

**Distribution of
Reproductive Health Services:
Laws and Policies on Foreign Aid
Can Reduce Access to Care**

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I. Introduction:
The effect of foreign aid
on access to
reproductive health services

Access to reproductive health services often requires international funding

- In many countries, distribution of reproductive health services depends on financial support from international bodies, NGOs, and governments of wealthy countries.
- The EU and its Member States are the world's biggest donors of official development assistance.
- In addition to European countries, major donors for family planning and reproductive health include Australia, Japan, Canada, and the US.

Reproductive health services are not limited to contraception and abortion

- According to WHO, “reproductive health addresses the reproductive processes, functions and system at all stages of life.”

http://www.who.int/topics/reproductive_health/en/

- Therefore, it includes sexually-transmitted infections (STIs), such as syphilis and HIV/AIDS.
- It also includes diseases that can be passed from mother to baby in childbirth or pregnancy, (such as HIV and the severe effects of the Zika virus).

International donors can reduce access to care by imposing limits

- Donor governments (and other funding agencies) can impose limits on who may receive the money (*e.g.* prohibiting funding for Planned Parenthood).
- Donors can also limit how the funds may be used (*e.g.* prohibiting any use of the funds to make referrals for abortion).
- Donors can limit how much money is provided for foreign aid and global health (regardless of the specific recipient or use of those funds.)

The US President's proposed budget would reduce global health funding

- In the past, the US government has provided financial support for HIV/AIDS through **PEPFAR** (“President’s Emergency Plan for AIDS Relief”)
- That bipartisan effort was created by George W. Bush (a Republican) and expanded by Obama.
- Now, the US spends over \$6 billion per year on programs for anti-retroviral drugs for HIV.
- But the new President has proposed cutting that by almost 20 percent (if approved by Congress).

He also reduced access to reproductive health services in developing countries

- The US President reinstated the **Mexico City Policy** (the “global gag rule”) prohibiting foreign NGOs that receive US funds from using their own funds for abortion referrals, advocacy, *etc.*
- He expanded the scope to cover more US funding.
- Also, he stopped US funding for the United Nations Population Fund (on the false basis that this UN agency supports coerced abortion in China).

II. The “Mexico City Policy” (a US Presidential Memorandum)

This policy does not simply prohibit use of US funds to perform abortion

- Another US law (the “Helms Amendment”) already prohibited using US government funds to perform abortion (with very few exceptions.)
- The Mexico City Policy prohibits foreign NGOs receiving US government funds from using other funds to “perform or actively promote abortion as a method of family planning.” (KFF-1, at 4).
- This “global gag rule” generally prohibits referral, advocacy, and public information on abortion. (Id.)

This policy was announced at a conference in Mexico City in 1984

- The policy was issued first by President Ronald Reagan (from the Republican Party).
- It is a “political ritual” for this policy to be quickly cancelled (“rescinded”) by presidents from the Democratic Party (Bill Clinton & Barack Obama) but renewed (“reinstated”) by presidents from the Republican Party (George W. Bush & Trump).
- President Trump reinstated and expanded it by a Presidential Memorandum on January 23, 2017.

In 2017, the current US president expanded the Mexico City Policy

- In the past, the policy only applied to family planning aid from USAID and State Department (\$575 million in 2016). (KFF-1, at 3-4; Starrs, at 1).
- President Trump’s expanded policy applies to more types of funding from more US agencies (including “**global health assistance furnished by all departments or agencies**”).

<https://www.whitehouse.gov/the-press-office/2017/01/23/presidential-memorandum-regarding-mexico-city-policy>

- That is estimated to be \$9.5 billion. (Starrs, at 1).

As a practical matter, this policy will limit access to more than abortion

- Many NGOs that provide or refer for abortion also provide contraceptives and services for malaria, HIV, *etc.*
- Under Republican George W. Bush, the policy did not include HIV/AIDS funding. (KFF-1, at 3.)
- However, the expanded Trump administration policy does include about \$6 billion in HIV/AIDS funding (under PEPFAR).

<https://www.state.gov/r/pa/prs/ps/2017/05/270879.htm>

Global providers of reproductive health services refuse to comply

- “Marie Stopes International knows that safe abortion is a vital component of women’s reproductive healthcare, and therefore we cannot agree to these conditions.”
<https://www.mariestopes.org/news/2017/1/re-enactment-of-the-mexico-city-policy/>
- The International Planned Parenthood Federation “and its partners in 170 countries will not sign a policy that denies human rights and puts the lives of women at risk.” <http://www.ippf.org/news/why-we-will-not-sign-global-gag-rule>

Providers of reproductive health services estimated the serious effects

- Unless other funds are found, Marie Stopes International estimates that the expanded policy during Trump's 4-year term could cause 21,700 maternal deaths, 6.5 million unintended pregnancies, and 2.1 million unsafe abortions
<https://www.mariestopes.org/news/2017/1/re-enactment-of-the-mexico-city-policy/>
- During that same 4-year period, International Planned Parenthood Federation will lose \$100 million (which could prevent 20,000 maternal deaths, 4.8 million unintended pregnancies, and 1.7 million unsafe abortions).
<http://www.ippf.org/news/human-cost-global-gag-rule>

The US government claims it can give the same amount to different NGOs

- The US government says it will give the money to NGOs that agree to comply with US policy.

