

# The Abortion Ban in U.S. Foreign Assistance: *How U.S. Policy Obstructs Efforts to Save Women's Lives*

*The world's poorest women remain the victims of U.S. foreign policy that restricts abortion funding. The Helms Amendment harms efforts to make abortion safe, denies health-care providers access to lifesaving equipment and censors information. Action to repeal the Helms amendment is urgently needed to protect women's health and lives and fulfill women's human rights. In the meantime, the Obama Administration must issue clarifying guidance to mitigate the harm of the law.*

Each year, nearly 20 million women in the developing world seek abortion from unsafe providers. Millions suffer serious injury and 67,000 lose their lives (WHO 2007). In places where abortion is restricted by law or not accessible safely, women faced with unwanted pregnancies may self-induce or obtain clandestine abortion from untrained medical workers, traditional healers or laypeople. Hazardous methods for unsafe abortion include ingesting laundry bleach or turpentine; inserting objects such as wires, sticks and knitting needles into the uterus; and jumping from a dangerous height (Grimes et al. 2006). Unsafe abortion can absorb more than 50 percent of developing countries' budgets allocated for obstetric and gynecologic health care (Johnson et al. 1993).

The **Helms Amendment** to the Foreign Assistance Act was passed in 1973, prohibiting the use of funds for the performance of abortion "as a method of family planning" or to "motivate or coerce any person to practice abortions." The Foreign Assistance Act also requires that the term *motivate* "shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options." The Helms Amendment is a restriction on what **both** private organizations and governments can do with U.S. aid funds. It was enacted by Congress and can be repealed only by Congress.

In contrast to the Helms Amendment, the **Global Gag Rule** (or Mexico City Policy) of the Bush Administration prevented the United States Agency for International Development (USAID) from funding the reproductive health work

of foreign organizations that work on abortion issues with their own, non-U.S. funds. Moreover, the Global Gag Rule applied to private organizations and family planning funding only and stated that the organizations must not engage in abortion work to be eligible for family planning funds. The Global Gag Rule was rescinded on January 23, 2009, by President Barack Obama through an executive order, reversing a prior executive order signed by former President Bush.

Recognizing the need to address high rates of maternal death from unsafe abortion, the U.S. government has been committed to increasing to **postabortion care** (treatment for complications from unsafe abortion), since the early 1990s (Curtis 2007). According to a recent report, between 1994 and 2007 USAID provided more than \$24 million in support of postabortion programs in more than 40 countries around the world (Rasch 2007), and the agency continues to support programs to this day. Postabortion care has received bipartisan support. The importance of this work was emphasized by the Bush administration in an announcement of the reinstatement of the Global Gag Rule in 2001, which stated, "the President's clear intention is that any restrictions (on family planning assistance) do not limit organizations from treating injuries or illnesses caused by legal or illegal abortions, for example, postabortion care."

The international community has recognized the need to address unsafe abortion and make abortion safe, where it is legal. In the Program of Action of the 1994 International Conference on Population and Development (ICPD), adopted with strong U.S. support, 179 countries agreed that

unsafe abortion is a major public health concern and that where abortion is legal, it should be safe. In an ICPD follow-up meeting at the United Nations in 1999, governments agreed that where abortion is legal, health-care systems should train and equip providers and ensure that services are accessible (UN 1999).

## Interpretation of the Helms Amendment

The Helms Amendment has been over-interpreted by the U.S. government to ban a range of activities that could be allowed under existing law. Regulations that implement the Helms Amendment restrict the purchase of equipment to treat victims of unsafe abortion; information, education and communication on abortion “as a method of family planning;” and lobbying on abortion. Although the law explicitly allows for information and counseling on abortion, USAID also does not support these activities or provide guidelines for USAID-funded health facilities.

