



Commission on Unalienable Rights
U.S. Department of State
Washington, D.C. 20520

July 29, 2020

Public Comment on Commission on Unalienable Rights July 2020 Report

Equity Forward is a reproductive rights watchdog project. We exist to hold accountable those attacking access to reproductive health and other human rights, including within federal agencies. When Secretary of State Michael R. Pompeo announced the Commission on Unalienable Rights' (CUR, or "The Commission") charter in 2019, he cited the need for "fresh thinking" around human rights. Simultaneously, the Commission would purportedly center its work around defending these rights as enshrined in the Universal Declaration of Human Rights (UDHR) and other international human rights legal framework. This announcement alarmed Equity Forward and many in the rights-based community. The State Department has actively undermined these internationally agreed upon rights over the course of this administration. Furthermore, we found from our research on the CUR commissioners that those at the helm of this Commission have extremely narrow interpretations of the human rights they ostensibly serve to protect. Indeed, the Commission's first [draft report](#), released on July 16, 2020, only gave credence to our apprehension. We thank you for the opportunity to submit this public comment today, as Equity Forward has serious concerns with the Commission, both its members and the report itself.

An Ideological Imbalance of Extremist CUR Appointees

Following the creation of the Commission, Equity Forward's research found that the majority of the commissioners hold anti-abortion, anti-LGBTQ views. This fact in and of itself undermines the mission of an institution supposedly committed to protecting human rights. Furthermore, we raise issue with the ideological imbalance of this commission, as federal advisory committees are required to be fairly balanced and representative of all points of view.

Allow us to highlight just a few commissioners, beginning with CUR's chair, [Mary Ann Glendon](#). Glendon is a Harvard law professor with decades of experiences pushing her [narrow interpretation of human rights](#) through various international bodies. [A former UN representative](#)

[for the Vatican](#), she cites religious liberty as a reason for [denying reproductive health care](#) and [LGBTQ rights](#).

Commissioner [Dr. Jacqueline Cooke Rivers](#) is a [sociology lecturer](#) and a colleague of Glendon's at Harvard, where they have spoken on an [anti-abortion panel](#) together. Rivers founded the Seymour Institute on Black and Policy Studies, an organization opposing abortion and marriage between same-sex couples. She often presents LGBTQ and reproductive rights as [direct threats](#) to religious freedom and the Black community, particularly [Black women](#).

Another commissioner, [Christopher Tollefsen](#), is a University of South Carolina professor of philosophy who frequently contributes [anti-abortion](#) and [anti-LGBTQ pieces](#) to the Public Discourse, a journal of the right-wing think tank The Witherspoon Institute. The Global Justice Center's Akila Radhakrishnan and Elena Sarver [dubbed Tollefsen](#) "perhaps the Commission's most prolific publisher on abortion," which he has decried as immoral and contributing to a "culture of death". Tollefsen has also compared embryonic research to "Nazi science." In fact, Tollefsen co-authored a book with anti-abortion advocate and academic Robert P. George called *Embryo: A Defense of Human Life*.

The list of commissioners goes on, including members like [Meir Soloveichik](#) and [Paolo Carozza](#), who have [worked adamantly to roll back health insurance coverage for birth control](#) through the Affordable Care Act — in Carozza's case, even [for his own students at Notre Dame](#).

All commissioners were appointed by Secretary Pompeo with no mechanisms for oversight, transparency or approval of these commissioners.

Failure to Uphold International Human Rights Laws' Protected Rights for Gender and Sexual Orientation

CUR is populated with people who share Secretary Pompeo's views of [nationalizing](#) human rights. In his speech presenting the Commission's report, the secretary justified the prioritization of certain rights at the expense of others by stating that "more rights does not necessarily mean more justice." This sentiment is echoed in the CUR report, which states, "Transforming every worthy political preference into a claim of human rights inevitably dilutes the authority of human rights." The Commission has also noted that while the Universal Declaration of Human Rights "does not explicitly establish a hierarchy of rights", U.S. foreign policy is free to do so — despite the international bodies and treaties to which the US is a party claiming otherwise.

Secretary Pompeo stated in his remarks that "Women, sadly, suffer the most human rights violations. We can help them do better." However, the CUR draft report includes nothing about protecting women's rights. Rather, it refers to "abortion, affirmative action, and same-sex marriage" as "divisive social and political controversies in the United States" — attempting to differentiate and erase these fundamental human rights.

If CUR was truly interested in upholding the Universal Declaration of Human Rights (UDHR) and women's rights, it would have more clearly stated that the rights of women are enshrined in the UDHR and in other international human rights treaties. UDHR [states](#) that all rights are granted regardless of sex. ("Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.") Legal interpretations of UDHR extend those rights to include freedom from discrimination on the [basis of sexual and/or gender orientation](#) and reproductive freedom.

Additionally, UDHR is part of the Universal Bill of Human Rights along with the International Covenant on Civil and Political Rights (ICCPR), which the [US has signed and ratified](#). To be clear, [ICCPR explicitly extends to abortion rights](#).

Furthermore, it is surprising that the report focuses on positive rights which are generally those that create a duty of the state. American individualism often focuses on [negative rights](#) — those boundaries of the government where it cannot interfere (i.e., the Bill of Rights). The negative rights enumerated in America's foundational documents do not encompass the negative rights from UDHR. The report's focus on only a handful of positive rights, and no negative rights, glosses over a host of fundamental human rights. For example, the right to marry and to have a family, as enumerated in [UDHR's Article 16](#), has been interpreted to include when, where and if to have a family.

We appreciate the Commission's recognition of the rights in UDHR, and therefore call upon the State Department, the administration, and Congress to uphold all of the rights in UDHR, including [abortion](#) and [LGBTQ](#) rights.

Disproportionate Emphasis on Religious Rights and Property Rights

The report emphasizes: "Foremost among the unalienable rights that government is established to secure, from the founders' point of view, are property rights and religious liberty. A political society that destroys the possibility of either loses its legitimacy." We raise issue with this hierarchy of rights the Commission has constructed, with religious freedom and property rights elevated above all other rights. The report references religion forty-three times, while it provides no substantive mentions of protecting rights on the basis of gender, sexual orientation, or race.

Additionally, the report consistently frames the religious right as a positive right — the freedom to practice one's own religion, free of government interference. However, the report never discusses the freedom from religion, the right to be free from others' religious beliefs and practices. This is particularly important in the LGBTQ and reproductive health arenas. Federal and state laws regularly encroach on those rights, which the report contends are not really rights. The point of these rights in a democracy is largely to ensure that the [tyranny of the majority](#) does not limit rights for minorities; ignoring this fundamental tension is an omission that seriously undercuts the validity of this report.

Conclusion

The Commission's July 2020 draft report is evidence that CUR does not exist to protect human rights — but rather to serve as a mouthpiece for administration's prioritization of certain rights at the expense of others. Having read this concerning report, Equity Forward reaffirms its position [first taken in 2019 alongside 177 NGOs](#) that the Commission on Unalienable Rights must be disbanded.