<https://www.state.gov/r/pa/prs/ps/2017/05/270879.htm>

- But critics doubt that the US could find qualified NGOs to meet the needs in developing countries.

https://www.nytimes.com/2017/05/15/us/politics/trump-gag-rule-abortion.html?mcubz=0&_r=0

- As one public health advocate explained, “It’s not like we have an influx of providers in places like West Africa.” (Id.)

This policy might even cause an increase in the number of abortions

- Although not conclusive, previous research has suggested an association between application of the Mexico City policy and increased rates of abortion in sub-Saharan Africa. (KFF-1, at 5-6).
- “The first study to measure the effect of the gag rule showed that this policy could actually have resulted in an increase in abortions.” (Starrs, at 485).
- “There is no evidence that the [policy] has ever resulted in its stated aim of reducing abortion.” Id.

Commentators noted the consequences of “putting ideology before evidence”

“That a policy with consequences of this magnitude could be based on such a striking lack of evidence is illustrative of our ‘post-truth’ era, in which policies are shaped and informed not by robust evidence, but by what have become known as ‘alternative facts’.”

(Pugh, *et al*, at 2).

Several European countries have pledged money to “She Decides”

- To make up for the loss, several European countries have pledged additional funds.
- After the US president cut off funding to NGOs, Netherland’s Minister for Foreign Trade and Development Cooperation started a fundraising initiative (and was quickly joined by the Belgian Minister for Development Cooperation).
- Other countries are participating (and Norway has pledged \$10 million). **See:** www.shedecides.com

III. The “Kemp-Kasten Amendment” (a US federal statute)

This US statute is part of the process for the annual appropriation of funds

- Since 1985, Congress has included the Kemp-Kasten provision in annual appropriation acts.
- The legislation prohibits giving US government funds to “**any organization or program which, as determined by the [p]resident of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization.**” (KFF-2, at 1 and 5 n.1) (emphasis added).
- Unlike the Mexico City Policy, Kemp-Kasten applies to international organizations like the UN.

Congress gave authority to the president to make a determination

- If the Executive Branch makes a determination about a specific organization, that organization cannot receive any US government funds.
- In the past 33 years, the US has cut off funding to the United Nations Population Fund (UNFPA) under Kemp-Kasten for 16 years. (KFF-2, at 1-3).
- Generally, Republican presidents have cut off funding for UNFPA, while Democratic presidents have allowed that funding. (Id.)

The current US president (and his administration) cut off the funding

- On January 23, 2017, the president directed the Secretary of State to take action under Kemp-Kasten. <https://www.whitehouse.gov/the-press-office/2017/01/23/presidential-memorandum-regarding-mexico-city-policy>
- On March 30, 2017, the administration made its determination under Kemp-Kasten to stop the funding for UNFPA (and issued a 2-page “Memorandum of Justification”). (KFF-2, at 4).

The administration has no evidence of direct involvement by UNFPA

“While there is no evidence that UNFPA directly engages in coercive abortions or involuntary sterilizations in China, the agency continues to partner with the NHFPC [National Health and Family Planning Commission of the People’s Republic of China] on family planning, and thus can be found to support, or participate in the management of China’s coercive policies for purposes of the Kemp-Kasten Amendment.” **Memorandum of Justification**, https://www.buzzfeed.com/jinamoore/the-us-wont-give-any-more-money-to-the-un-population-fund?utm_term=.iqavnJbVk#.uuLZmr4E9 (emphasis added).

In fact, the UN Population Fund helps relieve poverty in developing countries

- The UN Population Fund supports access to contraceptives and preventing teen pregnancy.
- As explained by Melinda Gates (co-founder of the Bill & Melinda Gates Foundation), contraception can “start to break the cycle of poverty.”
<https://www.nytimes.com/2016/11/01/health/melinda-gates-birth-control-poverty.html>
- “All over Africa, young girls getting pregnant early when they don’t want to keeps them out of school. So you’d keep more girls in school” (Id.)

A similar debate in Europe about the UNFPA had a very different result

- The UK parliament debated proposed amendments in 2002 that would have restricted funding for UNFPA.
- A mission was sent to China to study and report on the situation. http://www.appg-popdevrh.org.uk/china/China_MPs_report.pdf
- The mission recommended continued support by the UK and other western governments for UNFPA's work in China. (Id. at 8.)

IV. Conclusions

- Laws and policies on foreign aid can reduce access to reproductive health services (and can reduce access to other types of services as well).
- Reductions in US aid for global health were not based on evidence.
- Eventually, the pendulum in the US will swing back to promote global health and access to care.
- Meanwhile, advocates for global health and access must continue to speak, write, and teach the truth.

References

- Kaiser Family Foundation, “The Mexico City Policy: An Explainer,” (June 2017), <http://www.kff.org/global-health-policy/fact-sheet/mexico-city-policy-explainer/> [hereinafter “KFF-1”].
- Kaiser Family Foundation, “UNFPA Funding & Kemp-Kasten: An Explainer,” (May 2017), <http://www.kff.org/global-health-policy/fact-sheet/unfpa-funding-kemp-kasten-an-explainer/> [hereinafter “KFF-2”].

References (continued)

- Latham, S, “Trump’s Abortion-Promoting Aid Policy,” *Hastings Center Report*, (July/August 2017), 47(4): 7-8.
- Pugh, S, *et al*, “Not without a fight: standing up against the Global Gag Rule,” *Reproductive Health Matters*, (2017), 25(49):1-3,
<http://dx.doi.org/10.1080/09688080.2017.1303250>
- Starrs, A, “The Trump global gag rule: an attack on US family planning and global health aid,” *Lancet*, (February 4, 2017), 389(10068): 485-486.