

European Perspectives on the Global Gag Rule

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In June 2002, four members of parliament (MPs) from the Netherlands, Russia, the United Kingdom and the European Union (from Denmark) traveled to Washington, D.C. to voice their concerns to the U.S. Congress about the "global gag rule," which restricts foreign organizations receiving U.S. Agency for International Development family planning funds from providing or advocating for abortion-related services. As part of their numerous meetings and events, the MPs participated in a congressional briefing sponsored by the Center for Reproductive Rights, International Planned Parenthood Federation-European Network

(IPPF-EN) and Planned Parenthood Federation of America (PPFA). During the briefing, this diverse group of Parliamentarians expressed alarm that the global gag rule so blatantly disregards freedom of speech and democracy, is having a severely negative impact on women's health and lives across the globe, and has undermined the United States' international commitments to women's reproductive health. This report encapsulates their testimony.

I. Background on the Global Gag Rule

On January 22, 2001, President George W. Bush re-imposed the global gag rule (otherwise known as the "Mexico City Policy"), on the family planning and reproductive health program of the U.S. Agency for International Development (USAID). The global gag rule restricts foreign non-governmental organizations (NGOs) that receive USAID family planning funds from using their own, non-U.S. funds to provide legal abortion services, to advocate for abortion law reform, or to provide full and accurate medical information about legal abortion services to their patients. The 1973 Helms Amendment already prohibits U.S. funds from being used for these activities. The global gag rule would be unconstitutional if directly applied to U.S.-based NGOs.

The international outcry against the global gag rule resonated across the globe. In the days immediately following President Bush's announcement, countries including Australia, Canada, Sweden and the United Kingdom ran television, radio and newsprint

stories about the global gag rule. Governments condemned the new U.S. restriction as not only detrimental to women's health and lives, but also an affront to international human rights standards protecting freedom of speech and the right of citizens to participate in their own democratic political processes. In direct response to this outcry, four representatives from European Parliaments traveled to Washington, D.C. in June 2002 to try to convince their American colleagues to listen to the rest of the world—or at least their closest allies—and repeal this detrimental policy.

Congressman Tom Lantos (D-CA), the Congressional sponsor of the briefing, stated:

The global gag rule violates internationally recognized human rights and the principles embodied in the United States Constitution by imposing restrictions on free speech and democratic participation. The global gag rule is patently hypocritical. We should not be involved in coercing organizations in other countries to relinquish their rights to free speech and democratic involvement. We should also not impose this gag on our European friends. This policy holds the governments of our allies hostage, by denying them the ability to provide vital forms of assistance to organizations that are gagged by the United States.

II. The Global Gag Rule Undermines Freedom of Speech and Democratic Principles

The global gag rule undermines the right to freedom of speech—a universal human right that is highly valued and protected in the United

States—by preventing overseas reproductive health and advocacy organizations from speaking out and lobbying their own governments about domestic laws and policies pertaining to abortion. The gag rule prohibits these same NGOs from communicating with their governments about the need to decriminalize or improve the safety of and access to abortion,¹ or from providing public education about the procedure.² The global gag rule also censors health care professionals in overseas family planning clinics, depriving them of the ability to provide full and accurate information to their patients.³

At the same time, the gag rule prohibits foreign governments from collaborating with local, U.S.-funded NGOs on any abortion-related project. The global gag rule thus prevents NGOs from carrying out the public policy decisions of their own governments in countries where abortion has been determined to be legal, safe and accessible. This U.S. interference with the reproductive health policy decisions of foreign countries is an infringement of their national sovereignty and directly contravenes international legal principles.⁴

Russian NGOs, for example, receive U.S. family planning assistance and are thus directly affected by the global gag rule. Dr. Mikael Rokitski, a member of the Russian State Duma, expressed shock that the U.S. would impose such restrictions on free speech and democratic participation for Russian NGOs by reinstating the global gag rule:

We usually regard the United States as a model of principles of freedom of speech—as a cradle of democracy and of democratic reforms. We are also aware—and we

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do appreciate—that the U.S. ensured funding for Russian democratic reforms. We also know that the State Department has always focused on freedom of speech, on freedom of the press and freedom of choice. And against this background, it is strange for us to see that the United States is following the Mexico City Policy, or the "global gag" policy.

For my country, Russia, this policy and this problem has maybe more importance than for any other country, because I can see two aspects of this problem—both a political aspect and a medical aspect of the problem. The political aspect is related to the fact that the United States government refuses to provide funding to NGOs that want to make abortions safe, legal and affordable. Thus the United States government demonstrates to our government and to our people that one can restrict freedom of speech and freedom of choice if these words and these choices are different from the stand taken by the government.

