The Global Gag Rule — An Antithesis to the Rights-Based Approach to Health

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The Global Gag Rule does not make sense. It is not applied to the US. Instead, it is applied to countries that are the poorest, that have the highest rates of maternal mortality.

Staff of a Kenyan Government
Population Policy Body[1]

Family planning assistance in the US has directly advanced, supported, and helped to build the infrastructure of family planning services in over 50 countries around the world since 1965. Family planning funds, channelled through the United States Agency for International Development (USAID), have allowed women and families around the world to improve their quality of life.[2]

Tragically, in recent years, it has become harder for USAID to achieve successes in family planning. Restrictions placed on US family planning funds have created lasting damage to family planning programs around the world that rely on US support.

On his first day in office in 2001, President George W. Bush reinstated a controversial policy (first instituted by the Reagan Administration in 1984) that infringes on the rights to health and life of women living in developing countries.[3] The policy in question, officially known as the Mexico City Policy,

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prohibits the following activities by health service providers whose clinics are funded by US family planning funds:

- The performance of abortions (except in cases of rape, incest, or a threat to the woman's life);
- The provision of advice and information regarding the benefits and availability of abortion as a method of family planning;
- The recommendation of abortion as an option even when other methods fail or are refused by clients;
- Lobbying one's own government to make abortion services available and to decriminalize abortion where it is illegal; and
- Conducting public information campaigns about the benefits and availability of safe abortion services.[4]

It is pertinent to note that even though the provision of certain abortion services is allowed on paper, in practice, the policy has had a tremendous chilling effect on providers who choose not to discuss abortion at all rather than risk losing their funding.[5] Due to its restrictions on the freedom to counsel women on abortion, or to lobby one's government, opponents refer to the policy as the Global Gag Rule. The Gag Rule is not a neutral policy, however. It is inherently discriminatory because it bans abortion-related advocacy only by those who support abortion. In addition, the Gag Rule goes further than any other versions of the policy introduced in the past because it prohibits organizations from using their *own* funds derived from *non*-US government sources for the aforementioned activities.[6] The Global Gag Rule is currently applied in over 50 countries in different parts of Asia, Africa, Eastern Europe, and Latin America. The Gag Rule, if enforced in the United States, would be unconstitutional.[7]

At its core, the Gag Rule forces NGOs receiving US family planning funds to make a cruel choice: they can either accept US funds, but with restrictions that could jeopardize the health of their patients; or they can choose to reject the policy and lose vital US funds, contraceptive supplies, and technical assistance.

Since the reinstatement of the Global Gag Rule in 2001, a number of US NGOs have documented the impact of the

policy on family planning services and on human rights around the world. Between 2001-2002 and 2004-2005, research was conducted by the Global Gag Rule Impact Project in Ethiopia, Kenya, Romania, Zambia, Tanzania, Ghana, Zimbabwe, Nepal, and the Dominican Republic to assess the impact of the Gag Rule on health services.[8] Also, since 2001, the impact of the Gag Rule on fundamental human rights, such as the right to free speech, has been documented by the Center for Reproductive Rights in Ethiopia, Kenya, Peru, and Uganda, and consistently monitored in Nepal.[9] The Center for Reproductive Rights has organized congressional briefings to apprise policy-makers in the United States of the Gag Rule's harmful effects.[10]

To illustrate the consequences of the Gag Rule, this commentary summarizes its impact in two countries—Kenya and Nepal. In Kenya, the Gag Rule's impact on access to health services is examined; while in Nepal, we focus on its impact on human rights more broadly.[11] In Kenya, harm is caused because organizations choose to stand against the policy and refuse the money; whereas in Nepal, harm is caused because the policy is being instituted. Our research has found that the Global Gag Rule is harming the lives and health of women, children, and families around the world. Overall, the Gag Rule is a policy that is incompatible with a rights-based approach to health because it undermines public health and violates human rights.

