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To: Victor Madrigal-Borloz, hrc-ie-sogi@un.org

Subject: Submission to the report on FoRB and SOGI

Dear Mr. Madrigal-Borloz,

We have watched the escalating global rollback of queer and trans rights with increasing alarm. We focus in particular on such rollbacks in the United States, because we ourselves are American and thus cannot speak for experiences that are not our own, and because these policies directly affect our communities. While many of these policies describe themselves as scientific in nature, they are in reality spearheaded by religiously motivated fringe organizations and recognized hate groups such as the Alliance Defending Freedom (ADF)¹ and the American College of Pediatricians (ACPed)². These groups operate in concert with explicitly religious medical organizations such as the National Catholic Bioethics Center (NCBC) and the Catholic Medical Association (CMA).

We argue that there is no true conflict between freedom of religious belief (FoRB) on one hand and SOGI rights. Instead, the conflict lies solely between the efforts of well-funded, right-wing politicians, lobbying groups, and activists imposing their religious sensibilities through force of law, and the ability of everyone who does *not* share those sensibilities to exercise both FoRB and their human rights as SOGI minorities.

Since 2021, the United States has observed year-over-year increases in legislative, executive, and judicial attempts to restrict the rights of queer and transgender Americans³. These attempts include criminalizing the provision of medically recommended gender-affirming care (e.g., puberty blockers, hormone therapy, surgical interventions)⁴ for trans youth, gag orders on mentioning queerness or transness in public schools (“Don’t say gay or trans” bills), bills prohibiting transgender people to access bathrooms that accord with their experienced gender

¹ Southern Poverty Law Center. “Alliance Defending Freedom.” Retrieved from <https://www.splcenter.org/fighting-hate/extremist-files/group/alliance-defending-freedom>

² GLAAD. (2022, August 30). “American College of Pediatricians.” *GLAAD Accountability Project*. Retrieved from <https://www.glaad.org/gap/organization/american-college-pediatricians>

³ NPR. (2022, November 28). “Bills targeting trans youth are growing more common — and radically reshaping lives.” Retrieved from <https://www.npr.org/2022/11/28/1138396067/transgender-youth-bills-trans-sports>

⁴ GLAAD. (2022, October 14). “Medical association statements supporting trans youth healthcare and against discriminatory bills.” Retrieved from <https://www.glaad.org/blog/medical-association-statements-supporting-trans-youth-healthcare-and-against-discriminatory>

(“bathroom bills”), bills that aim to re-criminalize crossdressing⁵, and executive policies classifying allowing a child to socially transition and refusing to force them into forms of conversion therapy as “child abuse” warranting removal of the child from their families.

These efforts are not restricted to minors: Texas, Tennessee, Nebraska, Missouri, Kentucky, Georgia, Arkansas, Arizona, and Florida have banned state insurance (Medicaid) from covering transgender procedures⁶. While such bans are legally dubious, they nevertheless function as a *de facto* ban on transition procedures for all but the wealthiest in these states: trans Americans are disproportionately more likely to rely on Medicaid because of elevated poverty risk and employment discrimination. In Florida alone, approximately 9,000 low-income and disabled transgender Floridians on Medicaid⁷ no longer receive coverage for any such care as of 21 August 2022—regardless of their age. More recently, a barrage of state-level legislation attempts to restrict or criminalize the provision of transgender care for *adults* under arbitrary age cutoffs such as 25 or 26⁸.

Florida as a Case Study

Florida’s efforts to roll back the rights of trans people under the tenure of Governor Ron DeSantis is an instructive example of why these policies—despite being religiously motivated—in fact violate both the human rights of SOGI minority people and those who love them, and the FoRB rights of these same people as well. Florida also should be considered specifically because the ADF⁹ and other anti-gender pressure groups¹⁰ have explicitly called attention to their success in Florida and advocate for replicating it elsewhere. Both the state’s ban on Medicaid coverage¹¹ and proposed rules to ban all care for minors¹² could not have come to pass without contributions from members from CMA, the NCBC, and other affiliated anti-trans religious groups—soliciting

