



## U.S. Overseas Family Planning Program, Perennial Victim Of Abortion Politics, Is Once Again Under Siege

By Susan A. Cohen

For most of the 40 years that the United States has been providing family planning assistance to developing countries, the U.S. program has been embroiled in abortion politics. Despite the long-standing statutory ban on the use of U.S. foreign assistance funds to pay for abortions, known as the Helms amendment, antiabortion activists unaccountably but consistently have insisted that the program is not antiabortion enough and is even somehow “proabortion.”

As early as 1984, that view prompted the antiabortion Reagan administration to devise and unilaterally impose a much more expansive set of antiabortion rules governing the program, dubbed the Mexico City policy and later the global gag rule. That same year, activists from the same quarters began accusing the program of complicity in coercive abortion practices, citing the annual U.S. contribution to the United Nations Population Fund (UNFPA), which operates a family planning program in China. Ever since, Republican presidents have imposed the global gag rule and blocked U.S. contributions to UNFPA, while Democratic presidents have rescinded the gag rule and supported UNFPA. In between presidential elections, the political battles over these issues have continued almost unabated as congressional supporters or opponents have weighed in on one side or the other.

Currently, the gag rule is not in effect and the United States is contributing to UNFPA, since President Obama took action to reverse the previous administration’s policies during his first weeks in office. If this situation does not change

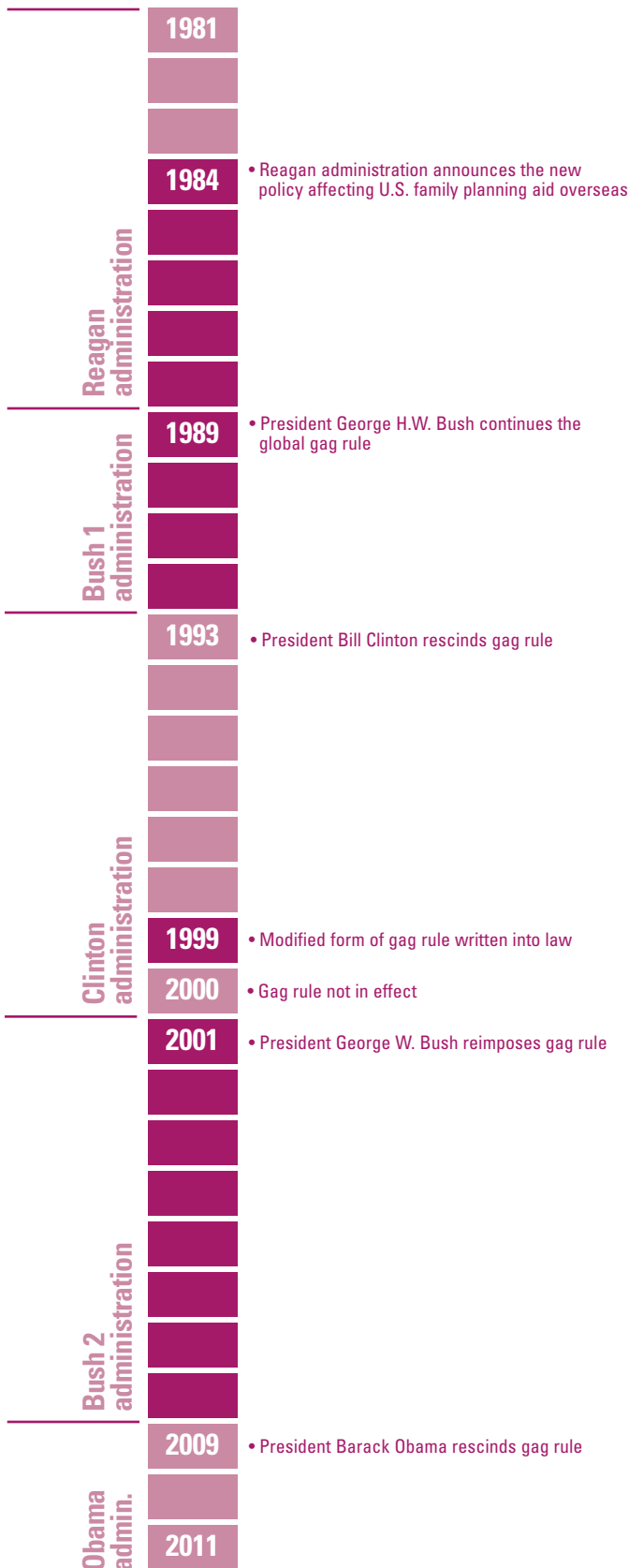
throughout the Obama presidency, it will not be for lack of trying on the part of social conservatives in Congress. From the moment they took control of the House of Representatives earlier this year, these forces have exploited every legislative opportunity to reassert their support for the gag rule and opposition to UNFPA. Their chances for success are slim, but social conservatives did succeed once before, if only for one year, in forcing a Democratic president to accept their demands.

