

UNITED STATES POLICY SHOULD UPHOLD ABORTION AS A HUMAN RIGHT



Abortion is health care and a recognized human right

Anti-abortion policies increase rather than decrease abortions and put women and girls' lives at risk

Congress should take action to repeal harmful policies like the Global Gag Rule and Helms Amendment

There are 214 million women of reproductive age in developing regions who wish to delay a pregnancy but are not using a modern contraceptive method.¹ Women and girls must have access to the full range of family planning and reproductive health care to ensure they have prosperous lives—no matter where they live. This includes their right to abortion care.

Abortion opponents have sought to bar or limit that right, both in the United States and through U.S. foreign assistance, since the landmark decision of *Roe v. Wade*. Despite the fact that abortion is legal in the United States and an internationally recognized right, U.S. foreign assistance policies put that right out of reach for poor women around the world.

WOMEN AND GIRLS WILL ALWAYS NEED ABORTION CARE

Evidence shows that restricting the right to abortion does not stop the need for abortion care. Instead, it prevents safe abortions.² The majority of unsafe abortions occur in the developing world where some of the strictest anti-abortion laws are in effect.³ When women cannot seek abortion care from trained health professionals and fear prosecution, they must obtain the procedure in secret, often through “traditional or nonmedical” methods that can lead to severe complications.⁴ Many women and girls die from these complications. In fact, eight to 11 percent of all maternal deaths are related to unsafe abortions.⁵ They are an easily avoided, key contributor to the global maternal mortality rate.⁶ Denial of the right to access safe and legal abortion is a violation of women and girls’ human rights.

Rural and poor communities face even more obstacles to accessing contraceptives and basic reproductive health care. As a result, these women and girls have higher rates of unplanned pregnancy and therefore need unimpeded access to abortion.⁷ Due to the complicated web of barriers and restrictions, these

communities often have less access to safe abortion care and are more likely to experience complications from unsafe procedures.⁸

ABORTION IS A HUMAN RIGHT

According to the *Universal Declaration of Human Rights* (UDHR), human rights are certain inalienable rights that are core to the ability to thrive as human beings.⁹ Abortion is a human right because without the ability to decide whether, when and how many children to have, women and girls face a future with fewer opportunities for education, financial stability and overall well-being.

Abortion is a critical part of women and girls’ health care: The *Convention on the Elimination of all forms of Discrimination Against Women* (CEDAW) protects the right to health and health care, specifically covering the right to family planning and reproductive health care.¹⁰ Access to sexual and reproductive health care, including abortion, can mean the difference between a girl finishing her primary education or a woman keeping her family out of poverty. Denial of abortion care puts women and girls at risk of serious injury and death, which impedes not only their right to family planning and reproductive health care under CEDAW, but their human right to life guaranteed in the UDHR.

Denial of the right to abortion is sex discrimination: Gender and sex equality have become core components of internationally recognized human rights, included in CEDAW and many other legal instruments.¹¹ The fact that pregnancy is a physical condition experienced by only one biological sex means that the denial of the right to abortion is applied only to a subset of the population. It is also a denial that has lifelong implications for mental and physical wellness, access to education and economic stability.¹² This violates anti-discrimination standards because of the disproportionate effect on one group’s ability to realize their other human rights.

Post-abortion care is a critical part of comprehensive abortion care:

When women and girls are forced to turn to unsafe abortions, complications become more common. In 14 developing countries where unsafe abortion rates are high, 40 percent of those abortions result in complications requiring medical attention, such as sepsis and hemorrhage.¹³ Nonjudgmental and comprehensive post-abortion care (PAC), including counseling on and the provision of contraceptives, is critical to saving lives. Women and girls should never have to fear getting medical attention for PAC. However, in places where abortion is rigorously prosecuted, concerns that medical providers will report suspected abortions to the police cause many to resist seeking treatment when they desperately need it.¹⁴

ANTI-ABORTION POLICY RESTRICTIONS ON U.S. FOREIGN AID HARMS WOMEN AND GIRLS

While the Supreme Court has recognized abortion as a constitutional right, it allowed the government to place certain obstacles in the way of accessing abortion so long as they do not cause an “undue burden.”¹⁵ One of the most successful tactics of abortion opponents has been banning federal funding for abortion—putting safe abortion care out of reach for poor women across the world.

