2006 UPDATES

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THE IMPACT OF THE GLOBAL GAG RULE IN NEPAL

THE GAG RULE CONFLICTS WITH THE NEPALESE GOVERNMENT'S efforts to address a major public health crisis by hindering its ability to follow through on democratically supported legal change.

OVERVIEW

> "You are creating a standard that is not a problem in your country but is a problem in a third-world country that is in need of reproductive health services."
>
> Staff, Nepalese NGO

The Global Gag Rule has impeded the success of the U.S. Agency for International Development (USAID) in promoting the use of family planning services in Nepal by terminating the innovative programs that provide reproductive health care to remote communities. The gag rule is also at odds with the Nepalese government's ability to democratically enact and implement a law designed to reduce unsafe abortion, which is a public health crisis for Nepali women and their families.

Established in 1959, the Family Planning Association of Nepal (FPAN) is a leader in reproductive health care in the country and is responsible for the vast majority of family planning services provided by non-governmental organizations (NGOs). USAID began working with FPAN in the early 1970s to achieve its objective of expanding access to and use of family planning services in Nepal. In 1973, with USAID funding, EngenderHealth (a U.S.-based NGO) partnered with FPAN to operate three major clinics: one located in Kathmandu valley, another in Bharatpur town in the Chitwan district and one in Dharan town in the Sunsari district. These clinics focused on providing a full range of high-quality family planning services, including sterilization.

CONSEQUENCES OF THE GLOBAL GAG RULE

- USAID's efforts to increase the use of family planning services in Nepal have been hampered.
- A loss of US$100,000 per year in funding has forced Nepal's leading family planning organization to lay off 60 clinic staff members, including doctors and nurses.
- Mobile clinics providing reproductive health care to rural regions have been discontinued, leaving clients without access to services.
- NGOs that supported the government's legalization of abortion have been silenced.
- U.S. restrictions have infringed upon Nepalese sovereignty by creating barriers to its efforts to deal with the public health crisis of unsafe abortion.

DEMOGRAPHICS

Population: **27.1 million (by 2005)**[1]

Percentage of women aged 15-49: **49.6%**[2]

Contraceptive prevalence (natural and modern methods): **39.3%**[3]

HIV prevalence in adults aged 15-49: **0.5%**[4]

Average births per woman: **3.35**

Percentage of population aged 24 or younger: **59.1%**[6]

Life expectancy: **63.6 years**[7]

Abortion policy: **Abortion is legal during the first 12 weeks of pregnancy - up to 18 weeks in cases of rape or incest - and at any time if a woman's life or health is in danger or if there is fetal impairment.**[8]

A HISTORY OF FAMILY PLANNING SERVICES IN NEPAL

1950

1959

Medical doctors and social workers form the Family Planning Association of Nepal (FPAN).

1960

1960

FPAN is officially affiliated with the International Planned Parenthood Federation (IPPF).

1965

The Nepalese government initiates family planning policies and programs.

1970

1973

AVSC International, later known as EngenderHealth, begins working with FPAN to deliver family planning services with USAID funding.

1980

1984

The Reagan administration announces the Mexico City Policy.

1990

1993

The Mexico City Policy is rescinded by President Clinton.

1994

Sunaulo Parivar Nepal is established as a Marie Stopes affiliate (MSI Nepal).

1995

The Post-Abortion Care (PAC) program is initiated in Nepal with USAID funding. A PAC training site is established at Maternity

Today, FPAN provides 25-30% of the total family planning services in Nepal. FPAN serves nearly half of the country's 75 districts, working primarily in the southern flatlands where Nepal's population is concentrated. FPAN provides a wide range of primary and reproductive health care: contraceptive counseling and services; infertility diagnosis and treatment; immunization; general health check-ups; and legal abortion services.

> "The worst thing about the gag rule is that it doesn't make sense. It is disrupting the projects that were already happening."
>
> *Staff, Nepalese NGO*

Nepal's other NGO provider is Sunaulo Parivar Nepal (MSI Nepal), the local affiliate of Marie Stopes International. Established in 1994, MSI Nepal opened its first clinic in southern Nepal where factories are located, providing health care for factory and industry workers. In little more than a decade, MSI Nepal now runs 27 clinics providing primary health care, family planning, pre- and postnatal care, abortion, youth-friendly services and child rearing education. The clinics also use community-based volunteers who provide family planning information and services door-to-door, as well as make referrals for clinic-based health care.

Located primarily at the village level, MSI Nepal services are especially critical in light of ongoing political conflict between the government and the Maoist rebels. Government health facilities are disrupted, as are local transportation routes, making it difficult for clients to access services. Prior to the reinstatement of the gag rule, MSI Nepal received USAID family planning assistance for its mobile reproductive health clinics. These clinics helped ensure that services such as voluntary surgical sterilization were available and accessible to rural populations in areas without hospitals. Sterilization is the most popular method of family planning in Nepal among couples. MSI Nepal performs fully 28 percent of the procedures in the country.

