



**NARAL**  
Pro-Choice America

## **Global Gag Rule: A Flawed Policy That Sacrifices Women's Lives**

On January 23, 2009, during his first week in office, President Barack Obama repealed the global gag rule,<sup>1</sup> a policy that prohibited the U.S. Agency for International Development (USAID) from granting family-planning funds to any overseas health center unless it agreed not to use its own, private, non-U.S. funds for: (1) abortion services, (2) abortion-related advocacy, or (3) abortion counseling or referrals. The policy effectively blocked funds from organizations that provide family-planning services, as well as other critical health services, to some of the poorest women in the world.

### **History of the Global Gag Rule**

The global gag rule, also known as the "Mexico City policy," was first imposed by the Reagan administration.<sup>2</sup> The policy was introduced in 1984 and carried through the end of the first Bush administration. Upon taking office in 1993, President Clinton signed an executive order repealing the policy.<sup>3</sup> However, by 1999, after years of fighting to reinstate the global gag rule, anti-choice lawmakers forced President Clinton to reinstate the policy by linking it to the release of nearly \$1 billion in U.S. back dues to the United Nations.<sup>4</sup> This marked the first time the global gag rule was written into law. President Clinton vowed that the provision would not be extended beyond the one-year duration of the funding bill.<sup>5</sup>

In October 2000, the House and Senate passed a final FY'01 foreign-aid bill that repealed the global gag rule but postponed the release of any FY'01 funds until February 15, 2001 – effectively leaving the fate of the global gag rule in the hands of the next president.<sup>6</sup> On January 22, 2001, the first business day of the new administration, President George W. Bush reimposed the policy by executive memo. The global gag rule remained in effect for eight years, until President Obama rescinded it.<sup>7</sup>

### **The Global Gag Rule is Flawed Policy**

The global gag rule not only harms women, it is unnecessary, ineffective, and undemocratic. Since at least 1973, no taxpayer dollars have been spent to provide or "promote" abortion services overseas. The Helms amendment to the Foreign Assistance Act of 1961, prohibits nongovernmental organizations (NGOs) that receive Federal funds from using those funds "to pay for the performance of abortions as a method of family planning, or to motivate or coerce any person to practice abortions."<sup>8</sup> (For more information, see the fact sheet *Helms Abortion Restriction*). Consequently, the global gag rule is a solution in search of a problem.

### *The Global Gag Rule is Ineffective*

Anti-choice imposition of the global gag rule did not achieve its supposed goal of decreasing the number of abortion procedures needed or obtained. What it did do, however, was hold hostage funds that paid for other health services – specifically, contraception. Anti-choice members of Congress say that they are in favor of reducing the number of abortions, but restricting funds to health centers that provide safe and effective family-planning services can only lead to more, not fewer, abortions.<sup>9</sup> In fact, a 2011 Stanford University study found that following the reinstatement of the global gag rule by the Bush administration in 2001, abortion rates rose by 2.5 times in countries that were most reliant on U.S. foreign assistance as compared to countries with lower levels of U.S. involvement in their health programs.<sup>10</sup>

### *The Global Gag Rule Harms Women*

Many overseas health centers that receive U.S. funds are located in countries where abortion is legal. When in place, the global gag rule forced providers at these centers to choose either keeping U.S. funding and withholding information about a procedure that is legal both in the United States and the home country – or losing this funding and turning away individuals in need of critical care.<sup>11</sup> For obvious reasons, either way, this decision had an immediate impact on women's health in these countries.

Women in developing countries want to plan the number and spacing of their children, a goal that leads to healthier mothers and children.<sup>12</sup> However, the global gag rule negatively impacted low-income countries' family-planning programs, which results in dangerous situations for women. Limited access to family planning results in higher rates of unintended and high-risk pregnancy, unsafe abortion, and maternal deaths. The World Health Organization estimates that 289,000 women – about 800 every day – die each year from pregnancy- or childbirth-related causes. Ninety-nine percent of these women live in developing countries.<sup>13</sup>

Among adolescents, lack of access to contraception and its consequences is particularly severe. Complications from pregnancy and childbirth are the leading cause of death for teenage girls in the developing world.<sup>14</sup> An estimated 50,000 adolescent mothers – and more than 1 million infants – die each year because they are not physically ready for childbearing.<sup>15</sup> Yet an average of only 25 percent of sexually active adolescents in various developing nations use any form of contraception.<sup>16</sup> Voluntary family planning can prevent maternal and child deaths, unintended pregnancies, unsafe abortion, and the spread of HIV/AIDS and other sexually transmitted infections.<sup>17</sup>

