

The **global gag rule (GGR)** is a U.S. foreign policy that, when in effect, prohibits foreign nongovernmental organizations (NGOs) that receive certain categories of U.S. foreign assistance funds from *using their own, non-U.S. funds* to:

- Provide abortion as a method of family planning.<sup>1</sup>
- Counsel and refer for abortion as a method of family planning.
- Conduct public information campaigns on the benefits or availability of abortion as a method of family planning.
- Advocate for liberalizing abortion laws or lobby for the continued legality of abortion as a method of family planning.<sup>2</sup>

The policy includes exemptions in cases of rape, incest, or if the life of the pregnant woman is at risk. It also exempts post-abortion care<sup>3</sup> and counseling and referrals for abortion as a method of family planning in limited situations.<sup>4</sup>

**Under the GGR, foreign NGOs are forced to choose between two options:**

- Accept U.S. funds and be prohibited from providing abortion counseling, referrals, or services, as well as advocacy around abortion, outside of the three exceptions.
- Refuse U.S. funds and attempt to secure alternate sources of funding in order to continue providing comprehensive health services to clients and advocating for law reforms to reduce unsafe abortion.

First enacted by President Ronald Reagan in 1984, the policy has since been put in place by every Republican president and rescinded by every Democratic president. Historically, the GGR restrictions have applied to funding for international family planning.<sup>5</sup> Under these previous iterations, the GGR has:

- Prevented women and girls from accessing contraception and safe abortion consistent with the laws in their countries.<sup>6</sup>
- Been associated with increased abortion rates.<sup>7</sup>
- Been associated with increases in unintended pregnancies.<sup>8</sup>
- Led to negative child health outcomes.<sup>9</sup>
- Hampered HIV prevention efforts.<sup>10</sup>
- Forced health clinics to close.<sup>11</sup>
- Obstructed rural communities' access to health care.<sup>12</sup>
- Removed funding from humanitarian settings, which could have negatively affected the speed and effectiveness of humanitarian aid.<sup>13</sup>

On January 23, 2017, President Donald Trump reinstated and dramatically expanded the GGR. His unprecedented version of the policy is renamed "Protecting Life in Global Health Assistance" and targets all global health assistance furnished by all U.S. agencies. This means that Trump's policy applies to funding for HIV and AIDS; family planning and reproductive health; maternal and child health; malaria; tuberculosis; nutrition; non-communicable diseases; water, sanitation and hygiene (WASH) at the household and community levels; and more<sup>14</sup> —equal to nearly **\$9 billion** in U.S. funds annually.<sup>15</sup> Of this, **\$6 billion** alone is funding for HIV and AIDS.

One year into Trump's expanded GGR, evidence has already emerged on the confusion and harms that the policy is inflicting around the world. CHANGE has documented the impacts on a range of global health areas as well as on advocacy and civil society spaces.<sup>16</sup> The only way to permanently end this devastating policy is through legislation such as the [Global HER Act](#).

<sup>1</sup> Abortion as a method of family planning is defined as “for the purpose of spacing births.” This includes for the physical or mental health of the woman.

<sup>2</sup> UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT (USAID), STANDARD PROVISIONS FOR NON-U.S. NONGOVERNMENTAL ORGANIZATIONS: A MANDATORY REFERENCE FOR ADS CHAPTER 303 87 (2017), available at <https://www.usaid.gov/sites/default/files/documents/1868/303mab.pdf>.

<sup>3</sup> *Id.* at 86-87.