Meanwhile, politics notwithstanding, the reality on the ground remains the same: Antiabortion activists are waging war on the very services that prevent unintended pregnancies and reduce the incidence of abortion. In their zeal to write their ideology into law, they would only make unsafe abortion more likely and the effort to promote voluntarism and informed choice more difficult.

### Global Gag Rule Does Not Reduce Abortion

The gag rule came about as Reagan administration officials prepared a position paper for the 1984 United Nations international conference on population in Mexico City. The Helms amendment, which had passed in 1973 in the wake of the U.S. Supreme Court’s decision in *Roe v. Wade*, already banned the use of U.S. funds under the Foreign Assistance Act from paying “for the performance of abortion as a method of family planning.” Under pressure from its antiabortion and increasingly overt anti-family planning constituency, Reagan officials agreed to go far beyond that with an administrative policy—one they could impose without the involvement of Congress.

## GLOBAL GAG RULE TIMELINE



The so-called Mexico City policy disqualified foreign nongovernmental organizations (NGOs) from eligibility for U.S. family planning assistance if they used other, non-U.S. funds to provide abortion services or information in the form of counseling or referrals, or to engage in advocacy within their own countries to liberalize abortion-related laws or policies. (For political and diplomatic reasons, foreign governments were exempt, as were U.S.-based NGOs on constitutional grounds. Moreover, advocacy aimed at restricting abortion was deemed permissible under the policy.) In the early 1990s, opponents of the policy relabeled it the global gag rule because it targeted speech, and because of its similarity to the gag rule that Presidents Reagan and George H.W. Bush sought to impose on the domestic family planning program in the late 1980s (which was formally withdrawn by President Clinton).

Since the global gag rule's inception, antiabortion Republican presidents have enforced it, and international family planning proponents in Congress have sought unsuccessfully to statutorily repeal it. For their part, prochoice Democratic presidents have rescinded the policy, and congressional opponents of the program have sought to write it into law. Only once, in 1999, was any gag rule language actually enacted into statutory law. In a case of legislative blackmail, the conservative House of Representatives finally agreed to authorize \$1 billion in back dues the United States owed the United Nations on the condition that the Clinton administration accept in that year's foreign aid appropriations bill a modified version of the gag rule. In 2000, the administration prevailed in getting that provision dropped, but it became a moot point when George W. Bush was elected president later that year (see chart).

To be sure, the politics of the policy are volatile, but the programmatic impact has been consistent and clear. Although the gag rule itself has never affected the overall amount of family planning assistance provided by the U.S. government worldwide, it has led to the closing of some of the most effective family planning programs in particular countries throughout the developing

world, mostly in rural areas.<sup>1</sup> Moreover, despite President George W. Bush's belief that enforcement of the gag rule "will make abortion more rare,"<sup>2</sup> that has never been supported by the facts. Indeed, the World Health Organization (WHO) recently published the first-ever attempt to scientifically quantify the impact of the gag rule; that study suggests the contrary may be true.<sup>3</sup> Indeed, the authors' conclusion that the gag rule's effect may be the opposite of what its

proponents say they want is consistent with the plethora of anecdotal data gathered over the years that the gag rule's only impact on abortion has been to make it more likely and unsafe (see box).

