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MEXICO CITY POLICY: EFFECTS OF RESTRICTIONS ON INTERNATIONAL FAMILY PLANNING FUNDING

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BEFORE THE

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UNITED STATES SENATE

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THURSDAY, JULY 19, 2001

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC.

The committee met, pursuant to notice, at 10 a.m. in room SD–419, Dirksen Senate Office Building, Hon. Barbara Boxer, presiding.

Present: Senators Boxer, Feingold, Chafee, and Allen.

Senator BOXER. This meeting of the Foreign Relations Committee will come to order. And as we await the arrival of the first panel, which consists of several Senators and Representative Nita Lowey and Representative Chris Smith, we want to welcome Senator Hutchinson. And what I want to do, Senator, is give a brief opening statement and then call on you, and perhaps by that time we will be joined by our other colleagues.

I want to welcome you all to this important hearing. Today the Senate Foreign Relations Committee meets to discuss the effects of the Mexico City Policy on international family planning. I want to thank Chairman Biden for supporting this hearing and for allowing me to chair it.

Mexico City Policy is known as the global gag rule. It restricts foreign, non-governmental organizations that receive USAID family planning funds in three ways, and I'm going to identify the three ways that these restrictions play out.

First, these non-governmental foreign organizations may not use their own money to provide legal abortion services. Second, they may not use their own money to advocate for changing the abortion laws in their own country. And third, they may not use their own money to provide full and accurate medical information about legal abortion services to their patients.

As a result, many foreign, non-governmental organizations are being forced to either limit their services or simply to close their doors to women across the world, and we will hear witnesses who will so testify.

I believe, and I know, that this will cause women and families increased misery and death. Among the witnesses who will testify before the committee this morning are the presidents of two foreign, non-governmental organizations who provide family planning services abroad. Ms. Susana Silva Galdos heads a non-governmental organization in Peru that is trying to work under the limi-

tations imposed by the gag rule. Dr. Nirmal Bista works for a non-governmental organization in Nepal that has refused USAID funding because of the harsh restrictions of the gag rule.

In fact, Ms. Galdos, our first witness from these foreign, non-governmental organizations, had to seek a temporary restraining order in Federal court yesterday in order to be allowed to testify before Congress on informing us of the abortion laws in Peru. It's almost unimaginable that a witness that a United States Senator asked to come here actually had to go to court to get a restraining order in order to speak in this, the freest and greatest country in the world.

We were fortunate yesterday in that court case. The Bush administration conceded on this issue, so we're fortunate to have Ms. Galdos' uncensored testimony before the committee today.

Why does the United States provide international family planning assistance? Because by providing family planning, counseling and care, by working to increase child survival rates, by improving maternal health and preventing the spread of HIV/AIDS and other infectious diseases, we help save lives.

As a result of USAID funds, more than 50 million couples in the developing world use family planning. In the last 30 years the percentage of couples using family planning has risen fivefold. Fewer than 10 percent of the couples used contraception in the 1960's. More than 50 percent of the couples use contraception today. So 50 percent of the couples are planning their families.

But the need for family planning assistance continues because the other side of it is that 50 percent of the couples in the developing world still do not use contraception. As a result, approximately 78,000 women throughout the world die each year as a result of unsafe abortions, and at least one-fourth of all unsafe abortions in the world are to girls aged 15 to 19.

The problem is growing. By the year 2015 contraceptive needs in developing countries will grow by more than 40 percent. Make no mistake, the Mexico City gag rule is restricting family planning, not abortions. International family planning assistance prevents abortions by helping women avoid unwanted pregnancies, and it saves the lives of thousands of poor women in developing countries who would otherwise die from unsafe abortions.

For example, the recent increased availability of modern family planning methods has already resulted in a 33 percent drop in the abortion rate in Russia and a 60 percent reduction in Hungary. Family planning can significantly improve the health of these girls and young women by teaching them to postpone childbearing until the healthiest times in their lives, which would in turn prevent abortions.

That is why I have introduced bipartisan legislation with Senators Snowe, Chafee, Collins, and 26 other co-sponsors to overturn the global gag rule. This legislation that we have introduced aims to overturn the Draconian restrictions on international family planning programs put into place by President Bush on January 22, one of his very first acts as President of these United States.

Our bill will allow these organizations to continue to provide legal family planning services without needlessly restricting their funds. Our bill does nothing to change the fact that no U.S. funds can be used for abortion services. Let me repeat that. Since 1973

no U.S. funds may be used for abortion services. What our bill does is lift the restrictions on foreign organizations that would be unconstitutional here in the United States, and that's why the Bush administration was quick to just give in to us on our lawsuit. We would never gag people here. We couldn't do it. But they are doing it in foreign countries.

I believe firmly that family planning organizations should not be prevented from using their own privately raised funds to provide legal abortion services, including counseling and referral, and these groups should not be forced to relinquish their right of free speech in order to receive U.S. funding, so I am very anxious to hear from all of our witnesses.

I want to get an update on the other Senators. What do we know about the Congresswoman?

They are on their way. There is one. We have our assistant majority leader. I am going to call on Senator Reid first because of his duties on the floor, and then right to you, Senator Hutchinson.

Senator Reid, I just made my opening remarks. I know your time with us this morning is limited. I made the point that we believe that family planning saves women's lives, and I would be happy to hear from you.

STATEMENT OF HON. HARRY REID, U.S. SENATOR FROM NEVADA

Senator REID. I appreciate very much Senator Hutchinson accommodating me. The Senate is in recess now, and I have to go back and finish the bill I am managing. I really appreciate the opportunity to testify here today.

Senator BOXER. Could you speak a little louder into the microphone, Senator.

Senator REID. I appreciate the opportunity to speak here today.

About 2 years ago I took a trip. One of the places that I went was Nepal, an unusual and beautiful country. Eighty-four percent of the people in Nepal have no electricity, but also, in addition to that, Nepal has one of the highest maternal mortality rates in the whole world. Over 1,000 women out of every 100,000 women in Nepal die from pregnancy related complications compared to our country of about six or seven of every 100,000 women.

The Mexico City Policy, in my opinion, threatens efforts aimed at reducing mortality rates and improving access to basic health care in Nepal and all over the world. Nepal is only an example.

Our support of international family plan programs literally means, in my opinion, the difference between the life or death of women in developing countries. At least one woman dies every minute of every day from causes related to pregnancy and childbirth. One woman dies every minute of every day from causes related to pregnancy and childbirth. This means, Madam Chair, that almost 600,000 women die every year from causes related to pregnancy. Family planning efforts prevent unintended pregnancies and save the lives of thousands of women each year.

In addition to reducing maternal and infant mortality rates, family planning helps prevent the spread of sexually transmitted diseases. The World Health Organization reports that about 6 million individuals, the majority of whom live in developing nations, be-

come infected with HIV and that has gone up almost every year. At present in Africa we have 6,000 people dying every day from HIV-related diseases, every day, no weekends off, no vacations, every day. And that number is going up and will double, it's believed, within a dozen years.

President Bush's rationale for imposing the gag rules is that he wants to decrease the number of abortions abroad. The last time the Mexico City Policy was in effect there was no reduction in the number of abortions. It only reduced access to quality health care services, increased unintended pregnancies, and actually increased the number of abortions.

Research shows that the only way to reduce the need for abortion is to improve the family planning effort to decrease the number of unintended pregnancies. Access to contraception reduces the probability of having an abortion by 85 percent.

Madam Chair, let me be clear, I do not support the use of one single taxpayer dollar to inform or promote abortion overseas. The law explicitly prohibits such activities for almost 30 years, since 1973. Instead, the legislation written by Senator Boxer, S. 367, supports family planning efforts that will reduce unintended pregnancies and reduce the need for abortions.

Not only does the Mexico City Policy run counter to our country's commitment to women's health, it restricts foreign organizations in a way that would be unconstitutional in our own country. The Mexico City Policy violates a fundamental tenet of our democracy, freedom of speech. Exporting a policy that's unconstitutional at home is, in my opinion, the ultimate act of hypocrisy. Surely this is not the message we want to send to struggling democracies, which are looking to the United States as an example and for guidance.

The bipartisan Global Democracy Promotion Act, S. 367, written by Senator Boxer, would ensure that United States foreign policy is consistent with American values, including free speech and medical ethics. I support this legislation, and I commend the Senator from California, Senator Boxer, for her efforts to protect and defend the rights of women around the world.

Senator BOXER. Thank you, Senator. Your testimony is most welcome.

I am extremely honored that you support the bill, and I want to also announce that Senator Daschle is as well a sponsor, as is Senator Chafee. Welcome, and I would be happy to hear from you at this time.

Senator CHAFEE. Thank you, Senator Boxer. I am just listening to Senator Reid talk about what is constitutional in this country, and the hypocrisy of it is a main point.

Senator BOXER. Thank you so very much. I want to welcome my former colleague in the House, Representative Chris Smith.

Senator Hutchinson, we will turn to you. You and the Honorable Chris Smith will have differing views from ours, and we welcome you here to bring those views out.

STATEMENT OF HON. TIM HUTCHINSON, U.S. SENATOR FROM ARKANSAS

Senator HUTCHINSON. Thank you, Madam Chair, and members of the committee. I want to thank you for inviting me to testify on what truly is an important topic.

President Bush's decision to re-implement the Mexico City Policy ensures that our legacy to the world does not include systematic violence against innocent, unborn children. It ensures that our citizens' tax dollars are used to enhance the lives of those in the developing world, not destroy them.

In 1973 Senator Helms sponsored legislative language that prohibited U.S. monetary aid from being used to pay for abortions or involuntary sterilizations overseas. The intent of that legislation is clear. American taxpayers should not be compelled to fund overseas abortions. It sends a message to the world that the United States does not stand for the despair and hopelessness of attacking the most vulnerable group in the human race, the unborn.

The Mexico City Policy builds on that goal by prohibiting aid to organizations that were involved in abortion activities. President Reagan took this step to prevent foreign, non-governmental organizations from playing accounting games that result in the use of American tax dollars to pay for abortions, so, while we can pretend that allowing these organizations, these NGOs, to perform abortions with their own money and use American taxpayers' dollars for family planning, that we all know is a fiscal fiction, that these funds are fungible, and that the intent of the Helms legislation back in 1973 was not to compel American taxpayers to subsidize something that they believe is morally wrong. And that is what is happening if you do not have the Mexico City Policy in place. Every American tax dollar that went to an abortion provider freed up another dollar to pay for more abortions. That's wrong. And I am very pleased that President Bush has reinstated this prohibition.

As this committee hears testimony on this issue, I just want to make a few points clear from my perspective. This policy does not affect the amount of United States aid going to international family planning by one cent. For fiscal year 2002 President Bush is seeking over $400 million for population assistance, which is comparable to previous years. In fact, the policy will barely change the number of NGOs that receive the money.

When the Mexico City language was re-instituted in fiscal year 2000, 448 groups accepted the policy. Only nine groups refused the policy. So family planning is not affected and to raise the specter of not having U.S. aid for family planning is, I believe, a red herring.

Frankly, those NGOs that refused to abide by a simple and fair Mexico City language are precisely the kind of extremist organizations that the United States should not be associated with. As I said, 448 groups accepted the policy. Only nine groups refused the policy. Those groups that refused the policy truly have a radical abortion agenda, and our foreign aid money should not be to assist them.

There are approximately 100 countries in the world—Madam Chairman, approximately 100 countries in the world still have strong pro-life laws. In the past, U.S. grantees like International

Planned Parenthood Federation have actively lobbied some of those governments for anti-life legislation. The Mexico City Policy guarantees that our tax dollars will not be used to promote an agenda antithetical to millions of Americans.

I had an opportunity to meet with a number of NGOs and individuals that have had firsthand experience with international development. I've been told about the need for more food, about the need for more medical supplies, about the need for safe drinking water, but not once have I heard about the need for more abortions. The Mexico City Policy will not affect the amount of funding that goes to HIV and AIDS at all. That totally remains the same, untouched.

Madam Chairman, millions of Americans believe that abortion is fundamentally wrong and that it is the taking of a human life. Madam Chairman, you and I may disagree on that. In fact, our society is and will continue to be deeply divided over this issue. But one point in which there has been broad agreement in the past has been that Americans who believe it is wrong should not be forced by our government to subsidize a practice that is fundamentally against their deepest-held religious views.

Pro-choice people often make the argument to me, as a pro-lifer, "It's fine for you to be pro-life, but don't impose your pro-life views on me in law." And, yet, that is precisely what the pro-choice individual is doing in opposing the Mexico City Policy. They are forcing me and millions who share my deep convictions on the sanctity of human life to violate our own beliefs and convictions by subsidizing that practice with my tax dollars in a foreign country. No American should be compelled to participate in an event which they believe is so wrong.

So, Madam Chairman, I, with deepest respect for you, must oppose your legislation, and I thank you for the opportunity to express my viewpoint.

Senator BOXER. Senator, I really do appreciate your very straightforward testimony. We know that we come from different places on this in this sense, I believe this policy causes abortion; you think it prevents it. That's where we have a disagreement. I think that this policy is completely against what you want to do, which is to reduce abortion. That's why we have an agreement over it. Family planning, having groups walk away from it because of this is counterproductive to what we both want, fewer abortions. We will have this agreement, I am sure, in another venue.

Senator HUTCHINSON. May I be excused?

Senator BOXER. Of course, you may. You have my deepest thanks for your testimony.

And, Representative Smith, we will turn to you.

STATEMENT OF HON. CHRIS SMITH, U.S. REPRESENTATIVE FROM NEW JERSEY

Mr. SMITH. Thank you very much, Madam Chairwoman, and I deeply appreciate the opportunity to testify today. I know some things will be said at this hearing about the Mexico City Policy, which prohibits U.S. subsidies of foreign abortionists and abortion lobbyists. I also recognize that we have a strong difference on this

policy, as you just expressed again, and I know Mr. Chafee as well disagrees.

Nevertheless, I hope the committee will consider my argument, that a strong, effective U.S. international family planning program should welcome the opportunity to put a wall of separation between that family planning program and the contentious issue of abortion.

Madam Chairwoman, the overriding justification for the Mexico City Policy is the protection and the safeguarding of human life. Simply put, abortion is violence against children and in no way can abortion be construed as humane and compassionate. Abortion methods include dismembering innocent children with razor blade tip suction devices, some with the power of 20 or 30 times a household vacuum cleaner, or injections of chemical poisons designed to kill the child.

Salt poisoning abortion entails injecting high concentrated salt water into the baby's amniotic sac. The baby breathes in the salty water and is burned alive, internally and externally. It takes about 2 hours to kill the child in this way.

In recent years most Americans have been shocked to discover yet another hideous method to destroy an unborn child, partial birth abortion. Performed in the second and third trimester, the abortionist delivers the entire body except for the child's head. He then stabs the back of the child's head with a pair of scissors. The abortionist then sucks out the brains of that child and kills him or her. If that isn't violence against children, I don't know what is.

Abortion treats pregnancy as a sexually transmitted disease, a tumor, a wart, a piece of junk to be destroyed. And, yet, if you ever watched an unborn child's image on an ultrasound screen, you can't help but be awed by the miracle of human life, by the preciousness of the child's being, and moved to pity by the helplessness and the vulnerability of that child. This is a human rights issue, Madam Chairwoman.

To see an unborn child turning and twisting, kicking, and sucking his or her thumb while still in utero—and my wife and I have four children, three of those we saw with an ultrasound. And even though I've worked in the pro-life movement for many years, I was amazed and awed to see the intricate detail of their bodies very, very early in pregnancy.

Senator BOXER. I saw my grandsons.

Mr. SMITH. So you know.

Senator BOXER. It's great.

Mr. SMITH. But it does shatter the myth, I would respectfully submit, that this is mere tissue or "products of conception."

Madam Chairwoman, while the Mexico City Policy is pro-life it is not, and I repeat, it is not anti-family planning. It does not cut by one penny the $425 million the United States spends every year promoting family planning overseas. And years of experience have shown that we can run a good, solid, family planning project without retaining abortionists or abortion lobbyists to administer that for us.

During the 9 years the policy was originally in force, only two organizations refused to agree to the pro-life safeguards. We had hundreds of organizations left to choose from. Over 350 family

planning organizations agreed to abide by the Mexico City Policy. In fact, U.S. family planning appropriations increased dramatically during this time, in part because pro-life Americans no longer felt an obligation to limit such spending in order to avoid subsidizing the international abortion industry.

Some opponents of the Mexico City Policy like to call it a gag rule. They say it violates free speech, the right to free speech, although the Federal courts have upheld the policy as consistent with the first amendment. The restrictions on abortion promotion that it imposes are narrow and reasonable. In fact, they are absolutely necessary to ensure that the organizations function effectively as highly visible partners and representatives of the United States.

The organizations that work with the United States overseas are our surrogates. They are an extension of U.S. policy. They are our ambassadors. Their promotion of abortion in these countries on issues closely related to the U.S. programs they administer as well as their activities, such as the actual performance of abortions, are inevitably going to be associated with the United States. So these activities are highly relevant to whether they can effectively administer our programs.

Specifically, among the most important stated purposes of U.S. family planning programs overseas is to reduce the number of abortions. The United States has no obligation to administer these programs through agents whose other activities suggest otherwise, that they do not really agree with this goal. We would not hire the Tobacco Institute to run an anti-smoking campaign, not even if the organization carried out its pro-tobacco activities with its own money. There's just too strong a conflict of interest, too high a probability of sending a mixed and confusing message to the people we are trying to reach.

Similarly, it makes no sense to hire abortionists or abortion lobbyists to run programs that purport to reduce abortions. Money is fungible. When we give money to an organization, we unavoidably enrich and empower all those activities. U.S. support also enhances the domestic and the international prestige of the organization by giving it an official U.S. seal of approval.

And, remember, the people we are trying to reach are not likely to have seen their organization's books. They don't know which activities are funded and from which spigot. So when the very same organizations offer U.S. family planning assistance with one hand and the killing of an unborn child by way of abortion with the other, the message is that the United States, its representatives and partners, are perfectly comfortable with abortion as a method of family planning.

Finally, perhaps the most outrageous claim that has been made by opponents of the Mexico City Policy is that it will somehow interfere with efforts to address the HIV/AIDS epidemic. This claim is simply false. For one thing, the United States currently spends over a half a billion dollars per year on fighting AIDS, plus many millions that go to WHO and UNDP and many other NGOs and international organizations.

This money, plus the new money promised by the Bush administration, and the significant increase today in the Hyde-Lantos

Global Access to HIV/AIDS Prevention and Treatment bill, which I am a very strong supporter of and actually offered a strengthening amendment in the area of hospice care, was recently approved by the House International Relations Committee. And I think that does demonstrate our real, tangible commitment to the victims of AIDS.

To sum up, Madam Chairwoman, the Mexico City Policy is a reasonable exercise of the President's power to set terms and conditions on U.S. foreign aid projects. With or without the policy, the same amount of money will be available for family planning programs and the same number of people can be provided with these services. The only difference is whether our service providers will be abortionists or not abortionists.

You may disagree, as I know you do so vigorously, with the Mexico City Policy because it is pro-life, but it is simply unfair and I would respectfully submit it is inaccurate to call it anti-family planning. Again, I thank you for this opportunity to be here.

Senator BOXER. Thank you, Congressman, and I hope you will look at our position that we believe the imposition of this, in fact, leads to thousands and thousands of unsafe abortions. But, we respect our differences. Congresswoman Lowey, you are free to leave if you have to. If you would like to stay and hear your friend, you are welcome to do that.

Ms. LOWEY. Thank you. I keep hoping I'm going to convince my good friends in Congress.

Senator BOXER. Well, we thank you for all your efforts on behalf of this. I also want to ask unanimous consent at this time that I place into the record a statement by Senator Olympia Snowe, who is the key Republican, along with Senator Chafee, on this particular piece of legislation.

[The prepared statement of Senator Snowe follows:]

PREPARED STATEMENT OF HON. OLYMPIA J. SNOWE, U.S. SENATOR FROM MAINE

Madam Chairman, thank you for providing me with the opportunity to offer testimony to the committee today on international family planning. I appreciate the committee taking the time to address this important matter. This has, as you know, long been a concern of mine and an issue that I have continued to advocate for during my tenure in both the House and here in the Senate.

There is no question that U.S. population assistance is of critical importance, as the primary deliverer of health education, health care and pre-natal care to millions of women in developing countries. According to USAID, studies in several countries have shown that for every dollar invested in family planning programs, governments save as much as $16 in reduced expenditures in health, education, and social services. It is not only an investment for the health of women, and their children, but for whole nations.

There is also no question that U.S. population assistance in developing countries has been successful. The average family size in countries that have received U.S. population assistance has decreased from six children to four. AID assistance has increased the use of contraceptives in developing countries from 10 percent of married couples in the 1970s, to 50-60 percent today.

I would also like to make it clear for the record that the issue before us today is not abortion, because current law *already prohibits* the use of any U.S. funds for abortion-related activities. That law, by the way, is the Helms Amendment of 1973, which I support as an important guarantee that our international family planning programs stay apart from domestic debates on the issue of abortion.

The real issue before us today is often referred to as the "Mexico City Policy" because it was at the 1984 U.N. Population Conference in Mexico City that the Reagan Administration adopted this policy. Under the Mexico City Policy, the Reagan Administration withheld international family planning funds from all

groups that had the slightest involvement in legal abortion-related services even though they were paid for with their own private funds. This was done despite the fact that similar restrictions were not placed on funding programs run by foreign governments that related to legal abortions. It is also often referred to as the international "gag rule" because it prevents organizations from even providing abortion counseling or referral services.

The matter before us is in part about leadership. The United States has traditionally been the leader in international family planning assistance. This has been the case ever since this issue rose to international prominence with the 1974 U.N. Population Conference in Bucharest. At that time, a great number of the world's developing countries perceived family planning as a Western effort to reduce the power and influence of Third World countries. However, in the years since, the need and importance of family planning has been recognized and embraced by most developing nations.

If, as a country, we believe in volunteerism in family planning—and we do—then we should maintain our leadership. Because of our leading role in international family planning, we have unrivaled influence in setting standards for family planning programs. A great number of other donors and recipient countries adopt our models in their own efforts.

According to the Center for Reproductive Law and Policy, the Mexico City Policy will penalize 59 countries whose non-governmental organizations—NGOs—receive family planning assistance funds from the U.S. NGOs will be prohibited not only from providing abortion-related services, but also counseling and referrals regarding abortions. And, the final piece of the Mexico City Policy, bars NGOs from even lobbying for abortion rights or on abortion related issues.

