



# U.S. Foreign Policy

## Global Gag Rule

Also known as the “Mexico City Policy,” the Global Gag Rule was enacted in 1984 by President Reagan, rescinded in 1993 by President Clinton, reinstated in 2001 by President Bush, and rescinded again in 2009 by President Obama.<sup>1</sup> The policy prohibited organizations receiving U.S. foreign aid funds from using different, non-U.S. funds to provide legal abortion services, lobbying for abortion law reform, or providing counseling or referrals for abortion.<sup>2</sup>

- As a result of the gag rule, there had been a loss of funding leading to less available contraception, especially in Africa where the HIV/AIDS epidemic has been devastating.<sup>3</sup>
- Clinics closed and services were eliminated in several developing countries despite the fact they were sometimes the only healthcare facilities in their communities.<sup>4</sup>
- The rule may have actually increased abortion rates by denying contraceptive supplies to organizations that refuse to abide by the gag rule.<sup>5</sup>
- On January 23, 2009, in an effort to “protect and empower women and promote global economic development,” President Obama rescinded the Global Gag Rule.<sup>6</sup>

## United Nations Population Fund (UNFPA)

The United Nations Population Fund (UNFPA) is a healthcare program with a focus on reproductive health and family planning activities.<sup>7</sup>

- The Bush Administration withheld a total of \$127 million in appropriations for the UNFPA.<sup>8</sup> The U.S. is the only country ever to deny funding to UNFPA based on non-budgetary reasons.<sup>9</sup> The funds were initially withheld based on false information that UNFPA supported “forced abortion” in China, despite the fact that a State Department fact-finding team was unable to find evidence of these alleged practices.<sup>10</sup>
- UNFPA estimates that the \$34 million being withheld each year could have prevented two million unwanted pregnancies, 4,700 maternal deaths, 800,000 induced abortions, nearly 60,000 cases of serious maternal illness, and over 77,000 infant and child deaths.<sup>11</sup>
- On January 23, 2009, President Obama announced that he intends to restore U.S. financial support for the UNFPA.<sup>12</sup>

## The President’s Emergency Plan for AIDS Relief

The President’s Emergency Plan for AIDS Relief (PEPFAR) was launched in 2003 and reauthorized by Congress in 2008.<sup>13</sup> It has been criticized for the past six years for promoting a policy of abstinence at the expense of proven prevention methods, refusal to support clean needle exchange programs, and excluding traditionally marginalized populations, such as sex workers and LBGTQIQ persons.<sup>14</sup>

- In his 2003 State of the Union Address, President Bush announced the creation of PEPFAR—his initiative to fight the global HIV/AIDS pandemic—by offering \$15 billion in worldwide aid over five years.<sup>15</sup>
- President Bush reauthorized PEPFAR on July 30, 2008, recommitting government funding to the program until 2013. \$48 billion will be spent on PEPFAR programs, including \$39 billion for the bilateral HIV/AIDS program.<sup>16</sup>
- PEPFAR prioritizes funding for faith-based organizations, including those with little or no relevant international development experience. Four out of the top 40 funding recipients are faith-based organizations.<sup>17</sup>
- President Obama supports PEPFAR and deems it “effective.”<sup>18</sup>

## PEPFAR’s Ineffective Models

PEPFAR uses an Abstinence, Being Faithful, Condom Use (ABC) approach that has been highly criticized by reproductive healthcare organizations.<sup>19</sup>

- Only 20% of PEPFAR's budget has been allocated towards HIV prevention, and one-third of that money is to be used for ABC programs.<sup>20</sup>
- Experts interviewed for a Government Accountability Office report on PEPFAR found that the ABC directive hindered the development of integrated prevention programs that appropriately balanced ABC with other prevention methods.<sup>21</sup>
- The efficacy of the ABC approach is questionable when the vast majority (80%) of new HIV cases internationally is among married women or women in monogamous relationships.<sup>22</sup>
  - Abstinence is not an option for women who are raped or are coerced into sex.
  - Women are unable to control their partner's other sexual activities, placing them at risk for HIV even if the women are faithful.

PEPFAR's Prevention, Care, Treatment Model<sup>23</sup> is ineffective for men and, to a greater extent, for women.