The United States has a long history of protecting the right of individuals and groups to speak freely and to participate in their countries' democratic processes. The U.S. helped abolish authoritarian rule in the former Soviet Union but the imposition of the global gag rule on post-Communist Russia more than a decade later ironically promotes what the U.S. once helped Russians defeat. Dr. Rokitski continued:

It is with bitter feelings that I must tell you, here, that the Mexico City Policy reminds me of the prohibition of any dissent under the communist regime. It was with these prohibitions that we have been fighting in the past decade, and we won a victory. And you should not set an example that pulls us back into the past...

We have great respect for the democratic principles proclaimed in the U.S. Constitution, which are equality, freedom of speech and freedom of choice. We would only wish that the U.S. government would follow and develop these principles not only at home on American soil, but all over the world.

Gagging Democratic Development

Senator Ans Zwerter, from the Netherlands, made a connection between the importance of freedom of speech and access to reproductive health care—both of which are hindered by the global gag rule—and the development of peace, democracy and stability in developing regions of the world:

I am very pleased and honored to be here today in the heart of U.S. democracy—that is something you should be proud of. Today I will speak about issues which are of vital importance in today's rapidly changing world, especially since September 11. More than ever before there is a recognition that supporting development in poor countries is an essential pre-condition for a peaceful and sustainable world. Since the terrorist attacks in the United States, people all over the world have become more aware of their interdependence. We cannot isolate ourselves and safeguard peace, democracy, freedom of speech, stability and prosperity in our own enclave. We cannot ignore whole regions of the world, and that's also why we should invest in [developing] regions of the world. More than ever before there is a growing recognition that we need less poverty and more democracy. A growing number of people now understand that we urgently have to invest more in poverty reduction, and this means investing in health, specifically in reproductive health. Empowering women means providing them with the tools and information for them to access appropriate health care. An essential part of this is access to reproductive health information and services.... The shortfall in donor resources for international family planning and reproductive health programs ... is a serious problem that is contributing to conditions of poverty and social injustice.

Contraceptive Choice Also at Risk

Lynn Thomas, Director of the IPPF-EN, who also spoke at the briefing, testified that in East and Central Europe, "women have relied on abortion to control their fertility and they have no other choices. The IPPF has been working with the family planning organizations in these countries to offer women choices—to offer women a choice that is not abortion, another choice. We have been successful in reducing abortion rates by offering contraception and reproductive health services, but much work still needs to be done." However, the global gag rule has caused "clinics to close and projects to fold, reducing access to family planning services to many people all over the world." Ms. Thomas continued:

The global gag rule puts NGOs in a completely untenable position. If they accept, then they are obliged to ignore women facing abortion; and if they reject, it slows down efforts to improve access to contraception and to reduce abortion. And ultimately, it is not the impact of the global gag rule on the NGOs, but it's the impact on the rights to health and the lives of the thousands of women, men and young people that they serve, and that's what our concern is.

III. The Global Gag Rule Harms Women

Organizations that are well suited to provide comprehensive reproductive health care services, including abortion in countries where it is legal, have lost their U.S. funding or are not eligible for U.S. assistance as a result of the global gag rule. By reducing funding to reproductive health care providers in under-served areas, the global gag rule decreases women's ability to access pregnancy-related care, family planning, and services to prevent and treat HIV/AIDS and other sexually transmissible infections (STIs). Cuts in family planning funding mean higher rates of unintended pregnancy and higher rates of abortion. As Senator Ans Zwerver from the Netherlands noted, the global gag rule, "by denying funding to NGOs that provide abortion services, is denying women access to information, contraception, ways to prevent STIs and HIV/AIDS—and is thus contributing to the declining health of women in the developing world."

Dr. Ulla Sandbæk, a member of the European Parliament from Denmark, discussed the urgent need to provide comprehensive health care in under-served regions of the world. She has traveled extensively throughout Africa and has witnessed the devastating impact of the appalling lack of health care, especially for women. Dr. Sandbæk painted a vivid picture of her visits to many African hospitals:

It looks like a marketplace, really, because women have to bring their children—they don't have anybody to look after them. They have to bring their own blankets; they have to bring their own food. They are waiting in big numbers outside the hospital even to get in. Sometimes they have to wait there for weeks, so they have to bring a lot of provisions. And once they are inside they don't necessarily even have a bed.

