regain its pre-1999 dynamism. The population is estimated at approximately 15.4 million. Economic growth for the year was 1.9 percent with inflation of 2.8 percent. ... Unemployment averaged 9 percent during the year. The percentage of the population living below the poverty line decreased from 45 percent in 1987 to 20.6 percent in 2001" (U.S. Department of State, Bureau of Democracy, Human Rights and Labor, Country Reports on Human Rights Practices, 2002-Chile, March 31, 2003, p. 1). Hereafter cited as 2002 Country Report on Chile.

86. There are fundamental problems with and flaws in the above data. First, they do not reflect how income is distributed. Throughout Chile's colonial and republican history a tiny elite has always controlled the vast majority of the nation's wealth. As Paul B. Goodwin, Jr., noted: "Chilean income distribution remains badly skewed. Between 1994 and 1996, the lowest-income groups experienced an increase in their incomes of a meager 0.1 percent. The average per capita income of the poor was about \$120.00 a month, while the top 10 percent averaged a monthly income of more than \$4,000.00" (Latin America, 10th Edition. Guilford, Conn.: McGraw-Hill/Dushkin, 2003, pp. 68-71). See also: Robert T. Buckman, Latin America, 38th Edition. Harpers Ferry, WV: Stryker-Post Publications, 2004, pp. 85-100. The best and most comprehensive treatment of Chilean economic history is Brian Loveman, Chile: The Legacy of Hispanic Capitalism, Second Edition. New York: Oxford University Press, 1988.

Indeed, in it's The World Factbook (updated February 10, 2005), The United States Central Intelligence Agency reports that 20.6% of the population lives below the poverty line, with the bottom 10% of households receiving only 3.7% of the nation's income, while the highest 10% received 41%, a dismal picture of the staggering disparities in the distribution of wealth in Chile.

The Department of State obviously agrees with that statement in its 2004 Country Report on Chile: "The minimum wage at year's end was approximately \$196 (120,000 pesos), a 3.8 percent nominal increase from the previous year. This wage, designed to serve as the starting wage for an unskilled worker entering the labor force, did not provide a worker and family with a decent standard of living. The minimum wage for domestic servants was 75 percent of that for other occupations" (2004 Country Report on Chile), p. 11.

The second major problem is that the Chilean economy is still heavily dependent on the export of raw materials, particularly copper, and is therefore at the mercy of wildly fluctuating commodity prices in the world. Moreover, the Chilean economy for the last twenty years has been excessively dependent on the Asian market (33 percent of all exports went to Asia). Thus, the severe depression in Asia, which began in 1999, hurt Chile much more than other countries. The Asian economies have not recovered, while the world price of copper is still declining, two devastating blows.

Third, Since the horror of September 11, 2001, in New York and Washington, D.C. the economic situation has become much, much grimmer than the even the above data would indicate. The World Bank has published startling data on the present and future of the poor in Latin America (see the Bank's October 3, 2001, and October 1, 2002 reports). See also a study by Edward N. Luttwak (Senior Fellow at the Center for Strategic and International Studies in Washington) which was summarized in the Los Angeles Times on May 19, 2002. Luttwak argues forcefully that the impact of the global slowdown has affected particularly Chile, Ecuador, Peru and Bolivia. Neither the world economy, or that of Chile, has recovered and the war in Iraq in 2003 has further weakened the Chilean and Latin American economies.

87. Even if the economy did rebound, Ms. XXXX would still face an impossible situation. As noted above, no foreign corporation or the vast majority of Chilean-owned companies will, under any circumstances, hire someone who is homosexual, because they assume that they are HIV+ as well.

88. The natural result of such economic collapse is almost always a breakdown in law and order and a diminution of basic human and civil rights. According to the U.S. Department of State: "The Government generally respected its citizens' human rights; however, problems remained in some areas. The most serious problems continued to be excessive use of force and mistreatment by police forces, and physical abuse in jails and prisons. Prisons often were overcrowded and antiquated. Detainees sometimes were not advised promptly of charges against them nor granted a timely hearing before a judge. Antidefamation laws adversely affected journalists and authors. The authorities occasionally used force against protesters. Discrimination and violence against women and children continued to be problems. Indigenous people remained marginalized. Child labor was a problem in the informal economy" (2002 Country Report on Chile, p. 1).

