

THE GLOBAL GAG RULE: A LESSON IN UNINTENDED CONSEQUENCES

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A deadly pandemic. Record unemployment amidst a collapsing economy. Illegal immigrants surging across the southwestern border. Racial fears and animosity tearing much of the country apart.

Not since FDR have so many mega-crises confronted a new President on his inauguration day.

Overlooked in the deluge of laws and executive orders signed by President Biden in his first 100 Days is a document that, at the end of the day, may be more consequential than the others.

We speak of the “**Memorandum on Protecting Women’s Health at Home and Abroad**” signed by the President on January 28, 2021. The memo rescinds the **Global Gag Rule** (GGR – AKA, the Mexico City Policy) which denies U.S. financial aid to nongovernmental agencies if they “**...advocate for, suggest, or even mention the word abortion.**”¹

Mr. Biden’s move is no surprise. Since its roll out at an international population conference in Mexico City in 1984, the Gag Rule has been adopted and rescinded along strictly partisan lines in the first week of every new presidential administration. It was rescinded by Democratic President Bill Clinton on Jan. 22, 1993; re-instated by Republican President George W. Bush on Jan. 22, 2001; rescinded again by President Obama on Jan. 23, 2009; and re-instated again by President Trump on Jan. 23, 2017.²

Implications of the GGR for global population growth are ambiguous. On the one hand, the goal of reducing abortion funding implies a desire to increase the number of live births, thereby increasing population growth. On the other hand, if GGR reduces support for family planning services, it could also lower access to modern contraception, thereby increasing unwanted pregnancies. This, in turn, could increase abortions because abortions and contraceptives are often seen as substitutes for each other.

Several studies have quantified GGR’s impact on abortions. Their results are remarkably similar. We summarize two of them below.

THE LANCET STUDY

In 2019 researchers for *The Lancet Global Health Journal* looked at data collected from sub-Saharan African countries during the Clinton, Bush and Obama administrations. Years when the gag rule was in place saw a 40% increase in abortion in the countries analyzed. This increase was mirrored by a decline in the

use of modern contraceptives and increased pregnancies.

“In other words: the policy worked directly counter to its purported anti-abortion goals.”³

Sub-Saharan women reportedly *want* fewer children, but their political leaders still believe that education and economic growth alone will trigger a reduction in fertility and population growth. Their ultimate goal is the elusive “**demographic dividend,**” a reduction in the number of children each worker must support.

“...To trigger such a sharp fall,” demographic scholars John May and Hans Groth wrote in 2017, “**countries must achieve a contraceptive revolution in which more than 75 per cent of couples are using modern contraceptive methods. The current rate in Sub-Saharan Africa is only 26 per cent.**”⁴ Given the Trump Administration’s recent expansion of the GGR to include family planning services, the much desired “**contraceptive revolution**” in Sub-Saharan Africa is probably less likely in Africa today than in 2017 when May and Groth wrote.

The good news: the deleterious pattern of more abortions and lower contraceptive use is reversed after the GGR is rescinded. “**These alternating patterns during periods when the policy is in place ...both strengthen the case for the role played by the policy and suggest that the effects of the policy are reversible.**”⁵

The Lancet researchers acknowledge that the full health consequences of GGR for women are not captured in their study: “**Because abortions are an important cause of maternal mortality, the increase in abortion that we find might also increase maternal deaths – and possibly disproportionately given that abortions under the policy could be less safe if they were less likely to be performed or guided by experienced organizations and providers.**”⁶

THE RUTGERS STUDY

Professor Yana Rodgers, faculty director of the Rutgers Center for Women and Work, researches women's health and labor market status around the world. In a 2018 study she found that women in Latin America and Africa were up to three-times more likely to have an abortion when the gag rule was in effect during President George W. Bush's two terms

(2001-08) than under the prior eight years of President Clinton.

Rodgers analyzed demographic and health survey data from 51 developing countries, covering about 6.3 million women. Using a rigorous statistical method known as regression analysis, she calculated the likelihood that women would have an abortion during and after the gag rule was in effect.