⁵ The Advocate. (2023, January 13). “GOP lawmakers want to classify drag as adult entertainment - like porn.” Retrieved from <https://www.advocate.com/politics/2023/1/13/gop-lawmakers-want-classify-drag-adult-entertainment-porn>

⁶ San Felice, S. (2022, June 2). “DeSantis asks medical board to ban transgender health care.” *Axios*. Retrieved from <https://www.axios.com/local/tampa-bay/2022/06/02/florida-could-end-medicaid-coverage-transgender-care>

⁷ Human Rights Campaign. (2022, August 12). “Human Rights Campaign Condemns DeSantis Administration Move Banning Medicaid Coverage for Gender-Affirming Health Care.” Retrieved from <https://www.hrc.org/press-releases/human-rights-campaign-condemns-desantis-administration-move-banning-medicaid-coverage-for-gender-affirming-health-care>

⁸ Associated Press. (2023, January 7). “Republican states aim to restrict transgender health care in first bills of 2023.” Retrieved from <https://www.pbs.org/newshour/politics/republican-states-aim-to-restrict-transgender-health-care-in-first-bills-of-2023>

⁹ Alliance Defending Freedom. (2022, August 19). “Celebration of Promise to America’s Parents” [video], Florida AHCA assistant deputy secretary Jason C. Weida at 1:19:12. Retrieved from <https://www.youtube.com/watch?v=o8nz99T2g2Y>

¹⁰ Sapir, L., & Ketcham, J. (15 January 2023). “How to regulate pediatric gender medicine.” *City Journal*. Retrieved from <https://www.city-journal.org/how-to-regulate-pediatric-gender-medicine>

¹¹ Rule 59G-1.050 F.A.C., section (7) (“Gender Dysphoria”). Effective 21 August 2022. Retrieved from <https://www.flrules.org/gateway/ruleNo.asp?id=59G-1.050>

¹² Rules 64B8-9.019 and 64B15-14.014 (“Standards of Practice for the Treatment of Gender Dysphoria in Minors”). Not yet adopted, pending a new rule hearing on 10 February 2023. Retrieved from <https://www.flrules.org/gateway/ruleNo.asp?id=64B8-9.019>, <https://www.flrules.org/gateway/ruleNo.asp?id=64B15-14.014>

“expert” reviews and citing “evidence” from in-house journals largely or wholly controlled by these groups in order to manufacture a deeply criticized, dubious case for banning care¹³.

These groups have professed that their perspective is driven by a religious principle that *any* medical or social transitioning is *inherently harmful* in and of itself, at any age *for any reason*¹⁴. The NCBC in particular fundamentally denies the existence of trans people, claiming that it is impossible for a person to have a gender identity that is incongruous with their physical sex characteristics¹⁵. According to NCBC fellow Paul Hruz, this would be “untenable even without experimental testing” and can be ruled out *a priori* as it conflicts with “principles of Catholic anthropology”¹⁶. It is the explicit position of these groups that no amount of evidence exists that could ever change their positions¹⁷, because science *cannot* contradict Catholic theology—if it does, the scientific process has somehow been compromised. As such, while these groups and their membership may *claim* that their reasoning is grounded in sound principles that even secular people would endorse, their fundamental positions are wholly at odds with such claims. Here is a sampling of other illuminating comments from CMA and NCBC membership regarding transgender people, faith, and science:

As previously explained, transitioning one’s gender (or attempting to do so) is contrary to Catholic anthropology and Church teaching, not to mention logic, basic biology, and medical evidence. As such, interventions directed toward this end are never morally good or neutral; they are always morally evil. –NCBC staff ethicist Josef D. Zalot, *Transgender Issues in Catholic Health Care* (2021)¹⁸

Because transgender beliefs are false and transgender desires are intrinsically disordered, deliberately acting on them is intrinsically immoral and cannot be justified in any circumstances... The real transgender issue is not a technical medical one but a profound anthropological error with moral consequences. No amount of scientific data can help provide real healing if its interpreters deny God’s design of each human person as an individual body-soul unity, male or female. ... Catholic health care cannot simply accept the standards of medical associations or legal regulations in this area, because those standards reflect a faulty anthropology.” -NCBC staff ethicist John A. Di Camillo, at an international conference of Catholic bishops (2017)¹⁹

