

February 7, 2022

Mr. Victor Madrigal-Borloz  
UN Independent Expert on Sexual Orientation and Gender Identity

Via email: [ohchr-ie-sogi@un.org](mailto:ohchr-ie-sogi@un.org)

*Re: 2022 Visit to the United States*

Dear Mr. Madrigal-Borloz:

On behalf of the Southern Poverty Law Center, a leading United States civil and human rights organization, I write to provide the below response to your recent call for input in connection with your upcoming visit to the US, including some suggested activities for your visit.

SPLC was founded in 1971. Since that time, SPLC's mission has been to stamp out hate and extremism and to ensure that the rights of all persons are equally protected. Our work includes litigation and policy advocacy to advance the rights, dignity and freedom of the LGBTQ community in the Southern United States. SPLC also conducts the most comprehensive non-governmental monitoring and analysis of the activities of domestic hate and extremism groups in the US, including groups that target LGBTQ individuals and communities.

We previously [responded](#) on 7 February 2022 to your call for input on violence against LGBTQ people and communities, providing information about recently enacted or proposed laws that harm LGBTQ people and place them at increased risk of violence. Since that time, the situation has gotten markedly worse.

*New State Laws Affecting LGBTQ People*

Legislative sessions in states in SPLC's region and elsewhere have recently concluded. Many harmful new laws were enacted during those sessions, most of them aimed at LGBTQ youth and their families. They range from censorship of truthful and inclusive education, laws that prohibit schools from providing guidance or even a listening ear to students struggling with issues of sexual orientation and gender identity – and in some cases requiring schools to report any such issues to parents – to bans on transgender youth participating in sports teams consistent with their gender identity and bans on gender-affirming medical care for transgender youth. As of late March, more

than 160 [measures to restrict the rights of LGBTQ people](#) were pending in state legislatures across the country. These measures do tremendous harm to the mental and emotional well-being of LGBTQ children and parents, increase the already high risk of suicide, and expose people to further risk of physical violence, harassment and bullying.

Transgender medical care: The United Nations and regional human rights mechanisms have [jointly called](#) for measures to ensure that LGBTQI people can access health services, including gender-affirming care for trans people, based on informed consent and free from stigma and discrimination. US states are now enacting the very sorts of “abusive obstacles” to safe gender-affirming care that these human rights experts decried by banning most or all gender-affirming treatments for transgender youth. [25 bills](#) on this subject were introduced in 20 states during early 2022 legislative sessions, and several have been adopted. These laws ban not only surgical procedures but also medical treatments such as reversible puberty blockers that are widely accepted by medical experts as appropriate care for trans youth.

School censorship: Beginning with Florida’s so-called “Don’t Say Gay” law, many state legislatures have adopted or are considering laws that prohibit any instruction or even discussion about sexual orientation or gender identity in public schools (the grade levels to which this prohibition applies varies from state-to-state). These laws are extremely damaging. [Studies show](#) that LGBTQ youth who have access to gender-affirming spaces are less likely to attempt suicide. Because these laws are very broad and somewhat vague, they promise to stifle even the most mundane conversation about the everyday lives of students and their families, pushing teachers to adopt severe restrictions on their communications with students for fear of being sued or fired from their jobs. For example, [teachers are unsure](#) whether students are allowed to talk about the makeup of their own families in the classroom— whether they have a mom and a dad, two moms or two dads, and so on. One Florida teacher [penned a memo](#) advising parents that no gendered pronouns at all will be used in the classroom, and all books referring to a person’s gender would be removed. Perhaps the worst part about these bills is that their only real purpose is political pandering – no public school engages in instruction on sexual orientation or gender identity before high school grades, if at all. Therefore, these laws serve only to intimidate and stigmatize students, families, and teachers and to stifle normal interactions.