That's the policy, let's consider the real effect on people. According to the Alan Guttmacher Institute, about four in every ten pregnancies worldwide are unplanned, and 40 percent of unintended pregnancies end in abortion. Knowing this, the net effect of the Mexico City Policy on these 59 nations is to limit or eliminate critical family planning work that has a very real impact on the quality of life. Moreover, the absence of family planning is likely to increase the instance of the one thing that the advocates of the Mexico City Policy are most opposed to—abortion.

Family planning is also about health care. Too often, women in developing nations do not have access to the contraceptive or family planning services they need because contraceptives are expensive, supplies are erratic, services are difficult or impossible to obtain, or the quality of care is poor. In a March report by the Population Action Institute it was estimated that about 515,000 women die each year in pregnancy and childbirth, or almost one death every minute, and millions more women become ill or disabled. In addition, an estimated 78,000 women die every year from illegal and unsafe abortion and thousands more are injured. How many more women would die if access to these services were even more limited?

The bottom line is, the Mexico City Policy is bad public policy. It not only limits discussion, counseling, and referrals for abortion, but it also limits the ability of organizations, in at least 59 nations, to carry out needed family planning work. We must remember that family planning is about—just that—planning one's family. By spacing births at least two years apart, family planning can prevent an average of one in four infant deaths in developing countries. Family planning provides access to needed contraceptives and gives women worldwide the ability to properly space out their pregnancies so that they can have healthier babies, which will lead to healthier children and healthier nations.

Again, I appreciate the opportunity to offer my comments today. I look forward to working with you, Madam Chairman, and the other members of the committee who believe, like I do, that the Mexico City Policy should be lifted for once and for all.

Thank you.

Senator BOXER. Congresswoman Lowey.

STATEMENT OF HON. NITA LOWEY, U.S. REPRESENTATIVE FROM NEW YORK

Ms. LOWEY. Thank you, Madam Chairwoman, Senator Chafee. I want to thank you and members of the committee for holding this hearing and for inviting me to testify on the effects of the global gag rule on the United States' support of international family planning. Senator Boxer, you have shown such extraordinary leader-

ship and I am very pleased that we have the opportunity to examine this issue today. We are familiar with the global gag rule, and I know that we will hear from many experts during the hearing.

I would like to focus today on just a few critical points. First of all, the most common misconception about the global gag rule is that it stops U.S. funds from going to perform abortions overseas. As you know, spending U.S. money on abortions overseas has been illegal since 1973 and spending U.S. money to conduct abortion-related lobbying is prohibited as well.

When the President announced in January that he would reinstate this policy because, "taxpayer funds should not be used to pay for abortions or advocate or actively promote abortions," we just respectfully disagree with him. These prohibitions are already well entrenched in U.S. law.

I have other concerns as well. The policy ignores the laws of other sovereign countries. Under the global gag rule, an overseas NGO must promise not to use any money from any source to perform abortions regardless of the abortion laws in the NGO's home country. The options for counseling and referral are also severely limited. A health care provider may only discuss abortion as an available option or refer women for services elsewhere under the following unlikely scenario:

A woman enters the clinic, announces that she is pregnant, declares that she has already decided to terminate the pregnancy, and specifically requests a referral. And in a further example of the sheer folly of the policy, an NGO will remain eligible for United States funding even if it uses non-U.S. funds to advocate for tighter restrictions on abortions. Only pro-choice speech is prohibited. That's what's so interesting about this.

The global gag rule undermines U.S. support, in my judgment, for basic human rights around the world, and it weakens our efforts to promote democracy abroad. Because U.S.-based groups and their personnel are protected by the first amendment, they are not subject to these restrictions, so the practical effect is this: U.S.-based organizations using Americans to provide family planning services abroad are not restricted in what they can say or do with private funds, but indigenous NGOs working alongside them are. American organizations can come to Capitol Hill to advocate for a repeal of the global gag rule, but foreign NGOs risk losing their U.S. funds if they follow suit. The global gag rule says in no uncertain terms that only Americans should be entitled to the basic protections our Constitution provides.

I believe this is a dangerous double standard. The global gag rule is clearly not about crafting rational foreign policy. If it were evaluated under this lens, the gag rule would be defeated soundly at every turn.

There is no evidence that the global gag rule will decrease the number of abortions. It may, in fact, in my judgment, have the opposite effect. By forcing NGOs to choose between providing life-saving health services and receiving U.S. funds we will decrease the resources certain groups have to provide contraceptives, counseling and advocacy services that reduce the incidence of abortion.

Since the Mexico City Policy was initially reinstated last year I've been working with my colleagues to repeal it. I first introduced

the Global Democracy Promotion Act during the last Congress, and I was honored to reintroduce the bill with Senator Boxer this year. I call the Global Democracy Promotion Act the "golden rule" bill. It will keep an overseas group from being denied U.S. funding solely on the basis of services it provides with non-U.S. funds as long as those services are legal in the United States and legal in the country where the group operates.

And it would prohibit overseas NGOs from being subject to advocacy and lobbying restriction which cannot be applied to U.S.-based NGOs. It essentially says that we should treat people in other countries the way we ourselves would like to be treated. It's a principle we all learned as children and we should not forget it now.

The votes in the House to repeal this misguided policy are bipartisan and very close, and I believe we will ultimately prevail. I hope this hearing and our combined efforts will convince people that the global gag rule is bad policy. It undermines U.S. efforts to promote democracy in the developing world. It thwarts USAID's global health initiatives. It sullies our country's global reputation, and it does nothing to reduce the incidence of abortion worldwide.

Let me just say to Senator Boxer and Senator Chafee, and to my good friend, Congressman Smith, many of us have traveled to other parts of the world, and I know you, as a leader in human rights, have done so.

I remember a trip to Egypt very recently where I visited a maternal-child clinic, and the nurse was telling me of stories where a woman was brought in bleeding to death because of a botched abortion, but they couldn't do anything. Because this has such a chilling effect, they were afraid to refer this woman to help save her life, to take care of her, because of the chilling effect.

I also remember, when we talk of rights and protecting women and families, a recent trip to Cambodia. Only 40 percent of the people in that country currently receive family planning assistance, contraceptive assistance. Seventy percent want it. And when we look at these families and children who desperately need these services, I think it is the right thing for us to do to encourage family planning as much as we can, and it would be irresponsible for us to cause any kind of chilling effect.

So let me close by again restating the golden rule. Let's not do unto others what we wouldn't impose on ourselves, and let's make sure that we do all we can to preserve human life around the world and protect these families, protect these children, provide these services. I'm very proud of the work that the United States is doing in providing family planning services and assisting these families in planning their lives. And I thank you again for your important leadership, Madam Chairwoman.

Senator BOXER. Thank you very much. Thank you both. We'll call our second panel.

Mr. SMITH. Madam Chairwoman, may I respond?

Senator BOXER. We're not going to have a response back and forth. I'm so sorry. The tradition of the committee is that our witnesses speak and we don't question Members of Congress, because we take your testimony for what it is worth, and it's worth a lot to us and we thank you for it.

We will move on to the second panel. Mr. Alan Kreczko is Acting Assistant Secretary of the Bureau of Population, Refugees and Migration, Department of State. He is a representative of the Bush administration. He will speak in favor of their policy. He is accompanied by Barbara Turner, Acting Assistant Administrator for Global Programs, USAID. We welcome you, and we're going to ask that you try to limit your opening statements to—how much time do you think you need?

Mr. KRECZKO. Ten minutes, Madam Chairman.

Senator BOXER. If you could try to keep it to 10 minutes, because we need to move ahead. Thank you. Please proceed.

STATEMENT OF ALAN J. KRECZKO, ACTING ASSISTANT SECRETARY, BUREAU OF POPULATION, REFUGEES AND MIGRATION, DEPARTMENT OF STATE; ACCOMPANIED BY: BARBARA TURNER, ACTING ASSISTANT ADMINISTRATOR FOR GLOBAL PROGRAMS, USAID, WASHINGTON, DC

Mr. KRECZKO. Thank you, Madam Chairman and members of the committee. I am pleased to be here today to represent the administration in discussing the Mexico City Policy and to reaffirm the administration's commitment to international family planning.

Throughout the more than 30-year history the U.S. International Family Planning Program has had strong support from the American public as well as the Congress. This program is recognized worldwide as one of the most successful components of our foreign assistance. We remain the largest donor in the world with programs in more than 58 countries.

More than 50 million couples in the developing world use voluntary family planning services as a result of programs supported by U.S. tax dollars. These programs enable couples to choose the number and spacing of births, promote enhancement of maternal and child health, reduce the incidence of abortion, and enable parents to better provide for their children. And we know that voluntary family planning saves lives by reducing up to a quarter of the 515,000 annual pregnancy-related deaths around the world.

President Bush has reaffirmed the United States' commitment to a strong international family planning program. On January 22 the White House indicated that the President was committed to maintaining the $425 million funding level provided for in fiscal year 2001 appropriations, noting that this support recognizes our country's long history of providing international health care services including voluntary family planning for couples around the world who want to make free and responsible decisions about the number and spacing of their children and also noting that providing quality family planning services is one of the best ways to prevent abortion.

The administration's commitment to international family planning is further reflected in the President's fiscal year 2002 budget request, which includes $425 million for USAID's population program with an additional $25 million for the U.N. population fund, UNFPA.

One standard applied in making decisions about how limited U.S. international family planning assistance funds are allocated to potential foreign grantees or sub-grantees is whether their family

planning programs are consistent with the values and principles the President decides to promote as part of his broader foreign policy. Congress recognized this when it stipulated that fiscal year 2001 population assistance funds would not be available for expenditure until February 15, 2001. The accompanying conference report noted that this restriction was designed to allow the new President to decide what terms and conditions to impose on such assistance.

The programs of foreign NGOs that provide or actively promote abortion are not consistent with the family planning values President Bush wants to promote as part of his foreign policy agenda. Consequently, President Bush restored the Mexico City Policy. While USAID's population assistance program had been prohibited since 1973 from supporting abortion-related activities, the Mexico City Policy ensures that USAID's family planning assistance only goes to foreign organizations that do not perform or actively promote abortion with a clearly stated exception for post-abortion care. This policy had previously been in place from 1984 until 1993, during the Reagan and first Bush Presidencies, but was rescinded by President Clinton.

The Department of State and USAID worked closely together in issuing the implemented clauses for the Mexico City Policy. They are nearly identical with the previous clauses. While few organizations have decided not to comply with these clauses, we expect more than 450 foreign, non-governmental organizations will ultimately elect to accept assistance subject to the clauses as they did when the policy was in place under Presidents Reagan and Bush and will therefore continue to receive USAID funding.

USAID will do its very best to assure that any gaps in services created by organizations that are now under Mexico City Policy ineligible for USAID population assistance will be filled by other eligible organizations.

Let me briefly express concerns raised regarding the limitations on abortion advocacy by NGOs operating abroad. In order to avoid any misperception of U.S. Government endorsement of what a government's foreign organization's message may be on abortion, foreign NGOs that engage in advocacy on abortion are prohibited under the Mexico City Policy from receiving USAID family planning assistance. Foreign NGOs that choose not to comply with the policy can, of course, seek funding from other donor governments, the private sector, or from their own governments.

While family planning assistance has broad support in the United States, abortion is an issue on which Americans sincerely and deeply disagree. The Mexico City Policy seeks to clearly separate the U.S. Government's support of family planning assistance from abortion-related activities.

I would also like to note that USAID's family planning program operates under a variety of restrictions. Its own monitoring and independent audits from the inspector general and GAO have routinely found their programs in compliance with these restrictions.

In closing, Madam Chair, let me reiterate this administration's strong commitment to international family planning. As I said earlier, we are the largest bilateral provider of voluntary family planning and related health services. The President's fiscal year 2002

budget supports our position as the leading donor. With this committee's support and that of the entire Congress, we expect that to remain the case in the years to come.

That concludes my remarks. As USAID is the responsible implementing agency for the Mexico City Policy, I have asked Barbara Turner, who is the Acting Assistant Administrator for Global Programs, USAID, to join me in answering any questions you may have. Thank you.

[The prepared statement of Mr. Kreczko follows:]

PREPARED STATEMENT OF ALAN J. KRECZKO

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The Department of State and USAID worked closely together in issuing the implementing clauses for the Mexico City Policy. They are nearly identical with the previous clauses. While a few organizations have decided not to comply with these clauses, we expect more than 450 foreign non-governmental organizations (NGOs) will ultimately elect to accept assistance subject to the clauses, as they did when the policy was in place under President's Reagan and Bush, and will, therefore, continue to receive USAID funding. USAID will do its very best to assure that any gaps in services created by organizations that are now, under the Mexico City Policy, ineligible for USAID population assistance will be filled by other, eligible organizations.

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That concludes my remarks. As USAID is the responsible implementing agency for the Mexico City Policy, I have asked Barbara Turner, USAID Acting Assistant Administrator for Global Programs to join me in answering any questions you may have.

Senator BOXER. Thank you very much. I note the presence of two members of the committee and am honored that they took time out of their schedules to be here. Before I ask any questions and open it up for questions, I would ask Senator Feingold if he would like to make an opening statement.

Senator FEINGOLD. I would, and I want to thank the Chair, Senator Boxer, for chairing this very important hearing, and I want to thank the witnesses.

I have consistently opposed the so-called Mexico City restrictions on U.S. assistance to these programs, which are also know as the gag rule restrictions. Current U.S. law already prohibits U.S. funds from being used to promote abortion-related activities overseas. The gag rule restrictions traditionally prohibit U.S. funds from going to any organization abroad that uses its own funds for the purposes of providing abortion services or counseling, or even speaking out about abortion laws in their own country.

I find it difficult to believe that these restrictions really prevent abortions. More likely, I think they actually increase their likelihood by cutting off funds to reputable family planning organizations, which happen also to use their own money for abortion-related activities.

All over the world these gag rule restrictions also bring U.S. Government into what should be private consultation between a woman and her health care provider, effectively somehow setting the parameters of these discussions from here in Washington. I think this is really beyond presumptuous. I believe that this policy actually directly conflicts with our national values. Gag rule restrictions basically demand the recipients of U.S. family planning to surrender their rights to free speech if they wish to receive U.S. family planning assistance, a policy that runs counter to cherished American principles.

I strongly support voluntary international family planning programs which help to educate women about contraception, prenatal

care, birth spacing, the prevention of sexually transmitted diseases and other important lifesaving issues. And I am greatly concerned that this misguided policy will undermine these programs and hinder global progress toward better maternal/child health.

I look forward, of course, to reading over the witnesses' testimony. And, again, I just want to thank the Chair for her tremendous leadership on this issue. Thank you.

Senator BOXER. Thank you so very much, and I appreciate your support.

Senator Allen.

Senator ALLEN. Thank you, Madam Chairman. It's good to be with you again. You have convened a hearing on issues, actually two issues, that understandably stir emotions——

Senator BOXER. Actually, this was Senator Biden's——

Senator ALLEN. So, Senator Biden pulled this off?

Senator BOXER. This is actually a full committee hearing that he has given me the honor of chairing.

Senator ALLEN. He ought to be here to handle this, but it's——

Senator BOXER. He trusts me.

Senator ALLEN. I think it's much more enjoyable to have you doing this, in essence, and for you to have this hearing on these very controversial issues, and those are the issues, really, of foreign aid and the issue of abortion, which are issues that clearly stir emotions and controversy in our country.

I've read and listened to Mr. Kreczko's statement. Regardless of pronouncing his name incorrectly, I think it's a very articulate statement, but I also think it's a statement of the administration that shows a very reasonable, principled statement of policy, which I support. I would go on to say to the chairman on the issue of abortion I have a position of what I call one of reasonable moderation, and it's one which uses scientific ways of looking at when there is a quality of life or development of life, when there is a compelling state interest to protect the unborn child, fetus, product, whichever term one would want to use.

But I've always taken the strong stand against taxpayer funding of elective abortions unless they are in the case of rape or incest or the physical health of the woman, the mother, being in danger. And if you look at the details of this so-called Mexico City Policy, it actually fits in as far as the taxpayer funding issue: Abortions may be performed if the life of the mother would be in danger if her fetus were carried to term, or following rape or incest. And so funds can be used in that way.

Health care facilities may treat injuries or illnesses caused by legal or illegal abortions, post-abortion care. As I understand it, that is covered by such funding. Passive responses by family planning counselors to questions about abortion from pregnant women who have already decided to have a legal abortion are not considered acts of promoting or advocating abortion, and referrals for abortion as a result of rape, incest, or where a mother's life would be in danger or support of post-abortion care are permitted. So this is generally my view of the way it ought to be, as everyone has their own views, have very strongly held views on this issue. But as far as I'm concerned, it's pretty close to my general view of taxpayer funding.

I might have a different status or view as far as what goes on in the United States versus foreign aid, because, after all, this is the taxpayers' money that will be going to support foreign groups that support abortion, fund abortions, or encourage or advocate abortions.

And I think we all want to help women. I support family planning. I support funding by the United States of programs that help women decide how many children they may want to have, or spacing of their children. Our Government, which means the taxpayers of the United States, spend over $400 million a year for family planning programs, and I just don't think we need to use this money to give it to groups that perform abortions or advocate abortions.

The so-called Mexico City rule has been in effect in the past, and the international family planning groups have not run out of business. They've survived all those years just fine during the Reagan and first Bush administration. And there will always be funds from other countries. They can support it. There are private organizations. There are individuals that want to support these groups. So I don't see why the taxpayers ought to be compelled to do so.

The reason I say the private groups can fund it is that it is the right of an individual to fund whatever they want, to fund as they see fit. The question here is what is the proper use of U.S. taxpayers' money.

So, in summary, Madam Chairman, I pretty much agree with the statements made here on behalf of the Bush administration, and I would hope that policy stands because it's consistent with my views and principles, and I consider my stand to be one of a status of reasonable moderation on the issue of abortion.

So thank you, Madam Chairman, and thank you all for bravely coming before this committee.

Senator BOXER. Thank you, Senator.

This is a good start. This is common ground. Let me say, Senator, how much I respect your being here this morning. So I guess where I disagree with you is you think this is a very controversial hearing and controversial subject. I think family planning is not.

I also want to point out that you said a couple of things that I just want you to look at, because I know you are a very serious legislator, and that is you said very strongly that you don't believe public funding should be used for abortion, and that has been the law since 1973. When I got to the Congress in 1983, that had been the law for 10 years. So the fact that it is written without the gag rule, U.S. funds may not be used. And what this gag rule says is, if they spend their own money on abortion, they cannot receive Federal funds. So I just urge you to look at that.

You also said you support abortion in the case where the physical health of the mother is impaired. This gag rule makes no exception for the physical health of the mother. It does for life of the mother, not physical health. So I'd love to see that section added. We're with you on it if you would like to do that, because that might be an area we could work on together.

Senator ALLEN. May I——

Senator BOXER. Please, please. We're taking a little time out here. Maybe we can reach some——

Senator ALLEN. The concern I would have for the chairman is that, if you give money to these organizations, these foreign organizations——

Senator BOXER. Yes, nongovernmental.

Senator ALLEN. All right, non-governmental organizations that perform abortions, obviously you can switch money around. It could supplant other funds. They'll say, "Oh, yes, we are not using it for this," so they use the money for one way or the other. So money is fungible. That's a concern I have there.

Senator BOXER. I would say in this country we do give tax dollars to organizations that use their own funds. They have to give very strict——

Senator ALLEN. Such as Planned Parenthood?

Senator BOXER. Well, several.

Senator ALLEN. Correct.

Senator BOXER. And we do have very strict laws. So this is a different set of rules for non-governmental entities abroad in developing countries. That's why we think, many of us, that this is just so unfair.

Senator ALLEN. Let me ask you this. This so-called gag rule, which was an issue in the first Bush administration, which applied to the United States, that issue—maybe the Bush administration is going to bring it back, but as I understood during the Clinton administration, that's been settled and the policy as far as Federal funding for organizations on planning, while it doesn't fund abortions as far as abortion counseling, the gag rule, as I remembered it from 10 years ago, was one that even prohibited——

Senator BOXER. That's correct.

Senator ALLEN [continuing]. Discussion of abortion.

Senator BOXER. And that's what this does, the Mexico City Policy. We had that, but it's unconstitutional and we can't have it here, so that's why we don't have it in this country but we have it in developing countries.

Senator ALLEN. Just so you know, when I was for a short time a Member of Congress, my stand was opposed to that so-called gag rule. I thought it went too far in prohibiting, and got some nice blasting letters and faxes from folks on it, but nevertheless that was the position I took during the campaign. This, though, is overseas.

Senator BOXER. Yes.

Senator ALLEN. These are foreign operations.

Senator BOXER. And you're going to meet some of these good folks who are going to testify today.

Senator ALLEN. It's important and the whole issue of foreign aid and how much foreign aid we ought to have is another issue, and what we should be funding and what sort of certainty is there that it won't be used—and especially if an organization does perform abortions. But I'm glad that the gag rule issue as far as domestic, here in this country, is settled. Who knows? Maybe it will come back again.

Senator BOXER. I don't think so.

Senator ALLEN. Good. I hope it doesn't.

Senator BOXER. We have a good Constitution.

Senator ALLEN. Well, I didn't know it was a constitutional——

Senator BOXER. Well, free speech is the basis of our——

Senator ALLEN. Yes, but you don't have the right to have our taxpayers pay for your speech. I just thought it was a bad medical policy to not allow medical professionals to even discuss the option of abortion. I didn't think they should——

Senator BOXER. Senator?

Senator ALLEN. Just let me say one thing.

Senator BOXER. Yes.

Senator ALLEN. The reason I used the words "physical health" as far as exceptions, which are in this policy, for rape and incest and——

Senator BOXER. Life of the mother.

Senator ALLEN. You used life of the mother. The reason I used the words "physical health," is simply an adjective to make sure that we are thinking of physical health as opposed to——

Senator BOXER. Mental health.

Senator ALLEN. Because some people can use that as a way—without the proper adjectives it's too big of a loophole.

Senator BOXER. I agree.

Senator ALLEN. Maybe I should use the word "life," but I'm just always—there could be a situation detrimental to a woman's physical health.

Senator BOXER. Yes.

