

U.S. Policy Should Uphold Abortion as a Human Right



Abortion is health care and a recognized human right

Anti-abortion policies increase rather than decrease abortions and put women's and girls' lives at risk

Congress should take action to repeal harmful policies like the Global Gag Rule and Helms amendment

There are 218 million women of reproductive age in low- and middle-income countries who wish to delay pregnancy but are not using a modern contraceptive method.¹ Everyone must have access to the full range of sexual and reproductive health care — no matter where they live. This includes their right to abortion care.

Abortion opponents have long sought to bar or limit that right, both in the United States and through U.S. foreign assistance, which puts essential health care out of reach for far too many people around the world.

Abortion Care Will Always Be Needed

Evidence shows that restricting the right to abortion does not eliminate the need for abortion care, instead it only prevents safe abortions.² The majority of unsafe abortions occur in low- and middle-income countries where some of the strictest anti-abortion laws are in effect.³ When people are unable to seek abortion care from trained health professionals and fear prosecution, they must obtain the procedure in secret, often through “traditional or nonmedical” methods that can lead to severe complications.⁴ Many face long-term health consequences or even die as a result. In fact, unsafe abortion accounts for up to 13% of maternal deaths worldwide.⁵ Many of these deaths could be easily prevented, which would significantly decrease the global maternal mortality rate.⁶

Rural and low-income communities face even more barriers and restrictions to accessing contraceptives and basic reproductive health care — including safe, legal abortion — which results in higher rates of unplanned pregnancy and unsafe procedures in these areas.^{7,8}

Abortion Is a Human Right

According to the Universal Declaration of Human Rights (UDHR), human rights are undeniable and core to the ability to thrive as human beings.⁹ Abortion is a human right because without the ability to decide whether, when and how many children to have, women and girls face a future with fewer opportunities for education, financial stability and overall well-being.

Abortion is a critical part of reproductive health care: The Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) protects the right to health and health care, specifically covering the right to family planning and reproductive health care.¹⁰ Access to sexual and reproductive health care, including abortion, can mean the difference between a girl finishing her primary education or a

woman keeping her family out of poverty. Denial of abortion care puts women and girls at risk of serious injury and death, which denies not only their right to family planning and reproductive health care under CEDAW, but their human right to life guaranteed in the UDHR.

Denial of the right to abortion is sex discrimination:

Gender and sex equality have become core components of internationally recognized human rights, included in CEDAW and many other legal instruments.¹¹ Only a subset of the population is able to become pregnant and therefore only these people can be denied the right to abortion — which violates anti-discrimination standards. Furthermore, this refusal of care also has lifelong implications for mental and physical wellness, access to education and economic stability.¹² This violates anti-discrimination standards because of the disproportionate effect on the human rights of one group.

Post-abortion care (PAC) is a critical part of comprehensive reproductive health care: When people are forced to turn to unsafe abortions, complications become more common. In a 2017 study of 14 low- and middle-income countries with high unsafe abortion rates, 40% of those abortions resulted in complications requiring medical attention, such as sepsis and hemorrhage.¹³ Nonjudgmental and comprehensive PAC, including counseling on and the provision of contraceptives, is critical to saving lives. No one should ever have to fear getting medical attention for PAC. However, in places where abortion is rigorously prosecuted, concerns that medical providers will report suspected abortions to the police cause many to resist seeking treatment when they desperately need it.¹⁴

Anti-Abortion Policy Restrictions on U.S. Foreign Aid

In addition to overturning federal constitutional protections for abortion care, banning federal funding for abortion is one of the most successful tactics of abortion opponents, which puts safe abortion care out of reach for at-risk communities around the world.

