October 15, 2017

The Honorable Secretary of State Rex W. Tillerson
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20520

Re: Civil Society Submission for Six-Month Review of “Protecting Life in Global Health Assistance” Implementation

Dear Secretary Tillerson:

On January 23, 2017, President Trump issued a Presidential Memorandum reinstating the “Mexico City Policy” (hereinafter referred to as the “Policy”). The memorandum directed the Secretary of State to extend, to the extent allowable by law, the Policy to global health assistance furnished by all departments or agencies.

On May 15, 2017, the administration renamed the Policy “Protecting Life in Global Health Assistance.” It issued further guidance on implementation and announced that the State Department would conduct a “thorough and comprehensive review” of the Policy over the subsequent six months, with particular attention to newly-covered global health programs.

The Center for Health and Gender Equity (CHANGE) respectfully presents this submission for the six-month review of the Policy’s implementation. CHANGE is a Washington, D.C.-based women’s rights organization that promotes sexual and reproductive rights as a means to achieve gender equality and the empowerment of all women and girls by shaping public discourse, elevating women’s voices, and influencing the U.S. government.

Background

Protecting Life in Global Health Assistance drastically expands the historic Mexico City Policy by making the prohibition of abortion-related activities a condition of all U.S. global health assistance. The Policy now applies to $8.8 billion in foreign assistance, including funding for HIV/AIDS, maternal and child health, family planning and reproductive health, malaria (including the President’s Malaria Initiative), tuberculosis, nutrition, and global health security.

The Policy now covers the President’s Emergency Plan for AIDS Relief (PEPFAR), which accounts for $6 billion of total global health funding. PEPFAR was created in 2003 under the Bush administration as part of a five-year, $15 billion “emergency” investment to address the global HIV/AIDS epidemic. It has since been renewed twice – in 2008 and 2013 – and in FY 2017, PEPFAR comprised 65 percent of total U.S. global health assistance. Data indicate that PEPFAR has helped avert more than 11 million AIDS-related deaths and almost 16 million HIV infections globally, a testament to the success of the program and, more broadly, to the positive impacts that U.S. investments in global health can have. Former President George W. Bush explicitly exempted PEPFAR from the Policy during his tenure.
As the world’s largest global health donor, the U.S. government’s expansion of the Policy to all global health assistance is poised to have far-reaching consequences on the progress made on HIV prevention and treatment, health systems integration, access to safe abortion, maternal mortality, and civil society engagement and advocacy.

**Early Impacts of Protecting Life in Global Health Assistance**

In March and April 2017, CHANGE, in partnership with the Walter Leitner International Human Rights Clinic at the Leitner Center for International Law and Justice at Fordham Law School, collected information from 17 organizations in sub-Saharan Africa on the immediate impacts of the Policy. CHANGE also conducted a fact-finding mission to Uganda and Swaziland in 2017 whose findings included impacts of the Policy. Our findings indicate that the implementation process has been rife with miscommunication and misunderstanding. Moreover, we found widespread concern amongst organizations about the potential increase in unsafe abortion as well as the impact on abortion-related services; health systems; a range of global health issues, including HIV/AIDS; and key populations.

**Misunderstanding and misinformation**

Misunderstanding and misinformation around implementation were common themes throughout our interviews. The majority of the organizations we spoke with mistakenly believed that the Policy was a reinstatement of the previous iteration, which only applied to organizations working with U.S. family planning funding.

Many organizations erroneously believed that their work did not fall within the provisions of the Policy. Some thought this was the case because they did not provide medical services, even though they provided information on reproductive health issues, including family planning and abortion.

The U.S. government instructed one organization to remove any kind of information that relates to abortion activities before the release of the Standard Provisions. Organizations are not obligated to alter their work until the updated Standard Provisions are incorporated into their funding agreement with the U.S. government. The organization was also told that it must remove information on adolescent pregnancy.

**Impact on unsafe abortion and abortion-related services**

Six of the 17 organizations we interviewed believe that the Policy will increase the number of unsafe abortions. Specifically, a global assessment conducted by one organization estimates an annual increase of 2.2 million unsafe abortions. Another organization interviewed by CHANGE anticipates an increase in abortion-related maternal deaths in Ethiopia, where it is based. These predictions are rooted in historical precedent: data indicate that previous iterations of the Policy are associated with increased rates of unsafe abortion.12

One organization we interviewed that receives 60 percent of its funding from the U.S. government has already terminated its abortion-related activities.
Impact on health and civil society networks
Half of the organizations we interviewed were concerned about the impact of the Policy on their networks. They expressed concern that as health clinics closed due to the Policy, those that stayed open would lack the capacity to deal with the onslaught of new clients and that the quality of their services may be harmed.

For example, one organization believes that the overflow of women to the few facilities that will continue providing abortion services while the Policy is in effect will impact the quality of these services. Another is concerned that NGOs that provide free or highly subsidized sexual and reproductive health programs will not have sufficient resources to offer them in the future. A third organization feared the forced shutdown of projects sites and reduction of personnel.