Nepal has among the highest rates of maternal mortality in the world; an estimated 50 percent of these deaths are attributed to unsafe abortion. Reproductive health professionals, the Nepalese government and members of the NGO and women's legal communities have collaborated to work toward the liberalization of Nepal's formerly restrictive abortion law, which mandated that women who obtain abortions be imprisoned. Their work influenced the passing of a bill in 2002 to legalize abortion, for which more than 99 percent of the members of the House of Representatives voted in favor. The Ministry of Health (MoH) has since worked to promote access to safe abortion. With the technical support of Ipas, GTZ (German aid agency) and the Nepal Safer Motherhood Project (an affiliate of the U.K. Department for International Development),

the Family Health Division of the MoH trains providers on safe abortion care. Forty-three sites have been registered for service provision in 27 districts.

Also working to address this public health crisis, USAID established post-abortion care (PAC) programs in Nepal to promote the treatment of injuries and infections due to unsafe and incomplete abortion. USAID-funded NGOs have trained government PAC providers who serve more than 45 districts in Nepal.

FAMILY PLANNING SERVICES LIMITED

> "In the case of family planning services, prenatal and postnatal care, these services used to be available for a low cost. After the gag rule, people paid more. It is definitely some of the very poor and economically weak who are affected."
>
> *Staff, Nepalese NGO*

Unwilling to abide by the terms of the gag rule, FPAN lost its 32-year partnership with USAID. EngenderHealth immediately withdrew $100,000 that directly supported three clinics providing reproductive health services to more than 20,000 clients. Although some of the funding gap was later filled by other donors, FPAN terminated a total of 60 staff members, including about 40 that had been supported by EngenderHealth, and introduced a fee for services in order to generate revenue to keep the clinics running.

The number of doctors serving these communities was reduced. In clinics with two doctors, one was laid off. In clinics with one full-time doctor, she/he went part-time. In a country where female sterilization is the most widely used method of family planning (followed by injectables and male sterilization)[9], reducing medical staffing has a tremendous impact on FPAN's most rural and impoverished clients' access to permanent and long-term methods of family planning – methods that require medical personnel.

FPAN also lost $400,000 in USAID-funded contraceptives, which represented two-thirds of its total stock. Though it has since been able to replace some contraception through government outlets and other donors, FPAN initially faced shortages of its most popular contraceptive methods. The gag rule has hindered USAID's ability to reach its aim of increasing the use of family planning services, as it is no longer able to work through Nepal's foremost non-governmental family planning provider.

Hospital in Kathmandu with technical support from JHPIEGO, an affiliate of Johns Hopkins University, and EngenderHealth.

2000

Nepal's Parliamentary Committee on Law, Justice and Parliamentary Affairs recommends passage of the 11th Amendment Bill, which would liberalize the restrictive abortion law.

2001

President George W. Bush reinstates the Mexico City Policy, or the Global Gag Rule as it is known by then.

FPAN refuses the terms of the gag rule, losing $100,000 in annual support from EngenderHealth and $400,000 in USAID-funded contraceptives.

MSI Nepal refuses the terms of the gag rule and loses USAID funding for mobile reproductive health clinics that were serving clients in rural areas.

The Kathmandu-based Center for Research on Environment Health and Population Activities (CREHPA), a local non-profit research organization, also refuses the terms of the gag rule. A frequent grantee of U.S. NGOs working in Nepal, CREHPA conducts research to inform policymaking and programming in the area of reproductive health.

More than 1,500 individuals, NGOs and government and donor agencies come together for the National Event for Gender Equality to combat discriminatory laws against women, including Nepal's restrictive abortion law.

2002

Nepal's Lower House of Parliament passes and the Nepalese king signs an amendment to the Civil Code that legalizes abortion. The Abortion Task Force is formed at the Family Health Division at the Ministry of Health (MoH) to implement the new law.

2004

The government of Nepal starts its first legal abortion facility at Maternity Hospital in Kathmandu. Since then, the MoH has established comprehensive abortion services in 21 government hospitals and certified 11 NGOs to provide abortion services. (Other donors are supporting the Ministry's and NGOs' activities to expand access to safe, legal abortion. U.S. law has long prohibited the use of USAID funds for abortion services.)

SERVICES FOR HARD-TO-REACH CLIENTS RENDERED UNAVAILABLE

MSI Nepal refused the terms of the gag rule in 2001 and lost funding for its mobile reproductive health clinics in rural areas. Through these clinics, USAID was underwriting family planning services for people who otherwise would have no access. Due to the loss in funding, MSI Nepal was unable to maintain these mobile clinics, thereby leaving its rural clients without service.'

"The community-based volunteers would distribute contraceptives at the doorstep. Due to the gag rule, we have lost contact with many clients."

Staff, Nepalese NGO

MSI had also received USAID funding for reproductive health care at its larger permanent clinics. When it lost this funding, MSI Nepal cut resources it previously provided to community-based volunteers to reimburse their transportation costs. Volunteers discontinued work at each of the clinics, causing clients to lose access to family planning counseling and supplies, and referrals for clinic-based health care. Prior to the gag rule, MSI Nepal had planned to expand this program with USAID support.