The Helms and Hyde Amendments: The Helms amendment bans the use of U.S. foreign assistance funds for abortion even though the procedure is legal both in the U.S. and many of the countries where the United States Agency for International Development (USAID) operates family planning and reproductive health programs.¹⁶ This amendment to the Foreign Assistance Act was enacted by Congress in 1973 and is also included in the annual Department of State and Foreign Operations appropriations bill. Although the policy as written only applies to funding for “abortion as a method of family planning,” it has been implemented as a near-total ban without exceptions, even in cases of rape, incest or if a woman’s life is endangered by the pregnancy.¹⁷

The Hyde amendment is often confused with the Helms amendment. However, Hyde only deals with federal funds spent in the United States—primarily restricting the Medicaid program—and it is not written into permanent law.¹⁸ Instead, the Hyde amendment is attached to yearly appropriations bills, and has been since 1976.¹⁹ There is a large domestic reproductive rights movement dedicated to eliminating the Hyde Amendment.

The Global Gag Rule bans any foreign nongovernmental organization (NGO) from receiving U.S. global health funding if the NGO performs, counsels or refers patients on abortion care, or if they advocate for the liberalization of abortion laws in their own country—even if they do so with private, non-U.S. funds.²⁰

The Global Gag Rule (GGR) is an executive branch policy that has been imposed and repealed, depending on the abortion stance of the administration in office, since 1984.²¹ This policy was reinstated—and expanded—by the Trump-Pence administration. For the first time, programs like the President’s Emergency Plan for AIDS Relief (PEPFAR) and other vital global health initiatives are subject to the rule.

The (GGR) prevents health professionals from giving patients full and accurate information about their pregnancy options. It also prevents advocates from speaking with their own government to improve local abortion laws. The confusion and fear that the policy has fostered among providers—who were offered very little official implementation guidance—has led to a chilling effect causing accidental over-compliance, especially among those new to the GGR, like HIV/AIDS providers.²²

Additionally, the policy has led to a weakening of critical contraceptive supply chains, as providers dedicated to comprehensive reproductive health care refuse to accept the GGR and consequently lose a large portion of funding and access to U.S.-donated contraceptives.²³ Some providers have even been forced to redirect funding from services to the administrative burden of compliance.²⁴

POLICY RECOMMENDATIONS

The U.S. must adopt comprehensive reproductive health care policies instead of continuing to cause harm by erecting additional barriers to abortion care. To that end, Congress should:

Permanently Repeal the Helms Amendment: The Helms amendment harms women, girls and entire communities by denying them access to the basic health service of abortion. This policy must be permanently repealed to uphold the human rights of all women and girls, no matter where they live.

Pass the Global HER Act: In their respective chambers, Rep. Lowey (D-NY) and Senators Shaheen (D-NH) and Collins (R-ME) introduced the **Global Health, Empowerment, and Rights (HER) Act** in February 2019. Passage of the Global HER Act would ensure that foreign NGOs can use their own, non-U.S. funds to provide abortion counseling, referrals and services. In addition, it would guarantee foreign NGOs will not be silenced from advocating for liberalization of their own country's abortion laws to continue receiving critical U.S. funding. For more information about the widespread negative impact of the GGR, visit: <http://trumpglobalgagrule.pai.org/>

