

# Global Gag Rule: Exporting Antiabortion Ideology at the Expense of American Values

By Susan A. Cohen

“Payback time” for social conservatives arrived on the very first business day of the new presidential administration. On January 22—coincidentally, the 28th anniversary of the U.S. Supreme Court’s decision in *Roe v. Wade*—President Bush reinstated the “global gag rule” affecting U.S. government family planning assistance overseas. The policy is identical to the one that had been in force from 1984 through January 22, 1993, when President Clinton rescinded it as one of his first official acts (see box, page 2).

The president justified a return to the gag rule by expressing his belief that “it will make abortion more rare.” In fact, however, there is no evidence that it had any such impact the last time around and no reason to believe it will now. Unwilling to make that case themselves, key administration allies, such as House International Relations Committee Chairman Henry J. Hyde (R-IL), have resorted to defending the policy on the grounds that it is “benign.”

On this point, however, the policy’s opponents can point to a wealth of evidence to the contrary. The policy implicates not only the sanctity of the doctor-patient relationship but also freedom of speech, respect for national sovereignty and promotion of democracy. Further, in the 17 years since the policy was first applied, the worldwide trend toward liberalization of abortion laws, the proliferation and increasing sophistication of indigenous nongovernmental organizations (NGOs) and the advent of the HIV/AIDS pandemic—

to name just a few major developments—would suggest that the U.S. policy may be met with more hostility and create more programmatic dilemmas involving access to basic reproductive health care than it did during its last incarnation.

## Anti-Family Planning

Gag rule opponents maintain that while the policy is being promoted as antiabortion, it also remains at its core anti-family planning. If the overriding goal is the president’s, to reduce the incidence of abortion, the evidence is clear, they say, that the most effective and acceptable way to accomplish that goal is to facilitate access to high-quality contraceptive services (“A Message to the President: Abortion Can Be Safe, Legal and Still Rare,” *TGR*, February 2001, page 1). But the policy does nothing to facilitate access to contraception; in fact, it significantly impedes access by prohibiting U.S. family planning assistance from going to hospitals and health clinics in developing countries that also provide abortions, or even abortion-related information.

According to a study by Pinar Senlet and colleagues reported in the June 2001 issue of *International Family Planning Perspectives*, the effectiveness of reducing abortion rates by linking family planning and abortion services has been demonstrated dramatically by a pilot program initiated by the Turkish Ministry of Health in the early 1990s. The idea is to encourage postabortion family planning counseling and contraceptive services by making them available immediately and at the same

sites where women are having abortions. In one participating hospital alone, the proportion of clients who began using contraception after having an abortion rose from 65% in 1991 to 97% only a year later. At the same time, the number of abortions performed at that hospital dropped markedly, from 4,100 in 1992 to 1,709 in 1998.

“The most encouraging aspect of the postabortion family planning approach is that it is highly replicable and sustainable,” say the study’s authors, who cite as likely candidates the former Soviet-bloc countries in eastern Europe, where abortion rates remain very high but where the introduction of contraceptive services is beginning to have a positive impact. But in these countries, where legal abortions are

## Opponents maintain that while the policy is being promoted as antiabortion, it also remains at its core anti-family planning.

widely performed in hospitals and health centers, the gag rule may be expected only to diminish access to contraceptive services, increasing women’s risk of another unintended pregnancy and the likelihood of a repeat abortion.

Opponents also say the gag rule is anti-family planning in a political sense. They note that while the policy may be premised on the notion that U.S. funds should not subsidize groups that use their own funds for abortion-related activities, it would deny only U.S. family planning assistance—and no other U.S. development aid—to these groups. Hospitals or clinics that provide legal abortions in India, for example, are still eligible under the policy to receive U.S. funds for HIV/AIDS prevention or child survival activities. That only family planning dollars are deemed “fungible” and tantamount to indi-

rect support for abortion, opponents argue, strongly suggests that the target is as much family planning itself as it is abortion.

Gag rule proponents counter that since the U.S. will spend the same overall amount on international family planning aid in FY 2001—\$425 million with or without the gag rule—the policy cannot be considered harmful to family planning efforts. But as its most vocal proponent, Rep. Chris Smith (R-NJ), himself says, “who we subsidize, not just what...has profound consequences.”

Indeed, without the gag rule, “who we subsidize” is determined first and foremost by how effectively and efficiently an organization furthers the goals of the U.S. program, including its demonstrated ability to reduce abortion. Under the gag rule, the first consideration is whether that organization meets an antiabortion political litmus test.

### Same Policy, New World

While the gag rule policy may be identical to the one implemented in the 1980s, the world has changed dramatically in the intervening

years. Already, there is more resistance and deeper resentment toward the U.S. policy among NGOs as well as European donors than existed the last time around.

Ironically, this may be attributable in considerable part to the key role the United States has played in recent years—as an explicit component of U.S. foreign policy goals—in encouraging the adoption of democratic values around the world. “Across Africa, Asia, and Latin America, women’s health and rights organizations have blossomed, gaining a powerful voice both at home and in the United Nations,” says Adrienne Germain, president of the International Women’s Health Coalition. “They are outraged about the Bush Administration’s impingement on the basic right to free speech in their countries, as a matter of principle and also because they see the horrifying consequences of restricting access to safe abortion.”

The gag rule also may create more conflict this time simply because there are more countries around the globe that receive U.S. population assistance in which abortion is also legal. Notwithstanding the imposition of the gag rule for eight years, the trend in abortion law reform worldwide since the gag rule was originally implemented overwhelmingly has been toward liberalization (see chart). Today, more than half of all women living in the developing world live in countries where abortion is broadly legal; family planning support from the U.S. Agency for International Development (USAID) now goes to 35 countries in which abortion is legal under circumstances broader than allowed under the gag rule. Further, substantial U.S. family planning aid now goes to former Soviet Union countries where abortion is legal and widely practiced. The gag rule policy, in effect, ignores local law and imposes a “U.S.” position on abortion—one that does not, however, reflect either U.S. law or U.S. public opinion.

