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Written statement* submitted by the Center for Reproductive Rights, Inc., a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[14 February 2011]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Universal Periodic Review of the United States of America

The Center for Reproductive Rights is a global human rights organization that uses the law to promote women's equality by establishing access to reproductive health care and control over reproductive decisions as fundamental rights that all governments must respect, protect and fulfill. We have been engaging with U.N. human rights mechanisms for the last 10 years.

The Center commends the United States for its unprecedented engagement with civil society during its Universal Periodic Review. We hope that the consultations leading up to and during this process mark the beginning of more frequent and sustained engagement with civil society. We remain concerned, however, about the government's commitment to protect, respect and ensure economic and social rights and, in particular, reproductive rights and health. A woman's right to make fundamental decisions about her life and her family, her right to access reproductive health services and her ability to decide when and whether to have children are based on a number of fundamental human rights. Among others, these rights include life, health, dignity, equality, self-determination, information, education, privacy and freedom from cruel, inhuman and degrading treatment. Indeed, despite the critical importance of reproductive rights in securing women's human rights and gender equality, discussion of those issues was all but absent from the U.S.'s report and the interactive dialogue. We continue to urge the United States to address reproductive health issues that have been raised repeatedly by U.N. treaty bodies and experts as well as during the Universal Periodic Review.

Racial disparities in reproductive health

In the United States, women of color fare worse than white women in every aspect of reproductive health, with disparities particularly pronounced in three areas: maternal mortality, sexually transmissible infections, and unintended pregnancies. In 2008, the Committee on the Elimination of Racial Discrimination recognized these pervasive racial disparities in women's sexual and reproductive health as a human rights concern and called on the U.S. to improve women's access to reproductive and sexual healthcare, including contraception and sexuality education.¹ These concerns were echoed by an advance written question Norway submitted during the U.S.'s UPR, which inquired what steps the U.S. planned to take to address disparities in reproductive and sexual health.

Although the causes of racial disparities are complex and systemic, and long-term interventions are likely needed to eradicate them, the U.S. can—and should—modify its policies to improve access to reproductive and sexual healthcare in the short term. Continued failure to address these disparities threatens the human rights of women of color. The U.S. government should: eliminate barriers to Medicaid coverage that disproportionately affect women of color; increase Title X funding to meet the reproductive and sexual healthcare needs of its target population; integrate and co-locate sexual, reproductive and HIV/AIDS healthcare services; identify gaps in health data, particularly

¹ Concluding Observations of the Committee on the Elimination of Racial Discrimination: United States, 72d Sess., para. 33, U.N. Doc. CERD/C/USA/CO/6 (2008). The Human Rights Council and the Committee on the Status of Women have recognized that maternal mortality is an issue of human rights concern. See Preventable maternal mortality and morbidity and human rights, Hum. Rts. C. Res. U.N. Doc. A/HRC/11/L.16/Rev.1 (rev'd draft res. June 16, 2009); Eliminating preventable maternal mortality and morbidity through the empowerment of women, Comm. Status of Women Res., U.N. Doc. E/CN.6/2010/L.6 (advance unedited draft res. March 9, 2010).

ethnically disaggregated data, and fund research into disparities in reproductive and sexual health access and outcomes; and secure funding for medically accurate, age-appropriate, comprehensive sexuality education at a level sufficient to ensure that children receive such education throughout the country.

Abortion access and attacks on providers

Abortion has been legal in the U.S. for almost forty years, but many women face significant challenges in obtaining the procedure. Pervasive attacks on the doctors and healthcare workers who provide abortions have significantly decreased the availability of abortion services, to the detriment of women's ability to exercise their reproductive rights. Medically unnecessary requirements imposed on providers and patients make care more costly to provide and more difficult to obtain. Access is further undermined by discriminatory policies that single out and exclude abortion care from Medicaid coverage and in the newly created health insurance exchanges.