### *The Global Gag Rule is Undemocratic*

The global gag rule runs counter to every democratic principle the U.S. claims to support

overseas—including, first and foremost, that countries should have robust and fair democracies.<sup>18</sup> By blocking health centers from using their own funds to take a pro-choice position, many experts on women’s health and rights were gagged from participating in their own country’s democratic process.<sup>19</sup> As just one example, when the rule was in place, U.S.-funded NGOs in Russia, where abortion is legal, could not meet with government officials when best practices for abortion providers were being discussed.<sup>20</sup>

In addition, the biased nature of the global gag rule would not stand up to First Amendment scrutiny if applied in the United States. It forbids health centers from taking a pro-choice policy position, but allows them to take an anti-choice position. For this reason, if applied to domestic health centers, the global gag rule would likely be found flatly unconstitutional as impermissible viewpoint discrimination. In fact, the American Bar Association opposes the global gag rule on grounds that it is “inconsistent with free speech guarantees.”<sup>21</sup>

### **Recent Congressional and Executive Action**

#### **FY’16**

- February 2, 2015: President Obama proposes \$578 million for USAID family-planning programs in his FY’16 budget request, a \$3 million increase.
- June 3, 2015: House Appropriations Subcommittee on State, Foreign Operations passes the FY’16 spending bill. The bill includes \$461 million for USAID family-planning programs, a cut of more than \$100 million from the FY’15 level. The bill also proposes reinstating the global gag rule.
- June 11, 2015: House Appropriations Committee passes the FY’16 spending bill. The bill includes \$461 million for USAID family-planning programs, a cut of more than \$100 million from the FY’15 level. The bill also proposes reinstating the global gag rule.
- July 7, 2015: Senate Appropriations Subcommittee on State, Foreign Operations passes the FY’16 spending bill. The bill includes \$461 million for USAID family-planning programs, a cut of more than \$100 million from the FY’15 level. The bill also proposes reinstating the global gag rule.
- July 9, 2015: Senate Appropriations Committee passes the FY’16 spending bill. Sen Jeanne Shaheen (D-NH) offers an amendment that would, in effect, block a future global gag rule from being imposed and increases funds for USAID family-planning programs to \$578 million. The amendment passes 17-13.
- September 30, 2015: House and Senate pass a continuing resolution to fund the government through December 11, 2015. The bill level funds USAID family-planning programs at \$575 million.
- September 30, 2015: President Obama signs the bill into law.<sup>22</sup>
- December 10, 2015: Senate passes another continuing resolution to fund the government through December 16, 2015.

- December 11, 2015: House passes another continuing resolution to fund the government through December 16, 2015.
- December 11, 2015: President Obama signs the bill into law.<sup>23</sup>
- December 16, 2015: House and Senate pass another continuing resolution to fund the government through December 22, 2015.
- December 16, 2015: President Obama signs the bill into law.<sup>24</sup>
- December 18, 2015: House and Senate pass FY'16 omnibus spending bill. The bill level-funds USAID family-planning programs at \$575 million.
- December 18, 2015: President Obama signs the bill into law.<sup>25</sup>

### FY'17

- February 9, 2016: President Obama proposes \$585 million for USAID family-planning programs in his FY'17 budget request, a \$10 million increase.
- June 23, 2016: House Appropriations Subcommittee on State, Foreign Operations passes the FY'17 spending bill. The bill includes \$461 million for USAID family-planning programs, a cut of more than \$100 million from the FY'16 level. The bill also proposes reinstating the global gag rule.
- June 28, 2016: Senate Appropriations Subcommittee on State, Foreign Operations passes the FY'17 spending bill. The bill includes \$461 million for USAID family-planning programs, a cut of more than \$100 million from the FY'16 level. The bill also proposes reinstating the global gag rule.
- June 29, 2016: Senate Appropriations Committee passes the FY'17 spending bill. Sen Jeanne Shaheen (D-NH) offers an amendment that would, in effect, block a future global gag rule from being imposed and increases funds for USAID family-planning programs to \$585 million. The amendment passes 17-13.
- July 12, 2016: House Appropriations Committee passes the FY'17 spending bill. The bill includes \$461 million for USAID family-planning programs, a cut of more than \$100 million from the FY'16 level. The bill also proposes reinstating the global gag rule.
- September 28, 2015: House and Senate pass a continuing resolution to fund the government through December 9, 2015. The bill level-funds USAID family-planning programs at \$575 million.
- September 29, 2015: President Obama signs the bill into law.<sup>26</sup>

January 1, 2017

## Notes:

<sup>1</sup> White House, *Memorandum for the Secretary of State and for the Administrator of the Agency for International Development: Mexico City Policy and Assistance for Voluntary Population Planning* (January 23, 2009) at <https://www.whitehouse.gov/the-press-office/mexico-city-policy-and-assistance-voluntary-population-planning> (last visited Oct. 14, 2015).