Senator ALLEN. An impairment disabling——

Senator BOXER. Exactly, and that's a very big issues surrounding the whole debate. Thank you, Senator. We did this little, mini debate, because I think it's helpful to see different views, but the point, I hope, Senator Allen, you will keep in mind, and if you do I have some confidence, maybe, that you will rethink your position on this, that this global gag rule is the same thing as that domestic gag rule we had, same thing.

Doctors, or nurses, in foreign countries cannot tell a patient their options. It has to be a passive question. But no one can come in and say, "What are my choices? What can I do? I'm in trouble here." Doctors may not speak if they receive Federal funds. So I think this is crucial.

Well, Mr. Kreczko, I'm sure you were thrilled that you didn't get on the hook for a couple of these questions, so I'm going to return to you. And I would like to go to the 5-minute rule for us as well. So let me say, I was stunned when George Bush did this, frankly, 2 days after he was elected, and I have his statement here. He said, "It is my conviction that taxpayer funds should not be used to pay for abortions or advocate or actively promote abortion, either here or abroad."

So I just want to make sure you know, and I know you know this, but just for the record, do you not agree that since 1973, taxpayer funds have not been able to be used to provide abortion, to promote abortion, in this country or abroad?

Mr. KRECZKO. Senator, you are correct. Since 1973 U.S. taxpayer funds cannot go directly to support abortion activities.

Senator BOXER. You agree with that?

Mr. KRECZKO. Yes.

Senator BOXER. So I just might say for the record then, and I don't ask you to comment at all, that in my opinion this statement

is incorrect, because he said, "The Mexico City Policy must be restored because taxpayer funds should not be used to pay for abortions." That's why so many of us were stunned. He didn't say "fungible" or any of these things that others have said. So I think that this statement is incorrect on its face, and I would put it in the record and make the point that the Bush administration has now stated that. It is an accurate statement that since 1973 taxpayer funds have not been able to be used for abortion or promote abortion here or abroad.

Mr. Kreczko, you pointed out some of the exceptions, and Senator Allen also did, of this global gag rule I call it. Others call it the Mexico City Policy. But we agree that the life of the mother, rape, incest—and I believe you said you didn't say medical emergency. What is the exact——

Mr. KRECZKO. Care for the consequence of abortion.

Senator BOXER. Right. So that in your opinion if a woman walked into one of these USAID clinics that was living under the global gag rule and she was bleeding from a botched abortion or an incomplete abortion, and they helped her get through the rest of this operation, they would not lose their funding?

Mr. KRECZKO. Correct. The President made that explicitly clear when he enacted the Mexico City Policy.

Senator BOXER. Well, let me——

Ms. LOWEY. I would just like to comment that under the original Mexico City Policy in the 1980's and 1990's, that was not correct. President Bush changed that in the new policy. It's the one thing he specifically asked that we adjust because we felt that was something groups had brought to us as a concern.

Senator BOXER. OK, well, I would recommend that you might consider discussing this with Secretary Powell or people from the State Department or USAID. I think we really need to clarify that because Congresswoman Lowey says that the groups are fearful of the chilling effect of this policy where when a woman comes in in that circumstance they are afraid or fearful, or even if she asks a passive question.

I want to ask you, do we have this gag rule in any other USAID activity?

Mr. KRECZKO. I don't know the answer to that.

Ms. LOWEY. Not to my knowledge.

Senator BOXER. We don't. And it seems to be amazing that we have a gag rule—on no other USAID program, but we have this gag rule on family planning. I think that says volumes. If we're so worried about it—I mean, theoretically, if somebody goes in to get treatment because they're afraid that they have AIDS, let's say, the people there in those non-governmental organizations aren't gagged from talking about abortion or anything else. So I'm saying this not to give you an idea to now go out and gag those people, but I'm saying the fact that a gag rule applies strictly to family planning is very hostile. It is very hostile to women. It's very hostile to the notion of freedom of speech when it comes to a woman's reproductive rights.

Mr. KRECZKO. Senator Boxer, can I comment on this?

Senator BOXER. Yes, go ahead.

Mr. KRECZKO. I actually think that the narrowness of the Mexico City Policy demonstrates exactly the opposite. The Mexico City Policy only applies to the family planning money. It does not apply to any other source of U.S. Government funding, so clearly the intent is not simply to go out and target any foreign NGO because of its advocacy. If so, it would apply no matter what the source of funding. Instead, it applies to family planning because of the President's desire to draw a clear line of separation between family planning and abortion.

Now you mentioned in your comments that family planning is not controversial. There is a strong consensus in the United States that we ought to be doing family planning, but there is not a consensus on the abortion issue in the United States, and we actually can encourage and promote and secure support for family planning by keeping a clear separation between family planning and abortion. And that's what the Mexico City Policy does. We choose our partners for the implementation of family planning on the basis of what their views are.

Senator BOXER. Well, that's a good try, but we don't do that at home. We don't do these things to our family planning people at home. We don't gag them. We permit doctors to tell them their options. We don't stop them from being able to advocate.

Do you know that we have a witness on the next panel that had to go to court because she was fearful of speaking out here and the Bush administration showed up in court and very wisely said, "Oh, we won't contest this. We'll let her talk." Thank you. Thank you, for allowing someone to speak.

I would say to you that, because this is just attached to family planning organizations and no one else, it is hostile to family planning. It is hostile to those groups. I hope you can stay and hear those groups and what it is like for them because they are so fearful. They see 78,000 women dying of illegal, botched abortions. They believe that your policy, which you are defending here today, is going to lead and is leading to more illegal abortions.

So I respect your view. I think you made a good try to show how friendly this administration is to family planning, but you are putting a gag on groups outside of America. You can't do it here. The administration would love to do it here, but it can't, because we're protected here by our Constitution. And I think that is a shameful situation, but I appreciate—I have a sense that in your heart you don't see it this way. And so, good, I'm glad, you sleep at night much better. But I see it a completely different way.

Senator Chafee.

Senator CHAFEE. Thank you, Senator Boxer. I think you are making the key point here, and that's the hypocritical aspect of this law. Senator Boxer's bill, S. 367, declares that "ineligibility to termination for certain assistance under the Foreign Assistance Act of 1961: Foreign NGOs shall not be ineligible for assistance solely based on the health and medical services, including counseling and referral services, provided by them with non-U.S. Government funds if such services do not violate the laws of the country in which they are being provided and would not violate U.S. Federal law if provided in the United States." These are the key points

here. How can the administration not support S. 367 under those circumstances?

Mr. KRECZKO. If I can try to respond to that, Senator. The issue is what organizations we want to choose as our partners. There's no obligation to fund everyone regardless of their views, and I think that would be uncontested if there were a group that was arguing that abortion ought to be coerced or that abortion ought to be used in order to choose the sex of the child that was going to be delivered. We have no obligation to fund any organization because of the views that it advances.

You have to bear in mind that we are associated with the groups that we fund. We do not fund anonymously. In fact, we go out of our way overseas to take credit for the family planning services that we provide. So when we provide financial support to a foreign, non-governmental organization, organization *x,* we go out of our way to make it clear and visible and public that the U.S. Government is supporting that organization's activities. Now we don't want to create any confusion about what this administration's view is on appropriate family planning, and therefore we do not fund those groups which support abortion activities.

So I think that is the explanation. And again, as I say, the intent is to keep a clear line between family planning, which everyone supports, and abortion, which is divisive.

Senator CHAFEE. I just add that we have to be careful about blurring the line between the 1973 law, as has been pointed out, and how that exists and the laws that—what is constitutional here in the United States and how can we have different standards for foreign countries.

Mr. KRECZKO. Senator, I understand the difference between the 1973 law. The 1973 law only applies to what happens directly with our funding. But it is a fact that we perpetuate intentionally that when we fund an organization, that organization becomes associated with us overseas, and it is known that we fund them.

Senator CHAFEE. Thank you, sir.

Senator BOXER. Senator Allen.

Senator ALLEN. Thank you, Madam Chairman.

I do think that the issue is which hearings on appropriation policies, so to speak, as to which foreign organizations the taxpayers of this country ought to fund. We make all sorts of decisions on appropriations and have conditions on appropriations. To me, this seems very reasonable.

Again, you know, this was not anything that was all that hard, prior to the Clinton administration—they came in after 2 days in office and they changed the rules that were in the first Bush administration, so Presidents use their Executive powers quite quickly, and that's within the prerogatives in changing it.

But I do think it's important to note a new aspect of this law, and I assume this was along and blurred from this hearing, that if someone has complications from an abortion, some physical problems, whatever the problems may be, that these organizations are perfectly—that there is no prohibition and, in fact, probably what needs to be done in this is one thing that I think everyone can agree on out of this hearing that could be very beneficial if there is a chilling effect somehow on this Mexico City problem. But those

who do have medical problems after an abortion, not performed, obviously, in that particular facility, but they want to go to the other organization, that that certainly would be allowed.

And probably you need to work with whatever these non-governmental organizations are, and there may be some of these non-governmental organizations that may not have applied previously for these funds that do perform that very important service that need to know that. Because I think it's a good change. I think it should have been there before. It just never arose or came to my attention, nor was I here to worry about such matters when one is worrying simply about the Commonwealth of Virginia.

The chairman had some questions about your heart there, Mr. Kreczko, and I'm going to allow my final time for you to—the chairman is very persuasive, as you can see, and she's very, very sharp and smart. Is there anything that you would want to add? I can tell that you want to respond, but the time has expired so I'll give you whatever moments I have left on my time.

Mr. KRECZKO. Thank you, Senator.

I would like to make two comments. No. 1, the actual White House statement that indicated the restoration of Mexico City Policy included in it a statement about being able to provide care for people who went through botched abortions, so attaching visibility to that is something that we have tried to do to remove any questions that might have existed under the former policy on that.

The other point that I welcome an opportunity to make is this question about impact on family planning, because there is a consensus around the room that we all support family planning. The fact is that we are given by Congress $425 million for a family planning program, and we will program that $425 million with or without Mexico City Policy. We can and will program effectively the $425 million of funding we are provided, so there is not going to be a significant adverse impact on family planning programs as has been argued. Thank you, Senator.

Senator ALLEN. Thank you. Thank you, Madam Chairman.

Senator BOXER. Thank you so much. Maybe there is room for us to work on a way together to the Bush administration asking them to send out a clarification of their rule, because we did get testimony from Nita Lowey that—I don't know if you were here at that point.

Senator ALLEN. I was not.

Senator BOXER. That in Egypt a woman desperately seeking help after a botched abortion came into one of these organizations that was a very good organization, and they were afraid to treat her because it had that chilling effect.

Senator ALLEN. Let's do that.

Senator BOXER. I would love to. And so that's a place that we could work together on and hopefully get your support on that, and that we could work together on something would be very good.

Mr. KRECZKO. I can say that it's there in the amended policy guidelines that were issued after the Mexico City Policy was restored by the President, so it is there.

Senator ALLEN. It seems like a notification needs to—at least in Egypt, and who knows where else in the world, that needs to be

clarified. Not everyone reads all these missives. Most people do, but not everyone all over the world.

Senator BOXER. That's true. People in Nepal may not read the Federal Register. This is true. So if we want to get something out there, it seems to me we might send a letter—and, Senator Allen, maybe or maybe not we could hope to agree on something.

Let me thank you. I would want to say, however, sort of the irony of this in my mind, not in yours and not in Senator Allen's, but I think in Senator Chafee's and mine, I think I would speak for the both of us in saying this, as we seek to make the best of the circumstance by clarification of what we have in place, it seems to me, it is a separation where, because we have these different rules for the international organizations who are doing this, we have this chilling effect and we certainly know they cannot let people know what their rights are unless it's the answer to a passive question. They cannot. We all admit that.

That's what this global gag rule is. A doctor can't say to you, if he sees you, what he or she might not want to be fearful of doing, but they can't do that or they will lose their funds.

So what we have set up then is perhaps some of the base organizations that you fund, that we all fund as Americans. We're picking out the best. You're absolutely right, the best of the best family planning organizations are getting our funding. And they are the very same ones that are gagged. They are the very same ones that cannot use their own funds to provide safe abortions. Now a woman doesn't go there. She goes to some back alley. Then she comes bleeding into one of the organizations we fund, and, with your magnanimous exception, if she arrives bleeding on the floor, they have the help for her. Well, good for you. I'm glad you have that exception, but how much better it would be if that woman could go to that fine organization and not to the back alley.

That's why many of us are upset about this. I respect that we see it differently. Believe me, I do respect that difference. And I think we have to be real honest about what this is about. From my perspective, it is about family planning and avoiding abortion. It's what I believe. But sometimes life doesn't go exactly right and a woman is forced into a terrible circumstance and she makes this difficult personal choice with herself, her doctor, her family, and her God.

Now in this country it's a legal choice. In other countries it's a legal choice. But because of this gag rule she can't get all the options. She can't choose what's best, really, for her. I think this is backward. I don't feel good that the only time she could get the help from these good organizations that you fund, and we agree with you that we should fund, she can only get it in a desperate type of situation and we can't do it in this country.

So that's why we have so many people who consider themselves anti-choice, if you will, or pro-life, whatever way they phrase it, on our bill as co-sponsors. We have Harry Reid as one of our leading supporters. He testified here today, Senator Allen. He has got a pro-life record. We don't agree on the issue of choice, but we agree on this one.

In any event, I think you get my point, and I thank you both very, very much for coming. And I hope we can find common

ground on some of these issues that Senator Allen and I have discussed. And we dismiss you and we hope you have a good day. Thank you very much.

Senator ALLEN. Madam Chairman, may I—I don't know protocol. If it's out of order, fine.

Senator BOXER. Anything you want. What do you need?

Senator ALLEN. You're wonderful. I think we can agree——

Senator BOXER. I knew he wouldn't give me the last word.

Senator ALLEN. No, you'll always get the last word. And I was listening very closely to everything you were saying, and I think we should work together in making sure that these foreign operations, foreign, non-governmental organizations know the change. I think it's very, very important.

None of us, none of us want back—well, I'm going to speak only for myself. I don't want people having back alley abortions or unsafe abortions. And you're saying, oh, gosh, if the United States—here's the import of all of this, is if the United States, out of $427 million—when you start allocating that around the world, that really doesn't come out to very much money. I'm not advocating any big increases.

Senator BOXER. Well, we almost had a——

Senator ALLEN. No, national defense, education and basic scientific research, take care of those.

Senator BOXER. Well, wait a minute. Are we getting our campaign platform in here?

Senator ALLEN. No.

Senator BOXER. I'm just kidding.

Senator ALLEN. But the point is I don't want anyone—advocating anyone having a back alley abortion or an unsafe abortion. This amount of money, even if it was going to these organizations, would not necessarily prevent that. There is a responsibility, by the way, for those who care about this, if they so desire, to fund the organizations so that they can provide safe abortions. But beyond all that, what about the countries in which these people reside? You know, it's nice if there's no governments around or in those countries they can advocate better hospitals, better medical care and so forth. So the question is not whether or not, gosh, if we change this, if we delineate or delete this Mexico City Policy that all of a sudden health care and safe abortions will occur. That's really not—I don't think it's going to make much of a difference whatsoever as a practical matter, because not everyone is going to be able to go to these very few facilities that $400 million would cover around the whole world.

So I do think there is an obligation and the primary responsibility on the part of the governments of those countries to make sure there is good quality health care. This is just the United States and our charitable way of trying to help out with family planning, which we understand is important as a world issue, and a hunger issue, and a quality of life issue.

Senator BOXER. Well, Senator, I agree with you that the countries have to do more. Sadly, in the developing world we have countries that are just so poor and they just don't have the funding. They barely can feed their own people. We're talking about the developing world. We're not talking about—we don't help France with

this. You know, we're helping the roughest and the toughest, and the most undeveloped nations. But we would certainly hope that they would, with whatever resources they could, deliver this health care.

But the reason that you're needed and the reason we do these programs is we do try to stretch our dollars. And I personally would like to see us do a little more, because I think when we really get into the analysis—you talk about a priority of defense, which we all share, you're going to have to do a lot less of that if people are fed and people have good health care. So I think helping with these kinds of programs abroad does help us. And I'm sure that if we were to have the Secretary of Health he would agree that helping these people does help bring people to our side. It does help bring democracy.

So in any event, I greatly appreciate the panel and my colleagues in Congress. If you'd like to stay you are welcome to stay. I think what is extremely interesting is that we do have a person here who felt she had to go to court to get the gag rule lifted. And I hope from what happened—this is a news release from this morning, "U.S. Government Backs Away From Gag Rule Limitation on Abortion Right Advocacy." It's a headline, New York. "Today the Bush administration, faced with the embarrassing possibility that its abortion gag would censor the testimony of a witness before Congress, backed away from the global rules limitation on abortion rights advocacy. As a result, Susana Silva Galdos, a Peruvian reproductive rights advocate, is free to speak before a hearing at the U.S. Senate on Thursday about the gag rules limitations on abortion in her formative nation without jeopardizing her organization's funding."

Mr. KRECZKO. If I can comment on that, Senator.

Senator BOXER. Yes.

Mr. KRECZKO. I want to comment on the characterization that the Bush administration was forced to back away. The Bush administration never believed that the Mexico City Policy would interfere with an individual's ability to testify before Congress. We made that clear to the judge and the judge agreed with that and, therefore, no restraining order was issued.

Senator BOXER. I understand.

Mr. KRECZKO. So the suggestion that the Mexico City Policy would preclude an individual from testifying before Congress is inaccurate and the individual was informed of that so that there wouldn't be any question about that.

Senator BOXER. And I'll finish, "although free to testify before the Senate on one occasion, Ms. Galdos remains censored by the gag rule's restrictions against discussing abortion law or in any other circumstance on any other day." This means she was censored from speaking before Peru's legislature, the U.N. or to members of the press. Now I'm embarrassed about this. I mean, I am.

Anyway, we're going to call on our next panel, and we thank you very, very much. May I ask that both panels, because of the time situation, come up together, and I would ask our wonderful staff to accommodate that. We want to put our "now free to speak" wit-

ness Susana Silva Galdos and Dr. Nirmal Bista right in the center if we can. They came a very long way to be here today.

We would like to have the other panel as well. Dr. Pellegrom, Dr. Eberstadt, Mr. Neier, Ms. Cleaver, Professor Aguirre. We welcome all of you.

I'm going to ask Ms. Galdos, since you had to go through a lot to get to speak here today, you are ungagged and you are here in the U.S. Senate, and you may take that gag off, and we hope that you will speak to us about the impact of the Mexico City rule on your ability to deliver care to people in Peru.

And we would ask that—we're going to keep the 5-minute light on, and, if each of you needs to have another minute or two, we'll do that, but we can't go much over that or we'll run into votes and other things.

So, Ms. Galdos, we welcome you.

STATEMENT OF SUSANA SILVA GALDOS, PRESIDENT, MOVIMIENTO MANUELA RAMOS, LIMA, PERU

Ms. GALDOS. Senator Boxer and members of the committee, good morning.

Senator BOXER. Ma'am, move the mike closer and please speak a little louder. Now that you are ungagged we all want to hear you.

Ms. GALDOS. Thank you very much for inviting me. Thank you for this opportunity to testify before the committee today. I am here today in the United States to testify about the impact of the global gag rule. I come from Peru, a developing country with the second highest maternal mortality rate in South America. I belong to Movimiento Manuela Ramos, a Peruvian non-governmental organization with more than 20 years of experience in focusing for women's rights and well-being.

We are partners with USAID on two projects, one of which is the Reproductive Health in the Community Project known as ReproSalud. This project is our passion because it is a big project to reach the poorest women in my country in the area of family planning and other essential health services.

I would like to discuss two things. First, I would like to discuss about unsafe abortion and, second, I would like to discuss the impact that the gag rule has on free speech and democracy.

This first issue is one that I have not been allowed to speak about under the global gag rule. Yesterday, your government gave me some assurances in court that I could speak freely about it, but only in this hearing. And because a judge has affirmed this understanding, I feel comfortable speaking out, but as soon as this hearing is over, I cannot speak on this issue. I will return to my country tomorrow; I will again be silenced. But now, at least for today, I can speak freely here in the United States, not my country. I cannot speak in my own country about my own problems because they are off limit.

I have worked on reproductive rights issues for many years, which has included advocacy to decriminalize abortion, because in my institution we believe that it is important to work on an issue that has a big impact on women's reproductive lives. Research shows that unsafe abortion is one of the most widespread causes of death of low-income women around the world. Recently, United

Nations conferences have recognized that unsafe abortion is one of the most significant public health problems. Abortion is illegal in Peru. It is considered a crime against life, the body, and health, with the exception of therapeutic abortion to save the pregnant woman's life or to protect her from serious and permanent harm.

History has taught us that throughout the world desperate women will seek abortion regardless of its legal status. It is estimated that each year 60 percent of pregnancies in Peru are unwanted and 30 percent of all the pregnancies end in abortion despite Peru's existing law.

Senator BOXER. Could you repeat that again.

Ms. GALDOS. Yes. It is estimated that each year 60 percent of pregnancies, more than 50, more than a half are unwanted pregnancies and 30 percent——

Senator BOXER. Do you ban contraceptives?

Ms. GALDOS. Well, I think we should—I've told you about the contraceptive.

Senator BOXER. Just go ahead. Just do your thing and then——

Ms. GALDOS. Thirty percent of all the pregnancies end in abortion despite Peru's existing law Peru is no different. Because abortion is a crime in Peru, most women unfortunately undergo clandestine abortions, performed in unsafe conditions. I don't want to make you a picture like one of the persons did about the waste, what terrible waste. It is really sad to see a woman in that condition after an unsafe abortion. While the clandestine nature of such procedures makes it difficult to know the prevalence of dangerous abortions, it is estimated that 69 percent of poor rural women who undergo abortions suffer from complications, as do 44 percent of women living in poor urban areas.

Unsafe abortion has serious consequences. It is estimated that every year 65,000 Peruvian women are harmed to the point of needing hospitalization due to complications of unsafe abortion. The Ministry of Health reports that in 1997 15 percent of all obstetrical and gynecological admissions were due to abortion complications. And adding to the problem, most of those women do not receive adequate health care once admitted. Tragically, unsafe abortion is a significant cause of morbidity and mortality among low-income Peruvian women. Simply put, women are dying.

In my country, unsafe abortion causes 22 percent of maternal deaths in Peru. It's a high risk there. Peru has the second highest rate of maternal mortality in South America.

