

The Mexico City Policy: A 'Gag Rule' That Violates Free Speech and Democratic Values

By Susan A. Cohen

Rep. Chris Smith (R-NJ) says President Clinton “should listen to his foreign policy and economic advisors—and not his abortion advisors—in deciding what he perceives to be most important for the country.” With the active support of the House Republican leadership, Smith is holding hostage the administration’s “urgent requests” for \$1 billion to repay U.S. arrears to the United Nations (UN) and \$18 billion to underwrite support for the International Monetary Fund’s (IMF) program designed to deal with global financial crises. The price? Near-absolute prohibitions on abortion-related activities—privately funded and entirely legal—of nongovernment organizations (NGOs) in developing countries as a precondition for their receipt of U.S. family planning assistance.

Smith is incredulous that, for the past three years, the president has refused to accede to one or another version of the so-called Mexico City policy (named for a Reagan administration antiabortion pronouncement in that city in 1984) and will not yield even now, when major foreign policy priorities are at stake. To him, the president’s intransigence indicates that he essentially cares more about abortion than his own foreign policy.

But Secretary of State Madeleine Albright, the nation’s chief foreign policy officer, sees the matter differently. At a recent congressional hearing, Albright articulated why—as a foreign policy matter—the president finds Smith’s scheme unacceptable. It is a “gag rule,” she said, “that would punish organiza-

tions for engaging in the democratic process in foreign countries and for engaging in legal activities that would be protected by the First Amendment if carried out in the United States.”

With that, the debate over the Mexico City issue began to transcend the politics of abortion and enter the realm of deep-seated principles of U.S. foreign policy.

Smith’s ‘Compromise’

When it became clear at the end of last year that the president would not yield, Republican leaders pressured Smith to offer something new. In his latest self-styled “compromise,” Smith would see each of the two central restrictions of the Mexico City policy—relating to abortion provision and abortion “advocacy”—enacted. The president would be permitted to waive that portion disqualifying a foreign NGO from receiving U.S. family planning funds if, with its own funds and consistent with its own country’s laws, it provides abortion services. A funding penalty of \$44 million below the current level would be levied against the international family planning program, however, should the president exercise this waiver authority. (Moreover, Smith’s proposal to withhold a U.S. contribution to the United Nations Population Fund if the fund resumes a program in China—which it recently has done [see box]—would remain unchanged.)

The president would *not* be allowed to waive the so-called advocacy ban,

however. Under that portion of the Smith “compromise,” foreign NGOs and UN-affiliated organizations would be ineligible for U.S. family planning aid if, again with their own funds, they “engage in any activity or effort to alter the laws or governmental policies” of their own or any foreign country on abortion—in either direction.

The official committee report accompanying Smith’s language explicates how broad the ban is intended to be. “Such practices,” it explains, “include not only overt lobbying for such changes [in the abortion laws or policies of any foreign country] but also such other activities as sponsoring...conferences and workshops on the alleged defects in abortion laws, as well as the drafting and distribution of materials or public statements calling attention to such alleged defects.”

Democratic Values

The president has been consistent and forceful in his prochoice position and in his defense of the value and importance of U.S. involvement in family planning assistance. For these reasons, he has issued numerous veto threats against Smith’s various Mexico City policy incarnations. Now that Smith is narrowing his sights on what he chooses to term abortion “lobbying,” however, much more than the integrity of the family planning program is implicated.

Promoting democracy is an explicit U.S. foreign policy objective reflecting core American values such as free speech, access to the political process and the right, in the words of the United States Constitution itself, “to petition the government for a redress of grievances.” By silencing NGOs in terms of what “public statements” they may make, what materials they may “draft and distribute” and what conferences or workshops they may “sponsor,” the gag rule would undermine the larger U.S. government priority of encour-

aging these groups to participate in and thereby foster the democratic process.

In a recent editorial echoing the secretary of state's concerns, *The Washington Post* characterized the gag rule as "a rank intervention into other countries' domestic business." Observing that "the anti-lobbying provision intrudes...egregiously...into the political practices of aid recipients," the *Post* said that "the Clinton administration is right to want no part of a compromise...that interferes in the development policies of other countries and invades the public space they maintain for policy debate."

Opposition to Smith's policy also is beginning to mount from a wider range of interests. OMB Watch and

the Alliance for Justice—neither of which takes a position on abortion or even family planning but together are at the core of a broad-based coalition to protect the advocacy rights of U.S.-based nonprofits—recently marshaled their free speech coalition to oppose Smith's proposal "because of the precedent it sets for using the power of the federal purse for clamping down on free speech by charities and service providers."

Through the 3,000-member Let America Speak Coalition, OMB Watch and the Alliance helped spearhead a successful effort in 1995 to fend off concerted attempts by House conservatives to prohibit domestic nonprofit recipients of federal grants or contracts from engaging in privately funded advocacy. In their call to action last month to the

same coalition members, they say that "it is essential to protect the ability of charities to communicate with policymakers, to offer guidance and expertise on important local and national issues, and to give a voice to and empower the people we serve. That ability is equally necessary in the developing world, where the voices of the poor and NGOs are crucial to improving the quality of life in their countries."

High Stakes

Until this year, Smith's inability to work his will on the international population aid program spurred him to retaliate against the program itself. He persuaded Congress to impose deep funding cuts, long delays in the availability of funds, and a requirement that once released, the funds could be spent only in small monthly increments.

Hoping to "up the ante," Smith now has moved beyond hurting the program to stymieing the administration's foreign policy priorities. With the full support of the ultraconservative House leadership (but only the barest majority of the full House), he is committed to forcing the administration to accept his antiabortion policy restrictions in exchange for releasing the UN and IMF funds.

The battle will be played out over the course of the year on a range of legislative vehicles. While the outcome, of course, is uncertain, two things are clear at this point. The president so far has shown no signs of backing down on what he, himself, has labeled a matter of principle. And, perhaps ironically, Smith's "linkage" strategy has helped increase awareness and understanding that the principles involved go far beyond family planning or abortion politics to promoting free speech and democratic values, central tenets of U.S. foreign policy. ☉

New UNFPA Program in China Stresses Free, Informed Choice

After a three-year hiatus, a new United Nations Population Fund (UNFPA) program is underway in China. Formulated in the wake of the 1994 International Conference on Population and Development, its explicit goal is to serve as a model for the value and effectiveness of free and informed choice in the delivery of family planning services.

A main feature of the four-year, \$20 million program is that UNFPA will provide assistance in Chinese counties only where county leaders commit in writing to abandon birth quotas and family planning targets. Projects will be subject to regular monitoring visits by UNFPA and independent consultants to ensure compliance; where violations are discovered, UNFPA will suspend operations until the problems are corrected. Aid will focus on improving interpersonal counseling services, expanding the range of available contraceptive methods, providing prenatal and postpartum health care, training health workers about the full range of family planning methods and the advantages of informed consent, and enhancing efforts aimed at preventing sexually transmitted diseases.

The political impact of the unanimous decision by the 36 governmental representatives of UNFPA's executive board is uncertain. As an expression of U.S. disapproval of coercive family planning practices in China, current law provides for a dollar-for-dollar reduction in the U.S. contribution to UNFPA should UNFPA resume working in China. Rep. Chris Smith (R-NJ) and other family planning opponents would go further, to withhold a U.S. contribution to UNFPA entirely. On the other hand, UNFPA's supporters are asking, if the underlying purpose of the U.S. policy is to promote voluntary family planning in China and make a strong statement against coercion, given the nature of UNFPA's new program, what more could anyone want?