Here are her key findings:

| Region | Global Gag Rule Effect (2001-08) | Countries Most Exposed to Global Gag Rule |
|-----------------------------|---|---|
| Latin America | Women three times more likely to have an abortion | Bolivia, Nicaragua |
| Sub-Saharan Africa | Women twice as likely to have an abortion | Guinea, Mozambique, Senegal, Zambia |
| Eastern Europe/Central Asia | No net effect from global gag rule | Jordan |
| South/Southeast Asia | Women slightly less likely to have an abortion* | Cambodia, Nepal |

**In South and Southeast Asia, the relatively high cost of abortion compared to the cost of giving birth may be one reason for the declining abortion rate.*

Why does the GGR fail to deliver its avowed goal? Rodgers' explanation is simple: **“When the U.S. cuts off a critical stream of funding, some healthcare clinics in developing countries are forced to reduce staff or shut down altogether. This makes it harder for women living in those areas to get contraception. The result is more unintended pregnancies and more abortions.”**⁷

The unintended consequences extend beyond U.S. policy. Rodgers found no evidence that a country's own abortion law restrictions work as intended. If anything, restrictive local laws are associated with more unsafe abortions and greater maternal mortality in many developing countries.

“The research is clear,” Rodgers says. **“Women will find a way to have an abortion if they need to, even if it is illegal and in unsafe conditions.”**⁸

Professor Rodgers' analysis appears in her book *The Global Gag Rule and Women's Reproductive Health*, published by Oxford University Press in 2018.

THE TRUMP EXPANSION

The first gag rules focused solely on abortions. Under President Trump their scope expanded greatly.

In January 2017 the rule was broadened to include foreign NGOs (non-governmental organizations) that distribute birth control or provide family planning services. **Later that year the rule was expanded again, this time to all U.S. global health assistance, increasing the amount of money affected by the policy from roughly \$600 million to about \$12 billion in estimated planned funding in 2018, a 20-fold increase.**⁹

The new iteration affects health projects related to HIV/AIDS, nutrition, malaria, water and sanitation, tuberculosis and other infectious diseases. These are basic public health issues unrelated to abortion and family planning.

Even this unprecedented expansion did not satisfy the Trump administration. **“In May 2019,”** writes Zara Ahmed of the Guttmacher Institute, **“the**

Department of State issued new guidance that the gag rule would apply to sub-recipients of ‘gagged’ organizations, even if they do not receive any U.S. foreign assistance. Without warning, local organizations with no work supported by the U.S. government became subject to the policy simply because of an association with an organization that did, a stunning suppression of both the right to free speech and the practice of medicine.”¹⁰

Ahmed sees Trump’s GGR expansion as “...part of a weaponization of U.S. foreign assistance to systematically target global sexual and reproductive health and rights programs.”¹¹ It is “...a calculated strategy of going after services...that benefit critical populations, including women, immigrants, the LGBTQ+ community and many others. Although this strategy is designed to support domestic political goals, its impact is felt acutely by individuals around the world.”¹²

Ahmed looks, but finds no evidence of any positive developments (for example, an increase in contraception usage or a decrease in maternal mortality) stemming from the global gag rule and its recent expansion. Instead, new evidence from the Guttmacher Institute establishes that “**The global gag rule is bad public policy on every level.**”¹³

People seeking abortions: “At the most fundamental level, for people seeking abortion services, the global gag rule has caused fear, anxiety and narrowed options. When performed correctly, abortion is an extremely safe procedure and prevents maternal deaths caused from unsafe abortion or lack of postabortion care.”

People not seeking abortions: “[T]he global gag rule is harmful even to people not seeking abortion services. Due to changes in organizations’ capacity and services as a result of the loss of U.S. funding, there may be decreased availability of contraceptives, especially in areas with significant need.”

Health Care Providers: “The global gag rule is also damaging to health care providers and their relationships with patients. These individuals are dedicated to a profession based on science, technical excellence, and a commitment to the best interests of their patients. The gag rule harms them by undermining those values and inserting ideology in what should be a relationship grounded in trust and compassion.”

U.S. Foreign Policy: “Lastly, the gag rule is dangerous foreign policy. The United States has abdicated its role as a leader on supporting reproductive rights and global health programs more broadly. Other countries are stepping in to fill this void, but they cannot match the financial and technical contributions of the United States.”¹⁴ With nearly 220 million women who want to avoid pregnancy not using modern contraception, an increase in births or

abortions seems inevitable.

Countries that allow abortion: Most of the countries that receive U.S. health funding allow legal abortions in at least one of the cases prohibited by the gag rule: rape, incest, or threat to the life of the mother. “**In these instances, the United States is attempting to override or disregard local laws and dragging health care providers back to a time when abortion had to be performed clandestinely.**”¹⁵

THE HARD PART: UNDOING THE DAMAGE

The reprieve offered by Joe Biden’s election might last only one term. Then what?