U.S. law has restricted abortion “as a method of family planning” with foreign funds through the Helms Amendment and through domestic funds with the 1976 Hyde Amendment to the domestic spending bill (though the language of the Hyde Amendment has subsequently changed). This clause has been interpreted inconsistently. According to an opinion by the Office of Legal Counsel in the Justice Department, abortion is not “a method of family planning” when it is used for medically-indicated reasons. USAID policy has stated that abortion is not a method of family planning only when a woman’s life is threatened or in the cases of rape and incest. However, since the Helms Amendment was enacted, no U.S. funds have been used for abortion even in these extreme cases.

## The Helms Amendment Obstructs Efforts to Make Abortion Safe

A number of developing countries have laws that include broad indications for rape, incest, and women’s health, and a number have liberalized their laws over the past decade, to address high rates of unsafe abortion and protect women’s human rights. The Helms Amendment impedes progress by poor countries to make abortion safe as mandated by their own laws.

**Nepal is an example of how the Helms Amendment has interfered with a government’s efforts to make abortion safe, following liberalization of its abortion law.** In 2003, Nepal loosened restrictions on abortion in an effort supported by the Ministry of Health, women’s rights advocates and an overwhelming majority in Parliament (Thapa 2004). In the year following the law reform, the Nepalese government and organizations working in Nepal began offering

induced abortion services. By 2008, safe abortion services existed in 70 of Nepal’s 75 districts.

USAID has funded reproductive health programs and family planning in Nepal since the early 1970s. Beginning in 1995, USAID began supporting postabortion care in Nepal, providing training, supply of equipment and construction of 45 specialist postabortion care facilities across the country (Bird 2007).

The ability of the Nepalese government to provide safe services is hampered by **restrictions on the use of facilities for abortion care**. The facilities funded by USAID for postabortion care may be the most appropriate place to provide abortion care as similar skills, equipment and facilities are used for the provision of induced abortion and the treatment of complications from unsafe abortion. However, the Helms Amendment has been applied to prevent USAID-funded facilities, equipment and providers from being used for safe abortion services.

As the government of Nepal was establishing abortion care facilities, USAID required that government facilities funded by USAID could not be used for safe abortion services. Even where U.S. support has been phased out and facilities are now completely funded by the Nepalese government, abortion could not be provided in these facilities. The government and nongovernmental organizations working in Nepal had to use precious resources to establish separate facilities for safe abortion and for treatment of complications, though such a separation jeopardizes the quality of care clients received.

**The application of the Helms Amendment has harmed efforts to increase the use of contraception for women who have undergone abortion.** To enable women to prevent future unwanted pregnancies, providers of abortion should ensure that women who receive abortion services also receive counseling on contraception before they leave the health facility. Studies have found that women are more likely to use contraception following abortion where family planning services are offered at the same facility where they have received care, rather than at a separate facility (Cobb et al. 2001). However, because of U.S. policy, abortion clients must seek family planning service at a separate facility following the abortion procedure. These women are less likely to use contraception than if both services were provided at the same facility.

## The Helms Amendment Creates Equipment Shortages

The Helms Amendment contributes to a shortage of equipment used to save the health and lives of women who suffer complications of unsafe abortion. Despite USAID’s invest-

ment in postabortion care, the Helms Amendment has been interpreted to ban the use of USAID funds to purchase the equipment needed to perform this care. Regulations issued in 1984 require that USAID contracts must prohibit the purchase of “abortion equipment” with USAID funds.

In the model of postabortion care supported by USAID, the treatment protocol for incomplete or septic abortions requires manual vacuum aspiration (MVA) instruments (Rasch et al. 2007). MVA instruments are widely recognized as having revolutionized (Cobb et al. 2001) postabortion care. They are safer, require less pain management and are more cost-effective than the most common older method (sharp curettage) (WHO 2003). MVA instruments are also recommended by the World Health Organization for early induced abortion by trained providers as well as postabortion care. Under the Helms Amendment, USAID trains providers in the MVA procedure for treating abortion complications, but will not provide financial assistance to providers and health systems to acquire the needed equipment.