However, Dr. Sandbæk explained that the health care clinics and hospitals that receive international health care funding, including reproductive health care assistance from the United States, were worlds apart. These clinics were often the only option for women in many rural villages to obtain any type of health services and information. Moreover, Dr. Sandbæk discussed various problems that contribute to the spread of HIV/AIDS in Africa.

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She cited widespread incest, the rape of young girls and nuns due to a myth that sex with a virgin cures AIDS, and the lack of power for women within marriage to refuse such things as sex on demand from their husbands. Dr. Sandbæk also stressed the vital importance of internationally funded clinics in the prevention of HIV/AIDS.

Yet the global gag rule jeopardizes access to funding for these organizations and threatens to reduce much-needed health care programs and even close entire clinics. Several health care clinics in Africa and in other regions have already been forced to shut their doors as a result of the global gag rule.⁵ As Dr. Sandbæk noted:

Since HIV/AIDS is a taboo in many [developing] countries, the only places where you would really get information about the spread of HIV/AIDS—on how you get infected and how you can prevent getting infected—will be at the health clinics. These are exactly the health clinics which will no longer be financed with the gag rule And

A Model Family Planning Policy

At the briefing, Senator Zwerver explained why the Netherlands family planning model has been so successful:

Another reason for our success has been a policy that takes an integrated approach to reproductive health and that understands that the best way to prevent unwanted pregnancies is to reach out to women who have had unwanted pregnancies. So, contraceptive services are an integral part of safe abortion services. The Dutch policy in no way—and I really would like to underline this here—in no way promotes abortion, what we are doing is preventing abortion. Our aim is to avoid the need for abortion—and as figures show, we reach that aim. The result has been that my country has some of the highest levels of contraceptive use in the world and as I have noted, low abortion rates.

We have mirrored our domestic policy with our international policy. Thus, we fund clinics that provide abortion services, because we know that the best way to prevent repeat abortions is to make sure contraceptives are distributed to women who have experienced unwanted pregnancies.

The Mexico City Policy, however, by denying funding to NGOs that provide abortion services, is denying women access to information, contraception, ways to prevent sexually-transmitted diseases and HIV/AIDS—and is thus contributing to a declining health of women in developing countries. By separating contraceptive and information services from abortion services, as the Mexico City Policy is doing, women will not get the information and contraceptives necessary to prevent another unwanted pregnancy. Based on the highly successful Dutch experience, where services are integrated, I can say that the United States is really taking a wrong approach

Direct priorities for [the Netherlands'] reproductive and sexual health assistance are safe motherhood, family planning, prevention and treatment of unsafe abortion and of sexually transmitted diseases and HIV/AIDS, inclusion of men, adolescents and refugees, and promotion of reproductive and sexual rights. Our common goal is to provide women with the information, education, resources and tools that enable them to realize their full potential. To achieve this goal we need to support programs domestically and internationally that assist women in realizing their high standards of health, particularly reproductive health, and their right to decide freely and responsibly the number and spacing of their children. If you use the Dutch experience as a model on how to address sexual and reproductive health both at home and internationally, we will see reduced abortion rates, reduced rates of unwanted pregnancies and healthier societies, and I think that's really a common goal we all have here today. If you don't, I am very afraid that we will be facing a grave global health crisis with negative impacts on global stability and peace.

once the clinics close down, you are in a desperate situation. So we are not talking about only gagging, but actually we are talking about killing big numbers [of women].

She also stated that "this gag rule, of course, prevents NGOs from taking part in a debate where you would empower women whose situation is already desperate." Dr. Sandbæk challenged those in Congress who support the global gag rule to participate in fact-finding missions in low-income countries, in order to witness first-hand the impact the policy has created around the world. She emphasized that only then will they "start to understand the situation better."

All of the visiting members of parliament expressed frustration with the global gag rule, which impedes the work of their own governments to provide aid to other countries or to work to lower the abortion rate in their own country. Dr. Rokitski of the Russian State Duma made this point when he discussed Russia's abortion rate, which is one of the highest in the world. The Russian Family Planning Association (RFPA) and the IPPF began working together to lower the number of abortions in Russia through education and information services, leading to a decrease in the number of abortions by 25%. But under the global gag rule, NGOs such as the RFPA are prevented from receiving USAID family planning and reproductive health assistance, which severely restricts their ability to provide the services necessary for reducing the country's high abortion rate. In effect, the global gag rule has significantly undermined the work of NGOs to lower abortion rates in Russia.