89. That the situation did not improve is clear from the 2004 Country on Chile which recognized that there were a number of human rights problems in the nation: "There were isolated reports of excessive use of force and mistreatment by police forces, and physical abuse in jails and prisons. Prisons often were overcrowded and antiquated. Detainees often were not advised promptly of charges against them nor granted a timely hearing before a judge. Anti-defamation laws were applied against journalists and authors. Domestic violence against women and violence against children continued to be serious problems. Some trafficking of persons to, from, and within the country reportedly occurred. Indigenous people remained marginalized, and human rights observers questioned the Government's application of the anti-terrorist law to indigenous activists. Child labor was a problem in the informal sector" (2004 Country Report on Chile, p. 1).

"A number of cases from previous years, in which the police were accused of unlawful killings due to excessive use of force or mistreatment of prisoners while in custody, remained under investigation or pending resolution of appeals" (2004 Country Report on Chile, p. 1).

90. Regarding the use of torture and other cruel, inhuman or treatment or punishment, the Department of State vacillates by stating that: "The Constitution prohibits such practices; however, CODEPU still received isolated reports of abuse and mistreatment by the Carabineros, the Investigations Police, and prison guards" (2004 Country Report on Chile, p. 2).

"Few reports of abuse or mistreatment led to convictions. Cases of military and police abuse typically were processed in military, rather civilian courts, a situation which was denounced by human rights nongovernmental organizations (NGOs. CODEPU was unaware of any case in which a member of the military or police had been convicted on abuse charges" (2004 Country Report on Chile, p. 3). Emphasis Mine.

91. Moreover, there exists another political-economic factor in Chile which has and will continue to have an extraordinarily serious impact on the nation. Unlike the rest of Latin America, Chile is still effectively ruled by the military. In 1973, the Chilean Army deposed President Salvador Allende in one of the bloodiest coups d'etat in Latin American history. Over 10,000 Chilean citizens were murdered or "disappeared,"

while tens of thousands more were detained illegally, abused physically and psychologically and horrifically tortured.

The military ruled until 1990 when very carefully controlled elections were held. Since that time, there have been civilian presidents, but they have not enjoyed the freedom of governance usually associated with democratic rule. Instead, since 1990, there have been what Brian Loveman and I have called "Protected Democracies," polities in which the military still largely controls major decision-making in the country (see Brian Loveman and Thomas M. Davies, Jr., The Politics of Antipolitics: The Military in Latin America, particularly Chapter 27, "Protected Democracies": Antipolitics and Political Transitions in Latin America, 1978-1994," pp. 365-397).

92. History has demonstrated repeatedly that military officers make very poor economists and even worse managers of social services and public works projects. The fact that the military enjoys this much power bodes badly for the nation and its peoples. Again, those who will suffer most are the poor and the minority populations such as indigenous peoples and the gay and lesbian communities, particularly since the military constitutes one of the most homophobic sectors of Chilean society.

93. The treatment of women in Chile is also abysmal: "Domestic violence against women was a serious problem. A 2001 University of Chile study, the most current available, indicated that more than half of the women in the country had experienced violence in their relationship with their partner. The study estimated that 34 percent of women had been subjected to physical violence. ... Experts believed that a majority of rape cases went unreported" (2004 Country Report on Chile), p. 7.

"There were no laws against sexual harassment, although it generally was recognized as a problem. A SERNAM [The National Women's Service] study in the Greater Santiago area estimated that 11.8 percent of female employees suffered some form of sexual harassment. In industrial and service sectors, more than 20 percent of female employees reported some form of sexual harassment, and a third of female office employees reported harassment. More than half of those interviewed for the study, both male and female, said that sexual harassment in the workplace was frequent or very frequent" (2004 Country Report on Chile), p. 7.