“**Biden’s reversal of the policy won’t immediately change the situation on the ground. It doesn’t magically disappear with the stroke of the pen, unfortunately,**” Serra Sippel, president of the Center for Health and Gender Equity (CHANGE), says.¹⁶ It can take time for news of the new policy to reach every international organization that receives U.S. funding, or that works with those that do.

Sluggish bureaucracies – government and NGO alike – are part of the problem.

When Trump re-instated the ban in 2017, Planned Parenthood had to halt programs in 32 countries around the world. It now has to re-establish those programs – and that takes time. When President Obama rescinded the ban in 2009, it took Planned Parenthood more than 18 months to apply for and be awarded new U.S. funding, and another year to turn that funding into a project.¹⁷

“**The Trump [expansion of the gag rule] was so extensive that it caused some organizations to overreach and cancel programs simply because they were confused or afraid of violating it,**” says Sarah Shaw, Marie Stopes International’s head of advocacy.¹⁸

It also destroyed partnerships among organizations that had been collegial, “**The MSI program in Kenya, for example, cannot attend formal meetings for the country’s family planning working group because other organizations in attendance that do receive USAID funding don’t want to risk getting investigated for supporting an organization that does comply with the Mexico City policy.**”¹⁹

Can someone say “**Paranoid Police State?**”

When the policy is re-instated, family planning organizations face a hard choice: comply with the policy and retain U.S. government assistance, or maintain organizational goals that conflict with GGR policy and forgo government support.

In 2017 two of the largest family planning organizations – Planned Parenthood Federation and Marie Stopes International - refused to sign the expanded

GGR. Nearly four years later PPF estimated it had lost \$100 million, which could have prevented 4.8 million unintended pregnancies, while MSI lost \$30 million, and says it could have prevented 6 million unintended pregnancies and 1.8 million unsafe abortions.²⁰

The damage extends beyond finances. Those who work at MSI say the rule has “**lit a fire under ‘anti-choice’ movements**” throughout Africa.²¹ Directors of several MSI branches describe a “**chilling effect**” of the GGR that “**has generated stigma against the reproductive health services they provide, as well as emboldened groups that oppose women’s reproductive rights overseas.**”²²

“**The U.S. government being as big as they are, they set the tone for the world,**” Carole Sekimpi, director of MSI Uganda, says. “**We find more people speaking critically of sexual reproductive health [now.] The anti-choice movement is also really well funded. ... They come up with all sorts of stories and all sorts of allegations against our work.**”²³

Although her Uganda branch lost \$20 million in USAID funding because of the rule, Sekimpi believes the chilling effect on the organization’s work has been even more damaging.

CUTTING THE YO-YO STRINGS

The link between the gag rule and Presidential politics creates what one wag has called a “**yo-yo effect**,” whereby the lives and health of women on one side of the world depend on who occupies the oval office. This is not the way public policy should be made.

To cut the yo-yo strings, Congress should consider passing legislation impervious to Presidential politics. “**What we are looking for is a permanent legislative**

fix to this problem. And congressional legislation to prevent a future president from unilaterally reinstating the policy.”²⁴

Until then, President Biden’s reversal of the gag rule is doomed to be just another short-term fix.

NOTES

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7. Rutgers School of Management and Labor Relations, *News*, January 8, 2019.
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Edwin S. Rubenstein, president of ESR Research, is an experienced business researcher, financial analyst, and economics journalist. He has written extensively on federal tax policy, government waste, the Reagan legacy, and – most recently – on immigration. He is the author of two books: *The Right Data* (1994) and *From the Empire State to the Vampire State: New York in a Downward Transition* (with Herbert London, 1994). His essays on public policy have appeared in *The Wall Street Journal*, *The New York Times*, *Harvard Business Review*, *Investor’s Business Daily*, *Newsday*, and *National Review*. His TV appearances include *Firing Line*, *Bill Moyers*, *McNeil-Lehr*, *CNBC*, and *Debates-Debates*. Mr. Rubenstein has a B.A. from Johns Hopkins and a graduate degree in economics from Columbia University.

NOTE: The views expressed in this article are those of the author and do not necessarily represent the views of NPG, Inc.



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