Impact on Health Services in Kenya

Kenya was one of the first sub-Saharan African countries to tackle population issues, and adopted a population policy in 1967.[12] By so doing, Kenya became a leader in the area of population policy in Africa and was considered a "model by the international population community."[13] Today, unfortunately, Kenyan family planning services are suffering. Of married women in Kenya in 2005, 25% have an unmet need for family planning.[14] Ante-natal care from health professionals has declined; maternal and infant mortality rates remain high; and unsafe abortion remains a public health threat, causing an estimated 33% of maternal deaths each year.[15]

Severe Disruption of Family Planning Services

Two of Kenya's leading family planning providers — the Family Planning Association of Kenya (FPAK) and Marie Stopes International Kenya (MSI Kenya) — rejected the Gag Rule's terms by refusing to sign new funding contracts with USAID. FPAK and MSI Kenya clinics are important providers of reproductive health services, including prenatal and postnatal obstetric care and HIV/AIDS prevention efforts, especially in rural areas. In many underserved areas, their clinics are the *only* source of affordable primary health care.

In rejecting the Global Gag Rule, FPAK and MSI Kenya "cited the ban on counselling and referral as the most problematic and unethical aspect of the policy. The concept of withholding information from patients contravened their physicians' and nurses' medical ethics and moral obligations, as well as violated their patients' trust and their right to information."[16]

As a result of rejecting the Gag Rule, Kenya's leading family planning organizations lost critical US family planning funds. FPAK lost 58% of its budget through direct and indirect cuts of US funds, while MSI Kenya lost 40% of its operating budget.[17] These funds supported important outreach activities at the two organizations and enabled the provision of numerous other health services, including child immunizations, HIV prevention, and nurse training.[18] FPAK and MSI Kenya had to lay off 30% or more staff, cut back services, and close eight family planning clinics (six FPAK clinics and two MSI clinics).[19] These clinics primarily provided poor and underserved populations with vital services, such as family planning; voluntary counseling and testing (VCT) for HIV/AIDS; management of sexually transmitted infections (STIs); post-abortion care; pap smears; and well-baby services. The closure of these eight clinics left over 28,000 clients without an alternative, affordable source of care and deprived a vast slum area in Nairobi of its sole family planning clinic.[20]

Other services that have either been cancelled or scaled back include long-term or permanent methods of family planning, child immunization, and outreach by community workers into rural areas.[21] The latter issue is of

particular concern as, aside from FPAK and MSI Kenya, no other organization carries outreach services into rural areas in Kenya.

HIV Prevention Efforts Hampered

By crippling the country's primary reproductive health care providers, the Gag Rule has also undermined HIV/AIDS prevention efforts in Kenya. Given that HIV/AIDS is primarily transmitted via heterosexual sex, a crucial link exists between HIV/AIDS and basic sexual and reproductive health care, and family planning providers can thus play a key role in HIV prevention. Unfortunately, by losing these financial resources, Kenya's leading family planning organizations have been severely restricted in their abilities to provide VCT and other HIV prevention services at their clinics.

The impact of the Gag Rule has come at a particularly bad time for Kenya. In a country where fertility rates are increasing, HIV/AIDS is ravaging the country, and fewer women are receiving pregnancy care, it is extremely damaging for the primary providers of reproductive health care to lose valuable US funds because of their decision to stand by their medical ethics and moral obligations. The major cuts in services as a result of clinic closures have had an immense impact on particularly vulnerable sectors of Kenyan society. Given that FPAK and MSI clinics primarily target underserved communities with no alternative (affordable) access to health care, their closure or cutting back of services instantly deprives the communities of access to health services and important education and information on HIV/AIDS. This impacts negatively on several rights, including rights to health, to life, and to information.

Within a human rights framework, the right to health encompasses a range of norms that include *availability*, *accessibility*, *acceptability*, and *quality* of various health care facilities, goods, and services.[22] It is thus ironic that the United States is enforcing a policy that has resulted in making health care *less* available, *less* accessible, and of *lower* quality in countries that rely on US funds. Thousands of primarily poor and marginalized men, women, and children in Kenya have either lost complete or substantial access to affordable reproductive health services over the past three to four years due to US policy.