ENDNOTES

- 1 Guttmacher Institute. (2017). *Adding it Up: Investing in Contraception and Maternal and Newborn Health, 2017*. Retrieved from: <https://www.guttmacher.org/sites/default/files/factsheet/adding-it-up-contraception-mnh-2017.pdf>
- 2 Guttmacher Institute. (2017). *Abortion Worldwide 2017: Uneven Progress and Unequal Access*. Retrieved from: https://www.guttmacher.org/sites/default/files/report_pdf/abortion-worldwide-2017.pdf
- 3 Ibid.
- 4 Ibid.
- 5 Ibid.
- 6 World Health Organization (2018). *Preventing Unsafe Abortion*. Retrieved from: <http://www.who.int/news-room/fact-sheets/detail/preventing-unsafe-abortion>
- 7 Ibid.
- 8 Ibid.
- 9 United Nations General Assembly. (1948). *The Universal Declaration of Human Rights*. Retrieved from: <http://www.un.org/en/universal-declaration-human-rights/>
- 10 United Nations Entity for Gender Equality and the Empowerment of Women. (1979). *The Convention on the Elimination of All Forms of Discrimination against Women*. Retrieved from: <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>
- 11 Center for Reproductive Rights. (2008). *Safe and Legal Abortion is a Woman's Human Right*. Retrieved from: <https://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/Safe%20and%20Legal%20Abortion%20is%20a%20Womans%20Human%20Right.pdf>
- 12 Guttmacher Institute. (2017). *Abortion Worldwide 2017: Uneven Progress and Unequal Access*. Retrieved from: https://www.guttmacher.org/sites/default/files/report_pdf/abortion-worldwide-2017.pdf
- 13 Ibid.
- 14 Michelle Oberman. (2018). *The Consequences of El Salvador's Abortion Ban*. Retrieved from: <https://www.guernicamag.com/consequences-el-salvadors-abortion-ban/>
- 15 *Planned Parenthood v. Casey*, 505 U.S. 833 (1992).
- 16 Sneha Barot. (2013). *Abortion Restrictions in U.S. Foreign Aid: The History and Harms of the Helms Amendment*. Guttmacher Policy Review, Volume 16 (3). Retrieved from: <http://www.guttmacher.org/pubs/gpr/16/3/gpr160309.html>; and U.S. Agency for International Development. (2014). *Family Planning and Reproductive Health*. Retrieved from: <http://www.usaid.gov/what-wedo/global-health/family-planning>
- 17 PAI. (2015). *No Exceptions: How the Helms Amendment Hurts Women and Endangers Lives*. Retrieved from: <https://pai.org/wp-content/uploads/2014/07/PAI-Helms-PIB.pdf>
- 18 All Above All. (2017). *Abortion Coverage Bans on Public and Private Insurance: Access to Abortion Care Limited for Millions of Women*. Retrieved from: <https://allaboveall.org/wp/wp-content/uploads/2017/09/Impact-of-insurance-bans-formatted-8.9.17.pdf>
- 19 Ibid.
- 20 The Trump-Pence administration renamed the policy, "Protecting Life in Global Health Assistance." See PAI. (2017). *What You Need to Know About the Protecting Life in Global Health Assistance Restrictions on U.S. Global Health Assistance: An Unofficial Guide*. Retrieved from: <https://pai.org/wp-content/uploads/2017/10/WYN2K-10.5.pdf>
- 21 PAI. (2018). *The Global Gag Rule: History*. Retrieved from: <http://trumpglobalgagrule.pai.org/history/a-bad-policy-is-born/>
- 22 PAI. (2018). *Access Denied: Ethiopia, Preliminary Impacts of Trump's Expanded Global Gag Rule*. Retrieved from: <https://pai.org/wp-content/uploads/2018/07/Access-Denied-Ethiopia-JULY-2018.pdf>
- 23 PAI. (2018). *Access Denied: Nigeria, Preliminary Impacts of Trump's Expanded Global Gag Rule*. Retrieved from: <https://pai.org/wp-content/uploads/2018/03/Access-Denied-Nigeria-2.pdf>
- 24 PAI. (2018). *Access Denied: Uganda, Preliminary Impacts of Trump's Expanded Global Gag Rule*. Retrieved from: https://pai.org/wp-content/uploads/2018/03/Access-Denied_Uganda_March-2018.pdf