¹³ Alstott et al. (2022, July 8). “Re: Rule No. 59G-1.050: General Medicaid Policy.” Retrieved from https://medicine.yale.edu/lgbtqi/research/gender-affirming-care/alstott%20et%20al%20full%20comment%20proposed%20rule%20re%20gender%20dysphoria_443049_284_5174_v3.pdf

¹⁴ Declaration of Mario Dickerson in American College of Pediatricians et al. v. Becerra et al., section 69(m), 4 November 2021. Retrieved from <https://transgender.agency/files/acpeds-v-becerra-mario-dickerson-cma-decl-2021-11-04.pdf>. A full list of position statements against trans identities and healthcare by the Catholic Medical Association, National Catholic Bioethics Center, Christian Medical & Dental Associations and affiliated groups can be found in attached Appendix A, available online at <https://wp.me/P6aem7-Rz>

¹⁵ Appendix A.2, Di Camillo in Legatus Magazine (2017).

¹⁶ Appendix A.2, Hruz (2021).

¹⁷ Appendix A.2, Di Camillo at Twenty-Sixth NCBC Workshop for Bishops (2017).

¹⁸ Appendix A.2, Zalot (2021).

¹⁹ Appendix A.2, Di Camillo at Twenty-Sixth NCBC Workshop for Bishops (2017).

As Catholics, we acknowledge with certainty that the truths of science and the truths of the Faith have one and the same Source. There can never be a conflict between faith and reason. The controversial moral issues of our day all have a medical or bioethical component. Our priests and faithful Catholic physicians must join forces to counter the false claims and seductive arguments that our secularized culture is using to advance the bifurcation of faith and reason.--CMA statement²⁰

The CMA in particular have also argued that policies, mandates, and perspectives that formally acknowledge that the medical consensus is that gender affirmation and transition can be beneficial violate *their* FoRB. The executive director of CMA stated the beliefs and practices of CMA members regarding any involvement in standards of care for gender affirmation²¹:

69. The gender identity mandate requires CMA members to engage in various practices to which our members objection [sic] on medical and ethical grounds, including the following: ... m. Saying in their professional opinions that these gender intervention procedures are the standard of care, are safe, are beneficial, are not experimental, or should otherwise be recommended; ... 70. The objectionable practices violate the teachings of the Church, and our organization's members cannot carry them out in good conscience.

130. Our members' sincerely held religious beliefs prohibit them providing, offering, facilitating, or referring for gender transition interventions and also from engaging in or facilitating the objectionable practices.

These positions are, indeed, beliefs that members of the CMA are entitled to pursuant to the right that all people have to FoRB. However, it is commonly acknowledged that one's own right to freedom of religion does not extend to mandating that others follow their own religious protocols.^{22, 23} Dr. Quinnehtukqt McLamore, for example, is Jewish, and has the right to abstain from consuming pork. They do not, however, have the right to enforce kashrut dietary practices on others through force of law. Given their beliefs, the ability of CMA members to inform any objective process for rulemaking about transgender medicine is inherently compromised, as their religious beliefs, if rendered into law, would violate not only the human rights of trans people, but the religious rights of those who do not subscribe to those same beliefs.

Yet, members of these groups served as the intellectual backbone for the Florida Agency for Health Care Administration's (ACHA) rulemaking process. Three of their five commissioned expert reports came from CMA members—Dr. Quentin L. Van Meter, Deacon Dr. Patrick W.

²⁰ Appendix A.1 ("The Holy Alliance").

²¹ Appendix A.1 (Declaration of Mario Dickerson).