Unintended pregnancy and unsafe abortion has a dramatic impact on the lives of adolescents in Peru as well. Three-quarters of sexually active young women in Peru are not using a modern contraceptive method, and one-half are using no contraception at all. In fact, 13.4 percent of adolescents between the ages of 15 and 19 are mothers or are pregnant for the first time. Poverty compounds the problem. The number of births is greater among the young women in this age group who live in areas with higher levels of poverty.

I am saddened to report that a recent survey indicates that 90 percent of pregnant adolescent patients between the ages of 12 and 16 in the Lima Maternity Hospital were pregnant as a result of sexual abuse. These statistics indicate that desperate young women

are too often forced to make difficult choices in a country where abortion is illegal. As a result, one-third of those who are hospitalized for abortion complications are young women between the ages of 15 and 24 years old.

Manuela Ramos would like to contribute to efforts to decriminalize abortion. Abortion is a difficult issue in Peru, but we need to work gradually to legalize abortion and make it safe and available to all Peruvian women, rich and poor, rural or urban. Now it is safe for the rich only. If you have money, you don't have risks.

Senator BOXER. You have another 2 minutes.

Ms. GALDOS. Thank you.

Our first step would be to decriminalize in cases of rape and incest. In the face of these serious problems such as sexual abuse, dangerous abortion practices, and alarming rates of maternal mortality, how can the United States tell us that we must be silent?

This brings me to my second concern that I would like to discuss. The gag rule is against very important values: freedom and democracy. The gag rule has taken away my freedom to speak about an important issue in my country, a serious issue that is about the life and death of women in Peru. A freedom that I had to ask a judge to give me back, temporarily, so that I could speak to you today. In particular, this policy gags the very individuals who, like me, are directly affected by this policy. It is as though the global gag rule has a built-in ban on speaking out against it.

I have traveled to the United States on two previous occasions to share my views on the global gag rule. I was invited to participate in meetings with USAID and State Department officials. I was asked to speak at a congressional briefing, and I was invited to share my views at two press conferences. At each of these events I have been gagged from discussing abortion, even when U.S. officials asked me questions directly. Until today, I have been unable to stand here in your country—where you so value free speech—and discuss openly the impact of unsafe abortion on the lives of so many Peruvian women and they need a lot of reform.

We in Peru believe in democracy, as do you, citizens of the United States. But democracy is not only for one country. The global gag rule, we feel, is against democracy because it makes a distinction between the United States and the rest of the world. It is very discriminatory.

We at Manuela Ramos want to think of ourselves as partners with the U.S. Government and other funders, and we are working on these issues as partners, but the global gag rule changed our relationship from partnerships to "father-ship." It implies that in the world we are like children, that we in poor and low-income countries cannot be trusted to make and implement our own rules.

Historically, we women have had to fight for things like family planning, for ending violence against women. The only way to do this is through talking, lobbying, advocacy, and open debate. We have a right to find our own way to deal with these problems. As the United States should know, democracy is nourished and strengthened with free speech.

Senator BOXER. Ms. Galdos, finish in one sentence, please.

Ms. GALDOS. I would like to say that when I was here, many citizens apologized to me for this global gag rule. It made us hope.

I would like to finish to beg you to please let us be the masters of our destiny. Please, we don't want to choose between health services for poor women or free speech. We need both.

[The prepared statement of Ms. Galdos follows:]

PREPARED STATEMENT OF SUSANA SILVA GALDOS

Senator Boxer, Senator Helms, Members of the Committee, good morning. Thank you for this opportunity to testify before the Committee today.

I am here today in the United States to testify about the impact of the global gag rule. I come from Peru, a developing country, with the second highest maternal mortality rate in South America. I belong to Movimiento Manuela Ramos, a Peruvian non-governmental organization with more than twenty years of experience in advocating for women's rights and well being.

We are partners with USAID on two projects, one of which is the Reproductive Health in the Community Project. Known as ReproSalud, it is an innovative reproductive health project that seeks to empower women to exercise their right to family planning and other essential reproductive health services.

Our history as women has always been to fight for our rights, such as family planning or to live without violence. My personal history has been one of advocating for women's rights in Peru.

I would like to discuss two things today. First, I would like to discuss the impact of the gag rule on abortion, and the terrible consequences in illness and deaths for poor women when abortion is criminalized, as it is in my country. And second, I would like to discuss the impact that the global gag rule has on free speech and democracy.

This first issue is one that I have not been allowed to speak about under the gag rule. Yesterday your government gave assurances in court that I could speak freely about abortion. And because a judge has affirmed this understanding, I feel comfortable speaking out. When I return to my country tomorrow, I will again be silenced.

But now, at least for today, I can speak freely.

I have worked on reproductive rights issues for many years, which has included advocacy to decriminalize abortion, because in my institution we believe that it is important to work on an issue that has a big impact on women's reproductive lives.

Research shows that unsafe abortion is one of the most widespread causes of death of low-income women around the world. Recently, United Nations conferences have recognized that unsafe abortion is one of the most significant public health problems.

Abortion is illegal in Peru. It is considered a crime against life, the body, and health, with the exception of therapeutic abortion to save the pregnant woman's life or to protect her from serious and permanent harm.

It is estimated that each year 60% of all pregnancies in Peru are unwanted. And, 30% of all pregnancies end in abortion despite Peru's restrictive law.

History has taught us that, throughout the world, desperate women will seek abortion regardless of its legal status. Peru is no different. Because abortion is a crime in Peru, most women unfortunately undergo clandestine abortions, performed in unsafe conditions.

While the clandestine nature of such procedures makes it difficult to know the prevalence of dangerous abortions, it is estimated that 69% of poor rural women who undergo abortions suffer from complications, as do 44% of women living in poor urban areas.

Unsafe abortion has serious consequences. It is estimated that every year 65,000 Peruvian women are harmed to the point of needing hospitalization due to complications of unsafe abortion. The Ministry of Health reports that, in 1997, 15% of all obstetrical and gynecological admissions were due to abortion complications. And adding to the problem, most of these women do not receive adequate health care once admitted.

Tragically, unsafe abortion is a significant cause of morbidity and mortality among low-income Peruvian women. Simply put, women are dying. Unsafe abortion causes 22% of maternal deaths in Peru. Peru has the second highest rate of maternal mortality in South America.

Unintended pregnancy and unsafe abortion has a dramatic impact on the lives of adolescents in Peru as well. Three quarters of sexually active young women in Peru are not using a modern contraceptive method, and one-half are using no contraception at all.

In fact, 13.4% of adolescents between the ages of 15 and 19 are mothers or are pregnant for the first time. Poverty compounds the problem. The number of births is greater among the young women in this age group who live in areas with higher levels of poverty.

I am saddened to report that a recent survey indicates that 90% of pregnant adolescent patients between the ages of 12 and 16 in the Lima Maternity Hospital were pregnant as a result of sexual abuse.

These statistics indicate that desperate young women are too often forced to make difficult choices in a country where abortion is illegal. As a result, one-third of those who are hospitalized for abortion complications are young women between the ages of 15 and 24 years old.

Manuela Ramos would like to contribute to efforts to decriminalize abortion—neither women who seek abortions nor trained providers who perform them should be subject to prosecution and imprisonment. Abortion is a difficult issue in Peru, but we need to work gradually to legalize abortion and make it safe and available to all Peruvian women—rich and poor.

Our first step would be to legalize it in cases of rape and incest. Although our current law provides that a therapeutic abortion may be performed, it is almost impossible for a low- or middle-income woman to access a safe, legal procedure even when she has a severe threat to her life or health. We need to broaden the interpretation and work for a broader health exception in our law. Manuela Ramos would like to do something to help the thousands of women and girls who die or are injured by unsafe abortion procedures—one important step would be to reform our abortion law. Eventually, we would like Peru to have a liberal law like those in so many countries in the world, including the U.S., that protects abortion as a basic right. In short, we support reform of Peru's abortion laws so that women need not fear for their lives when they face an unwanted pregnancy. But because of the global gag rule, this work is forbidden to us.

In the face of serious problems such as these—sexual abuse, dangerous abortion practices, and alarming rates of maternal mortality—how can the U.S. tell us that we must be silent?

And yet, we must promise to be silent—even with our own, non-U.S. funds—if we are to save the programs that thousands of women depend upon.

Which brings me to my second concern that I would like to discuss. The gag rule is against very important values: freedom and democracy.

The gag rule has taken away my freedom to speak about an important issue in my country—a serious issue that is about the life and death of women in Peru. A freedom that I had to ask a judge to give me back, temporarily, so that I could speak to you today.

In particular, this policy gags the very individuals who, like me, are directly affected by this policy. It is as though the global gag rule has a built-in ban on speaking out against it.

I have traveled to the U.S. on two previous occasions to share my views on the global gag rule. I was invited to participate in meetings with USAID and State Department officials, I was asked to speak at a congressional briefing, and I was invited to share my views at two press conferences. At each of these events I have been gagged from discussing abortion, even when U.S. officials asked me questions directly.

Until today, I have been unable to stand here in your country—where you so value free speech—and discuss openly the impact of unsafe abortion rates on the lives of so many Peruvian women.

In Peru, Manuela Ramos has worked with elected officials and policy-makers in drafting laws and policies to address those issues that are critical for women's health. But if members of congress or other Peruvian officials ask our advice about reforming the punitive abortion laws, we must refuse to help them.

Previously, Manuela Ramos has participated freely in regional networks that promote women's reproductive rights in Latin America and the Caribbean. But now we must be silent about abortion in our work with our partners throughout the region.

Manuela Ramos has also participated in United Nations conferences that have addressed women's reproductive health issues, including abortion. But now, we cannot tell the world community about how abortion affects the lives of women in Peru.

We in Peru believe in democracy, as do you, citizens of the United States. But democracy is not only for one country.

The global gag rule, we feel, is against democracy because it makes a distinction between the U.S. and the rest of the world. It is very discriminatory—it tells us that we in low-income countries cannot seek to make and implement our own laws, nor make changes to them.

We at Manuela Ramos want to think of ourselves as partners with the U.S. government and other funders, and that we are working together on these development issues. But the global gag rule changed our relationship from partnership to "fathership." It implies that except for institutions in the U.S., all the rest of the institutions in the world are like children, so the U.S. can tell us what we can do with our money.

Historically, we have had to fight for things like family planning and ending violence against women, among other things. The only way to do this is through talking, lobbying, advocacy, and open debate.

This kind of debate, and the internal political process in our country, should not be subjected to restrictions about what we can say. The global gag rule limits our ability to talk about a severe public health problem. We have a right to find our own way to deal with these problems.

As the U.S. should know, democracy is nourished and strengthened with free speech.

Since the global gag rule was passed, when I talk with U.S. citizens, they have apologized to me. They feel that it is imperialistic, and apologize for having this regressive policy in the year 2001. Even they cannot understand. It really made an impression on me when I heard this from them. It has given me hope.

Please let us be the masters of our destiny. Please, we don't want to choose between health services for poor women or free speech. We need both.

I hope your Committee and the United States Congress will pass a law very soon to end this terrible global gag rule. I appreciate the invitation to testify and I thank you very much.

Senator BOXER. Thank you so much. We appreciate your very moving testimony.

We are going to go back and forth so we have different views instead of just taking all the pros and all the cons, so, Dr. Nicholas Eberstadt, a scholar at the American Enterprise Institute, where he holds the Henry Wendt Chair of Political Economy, testifying in support of the gag rule, we welcome you. We'll set the clock for 5 minutes, and we'll give you an extra couple of minutes to finish.

STATEMENT OF DR. NICHOLAS N. EBERSTADT, SCHOLAR, AMERICAN ENTERPRISE INSTITUTE, WASHINGTON, DC

Dr. EBERSTADT. Madame Chairman, I am always honored to testify before the Senate Foreign Relations Committee, but I'm not testifying in favor of the gag rule.

I was asked to give the demographic assessment of the impact——

Senator BOXER. Oh, I'm sorry. I had that in an incorrect order. I apologize.

Dr. EBERSTADT. My remarks today actually address a somewhat technical, but I think important question which has to do with the health and mortality impact of the restrictions on U.S. international population assistance called by its critics the gag rule and by its proponents, the Mexico City Policy.

There is considerable apprehension among many critics of this policy that the new restrictions would have direct and perhaps severely adverse consequences: higher rates of maternal mortality, higher rates of infant mortality, higher rates of unwanted pregnancy and perhaps even higher ultimate levels of abortion.

Because vital registration systems in the developing world are often rudimentary and technically cannot provide complete registration of births and deaths or medical events, the concrete data that we would need to evaluate these concerns are, sad to say, simply not available to us at this moment.

However, as I will try to explain, the expectation that the new Bush administration's restrictions on U.S. international population assistance would significantly set back child/maternal health in the Third World seems to me misplaced.

The ultimate effect of these restrictions may be slightly to increase maternal and infant deaths or to slightly decrease the number of deaths—or it may have no impact whatever. But whatever its ultimate impact, that impact is unlikely to be large enough to quantify. It is unlikely to be dramatic in magnitude.

Now this assessment of mine will surely seem quite counter-intuitive to many listeners. So why do I draw this conclusion? I will try to explain by way of analogy.

Over the past 20 years we have had in place something like a controlled experiment regarding restrictions on U.S. international population assistance.

We've had the Mexico City Policy in place from 1984 to 1993. Then we overturned it from 1993 through early 2001. By the same token, we have seen significant increases and decreases in the U.S. international population funding. Between fiscal year 1992 and fiscal year 1995, U.S. population funding increased from $322 million to $576 million, and then after fiscal year 1995 it fell very sharply. It was down to $384 million in fiscal year 2000.

Now at the time some critics claimed these past changes in U.S. population assistance would have dramatic and devastating repercussions on the health and well-being of vulnerable, Third World populations. In 1996 for example, Dr. Nafis Sadik, then Executive Director of the U.N. Population Fund, UNFPA, had this to say about the cuts or the pending cuts in U.S. population funding: "The way U.S. funding is going, 17 to 18 million unwanted pregnancies are going to take place, a couple million abortions will take place, and I'm sure that 60,000 to 80,000 women are going to die because of those abortions."

By the same token, the Planned Parenthood Federation warned that maintaining that 35 percent cut would result in four million women experiencing unintended pregnancies, 1.6 million more abortions, and 134,000 more infant deaths.

But as we now know, those dire forecasts were bad forecasts, although, as I have already noted, vital statistics in low-income countries are highly incomplete. International demographic and health experts did not detect any measurable upsurge in global birthrates, abortion rates, maternal mortality rates or infant mortality rates after the 1996 cuts in U.S. international population funding.

And conversely, the significant increase in U.S. population funding in the early 1990's did not result in any noticeable decrease in birthrates, abortion rates, child or infant mortality rates. Why not? Because the world is a more complicated place than we may sometimes assume.

There are three reasons to expect that the new restrictions on U.S. population systems will have a limited demographic and health impact. First, the restrictions themselves are not, in fact, quite as Draconian as some seem to imagine. We've had some discussion about that already this morning.

According to a March 2001 report by the Congressional Research Service, the new regulations contain the following exceptions—

we've gone through many of those already. Abortions may be performed if the life of the mother would be endangered. Health care facilities may treat injuries and illnesses resulting from abortion. Passive responses about abortion counseling may be given. Referrals for abortion as a result of rape, incest or where a mother's life could be endangered are all permitted. And the United States will further continue to support either directly or through a grantee to foreign governments even in cases where the governments include abortion in their family planning programs.

Given the rather broad leeway that can be read into those regulations and the fact that the administration is committing itself to maintaining and even increasing the overall level of U.S. population funding, the restrictive impact would seem to be less severe than impacts that we have already seen and experienced in the past.

Second, U.S. population assistance is only one component of the total resources——

Senator BOXER. We'll give you another couple of minutes.

Dr. EBERSTADT [continuing]. Is only one component of the total resources used in family planning in low-income regions, and, while the United States is a very major funder, it is by no means the dominant funder. U.S. funding today accounts for about 20 percent of Western population aid, meaning about four-fifths of international population aid comes from other sources. A still greater portion of family planning funding can be raised in low-income governments by low-income governments themselves.

Restrictions or shortfalls in U.S. funding may be overcome through applications of additional funds from these other sources. The European Union, for example, has indicated that it may increase its international population funding as a result of the new U.S. policies.

If current events follow the course we have seen in the past with U.S. restrictions on funding for UNFPA, other governments will end up not only making up the U.S. shortfall but actually augmenting overall resources.

And third and finally, the correspondence between public health spending and personal health outcomes, far from being very precise and mechanistic, is infact very broad and diffuse. This is because the parents in question are independent actors in this drama and act in order to safeguard and improve the health of their families irrespective of government programs and resources. Third World women, Third World adults are not passive, helpless victims in this drama, nor do they believe that babies are born under cabbages. Through their own independent decisions, they do much to control very important outcomes in family life.

Finally, Madame Chairman, I would say that there is perhaps good news and bad news for the contestants in this debate. One piece of bad news for proponents of the gag rule or Mexico City Policy is that, in my estimate, the new restrictions are decidedly unlikely to have any significant impact on global levels of abortion. It is most unlikely that these restrictions will tangibly reduce the rate of abortions in regions affected.

At the same time, however, as I've indicated, the fear that the restrictions will lead to higher levels of maternal mortality and in-

fant mortality can be assuaged. There is no reliable evidence that this is about to take place, reasonable as that apprehension may seem. Claims of dramatic, adverse consequences are undocumentable and, at least for now, should be treated as political theater.

Senator BOXER. Thank you very much for your testimony, Dr. Eberstadt, which I guess is "What's the difference?" That's what I get out of it. It doesn't seem to take either side, so thank you for laying that all out.

I think we're going to go to Dr. Bista, who will tell us if it makes a difference. You're in your office saying it doesn't make a difference. Let's hear what someone on the ground has to say about the rule. We already heard one such witness, and now we have Dr. Bista, who is, and let me say, he serves as the director general of the Family Planning Association of Napal, an organization that recently made the decision to refuse U.S. family planning funding because of the gag rule.

Dr. BISTA. Thank you, Madame Chairman.

Senator BOXER. And pull the mike really close, and we want you to speak because—well, you're not gagged because you don't take USAID funding, but we think your message is very important, Dr. Bista.

STATEMENT OF DR. NIRMAL K. BISTA, DIRECTOR GENERAL, FAMILY PLANNING ASSOCIATION OF NEPAL, KATHMANDU, NEPAL

Dr. BISTA. Senator Boxer and distinguished members of the Senate Foreign Relations Committee, it is a great honor and privilege to speak before you this morning about the impact the Bush administration's global gag rule is having on the women of my country, Nepal. I would like to ask to have my extended remarks entered for the record.

I am the director general of the Family Planning Association of Nepal, the FPAN, the oldest and the largest reproductive health and family planning non-governmental organization in Nepal. FPAN provides comprehensive reproductive health care services, education and counseling to the needy in clinics throughout the country. The FPAN is a member of the International Planned Parenthood Federation [IPPF] and is known for its strong commitment to the Nepal national family planning program—and for its role to protect the health and rights of women in Nepal.

For nearly 30 years the FPAN has received generous support from the U.S. Government to help provide vital reproductive health care services. We are tremendously grateful for this support. We have enjoyed a long and productive friendship and working relationship with USAID as we all work toward a common cause, to improve the health and lives of women in my country.

I am testifying before you today because the FPAN has recently made the difficult and painful decision to refuse USAID family planning funds because of the global gag rule restrictions. This was by no means an easy decision. It will lead to the loss of almost $250,000 in U.S. funds and it will have a major impact on our ability to continue to operate reproductive health clinics in Nepal's three most densely populated areas, Kathmandu, Chitwan, and

Sunsari. This may not sound like a lot of money in U.S. terms, but in Nepal it means we will likely have to close one or all of these clinics, discontinuing critical services to thousands of needy women.

Why did we make this decision? Because, as a health care provider, the FPAN is part of a growing movement in Nepal, led by our own government and overwhelmingly supported by physicians, to begin to address the shockingly high maternal mortality rate in Nepal. Nepal has one of the highest maternal mortality rates in the world and much of it is due to unsafe abortion.

It is estimated that six women die every day in Nepal due to unsafe abortions performed by unskilled providers. Many, many more women suffer serious physical injury and chronic disability. In addition, Nepal has one of the most punitive abortion laws in the world. Women are imprisoned for having abortions and there is no exception, not even for rape, incest or life of the woman.

Government officials at the Nepalese Ministry of Health have themselves concluded that liberalizing abortion should be the first step toward preventing the existing high level of maternal mortality and morbidity in my country. The Ministry's advocacy plan to decriminalize abortion called for the formation of a network of non-governmental organizations to address the problem.

In response, the Family Planning Association of Nepal spearheaded an advocacy effort joined by a coalition of medical professionals, health non-governmental organizations, human rights advocates, women's groups and journalists to raise awareness and introduce legislation on this issue. The campaign favors legalizing abortion under certain conditions and improved access to safer services.

Yet, the global gag rule policy would disqualify us from participating in this public awareness campaign if we continued to receive U.S. family planning assistance. Under the conditions of the policy, we cannot engage in any advocacy effort to legalize abortion, even if it is with our non-U.S. money and at the behest of our own government.

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? Were we to accept the restricted U.S. funds, I would be prevented from speaking in my own country to my own government about a health care crisis I know firsthand, but, by rejecting U.S. funds, I put our clinics, clinics addressing that same health care crisis, in very real jeopardy.

It is an untenable situation. But, we simply could not stand by and watch countless women suffer and die without doing everything we could to prevent this misery. There is agreement in Nepal that women need access to safer abortion services and laws that don't incarcerate women for having an abortion. We must work to make that happen.

On Tuesday I left my home to travel 36 hours to arrive in your beautiful city, and I left a very different world behind to get here. Where I come from, the per capita annual income is $220, compared to over $21,000 in the United States. Only 30 percent of women can read. They are generally married by the time they turn 18, and few will have their childbirth attended by trained health professional.

It is hard, then, to understand how U.S. lawmakers are so easily able to implement such a far-reaching and damaging policy when the differences between our countries are so vast and the realities that women in Nepal face are so unimaginable.

Perhaps the example of one young girl in my country can help illustrate the situation in Nepal and explain to you why our advocacy efforts are so important to us that we have given up our U.S. funding. Four years ago Min Min Lama was living peacefully in her home in the mountains of Nepal. Like many other teenage girls of 13 in Nepal, Min Min didn't go to school. She stayed at home helping her stepmother with household chores.