It is useful here to recall Ms. Alejandra Sardá's comment quoted above: "Employers select women workers on the basis of their 'attractiveness' and potential sexual availability. Even though such a situation is humiliating and outrageous for all women, it becomes particularly unbearable for lesbians" (Alejandra Sardá, "Documenting Lesbians in Latin America: A Few Considerations,") p. 3.

94. The Department of State statements assume even greater importance when one considers that Ms. XXXX is not only a woman, but a homosexual, a lesbian, whose behavior does not conform to traditional notions of femininity in Chile. In short, Ms. XXXX is the very epitome of all that is evil in Chilean culture. If non-homosexual women must endure this extreme prejudice and violence, it is absolutely terrifying to envision what will happen to Ms. XXXX as a lesbian.

Moreover, Ms. XXXX's economic situation is far graver than that of most women in Chile. The vast majority of Chilean-owned large and medium firms and businesses, as well as most foreign companies in Chile, will simply not hire obviously lesbian women, or, if they find out later, will simply fire the individual as happened to Ms. XXXX who was fired because of her sexual orientation. Yes, she was given the opportunity to "resign," but was told she would be summarily fired if she did not sign a letter of resignation.

Even though Ms. XXXX is not HIV+, she does exhibit homosexual, lesbian mannerisms which, as noted above is the same thing to Chileans. Given this prejudice AND, the horrendous economic situation in Chile, there is no way that Ms. XXXX could earn enough money to feed herself adequately, let alone obtain decent housing or medical treatment.

95. In addition to the brutalizing of gays and lesbians on the street, prison conditions in Chile are dismal. In its 2002 Country Report on Chile, the United States Department of State noted that "Prison conditions were generally poor. Prisons often were overcrowded and antiquated, with sub-standard sanitary conditions" (U.S. Department of State, Bureau of Democracy, Human Rights and Labor, Country Reports on Human Rights Practices, 2002-Chile, March 31, 2003, p. 4). Hereafter cited as 2002 Country Report on Chile.

96. Two years later, the conditions inside prisons had not improved at all. The Department of State put it this way:

"Prisons conditions generally were poor. Prisons often were overcrowded and antiquated, with sub-standard sanitary conditions. According to the Ministry of Justice, there were approximately 37,000 prisoners in prisons designed to hold 23,025 inmates. Criminal and administrative investigations of the September 2003 fire in El Manzano prison facility in Concepción, which caused 9 deaths and injured 18, continued at year's end. Another non-fatal fire occurred at the same facility in March" (U.S. Department of State, Bureau of Democracy, Human Rights and Labor, Country Reports on Human Rights Practices, 2004-Chile, February 28, 2005, p. 3). Hereafter cited as 2004 Country Report on Chile.

"Food in prisons met minimal nutritional needs, and prisoners were able to supplement their diets by buying food. Those with sufficient funds often could 'rent' space in a better wing of the prison" (2004 Country Report on Chile, p. 3).

"...prisoners registered complaints with CODEPU [Corporation for the Promotion and Defense of Human Rights of the People] and the courts about beatings and mistreatment of prisoners. An Amnesty International (AI) April 2003 prison visit report recorded similar complaints and noted that overcrowding in prison facilities led to torture and ill-treatment. Prisoners accused guards of using excessive force to stop attempted prison breaks" (2004 Country Report on Chile, p. 3).

"CODEPU continued to investigate alleged use of excessive force against detainees and particularly was concerned with the treatment of prisoners in maximum-security prisons and prisoners with HIV/AIDS and mental disabilities who allegedly failed to receive adequate medical attention" (2004 Country Report on Chile, p. 3).

"In isolated instances, prisoners died due to lack of clear prison procedures and insufficient resources in the prisons" (2004 Country Report on Chile, p. 3).

97. As in all prisons (including those in the United States), homosexuals are singled out by prison populations for verbal and physical abuse (taunts, harassment, rape, gang rape, beatings) and exploitation. Homosexuals are usually just murdered by other prisoners, that is if the guards do not get to them first. The plight of homosexual prisoners in Chile is as bad, or worse, than anywhere in the Western Hemisphere. As the United States Department of State states so well, the prisoners are not even properly fed, clothed or housed in a humane manner.