<sup>2</sup> *U.S. Policy Statement for the International Conference on Population*, 10 POPULATION AND DEVELOPMENT REVIEW 574, 578 n. 3 (1984).

<sup>3</sup> Press Release, White House, *Memorandum for the Acting Administrator of the Agency for International Development: AID Family Planning Grants/Mexico City Policy* (January 22, 1993), at <http://clinton6.nara.gov/1993/01/1993-01-22-aid-family-planning-grants-mexico-city-policy.html> (last visited Oct. 14, 2015).

<sup>4</sup> P.L.106-113, 106th Cong. (1999).

The global gag rule that was in effect from November 1999 until October 2000 differed from the original Reagan/Bush era policy in two respects. First, the 1999-2000 global gag rule did not include a ban on health centers' ability to counsel or refer patients to legal abortion services elsewhere. Second, the policy allowed a small percentage of funds – a mere \$15 million, representing less than four percent of the entire USAID family-planning account – to be made available to organizations that declined to accept the policy's restrictions on the use of private funds. However, once the president invoked the waiver, which he did soon after the bill was signed into law, \$12.5 million immediately would be transferred from the family-planning program to the USAID child survival account.

Further complicating matters, these groups were forced to “certify” as a waiver group, effectively identifying and segregating them from other organizations that accepted the restrictions. Non-governmental organizations and pro-choice advocates feared these groups would be exposed to anti-choice violence and harassment. Interestingly, anti-choice Sen. Jesse Helms (R-NC) repeatedly requested the names of the “waiver” groups, dismissing USAID's concerns about confidentiality and safety.

<sup>5</sup> CENTER FOR REPRODUCTIVE RIGHTS, *THE BUSH GLOBAL GAG RULE: ENDANGERING WOMEN'S HEALTH, FREE SPEECH AND DEMOCRACY* (2003), at <http://reproductiverights.org/en/document/the-bush-global-gag-rule-endangering-womens-health-free-speech-and-democracy> (last visited Oct. 14, 2015).

<sup>6</sup> P.L.106-429, 106th Cong. (2000).

<sup>7</sup> White House, *Memorandum for the Secretary of State and for the Administrator of the Agency for International Development: Mexico City Policy and Assistance for Voluntary Population Planning* (January 23, 2009), at <https://www.whitehouse.gov/the-press-office/mexico-city-policy-and-assistance-voluntary-population-planning> (last visited Oct. 14, 2015).

<sup>8</sup> The Foreign Assistance Act of 1961, 22 U.S.C. § 2151b(f)(1).

<sup>9</sup> Amy Deschner & Susan A. Cohen, *Contraceptive Use is Key to Reducing Abortion Worldwide*, 6 *The Guttmacher Report On Public Policy* 4 (Oct. 2003), <http://www.guttmacher.org/pubs/tgr/06/4/gr060407.html> (last visited Oct. 14, 2015).

<sup>10</sup> Eran Bendavid, et. al, *United States Aid Policy and Induced Abortion in Sub-Saharan Africa*, BULLETIN OF THE WORLD HEALTH ORGANIZATION (Sept. 2011) at 1 at <http://www.who.int/bulletin/11-091660.pdf> (last visited Oct. 14, 2015).

<sup>11</sup> Press Release, Center for Reproductive Rights, *Obama Rescinds Global Gag Rule* (Jan. 23, 2009), at <http://reproductiverights.org/en/press-room/obama-rescinds-global-gag-rule> (last visited Oct. 14, 2015).

