**Submission by the Human Rights Campaign**

**to the U.N. Independent Expert on Violence and Discrimination on the Basis of SOGI**

**For the Report on Gender, Sexual Orientation and Gender Identity**

March 14, 2021

Q1) Has the State adopted, in public policy, legislation or jurisprudence, working definitions of gender and related concepts aiming to address violence and discrimination based on sexual orientation and gender identity?

Over the past two decades, U.S. federal courts have developed a consistent legal narrative that discrimination against LGBTQ people is unlawful sex discrimination under U.S.civil rights laws. Numerous federal agencies, including the Equal Employment Opportunity Commission (EEOC), have embraced this interpretation and incorporated these protections into administrative protections in the context of housing, healthcare, grant making and more. These interpretations have been challenged in multiple cases at the state and federal level.

In 2020, the landmark U.S. Supreme Court ruling in *Bostock v. Clayton County* affirmed that discrimination on the basis of sexual orientation and gender identity is a form of prohibited sex discrimination and violates the Civil Rights Act of 1964. This federal law, often referred to as “Title VII,” prohibits employers from discriminating against employees on the basis of sex, race, color, national origin and religion.

The Biden-Harris administration, as one of its very first actions on inauguration day, issued an executive order, titled [Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation](https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-preventing-and-combating-discrimination-on-basis-of-gender-identity-or-sexual-orientation/) which broadly applies existing sex non-discrimination laws to protect LGBTQ people consistent with the 2020 Supreme Court ruling in *Bostock.*

Prior to *Bostock,* HRC produced a report on [Inclusive Interpretations of Sex Discrimination Law](https://assets2.hrc.org/files/assets/resources/HRC-SexDiscriminationReport-Final.pdf) documenting the legal development and evolution of sex discrimination protections in federal statutes and what these protections mean for LGBTQ people.

Q2) Has the State ratified, signed, or adhered regional or international human rights treaties, declarations, programs or policies or any other international instruments aiming to address violence and discrimination based on sexual orientation and gender identity that involve the implementation of a gender framework? N/A

Q3) What kinds of information and data are collected by States to identify forms of violence and discrimination faced by people based on sexual orientation and gender identity?

LGBTQ Americans remain largely invisible to the local, state, and federal officials charged with ensuring their health, safety, and wellbeing. This is because state and federal officials have failed the LGBTQ community when it comes to ensuring equal treatment in government data collection efforts. HRC produced [LGBTQ-Inclusive Data Collection: A Lifesaving Imperative](https://assets2.hrc.org/files/assets/resources/HRC-LGBTQ-DataCollection-Report.pdf?_ga=2.180413415.1943518856.1614122202-1799769296.1608063100), a 2019 report reviewing the state of LGBTQ data collection in the U.S. and the need for a federal law mandating improvements in it.

Much of the data that exists has been collected by private sources and non-profit organizations. HRC hopes that the data we collect and disseminate are useful to government agencies and others as a means of demonstrating the reality of the lived experience of LGBTQ people in the United States and the need for protection from violence and discrimination and ultimately full equality.

State by State Analysis of the Legal Situation of LGBTQ people

Each year, HRC rates all states in the nation in six areas of law in its annual [State Equality Index.](https://www.hrc.org/resources/state-equality-index)

Violence towards Transgender People in the United States

Since 2013 HRC has conducted independent research on the topic of violence towards transgender people in the United States and the underlying conditions that cause and perpetuate the stigma that they face, which results in often deadly violence against them.

* HRC produces an annual report on [Fatal Violence Against the Transgender Community](https://hrc-prod-requests.s3-us-west-2.amazonaws.com/FatalViolence-2020Report-Final.pdf?mtime=20201119101455&focal=none).
* This report, [Dismantling a Culture of Violence](https://assets2.hrc.org/files/assets/resources/2018AntiTransViolenceReportSHORTENED.pdf), addresses the broader issues of violence against trans people in the United States.

Attitudes towards Transgender People in the United States

[A 10-swing-state poll](https://hrc-prod-requests.s3-us-west-2.amazonaws.com/ME-13067-HRC-Issues-10-State-1.pdf?mtime=20201002132812&focal=none) conducted by HRC & Hart Research Group in 2020 found overwhelming support for trans equality, and that anti-transgender legislation is a low priority, even among Trump voters.

