**Written Testimony of Center for Reproductive Rights and Human Rights Watch to the Committee on Oversight and Government Reform on the Human Rights Concerns of Abstinence-Only-Until-Marriage Programs**

As organizations committed to human rights in the United States and worldwide, the Center for Reproductive Rights and Human Rights Watch urge the Committee to end federal funding for abstinence-only-until-marriage programs and to provide funding for comprehensive sexuality education programs. The Center for Reproductive Rights is a New York-based organization that uses the law to advance reproductive freedom as a fundamental human right. Human Rights Watch is an international human rights research and advocacy organization committed to researching and advocating on behalf of populations that are being denied their right to health.

Since 1996, the federal government has spent over $1.5 billion to fund abstinence-only programs. Federal guidelines prohibit abstinence-only programs from teaching about contraceptive use, therefore only permitting the discussion of contraceptive methods in the context of failure rates.[1] Many of these programs exaggerate contraceptive failure rates and provide false or misleading information about the effectiveness of contraception in preventing STI infection, including HIV.[2] Research shows abstinence-only programs do not deter premarital sex or diminish the rate of STI infection,[3] and some programs

[1] 42 U.S.C. § 710(b)(2) (2007) (requiring that any program receiving federal funding promote abstinence outside of marriage as its "exclusive purpose"); Heather D. Boonstra, *The Case for a New Approach to Sex Education Mounts: Will Policymakers Heed the Message?*,10 GUTTMACHER POL'Y REV. 2 (Spring 2007), *available at* http://www.guttmacher.org/pubs/gpr/10/2/gpr100202.html (last viewed Nov. 2, 2007) (showing how the "exclusive purpose" definition of abstinence education bars programs from "providing any information that could be construed as promoting or advocating contraceptive use.").

[2] H.R. Rep., Committee on Government Reform, *The Content of Federally Funded Abstinence-Only Education Programs* 8 (Dec. 2004) [hereinafter "Waxman Report"], *available at* http://www.democrats.reform.house.gov/Documents/20041201102153-50247.pdf (last viewed Dec. 14, 2007).

[3] Mathematica Policy Research, Inc., *Impacts of Four Title V, Section 510 Abstinence Education Programs: Final Report* 59 (April 2007), *available at* http://www.mathematica-mpr.com/publications/pdfs/impactabstinence.pdf (last viewed Oct. 19, 2007) (finding that the surveyed abstinence programs had "no overall impact on teen sexual activity [and] no differences in rates of unprotected sex" among those who completed the programs); Am. Psychological Ass'n, *Resolution in Favor of Empirically Supported Sex Education and HIV Prevention Programs for Adolescents* (Feb. 18-20, 2005); Society for Adolescent Medicine, *Abstinence-only education policies and programs: A position*

deter condom use among sexually active teens.[4] By failing to teach adolescents about the risks of unprotected sex, including STI infection, adolescents who become infected lack information about testing and treatment.[5] Research also indicates that adolescents who complete abstinence-only programs are 50 percent more likely to have an unintended pregnancy than those who receive comprehensive sexuality education.[6]

Despite the proven ineffectiveness of abstinence-only-until-marriage programs, government funding for them has increased dramatically in recent years, with the Bush Administration proposing $204 million in funding for fiscal year 2009.[7] In contrast, there is no designated funding specifically for comprehensive sexuality education, which has proven to be effective in promoting positive behaviors, including delaying initiation of sex and increasing condom and contraceptive use.[8]

Accurate and objective sexual education is critical to advancing public health and promoting human rights. This fact is widely accepted within the international community and is supported by the provisions of fundamental human rights instruments. Indeed, the current federal policy of funding abstinence-only programs while failing to fund comprehensive sexuality education raises serious human rights concerns. Federal abstinence-only programs threaten a number of basic human rights, including the rights to health, information, and nondiscrimination. These rights are recognized by the international community and are inscribed in major international human rights treaties to which the U.S. is a party.

