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**American Civil Liberties Union Written Statement in Support of the New York City  
Human Rights Government Audit Law (GOAL)  
Int. No. 512**

The American Civil Liberties Union welcomes the opportunity to submit this written statement in support of the Human Rights Government Audit Law (GOAL). Developed by the New York City Human Rights Initiative, this innovative and landmark piece of legislation seeks to promote in a very real and concrete way one of the most important values in society today: the right of everyone to be free from discrimination on the basis of gender, race, color, sexual orientation, age, ethnicity, language, religion, immigration status, political affiliation, national or social origin, birth or other status.

The ACLU is a nationwide, nonprofit, nonpartisan organization with more than 400,000 members dedicated to preserving the principles of liberty and equality embodied in the United States Constitution and civil rights laws. The ACLU has been involved in the GOAL initiative from the very outset. In collaboration with Amnesty International, Urban Justice Center, Legal Momentum, and Women of Color Policy Network, the ACLU is a co-convenor of the New York City Human Rights Initiative and has been involved with drafting and conducting public education about the proposed legislation. As part of these efforts, the ACLU has co-chaired “think tanks” both with academics and various experts in international human rights as well as with leaders of local community-based organizations, with the aim of insuring that the proposed legislation is responsive

to the needs of the communities most affected by its potential passage. Given the significant protections extended to the rights of women by the proposed legislation, the ACLU's role in GOAL has been coordinated by the ACLU Women's Rights Project. This ACLU Project was founded in 1972 by Ruth Bader Ginsburg, and has been a leader in the legal battles to ensure women's full equality in American society. The Women's Rights Project is dedicated to the advancement of the rights and interests of women, with a particular emphasis on issues affecting low-income women, women of color, and immigrant women. Specifically, the Project focuses on three core priority areas: economic justice, violence against women, and criminal justice. Cutting across these core priorities, the Women's Rights Project seeks to bring an international human rights framework to our advocacy and litigation. By demanding basic economic and social opportunities for all women – regardless of race, class, or national origin – the Women's Rights Project works to ensure that women and their families can enjoy the benefits of full equality and participation in every sphere of society.

The ACLU's involvement in human rights work, such as the GOAL initiative, has a long history. The ACLU has identified international human rights law as an important and effective means of strengthening and expanding the body of U.S. laws protecting civil rights and civil liberties. Over the past several years, the ACLU has increasingly resorted to the human rights framework to support its litigation and advocacy goals. The ACLU's commitment to an ongoing engagement with the international human rights framework is seen most recently in the establishment of the Human Rights Working Group at the National Office. The Human Rights Working Group spearheads the organization's efforts to hold the U.S. government accountable to

universally recognized human rights principles, particularly on issues relating to national security, immigrants' rights, women's rights, and racial justice.

While the ACLU's work continues to remain domestic in focus, in certain areas of our legal work, the ACLU has recognized that the human rights framework offers distinct advantages over traditional constitutional and civil rights approaches to social justice issues. The approach adopted by international human rights law in the area of gender and race discrimination is a case in point.

To date, despite legislative efforts, gender and race discrimination still pervade New York City institutions. Although costs to the City from defending lawsuits brought by victims of such discrimination have spiraled, New York City residents have seen little overall change in the prevalence of discrimination or in the City's approach to confronting the problem. Gender and race discrimination are clearly endemic problems in New York City, and no initiative to date, legislative or litigation, has provided an adequate solution.

Obviously, New York is not alone; gender and race discrimination is pervasive not only within the United States, but around the whole world. The international community has long recognized the issue of gender and race discrimination and the problems they pose, and has sought to address these issues in a number of innovative ways. These new and dynamic approaches to the problem are encapsulated in two international human rights treaties: the Convention on the Elimination of Discrimination Against Women (CEDAW) and the Convention on the Elimination of All Forms of Racial Discrimination (CERD). Although not yet ratified by the Senate, CEDAW was signed by the United States in July 1980. CERD on the other hand has been duly ratified

and therefore imposes binding international legal obligations on the United States government both at the federal and state level. 177 nations worldwide are party to CEDAW and 169 are now party to the CERD.

Like U.S. civil rights statutes, CEDAW and CERD require appropriate remedies for the victims of discrimination. In addition to after-the-fact compensation, these two treaties further embrace a whole new approach to tackling gender and race discrimination. Both treaties require governments to proactively review their laws and their laws' effects as well as the patterns and practices of their agencies and to take concrete steps in line with this review to identify the potential for discriminatory conduct, prevent its occurrence in the first instance and promote equality of opportunity so that every member of the community is able to participate fully in economic, cultural, social and political activities.

Moreover, CEDAW and CERD more appropriately address modern manifestations of gender and race discrimination. U.S. Constitutional protections against discrimination require a showing of purposeful discrimination, an often insurmountable barrier for victims of discrimination and their advocates. These protections, however, completely ignore the subtle nature that characterizes much of 21<sup>st</sup> Century sexism and racism, which manifest not only as conscious and intentional discrimination but also more inadvertently—particularly in institutional arrangements. Both CEDAW and CERD, on the other hand, focus on the effects of discrimination and require the elimination of discrimination not only when there is a discriminatory intent, but also where there is unjustified discriminatory *effect*.

The human rights approach to countering gender and race discrimination, as

enshrined in CEDAW and CERD, attempts to address these problems in a very real and practical way. These principles have previously been adopted and applied successfully in legislation implementing CEDAW in the cities of San Francisco and Los Angeles, as well as the State of California, which has recently implemented the definition of discrimination described in CERD. In addition, the human rights approach to gender and race discrimination has been adopted overseas; for example, the European Union's Race Equality Directive (adopted in July 2000), which binds the 25 nations that comprise the European Union, incorporates international principles. This legislation is already having a positive impact on the treatment of gender and race discrimination in European countries because it provides national governments with new and more effective enforcement mechanisms to bolster their existing equality laws. GOAL will provide New York City residents with these same benefits.

In short, GOAL encompasses a more holistic human rights approach to countering gender and race discrimination in New York City. By enacting and giving practical effect to the provisions of GOAL, the City will be drawing directly on the experiences of other U.S. cities as well as the international community to make an immediate impact on redressing discrimination in the city. The proposed legislation will not only complement the city's current initiatives to advance equality and social justice, it will transform the way the city deals with discrimination. Moreover, through the enactment of GOAL, New York City can demonstrate itself as a leader in the promotion of human rights in this country and as a member of the global community seeking new and practical solutions to the age old problems of gender and race discrimination. The ACLU welcomes and supports the successful passage of this new and important piece of legislation.