* At least 60% of Trump voters across each of the 10 swing states say transgender people should be able to live freely and openly.
* At least 87% of respondents across each of the 10 swing states say transgender people should have equal access to medical care, with many states breaking 90% support
* When respondents were asked about how they prioritized the importance of banning transgender people from participating in sports compared to other policy issues, the issue came in last, with only 1% - 3% prioritizing the issue.

Hate crimes and Gun Violence

This [report on the anniversary of the mass shootings](https://assets2.hrc.org/files/assets/resources/Pulse-GunViolenceReport-061120.pdf?_ga=2.217558230.1948386215.1615475627-579466190.1612893891) of 49 LGBTQ people and allies at the Pulse nightclub in Orlando, Florida documents hate crimes, violence and gun violence against LGBTQ people in the U.S.

Situation of LGBTQ students

In 2020, the Centers for Disease Control and Prevention (CDC) released data files for its 2019 Youth Risk Behavior Surveillance (YRBS), a national survey of high school students in public and private schools in the U.S.. [The HRC Foundation analyzed data](https://hrc-prod-requests.s3-us-west-2.amazonaws.com/ProjectThrive_YRBSData_Statement_122120.pdf?mtime=20210104125112&focal=none) from these files and found that LGBTQ youth are living in a state of crisis.

* Whether it is being bullied in school, poor mental health or substance use, LGBTQ teens experience marginalization from multiple angles.
* LGBTQ youth of color are often at even greater risk of experiencing these problems.
* Any actions taken to improve the well-being and success of LGBTQ youth must also consider the situations of teens who sit at these intersections and face multiple forms of oppression, bias and stigma, including those based on race, gender, age, religion, immigration status, ability and all marginalized identities.

Q4) Is comprehensive sexuality education taught in schools?

Groundbreaking and extensive [research on the need for comprehensive sex education](https://hrc-prod-requests.s3-us-west-2.amazonaws.com/files/assets/resources/HRC-SexHealthBrief-2015.pdf?mtime=20200713133955&focal=none) across the United States from the HRC Foundation, Planned Parenthood, and other organizations has shown that there are multiple political obstacles to establishing comprehensive and inclusive sexual education. There is a strong coalition of NGO’s working in this space.

Several state laws explicitly ban the inclusion of LGBTQ related content in schools. Additionally, federal funding has been devoted to abstinence focused sexual education since the 1980s.

The U.S. Department of Health and Human Services (HHS) has identified 37 evidence-based sex education programs that have been proven effective at improving sexual health outcomes.

HRC has produced an [overview of supporting laws and policies](https://assets2.hrc.org/welcoming-schools/documents/WS_Laws_Policies_Safe_Welcoming_Schools.pdf) that help to create safe and welcoming schools. While many of them are not specific to LGBTQ students, appropriate policies, in combination with inclusive programming and training, can provide administrators and educators with the tools to provide safe, welcoming, and respectful schools for all students.

HRC, through its Welcoming Schools program, cooperates with many state and local school boards to create and teach inclusive curricula for all age groups. [Examples of these may be seen here](https://www.welcomingschools.org/resources/lesson-plans/).

Q5) Are there examples where the concept of gender has been used in religious narratives or narratives of tradition, traditional values or protection of the family to hinder the adoption of legislative or policy measures aimed at addressing or eradicating violence and discrimination based on sex, gender, sexual orientation and gender identity? N/A

Q6) Are there examples where a concept of gender has been used in religious, traditional, or indigenous narratives or values in a manner which promotes the acceptance of persons with diverse sexual orientations or gender identity, or protects LGBT individuals from violence and discrimination as well as covering a wider range of persons? N/A

Q7) Are there examples in which narratives or “gender ideology,” “genderism” or other gender-related concepts have been used to introduce regressive measures, in particular but not limited to LGBT persons or communities? N/A

Q8) Are there initiatives taken by States in connection with the right to freedom of religion, belief or conscience that have had the practical impact of limiting the enjoyment of human rights of LGBT persons?

The 1993 Religious Freedom Restoration Act (RFRA), was originally designed to protect minority religious groups' constitutional right to freely exercise their religious beliefs. It was supported by a broad coalition of organizations including many in the civil rights community, who welcomed the law as an important shield for minority rights. However, since then, many have distorted the intent of this law, it has been successfully used to protect those who refuse to comply with federal non-discrimination protections, and other federal laws based on their religious beliefs. [The Do No Harm Act is an effort to undo its dangerous outcomes](https://www.hrc.org/resources/do-no-harm-act)

Across the United States, at all levels, there has been a massive effort, using the cover of religious freedom arguments, to prevent LGBTQ people gaining rights and protections - those already granted and those proposed. This movement found support and strength in the Trump era, and while the Biden/Harris administration is pushing back, there are still hundreds of legislative efforts in play, and on March 11, [Mississippi](https://www.hrc.org/press-releases/breaking-first-anti-trans-bill-of-2021-signed-into-law-by-mississippi-governor-tate-reeves) passed the first anti-trans sports bill of 2021.

