

2008

The Global Gag Rule - Let's Talk about It

Mansi Thakkar

Follow this and additional works at: <http://lawcommons.luc.edu/pilr>



Part of the [Health Law and Policy Commons](#)

Recommended Citation

Mansi Thakkar, *The Global Gag Rule - Let's Talk about It*, 13 Pub. Interest L. Rptr. 207 (2008).

Available at: <http://lawcommons.luc.edu/pilr/vol13/iss2/14>

This Article is brought to you for free and open access by LAW eCommons. It has been accepted for inclusion in Public Interest Law Reporter by an authorized administrator of LAW eCommons. For more information, please contact law-library@luc.edu.

THE GLOBAL GAG RULE— LET'S TALK ABOUT IT

by MANSI THAKKAR

While the top issues in the 2008 presidential election tend to focus on the economy and the war in Iraq, access to family planning services for millions of men and women also hangs in the balance. The “Global Gag Rule,” which officially is known as the “Mexico City Policy,” was first instituted by President Ronald Reagan.¹ The policy restricts non-governmental organizations that receive any U.S. international family planning assistance from providing a wide variety of services, including abortions in cases other than rape, incest or threat to the woman’s life; counseling and referral for abortion; or lobbying to make abortion legal or the services more available in their country.²

The Global Gag Rule was not the first U.S. policy to restrict access to family planning services. In 1973, former Sen. Jesse Helms worked to enact legisla-

tion that bans the use of U.S. taxpayer money to fund abortions overseas.³ The Global Gag Rule extends the Helms amendment by cutting off all U.S. international family planning assistance even if the organization uses its own money to fund abortions or abortion-related services.⁴ This includes HIV/AIDS prevention services.⁵

The loss of services can be severe. For example, from 2001-2003, approximately 697,000 Ghanaians lost access to family planning services because of the loss of funding, and they also lost access to voluntary counseling, testing and other HIV/AIDS prevention services.⁶ The policy also restricts the U.S. from distributing contraceptives, such as condoms and birth control.⁷

Organizations also have felt the effects of the Global Gag Rule.⁸ The International Planned Parenthood Federation is one organization that did not realign their policies in support of the Global Gag Rule, and as a result, it has lost more than \$116 million in funding.⁹ While Ghana is certainly not the only country affected, the loss of funding there caused the Planned Parenthood Association of Ghana to severely curtail their services.¹⁰ In 2002, the organization distributed more than 6.5 million condoms, but after the Global Gag Rule—only 3.1 million in 2006.¹¹ In addition, the number of facilities providing family planning services dropped from 17 to 12 from 2002 to 2006, and the number of other contraceptives distributed dropped from 1.2 million to less than 700,000.¹²

The Global Gag Rule's intention to prevent unwanted pregnancies has yielded the opposite result. According to the Guttmacher Institute, "U.S. policy—purportedly aimed at reducing abortion—only exacerbates the already daunting challenge of ensuring that all people in the developing world who want to time and space their childbearing without resorting to abortion can actually obtain the contraceptives they need to do so."¹³ The Guttmacher study highlighted that developing countries across Africa, Asia and the Middle East lost their USAID supply of contraceptives due to the Global Gag Rule.¹⁴ Ironically, four of these countries are now receiving condoms through the U.S. global HIV/AIDS program, which is exempt from the rule.¹⁵

The Global Gag Rule also impedes efforts to reduce death and injury caused by unsafe abortion.¹⁶ An estimated 19 to 20 million unsafe abortions take place every year, i.e. abortions that are done by individuals without the requisite skills, or in environments below minimum medical standards, or both.¹⁷

Ninety-seven percent of these abortions are in developing countries, and an estimated 68,000 women die as a result of unsafe abortions.¹⁸

Yet another harmful effect of the Global Gag Rule is that international Non Governmental Organizations (NGO) have lost critical health care staff and services.¹⁹ The losses include doctors and nurses, curtailed or discontinued reproductive and child healthcare services, HIV/AIDS prevention programs, and outreach services in rural areas.²⁰ The Global Gag Rule also has caused existing programs to stop disseminating health information, and others have shut down because of the lack of available funds.²¹ As a result, there is a lack of access to contraceptives, gynecologic and obstetric care, treatment for sexually transmitted infections, and testing for HIV/AIDS.²²

WILL THE GAG BE REMOVED?