Organizations that do not directly provide abortion-related services stated that the policy will have a negative impact on their work because they will not be able to refer women to organizations that do. The potential bottleneck in referrals and service provision that could result would reverberate through entire health systems.

Impact reaches organizations that do not receive U.S. funding
Even organizations that do not receive U.S. foreign assistance will see their activities constrained. An organization which does not receive U.S. assistance and runs a safe abortion hotline in Kenya that refers women to clinics providing abortion and post-abortion care stated that if partner organizations to which they refer women are restrained by the Policy, its own work on sexual and reproductive rights will be affected.

Additionally, eight other organizations that were not receiving U.S. funding expressed concern about the effect of the Policy on the NGO networks in which they participate.

Impact on newly-covered global health programs
Multiple organizations expressed concern about the impact that the Policy would have on the HIV/AIDS response. One organization that provides integrated HIV and reproductive health care underscored the harm that comes when patients stop antiretroviral treatment and worried about continuation of care. In 2016, PEPFAR supported 11.5 million of the 19.5 million people living with HIV on antiretroviral treatment worldwide.13

Integrated HIV and reproductive health services strengthen access to HIV prevention and treatment. For example, a pregnant woman is often tested for HIV by a health provider at a maternal health or family planning facility. The facility then provides a referral for the woman to receive HIV treatment from an HIV provider. Prevention of mother to child transmission programs rely on referrals of pregnant women who have tested positive for HIV while seeking maternal or other reproductive health services. Ensuring that pregnant women and girls obtain access to care is vital for their own health and for reducing transmission of HIV to the fetus or newborn. With HIV/AIDS, maternal health, and family planning funding impacted by the Policy, these linkages may be severed.
Groups also expressed concern about the impact of the Policy on efforts to stop the spread of the Zika virus, including potential constraints on the dissemination of information on the Zika virus, particularly for pregnant women. Additionally, organizations were worried about implications for treatment of tuberculosis and malaria.

**Impact on key populations**

Multiple organizations also noted that the Policy could exacerbate the already unstable situation of vulnerable groups. One organization emphasized that its clinics serve as safe spaces for key populations, such as sex workers and adolescents, where they can share knowledge and experiences with one another, in addition to having access to tailored, vital, HIV and reproductive health care services.

**Recommendations**

This unanticipated and unstudied expansion of a policy to 15 times the amount of global health assistance requires thorough monitoring and evaluation. Considering that, as of this writing, most contracts and agencies have not been fully impacted, this review should be considered preliminary to comprehensive annual reviews, with real mechanisms to alter the Policy.

As demonstrated above, organizations are already experiencing and/or anticipating impacts to their global health programs, the consequences of which extend to their clients, networks, and communities. The role of foreign assistance is not meant to be to spread fear, uncertainty, and inefficiency, and the Policy is undermining our own investments. The U.S. government should take the following concrete, immediate steps to address communication issues with the implementation process and to mitigate harm caused by the Policy.

- All relevant departments and agencies should communicate clear, comprehensive policy and implementation guidelines to their grantees and sub-grantees, including those with no direct contact to grant administrators.
  - Such communications should clearly delineate activities that are not included, such as post-abortion care, safe abortion care in cases of rape, incest, and life endangerment of the woman, and emergency contraception.
  - Such communications should clearly state that organizations can continue to provide information and services until the Standard Provisions are incorporated into their funding agreement.
- The Secretary of State must utilize his power to grant case-by-case exemptions to organizations in order to mitigate the harm to U.S. investments.
- Strengthen sexual and reproductive health programs, including post-abortion care services, safe abortion care in cases of rape, incest, and life endangerment of the woman, and access to emergency contraception.
• Minimize disruption to commodity supply chains, including for male and female condoms; contraception; emergency contraception; pre-exposure prophylaxis (PrEP); and post-exposure prophylaxis (PEP).

• Mitigate harm to civil society engagement through clear information about permitted activities, such as participation in coalitions and attendance at meetings relating to an organization’s work.

• The Department of State should conduct robust, transparent annual reviews that monitor and evaluate the impacts of the Policy. Such reviews should involve consultations with a wide variety of stakeholders, and should assess all health outcomes that fall under global health programs, including but not limited to: abortion, maternal and child health, family planning and reproductive health, HIV/AIDS, tuberculosis, malaria, Zika virus, nutrition, global health security, neglected tropical diseases, non-communicable diseases, and water, sanitation, and hygiene (WASH);
  o Such reviews should disaggregate data by age and sex and pay particular attention to impacts on key populations, including people living with HIV, adolescents, and LGBTQ populations.

Please do not hesitate to contact us if you would like to discuss these issues further at ssippel@genderhealth.org, and 202-393-5930.

Thank you for your attention to this matter.

Sincerely,

[Signature]

Serra Sippel
President
3 Id.  
5 Id. at 5.  
12 See Eran Bendavid, Patrick Avila & Grant Miller, United States aid policy and induced abortion in sub-Saharan Africa, 89 BULLETIN OF THE WORLD HEALTH ORGANIZATION 873 (2011).  
13 PEPFAR, PEPFAR 2017 ANNUAL REPORT TO CONGRESS, supra note 10, at 5-6.