²² OHCHR. (2011). Rapporteur's Digest on freedom of religion or belief. Retrieved from <https://www.ohchr.org/en/special-procedures/sr-religion-or-belief/international-standards>

²³ Perkins et al. and United States Commission on International Religious Freedom. (2022). "Legislation factsheet: limitations on the freedom of religion or belief." Retrieved from https://www.uscirf.gov/sites/default/files/2020%20Legislation%20Factsheet%20-%20Limitations%20on%20FoRB_0.pdf

Lappert, and G. Kevin Donovan^{24, 25, 26}. One of the other expert witnesses, Dr. Andre Van Mol, is a member of the closely related group Christian Medical & Dental Associations (CMDA), a frequent collaborator of the CMA²⁷ which holds highly similar religious positions on gender-affirming care and the participation and conscience objections of their members²⁸. Van Mol was also present as a state expert at the 8 July 2022 AHCA hearing, and later contributed a declaration on behalf of the state of Florida supporting the Medicaid exclusion in Dekker et al. v. Marstiller et al.²⁹

Moreover, the *board members* approving the rules had compromised objectivity in that one of their number, Dr. Patrick K. Hunter, appointed to the Florida Board of Medicine by Governor Ron DeSantis on 17 June 2022³⁰, is a member of CMA³¹. Not only did he not recuse himself from any meeting on the subject, he also argued against even conducting tightly controlled clinical trials of puberty blockers in favor of a total ban.

What has happened in Florida represents religious doctrine, laundered through a secularizing pseudoscientific lens, into official state policy. Actual experts worldwide were aghast at the degree of misrepresentation that occurred, but is any of that surprising? The debate was never *about* religious liberty—if it was, the CMA and NCBC would have stopped at arguing that their hospitals should be exempt from providing gender-affirming care. They would not have laundered their beliefs through commissioned reports. Instead, what they have done is violate the right of all Floridians to FoRB because now, their religious doctrine is the official (secular) state policy. That policy has already had a chilling effect: even if Florida’s bans have yet to go into effect, two youth gender clinics in Miami and St. Petersburg have already paused or shuttered their operations³², leaving only one clinic in the entire state of Florida³³. As such, people whose religious beliefs (or lack thereof) and personal principles are in *support* of transition are almost wholly without recourse in the state.

²⁴ Appendix A.5 (individual members).

²⁵ Brignardello-Petersen, R., Wiercioch, W., and Florida Agency for Health Care Administration. (2022, June 2). “Florida Medicaid Generally Accepted Professional Medical Standards Determination on the Treatment of Gender Dysphoria.” Retrieved from https://ahca.myflorida.com/letkidsbekids/docs/AHCA_GAPMS_June_2022_Report.pdf

²⁶ Florida Department of Health. (2022, July 28). “Petition to Initiate Rulemaking Setting the Standard of Care for Treatment of Gender Dysphoria.” Retrieved from https://transgender.agency/files/08052022_FB2_Publicbook.pdf, pp. 870-877.

²⁷ Appendix A.6 (Alliance for Hippocratic Medicine).

²⁸ Appendix A.3, A.5.

²⁹ Redacted defendants’ appendix to response in opposition to motion for preliminary injunction, Dekker et al. v. Marstiller et al. (2022, October 13). Retrieved from <https://transgender.agency/files/redacted-defendants-appendix-dekker-v-marstiller-2022-10-03.pdf>

³⁰ Executive Office of the Governor. (2022, June 17). “Governor Ron DeSantis Appoints Four to the Board of Medicine.” Retrieved from <https://flgov.com/2022/06/17/governor-ron-desantis-appoints-four-to-the-board-of-medicine/>

³¹ Appendix A.5.

³² Tallahassee Democrat. (2022, November 15). “‘Why does this state hate me?’ Florida bans gender-affirming care for some trans youth.” Retrieved from <https://www.tallahassee.com/story/news/2022/11/15/florida-bans-gender-affirming-care-trans-youth/8317367001/>

³³ Tampa Bay Times. (2022, November 12). “Florida just banned transgender treatment for minors. What now?” Retrieved from <https://www.tampabay.com/news/health/2022/11/12/florida-bans-transgender-care-minors-whats-next/>

Beyond Florida: Precedent and Activities of Religious Healthcare with Extreme Positions