But early in 1997 when nobody was home a relative raped her. Terrified and ashamed, Min Min tried to hide her torment from her strict Hindu family. She tried to forget the trauma, but it wasn't long before another relative realized she was pregnant. Min Min's relatives arranged for an illegal abortion, despite the fact that abortion is illegal in Nepal and that the illegal abortion could have killed Min Min.

She survived, but her trauma was only beginning. After the abortion her sister-in-law reported the abortion to the police and Min Min was arrested. She was taken to the central jail in Nepal's capital, Kathmandu. Her crime? Abortion.

Min Min's relatives were not punished for the rape or the abortion. Instead, at the age of 13 Min Min was sentenced to 20 years in jail. Her family abandoned her and the only visitors she had were charity workers, one of whom contacted FPAN. The FPAN started a campaign to help Min Min and to begin to change the laws regarding abortion. As a result, Min Min's sentence was reduced to 12 years.

But the FPAN and others kept on fighting for her cause, telling people across the world about her plight. Finally, on 21 September 1999, Min Min was released after 2 years in prison. She is now working at FPAN and living in Kathmandu.

Min Min was one of the lucky girls in Nepal and, although her ending is happy, there are a lot of girls and women with sadder tales to tell. One in five women are currently imprisoned in Nepal for the same reason. Is there any justification for stalling even one more day? How can the FPAN, which fought so hard for Min Min, turn its back on these other women and all of the women who die or are injured daily due to unsafe abortion?

As I have stated, the decision to reject the USAID funding was a difficult one, and I fear for the future of our clinics, but, as you can see, ours was an impossible decision. Whatever we decide, the women of Nepal suffer. And we are by no means the only ones forced to make this decision. Our colleagues all over the world face this same agonizing decision.

I would like to thank the Senate Foreign Relations Committee for allowing me this opportunity to speak out on behalf of Min Min Lama, the women of Nepal, the 78,000 women who die from unsafe abortions every year, and the countless women around the world who lack access to desperately needed reproductive health care services. I urge you to do whatever you can to make sure this destructive policy does not continue to harm the women of Nepal and other women around the world. Thank you.

[The prepared statement of Dr. Bista follows:]

PREPARED STATEMENT OF DR. NIRMAL K. BISTA

Senator Boxer and distinguished members of the Senate Foreign Relations Committee, it is a great honor and privilege to speak before you this morning about the impact the Bush Administration's "global gag rule" is having on the women of my country, Nepal. I'd like to ask to have my extended remarks entered for the record.

I am the Director General of the Family Planning Association of Nepal (FPAN), the oldest and the largest reproductive health and family planning non-governmental organization (NGO) in Nepal. FPAN provides comprehensive reproductive health care services, education and counseling to the needy in 34 districts of Nepal. FPAN is highly regarded by donors and the government for its significant contribution to the Nepal national family planning program. FPAN's contribution is between 25-30 percent of the total national program each year.

FPAN is an innovative NGO that has been instrumental in introducing new reproductive health technology and practices in the country, including: DepoProvera, Norplant, Minilaparotomy, the institutionalization of static service sites, counseling and improved quality of care.

FPAN is a member of the International Planned Parenthood Federation (IPPF) and is known for its strong commitment to protecting the heath and rights of women in Nepal.

For nearly 30 years, FPAN has received generous support from the U.S. government to help provide vital reproductive heath care services. We are tremendously grateful for this support. We have enjoyed a long and productive friendship and working relationship with USAID as we all work toward a common cause—to improve the heath and lives of the women in my country.

I am testifying before you today because FPAN has recently made the difficult and painful decision to refuse USAID family planning funds because of the global gag rule restrictions. This was by no means an easy decision. It will lead to the loss of almost $250,000 in U.S. funds and it will have a major impact on our ability to continue to operate reproductive health clinics in Nepal's three most densely populated areas—Kathmandu, Chitwan and Sunsari.

This may not sound like a lot of money in U.S terms—but in Nepal it means we will likely have to close one or all of these clinics, discontinuing critical services to thousands of needy women.

Why did we make this decision? Because, as a health care provider, FPAN is part of a growing movement in Nepal—led by our own government and overwhelmingly supported by physicians—to begin to address the shockingly high maternal mortality rate in Nepal.

Nepal has one of the highest maternal mortality rates in the world and much of it is due to unsafe abortion. Nepal's maternal mortality rate is 1,500 deaths per 100,000 live births (compared to 7 in 100,000 in the United States). Worldwide, the percentage of maternal deaths due to unsafe abortion is 13 percent. In Nepal, this figure rises to 50 percent. As a result of this high maternal mortality rate, Nepal is one of the few countries where a woman's life expectancy is lower than that of a man.

It is estimated that six women die every day in Nepal due to unsafe abortion performed by unskilled providers. Many, many more women suffer serious physical injury and chronic disability. In addition, Nepal has one of the most punitive abortion laws in the world. Women are imprisoned for having abortions and there is no exception—not even for rape, incest or life of the woman.

The women who suffer the consequences of unsafe abortion—including imprisonment—are most likely to be poor rural women who cannot afford to pay for a safe abortion, available only to those who can pay to travel to India, where abortion is legal, or go to a discreet private physician. Safe, hygienic abortion services do exist in some urban centers, but are relatively expensive—from $60-$100 for married women, and four times that for unmarried—in a country with a per capita annual income of only $220. Consequently, the rural and urban poor mainly rely on the crude and dangerous methods of traditional birth attendants or self-induced abortion.

Government officials at the Nepalese Ministry of Health have themselves concluded that liberalizing abortion should be the first step towards preventing the existing high level of maternal mortality and morbidity in my country. The Ministry's advocacy plan to decriminalize abortion called for the formation of a network of non-governmental organizations (NGOs) to address the problem.

In response, the Family Planning Association of Nepal spearheaded an advocacy effort joined by a coalition of medical professionals, health non-governmental organi-

zations (NGOs), human rights advocates, women's groups and journalists to raise awareness and introduce legislation on this issue. The campaign favors legalizing abortion under certain conditions and improved access to safer services.

Yet the global gag rule policy would disqualify us from participating in this public awareness campaign if we continued to receive U.S. family planning assistance. Under the conditions of the policy we cannot engage in any advocacy effort to legalize abortion—even if it is with our non-U.S. money and at the behest of our own government.

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? Were we to accept the restricted U.S. funds, I would be prevented from speaking in my own country to my own government about a health care crisis I know first hand. But by rejecting U.S. funds, I put our clinics—clinics addressing that same health care crisis—in very real jeopardy.

It is an untenable situation. But, we simply could not stand by and watch countless women suffer and die without doing everything we could to prevent this misery. There is agreement in Nepal that women need access to safer abortion services and laws that don't incarcerate women for having an abortion. We must work to make that happen.

On Tuesday I left my home to travel 36 hours to arrive in your beautiful city, and I left a very different world behind to get here. Where I come from, the per capita annual income is $220, compared to over $21,000 in the United States; only 30 percent of women can read, they are generally married by the time they turn 18, and few will have their childbirths attended by trained health professional.

It is hard, then, to understand how U.S. lawmakers are so easily able to implement such a far-reaching and damaging policy when the differences between our countries are so vast and the realities women in Nepal face must seem so unimaginable.

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But early in 1997 when nobody was at home, a relative raped her.

Terrified and ashamed, Min Min tried to hide her torment from her strict Hindi family. She tried to forget the trauma, but it wasn't long before another relative realized she was pregnant.

Min Min's relatives arranged for an illegal abortion—despite the fact that abortion is illegal in Nepal and that the illegal abortion could have killed Min Min.

She survived, but her trauma was only beginning. After the abortion, her sister-in-law reported the abortion to the police and Min Min was arrested. She was taken to the central jail in Nepal's capital, Kathmandu. Her crime? Abortion.

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Her family abandoned her and the only visitors she had were charity workers, one of whom contacted FPAN. FPAN started a campaign to help Min Min and to begin to change the laws regarding abortion.

As a result, Min Min's sentence was reduced to 12 years. But FPAN and others kept on fighting for her cause, telling people across the world about her plight.

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Is there any justification for stalling even one more day? How can FPAN, which fought so hard for Min Min, turn its back on these other women and all of the women who die or are injured daily due to unsafe abortion?

As I have stated, the decision to reject the USAID funding was a difficult one and I fear for the future of our clinics. But as you can see, ours was an impossible decision. Whatever we decide, the women of Nepal suffer.

And we are by no means the only ones forced to make this decision. Our colleagues all over the world face this same agonizing decision.

I would like to thank the Senate Foreign Relations Committee for allowing me this opportunity to speak out on behalf of Min Min Lama, the women of Nepal, the 78,000 women who die from unsafe abortion every year, and the countless women around the world who lack access to desperately needed reproductive health care

services. I urge you to do whatever you can to make sure this destructive policy does not continue to harm the women of Nepal and other women around the world.

Thank you.

Senator BOXER. Thank you so much. Senator Chafee, I know you need to leave. Do you have any questions for the three witnesses that spoke so far?

Senator CHAFEE. No, I'm here to listen.

Senator BOXER. OK. I just wanted to take a few moments, because the panel had so much to say, and I want to make sure the people listening got the gist of it so after, I guess, Dr. Eberstadt said it's political theater, which I respect your decision. I disagree with it, but we'll get into that later.

I want to make sure people understand this. This is a 13-year-old girl who was raped. According to his article, her rapist went unpunished, but she received a 20-year prison sentence that was later reduced because of help that was given to her.

So here is a child who was raped. She's sent to jail because in your country abortion is illegal, it is a crime, and there is no exception for rape; is that correct?

Dr. BISTA. Yes.

Senator BOXER. There is effectively no exception for incest; is that correct?

Dr. BISTA. Yes.

Senator BOXER. There is no exception for life of the mother; is that correct?

Dr. BISTA. Yes.

Senator BOXER. So you want to argue with your government and lobby to change these laws, and, because of the USAID rule that you cannot do that, you decided, because of cases like this, that, even though it might mean that you have to close down your clinic, to turn away the approximately $250,000 of funding and not take the funding so that you would be ungagged and be able to work to at least get some exceptions to these types of abortion rules. Am I summarizing your testimony correctly?

Dr. BISTA. Yes, very correctly, Madam Chairman.

Senator BOXER. I just want to make sure that everyone got that point.

Now it is my pleasure to call on Professor Maria Sophia Aguirre, and we welcome you. And we will hear some opposing views at this time.

Dr. Aguirre is an associate professor in the Department of Economics and Business at the Catholic University of America here in Washington, DC. She is a native of Argentina.

Please proceed.

STATEMENT OF DR. MARIA SOPHIA AGUIRRE, ASSOCIATE PROFESSOR, DEPARTMENT OF ECONOMICS AND BUSINESS, CATHOLIC UNIVERSITY OF AMERICA, WASHINGTON, DC

Dr. AGUIRRE. Madam Chairman and members of the committee, I am honored to appear before this committee to address the issue of the restoration of the Mexico City Policy. It is my hope that the information that I will provide in this short statement may assist the members of this committee in understanding why the challenge

that has been posted to the referred policy, called Mexico City Policy, has no grounds.

First let me clarify that I'm not going to use the standard numbers that have been quoted without any references. I am just going to refer to World Health Organization official documents and official statements and statistics.

Nearly 493,000 women died in 1998 in pregnancy and childbirth because of early and frequent childbearing and poor access to health care. Most of these maternal deaths occurred in developing countries like my own and account for one-third—not one-fourth, not one-fifth, not 50 percent but one-third, according to the WHO numbers—of all death to women of childbearing age in these countries. Included in that total are estimated 66,000 deaths from unsafe abortions.

Now, some people have argued that the policy undermines the principle of free speech in developing countries, signals a reduction in the U.S. commitment to global family planning efforts, is likely to increase, rather than decrease the number of abortions, especially illegal abortions in poor countries, and exclude some of the most competent, international family planning services providers. Against these allegations, I would like to present the following information.

First, about 71 percent of the population assistance all over the world, as reported by the United Nations, is directed toward countries in Asia and the Pacific, 25 percent; Latin America, 13 percent; sub-Saharan Africa, 26 percent; Western Asia and North Africa, 7 percent. The rest is going to research on contraception in Europe. Very few countries where USAID provides population assistance permit abortion under circumstances broader than those allowed under the Mexico City Policy. And just a point of correction, Nepal, in fact, allows abortion to save the woman's life.

Senator BOXER. What about cases of rape and incest?

Dr. AGUIRRE. In cases of rape and incest, no, but, yes, to save the woman's life.

Senator BOXER. So in the case of the girl that I——

Dr. AGUIRRE. Yes, abortion is not allowed under any condition or no circumstances as we've mentioned before.

Senator BOXER. I agree with you. Is that correct? Dr. Bista, do you agree with that correction? We will not take time out of your testimony, we just need a clarification.

Dr. BISTA. Actually, no, the people who are affected the most in this case are the people from the rural areas where the knowledge level is very low and the economic status there is also very low, but we all know that the practices——

Senator BOXER. No, no, I was just asking, is there an exception for life and not rape or incest? I just want to get it straight.

Dr. BISTA. Yes, there is provision, exception for life, but it has to be looked at by a panel of doctors which means it is ineffective in rural areas. But in the case of rape and incest there is no exception.

Senator BOXER. I want to make sure the record is correct. In your country, is there an exception for life of the mother? So there's an exception for life, not health, not rape, not incest; is that correct?

Dr. BISTA. That's correct Madam Chair, because anybody, if they just report the case to the police they are in trouble.

Senator BOXER. I understand. In other words, because it is a crime in those other cases, it is very difficult to stand behind it. OK, go ahead, Ms. Aguirre.

Dr. AGUIRRE. In addition, abortion is not only illegal in these last countries, but also unconstitutional because the constitution in many of these countries upholds the protection of life since the moment of conception. Therefore the Mexico City Policy then is consistent with the desire of most of these countries and with the effort that many countries around the world are making to decrease the number of abortions. Furthermore, it is consistent with the desire of the majority of the population of these countries who in recent years have overwhelmingly opposed any intent—and I speak especially about women in the South American countries, by a minority within those countries, to legalize abortion. The Mexico City Policy imposes a reasonable restriction because it is a job restriction rather than a violation of the freedom of speech, and it is respectful of it as it is consistent with the decision of the population of these countries to uphold the right to life of the unborn child. Beside, the fact that some groups in these countries want abortion, it doesn't mean that we have some obligation to fund it as the previous representation have claimed. Nothing in the MCP forbids these groups from advocacy. It simply does not fund them

In addition to that, we have to keep in mind that article 8.25 says clearly, and I am quoting, "In no case should abortion be promoted as a method of family planning." So when we talk about family planning, keep that in mind.

The second point is regarding the concern that this might signal a decrease in the U.S. commitment to global family planning efforts. I would like to point out that while the overall funding of USAID to family planning increased steadily between 1987 to 1995—and during that time, the Mexico City Policy was interrupted—the funding allocated to this activity started to decline from 1996 to 2000, before the Mexico City Policy was re-enacted. Reasons, other than this policy should explain the decline in funding then. Spending goes up when there is a broader consensus and where population assistance is funding abortionist there is no consensus.

It is to be borne in mind, however, and it's something that again it has been mentioned in the different testimonies, that the United States remains the principal contributor to population assistance by a significant amount. And for that information. We are saying that over 60 percent of the world total funding for population assistance and family planning as reported by the U.N. comes from the United States. It needs to be borne in mind, therefore, that the United States remains a big contributor and that the total funds toward population assistance, again as it is reported by the United Nations, has not decreased but rather has been channeled through other avenues such as NGOs.

The third point is that the legalization of abortion across the world, rather than decreasing, has increased the number of abortions and this has happened in spite of a significant increase in the use of contraceptives, developing countries included. And this again

is data. I understand this has been mentioned several times, but the data is on the contrary.

According to a 1997 study of the World Health Organization, mortality risk for abortion varies in developing countries between 100 and 1,000 deaths per 100,000 cases while in the United States the same measure is 50. There are other equally high serious causes of death for women, however, such as delivery of a live birth. We are talking in all between 250 and 800 deaths per 100,000 cases. That's very close to legal abortions if you look at the numbers, and that can be easily solved by the presence of a delivery kit, which costs $1.50, and skilled personnel.

Let's keep in mind that this last case is considered legal in those countries. To this must be added that in the history of the organizations that participated in USAID-supported family planning activities, that is over 450 foreign NGOs—and I believe this morning it was said, in fact, 63 or something along those lines of these 450 organizations—few organizations have a history of lobbying for change in the legal status of abortion. Therefore, the restoration of the Mexico City Policy neither increases the number of abortions nor decreases significantly the number of qualified family planning providers as it has been stated.

And the last point. Finally, I would like to bring to the attention of the committee the leading causes of death for women, because obviously this is the concern. In developing countries as reported in the 1999 World Health Report published by the World Health Organization. In the table[1] that I provided, it is very clear the leading causes of death are infectious disease, which involves 4,649,000 women; not 66,000, 4,649,000 who died because of these causes. Respiratory infections, 1,726,000, and that could be solved by 5 cents a pill per capita cost as again reported by the World Health Organization; perinatal conditions, 1,034,000 are killed every year; and——

Senator BOXER. Please conclude now——

Dr. AGUIRRE. I'm sorry.

And again, the major causes in illegal abortion is hemorrhage and other diseases, again, that can be solved if they are going to have the right means; and finally, nutrition deficiencies, 210,000. So all these diseases are easily treatable and are the leading causes of death for women.

With the exception of AIDS, these diseases are rare. Treatment is accessible in developed countries. And their cost is remarkably low. Furthermore, all the diseases mentioned are significantly larger than the——

Senator BOXER. I must ask you to just finish because I gave you an additional two minutes and then an additional two to complete.

Dr. AGUIRRE. OK, I just will conclude saying that several arguments have been put forward against the restoration of the Mexico City Policy. The data presented to the committee in this short response suggests that this is evidence to the contrary. If anything, the enactment of this policy increases the protection of freedom of choice of developing countries and allows for a more needed and efficient allocation of funds.

[1] The table referred to is in Dr. Aguirre's prepared statement that begins on page 45.

Madam Chairman, this concludes my statement.
[The prepared statement of Dr. Aguirre follows:]

PREPARED STATEMENT OF DR. MARIA SOPHIA AGUIRRE

THE RESTORATION OF MEXICO CITY POLICY

Mr. Chairman and Members of the Committee:

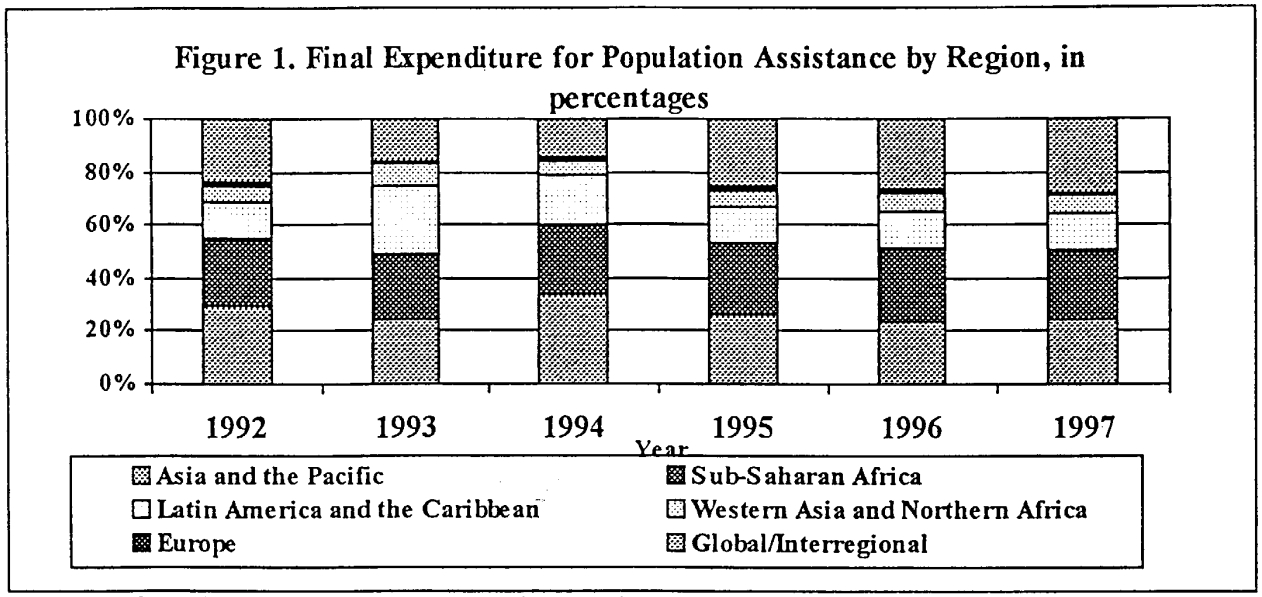
My name is Maria Sophia Aguirre and I am a professor of Economics at the Catholic University of America. I am honored to appear before this Committee to address the issue of the restoration of the Mexico City Policy. It is my hope that the information that I will provide in this short statement may assist the members of this Committee in understanding why the challenge that has been posted to the referred policy has no grounds.