In addition, the United States has ratified two major human rights treaties that implicate abstinence-only programs – the International Covenant on Civil and Political Rights (ICCPR) and the International Convention on the Elimination of All Forms of Racial Discrimination (CERD). Upon ratification of these treaties, the U.S. assumed an international legal obligation to comply with their terms. The U.S. also has signed, but

---

*paper of the Society for Adolescent Medicine*, 38 J. ADOLESCENT HEALTH 83-87, 84 (2006); Boonstra, *The Case for a New Approach to Sex Education Mounts*, at 5.

[4] Waxman Report, at 4 (showing that students who took a "virginity pledge" as part of an abstinence-only curricula did not have lower rates of STIs than non-pledgers but were less likely to use contraception when they had sex).

[5] Boonstra, *The Case for a New Approach to Sex Education Mounts*, at 5 (stating that "[t]o the extent that they ignore contraception and the benefits of safer-sex practices generally, abstinence-only programs do nothing to help prepare young people for when they will become sexually active."); Waxman Report, at 4; John Santelli et al., *Abstinence and abstinence-only education: A review of U.S. Policies and programs*, 38 J. ADOLESCENT HEALTH 72-81, 76 (2006) (summarizing data showing that although virginity pledge-breakers had fewer sexual partners, they were less likely to report seeing a doctor for an STI concern and were less likely to get tested for STIs).

[6] Pamela Kohler et al., *Abstinence-Only and Comprehensive Sex Education and the Initiation of Sexual Activity and Teen Pregnancy*, 42 J. ADOLESCENT HEALTH 344-51 (2008).

[7] President Releases Fiscal Year 2009 Budget Request; Cuts Critical Healthcare Program; Requests Huge Increase for Abstinence-Only Programs, POL'Y UPDATE (SIECUS, New York, N.Y.), Jan. 2008, *available at* http://www.siecus.org/policy/PUpdates/pdate0377.html (last viewed Apr. 25, 2008); The President's FY09 Budget, *available at* http://www.whitehouse.gov/omb/budget/fy2009/budget.html (last viewed Apr. 25, 2008).

[8] *See* Press Release, Alan Guttmacher Inst., Abstinence-Only Programs Do Not Work, New Study Shows (Apr. 18, 2007); The President's FY09 Budget.

not ratified, the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC). Signing a treaty creates an obligation to refrain from actions that would defeat the treaties' object and purpose.[9]

**The Right to Health and Information**

The human right to the highest attainable standard of health requires that individuals have access to accurate information, including information related to sexual and reproductive health. UN treaty bodies that monitor compliance with human rights treaties have repeatedly discussed the importance of sexual education and information as a means of ensuring the right to health because it contributes to reduction of the rates of maternal mortality, abortion, adolescent pregnancies, and HIV/AIDS.[10]

The right of all people to "seek, receive and impart information and ideas of all kinds," including information about their health, is guaranteed by the ICCPR, which was ratified by the U.S. in 1992.[11] The Human Rights Committee, the UN treaty body which oversees compliance with the ICCPR, also has linked the obligation to provide accurate and objective sexuality education to the treaty's right to life provision.[12] Other treaty bodies have recognized that the provision of information and life skills necessary to develop a healthy lifestyle is an important component of the human right to education.[13]

Although the United States has not ratified the ICESCR, nor any other human rights treaty which contains an explicit right to health, the U.S. has expressed support for the right to health as a policy goal.[14] Further, as a signatory to the ICESCR and the CRC, the U.S. is bound to refrain from acts that would defeat the objects and purposes of those

---

[9] Vienna Convention on the Law of Treaties, 1155 U.N.T.S. 331, arts. 10, 18 (*entered into force* Jan. 27, 1980) [hereinafter Vienna Convention].

