



A BOLD AND INDEPENDENT VOICE FOR THE RIGHTS OF WOMEN AND GIRLS

July 30, 2020

Commission on Unalienable Rights
United States Department of State
2201 C Street NW, Washington, DC 20520

Re: Draft Report of the Commission on Unalienable Rights

Dear Mr. Walker and Commissioners:

On behalf of the International Women's Health Coalition, I write to offer comments in response to the Draft Report of the Commission on Unalienable Rights ("Draft Report") released on July 16, 2020.

This Draft Report and Secretary Pompeo's recent remarks do not alleviate our expressed concerns regarding the Commission and its work. Rather, it reinforces serious concern about the purpose of this exercise. Now more than ever, countries worldwide should prioritize the rights to health and well-being of *all* their people—not re-interpret and re-define human rights in ways that conveniently benefit the priorities of an administration.

The report creates a false hierarchy of rights, explicitly identifying religious freedom and property as the foremost unalienable rights within the American tradition.

Human rights are universal, equal, interdependent, and interrelated. The Universal Declaration of Human Rights (UDHR) recognizes that human rights apply to everyone everywhere, without discrimination. While certain rights are non-derogable, international Human Rights Bodies have made it clear that governments have an obligation to protect all human rights and cannot prioritize some over others.

Article 18 of the International Covenant on Civil and Political Rights (ICCPR) recognizes that the right to freedom of thought, conscience and religion is non-derogable, but that it can be limited in rare cases such as to "protect public safety, order, health, or morals or the fundamental rights and freedoms of others." Human rights bodies have further clarified that the right to freedom of thought, conscience and religion cannot be used as a reason to violate the human rights of others and does not protect religiously motivated discrimination against women, or racial and religious minorities. By prioritizing the freedom of religion above other rights, the Report runs the risk of undoing this critical human rights principle.

We urge the United States to reject the prioritization of freedom of religion as a cloak to permit violations of the human rights of women, lesbian, gay, bisexual and transgender (LGBT) people, and other marginalized communities.

INTERNATIONAL WOMEN'S HEALTH COALITION

333 7th Avenue, 6th Floor
New York, NY 10001

T (+1) 212.979.8500
F (+1) 212.979.9009

New York
San Francisco
Washington D.C.

IWHC.org

The report claims the “proliferation” of human rights creates a “tension” between rights.

Under the human rights framework, inalienable rights are defined under international law. In the years since the adoption of key international human rights treaties, Human Rights Bodies have worked to elaborate on these standards in order to address critical issues and specific persons that needed further explication—including racial discrimination and the rights of women, children, migrant workers, and people with disabilities—in order to define a comprehensive set of government obligations to respect, protect, and fulfill human rights.

Guidance under the human rights framework already exists to resolve tensions in the protection of rights, which gives due emphasis to protecting the right to freedom from discrimination. The Commission should uphold the human rights system and not create its own criteria to determine if “new claims of human rights warrants support of US foreign policy.”

The report ignores the repeated recognition of reproductive rights, including abortion, as human rights, and instead undermines and stigmatizes them as issues of national controversy.

There is clear and unequivocal consensus by United Nations human rights treaty bodies and independent experts that reproductive rights are human rights that are grounded in the Universal Declaration of Human Rights and international and regional human rights treaties.

In fact, the United States has joined the international community in identifying reproductive rights as human rights in the 1994 International Conference on Population and Development, 1995 Beijing World Conference on Women, and through its ratification of the ICCPR, to name a few.

For example, general comment No. 36 (2018) on Article 6 of the ICCPR, as adopted by the UN Human Rights Committee, makes clear that the right to life includes the right to “access safe abortion without the imposition of restrictions, which subject [women and girls] to physical or mental pain or suffering, or which discriminate or arbitrarily interfere with their privacy, or place them at risk of undertaking unsafe abortions.”

It is dangerous for the Commission to attempt to undermine sexual and reproductive rights, and specifically the right to abortion, by referencing abortion as a “divisive social and political controversy in the United States,” particularly when human rights were established to guard against politically-motivated attacks. In addition, while the Commission’s Draft Report centers the importance of the U.S. Constitution in defining rights, it fails to recognize the right to access a safe and legal abortion is a constitutional right as affirmed by the US Supreme Court case, *Roe v. Wade* and subsequent decisions.

The report encourages “leeway” for countries to “base their human rights on their own distinctive national traditions.”

As a feminist organization with partners worldwide, IWHC has repeatedly observed how protection for “national traditions” is used to as a reason to discriminate against women, LGBT people, and other marginalized communities.

For example, under Turkey’s President Tayyip Erdogan, the Turkish administration has subjected sexual and reproductive health and rights to restrictive amendments to appease a political context that prioritizes “traditional families.” Additionally, female employment has decreased and the use of contraception has been discouraged after President Erdogan referred to women as “half persons” for refusing to become parents.

In Egypt, authorities arrested seventeen-year-old Menna Abel-Azziz for “misusing social media networks, inciting debauchery and violating Egyptian family values” after she posted a video screaming for help after being sexually abused and beat. The same charges are currently being applied to four young women for singing and dancing on TikTok.

By prioritizing tradition, religious freedom, and the right to property, the Commission is actually encouraging authoritarian regimes to sacrifice the rights of women, LGBT people, and other marginalized groups in the name of national sovereignty. Further, by pursuing this argument, the Commission undermines the entire concept of human rights, which are rights that all individuals possess by simple virtue of being human, and which cannot be conditional on where a person resides. The Commission’s efforts to promote national tradition at the expense of international human rights laws and norms is a direct attack on the entire system of human rights.

IWHC concerns, previously, raised, have only been amplified by this report

By declaring religious freedom as the upmost unalienable right, we fear the Draft Report will contribute to the growing problem of refusals of care based on the religion or conscience of provider. Globally, IWHC has documented how policies that expand the ability of providers to refuse to provide abortion services based on personal religious beliefs have had devastating impacts on the ability of women and pregnant people to access needed and legal abortion services. Similar findings have proven true in the United States. These impacts are more pronounced in rural and underserved areas, and cause hardship and worse health outcomes for poor, rural, black, indigenous and other people of color, and other people in vulnerable situations.

Policies that allow for refusals on the grounds of religion are also discriminatory, since they often target two very specific groups: women and girls in need to reproductive health care, and LGBT people. In both cases, denying these persons the care they seek affects their dignity and autonomy and the security of their person.

Conclusion

The International Women’s Health Coalition strongly urges the Commission to revise its Draft Report in order to promote and uphold the international system of human rights in its totality; to reaffirm the United States government’s commitment to the international human rights framework as defined by the UDHR and subsequent human rights treaties; to endorse it as a body of law that recognizes and responds to our growing awareness of threats to marginalized groups, including women, girls, and LGBT people; and to reiterate that the rights recognized in both the ICCPR and ICESCR are indivisible, interdependent, and enjoyed by all people, regardless of what identity they have, what their reproductive functions are, or who they

love. Any attempt to undermine the international human rights system puts in jeopardy the rights and protections of the women, girls and all people for whom we stand alongside and fight for the realization of these universal rights.

Sincerely,

Shannon Kowalski
Director of Advocacy and Policy