- In Nigeria, the most populous country in Africa, married men are more likely than married women to engage in extramarital sex, and it is more acceptable for them to do so.<sup>24</sup>
  - Men may not want to negotiate condom use with their female partners.
  - Women in areas where PEPFAR funding is greatest have limited resources (i.e., they do not usually own property or have inheritance rights) in order to seek appropriate care.
  - Women may not seek treatment out of fear their health could be disclosed, either to their husband/partner or the community at large.<sup>25</sup>

## PEPFAR's Effects on Traditionally Marginalized Populations

- The Bush administration struck down clean needle exchange programs for intravenous drug users under PEPFAR.<sup>26</sup>
- PEPFAR marginalizes healthcare to sex workers by requiring any foreign organization receiving PEPFAR funds to officially oppose prostitution.<sup>27</sup> This "anti-prostitution pledge" results in less aid to organizations that do peer-based outreach services, many of which rely on building trust and credibility within these marginalized groups.<sup>28</sup>
  - Imposition of the "anti-prostitution pledge" led to Brazil refusing \$40 million in PEPFAR aid in 2005.<sup>29</sup>
- The Bush Administration heightened the stigma surrounding homosexuality in Africa by allowing religious groups to receive PEPFAR funding and limiting prevention, treatment, and care to strictly heterosexual couples and individuals.<sup>30</sup>
- PEPFAR recognizes prisoners, but not survivors of genocide, as an at-risk population for priority anti-retroviral (ARV) treatment.<sup>31</sup>

<sup>1</sup> LARRY NOWELS & CONNIE VEILLETTE, CONGRESSIONAL RESEARCH SERVICE, INTERNATIONAL POPULATION ASSISTANCE AND FAMILY PLANNING PROGRAMS: ISSUES FOR CONGRESS, CRS-5 to CRS-7 (2006), available at <http://ncseonline.org/NLE/CRSreports/06May/RL33250.pdf>; Memorandum from President Barack Obama to the Secretary of State (Jan. 23, 2009), available at [http://www.whitehouse.gov/the\\_press\\_office/MexicoCityPolicy-VoluntaryPopulationPlanning/](http://www.whitehouse.gov/the_press_office/MexicoCityPolicy-VoluntaryPopulationPlanning/).

<sup>2</sup> NOWELS & VEILLETTE, *supra* note 1, at CRS-5 & CRS-7.

<sup>3</sup> E.g., MEHLIKA HOODBHOY ET AL., Exporting Despair: The Human Rights Implications of U.S. Restrictions on Foreign Health Care Funding in Kenya, 29 *FORDHAM INT'L LAW JOURNAL* 1, 60-81 (2005); Ethiopia: Women Struggle, but Strings Bind U.S. Help, *DES MOINES REGISTER*, Oct. 29, 2006, available at <http://www.desmoinesregister.com/article/20061029/OPINION01/108130004/1001/NEWS>, [hereinafter *Women Struggle*].

<sup>4</sup> E.g., HOODBHOY ET AL., *supra* note 3, at 62-68; *Women Struggle*, *supra* note 3.

<sup>5</sup> Pathfinder International, *The Global Gag Rule: Undermining Women's Health and U.S. Foreign Policy*, [http://www.pathfind.org/site/PageServer?pagename=Advocacy\\_Resources\\_Fact\\_Sheets\\_Gag\\_Rule](http://www.pathfind.org/site/PageServer?pagename=Advocacy_Resources_Fact_Sheets_Gag_Rule) (last visited June 19, 2009).



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<sup>6</sup> Statement by Barack Obama, U.S. President, Jan. 24, 2009, available at <http://www.whitehouse.gov/statement-released-after-the-president-rescinds/> [hereinafter President Rescinds “Mexico City Policy”].

<sup>7</sup> United Nations Population Fund, <http://www.unfpa.org/about/index.htm> (last visited June 19, 2009).

<sup>8</sup> 34 Million Friends of UNFPA: Mobilizing the Grassroots to Save Women’s Lives, <http://www.unfpa.org/support/friends/34million.htm> 19, 2009).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> Thoraya Ahmed Obaid, UNFPA, Statement on U.S. Funding Decision (2002), <http://www.unfpa.org/news/news.cfm?ID=146&Language=1>.

<sup>12</sup> President Rescinds “Mexico City Policy,” *supra* note 6.

<sup>13</sup> United States President’s Emergency Plan for AIDS Relief, <http://www.pepfar.gov/about/> (last visited June 19, 2009).