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- <sup>12</sup> POPULATION ACTION INTERNATIONAL, ISSUE BRIEF: HOW THE GLOBAL GAG RULE UNDERMINES U.S. FOREIGN POLICY AND HARMS WOMEN'S HEALTH, 2 (2010), at <http://pai.org/wp-content/uploads/2010/06/PAI-Gag-PIB.pdf> (last visited Oct. 14, 2015).
- <sup>13</sup> WHO, *Fact Sheet: Maternal Mortality* (May 2014), at <http://www.who.int/mediacentre/factsheets/fs348/en/> (last visited Oct. 14, 2015).
- <sup>14</sup> Save the Children, *Every Woman's Right: How family planning saves children's lives* (2012), at [http://www.savethechildren.org/atf/cf/%7B9def2ebe-10ae-432c-9bd0-df91d2eba74a%7D/EVERY\\_WOMANS\\_RIGHT\\_REPORT\\_JUNE\\_2012.PDF](http://www.savethechildren.org/atf/cf/%7B9def2ebe-10ae-432c-9bd0-df91d2eba74a%7D/EVERY_WOMANS_RIGHT_REPORT_JUNE_2012.PDF) (last visited Oct. 14, 2015).
- <sup>15</sup> Save the Children, *Every Woman's Right: How family planning saves children's lives* (2012), at [http://www.savethechildren.org/atf/cf/%7B9def2ebe-10ae-432c-9bd0-df91d2eba74a%7D/EVERY\\_WOMANS\\_RIGHT\\_REPORT\\_JUNE\\_2012.PDF](http://www.savethechildren.org/atf/cf/%7B9def2ebe-10ae-432c-9bd0-df91d2eba74a%7D/EVERY_WOMANS_RIGHT_REPORT_JUNE_2012.PDF) (last visited Oct. 14, 2015).
- <sup>16</sup> Ann K. Blanc, Amy O. Tsui, Trevor N. Croft and Jamie L. Trevitt, *Patterns and Trends in Adolescents' Contraceptive Use and Discontinuation in Developing Countries and Comparisons with Adult Women*, 35 INT'L PERSP. ON SEXUAL & REPROD. HEALTH 2, (2009), at 63-71.
- <sup>17</sup> Amy Deschner & Susan A. Cohen, *Contraceptive Use is Key to Reducing Abortion Worldwide*, 6 The Guttmacher Report On Public Policy 4 (Oct. 2003), <http://www.guttmacher.org/pubs/tgr/06/4/gr060407.html> (last visited Oct. 14, 2015).
- <sup>18</sup> POPULATION ACTION INTERNATIONAL, ISSUE BRIEF: HOW THE GLOBAL GAG RULE UNDERMINES U.S. FOREIGN POLICY AND HARMS WOMEN'S HEALTH, 1 (2010), at <http://pai.org/wp-content/uploads/2010/06/PAI-Gag-PIB.pdf> (last visited Oct. 14, 2015).
- <sup>19</sup> POPULATION ACTION INTERNATIONAL, ISSUE BRIEF: HOW THE GLOBAL GAG RULE UNDERMINES U.S. FOREIGN POLICY AND HARMS WOMEN'S HEALTH, 1 (2010), <http://pai.org/wp-content/uploads/2010/06/PAI-Gag-PIB.pdf> (last visited Oct. 14, 2015).
- <sup>20</sup> CENTER FOR REPRODUCTIVE RIGHTS, THE BUSH GLOBAL GAG RULE: ENDANGERING WOMEN'S HEALTH, FREE SPEECH AND DEMOCRACY (2003), at <http://reproductiverights.org/en/document/the-bush-global-gag-rule-endangering-womens-health-free-speech-and-democracy> (last visited Oct. 14, 2015).
- <sup>21</sup> See Priscilla Smith, *The Global Gag Rule: A Violation of the Right to Free Speech and Democratic Participation*, 29 AMERICAN BAR ASSOCIATION'S HUMAN RIGHTS MAGAZINE (2000), available at [http://www.americanbar.org/publications/human\\_rights\\_magazine\\_home/human\\_rights\\_vol29\\_2002/summer2002/irr\\_hr\\_summer02\\_smith.html](http://www.americanbar.org/publications/human_rights_magazine_home/human_rights_vol29_2002/summer2002/irr_hr_summer02_smith.html) (last visited Oct. 14, 2015).
- <sup>22</sup> Continuing Appropriations Act, 2016, 114th Cong. (2015).
- <sup>23</sup> P.L. 114-96, 114th Cong. (2015).
- <sup>24</sup> P.L. 114-100, 114th Cong. (2015).
- <sup>25</sup> P.L. 114-113, 114th Cong. (2015).
- <sup>26</sup> H.R.5325, Continuing Appropriations and Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2017, and Zika Response and Preparedness Act, 114th Cong. (2017).