Impact on Human Rights in Nepal

> *It is hypocritical of the United States, the supposed champion of democracy, to impose the Global Gag Rule on other countries, when it could not impose this in its own country. In my view, the Global Gag Rule inappropriately seeks to influence Nepal's democratic process.*
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> Anand Tamang, Director of a Nepalese NGO[23]

Nepal has one of the highest maternal mortality ratios in the world with international estimates ranging from 440 to 1,100 per 100,000 live births.[24] In 1998, the government's official ratio stood at 539 per 100,000 live births, but it is currently expected to be much higher because of the prolonged armed conflict.[25] Access to family planning is limited, with only 35% of all married women using a modern form of contraception.[26] Ninety percent of births still take place with the help of family members, friends, and traditional birth attendants.[27] It is estimated by local experts that about 50% of maternal deaths are due to unsafe abortion, which is almost four times the global average for this particular cause.[28]

As one of the poorest countries in the world, the Nepalese government is dependent on the support of international funders as well as public health advocates, service providers, and nongovernmental organizations (NGOs) to establish services and educate the public about its health and rights. USAID has been a major supporter of family planning programs in Nepal for over three decades, partnering with prominent NGOs such as the Family Planning Association of Nepal (FPAN) to provide comprehensive reproductive health services to women across the country through a network of local clinics.[29] Following the reinstatement of the Gag Rule by the Bush administration in 2001, FPAN's programs suffered major setbacks when it refused to accept the restrictions that were imposed.[30] Clinics were closed overnight, leading to an abrupt termination of critical reproductive health services to thousands of needy women.[31] Furthermore, in 2001, the country was in the midst of an abortion law reform movement. Following the successful decriminalization of abortion in September 2002, the government has had to rely extensively on NGOs for provision of abortion services and dissemination of infor-

mation about the amended law, as well as for monitoring the effective implementation of the amended law and related policies. These activities have been impeded by the imposition of the Gag Rule, which remains in effect to date but is rarely publicly discussed by local NGOs for fear of retribution by USAID.

Interference with the Provider-Client Relationship

The imposition created by the Gag Rule on providers' freedom of speech is problematic for a number of reasons. First, access to information about abortion can make all the difference between life and death for women in countries where access to family planning is limited, poverty is widespread, and women's ability to make independent decisions about their health is limited by illiteracy, social norms, and economic dependence on family members. For women constrained by these challenges, the local health service provider assumes an important role by acting as an advocate for their health interests and by giving legitimacy to their voices. As such, the ability of providers to be honest with their clients is not only an ethical imperative but a practical necessity.

Second, the right to freedom of speech is a basic human right recognized in Article 19 of the International Covenant on Civil and Political Rights, to which both the US and Nepal are signatories.[32] This includes the right to information, which is an important cornerstone of democracy and is guaranteed as a fundamental right by the Constitution of Nepal. This right assumes particular significance in the health care context, which calls upon providers to deliver accurate and complete medical information so that clients can make informed decisions about their health. The Gag Rule constitutes an unethical impediment to the right to freedom of speech of providers by making it impossible for them to give accurate medical information to their clients, which in turn makes it impossible for clients to exercise informed consent and participate meaningfully in decisions about their own health.

The Gag Rule has prevented providers from exercising the duty of care they owe to their patients, especially in situations where they feel that it is important for their pa-

tients to consider abortion as an option—one that is now legal under the country's own law.[33]

Until September 2002, abortion was illegal in Nepal under almost all circumstances, and this had devastating consequences for women's health and lives.[34] Studies show that complications of unsafe abortion have been the leading cause of hospital admissions for women, and illegal abortion has contributed to the higher number of women prisoners in Nepal, with the majority being sentenced to life in prison.[35,36] Although the law in Nepal has changed, awareness about the broad exceptions recently introduced by the government is low and the stigma associated with abortion still prevails. The risk of arrest and imprisonment continues. Consequently, while women have been thronging to the few government hospitals where safe abortion services are now available, abortions continue to be carried out in secret for the majority of women who live in rural Nepal.