Religiously motivated “expert” organizations seeking to impose their beliefs through legislative, executive, or judicial policy is part of an ongoing pattern of broader activism by such groups. ACPeds originated for the explicit purpose of preventing gay parents from adopting children in 2002, and the Alliance Defending Freedom, having successfully overturned access to abortion in most of the United States, has signaled a clear intent to not only re-criminalize homosexuality, but to outlaw no-fault divorces, birth control, and mail-shipping of lewd content³⁴. Crucially, the CMA and CMDA have a history of supporting outright criminalization of same-sex sexual activity³⁵. Both groups support anti-gay conversion therapy and campaign against conversion therapy bans, claiming in a 2017 joint letter that these bans “condemn minors to a false sexual identity and/or toxic hormones and irreversible surgery”³⁶.

For these groups, anti-gay and anti-trans conversion therapies are both part of the same overarching faith-based effort. In “Homosexuality and Hope: Statement of the Catholic Medical Association”, the CMA claims there is “every reason to hope that every person experiencing same-sex attraction who seeks help from the Church can find freedom from homosexual behavior”³⁷. In 2019, the CMA offered parents a phone directory of therapists who “are Christian and/or espouse conservative values” and “have expertise in helping youth with sexual identity & gender identity issues”, including the Alliance for Therapeutic Choice, formerly known as NARTH³⁸.

CMA member Deacon Patrick W. Lappert, who contributed a Florida AHCA expert report, is also a chaplain of the Catholic “ex-gay” apostolate Courage³⁹ which promotes a 12-step program repurposed from Alcoholics Anonymous⁴⁰. Such conversion therapy practices represent a clear danger to LGBT youth and adults—and have historically been defended by appealing to the “religious liberty” of parents to attempt to “cure” their child of homosexuality⁴¹. Such attempts at conversion therapy are not a thing of the past, either: NARTH still exists, and is still active, and Quentin Van Meter specifically has opposed attempts to ban conversion therapy. Further, both Van Meter and Patrick Hunter are also members of the Society for Evidence-Based Gender Medicine (SEGM)⁴², an anti-transgender advocacy organization whose founder co-authored with

³⁴ Baker, C. (2022, November 23). “Anti-abortion groups ask Trump-appointed judge to ban mailing abortion pills.” *Ms. Magazine*. Retrieved from <https://msmagazine.com/2022/11/23/texas-lawsuit-abortion-pills-mifepristone-fifth-circuit-court/>

³⁵ Amicus brief of Texas Physicians Resource Council, Christian Medical and Dental Associations, and Catholic Medical Association in *Lawrence v. Texas* (18 February 2003). Retrieved from https://www.splcenter.org/sites/default/files/adf_amicusbrief_lawrence_v_texas.pdf

³⁶ Appendix A.4 (“ACPeds, AAPS, CMDA and CMA Support Minors’ Right to Therapy”).

³⁷ Appendix A.4 (“Homosexuality and Hope: Statement of the Catholic Medical Association”).

³⁸ Appendix A.4 (“The Holy Alliance”).

³⁹ Appendix A.5.

⁴⁰ *The Advocate*. (2011, January 19). “Colo Catholic diocese offers ex gay 12 step program.” Retrieved from <https://www.advocate.com/news/daily-news/2011/01/19/colo-catholic-diocese-offers-ex-gay-12-step-program>.

⁴¹ Ashley, F. (2022). *Banning Transgender Conversion Practices: A legal and policy analysis*. UBC Press.

⁴² Reginfo.gov. (2022, April 25). EO 12866 Meeting 0945-AA17, requested by William Malone and Society for Evidence-Based Gender Medicine. Retrieved from <https://mobile.reginfo.gov/public/do/viewEO12866Meeting?viewRule=true&rin=0945-AA17&meetingId=131923&acronym=0945-HHS/OCR>

Van Meter, Hruz, and other members of CMA and NCBC⁴³ opposing transgender care, and whose current treasurer is an executive of a major Catholic healthcare network⁴⁴. SEGM has promoted a form of “exploratory” psychotherapy for gender dysphoria⁴⁵ that is supposedly open-ended in its possible outcomes of whether or not to pursue gender-affirming medical care, Van Meter stated in June 2022 that SEGM’s members “all agree” that social or medical gender affirmation is an “abomination” for trans youth⁴⁶. The types of treatment advocated by these groups are transparently a form of gender identity change effort, practiced with the intention of producing a cisgender identity in transgender individuals—otherwise known as conversion therapy, which the U.N. recognizes as “inherently discriminatory”, “cruel, inhumane and degrading treatment”, and “may amount to torture”⁴⁷.