Nearly 493,000 women died in 1998 in pregnancy and childbirth because of early and frequent childbearing and poor access to health care. Most of these maternal deaths occurred in developing countries and account for one third of all death to women of childbearing age in these countries. Included in that toll, are estimated 66,000 deaths from unsafe abortion. (Source: WHO)

Some people have argued that the policy undermines the principle of free speech in developing nations, signals a reduction in the U.S. commitment to global family planning efforts, is likely to increase, rather than decrease the number of abortions, especially illegal abortions in poor countries, and exclude some of the most competent international family planning services providers. Against these allegations, I would like to present the following information:

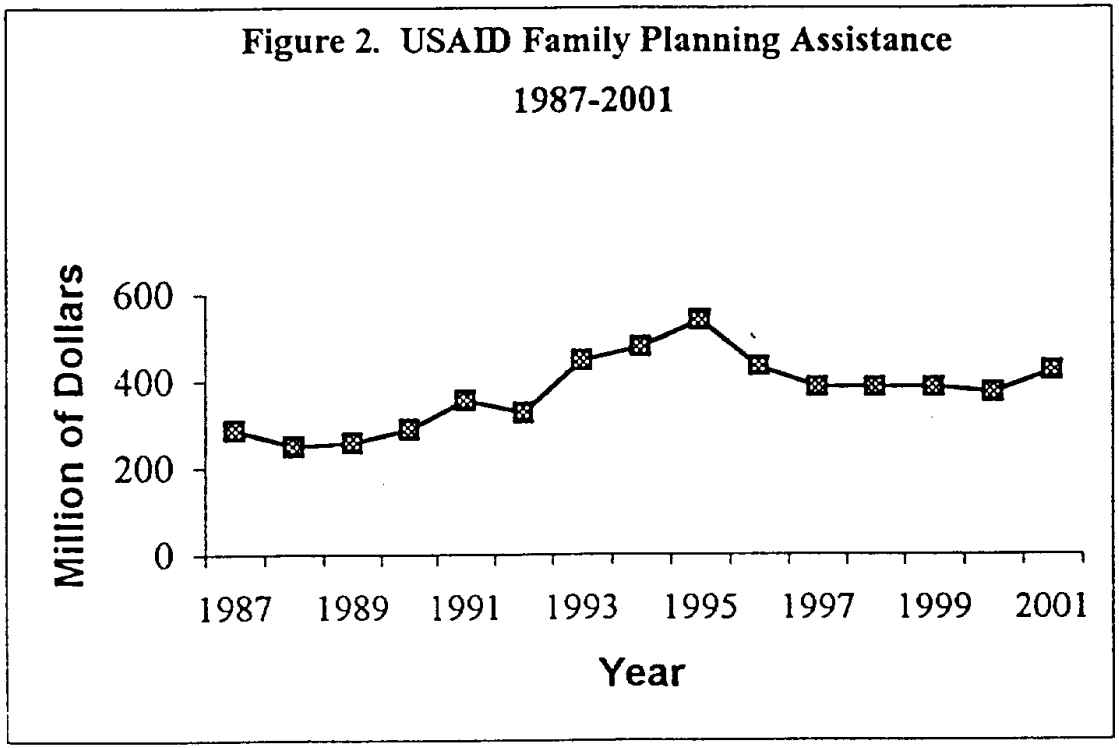
1. About 71% of the population assistance all over the world, as reported by the UN, is directed towards countries in Asia and the Pacific (25%), Latin America (13%), sub-Saharan Africa (26%), Western Asia and North Africa (7%). (Figure 1) Very few countries where USAID provides population assistance permit abortion under circumstances broader than those allowed under the Mexico City Policy. In addition, abortion is not only illegal in these last countries, but also unconstitutional because the constitution in many of these countries upholds the protection of life since the moment of conception. The Mexico City Policy then is consistent with the desire of most of these countries and with the effort that many countries around the world are making to decrease the number of abortions. Furthermore, it is consistent with the desire of the majority of the population of these countries who in recent years have overwhelmingly opposed any intent, by a minority within those countries, of legalizing abortion. The Mexico City Policy imposes a resonable restriction because it is a job restriction and it is respectful of it as it is consistent with the decision of the population of these countries to uphold the right to life of the unborn child. It is also respectful of the sovereign right of countries to uphold their constitution and domestic laws. Furthermore, the fact that some organizations want to advocate abortion and to perform abortions does not mean that U.S. tax money should pay for it. Nothing in the Mexico City Policy forbids those groups from advocacy. It simply denies the use of funds for this purpose. Let us keep in mind, that point 8.25 of ICPD states clearly that "in no case should abortion be promoted as a method of family planning."

2. To the concern that this might signal a decrease in the U.S. Commitment to global family planning efforts, I would like to point out that while the overall funding of USAID to family planning increased steadily between 1987-1995, the funding allocated to this activity started to decline from 1996-2000, before the Mexico City Policy was reenacted. Reasons, other than this policy should explain the decline in funding. (Figure 2) Population spending goes up when there is a broader consensus and when population assistance is funding abortionist, there is no consensus. It needs to be remembered, however, that the U.S. remains the principal contributor to population assistance by a significant amount (of the order of 60%) (Figure 3) and that the total funds toward population assistance as the UN reports it has not decreased but rather has been channeled through other avenues such as NGOs (Figure 4).

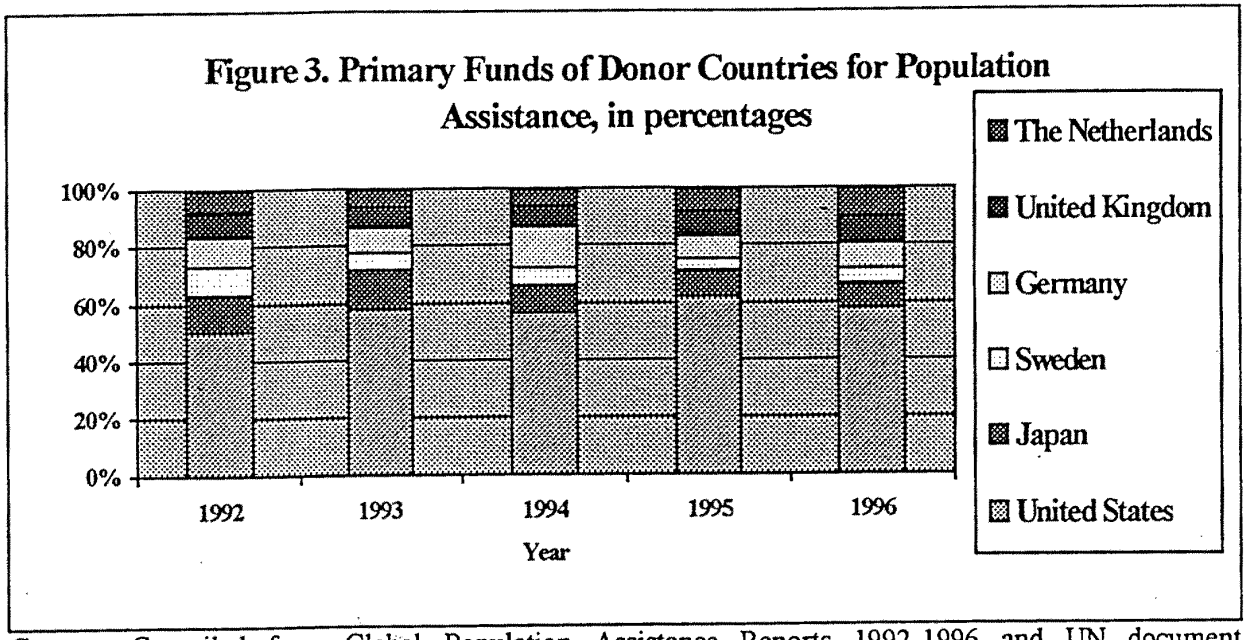


Source: Compiled from Global Population Assistance Reports 1992-1996 and UN document E/CN.9/2000/5 "Flow of Financial Resources for Assisting the Implementation of the Programme of Action of the International Conference on Population and Development."

Note: A large proportion of the final expenditures for global/interregional activities is for research benefiting various regions.

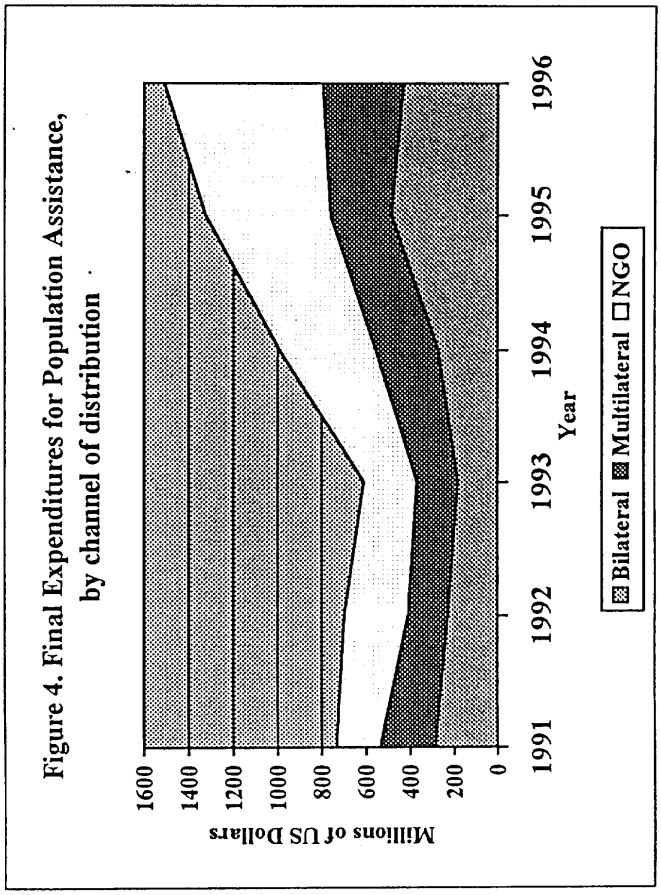


Source: USAID



Source: Compiled from Global Population Assistance Reports 1992-1996 and UN document E/CN.9/2000/5 "Flow of Financial Resources for Assisting the Implementation of the Programme of Action of the International Conference on Population and Development."

Note: "Multilateral" on this graph does not include development banks.



Source: Compiled from Global Population Assistance Reports 1992-1996 and UN document E/CN.9/2000/5 "Flow of Financial Resources for Assisting the Implementation of the Programme of Action of the International Conference on Population and Development."

3. The legalization of abortion across the world, rather than decreasing has increased the number of abortions and this has happened in spite of a significant increase in the use of contraceptives, developing countries included. According to a 1997 study of the World Health Organization (WHO),[1] mortality risk for abortion varies in developing countries between 100-1,000 deaths per 100,000 cases while in the United States, the same measure is 50. There are other equally high serious causes of death for women, however, such as delivery of live birth (250-800 deaths per 100,000 cases) which can be easily solve by the presence of a delivery kit (which by the way costs a $1.50) and skilled personnel. Lets keep in mind that this last case is consider legal. To this must be added that in the history of the organizations that participate in USAID-supported family planning activities (over 450 foreign NGOs), few organizations have a history of lobbying for change in the legal status of abortion. Therefore, the restoration of the Mexico City Policy neither increases the number of abortions, nor the number of qualified family planning providers as it has been stated.

4. Finally, I would like to bring to the attention of the Committee the leading causes of death for women in developing countries as reported in the "1999

[1] Unsafe abortion: *Global and Regional Estimates of Incidence of a Mortality Due to Unsafe Abortion With a Listing of Available Country Data—Third edition,* 1997—Ref. WHO/RHT/MSM/97.16.

World Health Report" published by WHO. Table 1 summarizes this information. The leading cause of death for women among the communicable diseases maternal and perinatal conditions, and nutrition deficiencies, is infectious diseases. With the exception of AIDS, these diseases are rare, treatment is accessible in developed countries, and their cost is remarkably low. Furthermore, all the diseases mentioned are significantly larger than the toll caused by abortion, even when the maternal condition, as the cause of death, is taking into account alone. This suggests that the funding provided by USAID can be put to better use if this organization is aiming at helping the health of women in need. Hemorrhages and other diseases cause twice as many deaths as the estimates for abortion predict.

To conclude, there have been several arguments put forward against the restoration of the Mexico City Policy. The data presented to the Committee in this short response, suggest that there is evidence on the contrary. If anything, the enactment of this policy increases the protection of freedom of choice of developing countries and allows for a more needed and efficient allocation of funds.

Mr. Chairman, this concludes my statement. I would be glad to respond to any questions.

Table 1. Mortality Causes

Disease	Total Deaths per Year (thousands)	Number in Low Income Countries (thousands)	Total Number of Women (thousands)
Infectious Diseases	**9,802**	**9,680**	**4,649**
HIV/AIDS	2,285	2,253	1,121
Diarrhoeal Diseases	2,219	1,070	2,212
Tuberculosis	1,498	1,480	605
Malaria	1,110	1,110	538
Respiratory Infections	**3,507**	**3,198**	**1,726**
Perinatal Conditions	**2,155**	**2,102**	**1,034**
Maternal Conditions	**493**	**491**	**493**
Hemorrhage	123	122	123
Other	131	131	130
Illegal Abortions	66	66	66
Nutritional Deficiencies	**490**	**467**	**259**
Protein-energy malnutrition	281	274	145
Anemia	110	65	95

Source: *The World Health Report, 1999,* WHO

Senator BOXER. Thank you. I'm sure that you didn't mean to say that the 78,000 women a year who die of illegal abortion that you're pitting that against infectious diseases. I mean, I think we want to help everyone, don't we?

Dr. AGUIRRE. That is a rough estimation, 66,000 women.

Senator BOXER. Well, we have 78,000, but let's not quibble. The point is I hope you didn't mean to suggest that we ignore that and go after the other problems, because, in my view, I want to go after all the problems. I want to help those who are dying of back-alley

abortions, that can't go to a clinic now and get family planning, and I want to help, of course, the children and the families, men and women, who have these other problems. Child nutrition is a major issue with me as well. I don't think that's what you meant. You were just saying illegal abortion isn't the biggest problem. Is that correct?

Dr. AGUIRRE. That's right.

Senator BOXER. It just is for the 78,000 women who die and their loved ones, but I get your point. I don't mean to in any way undermine you except to say that I don't like to see us set one group of dying people against another group of dying people.

I would like to now call on Professor Pellegrom, president of Pathfinder International. Pathfinder International is a nonprofit organization based in Massachusetts which, among other things, works to improve reproductive health and family planning in the developing world. We welcome you.

STATEMENT OF DR. DANIEL E. PELLEGROM, PRESIDENT, PATHFINDER INTERNATIONAL, WATERTOWN, MA

Dr. PELLEGROM. Thank you, Senator, and your colleagues who are concerned for this issue, and thank you for receiving my remarks.

The gag rule is an unfortunate injection of the American domestic anti-abortion agenda on U.S. foreign policy. This year the current administration has reinstated the gag rule. Its supporters argue that it will stop abortion. But what really happens when we explore this domestic controversy abroad is something quite different.

It will not reduce abortion, but it does hurt family planning. It does damage female reproductive services. And it undermines American foreign policy objectives that promote democracy and free speech.

I have led Pathfinder International since 1985 just after President Reagan's original version of the gag rule was imposed. Pathfinder was the first organization to negotiate a cooperative agreement with USAID after the so-called Mexico City Policy was placed into all USAID cooperative agreements and grants. The gag rule was ineffective in doing what its proponents sought.

Over the ensuing years in which it was in place, I observed no decline in abortion rates. I am not aware of any research that points to a decline in abortion rates, and I know of no one who attributes any decline to the American gag rule of the 1980's.

If this is the case, if it did not reduce abortion rates, why exactly has the administration revived it? The gag rule has had serious consequences on delivering family services in less-developed countries. Indeed, if a hospital or clinic which operates in a country where abortion is legal offers a full range of reproductive health services in accord with U.S. laws and medical practices, how does the gag rule affect that provider of patient care if that provider offers abortion services or even abortion counseling? It is subject to the gag rule, and consequently termination of financial support for contraceptive services.

This is the penalty that the U.S. imposes. The loss of contraceptive funds is inclined to increase unintended pregnancies which

logically will result in increasing reliance on abortion as well as increasing maternal deaths.

You are hearing today from two reproductive health care leaders. Each represents an excellent family planning provider, one from Nepal and one from Peru. Both organizations have been faced with difficult decisions. Each has come to a different conclusion. These organizations and countless similar ones have been put in jeopardy, trapped between reliance on American foreign assistance and their own nation's laws and medical practices. Their stories are among countless others, each unique to circumstance and culture and situation. All are result of the gag rule.

As you will see, whichever choice is made, there is harm. The harm is to organizations and finally to the patients the organizations serve. Usually the patients are women. Mostly they are poor, young and anything but independent. They are people who rely on our good will.

Let me share with you some late-breaking news from Bangladesh. Within the last few days I have received a letter from Bangladesh Rural Advancement Committee [BRAC], a large, multiservice non-government organization that provides a variety of family planning services to millions of families in one of the world's most impoverished nations. We have worked with BRAC for several years. For various reasons, it is an exceptional agency, but it is only one of hundreds that is being forced to make a damaging decision which has been imposed by the new United States gag rule.

In Bangladesh menstrual regulation [MR], is legal. In the United States, we typically refer to menstrual regulation as very early abortion. MR is often performed prior to pregnancy being established. In Bangladesh, MR is promoted by the government as an essential element of the national health care package.

BRAC is not an NGO that is trying to skirt local laws or customs. It is a responsible, even exceptional provider of health and human development services that has been put in a position to choose between obeying its own government or ours. That is not a fair choice to ask that NGO to make.

It is not as though BRAC is out of step with the Government of Bangladesh on this; quite the contrary. U.S. policy in this instance is hurting BRAC, but it is also adversarial to the Government of Bangladesh and to its people.

And who exactly benefits from withdrawing U.S. funds that were being used for the purpose of preventing pregnancy? It certainly does not appear that Bangladesh, the people of Bangladesh are going to benefit. BRAC certainly isn't.

BRAC has informed me that it will not sign the gag rule. It says that it cannot permit a foreign government to dictate how it uses non-USAID funding. They have never used USAID funding for these purposes of course; therefore, beginning October 1, they will not be eligible to receive U.S. support.

Proponents of the gag rule claim that it is not an assault on family planning. You will recall that I told you that BRAC is a broad-based provider of human services, and hence it continues to receive other support from USAID for other services and initiatives. BRAC's refusal to sign does not deprive it of all USAID funds, but its refusal to sign the gag rule does deprive it of family planning

funds. How am I to conclude that the gag rule is anything other than hostile to family planning?

U.S. foreign assistance funds have been given to people and organizations all over the globe for purposes of fostering democracy. Our leaders boast that America invests in civil society, builds democracy in nation after nation. Developing voices for democracy in nations where democratic ideals are only a concept is a high priority, one that the American taxpayers appear to support. Free expression, free speech is a requirement of a democratic society. How can we, indeed how dare we, spend Federal money teaching democratic aspirations on the one hand and then deny free speech on the other just because a particular subject happens at that moment to displease us.

In this particular instance, the irony expands when one considers that abortion counseling and referral brings about a gag rule abroad while access to abortion services are guaranteed in the United States.

What does all this mean to my organization, a U.S.-incorporated NGO that does reproductive health work abroad? Pathfinder International has labored in the cause of reproductive health for more than 70 years if you reach back to its founder, and 45 years if you go back to the date of its incorporation. We have provided seed money that launched the initial family planning activity in over 30 countries. In all these years, first with private funds and since the late 1960's with public funds as well, we all have taken pride in our work, work that depends centrally and necessarily on with whom we partner in developing countries.

Our criteria for selecting partners reads like a good management diary, but now, with the gag rule in place, the overriding question for us for how we spend U.S. Government funds is, first and foremost, "How against abortion is this organization?" This is the question, in spite of the fact that the money we are discussing could never have been used for abortion in the first place. How are we to conclude that this is not an assault on family planning?

Between now and October 1, Pathfinder will scramble to find some other way to get family planning assistance to women in Bangladesh. We will attempt to patch together other providers, calling upon them to consider whether they are willing to accept the American Government's gag rule. We will attempt to do this as best we can in other countries as well, but there will be added costs, reduced efficiencies and diminished respect for American foreign assistance. Meanwhile, we will do everything in our power to get family planning services to women who will never know anything about today's proceedings.

[The prepared statement of Dr. Pellegrom follows:]

PREPARED STATEMENT OF DR. DANIEL E. PELLEGROM

I would like to begin, Senator Boxer, by thanking you and your Senate colleagues for this opportunity to offer testimony on this vital subject.

The gag rule is an unfortunate political interjection of the American domestic anti-abortion agenda on U.S. foreign policy. This year, the current Administration has reinstated the gag rule. Its supporters argue that it will stop abortion. But what really happens when we export this domestic controversy abroad is something quite different. It will not reduce abortion. It does hurt family planning, it does damage to female reproductive health services, and it undermines American foreign policy objectives that promote democracy and free speech.

I have led Pathfinder International since 1985, just after President Reagan's original version of the gag rule was imposed (also known as the Mexico City Policy). Pathfinder was the first organization to negotiate a cooperative agreement with USAID, after the so-called Mexico City Policy was placed into all USAID cooperative agreements and grants. That gag rule was ineffective in doing what its proponents sought. Over the ensuing years in which it was in place I observed no decline in abortion rates. I am not aware of ANY such research that points to a decline in abortion rates and I know of no one who attributes any decline to the American gag rule of the 1980s. If it did not reduce abortion rates, why exactly has the Administration revived it?

The gag rule has had serious consequences in delivery of family planning services in less developed countries. Indeed, if a hospital or clinic, which operates in a country where abortion is legal, offers a full range of reproductive health services in accord with its laws and medical practices, how does the gag rule affect that provider of patient care? If that provider of medicine provides abortion services or abortion counseling, it is subject to the "Gag Rule" and consequently the termination of financial support for contraceptive services. Thus, the penalty that the U.S. imposes, the loss of contraceptive funds, is inclined to increase unintended pregnancies, which logically will result in increasing reliance on abortion as well as an increase in maternal deaths.

In a few minutes you will hear from two reproductive health leaders. Each represents an excellent family planning provider, one from Nepal, the other from Peru. Both organizations have been faced with a difficult decision; each has come to a different conclusion. These organizations, and countless similar ones, have been put at jeopardy, trapped between reliance on American foreign assistance and their own nation's laws and medical practices.

Their stories are among countless others, each unique to circumstances of culture and situation; all are the result of the gag rule. As you will see, whichever choice is made there is harm. This harm is to organizations and, finally to the patients the organizations serve. Usually the patients are women, mostly very poor, young and anything but independent. They are people who rely on our good will.

Let me share with you some late breaking news from Bangladesh. Within the last few days I have received a letter from the Bangladesh Rural Advancement Committee (BRAC), a large, multi-service non-Government organization (NGO) that provides a variety of services to millions of families in one of the world's most impoverished nations. We have worked with BRAC for several years. For various reasons it is an exceptional agency, but it is only one of hundreds that is being forced to make a damaging decision imposed by the new United States gag rule.

In Bangladesh menstrual regulation (MR) is legal. In the United States we typically refer to menstrual regulation as very early abortion. MR is often performed prior to pregnancy being established. In Bangladesh, it is referred to as MR and it is promoted by the Government as an essential element in the national health care package. BRAC is not an NGO that is trying to skirt local laws or customs. It is a responsible—even exceptional—provider of health and human development services that has been put in a position to choose between obeying its own government or ours. That is not a fair choice to ask any NGO to make.

It is not as though BRAC is out-of-step with the Government of Bangladesh on this. Quite the contrary. U.S. policy, in this instance, is hurting BRAC, but it is also adversarial to the Government of Bangladesh and its people. And, who, exactly benefits from withdrawing U.S. funds that were being used for the purpose of preventing pregnancy? It certainly doesn't appear that the women of Bangladesh are the beneficiaries. BRAC doesn't benefit.

