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**Joint Submission to UN SOGI Expert’s Call for Input**

Victor Madrigal-Borloz

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Dear Mr. Madrigal-Borloz,

Thank you for the opportunity to provide input for your forthcoming thematic report on exploring the right to freedom of religion or belief (FoRB) in relation to sexual orientation and gender identity (SOGI).

Family Watch International, a non-governmental organization with special consultative status with the Economic and Social Council of the United Nations,[[1]](#footnote-1) and the UN Family Rights Caucus promote and protect fundamental human rights for all people in accordance with the nine core international human rights instruments and the founding documents of the UN.[[2]](#footnote-2)

We unequivocally condemn violence, harassment and unjust discrimination against all individuals regardless of sexual orientation or gender identity.

It is encouraging that the independent expert recognizes and acknowledges that the investigation of this topic should be grounded in international human rights law. UN human rights instruments are very clear on the topic of freedom of religion or belief.

For example:

# **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families**

### **Article 12**

1. Migrant workers and members of their families shall have **the right to freedom of thought, conscience and religion.** This right shall include **freedom to have or to adopt a religion or belief of their choice** and **freedom either individually or in community with others and in public or private to manifest their religion or belief in worship, observance, practice and teaching.**

2. Migrant workers and members of their families **shall not be subject to coercion that would impair their freedom to have or to adopt a religion or belief of their choice.**

3. Freedom to manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the **fundamental rights and freedoms** of others.[[3]](#footnote-3)

4. States Parties to the present Convention undertake to have respect for the liberty of parents, at least one of whom is a migrant worker, and, when applicable, legal guardians **to ensure the religious and moral education of their children in conformity with their own convictions.**

# **Convention on the Rights of the Child**

### **Article 14**

1. States Parties shall respect **the right of the child to freedom of thought, conscience and religion.**

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the **fundamental rights and freedoms** of others.[[4]](#footnote-4)

### **Article 30**

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, **a child belonging to such a minority or who is indigenous shall not be denied the right,** in community with other members of his or her group, to enjoy his or her own culture, **to profess and practise his or her own religion,** or to use his or her own language.

# **International Covenant on Civil and Political Rights**

#### **Article 18**

1. **Everyone shall have the right to freedom of thought, conscience and religion.** This right shall **include freedom to have or to adopt a religion or belief of his choice, and freedom,** either individually or in community with others and in public or private, **to manifest his religion or belief in worship, observance, practice and teaching.**

2. **No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.**

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the **fundamental rights and freedoms** of others.[[5]](#footnote-5)

4. The States Parties to the present Covenant undertake to have **respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.**

#### **Article 27**

In those States in which **ethnic, religious or linguistic minorities** exist, persons belonging to such minorities **shall not be denied the right**, in community with the other members of their group, to enjoy their own culture, **to profess and practise their own religion**, or to use their own language.

# **International Convention on the Elimination of All Forms of Racial Discrimination**

#### **Article 5**

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to **guarantee the right of everyone**, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

(vii) **The right to freedom of thought, conscience and religion**;

# **Universal Declaration of Human Rights**

## Article 18

**Everyone has the right to freedom of thought, conscience and religion**; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Clearly, it is undeniable that the freedom of religion or belief is enshrined as an absolute, inalienable, international human right as laid out in multiple internationally recognized human rights instruments negotiated by UN Member States.

## On the other hand, while we promote equal rights and treatment for all, including the right to freedom from violence and unjust discrimination, we do not support *special* rights and treatment based on behaviors or feelings, and these *special* rights are increasingly being put forward as legitimate rights in documents negotiated by UN Member States. Simply stated, there is no internationally agreed upon right to engage in the behaviors associated with sexual orientation and gender identity.

Surely, the redefinition of “other status” by the Committee on Economic, Social and Cultural Rights in General Comment #20 to magically (now decades later) include sexual orientation and gender identity can be considered nothing more than the opinion of a handful of unelected, unaccountable individuals. This interpretation of the term “other status” has never been agreed to by State parties to this treaty.