The Helms and Hyde amendments: The Helms amendment bans the use of U.S. foreign assistance funds for abortion even in countries where abortion is legal.^{15,16} This amendment to the Foreign Assistance Act was enacted by Congress in 1973 and is also included in the annual State Department and foreign operations appropriations bill. Although the policy, as written, only applies to funding for “abortion as a method of family planning,” it is implemented as a near-total ban without exceptions, even in cases of rape, incest or if a woman's life is endangered by the pregnancy.¹⁷

The Hyde amendment is often confused with the Helms amendment. However, Hyde only deals with federal funds spent in the United States — primarily restricting the Medicaid program — and is not written into permanent law.¹⁸ Instead, the Hyde amendment is attached to yearly appropriations bills dating back to 1976.¹⁹ There is a large domestic reproductive rights movement dedicated to eliminating the Hyde amendment.

The Global Gag Rule (GGR): When in place, bans any non-U.S. nongovernmental organization (NGO) from receiving U.S. global health funding if the NGO performs, counsels or refers patients on abortion care, or if they advocate for the liberalization of abortion laws in their own country — even if they do so with private, non-U.S. funds.²⁰

The GGR is an executive branch policy that has been imposed and repealed, depending on the abortion stance of the administration in office, since 1984.²¹ The Trump-Pence administration reinstated — and expanded — the policy, and for the first time, programs like the President's Emergency Plan for AIDS Relief (PEPFAR) and other vital global health initiatives were subject to the rule.

The GGR prevented health professionals from giving patients full and accurate information about their pregnancy options. It also prevented advocates from speaking with their own governments to improve local abortion laws. The confusion and fear that the policy fostered among providers led to a chilling effect and over-compliance, especially among those entities newly restricted by the GGR, like HIV/AIDS providers.²²

Additionally, the policy weakened critical contraceptive supply chains, as providers dedicated to comprehensive reproductive health care refused to accept the GGR and consequently lost a large portion of funding and access to U.S.-donated contraceptives.²³ Some providers were even forced to redirect funding from services to the administrative burden of compliance.²⁴

While President Biden rescinded the policy in January 2021, organizations and advocacy networks are still working to recover from the loss of funds and restrictions imposed by the policy.²⁵

Policy Recommendations

The United States must advance sexual and reproductive health and rights instead of continuing to cause harm by erecting additional barriers to abortion care. To that end, Congress should:

Permanently repeal the Helms and Hyde amendments:

The Helms amendment harms women, girls and entire communities by denying them access to the basic health service of abortion. The United States must permanently repeal this policy through the passage of the Abortion is Health Care Everywhere Act and removal of the policy from the annual appropriations bill. Similarly, Congress should pass the Equal Access to Abortion Coverage in Health Insurance Act and remove the Hyde amendment from appropriations. By doing so the United States can uphold the human rights of all people, no matter where they live.

Pass the Global HER Act: Passage of the Global Health, Empowerment and Rights (Global HER) Act would guarantee that non-U.S. NGOs can use their own, non-U.S. funds to provide abortion counseling, referrals and services. In addition, it would ensure that these organizations are not silenced from advocating for the liberalization of their own country's abortion laws to continue receiving critical U.S. funding.