One in five pregnancies worldwide ends in abortion.<sup>6</sup> The vast majority of abortions occurring each year are sought by women living in the world's poorest countries, and most of those

### Impact of the Global Gag Rule

*After President George W. Bush reimposed the gag rule in 2001, a consortium of NGOs led by Population Action International organized a study to assess the policy's effects on the ground. Between 2002 and 2006, the research teams made site visits to the Dominican Republic, Ethiopia, Ghana, Kenya, Nepal, Tanzania, Zambia and Zimbabwe. They interviewed a range of experts involved in family planning and reproductive health care, medical personnel, government policymakers and program managers, and donor agency representatives. They visited facilities in both urban and rural areas, including NGO and government clinics and hospitals, youth centers, rural outreach programs and a free-standing maternity facility, and also interviewed clients themselves.*

*The findings are summarized in Access Denied: U.S. Restrictions on International Family Planning.<sup>1</sup> They found that in Kenya, for example, the gag rule led to the termination of critical activities run by the Family Planning Association of Kenya (FPAK) and Marie Stopes International (MSI) Kenya, leading providers of health care to people living in poor and rural communities in the country. Enforcement of the gag rule drastically curtailed community-based out-*

*reach activities, a major means for getting information and services to people in these areas. In addition, the flow and availability of contraceptive supplies were seriously impeded, and related reproductive health care such as postabortion care and screening for cervical cancers and STIs including HIV were also dramatically diminished as FPAK and MSI Kenya had to retrench. Government clinics, exempt from the gag rule, were never able to pick up the slack nor regain the trust of women who had been turned away by the NGOs.*

*In 2003, the investigators found that the U.S. Agency for International Development (USAID) had to cut off shipments of contraceptives, already in short supply, to 16 countries in Sub-Saharan Africa, Asia and the Middle East. The Lesotho Planned Parenthood Association, for example, had received 426,000 condoms from USAID over two years during the Clinton administration. Once the gag rule went back into effect, USAID could no longer partner with that key NGO. In the absence of any other available conduit for the condoms in country, USAID had to end condom shipments to Lesotho entirely, where at that time one in four women was infected with HIV.*

*According to Access Denied, a very similar pattern was repeated across many study countries. Thousands of women lost access to family planning and reproductive health services from trusted local providers—putting many of them at risk of unintended pregnancy and unsafe abortion. Indeed, Ejike Oji, Ipas country director in Nigeria, testified before the House Foreign Affairs Committee in 2007 that the gag rule contributed directly to the public health calamity that unsafe abortion constitutes in Nigeria, where the Guttmacher Institute estimates that it kills at least 3,000 women each year.<sup>4</sup> "The Global Gag Rule has silenced committed advocates for the reduction of unsafe abortion and has forced them into inactivity," asserted Oji. "Because of the Global Gag Rule, we have lost champions who were working to improve the reproductive health and save lives of women in Nigeria. Organizations in Nigeria that receive USAID funding for family planning and HIV related work do not even mention abortion as a leading cause of death in their public messages for fear of losing funding."<sup>5</sup>*

abortions—about 22 million—are unsafe. (WHO defines an unsafe abortion as a procedure performed by an untrained person or in an environment that does not meet minimum medical standards, or both). Earlier this year, WHO reported that unsafe abortion remains one of the three leading causes of maternal death, along with hemorrhage and sepsis from childbirth.<sup>7</sup> History has shown that the gag rule has done and can do nothing to alter this reality, except to exacerbate it.

### **Defunding UNFPA Means Defunding Family Planning**

The relationship between the U.S. government and UNFPA has followed a path similar to that of the gag rule in terms of both the politics and its counterproductive impact. At the urging of President Nixon, the United States became a founding member of UNFPA in 1969. By 1984, however, the Reagan White House turned on the agency. The administration accepted that UNFPA did not directly support either abortion or coercion in any way, but based on the mere presence of UNFPA's program in China, it accused the agency of indirectly supporting the coercive practices stemming from the Chinese government's "one child per family" policy.

Congress made it easier for the Reagan administration to defund UNFPA outright when it passed the Kemp-Kasten amendment in 1985, which remains law today and prohibits U.S. funds from being given to any entity that, as determined by the president, "supports or participates in the management of a program of coercive abortion or involuntary sterilization." That was all the Reagan administration needed to reach the conclusion it was seeking. In 1986, the United States terminated its entire \$36 million contribution to UNFPA.