General Comment #4 on “Adolescent Health and Development in the Context of the Convention on the Rights of the Child (CRC)” issued by the CRC Committee makes a similar claim—that States cannot discriminate based on the following categories listed in article 2 of the CRC: “race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status*.*” Comment #4 then adds this ultra vires statement: *“These grounds also cover adolescents’ sexual orientation and health status*…,*”* yet the CRC says nothing about sexual orientation.   
  
Likewise, an emerging trend to attempt to redefine the word “gender” by treaty bodies, special procedures mandate holders, and UN agencies to include transgender individuals is concerning. This redefinition of “gender” undermines the hard-earned gains and sex-based rights for which women have tirelessly worked for decades.   
  
In eight of the nine core international human rights instruments mentioned previously, taken together, the word “gender” appears exactly one time (only in the context of mandating balanced representation on the CPED committee).[[6]](#footnote-6) Further, the Charter of the United Nations and the Universal Declaration of Human Rights also make no mention of “gender.” However, the word “sex” or “sexes” appears in these documents a total of 22 times, which says a great deal about the intent of the framers of these foundational UN documents.  
  
Yet another redefinition emerging in recent years is the “violence.” It was once universally understood to mean intense physical force that causes bodily injury, damage or destruction. It is also understood to include psychological abuse which encompasses chronic verbal aggression. “Violence” has now been redefined to include any act that hurts someone’s feelings.

The reality is that while all people are equal, should be treated equally, with equal human rights, all behaviors and choices are not equal and do not result in the same benefits to individuals and society. And there is indeed an actual point of tension when a right for an individual to not have their feelings hurt trumps another individual’s right to deeply held religious beliefs regarding marriage and sexual expression—religious beliefs that are indisputably protected in international law.

There are significant reasons why the freedom of religion or belief should be protected at all costs. Decades of social science research provides a wealth of data confirming the benefits of religious observance.

For example:

* Increased physical health[[7]](#footnote-7)
* Increased mental health[[8]](#footnote-8)
* Less depression[[9]](#footnote-9)
* Less suicide[[10]](#footnote-10)
* Increased self-esteem and well-being[[11]](#footnote-11)
* Decreased mortality rates[[12]](#footnote-12)
* Greater academic achievement for youth[[13]](#footnote-13)
* Less commission of crime[[14]](#footnote-14)
* Less substance abuse[[15]](#footnote-15)

These are but a few of the myriad of positive outcomes of religious observance that benefit individuals, families, and society at large.

We call upon all UN Member States to reject the past and forthcoming reports issued by UN human rights mechanisms, including special procedures and treaty bodies, that are increasingly seeking to redefine human rights in ways that seriously undermine indisputable, well-established, universally recognized rights with regard to freedom of religion or belief. We especially condemn all efforts to redefine “gender” which only serves to denigrate and abolish the many hard-won, sex-based rights for women and girls and will also lead to the destruction of the natural family.