One of the most visible of these many initiatives during the Trump administration was the creation of the so-called “[Commission on Unalienable Rights.](https://www.state.gov/wp-content/uploads/2020/07/CGE-Submission-508.pdf)” This body, based out of the US. Department of State, attempted to reimagine the Universal Declaration of Human Rights and the U.S. Constitution so as to elevate religious freedom to a position of dominance above individual rights. The Biden administration has since repudiated the Commission’s findings, but nonetheless this quasi-academic body gave credence to the “religious freedom” movement in the U.S.

At a practical level, to give just one example, U.S.government-funded providers of child welfare services may refuse to work with qualified parents who do not share the providers’ religious beliefs, or refuse services to children in their care if the provider has a religious-based objection to those services. In this report, [Disregarding the Best Interest of the Child,](https://hrc-prod-requests.s3-us-west-2.amazonaws.com/Disregarding-the-Best-Interest-of-the-Child-FINAL.pdf?mtime=20201102165913&focal=none) HRC documented the impact these regulations have on children in the child-welfare system.

Q9) Have there been public expressions or statements by political and/or religious leaders that have led to indefinite extension, modification or suppression of actions, activities, projects, public policies or application of gender frameworks?

Q10) Who are main actors who argue that the defenders of human rights of LGBT individuals are furthering a so-called “gender ideology”?

A: In spite of efforts to make it appear that these are true grassroots movements, the anti-trans movement is driven by national anti-LGBTQ groups, not local legislators or public concerns. Many of these bills come from the same forces that drove previous anti-equality fights by pushing copycat bills across state houses — dangerous, anti-LGBTQ organizations like the Heritage Foundation, Alliance Defending Freedom (designated by the Southern Poverty Law Center as a hate group), and the Eagle Forum among others.

* For example, the Alliance Defending Freedom worked on Montana’s HB 112, the first anti-transgender sports bill to be passed through a legislative chamber in any state.
* C-Fam, The [Center for Family and Human Rights,](https://c-fam.org/) and its president, [Austin Ruse](https://c-fam.org/author/austin-ruse/) are active and vocal proponents of this view, and very active at the United Nations and in other fora.

Q11) Can you provide examples of coalitions working together on resisting attacks on gender ideology? Please share examples of feminist, LGBT, and other groups working together and with what kinds of frameworks, arguments and results?

A: A wide range of business, advocacy groups, child welfare groups, athletes and others, oppose anti-trans legislation. For example:

* More [than 55 major U.S. corporations](https://www.hrc.org/resources/business-statement-on-anti-lgbtq-state-legislation) have come together to oppose anti-transgender legislation being proposed in states across the country. They include Amazon, American Airlines, Apple, AT&T, AirBnB, Facebook, Google, Hilton, IBM, IKEA, Microsoft, Nike, Paypal, Uber, and Verizon and others.
* State-based businesses are also opposing such legislation using economic arguments. During a fight over an anti-transgender bathroom bill in 2017, the [Texas Association of Business estimated $8.5 billion](https://www.texastribune.org/2016/12/06/texas-businesses-say-bathroom-bill-could-cost-texa/) in economic losses, risking 185,000 jobs in the process college and professional sporting event cancellations, a ban on taxpayer funded travel to those states, cancellation of movie productions, and businesses moving projects out of state.
* [Leading child health and welfare groups](https://www.hrc.org/press-releases/major-health-education-and-child-welfare-organizations-oppose-anti-lgbtq-state-based-legislation) representing more than 7 million youth-serving professionals and more than 1000 child welfare organizations released an open letter calling for lawmakers in states across the country to oppose dozens of bills that target LGBTQ people, and transgender children in particular.
* [Nearly 550 college athletes have stood up](https://www.si.com/college/2021/03/10/ncaa-petition-anti-trans-legislation) to anti-transgender legislation by demanding the NCAA pull championships from states with anti-trans sports legislation

12) What policies, programs and/or practices has the State adopted to meet Sustainable Development Goals 5 (gender equality) and 10 (reduced inequalities)? N/A