Women who go to clinics funded by USAID cannot obtain objective health care information. This can be misleading for women who are not aware of the restriction on the providers' speech and may assume that they are getting the best advice possible. Those who are determined to have an abortion at any cost may, as a result of the provider's inability to perform an abortion or to refer the case to an alternative provider, become compelled to take their health into their own hands and subject themselves to life threatening procedures.

Interference with Public Advocacy

Abortion was legalized in Nepal after several years of advocacy and lobbying by health and women's rights groups. The leadership provided by FPAN was critical to the success of the movement.[37] When President Bush reimposed the Gag Rule in 2001, advocates in Nepal were in the midst of their struggle. Within months, FPAN lost $100,000 in funds and $400,000 worth of contraceptive supplies in addition to being forced to close a number of rural health clinics and lay off workers.[38]

Despite the silencing of health NGOs, abortion was decriminalized on broad grounds in Nepal in 2002 due to the persistent efforts of women's rights groups and the few

health organizations like FPAN that chose to (and could afford to) defy the Gag Rule for the sake of their principles. However, numerous local NGOs that could otherwise have brought critical insights to the practical aspect of service provision and realities in the field were not able to engage in the process because of the censorship imposed by the policy. In fact, since the reinstatement of the Gag Rule, USAID's presence in Nepal has engendered a climate that imposes direct censorship on health groups by forcing them to avoid using the terms "reproductive rights" and "advocacy" in their work.[39] This has created fear among health NGOs and has become an impediment to addressing the problem of unsafe abortion even though abortion is now legal.

Conclusion

Although our examples have focused solely on Kenya and Nepal, the Global Gag Rule policy is causing similar harm to public health services and human rights in many other countries around the world. Our research in Ethiopia, Ghana, Tanzania, Romania, the Dominican Republic, and other countries has found similar outcomes, including closed clinics, scaled back services, disruptions in HIV prevention activities, and the silencing of voices in the abortion debate.[40]

The Gag Rule is currently imposed only on foreign (that is, non-US) NGOs receiving US government money, but 10 years ago, the possibility of a gag on domestic family planning programs was debated in the US. The move was opposed by professional medical associations including the American Medical Association, American College of Obstetricians and Gynecologists, and American Nursing Association.[41] The American Bar Association adopted a policy condemning the move and noted that "it is clear that, to one seeking either legal or medical counsel, incomplete advice can be worse than no advice at all, misleading consumers into believing that they are receiving all of the information necessary to make informed choices, when in fact the advice is skewed toward a particular viewpoint."[42] The Global Gag Rule is thus unconscionable from both medical and legal points of view.

One of the stated goals of US foreign policy is the promotion of human rights, yet the Gag Rule undermines the very foundation of a rights-based approach to public health.[43]

Unlike a rights-based approach to health that focuses on aspects such as equity, dignity, and accessibility in public health programs and policies, the Gag Rule works to restrict and limit services and silence advocates. It rests on an ideological framework that is divorced from the specific public health problems and needs in resource-poor countries.

A human rights-based approach to public health focuses on the health needs of marginalized and vulnerable groups and ensures that they receive special attention.[44] The Global Gag Rule policy, by contrast, is negatively impacting clinics that provide services to underserved and vulnerable groups. As a result, the Gag Rule ends up harming those who merit the most protection.