EFFORTS TO ADDRESS A PUBLIC HEALTH CRISIS HAMPERED

"The U.S. government should have to take back the gag rule. They must dismantle it. Maternal mortality rates are the highest in the world in Nepal. Mothers who are deprived of improving their health are going to die. They would not have to die in the future if the gag rule was removed."

Staff, Nepalese NGO

Struggling against one of the world's highest maternal mortality rates, with a significant percentage of these deaths attributed to unsafe abortion, the vast majority of reproductive health NGOs in Nepal supported the liberalization of the abortion law. When the gag rule was reinstated in 2001, NGOs, government agencies and advocates were coming together to address this public health crisis through legal change. USAID-supported NGOs, however, were forced to remain silent, unable to participate or voice their support for liberalization. The presence of USAID at meetings since has engendered a climate of fear, thereby preventing discussions of the need to address unsafe abortion among NGOs and the Nepalese government. USAID-funded NGOs have been directed to avoid words such as "advocacy" and "reproductive rights" in their work.

The gag rule has infringed upon the sovereignty of the Nepalese government by creating hurdles in the effort to address maternal mortality, thus impeding the government's implementation of the 2002 law liberalizing abortion. The gag rule also puts USAID-supported family planning NGOs in the difficult position of having to deny their clients the provision of services they are legally entitled to. This frustration can be summed up in the words of Dr. Nirmal Bista, Director General of FPAN, who testified before the Senate Foreign Relations Committee at a hearing on the impact of the Global Gag Rule in 2001:

> "This is the challenge: Do I listen to my own government that has asked FPAN to help save women's lives, or do I listen to the U.S. government?"
>
> *Dr. Nirmal Bista, Director General, FPAN*

USAID-funded organizations also have been unable to contribute their expertise on a committee charged with developing service delivery guidelines under the new law. Though nearly identical facilities, equipment and training are used for PAC and safe abortion care, USAID funding restrictions force the MoH to erect an artificial separation of these services. Suitable but underutilized PAC facilities existed at the Maternity Hospital in Kathmandu. However, the Nepalese government had to build new, virtually identical safe abortion care facilities at the same location. Moreover, USAID PAC program staff members, who serve women suffering from botched or incomplete abortions, are forbidden to inform the women that safe and legal abortion care is available in their country. In prohibiting health professionals from informing women that their lives were risked unnecessarily, the gag rule dictates practices that go against basic public health principles.

"Most medical doctors and government officials also supported abortion law reform. If we were to sign that document, we were to defy our principles, the principles of [our parent association] and the government's view."

Staff, Nepalese NGO

CONCLUSION

The gag rule conflicts with the Nepalese government's efforts to address a major public health crisis by hindering its ability to follow through on democratically supported legal change. Efforts of USAID to work through leading NGOs to promote access to family planning for hard-to-reach clients have been crippled, leaving tens of thousands without service. Fear and silence prohibits efforts to address unsafe abortion and raises the risk of death and injury to women in a country with one of the highest rates of maternal mortality in the world.

"There is an urgent need to incorporate safe abortion care and emergency contraception in the national safe motherhood programs of the government and NGOs. Equally important is to introduce medical abortion in the country so as to provide Nepalese women with an alternative yet safe technology option. Unfortunately, because of the gag rule, the Ministry of Health will be discouraged from doing so. Most NGOs working in reproductive health and safe motherhood sectors and receiving USAID money are also bound to keep distance from this, due to the gag rule."

Staff, Nepalese NGO

NOTES

1 United Nations Population Division, World Population Prospects, the 2004 Revision. Available at: http://esa.un.org/unpp/ (accessed Oct. 6, 2005).

2 Id.

3 United Nations Population Division, Dept. of Economic & Social Affairs, World Contraceptive Use 2003 Wall Chart, ST/ESA/SER.A/227, 2004.

4 UNAIDS, 2004 Report on the Global AIDS Epidemic. Available at: http://www.unaids.org/bangkok2004/report_pdf.html (accessed Dec. 12, 2004).

5 United Nations Population Division, World Population Prospects, the 2004 Revision. Available at: http://esa.un.org/unpp/ (accessed Oct. 6, 2005).

6 Id.

7 Id.

8 Forum for Women, Law and Development (FWLD) & Planned Parenthood Global Partners, "Struggles to Legalize Abortion in Nepal and Challenges Ahead" (2003).

9 Family Health Division, Department of Health Services, Ministry of Health (Kathmandu, Nepal). 2001. Nepal Demographic and Health Survey (NDHS) 2001. Calverton, MD: Macro International Inc.

THE GLOBAL GAG RULE IMPACT PROJECT

is a collaborative research effort led by Population Action International in partnership with Ipas and Planned Parenthood Federation of America and with assistance in gathering the 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. The project received its funding solely from private sources.

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