The federal government should publicly condemn intimidation, harassment and physical attacks directed at healthcare providers whose fulfillment of their professional duties ensures access to fundamental human rights and entitles them to protection as human rights defenders.² The government should take action to prevent such attacks, to protect healthcare professionals against such attacks, and to prosecute those who perpetrate attacks. The Department of Justice should devote additional resources to provide training for and improve cooperation between federal, state, and local law enforcement agencies in responding to violence and threats of violence directed at abortion providers and devote additional resources to enforcing the Freedom of Access to Clinic Entrances Act and related federal statutes. The federal government should repeal federal restrictions on the use of public funds for abortion, including the Hyde Amendment, and repeal federal restrictions on the use of private funds for abortion coverage contained in the new healthcare reform legislation and accompanying Executive Order.

Shackling of incarcerated women

The use of shackles to restrain pregnant women during the birthing process is a cruel, inhuman and degrading practice that inflicts excruciating pain and humiliation. The Committee Against Torture, the Human Rights Committee, and the Special Rapporteur on Violence Against Women have all expressed concern about the treatment of women in U.S. detention, and the latter two have expressed particular concern about the practice of shackling pregnant women during childbirth.³ During the U.S.'s UPR, the Netherlands submitted an advance written question asking whether the U.S. would pledge to implement

² Declaration on Human Rights Defenders, G.A. Res. 53/144, U.N. Doc. A/RES/53/144 (1999). See Report submitted by the Special Representative of the Secretary-General on human rights defenders, Hina Jilani, 4th Sess. paras. 70-72, U.N. Doc. A/HRC/4/37 (2007); Report submitted by Ms. Hina Jilani, the special Representative of the Secretary-General on the Situation of Human Rights Defenders, pursuant to the Commission on Human Rights resolution 2000/61, 59th Sess., Provisional agenda item no. 17(b) para. 50, U.N. Doc. E/CN.4/2003/104 (2003).

³ Conclusions and Recommendations of the Committee Against Torture: United States of America, 36th Sess., para. 33, U.N. Doc. CAT/C/USA/CO/2 (2006); Concluding Observations of the Human Rights Committee: United States of America, 87th Sess., para. 33, U.N. Doc. CCPR/C/USA/CO/3/Rev.1 (2006); Report of the Mission to the United States of America on the Issue of Violence against Women in State and Federal Prisons, 55th Sess., paras. 53-54, 55-63, U.N. Doc. E/CN.4/1999/68/Add.2 (Jan. 4, 1999).

the Human Rights Committee's 2006 recommendation to prohibit the shackling of detained women during childbirth.

The federal government should pledge to prohibit the shackling of detained women during childbirth and take the following concrete steps to end the practice of shackling pregnant incarcerated women: the White House should publicly condemn the practice of shackling pregnant incarcerated women during childbirth as a violation of women's human rights; the Bureau of Prisons should ensure that jails, privately operated facilities, and/or community corrections centers with which it contracts comply with the Bureau of Prisons policy prohibiting shackling incarcerated pregnant women during childbirth; Immigration and Customs Enforcement should prohibit the practice of shackling pregnant women held in immigration detention during childbirth; the Attorney General of the United States and DOJ Justice should investigate all complaints that pregnant incarcerated women are shackled in violation of their constitutional and civil rights, and should use all available mechanisms to ensure that states eliminate the practice.

U.S. Foreign policy

The United States should recognize that it has an obligation to uphold the human rights of women both inside and outside its borders. President Obama took an important step by rescinding the Global Gag Rule, which prevented foreign recipients of U.S. Agency for International Development (USAID) funds from advocating for access to abortion – even with their own funds. During the U.S.'s UPR, the United Kingdom submitted an advance written question asking for information about the impact of the Global Gag Rule on vulnerable women abroad and Norway asked whether the U.S. planned to remove blanket abortion restrictions on humanitarian aid covering medical care to women and girls who are raped and impregnated in situations of armed conflict.

The federal government should disseminate clear guidance to foreign assistance grantees explaining the implications of the Global Gag Rule rescission; support efforts to strengthen information-exchange, capacity-building, and technical capacity necessary to implement Global Gag Rule rescission and protect access to safe abortion; and take positive steps to ensure that the Global Gag Rule is not restored legislatively. The federal government should also establish clear guidelines and oversight mechanisms to ensure that institutions receiving U.S. funding respect and protect women's reproductive rights. And finally, the State Department and USAID should narrowly interpret overseas abortion funding restrictions, particularly in areas of armed conflict where rape is used as a weapon of war.