Results like this can be avoided, however, if human rights are considered from the outset. The human rights and public health fields, therefore, can use the negative impact of such policies to highlight the necessity of a rights-based approach to public health. Today, such examples are vital as more policies along the lines of the Gag Rule are being promulgated by the US government. Other policy restrictions likely to harm public health and rights have been imposed on US funds, such as the compelled "anti-prostitution" speech attached to US HIV/AIDS assistance. This clause in the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 requires organizations that receive US funds to have an explicit policy opposing prostitution.[45] This requirement has been placed on both foreign and US-based organizations receiving money from the US government. It is harmful because it may prevent the organizations in the best position to carry out HIV prevention work from effectively conducting outreach, thereby exacerbating the risk of HIV infection.[46] In addition to infringing on freedom of speech ". . . the hostility to supporting sex workers' rights implicit in this policy — compounded by the ambiguity surrounding its implementation — may have a chilling effect on the provision of . . . critical services," such as the provision of condoms or other reproductive health services to sex workers.[47]

The United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act also stipulates that out of the $15 billion pledged for HIV/AIDS, 20% must be spent on HIV/AIDS prevention, of which at least 33% is to be spent

on programs promoting abstinence until marriage.[48] Yet again, we see here a policy that risks violating human rights. Individuals exposed to abstinence-only programs may fail to receive the full range of information they need to protect themselves effectively from HIV/AIDS. This is a violation of their right to information, and ultimately, their right to life.

Human rights and public health activists need to continue denouncing policies that violate freedom of speech and undermine public health programs, especially when these policies result in harm to the most vulnerable groups in society.

Unfortunately, the current climate of the human rights movement seems uncertain, especially in light of actions by the US that distance it from the global community. With the Bush Administration's overarching focus on the war against terrorism, many basic human rights are taking a back seat.[49] The large sums of funds required for "anti-terrorist" activities, such as preparing for a biological attack, mean that cuts in important areas of the domestic health care budget will be necessary.[50] Health care — be it domestic or international — is clearly not a priority to the US administration.

Nonetheless, today the US is still the world's largest donor of development assistance and has a long and successful history to be proud of, especially in the area of family planning.[51] This longstanding dedication to improving the health of men, women, and children in developing countries must be supported and encouraged. At the same time, however, the US government must recognize that health programs built upon policies that violate human rights can only result in more harm than good.

References

1. This statement was made by a Kenyan government official in early 2005, during the course of an interview conducted by the Global Gag Rule Impact Project (see note 8 for further details on the Gag Rule Impact Project). The speaker asked to remain anonymous.

2. USAID, *Family Planning* (Washington, DC: USAID, 2005). Available at www.usaid.gov/our_work/global_health/pop/index.html.

3. Population Action International, *The Global Gag Rule, History & Resource Library*. Available at www.populationaction.org/resources/publications/globalgagrule/GagRuleTimeline.htm#. The Mexico City Policy has its genesis in an announcement made at the International Conference on Population in Mexico City in 1984, where the US delegation announced that

the United States would no longer fund foreign, nongovernmental organizations that provide, refer, counsel, or advocate for abortion: "... the United States will no longer contribute to separate nongovernmental organizations which perform or actively promote abortion as a method of family planning in other nations." Policy Statement of the United States of America (United Nations International Conference on Population [Second Session], Mexico DF: August 16–13, 1984). Available at www.populationaction.org/resources/documents/MexicoCityPolicy1984.pdf. These restrictions became known as the Mexico City Policy and were later dubbed the "Global Gag Rule" by opponents. The Mexico City Policy was repealed in 1993 by President Bill Clinton. (To read Clinton's Memorandum repealing the Mexico City Policy, see http://www. clinton6.nara.gov/1993/01/1993-01-22-aid-family-planning-grants-mexico-city-policy.html.) It was reinstated by President George W. Bush in January 2001. (To read President Bush's memorandum reinstating the Mexico City Policy, see http://www.whitehouse.gov/news/releases/ 20010123-5.html.)