<sup>4</sup> *Id.* at 87. The GGR includes an exception for “passive referrals” for abortion—in countries where abortion is legal for reasons broader than life endangerment, rape, or incest. The “passive referral” exception permits a health care provider to tell a woman where she can obtain an abortion if the woman is already pregnant; clearly states that she has already decided to have a legal abortion; asks where a safe and legal abortion can be obtained; and the provider believes that the ethics of the medical profession in the country require a response regarding where an abortion may be safely and legally obtained. The GGR also stipulates that if health care providers have an “affirmative duty” under local law to provide counseling and referral for abortion as a method of family planning, compliance with local law will “not trigger a violation” of the GGR. This affirmative defense likely has some application in over a dozen countries impacted by the GGR. For example, South Africa’s abortion laws permit abortion far beyond the scope of the three GGR exceptions, and its Constitution, local laws, case law, and provider guidelines provide ample precedent that providers are required to counsel and refer for abortion services. Providers in South Africa must invoke the affirmative defense; doing so will “not trigger a violation of” the GGR.

<sup>5</sup> See Memorandum on Restoration of the Mexico City Policy, 37 WEEKLY COMP. PRES. DOC. 216 (Jan. 22, 2001); Restoration of the Mexico City Policy, 66 Fed. Reg. 17,303 (Mar. 29, 2001).

<sup>6</sup> Sneha Barot & Susan A. Cohen, *The Global Gag Rule and Fights over Funding UNFPA: The Issues That Won’t Go Away*, 18 GUTTMACHER POLICY REVIEW 27, 28-30 (2015) [hereinafter Barot & Cohen, *The Global Gag Rule and Fights over Funding UNFPA*]; Center for Reproductive Rights, Expanded Global Gag Rule Limits Women’s Rights and Endangers Their Well-being (Jan. 15, 2009), <https://www.reproductiverights.org/document/expanded-global-gag-rule-limits-womens-rights-and-endangers-their-well-being>; PAI, HOW THE GLOBAL GAG RULE UNDERMINES U.S. FOREIGN POLICY AND HARMS WOMEN’S HEALTH 2 (2010), available at <http://pai.org/wp-content/uploads/2010/06/PAI-Gag-PIB.pdf>.

<sup>7</sup> Eran Bendavid, Patrick Avila & Grant Miller, *United States aid policy and induced abortion in sub-Saharan Africa*, 89 BULL. WORLD HEALTH ORGAN. 873, 876-877 (2011); KELLY M. JONES, INTERNATIONAL FOOD POLICY RESEARCH INSTITUTE, EVALUATING THE MEXICO CITY POLICY: HOW US FOREIGN POLICY AFFECTS FERTILITY OUTCOMES AND CHILD HEALTH IN GHANA 11-21 (2011), available at <http://www.poppov.org/~media/PopPop/Documents/events/6thAnnConf/jones-2011-mexico-city-fertility.pdf> [hereinafter JONES, EVALUATING THE MEXICO CITY POLICY]; Yana Rodgers, *Impact of the Gag: New Estimates*, in THE GLOBAL GAG RULE AND WOMEN’S REPRODUCTIVE HEALTH: RHETORIC VERSUS REALITY (forthcoming 2018).

<sup>8</sup> JONES, EVALUATING THE MEXICO CITY POLICY, *supra* note 7, at 13-14.

<sup>9</sup> *Id.* at 17-19.

<sup>10</sup> Barot & Cohen, *The Global Gag Rule and Fights over Funding UNFPA*, *supra* note 6, at 29. See also Barbara B. Crane & Jennifer Dusenberry, *Power and Politics in International Funding for Reproductive Health: the US Global Gag Rule*, 12 REPROD. HEALTH MATTERS 128, 132 (2004); PAI, ACCESS DENIED: THE IMPACT OF THE GLOBAL GAG RULE IN ETHIOPIA 6 (2005), available at <https://pai.org/wp-content/uploads/2016/12/Access-Denied-The-Impact-of-the-Global-Gag-Rule-in-Ethiopia.pdf> [hereinafter PAI, ACCESS DENIED: ETHIOPIA]; PAI, ACCESS DENIED: THE IMPACT OF THE GLOBAL GAG RULE IN GHANA 2, 6-7 (2005), available at <https://pai.org/wp-content/uploads/2016/12/Access-Denied-The-Impact-of-the-Global-Gag-Rule-in-Ghana.pdf> [hereinafter PAI, ACCESS DENIED: GHANA].