---

## Terms of the Bush Global Gag Rule

*On January 22, 2001, President Bush issued an executive memorandum announcing his reinstatement of the “Mexico City” international family planning policy that had been in effect during the Reagan and previous Bush administrations. So named because it was in that city at a 1984 United Nations conference on population that Reagan administration officials first declared it, its opponents later dubbed the policy a “global gag rule” after a similar policy affecting domestic family planning that was attempted in 1987 and ultimately withdrawn in 1993.*

*The reinstated policy requires that in exchange for family planning funds from the U.S. Agency for International Development (USAID), but not for USAID funds or assistance for other purposes, foreign nongovernmental organizations must agree that they will not “perform or actively promote abortion as a method of family planning.” Specifically, they may not use their own funds to*

- *provide information on request to pregnant women about the option of legal abortion or where to obtain abortion services;*
- *provide legal abortion services; or,*
- *advocate in support of legal abortion in their own country (antiabortion advocacy, however, is permissible) or participate in a public information campaign on the availability of legal abortion.*

*Abortions in cases of life endangerment, rape or incest are excluded from the policy’s definition of “abortion as a method of family planning,” so counseling, referral and the performance of abortion in these instances would not run afoul of the U.S. restrictions. Treatment of “injuries or illnesses caused by legal or illegal abortions” also is explicitly permitted.*

*U.S.-based groups are not subject to the policy (except that they must enforce it with their overseas partners to whom they transfer U.S. aid) since, as leading proponent Rep. Chris Smith (R-NJ) concedes, that “would be construed to be unconstitutional.” Foreign governments also are exempt from the restrictions, on diplomatic grounds.*

*President Bush asserted that he was reimposing the policy because “it is my conviction that taxpayer funds should not be used to pay for abortions or advocate or actively promote abortion.” Long-standing U.S. statutory law, however, has prohibited the use of U.S. funds for the purpose of paying for abortions or for any and all lobbying activities related to abortion.*

**18 COUNTRIES HAVE LIBERALIZED THEIR ABORTION LAWS SINCE THE INITIAL IMPOSITION OF THE GLOBAL GAG RULE**

ALBANIA (1991)	GHANA (1985)
ALGERIA (1985)	GREECE (1986)
BELGIUM (1990)	MALAYSIA (1989)
BOTSWANA (1991)	MONGOLIA (1989)
BULGARIA (1990)	PAKISTAN (1990)
BURKINA FASO (1996)	ROMANIA (1989)
CAMBODIA (1997)	SLOVAKIA (1986)
CANADA (1988)	SOUTH AFRICA (1996)
CZECH REPUBLIC (1986)	SPAIN (1985)

**ONE COUNTRY HAS SIGNIFICANTLY TIGHTENED ITS LAW**

POLAND (1997)

Finally, since the 1980s, the HIV/AIDS pandemic has taken hold, especially in southern Africa, where 55% of new infections occur among women and where the disease is spreading most rapidly among the young. In countries such as South Africa, where HIV/AIDS prevention and family planning assistance are programmed in an integrated way to maximize their ability to prevent the spread of HIV/AIDS and other sexually transmitted diseases *and* unintended pregnancy (often among those who are already HIV-positive), the gag rule inevitably will undermine both efforts. Planned Parenthood Association of South Africa (PPASA), for example, stands to lose one-quarter of its funding, merely because it offers counseling and referral for legal abortion. “We give people [information about their] choices,” says PPASA head Motsomi Aubrey Senne; “One of those choices is abortion.”

**The Role of Congress**

Congress can act to override the administration’s policy. That is the intent of the Global Democracy Promotion Act, introduced by a large, bipartisan coalition in the House and Senate earlier this year. The bill stipulates that U.S. development aid to overseas groups cannot be conditioned on the provision of

medical services, including counseling, that are legal in their own country and in the United States. It also provides that they cannot be disqualified because they use their own funds to engage in free speech activities that are permissible for U.S.-based groups participating in USAID’s program.

The House International Relations Committee adopted this bill in the form of an amendment to the Foreign Relations Authorization Act, 26–22, on May 2. Faced with a presidential veto threat and after furious lobbying by the Bush administration, the House dropped it from the bill on May 16. The vote was a painfully close 218–210, slightly closer than on a comparable vote last year.

The slight but significant erosion in House support for the gag rule may be due to the slightly changed composition of the House itself, altered circumstances in the larger world or

**The gag rule imposes a ‘U.S.’ position on abortion that reflects neither U.S. law nor U.S. public opinion.**

the fact that this version of the gag rule goes beyond more recent incarnations. Under the version that was law for one year during the Clinton administration, the policy was waived for certain groups, it did not ban abortion-related counseling or referral and it penalized abortion-related advocacy across-the-board instead of seeking to remove only the prochoice side from the debate.

In closing the House floor debate for the gag rule policy’s opponents, Rep. Tom Lantos (CA), the ranking Democrat on the House International Relations Committee and a prominent human rights advocate, admonished his colleagues to “not be hypocrites...It is not enough to talk about human rights

and democracy and free speech. It is important that we practice what we preach.” Lantos said the issue “is about advocating globally what we so cherish for our own citizens here at home, the right to speak freely and the right to choose wisely.” Under the U.S. gag rule policy, overseas NGOs must make their own choice—between desperately needed family planning assistance and preserving their rights and their ability to meet their ethical obligations to their clients. The gag rule issue now moves to the Senate, which could take up the matter at any time. ☪