In response to the Mexico City Policy, the “Ensuring Access to Contraceptives Act of 2007,” (Ensuring Access Act) was introduced in the House of Representatives on May 17, 2007.²³ The Ensuring Access Act seeks to authorize assistance to developing countries by providing contraceptives to prevent unintended pregnancies, abortions and the transmission of STD’s and HIV/AIDS.²⁴

Among the findings in the Act, providing contraceptives to the 200 million women in developing countries who want them would dramatically alter women’s health globally by averting 52 million pregnancies each year.²⁵ Additionally, providing contraceptives would help prevent an estimated 23 million unplanned births, 22 million induced abortions, 7 million spontaneous abortions, 1.4 million infant deaths, and 142,000 pregnancy related deaths.²⁶ With only 22 co-sponsors and no companion legislation in the Senate, however, the bill’s chances of moving forward appear dim.²⁷

Yet, many argue that the Global Gag Rule has not adversely affected family planning clinics internationally.²⁸ Dr. Jean W. Kagia, an obstetrician-gynecologist and the chairperson of the Protecting Life Movement in Kenya,²⁹ argues that the effects of the Global Gag Rule are negligible because many government and private organizations still offer abortion services.³⁰ Kagia also says that pro-choice attitudes promulgated within the Western community and by

NGOs that promote abortion often run contrary to African customs, traditions and mores.³¹ She argues:

The NGOs that have been affected by the Mexico City Policy do not seem to be conversant with the social, cultural and religious practices of the African woman. In order to attempt to reduce maternal mortality, one has to propose remedies that do not conflict with her social-cultural and religious practices; otherwise they will be met with a lot of resistance. Remedies need to take into account the realities and faith of the African woman and not focus only on family planning.³²

She claims that the problem of unplanned pregnancies can be changed with behavior formation or behavior change programs.³³

WHAT WILL THE NEXT PRESIDENT DO?

Will the next president rescind the Global Gag Rule or continue the policy? NARAL Pro-Choice America says that Senator John McCain's (R-AZ) voting record indicates he will not change the policy and points to his voting record—where out of 119 votes cast in the Senate about abortion and other reproductive-rights issues, he voted anti-choice 115 of those times.³⁴ Accordingly, in 2005, Sen. McCain voted no to the Global Democracy Promotion Act of 2005, which would have repealed the Global Gag Rule and enabled NGOs to receive funds and other resources regardless of whether they provided family planning counseling and other services banned under the Global Gag Rule.³⁵

Sen. McCain's views overall are clear. "I do not support *Roe v. Wade*. It should be overturned,"³⁶ said Sen. McCain. "If I am fortunate enough to be elected as the next President of the United States, I pledge. . . to be a loyal and unswerving friend of the right to life movement."³⁷

Senator Hillary Clinton (D-NY), on the other hand, is more likely to rescind the Mexico City Policy.³⁸

"The repeal of this rule will result in better health outcomes for women and families around the world, increasing access to family planning, reproductive health, and outreach and education services," she said.³⁹ Sen. Clinton also is a co-sponsor to the Global Democracy Promotion Act of 2007, which has simi-

lar language as the original Global Democracy Promotion Act, although the current bill only has seven co-sponsors.⁴⁰

Similarly, Senator Barack Obama's (D-IL) statements and voting record indicate that he also would rescind the Mexico City Policy.⁴¹ Like Sen. Clinton, Sen. Obama also supported the Global Democracy and Prevention Act of 2005.⁴² Sen. Obama has "consistently advocated for reproductive choice," according to pro-choice advocacy groups.⁴³

In other words, whoever is elected president, the access to family planning services will affect millions.

