



Human Rights Campaign Submission on the Commission on Unalienable Rights
May 28, 2020

The Human Rights Campaign and its more than three million members and supporters nationwide offers this submission to the Commission on Unalienable Rights, expressing our strong concerns about the role and function of the Commission, its membership, and the direction it appears to be taking in its work.

As the nation's largest organization working to achieve equal rights for the lesbian, gay, bisexual, transgender and queer (LGBTQ) community, we urge you to respect the human rights of LGBTQ people and take measures to ensure that the Commission's review does not embolden extremists around the world who seek to curtail or suppress human rights.

Origins of the Commission

The Commission's origins raised immediate alarms for those in the human rights community, and for many members of Congress. In unveiling the Commission in July 2019, Secretary of State Pompeo asserted that some human rights claims "have come into tension with one another, provoking questions and clashes about which rights are entitled to gain respect." Secretary Pompeo did not clarify which human rights claims are *not* "entitled to gain respect," leading observers to wonder which rights he may have been referring to.

The Commission's original charter also used the language of "natural rights" and "natural law" - terms which have often been used by those seeking to stop or roll back advances in securing the civil rights of LGBTQ people. While those terms were removed from later versions of the charter, it left the impression that a primary goal of the Commission is the removal of the human rights of LGBTQ people from the State Department's human rights mandate.

Beyond these concerns, it is unclear what need this Commission was created to meet. Other than the claims of Secretary Pompeo and the Commission itself, the Commission has not presented evidence that human rights claims have "come into tension with one another." While there are significant challenges facing human rights advocates around the world that need attention - for example, the worrying rise of politicians espousing harmful ideologies that may

create an inhospitable climate for human rights protection - the “tension” between human rights claims is not one of them.

This is why members of Congress have sent numerous letters to the State Department raising concerns about the Commission, and why the House of Representatives passed an amendment to the fiscal year 2020 State-Foreign Operations Appropriations bill blocking funding for the Commission.

Membership of the Commission

The composition of the Commission is also of concern to the human rights community. The commissioners are by and large academics, many with a singular focus on the issue of religious freedom and, with only one exception, with no experience working in the human rights field.

The Commission is chaired by law professor Mary Ann Glendon, a longstanding promoter of “religious liberty” and opponent of the rights of LGBTQ people and sexual health and reproductive rights. She has already made it clear that, in her view, the “multiplication of rights cheapens the currency.

Other Commissioners also have long records of opposing the rights of LGBTQ people. Jacqueline Rivers, for example, has said that “sexual partnerships between persons of the same sex are being legally recognized as ‘marriages,’ thus abolishing in law the principle of marriage as a conjugal union and reducing it to nothing other than sexual or romantic companionship.” Sheikh Hamza Yusuf Hanson has claimed that LGBTQ people “want full recognition of their lifestyle, and my religion tells me that I can’t accept that.”

The Role of the State Department’s Bureau of Democracy, Human Rights and Labor

Another concerning element about the Commission is its potentially competing role with the Bureau of Democracy, Human Rights and Labor (DRL). DRL is tasked with leading on U.S. human rights policy and providing the Secretary of State with advice on how the U.S. should conduct its human rights work. Yet there are no DRL staff on the Commission, an absence which is both surprising and troubling. As a result, the Commission plays at best, a duplicative role, and at worst, a conflicting role in the elucidation of U.S. human rights policies.

Commission Meetings

The five public meetings of the Commission have continued to fuel concerns about the Commission. A number of the invited speakers have used their platforms to launch attacks on LGBTQ human rights and reproductive rights, claiming that “freedom of conscience” ought to be paramount, above all other forms of human rights.

Unfortunately, such language has often been used to provide justification for individuals or even organizations to deny service to LGBTQ people, or to deny reproductive services, arguing that it

violates the providers' rights. While HRC supports freedom of religion, it is crucial that the freedom of religion not be understood to be absolute regardless of impact on other people. It should not be placed above all other rights or interpreted to allow for refusal of service - for example, turning away transgender patients in a medical setting. This would be a complete inversion of human rights, allowing organizations and individuals to deny care to those in need.

Some speakers have also focused on the particularity rather than the universality of human rights, suggesting that human rights may mean different things in different national contexts. This is a damaging interpretation that lends credence to the idea that nations should *not* be required to uphold human rights if they have a different set of traditions or social values. Some national leaders have for decades argued that what they do in their own countries is governed by their own traditions, and have used such excuses to crack down on minority groups within their borders. It is critical that the Commission on Unalienable Rights not endorse, or be seen to endorse, such a cynical position.

The Commission's Report

Given the origins, membership and deliberations of the Commission to date, we are deeply concerned about the conclusions that the Commission could reach in its final report to be released later this year. We are particularly concerned that this report could promote dangerous rhetoric that would further prejudice against, stigmatization and rejection of LGBTQ people. We are also concerned that the report could provide support to authoritarian leaders who seek to curtail human rights for their people. If the U.S. stands behind a human rights framework that supports a particularistic rather than a universal view of human rights based on widely accepted international human rights standards, it could provide authoritarian leaders the justification they need to suppress human rights and human rights advocacy in their countries.

Conclusion

The Commission must ensure that its work does not undermine the core values of universally-accepted human rights, including those of LGBTQ people. It must also ensure that its work does not give support to authoritarian leaders who would seek to reverse basic human rights to which every human being is entitled, that are inherent to every individual.

Since the days when the U.S. played an instrumental role in drafting the Universal Declaration of Human Rights in 1948, our country has been a leader in promoting human rights around the world. Underlying those values is a basic belief in the inherent worth of every individual, including the most marginalized among us, and in democracy and human rights. Because of this, we have encouraged other countries to follow us.

Unfortunately, this Commission's work could cede that essential moral authority and leadership if it concludes that human rights should be more narrowly defined and leaves out those who are most in need of its protections.