<sup>11</sup> See, e.g., PAI, ACCESS DENIED: U.S. RESTRICTIONS ON INTERNATIONAL FAMILY PLANNING 3 (2003), available at <http://trumpglobalgagrule.pai.org/wp-content/uploads/2017/04/Access-Denied-Executive-Summary.pdf> [hereinafter PAI, ACCESS DENIED: U.S. RESTRICTIONS ON INTERNATIONAL FAMILY PLANNING]. See also Susan A. Cohen, *Global Gag Rule Revisited: HIV/AIDS Initiative Out, Family Planning Still In*, 6 THE GUTTMACHER REPORT ON PUBLIC POLICY 2, 2 (2003); PAI, ACCESS DENIED: THE IMPACT OF THE GLOBAL GAG RULE IN KENYA 3 (2006), available at <http://pai.org/wp-content/uploads/2016/12/Access-Denied-The-Impact-of-the-Global-Gag-Rule-in-Kenya.pdf> [hereinafter PAI, ACCESS DENIED: KENYA].

<sup>12</sup> PAI, ACCESS DENIED: U.S. RESTRICTIONS ON INTERNATIONAL FAMILY PLANNING, *supra* note 11, at 5; PAI, ACCESS DENIED: ETHIOPIA *supra* note 10, at 5; PAI, ACCESS DENIED: GHANA, *supra* note 10, at 1-3, 6; PAI, ACCESS DENIED: KENYA, *supra* note 11, at 1-2; PAI, ACCESS DENIED: THE IMPACT OF THE GLOBAL GAG RULE IN NEPAL 4-6 (2006), available at <http://pai.org/wp-content/uploads/2016/12/Access-Denied-The-Impact-of-the-Global-Gag-Rule-in-Nepal.pdf>; PAI, ACCESS DENIED: THE IMPACT OF THE GLOBAL GAG RULE IN ZAMBIA 6 (2006), available at <https://pai.org/wp-content/uploads/2016/12/Access-Denied-The-Impact-of-the-Global-Gag-Rule-in-Zambia.pdf>; PAI, ACCESS DENIED: THE IMPACT OF THE GLOBAL GAG RULE IN ZIMBABWE 3 (2005), available at <https://pai.org/wp-content/uploads/2016/12/Access-Denied-The-Impact-of-the-Global-Gag-Rule-in-Zimbabwe.pdf>.

<sup>13</sup> Susan A. Cohen, *The Reproductive Health Needs of Refugees and Displaced People: An Opening for Renewed U.S. Leadership*, 12 GUTTMACHER POLICY REVIEW 15, 16 (2009); Rachel L. Swarns, *U.S. Cuts Off Financing for AIDS Program, Provoking Furor*, NEW YORK TIMES, Aug. 27, 2003, <https://www.nytimes.com/2003/08/27/world/us-cuts-off-financing-for-aids-program-provoking-furor.html>.

<sup>14</sup> U.S. DEPT. OF STATE, PROTECTING LIFE IN GLOBAL HEALTH ASSISTANCE, FACT SHEET, May 15, 2017, available at <https://www.state.gov/r/pa/prs/ps/2017/05/270866.htm>.

<sup>15</sup> U.S. Department of State, PRM Press Guidance, Implementation of Protecting Life in Global Health Assistance (Formerly known as the “Mexico City Policy”) (May 15, 2017), at 1 (on file with the Center for Health and Gender Equity (CHANGE)).

<sup>16</sup> CHANGE, PRESCRIBING CHAOS IN GLOBAL HEALTH: THE GLOBAL GAG RULE FROM 1984-2018 (2018), available at [http://www.genderhealth.org/files/uploads/change/publications/Prescribing\\_Chaos\\_in\\_Global\\_Health\\_full\\_report.pdf](http://www.genderhealth.org/files/uploads/change/publications/Prescribing_Chaos_in_Global_Health_full_report.pdf).