Within that context of horror, it would be difficult to exaggerate the dangers for Ms. XXXX.

98. Given this scenario of life in Chile, it would be absolutely impossible for Ms. XXXX to receive any type of protection from state security forces. If they wantonly torture, murder and illegally detain their citizens, otherwise violate basic human rights of women, children, the disabled and indigenous people, how could anyone expect them to respect Ms. XXXX's rights as a homosexual? The answer is that they will not and they will harass, illegally detain, torture, and, most likely, kill Ms. XXXX very soon after her arrival in Chile.

99. 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 Chile of 2005. Ms. XXXX 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 as the economic crisis has deepened.

100. If not death, then jail, without adequate care of any type, is the most likely fate for Ms. XXXX. Moreover, since Ms. XXXX will be deported from the United States, her arrival will be well known to all relevant government agencies. Her name will be on the flight manifest and if she should enter by land, she will be logged in and her whereabouts known immediately.

101. Not only will Ms. XXXX be killed, but it is almost a certainty that she will be tortured as well. This is done commonly in order to "teach others a lesson," i.e., an example of what will happen to others who would challenge the "natural order of sexuality."

103. Regarding the general question of whether or not the respondent could simply move to another region of the country, thereby evading the vigilance of their enemies, my response is an unequivocal and unqualified "NO." I base that opinion on several familial and cultural factors which are unique to Chilean society, and to most of Latin America.

104. In the first place, Latin American and Chilean culture is predicated almost exclusively on the concept of an extended family, i.e., a family which includes distant as well as close relatives. My "immediate family" in Peru which gathers every Sunday is composed of more than 50 individuals. The "whole family" numbers in the hundreds.

105. Moreover, in Chile and Latin America there is a system of ritual kinship called compadrazgo which is totally alien to Anglo-American culture. When a couple names godparents for the baptism of their children, those individuals become their comadres or compadres. The relationship between the parents and the godparents is so extremely important that they often are closer to each other than even siblings.

106. The point is that there is an incredible networking system in place which can be utilized for finding someone or something in a very short time frame. One need only call relatives and compadres seeking their help and the number of people that can be mobilized is almost unbelievable. Indeed, these familial networks are often more efficient than the intelligence services of most nations.

107. In May, 1996, I decided to test the system by using my own familial and compadrazgo networks in Peru in order to find someone who had caused my Peruvian family no little grief. In 1977, a young man impregnated a cousin of mine, stole all her money, and promptly disappeared. The family made a few desultory attempts to find him, but then dropped the matter out of deference to the young woman. If the system indeed worked as I have argued, this case would provide an ideal test.

108. Over the next few days, I made a number of long distance phone calls to Peru and sent a few cables and a couple of letters by international courier service. Frankly I did not expect to hear back for several months, but eleven (11) days after I had finished my contacts, I received word that the young man had been found using a false identity in a remote jungle area of eastern Peru.

109. If I can do that 20 years after the incident and 8000 miles away, it is clear that the Venezuelan government and death squads (who possess their own intelligence service) can

accomplish the task even more quickly than I could. They will find and kill Ms. XXXX within a relatively short period of time.

110. Finally, Chile, like all other Latin American republics, has elaborate systems of 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. Chilean citizens may be and are stopped by security forces, AT WILL, and they had better have up-to-date documents (which Ms. XXXX **DOES NOT**) or they will be immediately detained. Ms. XXXX will have to go to the appropriate government agencies and secure new documents. Thus, Ms. XXXX's whereabouts will always be known.

111. In sum, then, Ms. XXXX will clearly be in extreme danger if she were forced to return to Chile. It is my considered, professional opinion that her family, the Chilean security forces, as well as the PRN, not only possess the desire to eliminate those whom they have threatened in the past, i.e., traitors and sexual deviates, they have the power necessary to find and eliminate Ms. XXXX with a high degree of efficiency.

I declare the foregoing facts to be true and correct and this declaration is made by me under penalty of perjury under the laws of the State of California.

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

Date

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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 held 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.

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.