



Only Rights Can Stop the Wrongs

BRIEFING NOTE:

US Global Gag Rule Expansion

On 13 January 2017, the US President announced the reintroduction and expansion of the 'Mexico City Policy', also known as the **Global Gag Rule**, a policy that bans awarding US global health funds to non-governmental organisations working outside of the US that perform, actively give information about, or promote the decriminalisation of abortion.

On 15 May 2017, the United States Administration held a press briefing to launch the expanded 'Mexico City Policy', which the new administration has renamed '**Protecting Life in Global Health Assistance Plan**'.

Key Facts:

- The US Government is the largest single contributor to global development aid for health and provided 31.9% of all development aid for health from 1990-2016.¹ In 2016, the US Government contributed 70.4% of all development aid for HIV/AIDS.²
- The Global Gag Rule refers to a clause in US Government development aid contracts. This clause prohibits the funded organisation from engaging in abortion-related activities, even when they use other funding sources to do so.
- As of 15 May 2017, the Global Gag Rule now applies to an estimated \$8.8 billion of \$9.3 billion total 2017 US development aid, including PEPFAR funding. Previously, the policy only applied \$600 million in family planning development aid.
- The Global Gag Rule **does not affect** foreign governments, US organisations, public international organisations (e.g. United Nations agencies, including UNAIDS and WHO) and multilateral partnerships with other donor governments (e.g. the Global Fund), including sub-grants from these organisations.³
- The Global Gag Rule **does affect** international, regional and national non-governmental organisations (e.g. the International HIV/AIDS Alliance) based outside of the United States. It also affects sub-recipients of US development aid to US organisations (e.g. in-country partners of US NGOs such as FHI 360 receiving USAID funding).
- Some exceptions may be made to this policy, but they will be exceptionally rare.⁴
- The Global Gag Rule grant clause will not be added to already awarded funds. The new provision is being added to all new grants, cooperative agreements and contracts, as well as renewals and amendments of funding agreements, beginning May 15, 2017.⁵
- The US Government will evaluate the policy over the next six months.

¹ Institute for Health Metrics and Evaluation (IHME), 2017, "Financing Global Health 2016: Development Assistance, Public and Private Health Spending for the Pursuit of Universal Health Coverage", p. 45 available at http://www.healthdata.org/sites/default/files/files/policy_report/FGH/2017/IHME_FGH2016_Technical-Report.pdf.

² Ibid. 21, 45

³ US Department of State, 2017, "Background Briefing: Senior Administration Officials on Protecting Life in Global Health Assistance" available at <https://www.state.gov/r/pa/prs/ps/2017/05/270879.htm> (Last accessed 21 May 2017)

⁴ Ibid.

⁵ Ibid.



Background: US Government Funding for Abortion and the Global Gag Rule

The Global Gag Rule was introduced in 1984 by US President Ronald Reagan. It has been in place for 17 of the last 32 years. It will now apply to most forms of US development aid for health to non-governmental organisations working outside of the US. When the Global Gag Rule was inactive, the US still did not fund abortion or advocacy for legal abortion but did allow US-funded non-governmental organisations to use other money for this work.

Several US laws prevent the use of US Government funds for abortion-related activities. These activities include performing an abortion or motivating an individual to obtain an abortion (Helms Amendment, 1973), conducting biomedical research on abortion procedures (Biden Amendment, 1981), and lobbying for or against abortion (Siljander Amendment, 1981).⁶

The Global Gag Rule is one of two policies that affect whether organisations are eligible for certain types of US Government funding. The second policy, the Kemp-Kasten Amendment of 1985, prohibits awarding US development aid to any organisation or programme that supports, or is involved in, management of programmes that engage in coercive abortion or sterilisation, **as interpreted by the President.**⁷ During conservative (Republican Party) presidencies, including the current Trump presidency, this amendment is used to withhold US contributions to the United Nations Population Fund (UNFPA), one of the largest funders of contraception globally.⁸ It has **only** ever been used to withhold funds from the UNFPA.

Types of Activities Prohibited and Allowed under the Global Gag Rule⁹

While receiving US development aid, the Global Gag Rule requires contracts to include specific clauses that prohibit organisations, including using funding from any other donor, from:

- Lobbying to liberalise abortion laws or keep abortion as a legal family planning activity.
- Providing abortions, outside of rape, incest, or threat to the life of the pregnant person. Abortion to promote mental or physical health, unless the pregnant person's life is threatened, is not allowed.
- Providing information about abortions to anyone who is not a) pregnant **and** b) actively seeking a legal abortion, if they request information; **or** c) the victim of rape or incest, or life is threatened by carrying the pregnancy to term.
- Giving money, goods, or services to non-governmental organisations outside the US, if they engage in prohibited activities during the period in which they receive money, goods or services.

⁶ Kaiser Family Foundation, 2016, "Fact Sheet: The US Government and International Family Planning & Reproductive Health: Statutory Requirements and Policies" available at <http://kff.org/global-health-policy/fact-sheet/the-u-s-government-and-international-family-planning-reproductive-health-statutory-requirements-and-policies/> (Last accessed 22 May 2017)

⁷ Ibid.