[10] *See, e.g., Concluding Observations of the Committee on the Elimination of Discrimination against Women:* Belize, 01/07/99, U.N. Doc. A/54/38, ¶¶ 56-57; Burundi, 02/02/2001, U.N. Doc. A/56/38, ¶ 62; Chile, 09/07/99, U.N. Doc. A/54/38, ¶¶ 226–27; Dominican Republic, 14/05/98, U.N. Doc. A/53/38, ¶ 349; *Concluding Observations of the Committee on the Rights of the Child:* Cambodia, 28/06/2000, U.N. Doc. CRC/C/15/Add.128, ¶ 52; Colombia, 16/10/2000, U.N. Doc. CRC/C/15/Add.137, ¶ 48; Dominican Republic, 21/02/2001, U.N. Doc. CRC/C/15/Add.150, ¶ 37; Ethiopia, 21/02/2001, U.N. Doc. CRC/C/15/Add.144, ¶ 61; *Concluding Observations of the Committee on Economic, Social, and Cultural Rights:* Bolivia, 21/05/2001, U.N. Doc. E/C.12/1/Add.60, ¶ 43; Honduras, 21/05/2001, U.N. Doc. E/C.12/1/Add.57, ¶ 27; Libyan Arab Jamahiriya, 25/11/2005, U.N. Doc. E/C.12/LYB/CO/2; Senegal, 31/08/2001, U.N. Doc. E/C.12/1/Add.62, ¶ 47; Ukraine, 31/08/2001, U.N. Doc. E/C.12/1/Add.65, ¶ 31.

[11] ICCPR, Art. 19; *see also* CRC, art. 13(2).

[12] *Concluding Observations of the Human Rights Committee*: Poland, 02/12/04, U.N. Doc. CCPR/CO/82/POL, ¶ 9.

[13] Committee on the Rights of the Child, *General Comment 1: The Aims of Education* (26th Sess., 2001) *in* Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, at 282, ¶ 9, U.N. Doc. HRI/GEN/1/Rev.6 (2003).

[14] Universal Declaration of Human Rights. art. 35, *adopted* Dec. 10, 1948, G.A. Res. 217A(III), at 71, U.N. Doc. A/810 (1948); American Declaration of Rights and Duties of Man, art. XI, O.A.S. Off. Rec. OEA/Ser.L/V/II.82 doc. 6, rev. 1, at 17 (1948).

treaties.[15] Therefore the U.S. government cannot censor, limit, or otherwise misrepresent health-related information in ways that would impede the realization of the fundamental right to health recognized by these treaties.

Affirming the importance of child and adolescent health, the CRC, which is the most widely ratified of all international human rights treaties, requires that governments "ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health."[16] This obligation encompasses both the need to provide accurate and appropriate information and to refrain from censoring, withholding or misrepresenting health information. The Committee on the Rights of the Child has stated that adolescents "have the right to access to adequate information essential for their health and development" and that countries have an obligation to ensure

> that all adolescent girls and boys, both in and out of school, are provided with, and not denied, accurate and appropriate information on how to protect their health and development and practice healthy behaviours. This should include information on . . . safe and respectful social and sexual behaviours . . . . [17]

Such information includes "sexual and reproductive information, including on family planning and contraceptives, the dangers of early pregnancy, the prevention of HIV/AIDS and the prevention and treatment of sexually transmitted diseases (STDs)."[18]

The Committee has also addressed the need for education and information as part of the response to the HIV/AIDS epidemic and has emphasized access to adequate HIV/AIDS and sexual health information as essential to securing children's rights to health and information.[19] Further, the Committee has stated that effective HIV/AIDS prevention requires that countries

> refrain from censoring, withholding or intentionally misrepresenting health-related information, including sexual education and information, and . . . must ensure that children have the ability to acquire the knowledge and skills to protect themselves and others as they begin to express their sexuality.

---

[15] Vienna Convention, art. 18.
[16] Convention on the Rights of the Child, art. 24(2)(e), *adopted* Nov. 20, 1989, G.A. Res. 44/25, annex, U.N. GAOR, 44th Sess., Supp. No. 49, at 166, U.N. Doc. A/44/49 (1989), *reprinted in* 28 I.L.M. 1448 (*entered into force* Sept. 2, 1990).
[17] Committee on the Rights of the Child, *General Comment 4: Adolescent heath and development in the context of the Convention on the Rights of the Child* (33rd Sess., 2003), ¶ 26, U.N. Doc. CRC/GC/2003/4 (2003).
[18] *Id.* ¶ 28.
[19] Committee on the Rights of the Child, *General Comment 3: HIV/AIDS and the Rights of the Child* (32nd Sess. 2003), *in* Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, at 296, ¶ 16, U.N. Doc. HRI/GEN/1/Rev.6 (2003).