BRAC has informed me that it will not sign the gag rule. It says that it cannot permit a foreign government to dictate how it uses its non-USA funding. Therefore, beginning October 1 they will not be eligible to receive USAID family planning funds.

Proponents of the gag rule claim that this is not an assault on family planning. You will recall that I told you that BRAC is a broad-based provider of human services and hence it continues to receive other support from USAID for other services and initiatives. BRAC's refusal to sign does not deprive it of all USAID funds; but its refusal to sign the gag rule does deprive it of family planning funds. How am I to conclude that the gag rule is other than hostile to family planning?

Foreign Assistance funds have been given to people and organizations all over the Globe to foster democracy. Our leaders boast that America invests in civil society and builds democracy in nation after nation. Developing voices for democracy in nations where democratic ideals are only a concept is a high priority, one that American taxpayers appear to support.

Free expression—free speech—is a requirement of a democratic society. How can we—indeed, how dare we—spend Federal money teaching democratic aspirations, on the one hand, and then deny free speech, on the other, when the subject happens to displease us?

In this particular instance the irony expands when one considers that abortion counseling and referral brings about a gag rule abroad, while access to abortion services is guaranteed in the United States.

What does all this mean for my organization, an U.S. incorporated NGO that does reproductive health work abroad? Pathfinder International has labored in the cause of reproductive health for more than seventy years, if you reach back to our founder and for 45 years if you go back to the date of our incorporation.

We have provided the seed money that launched the very first family planning work ever undertaken in 30 different countries. In all these years, first with private funds, and, since the late 1960's, with public funds as well, we have taken pride in our work, work that depends centrally on with whom we partner in a developing country. Our criteria for selecting partners reads like a good management diary. These are some of the questions:

- What is the most cost effect organization?
- Which organization is managed well?
- Which organization provides the highest quality of care?
- Which organization has the best capacity to expand in order to reach the poorest of the poor?
- Which organization is the most sincerely committed to improve the conditions of its people?

With the gag rule in place, the over-riding question for how we spend U.S. government funds must be first and foremost:

Is the organization anti-abortion enough?

This is the question in spite of the fact that the money we are discussing could never be used for abortion in the first place. How are we to conclude that this is not an attack on family planning?

Between now and October 1, Pathfinder will scramble to find some other way to get family planning assistance to three million mothers in Bangladesh. We will attempt to patch together other providers, calling upon them to consider whether they are willing to accept the American Government's gag rule. We will attempt to do this as best we can in other countries, as well. But there will be added costs, reduced efficiencies, and diminished respect for American foreign assistance.

Meanwhile, we will do everything in our power to get family planning services to women who will never know anything about today's proceeding. Family planning will save the lives of some of these women—and it will enrich the lives of all of them.

Pathfinder International, a nonprofit organization headquartered in Watertown, Massachusetts, provides women, men, and adolescents throughout the developing world with access to quality family planning and reproductive health information and services. Pathfinder works to halt the spread of HIV/AIDS, to provide care to women suffering from the complications of unsafe abortion, to address the sexual health needs of adolescents, and to advocate for sound reproductive health policies in the U.S. and abroad.

Senator BOXER. Thank you very much. And I think that's a good point.

I'm going to call on Kathy Cleaver and tell you about her in a moment, but I want to place in the record a page out of this booklet which talks about a study. It's a study on the implications of restrictive abortion laws in Nepal, and it says that, in fact, the only exception in Nepal is "unintentional termination while undergoing medical treatment." It does not say there is an exception for life. So I am going to put this in the record and ask you if you have other documentation, so we don't leave this hearing—we now have two different views. We have the view that the only exception is unintentional termination while undergoing medical treatment and the professor here who says there is an exception for life. So we will put both sides into the record.

[The material referred to follows:]

[Crehpa 2000]

WOMEN IN PRISON IN NEPAL FOR ABORTION

A study on implications of restrictive abortion law on women's social status and health.

1.1. Background

Around the world, laws governing induced abortion range from those prohibiting abortion with no explicit exceptions to those establishing it as a right of pregnant women. Nepal is one of the few countries where abortion is legally restricted. In this country, induced abortion is a criminal act under any circumstances, even in case of rape or incest, punishable by imprisonment for both the woman undergoing an abortion and abortion service provider. The only exception is unintentional termination while undergoing medical treatment.

Despite the restrictive abortion law, every year thousands of induced abortions are performed clandestinely in the country. Most of these abortions are conducted by untrained or unqualified personnel or quacks, which adversely affect both the interests of the women and the society at large. Since most clandestine procedures either remain incomplete or they are associated with severe complications, these women have no choice but to visit hospitals in critical conditions, thereby severely straining the finite hospital resources of the country.

It is estimated that deaths due to unsafe abortion procedures account for more than half of the maternal deaths in the country. Because of the illegal status of abortion, a considerable proportion of Nepalese women especially from rural areas who are poor, illiterate and have low social status, frequently fall victim to exploitation and imprisoned on charges of abortion and infanticides. As the present law does not clearly differentiate between *Garbhapaat* (abortion) and *Jaatak* (infanticide), prosecutors tend to choose the latter and rarely, women accused of such acts are represented by a lawyer. Although in all circumstances abortions are motivated and carried out with the assistance of spouse or male partner, in most cases it is the women and not their spouse or male partner, . . .

Senator BOXER. I want to thank you and I will get back to you in a minute with some questions, Dr. Pellegrom.

So we're going to hear from Ms. Kathy Cleaver, director of Planning and Information for the U.S. Conference of Catholic Bishops here in Washington, DC. And we welcome you.

STATEMENT OF KATHY CLEAVER, DIRECTOR OF PLANNING AND INFORMATION FOR THE SECRETARIAT FOR PRO-LIFE ACTIVITIES, U.S. CONFERENCE OF CATHOLIC BISHOPS, WASHINGTON, DC

Ms. CLEAVER. Thank you very much, Senator Boxer. I am very grateful for the opportunity to present testimony today on the importance of the Mexico City Policy.

As director of Planning and Information for the Secretariat for Pro-Life Activities of the United States Conference of Catholic Bishops, I have the privilege of playing a role in the Church's mission to teach and deepen respect for all human life, especially the most vulnerable members of the human family, the poor, the unborn, the disabled, and the dying.

The Mexico City Policy is the most significant policy initiative on abortion taken by the United States in the area of foreign assistance in the last 20 years. To state it clearly, the Mexico City Policy simply requires non-governmental organizations receiving U.S. aid to refrain from performing or promoting abortion as a method of family planning in developing nations. And we, of course, commend President Bush for reinstating this very important policy.

The argument has been made by abortion proponents that the Mexico City Policy is nothing more than powerful U.S. politicians forcing their policies on poor nations. But, frankly, quite the opposite is true. First, the policy forces nothing and in that sense could be viewed as pro-choice. The non-governmental organizations may choose to apply for U.S. tax funds, and to be eligible, they must refrain from abortion activity. On the other hand, NGOs may choose to do abortions or to lobby foreign nations to change their laws which restrict abortion, and, if they choose that path, they render themselves ineligible for U.S. money. As we saw last time the policy was in place, only two out of hundreds of organizations elected to forfeit the U.S. money for which they were otherwise eligible. But it was and will be entirely their choice. Far from forcing a policy on poor nations, the Mexico City Policy ensures that NGOs will not themselves force their abortion ideology on countries without permissive abortion laws in the name of the United States as U.S. grantees.

And as we have learned from our experience in international conferences on population, it is not the Mexico City Policy but the United States' promotion of permissive abortion attitudes through funding of such programs that is likely to cause resentment in these countries. This is especially true when it is perceived as a means by which the West is attempting to impose population control policies on developing nations as conditions for development assistance.

The Mexico City Policy is needed because the agenda of many organizations receiving U.S. population aid has been to promote abortion as an integral part of family planning. That's no secret. And they do this even in developing nations where abortion is against the law. So, far from being perceived as an imposition on developing nations, the Mexico City Policy against funding abortion programs has been greeted by those nations as a welcome reform. The vast majority of these countries have legal policies against abortion, and virtually all forbid the use of abortion as merely another method of birth control.

Moreover, the Mexico City Policy is remarkably mainstream. The vast majority of Americans do not want their tax dollars used for programs that promote or provide abortion as a method of family planning. The Mexico City Policy simply brings American foreign policy back in line with the views of the American people.

Finally, some opponents of the Mexico City Policy are fond of using the slogan, global gag rule, to refer to the policy, and that is a smart public relations move. But it does not reflect reality. The truth of the matter is poor women in developing nations are not calling for help to abort their children. They are calling for food, housing, and medicine for themselves and their children so that they can lead lives of full human dignity. With the Mexico City Policy in place, the United States can best respond to their pleas, and respond with respect for their personal dignity and their humanity. Thank you very much.

[The prepared statement of Ms. Cleaver follows:]

PREPARED STATEMENT OF CATHLEEN A. CLEAVER, ESQ.

Chairman Boxer, Members of the Committee, I am grateful for the opportunity to present testimony today on the importance of the Mexico City Policy.

As Director of Planning and Information for the Secretariat for Pro-Life Activities of the United States Conference of Catholic Bishops, I have the privilege of playing a role in the Church's mission to teach and deepen respect for all human life, especially the most vulnerable members of the human family—the poor, the unborn, the disabled, and the dying.

The "Mexico City Policy" is the most significant policy initiative on abortion taken by the United States in the area of foreign assistance in the last twenty years. To state it clearly: the Mexico City Policy simply requires non-governmental organizations receiving U.S. aid to refrain from performing or promoting abortion as a method of family planning in developing nations.

We commend President Bush for reinstating this important policy.

The argument has been made by abortion proponents that the Mexico City Policy is nothing more than "powerful" U.S. politicians forcing their policies on poor nations. But, frankly, the opposite is true. First, the policy forces nothing: Non-governmental organizations (NGOs) may choose to apply for U.S. tax funds, and to be eligible, they must refrain from abortion activity. On the other hand, NGOs may choose to do abortions or to lobby foreign nations to change their laws which restrict abortion, and if they choose that path they render themselves ineligible for U.S. money. As we saw last time the policy was in place, only two out of hundreds of organizations elected to forfeit the U.S. money for which they were otherwise eligible.[1] But it was and will be entirely their choice.

Far from forcing a policy on poor nations, the Mexico City Policy ensures that NGOs will not themselves force their abortion ideology on countries without permissive abortion laws in the name of the United States as U.S. grantees.

And as we have learned from our experience in international conferences on population, it is not the Mexico City Policy but the United States' promotion of permissive abortion attitudes through funding of such programs that is likely to cause resentment.[2] This is especially true when it is perceived as a means by which the West is attempting to impose population control policies on developing nations as conditions for development assistance.

The Program of Action of the 1994 United Nations International Conference on Population and Development held in Cairo reaffirmed the position first adopted by United Nations delegates at the 1984 Mexico City population conference: "In no case should abortion be promoted as a method of family planning."

The Mexico City Policy is needed because the agenda of many organizations receiving U.S. population aid has been to promote abortion as an integral part of family planning—even in developing nations where abortion is against the law.[3] So, far from being perceived as an imposition on developing nations, the Mexico City Policy against funding abortion programs has been greeted by those nations as a welcome reform. The vast majority of these countries have legal policies against abortion, and virtually all forbid the use of abortion as merely another method of birth control.[4]

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[1] The London-based International Planned Parenthood Federation (IPPF) received approximately $17 million from the U.S. Agency for International Development (U.S. AID) in 1984 but forfeited all its federal funding under the Mexico City Policy. Approximately 57 IPPF affiliates worldwide agreed to the Policy and continued to receive U.S. funds. Planned Parenthood Federation of America also refused to agree to the limitations resulting in the cessation of its grant of approximately $18 million in 1990. According to U.S. AID congressional testimony, approximately 400 NGOs were receiving funds under the Mexico City Policy terms in 1991. *Congressional Record,* June 12, 1991, H4336-4338. U.S. AID testified that, under the Mexico City Policy, the United States provided "about 45 percent of all international family planning assistance in more than 100 countries . . . 85 of those countries were developing countries." *Congressional Record,* June 12, 1991, H4338.

[2] In 1985, the U.S. Agency for International Development told Congress:

> Abortion is a controversial issue in many countries, especially those with large Catholic or Moslem populations. The U.S. has been criticized in developing countries for its funding of groups (such as IPPF and some of its affiliates) which perform abortions with their own funds . . . The Administration believes that it is important to avoid the damage to U.S. interests which results from the belief it supports abortion.

[3] Perhaps one of the most striking examples of this was seen in a 1983 resolution signed by then-PPFA President Faye Wattleton:

> Family Planning Associations and other non-governmental organizations should not use the absence of a law or the existence of an unfavorable law as an excuse for inaction; action outside the law, and even in violation of it is part of the process of stimulating change.

[4] In 1984 the laws of only 5 of 126 less developed nations permitted abortion upon request, and only 8 permitted abortion for socio-economic reasons. *Concise Report on the World Popu-*

Moreover, the Mexico City Policy is remarkably "mainstream." The vast majority of Americans do not want their tax dollars used for programs that promote or provide abortion as a method of family planning. The Mexico City Policy simply brings American foreign aid policy back in line with the views of the American people.

Finally, some opponents of the Mexico City Policy are fond of using the slogan "Global Gag Rule" to refer to the policy, and that is a smart public relations move. But it doesn't reflect reality. The truth of the matter is: Poor women in developing nations are not calling for help to abort their children. They are calling for food, housing, and medicine for themselves and their children so that they can lead lives of full human dignity. With the Mexico City Policy in place the United States can best respond to their pleas, and respond with respect for their personal dignity and their humanity.

Thank you.

Senator BOXER. Thank you. I guess we have a different view of when a woman is treated with dignity, and we will bring that out.

I do want to correct the record because you are about the third witness who has made the statement that this was done so that U.S. tax dollars wouldn't be used for abortion, and I'm going to put in the record at this time the section of the law that was actually written by our ranking member in the full committee, Senator Helms in 1973, which has prohibited since 1973 the spending of U.S. dollars on abortions, and I just want to make sure that that appears in the record.

[The information referred to follows:]

SEC. 2151b. POPULATION PLANNING AND HEALTH PROGRAMS

(a) * * *

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(f) PROHIBITION ON USE OF FUNDS FOR PERFORMANCE OR RESEARCH RESPECTING ABORTIONS OR INVOLUNTARY STERILIZATION.—

(1) None of the funds made available to carry out subchapter I of this chapter may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions.

(2) None of the funds made available to carry out subchapter I of this chapter may be used to pay for the performance of involuntary sterilizations as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations.

(3) None of the funds made available to carry out subchapter I of this chapter may be used to pay for any biomedical research which relates, in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning.

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Senator BOXER. Our last and certainly not least panelist we want to welcome at this time is Mr. Neier. And he is president of the Open Society Institute, which is based in New York. His organization promotes the development of open societies around the world. Mr. Neier is also a founder of what is today one of the most respected organizations, I think, in the world, Human Rights Watch. So we're very honored that you're here today and please proceed.

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lation Situation in 1983, Department of International Economic and Social Affairs, United Nations (Population Studies No. 85) (New York 1984). In 1994 the United Nations reported that abortion upon request and abortion for socio-economic reasons was legal in only 12 of 133 developing nations. Today, approximately half of the developing nations allow abortion only to protect the mother's life or in cases where the pregnancy resulted from rape or incest. Virtually all prohibit the use of abortion as a method of birth control. (A. Rahman, L. Katzive and S. Henshaw, "A Global Review of Laws on Induced Abortion, 1985-1997," International Family Planning Perspectives, vol. 24 no. 2, June 1998).

STATEMENT OF ARYEH NEIER, PRESIDENT, OPEN SOCIETY INSTITUTE, NEW YORK, NY

Mr. NEIER. Thank you very much, Chairman Boxer. I have spent the past four decades promoting rights first as director of the American Civil Liberties Union dealing with domestic rights in the United States, then as the founding director of Human Rights Watch, and in my present capacity as president of the Open Society Institute. The network of Soros foundations of which I am also the president is perhaps the leading supporter of human rights work worldwide.

I want to focus on the significance of the global gag rule, and I think the name is an appropriate one, for human rights. In particular, I want to focus on the way in which promoting abortion is defined in the global gag rule. One of the provisions says that conducting a public information campaign in USAID-recipient countries regarding the benefits and/or the availability of abortion as a method of family planning; that is, if you conduct a campaign on benefits or availability, you cannot receive U.S. funding.

That seems to me a very serious interference with the free speech rights of the non-government organizations that are the recipients of U.S. funding. As has been pointed out, if such a prohibition were enacted in the United States, it would violate the first amendment. One should also note that subsequent to the earlier Mexico City Policy, the United States ratified the International Covenant on Civil and Political Rights. That ratification means that the covenant is binding on the United States. The covenant has a provision dealing with free speech that is the counterpart of the first amendment. It provides that "Everyone shall have the right to freedom of expression. This right shall include freedom to seek, receive and impart information and ideas of all kinds regardless of frontiers, either orally, in writing or in print, in the form of art, or in any other media of his choice."

It does seem to me that a prohibition on a public information campaign on availability of abortion flatly violates the treaty obligation that the United States undertook when it ratified the International Covenant on Civil and Political Rights.

Beyond that, I want to indicate how this also affects the free speech rights of Americans. Americans are indirectly or perhaps even directly affected in their free speech rights by the rule. It has to do with the way the international human rights effort takes place.

American organizations such as the one of which I was the founder and director, Human Rights Watch, conduct investigations worldwide. The way we conduct investigations, except in a handful of the most repressive countries on Earth where non-governmental organizations cannot function, is to go to counterpart non-government organizations and find out from them about human rights abuses in their countries, and then conduct investigations of those abuses.

There is a kind of partnership between U.S.-based human rights organizations and non-government organizations in other countries. They depend on us for international resonance for their findings and for protection in case their governments take reprisals against them.

We depend on them for information and to point us in the right direction in examining abuses. That effort essentially is blocked in the field of abortion or reproductive rights; that is, American organizations cannot gather information on these problems if the non-governmental organizations that are active in the field of family planning, that are likely to be the repositories of information on these issues may not provide information to them on the benefits or availability of abortion as a method of family planning as specified in the global gag rule. It's a restriction on their rights. It's a restriction on our rights. If it were applied in any other field of international human rights, it would be disastrous for the human rights field. It's disastrous in this field.

Moreover, I point out that the United States is replete with laws—the Foreign Assistance Act, the International Financial Institutions Act—which make U.S. policy favor the activities of non-governmental organizations in providing information on rights. Section 502(b) of the Foreign Assistance Act, Section 116 of the International Financial Institutions Act specify that the availability of information from non-governmental institutions is one of the ways the United States assesses the human rights situation of other countries.

This global gag rule seems to me to violate our obligations under the Covenant on Civil and Political Rights and to contradict U.S. legislation dealing with international human rights.

Thank you very much.

[The prepared statement of Mr. Neier follows:]

PREPARED STATEMENT OF ARYEH NEIER

INTRODUCTION

Senator Boxer, Senator Helms, Members of the Committee, good morning. Thank you for inviting me here today to testify before the Senate Committee on Foreign Relations. I am here to testify in opposition to the Administration's policy known as the "Global Gag Rule," and in favor of Senator Boxer's bill, the Global Democracy Promotion Act of 2001 (S. 367), which would overturn the Global Gag Rule.

I am the President of the Open Society Institute (OSI), a United States-based charitable foundation based in New York City. The Open Society Institute was established in 1993 to promote the development and maintenance of open societies around the world. OSI does this by supporting an array of activities dealing with education, social, legal and health care reform, and by encouraging alternative approaches to complex and controversial issues. OSI funds projects both domestically and in over sixty foreign countries for the purpose of promoting democratic governments, robust political debate, human rights, and the rule of law. We promote these goals primarily by supporting non-governmental organizations (NGOs).

My testimony addresses the central advocacy role NGOs play in formulating and monitoring international agreements, shaping international human rights law, influencing the policies and laws of the United States, and promoting open and civil societies worldwide. I would also like to emphasize my strong support for the Global Democracy Promotion Act, which would overturn the censorship imposed by the United States Agency for International Development (USAID) on privately funded speech that promotes abortion law reform, otherwise known as the "Global Gag Rule."

In over 38 years of experience in the human rights field, the Global Gag Rule is the only time I have encountered U.S. censorship of speech promoting law reform through democratic processes. The entire human rights movement relies on the ability of NGOs to gather information and speak without impediment and to associate freely with foreign NGOs to increase the effectiveness of their speech and advocacy.

This law reform gag not only irreparably damages the association, free speech, and political advocacy rights of international human rights advocates. but causes continuing irreparable injury to the American public. Impeding the information gathering and freedom of expression of human rights advocates sends a message

worldwide that we are willing to diminish First Amendment protections for political ends and undermines the commitment of the United States to free dissemination of information and democratic values worldwide.

BACKGROUND AND EXPERIENCE

I have spent my career as a human rights advocate and scholar promoting the establishment and enforcement of civil and human rights under the United States Constitution and international treaties, agreements and norms.

I have been the President of OSI since it was founded in 1993. The Institute began by funding local NGOs in Eastern Europe and the former Soviet Union to encourage political debate and law reform. Over the last 8 years, OSI has funded and supported hundreds of NGOs in the United States and around the world. A number of these NGOs work on human rights issues, including many whose work focuses on reproductive rights and health.

In 1978 I was a founder of what is now Human Rights Watch (HRW), and spent twelve years as its Executive Director. HRW is dedicated to protecting the human rights of people around the world, and is the largest U.S.-based NGO operating internationally to protect human rights. HRW began with my participation in the establishment of the Helsinki Watch committee to monitor the implementation of the 1975 Helsinki Final Accords, a human rights treaty with thirty-five European and North American countries as parties including the Soviet Union and the countries of Central and Eastern Europe it controlled. Helsinki human rights monitoring was a critical catalyst for human rights and democracy movements that created political opportunities for some of the forces that ultimately overthrew Communist rule. Central to this effort (and illustrative of the harm of the Global Gag Rule) were the advocacy networks of domestic and international NGOs, which my colleagues and I formed with the Watch Committees to monitor and publicize abuses under communist governments.