NOTES

1 The Global Gag rule Impact Project, *Executive Summary*, <http://www.globalgagrule.org/execsum.htm>.

2 The Global Gag Rule Impact Project, *U.S. Restrictions on International Family Planning*, <http://www.globalgagrule.org/index.htm>

3 United States Agency for International Development, *USAID's Family Planning guiding Principles and U.S. Legislative and Policy Requirements*, (last updated April 10, 2008), http://www.usaid.gov/our_work/global_health/pop/restrictions.html

4 See *Supra* note 2.

5 The Global Gag Rule Impact Project, *The Global Gag Rule & HIV/AIDS*, http://www.globalgagrule.org/pdfs/issue_factsheets/GGR_fact_HIV.pdf

6 *Id.*

7 See *Supra* note 2.

8 Population Action International, *How the Global Gag Rule Undermines U.S. Foreign Policy and Harm's Women's Health*, June 1, 2004, http://www.populationaction.org/Publications/Fact_Sheets/FS5/Summary.shtml

9 Celia W. Dugger, *Abortion Complicates Congressional Debate Over Foreign Aid Bill*, N.Y. Times, Dec. 9, 2007, http://www.nytimes.com/2007/12/09/world/americas/09aid.html?_r=1&st=cse&sq=abortion+complicates+debate+over+foreign+aid+bill&scp=1&oref=slogin

10 *The Mexico City Policy/Global Gag Rule: Its impact on Family Planning and Reproductive Health*, Hearing of the House Committee on Foreign Affairs, 110th Cong. (Oct. 31, 2007) (statement of Ms. Matilda Owusu-Ansah), available at: http://www.ippfwhr.org/site/c.kuLRJ5MTKvH/b.3537379/k.FC7E/The_Global_Gag_Rule_US_House_Testimony.htm

11 *Id.*

12 *Id.*

13 Susan A. Cohen, *The Global Contraceptives Shortfall: U.S. Contributions and U.S. Hindrances*, *Guttmacher Policy Review*, Spring 2006, Vol. 9, Number 2, available at: <http://www.guttmacher.org/pubs/gpr/09/2/gpr090215.html>.

14 *Id.*

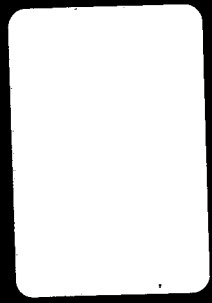
15 *Id.*

- 16 Global Gag Rule Impact Project, *The Global Gag Rule & Maternal Deaths Due to Unsafe Abortion*, http://www.globalgagrule.org/pdfs/issue_factsheets/GGR_fact_maternaldeath.pdf
- 17 David A. Grimes, Janie Benson, Susheela Singh, Mariana Romero, Bela Ganatra, Friday E. Okonofua & Iqbal H. Shah, *Unsafe Abortion: the Preventable Pandemic*, *The Lancet*, 2006, available at: <http://www.who.int/reproductive-health/publications/articles/article4.pdf>.
- 18 *Id.*
- 19 Nina J. Crimm, *The Global Gag Rule: Undermining National Interests by Doing unto Foreign Women and NGO's What Cannot Be Done at Home*, 40 *Cornell Int'l L Rev.* 588, 611-612 (2007), available at: <http://organizations.lawschool.cornell.edu/ilj/issues/40.3/CIN301.pdf>
- 20 *Id.*
- 21 *Id.*
- 22 Ensuring Access to Contraceptives, H.R. 2367, 110th Cong. (2007), available at: <http://www.thomas.gov/cgi-bin/query/D?c110:1:./temp/-c110tZCbs5:>
- 23 *Id.*
- 24 *Id.*
- 25 *Id.*
- 26 *Id.*
- 27 Ensuring Access to Contraceptives, H.R. 2367, 110th Cong. (2007), available at: <http://www.thomas.gov/cgi-bin/bdquery/z?d110:HR02367:@@L&summ2=m&>
- 28 *The Mexico City Policy- Impact on Family Planning and Reproductive Health-Focusing on the African Women*: Hearing before the House Comm. Of Foreign Affairs, 110th Cong. (2007) (statement of Dr. Jean W. Kagia) available at: <http://foreignaffairs.house.gov/110/kag103107.htm>
- 29 *Id.*
- 30 *Id.*
- 31 *Id.*
- 32 *Id.*
- 33 *Id.*
- 34 NARAL Pro Choice America, *Senator John McCain (R-Az)*, January, 9, 2008, http://www.prochoiceamerica.org/assets/files/mccain_fact_sheet.pdf; U.S. Senate Roll Call Votes, 109th Cong. (April 5, 2005), http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=109&session=1&vote=00083
- 35 Global Democracy Promotion Act, H.R. 4465, 109th Cong. (2005), available at: <http://www.thomas.gov/cgi-bin/query/D?c109:2:./temp/-mdbscpkYtb:>
- 36 Ann Althouse, *Rudy & Mitt Hem & Haw on Abortion*, *N.Y. Times*, Feb. 24, 2007, http://select.nytimes.com/2007/02/24/opinion/24althouse.html?_r=1&scp=4&sq=ann+althouse&st=nyt&oref=slogin
- 37 NARAL Pro Choice America, *2008 Presidential Candidate Choice Statements*, March 26, 2008, <http://www.prochoiceamerica.org/elections/statements>
- 38 *Id.*
- 39 Statement of Hillary Rodham Clinton on the Family Planning Provisions, Foreign Operations Appropriations Legislations, Sept, 6, 2007, available at: <http://www.justhillary.com/herwords/familyplanning0906.php>
- 40 See *Supra* note 35.
- 41 NARAL Pro Choice America, *Senator Barack Obama (D-Ill)*, April, 15, 2008, <http://www.prochoiceamerica.org/elections/statements/obama.html>
- 42 *Id.*
- 43 See *Supra* note 41.