4. Presidential Documents, "Memorandum of March 28, 2001 — Restoration of the Mexico City Policy," Federal Register, Vol. 66, No. 61 (March 29, 2001): pp. 17301–13. Available at the Federal Register Online at www.wais.access.gpo.gov, DOCID:fr29mr01-157. Cited in Center for Reproductive Rights, *The Bush Global Gag Rule: A Violation of International Human Rights* (New York: October 2000): p. 3. It is also important to note that these activities are already prohibited by the Helms Amendment introduced in 1973. The Helms Amendment prohibits the use of US foreign funds for abortion. It states: "None of the funds made available under this Act may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions." HR 2673 Omnibus Appropriations Bill, Division D. FY 2004. Available at www.usaid.gov/our_work/global_health/pop/helms.html. The Mexico City Policy goes one step further than the Helms Amendment, however, by prohibiting not only the use of *US* funds for abortion but prohibiting organizations that accept US funds from using *any other non-US* funds for abortion activities, too.

5. Revealed to co-author Melissa Upreti in numerous interviews. Also supported by Center for Reproductive Rights, *The Bush Global Gag Rule Endangering Women's Health, Free Speech and Democracy* (New York: Center for Reproductive Rights, July 2003). Available at http://www.reproductiverights.org/pub_fac_ggrbush.html.

6. Population Action International, *The Global Gag Rule, History & Resource Library* (see note 3): 1984, Mexico City Policy Introduced. Basically, the Mexico City Policy states that US funds will simply not go to nongovernmental organizations that engage in abortion-related activities (see note 3). This means, therefore, that if an NGO decides to either provide, refer, counsel, or advocate on abortion at all (even with its own funding), it cannot receive US funds.

7. "It is unconstitutional for the federal government to prohibit US-based NGOs from using their own, private funds to exercise their constitutional right to free speech and to lobby in order to be eligible for federal funding ... With respect to federal funds for family planning, two lower courts have held that prohibitions on abortion counseling, referrals or

services as requirements for eligibility for such funds are unconstitutional." Center for Reproductive Rights, *The Bush Global Gag Rule: A Violation of International Human Rights* (see note 4): p. 17. Basically, freedom of speech laws prevent such a policy from being imposed on US NGOs. "Although it is constitutionally permissible for the US government to restrict how a US-based organization spends US government funds, the Constitution does not permit the legislature to impinge upon that organization's constitutional interests — including the right to free speech and association — by restricting how a grantee spends segregated funds received from other, non-US government sources." Center for Reproductive Rights, *The Bush Global Gag Rule: A Violation of International Human Rights* (see note 4): p. 17.

8. The Global Gag Rule Impact Project is a collaborative research effort led by Population Action International in partnership with Ipas, Planned Parenthood Federation of America, and the International Planned Parenthood Federation, with assistance in gathering evidence of impact in the field from EngenderHealth and Pathfinder International. Recognizing the historic leadership role of the United States in supporting voluntary family planning and related health care internationally, the project's objective is to document the effects of the Global Gag Rule on the availability of life-saving family planning services, as well as on efforts to address other major threats to public health, including HIV/AIDS and maternal deaths due to unsafe abortion. Available at www.globalgagrule.org.

9. Research was carried out through in-depth interviews with health workers and policy-makers. Available at www.reproductiverights.org/pub_bo_ggr.html. In addition, the impact of the Gag Rule on free speech has been established by testimonies provided by activists from Nepal and Peru at Congressional briefings organized by the Center for Reproductive Rights. Available at www.reproductiverights.org.

10. Testimonies from the first Congressional briefing are available at http://www.reproductiverights.org/hill_int_ggr.html.

11. Although the Gag Rule has had an impact on *both* health services and human rights in Kenya and Nepal, due to the shortage of space, we have focused on just one aspect of its impact in each country in order to go into some depth — something we would not be able to do if we attempted to cover both aspects of the impact in both countries.

12. C. E. Chimbwete, E. Zulu, and S. C. Watkins, "The Evolution of Population Policies in Kenya and Malawi," *Population Research and Policy Review* (2005): p. 3. Available at www.aphrc.org/publication?Working%20paper%2027.pdf.

13. Ibid.

14. Central Bureau of Statistics, *Kenya Demographic and Health Surveys, 2003, Preliminary Report* (Nairobi: 2003). Available at www.measuredhs.com/countries/country.cfm?ctry_id=20.

