



Written Statement of National Advocates for Pregnant Women
U.S. State Department Universal Periodic Review Consultation
Columbia University -- February 26, 2010

At age 15, R.G., an African-American girl in Mississippi, became pregnant. In November 2006, just one month after her sixteenth birthday, she suffered a stillbirth. Instead of offering care or support to cope with the loss, instead of offering education to help her understand what she experienced, medical personnel notified the police. R.G. was then arrested and charged – as an adult – with murder for having experienced the stillbirth. The State of Mississippi alleged that R.G. “feloniously, willfully and unlawfully ... and evincing a depraved heart” murdered her child, claiming, without any medical or scientific support, that her drug use caused the stillbirth.

Last year in South Carolina, J.C., who was eight months pregnant, became despondent when the father of her baby threatened to leave her. In an apparent suicide attempt, she jumped out of a fifth floor window. An awning broke her fall. Despite numerous injuries, including a broken pelvis, J.C. survived. Nevertheless, she lost the pregnancy. J.C. was arrested and charged with homicide by child abuse. Held for months without bail, J.C. eventually pleaded guilty to manslaughter to avoid a murder conviction or years in jail while she challenged the charges.

Increasingly, pregnant women and girls who experience stillbirths or other health problems are being denied their inherent dignity and human rights. National Advocates for Pregnant Women has documented hundreds of cases involving the policing and punishment of pregnant women and new mothers. Many of these cases involve pregnant women who were not able to overcome a drug problem in the short length of a pregnancy. Other cases, however, involve women who have been arrested because, while pregnant, they refused cesarean surgery, did not get to the hospital quickly enough on the day of delivery, were in a dangerous location, refused a court-ordered physical examination, fell down a flight of stairs, or experienced a depression severe enough to lead to a suicide attempt.

Low-income women and women of color are disproportionately targeted for arrest and other forms of punishment and state control. These cases are brought under the guise of advancing the rights of the “unborn” and have the effect of diminishing the dignity and personhood of pregnant women. These cases rest on the claim that unborn children are entitled to a healthy environment and healthy birth, while the women who carry them are not guaranteed health care, education, or a safe and healthy environment.

Both South Carolina and Mississippi are at the bottom in terms of infant mortality rates. Nationwide, the infant mortality rate among African-Americans is double the rate among whites. The high rates of infant mortality are attributed to lack of access to prenatal care

as well as general lack of access to health care, healthy foods and safe environments. For example, there is only one drug treatment facility in Mississippi that admits pregnant teenagers. This facility is a three and a half hour drive from R.G.'s home.

R.G. and J.C. represent a disturbing trend in the U.S. of violating the human rights of pregnant women. The Universal Declaration of Human Rights, Article 25, section 1 states – “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including ... medical care and necessary social services.” Policies of arrest and punishment undermine rather than advance this goal. R.G., J.C. and many other women have been denied this standard of living.

UDHR, Article 11, section 2 states “No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed.” There is no written statute declaring that a woman who experiences a stillbirth – for any reason – can be held criminally liable.

UDHR, Article 25, section 2 states “Motherhood and childhood are entitled to special care and assistance.” Certainly neither R.G. nor J.C. received any special care or assistance. Rather, they were arrested and charged with a crime that carries a life sentence for those convicted. We can point to other sections of the UDHR and to other treaty obligations as well, all of which remind us that R.G. and J.C.'s human rights and inherent dignity were violated.

These cases are ongoing. Just this week NAPW learned of two new arrests. Countless other women in the United States have lost custody of their children or have been subjected to intrusive state scrutiny based on something the government claims they did or did not do while pregnant. These cases make clear that in its treatment of pregnant women, the United States is an outlier in the world.

What can we do to improve human rights in the U.S.?

- First, we must make clear that women, upon becoming pregnant, may not become subject to special penalties or state interventions.
- Second, we ask the United States ensure that every person has access to health care that includes comprehensive reproductive health care as well as drug treatment and mental health care.

Pregnant women and women who have suffered miscarriages and stillbirths, like all other people, deserve dignity and freedom from the fear that their pregnancies will become the basis for an arrest.