IV. The Global Gag Rule Undercuts U.S. Commitments to Reproductive Health

The United States has supported international family planning and population assistance since the 1960s. Senator Zwerver pointed out that:

The United States has been a leader in family planning assistance. The United States was one of the first countries to provide family planning assistance to poor countries. Tens of millions of people around the globe use family planning as a direct result of United States assistance, and many millions more have benefited indirectly from improvements in services resulting from American advice and innovations. I would say this is something the United States can really be proud of. But it is also something one cannot take for granted.

The United States has spent the past 40 years helping provide international development assistance and services where they are needed most, building a strong global reputation for promoting and defending the principles of free speech, women's equality and reproductive health. Yet the global gag rule undermines those very achievements. As Senator Zwerver noted, "the global gag rule is destroying your good reputation."

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Representative Tony Worthington from the United Kingdom pointed out that the U.S., along with the G-8 and European Union countries, signed development goals outlined during the 2000 United Nations (UN) Millennium Summit in an effort to halve world poverty by the year 2015. As Representative Worthington stated:

At the center of these Millennium development goals are reproductive health service targets of reducing by two-thirds the mortality of children under the age of five, and reducing by three-quarters the maternal mortality rate, and also halting the spread of AIDS. Now, these and other goals cannot be achieved without good reproductive health services. In setting these goals, the United States has played its full part with its European Allies. But now, looking from across the Atlantic, we have doubts about whether the United States is maintaining its commitment to the fulfillment of those goals.... There does seem to be a retreat from the international agreement that there was at Cairo in 1994—that this should be an issue of choice of services, and that abortion should never be a matter of being a method of contraception.... My colleagues and I believe that if America gives into the domestic pressures that it faces, it will not cut the number of abortions—it will stimulate them, particularly unsafe abortions for the poorest women in the world. It will kill large numbers of people.

Mr. Worthington explained that the goals of reducing poverty, HIV/AIDS, and maternal and child mortality cannot be achieved without good reproductive health care services, which are hindered as a result of the U.S. government's reinstatement of the global gag rule.

V. The Dutch Experience: A Model to Reduce Abortion and Provide Comprehensive Reproductive Health Services

As the United States continues to debate the most effective ways of reducing the numbers of unwanted pregnancies and abortions around the world, some countries have found a formula that works. Dutch Senator Zwerver explained her country's success in instituting a public policy that not only reduces the numbers of abortions, but also respects and protects women and adolescents by providing comprehensive reproductive health care services and information.

Senator Zwerver stated that "[in] the Netherlands, we have a strong commitment to ensuring access to reproductive health care information and services." This is reflected by the fact that the Netherlands has some of the lowest teen pregnancy and abortion rates in the world. The country has managed to reduce teenage pregnancies by 72% in the past thirty years. There are now four births per one thousand women aged 15-19 in the

Netherlands compared to 49 births per one thousand young women in the U.S.⁶ In the Netherlands there are only six abortions per one thousand women aged 15-44, compared to 26 abortions per one thousand young women in the U.S.⁷

"We did not reach these achievements by restricting access to information to our youth or by denying women the right to choose abortion," noted Senator Zerver. "Our achievements in reducing abortion rates and unwanted pregnancies are a direct result of a pragmatic policy that emphasizes sex education at an early age and access to contraceptives in a supportive and understanding atmosphere." She explained that the Dutch policy in no way promotes abortion, it prevents abortion by providing integrated and comprehensive reproductive health services. She also noted that the young people in the Netherlands have intercourse much later than young people in the United States.

Senator Zwerver urged the United States to rethink its approach to reducing abortions. She recommended the U.S. follow the Dutch model for providing comprehensive health services and reducing abortion rates for women around the world, rather than forcing an anti-democratic policy on foreign organizations that are working to advance these very goals. The U.S., said Zwerver, should work together with its European allies towards the promotion of sound family planning policy worldwide.