15. Central Bureau of Statistics, *Kenya Demographic and Health Surveys, 2003, Final Report* (Nairobi: 2003). Available at www.measuredhs.com/pubs/pdftoc.cfm?ID=462; and Global Gag Rule Impact Project, *Access Denied: The Impact of the Global Gag Rule in Kenya* (2005). Available at www.globalgagrule.org/caseStudy_kenya.htm. Also note that abortion is

illegal in Kenya except to save the woman's life.
16. *Access Denied: The Impact of the Global Gag Rule in Kenya* (see note 15).
17. Ibid.
18. Ibid.
19. Ibid.
20. Ibid.
21. Ibid.
22. Committee on Economic, Social, and Cultural Rights, General Comment No. 14, The Right to the Highest Attainable Standard of Health, UN Doc. E/C.12/2000/4 (2000), para. 12. Available at www.unhchr.ch/tbs/doc.nsf/(symbol)/E.C.12.2000.4.En?OpenDocument.
23. Full text is available at www.reproductiverights.org/pr_01_0214ggranand.html.
24. WHO, *Maternal Mortality in 2000: Estimates Developed by WHO, UNICEF, UNFPA* (Geneva: 2004): p. 25.
25. Family Health Division, Ministry of Health, *Maternal Mortality and Morbidity Study* (Nepal: 1998): p. 75.
26. Save the Children, *State of the World's Mothers* (Westport, CT: Save the Children, 2003): p. 40.
27. A. Bankole, S. Singh, and T. Haas, "Characteristics of Women Who Obtained Induced Abortion: A Worldwide Review," *International Family Planning Perspectives* 25/2 (1999): pp. 68–77.
28. P. Rana, "Fight Continues to End Harsh Abortion Law," *IPPF South Asia* (2000): p. 22; WHO, *Mother-Baby Package: Implementing Safe Motherhood in Countries* (Geneva: 1994): p. 2.
29. Global Gag Rule Impact Project. Available at http://www.globalgagrule.org/caseStudy_nepal.htm.
30. Ibid.
31. Ibid.
32. International Covenant on Civil and Political Rights, GA Res. 2200 (XXI), UN GAOR, 21st Sess., Supp. No. 16, at 49, UN Doc. A/6316 (1966). 999 UNTS 171. (Entered into force March 23, 1976.) Date of ratification by the US, June 8,1992. Date of ratification by Nepal, May 14, 1991.
33. Information provided by local providers to the co-author "off the record." Also supported by research documented by the Global Gag Rule Impact Project (see note 29).
34. Center for Reproductive Rights and Forum for Women, Law and Development, *Abortion in Nepal: Women Imprisoned* (New York: Center for Reproductive Rights, 2000): p. 23.
35. Family Health Division (see note 25).
36. Center for Reproductive Rights and Forum for Women, Law and Development (see note 34).
37. The Family Planning Association of Nepal (FPAN) was established in 1959, and it has been a leading provider of reproductive health services in the country. In his capacity as a member of the National Assembly (the upper house of Parliament) from 1993–1999, Sunil K. Bhandari, President of FPAN from 1991–2001, tabled a bill in Parliament for the legalization of abortion and the establishment of comprehensive services. This bill lapsed

with the conclusion of his tenure as a member of Parliament, but his initiative has been recognized as one of the major contributing factors leading the inclusion of amendments to the ban on abortion in the 11th Amendment Bill that ultimately led to the decriminalization of abortion on broad grounds in 2002. Details are available in Forum for Women, Law and Development (FWLD) and Planned Parenthood Global Partners, *Struggles to Legalize Abortion in Nepal and Challenges Ahead* (IPPF, 2003): p. 44.

38. Information communicated to Melissa Upreti in interviews with experts in Nepal. FPAN felt the impact of the gag when the International Planned Parenthood Federation – South Asia Region made a decision not to comply with the gag even if it meant that USAID would terminate its funding. Center for Reproductive Rights, *The Impact of the Global Gag Rule in Nepal*. Available at www.reproductiverights.org/pdf/bo_ggr.pdf.