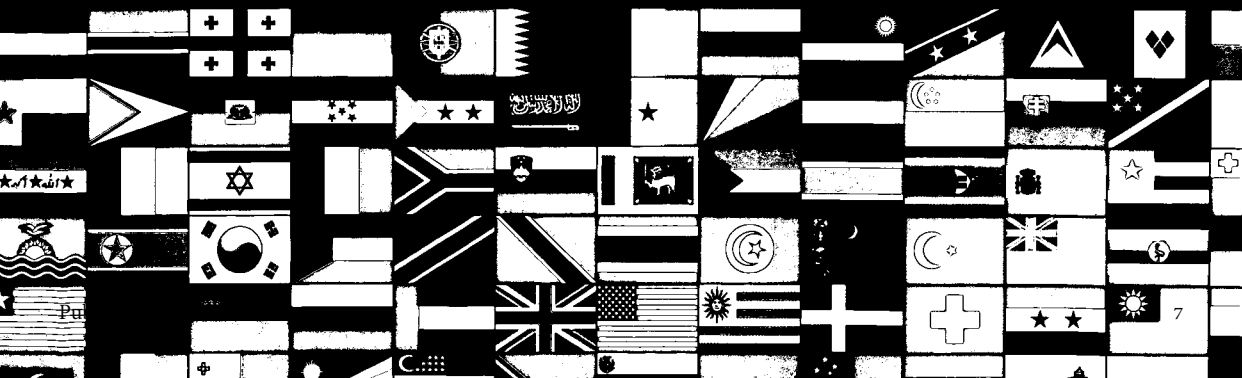
LOYOLA
UNIVERSITY
CHICAGO

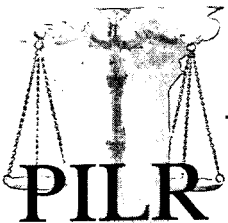
Vol. 13 · No. 3 · Summer 2008

SCHOOL of LAW



PUBLIC INTEREST LAW REPORTER





The *Loyola Public Interest Law Reporter* is an innovative legal publication that focuses on reporting the most current legal topics in a news format directed to students, educators and practitioners. *PILR* is edited and produced by Loyola students and is housed within the Center for Public Service Law. Founded in 1995, *PILR* offers feature articles and news of legal developments in the areas of human rights, economic justice, criminal justice, the environment, and governance. In addition to an editorial staff selected through a write-on process, Loyola law students direct all aspects of *PILR*'s research, writing, graphics, production and business management.

Editor-in-Chief

Daniel J. Koen

Features Editor

Melissa Beckman

Managing Editor

Holly Carnell

Assistant Features Editor

Aaron Purser

Symposium Editor

Monica Carranza

**Assistant Symposium
Editors**

Meg Egan

Kiran Mehta

**Assistant Symposium Editor
for New Media**

John Maki

News Editor

Susan Pollklaessy

Assistant News Editor

Katie Stuckemeyer

Staff Writers

Meg Egan

Irina Dashevsky

Cerise Fritsch

Nigel Graham

Tim Kerrigan

Jason Lewis

Adam Miller

Angie Robertson

Jay Rowell

Mansi Thakkar

Ann Weillbaecher

Brian Witkowski

Faculty Advisor

Henry Rose, J.D., Associate Professor, Loyola University Chicago School of Law