Just as the gag rule has come and gone repeatedly since the mid-1980s, so has the U.S. contribution to UNFPA, on essentially the same schedule. Administrations hostile to family planning have used the Kemp-Kasten law to justify defunding the agency, whereas pro-family planning administrations have observed no conflict between compliance with the law and support

for UNFPA. Also, as with the gag rule, factions in Congress at odds with a given administration over its stance on UNFPA have waged legislative efforts over the years challenging the president's determination. This tactic worked only in 1999, the same year that social conservatives pressured Clinton to accept the gag rule, when they also forced Clinton to accept a one-year blanket ban on U.S. support for UNFPA. (By 2000, Clinton was able to secure a renewed U.S. contribution to UNFPA.)

Interestingly, during President George W. Bush's first year in office in 2001, then-Secretary of State Colin Powell determined that supporting UNFPA did not violate the Kemp-Kasten antic coercion law and made the decision to continue funding the agency. Furious, leading anti-family planning players in Congress ramped up the pressure on the administration to pressure Powell to reverse course. In an attempt to save political face, the administration in early 2002 dispatched a team of investigators hand-picked by the White House to visit UNFPA's program in China and report back to Secretary Powell. Embarrassingly for the White House, the team found "no evidence" that UNFPA was in violation of the antic coercion law and recommended that the United States proceed with its \$34 million contribution, none of which, per U.S. law, could be used by UNFPA in its China program.<sup>8</sup> (The U.S. team's findings were consistent with a visit to China at around the same time by a three-person delegation of British members of Parliament. That delegation had concluded that UNFPA was "playing an important and catalytic role" in China, by demonstrating the benefits and advantages of shifting toward "a client-oriented, quality-of-care approach, where women are given a choice over their own lives."<sup>9</sup>) The White House gave its orders, however, and UNFPA funding was cut off on essentially trumped-up charges for the remainder of the Bush presidency.

When the Obama State Department resumed support in 2009 (at \$50 million that year), it described UNFPA as the "principle international organization supporting programs that provide access to voluntary family planning and repro-

## About UNFPA

*UNFPA is governed by an executive board comprising representatives of 36 member countries, including the United States. Although the largest donors to UNFPA are developed nations such as the Netherlands, Sweden, Norway, the United States and Denmark, most of the agency's 180 government donors are developing countries themselves. With its \$870 million budget, UNFPA provides global leadership in program areas such as provision of family planning services, promotion of maternal and newborn health, prevention of STIs including HIV, delay of child marriage, eradication of female genital mutilation, prevention and treatment of obstetric fistula, and provision of essential reproductive health care to women in post-conflict and post-disaster situations. It is the lead*

*multilateral organization charged with a specific mandate to advocate for achieving universal access to reproductive health care for all, an integral component to achieving Millennium Development Goal 5 to improve maternal health.*

*From its inception, UNFPA has been committed to the principle that all couples and individuals have the right to decide freely and responsibly the number and spacing of their children, and to have access to the information and means to do so. Accordingly, UNFPA flatly condemns all forms of coercion. UNFPA does not support abortion; it does, however, support the provision of life-saving medical assistance to mitigate the consequences of unsafe abortion (as does the United States).*

*UNFPA operates in any country whose government requests its assistance (currently about 150)—including China, which is home to 20% of the world's women. Currently, UNFPA contributes about \$3.5 million toward China's roughly \$3 billion family planning program. Of China's almost 3,000 counties, UNFPA works in 32 that agree as a condition of assistance to lift all birth quotas and replace them with quality counseling and informed consent protocols, and expand the range of contraceptive choices. Even during the Bush administration, in 2004, the State Department's human rights report noted that "800 other counties also removed the target and quota system and tried to replicate the UNFPA-supported project model by emphasizing quality of care and informed choice of birth control methods."<sup>11</sup>*

ductive health services, including information and counseling on a range of safe and affordable contraceptive methods."<sup>10</sup> Indeed, UNFPA works in dozens of countries that the U.S. Agency for International Development does not, often in places rife with great political turmoil and where the need for basic health care, including reproductive health care, is especially vital. UNFPA provides a politically neutral source of funds, and its presence, therefore, is an important complement to the U.S. effort (see box).