Concluding remarks

Article 18 of the United Nations International Covenant on Civil and Political Rights holds that “No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice”, with CCPR general comment 22 directly addressing practices such as those of Florida’s health agencies⁴⁸:

Policies or practices having the same intention or effect, such as, for example, those restricting access to education, medical care, employment or the rights guaranteed by article 25 and other provisions of the Covenant, are similarly inconsistent with article 18.2. The same protection is enjoyed by holders of all beliefs of a non-religious nature.

With respect to the questions raised in the call for input, it must be pointed out that any whose religious faith or spiritual beliefs call for them to *accept* transgender people, or do *not* have an ideological position against the secular, medical consensus on transgender care for youth and adults have *their* FoRB violated by the means through which healthcare policy in Florida was decided: by laundering the positions of extreme, religiously motivated groups into policy.

This is not an abrupt development, but the latest step in a long pattern of consistent efforts by these same religious groups to curtail the rights of not just LGBT Americans, but the rights of all Americans to bodily autonomy, medical decision-making, and freedom of religious belief. Yet, these circumstances answer the question regarding zero-sum narratives regarding religious freedom and SOGI minority rights: rather than being opposed rights, both of these rights are threatened by masking religious ideology as proper science, and usurping the apparatus of state policymaking to arbitrarily dictate how citizens may live. At a time when many in America

⁴³ <https://academic.oup.com/jcem/article/104/3/686/5198654?login=false>

⁴⁴ Gender Analysis. (2023, January 11). “Anti-trans group SEGM’s cofounder Stephen Beck is an executive at Bon Secours Mercy Health, the fifth-largest Catholic healthcare network in the US.” Retrieved from <https://wp.me/p6aem7-Rr>

⁴⁵ Ashley, F. (2022). Interrogating gender-exploratory therapy. *Perspectives on Psychological Science*. <https://doi.org/10.1177/17456916221102325>

⁴⁶ Appendix A.5 (Van Meter transcript, 53:23).

⁴⁷ OHCHR. (2020, July 13). “‘Conversion therapy’ can amount to torture and should be banned says UN expert.” Retrieved from <https://www.ohchr.org/en/stories/2020/07/conversion-therapy-can-amount-torture-and-should-be-banned-says-un-expert>

⁴⁸ OHCHR. (2011). Rapporteur’s Digest on freedom of religion or belief. Retrieved from <https://www.ohchr.org/en/special-procedures/sr-religion-or-belief/international-standards>

dismiss democracy and explicitly desire a Christian theocracy⁴⁹, such actions place everyone's rights in grave danger.

We ask that the Independent Expert urgently investigate the extent of these anti-LGBT religious advocacy groups' direct involvement in state anti-LGBT policymaking and the coordination of state officials with these groups in forming and enacting policy, particularly via administrative or executive action.

Sincerely,

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Dr. Quinnehtukqut McLamore, PhD is a postdoctoral scholar at the University of Missouri at Columbia. They are non-binary, and a social psychologist by training. Their research is strongly multimethod and wide-spanning: in general, they focus on "common knowledge," narratives, extremism, and processes related to group identification.

Lauren McNamara of Orlando, Florida is a transgender woman, an undergraduate in statistics at the University of Central Florida and author of the trans community issues blog Gender Analysis.

⁴⁹ Rouse, S. & Telhami, S. (2022, September 21). "Most Republicans support declaring the United States a Christian Nation." *Politico Magazine*. Retrieved from <https://www.politico.com/news/magazine/2022/09/21/most-republicans-support-declaring-the-united-states-a-christian-nation-00057736>