1. Family Watch International is the DBA for Global Helping to Advance Women and Children. [↑](#footnote-ref-1)
2. The mission of the United Nations Family Rights Caucus (UNFRC) is to protect and promote the natural family as the fundamental unit of society as called for in Article 16 of the UN Declaration of Human Rights. UNFRC membership includes concerned citizens, government, religious, and civil society leaders, and non-governmental organizations representing every region of the world and over 10 million people worldwide. [↑](#footnote-ref-2)
3. It should be noted that “fundamental rights and freedoms” are defined in the nine core human rights instruments. It should also be noted that some have opined that claims, new interpretations, or ultra vires additions from human rights mechanisms, including treaty bodies, represent juris prudence with regard to universally accepted human rights. However, such opinions are merely that—opinions and do not create any new human rights or obligations on States, as only the UN General Assembly has the authority to do so. [↑](#footnote-ref-3)
4. Ibid. [↑](#footnote-ref-4)
5. Ibid. [↑](#footnote-ref-5)
6. International Convention for the Protection of All Persons from Enforced Disappearance, Article 26(1). [↑](#footnote-ref-6)
7. Jeffrey S. Levin and Preston L. Schiller, “Is There a Religious Factor in Health?” Journal of Religion and Health 26, no. 1 (March 1987): 9–35; George W. Comstock and Kay B. Patridge, “Church Attendance and Health,” Journal of Chronic Diseases 25, no. 12 (December 1972): 665–672. [↑](#footnote-ref-7)
8. Manhattan Institute for Policy Research, Center for Research on Religion and Urban Civil Society, Byron R. Johnson, Ralph Brett Tompkins, and Derek Webb *Objective Hope—Assessing the Effectiveness of Faith-Based Organizations: A Systematic Review of the Literature*, (2002); Byron R. Johnson, Ralph Brett Tompkins, and Derek Webb, *Objective Hope—Assessing the Effectiveness of Faith-Based Organizations: A Systematic Review of the Literature* Manhattan Institute for Policy Research, Center for Research on Religion and Urban Civil Society, (2002). [↑](#footnote-ref-8)
9. Li, Shanshan, Olivia I. Okereke, Shun-Chiao Chang, Ichiro Kawachi, and Tyler J. VanderWeele, “Religious Service Attendance and Lower Depression among Women—A Prospective Cohort Study”, Annals of Behavioral Medicine 50, no. 6 (2016): 876-884; VanderWeele, T. J., “Religion and Health: A Synthesis”, Spirituality and Religion Within the Culture of Medicine: From Evidence to Practice, New York, NY: Oxford University Press; Christopher G. Ellison, “Race, Religious Involvement, and Depressive Symptomatology in a Southeastern U.S. Community,” Social Science and Medicine 40, no. 11 (June 1995): 1561–1572; Loyd S. Wright, Christopher J. Frost, and Stephen J. Wisecarver, “Church Attendance, Meaningfulness of Religion, and Depressive Symptomatology Among Adolescents,” Journal of Youth and Adolescence 22, no. 5 (October 1993): 559–568. [↑](#footnote-ref-9)
10. VanderWeele, Tyler J., Shanshan Li, Alexander C. Tsai, and Ichiro Kawachi, “Association Between Religious Service Attendance and Lower Suicide Rates Among US Women,” JAMA Psychiatry 73, no. 8 (2016): 845-851. [↑](#footnote-ref-10)
11. Byron R. Johnson, Ralph Brett Tompkins, and Derek Webb, “Objective Hope-Assessing the Effectiveness of Faith-Based Organizations: A Systematic Review of the Literature,” Manhattan Institute for Policy Research, Center for Research on Religion and Urban Civil Society, 2002. [↑](#footnote-ref-11)
12. Robert A. Hummer, Christopher G. Ellison, Richard G. Rogers, Benjamin E. Moulton, and Ron R. Romero, “Religious Involvement and Adult Mortality in the United States: Review and Perspective,” *Southern Medical Journal* 97, no. 12 (December 2004): 1223-1230. [↑](#footnote-ref-12)
13. Jennifer L. Glanville, David Sikkink, and Edwin I. Hernandez, “Religious Involvement and Educational Outcomes: The Role of Social Capital and Extracurricular Participation,” *The Sociological Quarterly* 49, no. 1 (2008): 105-137; Mark D. Regnerus, “Making the Grade: The Influence of Religion upon the Academic Performance of Youth in Disadvantaged Communities,” University of Pennsylvania, Center for Research on Religion and Urban Civil Society Report No.3, 2001. [↑](#footnote-ref-13)
14. Byron R. Johnson, David B. Larson, Spencer De Li, and Sung Joon Jang, “Escaping from the Crime of Inner Cities: Church Attendance and Religious Salience Among Disadvantaged Youth,” *Justice Quarterly* 17, no. 2 (June 2000): 377-339. [↑](#footnote-ref-14)
15. John Gartner, David B. Larson, and George Allen, “Religious Commitment and Mental Health: A Review of the Empirical Literature,” *Journal of Psychology and Theology* 19, no. 1 (Spring 1991): 6–25; Deborah Hasin, Jean Endicott, and Collins Lewis, “Alcohol and Drug Abuse in Patients with Affective Syndrome,” *Comprehensive Psychiatry* 26, no. 3 (May–June 1985): 283–295. [↑](#footnote-ref-15)