Global Gag Rule Revisited: HIV/AIDS Initiative Out, Family Planning Still In

By Susan A. Cohen

Since Day One, the Bush administration has set its sights on U.S. reproductive health programs overseas as a source of relatively cost-free political concessions to its socially conservative base. Late this summer, it delivered two more blows to these programs when it defunded a prominent reproductive health program for refugee women and expanded the "Mexico City" global gag rule policy to State Department family planning programs. These actions followed a short-lived but concerted and highly publicized attempt to extend the global gag rule to the president's global HIV/AIDS initiative.

The administration dropped its effort to apply a gag rule to international AIDS programs in part so as not to complicate swift enactment of the new global HIV/AIDS law ("U.S. AIDS Policy: Priority on Treatment, Conservatives' Approach to Prevention," *TGR,* August 2003, page 1); ultimately, however, it pulled back because administration officials themselves, despite considerable effort, could not come up with a scheme that would not negatively affect the program's operations. Indeed, two recently released analyses of the impact of the gag rule on family planning programs confirm that such a policy *does* harm the delivery of services, even if they are not the ones about which this administration is concerned.

Drawing the Line at HIV/AIDS

When the president announced his global HIV/AIDS initiative during his State of the Union address in January, the first emotion it seemed to stir among many social conservatives was fear that the new infusion of funds might fall into the hands of "condom pushing abortion promoters," as Steven Mosher of the Population Research Institute put it. Accordingly, they set about pressuring the administration to immediately extend the gag rule to HIV/AIDS programs.

[Under the gag rule, which has been in effect since January 2001, family planning funds administered by the U.S. Agency for International Development (USAID) may be transferred only to foreign nongovernmental organizations (NGOs) that pledge that they will not use any of their non-U.S. funds to provide abortion-related activities, including providing information about abortion through counseling or advocacy; U.S.-based intermediaries are themselves not subject to the restrictions but are responsible for their overseas partners' compliance with them ("Global Gag Rule: Exporting Antiabortion Ideology at the Expense of American Values," *TGR,* June 2001, page 1).]

Indeed, conservatives had good reason to worry that some of the most obvious candidates for partnering with the United States to stem the HIV/AIDS pandemic were the very groups they cannot abide, namely, the International Planned Parenthood Federation (IPPF), its country-wide affiliates and similar organizations with expertise in delivering high-quality reproductive health care in developing-country settings. For two months, the administration dispatched its best lawyers and program experts to devise a way to comply with the demand from its political base. It soon became clear, however, that a wholesale expansion of the gag rule to HIV/AIDS would not be possible.

The Elizabeth Glaser Pediatric AIDS Foundation and Columbia University's Mailman School of Public Health, both key partners in the administration's signature initiative to prevent mother-to-child transmission of HIV/AIDS, had quietly but firmly communicated to the White House that they could not and would not accept the role of enforcing the administration's antiabortion policy against their indigenous partners overseas. The challenge for the administration, then, became how to exempt these and other favored organizations from having to contend with a gag rule while keeping the U.S. global HIV/AIDS program a safe distance from anything having to do with abortion.

In response, White House officials set about devising what might be termed a "gag rule lite." A rough draft of White House talking points leaked in February illustrates some of the contortions the administration was considering in order to have a restrictive policy on paper while seeking to mitigate its effect in practice. White House staff contemplated a situation, for example, in which a South African NGO that provided counseling about abortion, which is legal in South Africa, could receive U.S. HIV/AIDS funds even though it was ineligible for U.S. family planning funds under the preexisting gag rule. There would be one condition, however: The U.S-funded HIV program and the non-U.S.-funded family planning programs would have to be entirely "separate." Under this scenario, if a woman in the NGO's HIV program wanted family planning, the NGO could not refer her to its own family planning service. It would have to refer her to another "gagged" provider (presuming one exists)—all

so the U.S. government could be assured she would receive no information about abortion.