<sup>14</sup> AVERT.org, What is PEPFAR?, <http://www.avert.org/pepfar.htm> (last visited June 19, 2009).

<sup>15</sup> *Id.*

<sup>16</sup> PEPFAR.GOV, REAUTHORIZING PEPFAR FACT SHEET, <http://www.pepfar.gov/documents/organization/107750.pdf> (last visited June 19, 2009).

<sup>17</sup> AVERT.org, PEPFAR Funding: How is the Money Spent?, <http://www.avert.org/pepfar-funding.htm> (last visited June 19, 2009).

<sup>18</sup> Statement by the President on Global Health Initiative, May 5, 2009, [http://www.whitehouse.gov/the\\_press\\_office/Statement-by-the-President-on-Global-Health-Initiative/](http://www.whitehouse.gov/the_press_office/Statement-by-the-President-on-Global-Health-Initiative/).

<sup>19</sup> ALVIN COLVIN & COLIN FELSMAN, Reevaluating PEPFAR: America’s AIDS Policy, 7 COLUMBIA POL. REV. 21, Dec. 2007, at 21-22, available at [http://archive.cpreview.org/issues/1207/december\\_issue.pdf](http://archive.cpreview.org/issues/1207/december_issue.pdf) (last visited June 19, 2009).

<sup>20</sup> U.S. GOV’T ACCOUNTABILITY OFFICE, GLOBAL HIV/AIDS: A MORE COUNTRY-BASED APPROACH COULD APPROVE ALLOCATION OF PEPFAR FUNDING 2 (2008), available at <http://www.gao.gov/new.items/d08480.pdf> (last visited June 19, 2009).

<sup>21</sup> *Id.* at 3.

<sup>22</sup> COLVIN & FELSMAN, *supra* note 19, at 22.

<sup>23</sup> PEPFAR, Accountability: Report on PEPFAR Partnerships for Prevention, Treatment, and Care, [http://www.pepfar.gov/press/fourth\\_annual\\_report/99832.htm](http://www.pepfar.gov/press/fourth_annual_report/99832.htm) (last visited June 19, 2009).

<sup>24</sup> DJ SMITH, MODERN MARRIAGE, EXTRAMARITAL SEX, AND HIV RISK IN SOUTHEASTERN NIGERIA 8, <http://www.mailman.hs.columbia.edu/sms/cgsh/pdf/DJSmith.pdf> (last visited June 19, 2009).

<sup>25</sup> *Id.*

<sup>26</sup> PEPFAR Watch, U.S. Opposition to Needle Exchange Cause AIDS Treatment Resolution to Be Withdrawn at WHO Meeting, [http://www.pepfarwatch.org/index.php?option=com\\_content&task=view&id=100&Itemid=100](http://www.pepfarwatch.org/index.php?option=com_content&task=view&id=100&Itemid=100) (last visited June 19, 2009).

<sup>27</sup> PEPFAR WATCH, Sex Workers, [http://www.pepfarwatch.org/index.php?option=com\\_content&task=view&id=23&Itemid=37](http://www.pepfarwatch.org/index.php?option=com_content&task=view&id=23&Itemid=37) (last visited June 19, 2009).

<sup>28</sup> CENTER FOR GENDER HEALTH AND EQUITY, POLICY BRIEF: IMPLICATIONS OF U.S. POLICY RESTRICTIONS FOR PROGRAMS AIMED AT COMMERCIAL SEX WORKERS AND VICTIMS OF TRAFFICKING WORLDWIDE 2-3 (2005), available at <http://www.genderhealth.org/pubs/ProstitutionOathImplications.pdf>.

<sup>29</sup> AVERT, What is PEPFAR?, <http://www.avert.org/pepfar.htm> (last visited June 19, 2009).

<sup>30</sup> INTERNATIONAL GAY AND LESBIAN HUMAN RIGHTS COMMISSION, OFF THE MAP: HOW HIV/AIDS PROGRAMMING IS FAILING SAME-SEX PRACTICING PEOPLE IN AFRICA, <http://www.iglhrc.org/binary-data/ATTACHMENT/file/000/000/9-1.pdf> (last visited June 19, 2009).

<sup>31</sup> AllAfrica.com, U.S. AIDS Funding Methods Questioned, May 4, 2008, <http://allafrica.com/stories/200805190215.html>.