It is debatable how much influence UNFPA or any entity really can have moving such a huge and antidemocratic country as China toward a more enlightened and human rights-based approach to anything, let alone individual reproductive rights. That said, U.S. attempts to punish UNFPA to send a message to China have been demonstrably ineffective. Since no U.S. funds

ever may be used in UNFPA's China program, it is the other roughly 150 countries in which UNFPA works that have suffered as a result of the U.S. actions, interfering with rather than advancing the agenda to promote high-quality, voluntary family planning programs.

### Part of the Solution or Part of the Problem

The Obama administration is firmly opposed to the efforts by House leaders to restore the global gag rule and defund UNFPA, and a large majority exists in the Senate to hold the line against the House positions as well. Social conservatives in the House will not relent, however, having slapped a gag rule provision or a UNFPA funding ban on every piece of relevant foreign aid legislation emerging from that chamber this year. They exploit the politics of abortion rather than accept the victory they already won in enacting the Helms amendment. They choose not to be

distracted by the actual impact of the gag rule on abortion on the ground. In the case of UNFPA, they up the ante to charge the agency with promoting not only abortion, but coercive abortion. However, as an exasperated Rep. Ted Deutch (D-FL) parried during a Foreign Affairs Committee work session to pass a bill eliminating all U.S. support for UNFPA: "Saying that UNFPA supports the one-child policy doesn't make it so."<sup>12</sup>

Social conservatives protest too loudly that picking fights over the gag rule and UNFPA are not anti-family planning. It is noteworthy, however, that the gag rule applies to no global health program other than family planning aid, nor is it a coincidence that UNFPA is the only United Nations agency singled out for defunding owing to its presence in China. Indeed, House leaders no longer make any pretense about their opposition to U.S. family planning programs outright—domestic and international—as evidenced in their proposals to eliminate the domestic program altogether and to disproportionately slash funding for the overseas program by one-third.

Program proponents are fighting back. The Global Democracy Promotion Act (GDPA), which would negate the gag rule in law and prevent future presidents from bringing it back with the stroke of a pen, has attracted more than 100 cosponsors in the House and 18 in the Senate. The Senate Appropriations Committee this year, as in most recent years, has written the key elements of the GDPA into its version of the FY 2012 foreign aid spending bill, which provides funding for the family planning and reproductive health program. The Senate committee also would ensure a \$40 million contribution to UNFPA and would actually increase funding for the U.S. family planning program overall, because it is a core component of the administration's Global Health Initiative.

Thus, the battle lines are clearly drawn, once again. The conventional wisdom is that the president usually wins in these showdowns, but these are far from usual political times. And given that House leaders are backing such an expansive and aggressive anti-family planning as well as antiabortion agenda, it is difficult to predict if, where and how compromises might be made down the line.

Meanwhile, the world is moving forward to advance sexual and reproductive health and rights, even as the United States lurches back and forth depending on the prevailing politics. Global recognition of the major public health problem of unsafe abortion—especially its connection to maternal mortality—has created an even greater impetus for increased access to family planning services and improved postabortion care to minimize the extent and severity of the complications of unsafe abortion, as well as access to safer abortion services themselves. In turn, this has led to more countries liberalizing their abortion laws in recent years, such as in Ethiopia, Nepal, South Africa and ironically in Mexico City itself, to allow for training of medical professionals and the establishment of medical standards that protect women's health. Legalization is being more seriously discussed throughout the developing world, even in predominantly Roman Catholic Latin America, as "more citizens and policymakers are taking note of abortion as an issue of maternal mortality, not just maternal morality."<sup>13</sup>

At the same time, the facts are that the current U.S. investment in family planning and reproductive health of \$615 million (including \$40 million for UNFPA) means that about five million fewer abortions are taking place annually because of the almost 12 million unintended pregnancies that the program is averting this year.<sup>14</sup> All the antiabortion rhetoric social conservatives can muster cannot compete with that.

[www.guttmacher.org](http://www.guttmacher.org)

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