HIV voluntary counseling and testing (VCT) activities—which routinely include counseling about condom use as well as condom provision—presented another dilemma, since VCT is a core component of AIDS prevention and a key point of overlap between an "HIV/AIDS" service and a "family planning" service. Making a distinction between these two integrally related activities became critical to the administration, however, since the very premise of the gag rule is that any NGO involved in "family planning" is presumed also to be an abortion-rights promoter, unless it signs a pledge to the contrary. The White House's proposed solution to this conundrum was to simply deem VCT programs funded under its HIV/AIDS initiative "not family planning."

The hairsplitting between where HIV/AIDS prevention ends and family planning begins became necessary because many influential public health experts within and outside the administration—including some 130 national organizations that signed a joint letter to the president—were arguing that it would be counterproductive, if not impossible, to build a wall of separation between family planning (and the groups that provide it) and HIV/AIDS prevention. They noted that family planning is an integral component of HIV/AIDS prevention, including in the administration's favored mother-to-child-transmission programs. This is true in part because half of all new HIV infections worldwide occur among women, and women's primary entry point for health care, as in the United States, is through family planning programs.

By the end of March, the hairsplitting had proven futile. The administration signaled to Congress that it was convinced there was no way to expand the gag rule without hurting the HIV/AIDS effort, and in this case the president had decided that the program was more important than his antiabortion ideology. Antiabortion members of Congress and conservative groups balked at first, but in the end had no choice but to stand down on this issue.

Gag Rule Harms Family Planning

Clearly, the president's calculation is altogether different where family planning is concerned. In announcing the family planning gag rule on his first day in office, the president took pains to protest that the target was abortion, not family planning; in the words of a White House press statement issued that day, "one of the best ways to prevent abortion is by providing quality voluntary family planning services." Even now, USAID's Web site declares that "the Mexico City Policy does not have a major impact on the provision of family planning services."

A year-long examination of the policy's impact, however, concludes otherwise. Population Action International, in collaboration with other key U.S.-based NGOs, conducted research and made site visits to Ethiopia, Kenya, Zambia and Romania to assess the policy's effects on access to family planning and related reproductive health services in countries with varying abortion laws, public health and socioeconomic characteristics, and availability of information. Dozens of local experts were interviewed, including program managers, policymakers, and donor-agency representatives. Among the conclusions reported in *Access Denied: U.S. Restrictions on International Family Planning,* released in September, are the following:

• The Family Planning Association of Kenya, the oldest and most established in Africa, was forced to close three clinics at which almost 19,000 clients had been served. These sites provided not only contraceptive services but also prenatal, postnatal and well-baby care. Government clinics, exempt from the gag rule restrictions by U.S. law, have not been in a position to take up the slack, nor to regain the trust of the women who were turned away.

• Marie Stopes International (MSI) Kenya, an affiliate of the international, London-based NGO, which had provided services ranging from contraception to malaria screening and treatment to childhood immunizations, had to close a major clinic in Mathare Valley, one of the poorest areas in Nairobi. It was the only health facility serving that neighborhood of 300,000 people.

• Contraceptives themselves, already in short supply before the gag rule was applied, are no longer being shipped by USAID to 16 developing countries in Africa, Asia and the Middle East, and shipments have been sharply curtailed to 13 others. The Lesotho Planned Parenthood Association, for example, had received 426,000 condoms from USAID between 1998 and 2000. Now, USAID ships no condoms to Lesotho, a country in which one in four women is infected with HIV. (Previously, IPPF had been USAID's conduit to indigenous NGOs for the contraceptives; no substitute has emerged since the United States stopped working with IPPF).

• In Romania, where abortion is legal but contraceptives have only been generally available for little more than a decade, the gag rule is impeding the societal shift from reliance on abortion as a method of birth control to using contraception (see related story, page 7). The Romanian health ministry is poised to issue a new protocol requiring all abortion providers to offer contraceptive counseling to their patients;

ironically, no U.S. funds can be used to support this counseling aimed at reducing repeat abortion.