VI. Record Number of European Lawmakers Condemn the Global Gag Rule

On March 19, 2001, 233 parliamentarians released a landmark petition condemning the global gag rule policy. According to Ms. Sandbæk, who is the vice-president of the Executive Committee of the Inter-European Parliamentary Forum on Population and Development which released the petition, it was signed by parliamentarians from 20 different countries and received the largest number of signatures of any petition of its kind. The document states that the signatories are:

- Appalled to learn that one of the first actions of the newly elected President Bush would be to renege on the United States' commitment to the Cairo Programme of Action into which it entered into in good faith;
- Concerned that President Bush's aim of reducing abortion by cutting funds to organizations which provide or mention abortion services will in fact leave thousands, if not millions of women without choices, and forced into seeking unsafe/illegal and back-street abortions thus amplifying the problem, not diminishing it;
- Worried that the cut in funds from the United States Foreign Aid budget will have damaging effects not only in the provision of family-planning services world-

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wide, but will further aggravate the HIV/AIDS pandemic and worsen the chance of many of the world's poor to finally extricate themselves from poverty.⁸

This overwhelming response from parliamentarians in 20 European countries shows the extreme nature of the Bush Administration's position on international family planning assistance and highlights the need for the United States to listen to its allies from around the world.

VII. Conclusion

The current administration has staked its claim on "compassionate conservatism," yet the global gag rule indicates otherwise in its destruction of the health and lives of women around the world. Dr. Sandbæk, a Lutheran minister, said that her father, also a Lutheran minister, taught her that "Christianity is about compassion and love, about saving lives and not destroying lives So I feel that the gag rule is totally contrary to what I define as Christianity." Women's lives around the world are being lost due to unsafe childbirth, illegal and unsafe abortions, and HIV/AIDS infection, in large part because they cannot access reproductive health care. The U.S. global gag rule policy is a major contributor to this tragedy.

The United States is regarded as a bastion of liberty and democracy. The global gag rule is inconsistent with international human rights standards and U.S. legal principles, including the rights to free speech, democratic participation, and reproductive autonomy. The global gag rule undermines U.S. foreign policy objectives that encourage the building of democracy, civil society, and women's participation as equals in society. It runs counter to the U.S. commitment to women's reproductive rights and health. It would be unconstitutional if applied directly to organizations in the United States that receive federal funding.

Our promotion of democratic values must extend beyond our domestic borders. If the U.S. is to maintain its reputation as a leader of democratic principles, we must follow these principles not only at home, but around the world. We must revoke the global gag rule, and allow the values for which America truly stands—freedom of expression, equality, and freedom of choice—to be proudly upheld not only in the United States, but as models for democracy throughout the world. The Center for Reproductive Rights joins our European allies in urging Congress and the administration to eliminate the global gag rule.

ENDNOTES

- 1 See President George Bush, *Memorandum of March 28, 2001 – Restoration of the Mexico City Policy*, 66 F.R. 61, at II(e)(1) and (13)(iii)(A)(III), (Mar. 29, 2001) (on file with CRLP) [hereinafter Bush Memorandum].
- 2 See *id.* at II(e)(1) and (13)(iii)(A)(IV).
- 3 See *id.* at II(e)(1) and (13)(I-iii)(A)(I-II).
- 4 See, e.g., *Programme of Action of the International Conference on Population and Development*, Cairo, Egypt, Sept. 5-13, 1994, Principle 7.3 and 8, U.N. Doc. A/CONF.171/13/Rev.1 (1995).
- 5 See e.g. Marie Stopes International, *Africa's Poorest Will Suffer as USA's Mexico City Policy Forces Family Planning Clinics to Close*, available at <http://www.mariestopes.org.uk/ww/press/press-ww-100901.htm> (last visited Oct. 8, 2002); Marie Stopes International, *Overturing the Gag Rule*, available at <http://www.mariestopes.org.uk/ww/advocacy-cur-glob-camp.htm> (last visited Oct. 8, 2002).
- 6 See UNITED NATIONS POPULATION FUND (UNFPA), THE STATE OF THE WORLD POPULATION 2001-MONITORING ICPD GOALS: SELECTED INDICATORS (2001), available at <http://www.unfpa.org/swp/2001/english/indicators/indicators1.html>, (last visited Sept. 9, 2002).
- 7 Data is for 1990. See THE ALAN GUTTMACHER INSTITUTE (AGI), THE ROLE OF CONTRACEPTION IN REDUCING ABORTION (1998), available at <http://www.guttmacher.org/pubs/ib19.html> (last visited Sept. 10, 2002), citing S. Singh & S.K. Henshaw, *The Incidence of Abortion: A Worldwide Overview Focusing on Methodology and on Latin America*, paper delivered at the International Union for the Scientific Study of Population Seminar on Socio-Cultural and Political Aspects of Abortion from an Anthropological Perspective, Trivandrum, India, Mar. 25-28, 1996.
- 8 See Declaration by the Executive Committee of the Inter-European Parliamentary Forum on Population and Development on the Bush Administration's decision to reinstate the Mexico City Policy. Mar. 19, 2001.

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