The need for comprehensive sexual education has also been addressed by numerous international sources as both a human rights and a public health and policy imperative.

- The International Conference on Population and Development (ICPD) Programme of Action recognizes the need for education about population issues, including sexual and reproductive health, and that such curricula should be gender sensitive and cover reproductive choices and responsibilities, and sexually transmitted diseases, including HIV/AIDS;[20]

- Guidelines from the WHO Regional Office for Europe specifically call on Member States to ensure that education on sexuality and reproduction is included in all secondary school curricula and is comprehensive.[21]

**Impact on Communities of Color**

The continuing racial disparities in reproductive health in the United States raise serious human rights issues. In March of 2008, the UN committee charged with reviewing U.S. compliance with the Convention on the Elimination of All Forms of Racial Discrimination expressed concern that "wide racial disparities continue to exist in the field of sexual and reproductive health" and recommended that the U.S. address these disparities by "providing adequate sexual education aimed at the prevention of unintended pregnancies and sexually-transmitted infections."[22]

Low-income young women of color are disproportionately affected by abstinence-only programs. Racial disparities in reproductive health have been well-documented and include an HIV/AIDS infection rate for African-American women that is 23 times that of white women[23] and an unintended pregnancy rate of black women that is twice the national average.[24] Rather than addressing these disparities through comprehensive sexuality education, current government funding of abstinence-only programs have resulted in a situation where poor communities and communities of color are more likely to rely on such programs than higher income and white communities.

A study conducted from 1995 to 2000, years which marked an exponential growth in abstinence-only instruction, revealed that by 2000 the number of young black and Hispanic women receiving abstinence-only instruction in lieu of other forms of sexuality

---

[20] *See Programme of Action of the International Conference on Population and Development*, Cairo, Egypt, Sept. 5-13, 1994, U.N. Doc. A/CONF.171/13/Rev.1, ¶¶ 7.44(a), 7.44(b), 7.47, 11.9 (1995).
[21] WORLD HEALTH ORGANIZATION REGIONAL OFFICE FOR EUROPE (WHO Europe), WHO REGIONAL STRATEGY ON SEXUAL AND REPRODUCTIVE HEALTH, EUR/01/5022130 at 9, 14 (2001).
[22] *Concluding Observations of the Committee on the Elimination of Racial Discrimination: United States of America*, 03/05/2008, U.N. Doc. CERD/C/USA/CO/6, ¶ 33.
[23] Ctrs. for Disease Control, *HIV/AIDS among African Americans* 2 (June 2007), *available at* http://www.cdc.gov/hiv/topics/aa/resources/factsheets/aa.htm (last viewed Dec. 14, 2007).
[24] Heather D. Boonstra et al., *Abortion in Women's Lives* 28 (Alan Guttmacher Inst., May 2008); *see also* Lawrence B. Finer & Stanley K. Henshaw, *Disparities in Rates of Unintended Pregnancy in the United States, 1994 and 2001*, 38 PERSP. ON SEXUAL & REPRODUCTIVE HEALTH 90-96, 94 (2006).

education had significantly increased and was higher than young white women.[25] In addition, young women living below 200 percent of the poverty level were more likely to receive abstinence-only instruction (or no sexuality education at all) compared to their higher-income peers.[26] Fewer than half of sexually experienced young black women had received instruction about contraception prior to their first sexual encounter, compared to two-thirds of their white peers.[27] Thus, young women of color—the population facing the highest risk of STI infection and unintended pregnancy—is also the least likely to receive the information necessary to protect themselves against those outcomes.

**Discrimination**

Abstinence-only curricula also pose serious concerns about discrimination and the perpetuation of harmful stereotypes based on gender and sexual orientation. Discrimination on the basis of gender and sexual orientation violate fundamental rights to equality and non-discrimination in the ICCPR, CEDAW and CRC.