Hate and extremism: In addition to the direct harms caused to LGBTQ people whose human rights are infringed by these laws, it is important to recall that their introduction and passage encourage discrimination, stigma, and hatred of LGBTQ people in the mainstream of society. Attacks against LGBTQ people and communities by legislatures and government officials create a permission structure that threatens to legitimize hatred and make it impossible for those impacted to go about their daily lives in safety. In April of 2020, even before the most recent wave of anti-LGBTQ laws, [SPLC’s annual report on hate groups](#) found that the number of groups targeting LGBTQ people and promoting disinformation about them had risen dramatically. In 2021, [SPLC documented](#) 65 such groups focused on pushing regressive state legislation, spreading hate and disinformation, and pressuring state and local school officials for bans on LGBTQ welcoming instruction, discussion, and books. As these groups gain more mainstream acceptance and win more of the harmful changes they seek, they are emboldened to go even farther.

The following are new laws passed in the South in just the last few weeks. They exemplify a more extensive wave of anti-LGBTQ legislation around the country:

#### Alabama –

- *Transgender medical care:* The Alabama legislature [passed legislation](#) outlawing gender-affirming medical treatment for transgender youth, making it a felony punishable by up to ten years in prison for a doctor to prescribe puberty blockers or hormones or to perform surgery related to gender transition for any person under the age of 19. SPLC, together with other rights organizations, has filed [a lawsuit](#) challenging the law on behalf of two transgender teens who have been receiving medical treatment for gender dysphoria. The teens’ parents and doctors are also plaintiffs in the case.
- *School Censorship:* Alabama also adopted [a measure](#) that prohibits classroom instruction or discussion on sexual orientation or gender identity for students in kindergarten through 5<sup>th</sup> grade.
- *Transgender bathroom and locker room use:* The same law that bans talking about sexual orientation or gender identity in schools also dictates that students in kindergarten through 12<sup>th</sup> grade may only use a multi-person bathroom or locker room corresponding with the gender identity specified on their original birth certificate. Alabama had previously passed a law banning trans youth from participating in school sports teams corresponding with their gender identity.

#### Florida –

- *School censorship:* Florida adopted a law, dubbed [“Don’t Say Gay,”](#) that forbids classroom instruction or discussion about sexual orientation or gender identity in kindergarten through 3<sup>rd</sup> grade. The law authorizes parents to sue school districts over alleged violations. Florida had previously adopted a ban on trans girls participating in girls’ sports teams in public schools.

#### Texas –

- *Transgender medical care:* The Texas version of the gender-affirming medical care ban goes even farther than criminalizing the provision of such care to trans youth – it requires doctors, nurses, teachers, and other licensed professionals to report it, with criminal penalties for failing to do so. It also provides a basis for child abuse investigations of parents who facilitate such care for their trans children, threatening to take their children away from them. Texas’ Attorney General issued a [legal opinion](#) stating that some gender-affirming medical care could be considered child abuse, and its Governor [directed](#) the Texas child welfare agency to investigate the parents of youth who are reported to have received such care. A [lawsuit](#) has been filed on behalf of the parents of a 16 year old trans daughter after a state investigation of the family was begun.

### *Suggested Activities for the Independent Expert's Visit*

With the foregoing firestorm of official state actions against LGBTQ people in mind, SPLC suggests that the following activities would be enlightening and productive for the Independent Expert during his upcoming visit to the US:

- *Florida:* Florida's "Don't Say Gay" law has inspired a wave of copycat legislation across conservative US states. While Florida Gov. DeSantis and conservative sponsors of anti-LGBTQ legislation such as Rep. Joe Harding might decline to meet with the Independent Expert, there are other state and local Florida officials who could provide useful insights. Nikki Fried, who currently serves as Florida's Agriculture Commissioner, [appointed](#) Shenika Harris, a transgender lawyer, as her agency's first LGBTQ consumer advocate. Another transgender lawyer, [Nathan Bruemmer](#), currently holds that position. Miami-Dade County Mayor Daniella Levine Cava has been a [vocal opponent](#) of the state's recently adopted anti-LGBTQ laws. State Senator Shervin Jones, Florida's first openly gay state Senator, along with openly gay and lesbian state Representatives Carlos Guillermo Smith and Michele Rayner, [actively fought](#) against the passage of those laws. SPLC would also encourage the Independent Expert to meet with the [community](#) impacted by the mass shooting at the Pulse nightclub in Orlando five years ago. The victims were [overwhelmingly Latinx people](#), many of them transgender. Murders of transgender people, especially transgender women of color, are rampant in the US. A [record number](#) of such killings took place in 2021. In addition, we would recommend the Independent Expert meet with [Equality Florida](#), the only statewide LGBTQ education and advocacy organization in Florida. Finally, LGBTQ students led the opposition to the "Don't Say Gay" law. We recommend that the Independent Expert meet with student leaders like [Will Larkins](#), a student at Winter Park High School (in the Orlando area) who coordinated one of the state's largest student walk-outs in response to the law.
- *Alabama:* Together with the National Center for Lesbian Rights, Human Rights Campaign Foundation, GLBTQ Legal Advocates & Defenders, and the King & Spalding law firm, SPLC has filed a lawsuit challenging Alabama's ban on gender-affirming medical care on behalf of two transgender teens, their families, and their treating physicians. The lawsuit describes in detail the severe harms and risks of harm the new law inflicts on trans youth and their families, and the intolerable interference in doctor-patient relationships and the exercise of medical judgment that necessarily accompany the law's enforcement. SPLC is very interested in discussing these issues further with the Independent Expert and would be pleased to organize a meeting during the US country visit.

[Birmingham AIDS Outreach](#) is both a healthcare organization and an LGBTQ education and advocacy program in Birmingham, Alabama. BAO provides many vital services to LGBTQ adults and youth, including physical and mental health services, legal services, a youth center, and a recently opened school for middle and high school students. BAO has been the recipient of grant funding specifically for the purpose of improving its security against violence targeted against LGBTQ communities and their advocates.

Alabama schools can be especially unwelcoming for LGBTQ youth, and the newly adopted laws discussed above will only make things worse. One immediate illustration of this is a political candidate’s televised attacks on Alabama school children. The [Magic City Acceptance Academy](#) is a charter school founded by BAO as a tuition-free, inclusive, diverse and innovative educational alternative for grades 6-12. In addition to classroom instruction, the school provides an affirming environment as well as counseling and mental health care. Since before it even opened, the school has faced political attacks and threats of violence. It recently increased campus security after Tim James, a candidate for Governor, used photos and video of the school, including the faces of students, in a [campaign ad](#) falsely labeling it a “trans school.” In interviews following the release of the ad, James has accused parents of Academy students of child abuse. Such rhetoric is very likely to encourage harassment and violence. BAO officials have indicated their willingness to meet with the Independent Expert.

- *Utah:* While Governors in SPLC’s region have not hesitated to sign anti-LGBTQ legislation passed in their states, the conservative Governor of Utah, Spencer Cox, recently [vetoed a bill](#) to ban transgender girls from participating in girls’ sports. In so doing, Gov. Cox recognized that the tiny number of children to whom the ban would currently apply – just four – were being made the targets of fear and anger. “I don’t understand what they are going through or why they feel they way they do,” he said, “But I want them to live.” His veto was [overridden by the state legislature](#), and the law will take effect. By contrast, the members of the city council of Salt Lake City, Utah’s largest city, are [majority LGBTQ](#), providing an important counterpoint of welcoming and affirming public policy. Utah also has a strong LGBTQ education and advocacy organization, [Equality Utah](#), that could convene directly impacted people to meet with the Independent Expert.

SPLC would be pleased to assist the Independent Expert with contacts and other arrangements in connection with any of these suggested activities. We hope that our input will be helpful in informing your upcoming visit and welcome any questions you may have.

With best regards,



LISA W. BORDEN  
Senior Policy Counsel, International Advocacy