⁸ Kaiser Family Foundation, 2017, "UNFPA Funding & Kemp-Kasten: An Explainer" available at <http://kff.org/global-health-policy/fact-sheet/unfpa-funding-kemp-kasten-an-explainer/> (Last accessed 22 May 2017)

⁹ Kaiser Family Foundation, 2017, "The Mexico City Policy: An Explainer;" US Department of State, 2017, "Background Briefing: Senior Administration Officials on Protecting Life in Global Health Assistance" USAID, 2017, "Standard Provisions for US Nongovernmental Organizations Mandatory Reference for ADS 303" 75-84 available at <https://www.usaid.gov/ads/policy/300/303mag>; USAID, 2017 "ADS Reference 303mab "Standard Provisions for Non-US Nongovernmental Organizations: A Mandatory Reference for ADS Chapter 303" 83-92 available at <https://www.usaid.gov/ads/policy/300/303mab>

The Global Gag Rule provision *does not prohibit* affected organisations receiving funds from:

- Using US development aid funds to buy, distribute, or provide information on contraception, including emergency contraception (the morning-after pill).¹⁰
- Treating illnesses or injuries resulting from legal and illegal abortions.¹¹
- Buying goods or services from non-governmental organisations outside the US who engage in prohibited activities.
- Allowing individuals from an organisation engaging in prohibited activities to attend a general training.
- Lobbying to legalise abortion in the case of incest or rape, or when carrying the pregnancy to term would threaten the individual's life, where this is criminalised.

Effects & Scope

Due to the US Government's significant contribution to global health aid, non-governmental organisations outside the US that engage in abortion-related activities will now be ineligible from receiving a large portion of all global development aid for health.

The exact amount of funding that will be affected, and the number of organisations currently receiving funding who engage in activities prohibited by the Global Gag Rule is not known. Some indications are that:

- In 2016, International NGOs received \$792.0 Million in development aid from the US Government.¹² This number does not include primary or sub-recipient awards to in-country NGOs.
- Non-governmental organisations outside of the US receiving **any** US government funding will be prohibited from using **any funding** for abortion-related activities.
- 37 of 64 countries that receive development aid from the US allow for legal abortion in at least one case not permissible by Global Gag Rule.¹³

Funding for organisations offering and advocating for comprehensive HIV and sexual and reproductive health services, including abortion, will be most affected by the Global Gag Rule reintroduction and expansion. These organisations are often key non-judgemental providers of reproductive health services to sex worker communities and strong allies to the sex workers' rights movement.

Thus, although the Global Gag Rule does not prohibit supporting sex workers or offering contraception and family planning counselling and commodities, it will significantly reduce the funding and capacity of sex workers' primary health service providers, disrupting existing service relationships and sex workers' access to essential services.

The reintroduction and expansion of the Global Gag Rule are also expected to increase unplanned pregnancies, unsafe abortions, and death from unsafe abortions. The Marie Stopes Foundation estimates that the expanded Global Gag Rule could result in an additional 6.5

¹⁰ Population Action International, 2002, "Emergency Contraception and the Global Gag Rule: An Unofficial Guide" available at: http://pai.org/wp-content/uploads/2012/01/EC_GGR.pdf (Last accessed 21 May 2017)

¹¹ "Background Briefing: Senior Administration Officials on Protecting Life in Global Health Assistance" USAID, 2017

¹² IHME, 2017, "Financing Global Health 2016: Development Assistance, Public and Private Health Spending for the Pursuit of Universal Health Coverage", p. 23

¹³ Kaiser Family Foundation, 2017, "What Is the Scope of the Mexico City Policy: Assessing Abortion Laws in Countries That Receive US Global Health Assistance" available at <http://kff.org/global-health-policy/issue-brief/what-is-the-scope-of-the-mexico-city-policy-assessing-abortion-laws-in-countries-that-receive-u-s-global-health-assistance/> (Last accessed May 22, 2017)

million unintended pregnancies, 2.1 million unsafe abortions, and 21,700 maternal deaths.¹⁴ Sex workers will be disproportionately represented in those affected.

Other Threats: Large Cuts to US Development Assistance for Health

In addition to the Global Gag Rule, the US Government is expected to engage in broad budget cuts, including general development aid cuts and targeted cuts in funding to organisations that are exempt from the Global Gag Rule, like the Global Fund and UN bodies. Already, the draft 2018 US Government budget includes a \$2 billion reduction in development aid, including a \$222 million reduction in funding to the Global Fund in 2018, elimination of US Government Global family planning aid, and a steep reduction in comprehensive HIV programmes in all but 12 PEPFAR countries.¹⁵

These funding cuts will have a devastating effect on sex workers and other key populations and the HIV programming deemed by the World Health Organization, UNAIDS and the Global Fund as necessary to ending the AIDS epidemic.

They will reverse the limited progress made towards reducing the structural barriers that limit sex workers and other key populations' access to health services and justice.

Efforts to reduce the impact of global gag rule expansion and US development aid cuts:

- **Global HER Act:** In the US, advocates are lobbying to pass a bill which would permanently end the Global Gag Rule, allowing US development aid recipients to use funding from other sources to engage in abortion-related activities.¹⁶
- **She Decides Fund:** Other Governments have organised a fund to help address gaps created by the expanded Global Gag Rule, which will support sex education, birth control, obstetric care, HIV testing and treatment, and safe abortion. The fund had raised over \$300 million from government and private sources as of April 2017.¹⁷

¹⁴ Marie Stopes International, 2017, "Re-enactment of the Mexico City Policy (2017)", available at <https://mariestopes.org/news/2017/1/re-enactment-ofthe-mexico-city-policy/>.

¹⁵ "Major Savings and Reforms Budget of the US Government Fiscal Year 2018" available at <https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/budget/fy2018/msar.pdf> (last accessed 26 May, 2017)

¹⁶ Center for Health and Gender Equity, 2017, "Fact Sheet: Global Health, Empowerment and Rights (HER) Act [S.210; H.R.671]" available at http://www.genderhealth.org/files/uploads/change/publications/Global_HER_Act_Fact_Sheet_April_2017_2.pdf (Last accessed May 22, 2017)

¹⁷ "The Global Gag Rule and the She Decides fund," Non Profit Quarterly last accessed 22 May 2017 at <https://nonprofitquarterly.org/2017/04/14/global-gag-rule-decides-fund/>