References

- 1 Guttmacher Institute. (2018). Adding it Up: Investing in Contraception and Maternal and Newborn Health, 2017 — Estimation Methodology. https://www.guttmacher.org/sites/default/files/report_pdf/adding-it-up-2017-estimation-methodology.pdf
- 2 Guttmacher Institute. (2018, March). Abortion Worldwide 2017: Uneven Progress and Unequal Access. <https://www.guttmacher.org/report/abortion-worldwide-2017>
- 3 Guttmacher Institute. (2018, March). Abortion Worldwide 2017: Uneven Progress and Unequal Access. <https://www.guttmacher.org/report/abortion-worldwide-2017>
- 4 Guttmacher Institute. (2018, March). Abortion Worldwide 2017: Uneven Progress and Unequal Access. <https://www.guttmacher.org/report/abortion-worldwide-2017>
- 5 Population Reference Bureau. (2022, May 24). Abortion: A Global Overview. <https://www.prb.org/resources/abortion-a-global-overview>
- 6 World Health Organization. (2019). Preventing Unsafe Abortion: Evidence brief. <https://apps.who.int/iris/bitstream/handle/10665/329887/WHO-RHR-19.21-eng.pdf>
- 7 World Health Organization. (2019). Preventing Unsafe Abortion: Evidence brief. <https://apps.who.int/iris/bitstream/handle/10665/329887/WHO-RHR-19.21-eng.pdf>
- 8 World Health Organization. (2019). Preventing Unsafe Abortion: Evidence brief. <https://apps.who.int/iris/bitstream/handle/10665/329887/WHO-RHR-19.21-eng.pdf>
- 9 United Nations General Assembly. (1948). The Universal Declaration of Human Rights. <https://www.un.org/en/about-us/universal-declaration-of-human-rights>
- 10 UN Women. (1979). Convention on the Elimination of All Forms of Discrimination against Women. <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>
- 11 Center for Reproductive Rights. (2008). Safe and Legal Abortion is a Woman's Human Right. <https://reproductiverights.org/wp-content/uploads/2018/08/Safe-and-Legal-Abortion-is-a-Womans-Human-Right.pdf>
- 12 Guttmacher Institute. (2018). Abortion Worldwide 2017: Uneven Progress and Unequal Access. https://www.guttmacher.org/sites/default/files/report_pdf/abortion-worldwide-2017.pdf
- 13 Guttmacher Institute. (2018). Abortion Worldwide 2017: Uneven Progress and Unequal Access. https://www.guttmacher.org/sites/default/files/report_pdf/abortion-worldwide-2017.pdf
- 14 Oberman, M. (2018). The Consequences of El Salvador's Abortion Ban. *Guernica*. <https://www.guernicamag.com/consequences-el-salvadors-abortion-ban>
- 15 Barot, S. (2013). Abortion Restrictions in U.S. Foreign Aid: The History and Harms of the Helms Amendment. *Guttmacher Policy Review*, 16(3). https://www.guttmacher.org/sites/default/files/article_files/gpr160309.pdf
- 16 U.S. Agency for International Development. (2021, November 18). Family Planning and Reproductive Health. <https://www.usaid.gov/global-health/health-areas/family-planning>
- 17 PAI. (2020, July 16). Helms Amendment and the Global Gag Rule — What's the Difference? <https://pai.org/resources/helms-amendment-and-the-global-gag-rule-whats-the-difference>
- 18 Ibis Reproductive Health and All* Above All. (2017, August). Abortion coverage bans on public and private insurance: Access to abortion care limited for millions of women. <https://allaboveall.org/wp-content/uploads/2020/07/Impact-of-insurance-bans-formatted-8.9.17.pdf>
- 19 Ibis Reproductive Health and All* Above All. (2017, August). Abortion coverage bans on public and private insurance: Access to abortion care limited for millions of women. <https://allaboveall.org/wp-content/uploads/2020/07/Impact-of-insurance-bans-formatted-8.9.17.pdf>
- 20 PAI. (2020, November 2). What You Need to Know About Restrictions on U.S. Global Health Assistance: The Protecting Life in Global Health Assistance Policy — an Unofficial Guide. <https://pai.org/resources/what-you-need-to-know-about-the-protecting-life-in-global-health-assistance-restrictions-on-u-s-global-health-assistance>
- 21 PAI. (2021). Frequently Asked Questions: Do You Really Know the Global Gag Rule? <https://globalgagrule.org/faq>
- 22 PAI. (2018, July). Access Denied: Ethiopia — Preliminary Impacts of Trump's Expanded Global Gag Rule. <https://pai.org/resources/access-denied-ethiopia>
- 23 PAI. (2018, March). Access Denied: Nigeria — Preliminary Impacts of Trump's Expanded Global Gag Rule. <https://pai.org/resources/access-denied-nigeria>
- 24 PAI. (2018, March). Access Denied: Uganda — Preliminary Impacts of Trump's Expanded Global Gag Rule. <https://pai.org/resources/access-denied-uganda>
- 25 Dennis, R. (2022, March 14). Hangover Remedy: Passage of a Permanent Repeal of the Global Gag Rule Is the Cure. *Ms. Magazine*. <https://msmagazine.com/2022/03/14/global-gag-rule-abortion-reproductive-rights-appropriations-bill-birth-control>