Gag Rule and Unsafe Abortion

Over a six-month period in 2002, the Center for Reproductive Rights conducted a parallel review, which provides insight into the reasons some NGOs may make the difficult decision to sacrifice U.S. family planning funds in order to preserve their ability to conduct "abortion-related activities." *Breaking the Silence: The Global Gag Rule's Impact on Unsafe Abortion,* released in October, also took a case-study approach. The Center visited and researched the situation in Ethiopia, Kenya, Peru and Uganda—all countries where abortion is severely restricted and unsafe illegal abortion is a significant contributor to high rates of maternal death and injury.

Worldwide, unsafe, clandestine abortions are the cause of an estimated 78,000 maternal deaths each year and many thousands more maternal injuries. Since the vast majority of these abortions are illegal, numerous developing countries are beginning to confront the reality that a first step toward responding to this major public health crisis is to reform their abortion laws.

A look at the situation in Ethiopia gives a sense of how the gag rule is "working" to postpone an informed, public discussion of the abortion issue. The Center reports that in this country where maternal mortality is among Africa's highest and where unsafe abortion is a major contributing factor, the National Office of Population recommended last year that "abortion law reform should be discussed by the reproductive health task force." But the task force, composed of representatives from local NGOs, government ministries, international organizations and donors, including USAID, has demurred, fearful of jeopardizing its relationship with USAID.

The Center explains that Ethiopian NGOs silenced by the gag rule are not in a position to counter baseless claims in the policy debate, such as the frequent assertion by parliamentarians and religious leaders that "abortion is only the plight of the urban elite." One high-ranking Ethiopian governmental official lamented that "the needed 'informed debate' on unsafe abortion will suffer….We talk in hiding, whispering to each other. This will continue until the global gag rule is ended or we have other means of funds."

Gag Rule Redux

It is becoming increasingly hard to escape the conclusion that where the issue is its overseas family planning and reproductive health programs, the administration considers success on the ground secondary to whether or not the implementing organizations meet its antiabortion litmus test. This operating principle underlies the family planning gag rule as well as the president's decision to cut off the U.S. contribution to the United Nations Population Fund ("Bush Bars UNFPA Funding, Bucking Recommendations of Its Own Investigators," *TGR,* October 2002, page 13). And it explains the administration's August action to cancel the State Department grant to the Reproductive Health for Refugees Consortium, which had planned to "expand HIV/AIDS prevention services and information to young people displaced by armed conflict" in Angola and the Congo.

The administration zeroed in on the Consortium because along with such groups as CARE and the International Rescue Committee, MSI is one of the seven members. MSI has long been a target of conservative hard-liners both because it provides safe abortion services and because it is one of UNFPA's implementing partners in China. Whether it was deemed guilty by association with UNFPA (itself a victim of guilt by association with China) or guilty by running afoul of a newly expanded gag rule covering State Department programs that had no other apparent targets, the administration has now ensured that MSI, already shunned as a USAID family planning partner, will not have ties to the State Department either.

As a matter of law, little can be done to reverse the administration's decision to cancel a discretionary grant to the Consortium, whatever the impetus for that decision may have been. At the policy level, however, at least the Senate has staked out clear ground in opposition to the gag rule wherever it may appear—including the new gag rule covering State Department family planning grants. (The administration explicitly exempted HIV/AIDS activities from the expanded gag rule policy.) As of now, the Senate has attached provisions overturning the original gag rule or blocking its expansion on three separate pieces of legislation.

Whatever funding streams it is attached to, the gag rule forces indigenous NGOs providing reproductive health care to the world's poorest women to make a terrible choice: sacrifice their ability to provide legal abortion-related services in their own country and their ability to advocate to stem the public health crisis of unsafe, clandestine abortion throughout the developing world, or sacrifice their eligibility for U.S. funding to provide desperately needed family planning services. As the investigations by Population Action International and the Center demonstrate, women pay a heavy price either way.

At least for now, the administration has decided that success of its HIV/AIDS initiative is too high a priority to saddle the program with a gag rule. It should place the same high priority on the family planning needs of the world's women.