39. Ibid.

40. See Global Gag Rule Impact Project, *The Gag Rule's Impact in Ethiopia*. Available at www.globalgagrule.org/caseStudy_ethiopia.htm; *The Gag Rule's Impact in Ghana*. Available at www.globalgagrule.org/caseStudy_ghana.htm; *The Gag Rule's Impact in Tanzania*. Available at www.globalgagrule.org/caseStudy_tanzania.htm; *The Gag Rule's Impact in Zambia*. Available at www.globalgagrule.org/country_zambia.htm; *The Gag Rule's Impact in Zimbabwe*. Available at www.globalgagrule.org/ country_zimbabwe.htm; *The Gag Rule's Impact in Romania*. Available at www.globalgagrule.org/caseStudy_romania. htm; *The Gag Rule's Impact in Nepal*. Available at http://www.globalgagrule.org/country_nepal.htm; and The Center for Reproductive Rights, *Breaking the Silence, the Global Gag Rule's Impact on Unsafe Abortion* (New York: Center for Reproductive Rights, 2003). Available at www.reproductiverights.org/pub_bo_ggr.html.

41. Center for Reproductive Rights, *The Bush Global Gag Rule* (see note 4): p. 4.

42. American Bar Association, Section of Individual Rights and Responsibilities, *Report with Recommendations #10H* (unanimously adopted August 1991): p. 4. Available at www.abanet.org/irr/committees/completereport.doc. Cited in Center for Reproductive Rights, *The Bush Global Gag Rule* (see note 4): p. 4.

43. "The protection of fundamental human rights was a foundation stone in the establishment of the United States over 200 years ago. Since then, a central goal of US foreign policy has been the promotion of respect for human rights, as embodied in the *Universal Declaration of Human Rights*. The United States understands that the existence of human rights helps secure the peace, deter aggression, promote the rule of law, combat crime and corruption, strengthen democracies, and prevent humanitarian crises." US Department of State, Bureau of Democracy, Human Rights, and Labor, *Human Rights*. Available at www.state.gov/g/drl/hr/.

44. J. Asher, *The Right to Health: A Resource Manual for NGOs* (London: Commonwealth Medical Trust, 2004): pp. 21–4.

45. "No funds made available to carry out this Act, or any amendment made by this Act, may be used to provide assistance to any group or organization that does not have a policy explicitly opposing prostitution and sex trafficking." United States Leadership against HIV/AIDS, Tuberculosis and

Malaria Act of 2003, 22 USC 7601 (23) (2003). This amendment ensures that no taxpayer funds designated for HIV/AIDS prevention may be used to promote or advocate the legalization of prostitution or sex trafficking, and that no funds may be given to any group or organization that does not have a policy explicitly opposing prostitution and sex trafficking.

46. SIECUS, "US HIV/AIDS Funding Dependent on Anti-Prostitution Pledge that Jeopardizes HIV Prevention Success," *Making the Connection*, 4/2 (2006). Available at www.siecus.org/inter/connection/conn0053.html#1.

47. Ibid.

48. United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (see note 45).

49. Human Rights Watch, "US Policy of Abuse Undermines Rights Worldwide," *World Report 2006*. Available at hrw.org/english/docs/2006/01/13/global12428.htm.

50. C. Connolly, "Bush Budget Would Cut Popular Health Programs," *Washington Post* (February 14, 2006). Available at www.washingtonpost.com/wp-dyn/content/article/2006/02/13/ AR2006021302065.html..

51. "The United States is consistently the world's largest bilateral donor to the developing world." The White House, "The Administration's Commitment to the Developing World," *News & Policies*. Available at www.whitehouse.gov/infocus/developingnations/developingworld.html. Also see USAID, *Key Achievements in Family Planning*. Available at www.usaid.gov/our_work/global_health/pop/news/achievements.html.