The ban on funding for abortion equipment has contributed to equipment shortages experienced by USAID-trained providers. An advisory panel formed by USAID to look at postabortion care issues reported in 2007 “a common concern in most countries regarding the sustainability of procuring MVA equipment from outside sources” (Rasch et al. 2007). The advisory group reported that in Tanzania, although USAID had trained providers, “the lack of MVA kits inhibited the ability to provide MVA as an alternative to sharp curettage.” In 2001, USAID commissioned a global evaluation of its postabortion care program, which determined that “importing and assuring a sustainable supply of MVA is a problem” and that “in most countries... there is a common concern about the sustainability of MVA equipment” (Cobb et al. 2001). Even with the problem identified in the 2001 report, no action was taken to allow USAID to fund MVA equipment.

### **The Helms Amendment Censors Information on Abortion**

The Helms Amendment can be used by the U.S. government to limit access to information on abortion by clients seeking reproductive health-care services and the public. Under the current interpretation of the Helms Amendment, health-care providers working in USAID-funded programs are prohibited from providing information to clients on their full range of reproductive health options. Organizations cannot include information on safe abortion — even where a woman’s life is threatened — in USAID-funded public information programs.

In the mid-1980s, USAID defunded *International Family Planning Perspectives*, published by the Guttmacher institute, because it deemed two articles were “motivating” abortion. One of the publications was at issue because the agency identified illegal abortion as a cause of maternal mortality in Bangladesh and the second because it reported that abortion was legalized in Tunisia. The Guttmacher Institute filed a lawsuit (*The Alan Guttmacher Institute v McPherson*) in 1986 against USAID, alleging that the agency had violated its freedom of speech under the First Amendment to the U.S. Constitution. Because of the lawsuit, USAID conceded that the two articles were “neutral” on abortion, and the agency agreed to reconsider funding the publication.

More recently, in 2008, administrators of the USAID-funded Popline database made the word “abortion” unsearchable because USAID had expressed concern that Popline, the largest database on reproductive health issues, may have been violating the Helms Amendment by including what USAID deemed to be abortion advocacy materials. After public outcry, abortion was reinstated as a search term, but the articles, which appeared in a magazine issue on abortion and human rights published by Ipas, remain banned from the database.

### **Conclusion**

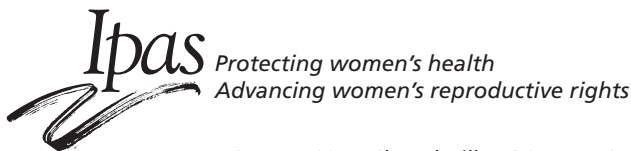
Millions of women have died of unsafe abortion in the 35 years since the Helms Amendment was enacted, and tens of millions more have suffered injuries and disabilities due to complications. As the global community recognizes the need to make abortion safe as a matter of public health and human rights, the United States now stands alone among donor governments in maintaining a policy that violates these principles.

At a minimum, the Helms Amendment should be interpreted less restrictively, for example, to allow funding for equipment for lifesaving postabortion care and abortion services in cases of threats to a woman’s life or health and in cases of rape. Under existing law, USAID could fund counseling on the range of reproductive health options and information on abortion and could end censorship of publications.

Through the ban on foreign aid for abortion, the U.S. government has created obstacles to safe abortion services, lifesaving care, the dissemination of information on abortion and women’s access to information about their own reproductive health choices. Ultimately, the Helms Amendment must be repealed for the United States to join the world community, save lives and allow governments to fulfill the human rights of the world’s poorest women.

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*Ipas works globally to increase women's ability to exercise their sexual and reproductive rights and to reduce abortion-related deaths and injuries. We seek to expand the availability, quality and sustainability of abortion and related reproductive health services, as well as to improve the enabling environment. Ipas believes that no woman should have to risk her life or health because she lacks safe reproductive health choices.*