Both the ICCPR and CEDAW require the elimination of discrimination against women in all fields, including education and schools.[28] CEDAW discusses the need to eliminate gender stereotypes in education, including the revision of textbooks and school programs.[29] The CEDAW Committee has stressed the need to eliminate gender stereotypes in curricula[30] and for development of sexual education programs that address the specific needs of women and girls.[31] Rather than addressing the specific needs of women and girls, abstinence-only curricula often rely on stereotypes that undermine female sexual decision-making. Abstinence-only programs have been criticized for portraying "women as socially and sexually submissive and strip[ping] them of ownership of their own ambitions and desires."[32] They also reinforce stereotypes that undermine girl's achievement and promote the idea that girls are overly emotional, weak and in need protection and that men are sexually aggressive and lack deep emotions.[33]

---

[25] Laura Duberstein Lindberg et al., *Changes in Formal Sex Education: 1995-2002*, 38 PERSP. ON SEXUAL & REPRODUCTIVE HEALTH No. 4, 182-88, 185-86 (Dec. 2006).
[26] *Id.*
[27] *Id.* at 186.
[28] *See* Human Rights Committee, *General Comment 28: Equality of Rights Between Men and Women (Art. 3)* (68th Sess., 2000), ¶ 28, U.N. Doc. CCPR/C/21/Rev.1/Add.10 (2000). Convention on the Elimination of All Forms of Discrimination Against Women, art. 10, *adopted* Dec. 18, 1979, G.A. Res. 34/180, U.N. GAOR, 34th Sess., Supp. No. 46, at 193, U.N. Doc. A/34/46 (1979) (*entered into force* Sept. 3, 1981) [hereinafter CEDAW].
[29] CEDAW, art. 10(c).
[30] Committee on the Elimination of Discrimination Against Women, *Concluding Observations, Croatia,* 01/28/2005, U.N. Doc. A/60/38, ¶ 201..
[31] Committee on the Elimination of Discrimination Against Women, *General Comment 15: Avoidance of discrimination against women in national strategies for the prevention and control of acquired immunodeficiency syndrome (AIDS)* (9th Sess., 1990), *in* Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, at 240, U.N. Doc. HRI/GEN/1/Rev.6 (2003).
[32] Julie F. Kay, *Sex, Lies & Stereotypes: How Abstinence-Only Programs Harm Women and Girls* 21 (Legal Momentum, New York, NY, 2008), *available at* http://www.legalmomentum.org/site/PageServer?pagename=sfr_26 (last viewed Apr. 28, 2008).
[33] Waxman Report, at 16-18.

Further, both the Human Rights Committee[34] and the CRC Committee have made it clear that the obligation to protect against discrimination includes the obligation to protect against discrimination based on sexual orientation. The CRC Committee has stressed the importance of preventing discrimination against LGBT youth, noting that "[a]dolescents who are subject to discrimination are more vulnerable to abuse, other types of violence and exploitation, and their health and development are put at greater risk. They are therefore entitled to special attention and protection from all segments of society."[35]

Abstinence-only-until-marriage programs by their terms discriminate against lesbian, gay, bisexual, and transgender youth, both by teaching that heterosexual marriage is the only appropriate context for sex and that sex outside of marriage is both psychologically and physically harmful. In effect, these programs tell LGBT youth that there is no safe way for them to have a sexual relationship either as youth or adults. This reinforces the stigma and hostility that LGBT youth experience both at school and in society at large.

A comprehensive understanding of sexual and reproductive health is imperative to an individual's ability to protect his or her health and to make informed decisions about sexuality and reproduction. Such information is vital to reducing adolescent and unwanted pregnancies and preventing transmission of STIs, including HIV/AIDS. Current exclusive government funding of abstinence-only programs raises serious public health and human rights concerns. We urge Congress to end funding for abstinence-only programs and instead invest in comprehensive sexuality education that provides accurate and objective information about contraceptives, condom-use and STI prevention.

---

[34] *See* Toonen vs. Australia, Human Rights Committee, U.N. Doc. CCPR/C/50/D/488/1992 (Apr. 4, 1994).
[35] Committee on the Rights of the Child, *General Comment 4*, ¶ 6.