Prior to my work at HRW, I spent fifteen years with the American Civil Liberties Union (ACLU), eight of those as National Executive Director. The ACLU is a nonprofit civil rights organization with nearly 300,000 members and supporters. Founded in 1920, the ACLU is the largest U.S. NGO protecting the Bill of Rights. The ACLU fulfills its mission of defending the individual rights and liberties of all people under the Constitution through litigation, advocacy and public education. Our docket historically stressed protection of First Amendment rights and expanded to include voting rights, women's rights, racial equality efforts and privacy rights. A copy of my curriculum vitae is attached hereto as Exhibit A. [Exhibits A and B have been retained in the committee's files.]

I have worked with virtually every major human rights group internationally and am familiar with the advocacy process across national frontiers that has resulted in enormous gains in acceptance of and compliance with international human rights law.

BACKGROUND OF THE HUMAN RIGHTS MOVEMENT

The human rights movement seeks to have certain fundamental human rights principles accepted as international norms. If universally accepted, these human rights would establish basic enforceable protections and rights for all people.

The movement for human rights took on a global perspective after World War II as a result of the Holocaust and the War Crimes Tribunals. The events of World War II galvanized the international community and led to the creation of the United Nations in 1945.

The United Nations committed itself in its Charter to protect human rights and spelled out its understanding of universal rights through the adoption of the Universal Declaration of Human Rights (UDHR),[1] which was adopted without dissent by the General Assembly in 1948. The UDHR proclaims that all men and women are entitled to the right to life, liberty, nationality, and to participate in government, and to freedom of thought, conscience and religion. Eleanor Roosevelt and the United States delegation to the United Nations were instrumental in drafting the UDHR and securing its passage.

The principles set forth in the UDHR are legally binding on party nations, including the United States, through two international covenants: the International Covenant on Civil and Political Rights (ICCPR)[2] and the International Covenant on

[1] Universal Declaration of Human Rights, adopted 10 Dec. 1948, G.A. Res. 217A (III), UN Doc. A/810, at 71(1948).

[2] International Covenant on Civil and Political Rights, adopted 16 Dec. 1966, entered into force 23 Mar. 1976, 999 U.N.T.S. 171.

Economic, Social and Cultural Rights (ICESC),[3] both of which entered into force in 1976 when ratified by 35 countries. The United States has ratified the International Covenant on Civil and Political Rights.

Collectively, the UDHR, ICCPR and ICESC are commonly known as the International Bill of Rights. They are attached hereto as Exhibit B. Since 1976, numerous countries have signed and ratified the treaties, taking important steps towards the implementations of their provisions.

In addition to these documents, more than 80 other conventions and declarations related to human rights have been adopted, including conventions to end discrimination on the basis of race and gender, and declarations for the protection of refugees and to end genocide.

A central tenet of the International Bill of Rights and many of the subsequently drafted documents is the recognition of freedom of expression and the right to "seek, receive and impart information and ideas through any media and regardless of 'frontiers.'" See, e.g., article 19 of UDHR and article 19(2) of ICCPR. Like the First Amendment's rights to freedom of speech, of the press and of peaceable assembly, these rights are not only freestanding human rights, but are essential tools for advancing all other rights.

The human rights movement over the last fifty years has had tremendous success in securing the adoption of human rights treaties as part of international and U.S. domestic law.

As human rights and international law have developed, the United States has endorsed many covenants and declarations, and has ratified a number of human rights treaties in accordance with the treaty-making authority prescribed by the Constitution. This has created new avenues for the human rights movement and NGOs to influence the United States.

The Global Gag Rule, however, interferes with the development of international and domestic law related to reproductive health and rights at every stage in the development of such law.

THE HUMAN RIGHTS ADVOCACY PROCESS

The process of political advocacy in the context of the advance of international human rights is revolutionary. An understanding of this process is crucial to understanding the degree of harm caused by the Global Gag Rule due to the critical stage of development of the global reproductive rights movement. It also illustrates the direct effect of the law reform gag on human rights organizations, individual human rights attorneys, and other individuals who are instrumental in that movement.

There are two main components to human rights advocacy: 1) the development and adoption of human rights norms into domestic and international law; and 2) encouraging and ensuring compliance by governments with human rights standards through the collection and dissemination of information about practices that may diverge from those norms. Transnational advocacy networks of human rights NGOs, both international (like HRW) and domestic, are essential participants in each stage of this process.

The first step in the human rights advocacy process is to define human rights. This has primarily been accomplished through coalitions of NGOs working with government delegations at regional and international meetings or forums to establish certain human rights norms. Through this process human rights theories are transformed from ideals into enforceable rights. Language is drafted and agreed upon, and the resulting documents are adopted by participating countries. These documents establish international law, and upon adoption may become incorporated into the adopting country's domestic law.

There are numerous examples illustrating the influence of NGOs in the development of human rights norms. The 1997 Nobel Peace Prize was awarded to an NGO coalition, the International Campaign to Ban Landmines for its leadership in the adoption of a treaty banning antipersonnel mines by 123 governments meeting that December in Ottawa. Another such example is the 1998 Rome treaty calling for the establishment of the International Criminal Court (ICC). This treaty was endorsed by 120 governments at a conference in Rome in which NGOs played a major part. It was the work of these human rights groups that provided the impetus to adopt the treaty and obtain the signatures and ratifications necessary for it to take effect. The organization of which I was a founder, Human Rights Watch, played a leading role in both treaties. NGOs were also critical in ensuring the recognition of gender-sensitive and reproductive specific issues (such as forced pregnancy as war crimes)

[3] International Covenant on Economic, Social and Cultural Rights, adopted 16 Dec. 1966, entered into force 3 Jan. 1976, 999 U.N.T.S. 3.

were included in the mandate of the ICC. When the government of Libya tried to block NGOs from speaking at the Rome Conference, the United States government took a leading role in upholding the rights of NGOs.

NGOs will continue to work domestically and internationally to increase the number of countries becoming state parties to treaties, covenants and declarations protecting human rights. As support builds for the acceptance of a human rights norm, demonstrated by the endorsement of documents enshrining those norms by an increasing numbers of countries, international pressure builds on those countries that have not yet endorsed the documents. Pressure can be brought to bear through tangible actions, such as a United Nations censure or economic sanctions. Human rights movements can also come from within a country, such as the non-governmental democracy movement in Poland, "Solidarity," which played a leading role in the fall of communism in that country and throughout the former Soviet bloc. International pressure legitimizes and supports the efforts of local NGOs.

Once a human rights norm has been defined and accepted, it provides a yardstick by which to measure the compliance of governments, whether or not a particular country has agreed to be bound by a document. Many of the international agreements on human rights include requirements that adopting governments report to the United Nations on compliance, and that they must assist in efforts to monitor the compliance of other governments. Thus, a critical component of human rights advocacy is the ability to hold countries accountable.

In fact, the United States has adopted a set of statutes by which the State Department monitors and reports to Congress upon compliance with international human rights norms. A particularly important statute is Sec. 502B of the Foreign Assistance Act of 1961, as amended (22 USC 2304). It requires the State Department to submit an annual report to Congress on human rights practices worldwide. The law provides that in preparing such reports "the relevant findings of appropriate international organizations, including non-governmental organizations" should be considered (3)(b)(1); as well as "the extent of cooperation by such government in permitting an unimpeded investigation by any such organization of alleged violations of internationally recognized human rights" (3)(b)(2). In doing so, the State Department relies extensively on information supplied by HRW and frequently cites HRW's findings.

NGOs play a critical role in monitoring compliance because they often have direct access to information through their contacts with their NGO counterparts worldwide and the ability to document human rights abuses, and are in a position to put governments on notice of how they are violating an international norm or right.

One of the most powerful weapons for ensuring government compliance with human rights norms is the dissemination of information about abuses. The presentation of such information through the media and in international forums often "shames" the government into responding, and can lead to international isolation and sanction if governments fail to remedy abuses.

The information necessary to bring such abuses to light may be difficult to obtain without the assistance of local NGOs, as this is the very type of information that non-compliant governments are likely to suppress. Local NGOs, however, often do not have the knowledge, resources or international contacts necessary to disseminate the information, and need to form partnerships and coalitions with other NGOs in order to advocate effectively. The most effective engine for change comes when local and international NGOs work together. Indeed, the human rights movement as it exists would not have occurred without transnational coalitions of NGOs.

The process that I have described reflects both my personal experience and extensive academic analysis in the fields of international relations and political science.[4]

REPRODUCTIVE RIGHTS ADVOCACY AND THE HUMAN RIGHTS MOVEMENT

In order to explain fully the pernicious effect of the Global Gag Rule, it is necessary to understand the history of reproductive rights, and particularly the right to abortion, within the context of human rights law.

Compared to the civil and political rights recognized in the Helsinki Accords and ICCPR, reproductive rights (along with other women's rights) have not progressed very far yet in their acceptance as human rights norms.

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[4] Henkin, Louis, Neyman Orentlicher, Leebron Human Rights (Foundation Press, 1999). Keohane, and Nye, eds. *Power and Interdependence* (Addison Wesley, 2000). Cook, Rebecca *Human Rights of Women: National and International Perspectives* (University of Pennsylvania Press, 1994). Henkin, Louis *Foreign Affairs and the U.S. Constitution* (Oxford, 1996). Risse-Kappen, Thomas *Bringing Transnational Relations Back In: Non-State Actors, Domestic Structures and International Institutions* (Cambridge University Press, 1995). Sen, Gita, Adrienne Germain, Lincoln C. Chen *Population Policies Reconsidered: Health, Empowerment and Rights.*

It has only been quite recently that discussion of reproductive rights as human rights has occurred at the international level. Much of the progress on this issue has come through conferences sponsored by the United Nations, including the World Conference on Human Rights, held in Vienna in 1993, the International Conference on Population and Development, held in Cairo in 1994, the Fourth World Conference on Women, held in Beijing, China, in 1995, and the five-year review conferences for both the Cairo and Beijing conferences.

The right to legal abortion is considered by many to be inseparable from the unified whole of reproductive rights. Failure to incorporate the right to abortion within the human rights norms recognizing reproductive rights renders the protection afforded incomplete and undermines the implementation of those rights that are recognized.

Because of the controversy surrounding abortion, although other aspects of reproductive health are recognized, such as the right to family planning,[5] health,[6] and physical integrity,[7] there is yet no universally recognized right to legal abortion *per se*.

While not affording abortion full status as an enforceable human right, groundbreaking progress on the abortion issue was made at the Cairo and Beijing conferences.

The Cairo Programme of Action recognizes that unsafe abortion is a major public health issue and urges that in locations where it is legal, abortion should be safe.[8]

The Beijing Platform of Action goes even further, urging countries to "consider reviewing laws containing punitive measures against women who have undergone illegal abortions" and calling for "research to understand and better address the determinants and consequences" of unsafe abortion. Beijing Platform for Action ¶ 106(k); 109(i).

Although the platforms are only incremental steps toward universal norms on legal abortion, the Cairo and Beijing conference reports are normative documents that have been endorsed by 180 countries, including the United States.

The Cairo and Beijing documents thus create measures by which U.S.-based human rights organizations, in coalition with foreign NGOs, can hold governments accountable through monitoring and reporting. The Global Gag Rule, however, prohibits (or at least chills) hundreds of the most influential NGOs in the reproductive health field, active in dozens of countries, from engaging in advocacy related to implementation or monitoring of the abortion provisions of these agreements.

Over 1500 NGOs from 180 countries participated in the Cairo conference, and the robust debate made possible by their wealth of knowledge and their vigorous advocacy was instrumental in the recognition of reproductive rights as human rights, and in the adoption of the statements on abortion described above. Many of these NGOs could not have engaged in open discussion of the abortion issue (except pejoratively) in 1993 or 1994 had the Global Gag Rule been in effect. In addition to preventing those organizations from direct participation and advocacy, the loss of information that they possessed would have limited the advocacy of many other NGOs.

Precluding organizations from creating coalitions and networks with strategic NGOs in the countries affected by the Global Gag Rule for the purpose of monitoring the Cairo and Beijing agreements significantly devalues these agreements as normative documents.

The current period is a critical one in history for the advocacy of reproductive rights as human rights, including the right to abortion. The gains made throughout the 1990s and the worldwide attention resulting from the Cairo and Beijing Conferences and their five-year reviews all show that momentum is building behind the efforts of the transnational coalitions to give international legal protection to abor-

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[5] The Vienna Declaration includes an affirmation of the rights of women to "accessible and adequate health care and the widest range of family planning services." Vienna Declaration and Programme of Action ¶ 41, U.N. Doc. A/CONF.157/23 (1993). The Beijing Declaration states: "The explicit recognition and reaffirmation of the right of all women to control all aspects of their health, in particular their own fertility, is basic to their empowerment." Report of the Fourth World Conference on Women, ¶ 17, U.N. Doc. A/CONF.177/20 (1995). The Cairo Report devotes several provisions to family planning. Report of the International Conference on Population and Development, ¶¶ 7.12-.26, U.N. Doc. A/CONF.I71/13 (1994).

[6] One of the goals adopted in the Beijing Declaration is to: "Ensure equal access to and equal treatment of women and men in education and health care and enhance women's sexual and reproductive health as well as education." Report at ¶ 30. ICESCR, Art. 12.2.

[7] Physical integrity is embodied in the concept of security of the person, recognized in the UDHR (Article 5) and ICCPR (Article 7).

[8] Report of the International Conference on Population and Development, ¶ 8.25, U.N. Doc. A/CONF.171/13 (1994).

tion. As a result, censorship by the United States of an important piece of this advocacy will likely have a devastating impact.

THE IMPORTANCE OF ASSOCIATIONS AMONG NGOS

Human rights law reform advocates will be significantly hampered in achieving their goal of recognition of reproductive rights, including the right to abortion, as human rights, if they cannot obtain information and persuasive evidence from, speak for purposes of persuasion to, and otherwise work with the NGOs affected by the law reform gag.

The importance to the human rights movement of the ability of NGOs to associate with, communicate freely with, and exchange information with one another cannot be overestimated. Perhaps the most important of these associations are those between international NGOs and local (national or regional) organizations. These partnerships are the cornerstone of effective human rights advocacy. Indeed, I am aware of no instance, and do not believe it would be possible, for an international NGO (or indeed any NGO working in a country that is not its base of operations) working alone to have a significant impact at the national level. Progress in changing national laws and ensuring compliance with international norms through monitoring and exposing abuses depends on the work of local NGOs.

Human rights advances and law compliance would likely not occur if dependent solely on a government's initiative. The resources of NGOs are limited, however, and to be effective advocacy strategies must be strategic.

International human rights groups that have technical expertise and the freedom and resources to operate across borders must rely on local NGOs (such as those subject to the law reform gag) who provide the knowledge of the local politics, the local law and the local people suffering from abuses. Successful political advocacy and change needs the association of these two together. The international groups bring external public opinion to bear, can have free access to the press, and can usually be freer in monitoring and publicizing a dangerous situation than a local entity which might be afraid to do so.

In many countries it is forbidden for a non-citizen to set up an NGO. Therefore, international groups *must* operate in conjunction with local NGOs in order to effect political change.

For example, HRW works extensively in coalition with strategic local NGOs and could not have furthered its mission of implementing and monitoring the ICCPR without these critical associations. I cannot imagine how different the state of human rights around the world would be today if hundreds of NGOs relevant to HRW campaigns had been censored over the past twenty years.

My experience provides many examples both within the United States and abroad that illustrate the importance to NGOs of the ability to work in association with one another. It was critical for the ACLU to work in association with other like-minded religious or civil rights groups toward the realization of many civil rights and liberties goals. In fact, it was only by such political associations that the movements for racial equality and women's rights were successful.

In 1991, leaders of several other NGOs and I launched an NGO-centered movement that advocated for a treaty on landmines. The landmine campaigns garnered influential and wide support only when HRW and Physicians for Human Rights, working with an NGO treating victims of landmines in Cambodia, published our first human rights report on the issue highlighting the plight of the victims. This humanitarian NGO, which gave prostheses to victims, received funds from the Unites States Government. If there had been censorship of organizations that dealt with these victims of land mines, as there is with the law reform gag as to the harmful effects of illegal abortion, the landmine treaty might not exist today, and its adoption would certainly have been significantly retarded. Effective advocacy was only possible through unimpeded access to the victims of the mines.

In Argentina, the Center for Legal and Social Studies monitored torture and worked with torture victims. HRW was able to work with the Center to publicize the problem, and the effectiveness of the campaign helped lead to the end of the military government in Argentina. The campaign also affected United States policy because it resulted in human rights conditions on U.S. assistance to Argentina. It was only through the unfettered association between HRW and this particular NGO, the only one with the necessary information and access to victims of torture, that these changes were possible.

In Chile, a Roman Catholic organization, the Vicaria de la Solidaridad, also documented torture. This NGO was the main source for HRW to document these human rights abuses. Although unable to influence the Pinochet government directly, the Vicaria and HRW were very effective in bringing about reform by getting the U.S.

government to bring pressure on the Chilean government. If the U.S. government had censored Vicaria, severe human rights abuses in Chile may have persisted much longer. In both Argentina and Chile, effective advocacy was dependent on HRW's ability to work with those NGOs.

In my experience, it is frequently the case that only one NGO in a particular country has gathered the human rights information needed by the international human rights movement to bring effective pressure against abuses in that country. Frequently, there is only one such group in a country or only one group may have the nationwide structure and the trust required to gather information. The proliferation of NGOs in the United States is not matched in most other countries. Especially in former communist countries or other states that experienced authoritarian rule, NGOs were forbidden or severely harassed and it is often the case that only a single group has subsequently emerged as a reliable source of human rights information. An example is Yugoslavia which only ended the authoritarian rule of Slobodan Milosevic in October 2000. A single group, the Humanitarian Law Center, has been the indispensable source of human rights information in that country. If it were silenced, no other group could have provided reliable human rights information.

Thus, in the time of globalization, and international agreements on many issues such as land mines, endangered species, environmental issues, and global warming, it is essential that political advocacy be protected without respect to national borders. Indeed, the United States has endorsed this principle by its ratification of Article 19 of the ICCPR, which explicitly protects freedom of expression and the freedom to gather and disseminate information regardless of frontiers.

THE GLOBAL GAG RULE CENSORS INFORMATION CRITICAL TO PERSUADING U.S. POLICYMAKERS

The United States holds a unique position among all other nations. Because of its power and resources, policy decisions by the U.S. often have worldwide impact. The United States is also responsible for a significant amount of the foreign assistance provided to developing nations. Decisions affecting these appropriations affect numerous governments, NGOs and individuals.

The United States is also influential within the international community on human rights issues. It has endorsed many of the significant human rights agreements, and has thereby obligated itself to monitor compliance both within its borders and in other countries. This is also required by many U.S. laws including Section 502B of the Foreign Assistance Act. The Global Gag Rule notwithstanding, several provisions of United States law condition foreign assistance on compliance by recipient countries with human rights norms, including free speech and political association. In addition to Section 502B of the Foreign Assistance Act, see Section 701 of the International Financial Institutions Act of 1977 (22 USC 262g).

The United States is also a participant at all major international United Nations sponsored conferences, and can bring significant influence to bear on the drafting and negotiating process of human rights documents.

Although influential in the arena of human rights, the United States does not often take a leading role in the adoption of human rights norms. It is usually only after significant international support has been demonstrated that the United States endorses human rights agreements. For example, the United States was one of the last developed countries to ratify the ICCPR, and the United States is one of only a handful of nations that has not yet ratified the Convention on the Elimination of All Forms of Discrimination Against Women.

The ability of U.S. NGOs to work directly with foreign NGOs is central to human rights advocacy directed at the U.S. government. The most effective way to shape U.S. foreign policy on human rights is to bring people from the affected countries to provide firsthand information. In my experience at HRW, bringing the victims of abuses and representatives from foreign NGOs to talk to members of Congress, the State Department and the National Security Council was exceedingly effective. Direct exposure to FNGOs and the witnesses and victims to whom they have access continues to be a critical component of the U.S. advocacy of many U.S. human rights organizations.

I have seen many times how foreign NGOs can affect United States policy. When the Yugoslavian government shut down a foundation funded in that country by OSI, we brought members of this NGO to Washington, D.C., to educate U.S. policymakers. As a result, then Vice President Al Gore issued a statement critical of the closure, and the following day the foreign minister of Yugoslavia informed the NGO it would be reopened.

Similarly, the most effective strategy that OSI has found for bringing attention to human rights abuses in Belarus, Kosovo and Bosnia was to bring representatives of NGOs from those regions to Washington.

In striking contrast is the experience of South African activists who came to Washington during apartheid. Under South African law at that time, citizens of that country were prohibited from speaking in favor of sanctions aimed at eliminating apartheid. When these activists met with members of Congress, they could not advocate for sanctions because to do so would put them at risk of severe criminal penalties.

The Global Gag Rule affects many aspects of United States policy, and, therefore, advocacy on these issues by domestic and foreign NGOs. For example, due to the gag, human rights organizations are prevented from bringing representatives of gagged NGOs to brief members of Congress about the pernicious effect of the gag itself without first having to obtain explicit permission from government attorneys. As a result, NGOs with the most relevant information about the effects of the law reform gag may not provide it to Congress without jeopardizing essential funding. In my experience, this will impede, and possibly prevent, efforts by organizations to repeal the Global Gag Rule and to pass the Global Democracy Promotion Act.

Information in the possession of foreign NGOs is also relevant to congressional deliberations as to the amount and scope of funding for both USAID and UNFPA. As noted, both the Cairo and Beijing documents recognize unsafe abortion as a major public health threat. Limiting advocacy in Congress to information about this issue from U.S.-based NGOs results in an incomplete picture as to how appropriated funds may be put to best advantage to improve reproductive health in recipient countries.

The United States has an independent obligation to monitor and promote compliance with the agreements it has adopted both within the U.S. and in other countries. The Global Gag Rule interferes with this obligation in two ways. First, by restricting speech in other countries, it undermines freedom of expression, a right expressly recognized in the UDHR and ICCPR. Second, by limiting discussion and the free flow of information, the gag limits the ability of the United States to monitor compliance by other countries with agreements such as Cairo and Beijing.

Human rights are by definition global, or universal. The political advocacy of NGOs working on human rights issues, such as reproductive rights, is therefore, by definition, global. Organizations cannot engage in necessary political speech, nor engage in effective political advocacy, without unfettered associations and communications with foreign NGOs affected by the Global Gag Rule. In order to truly effectuate the constitutional guarantees that ensure full debate and consideration of important political issues, these extraterritorial associations and communications must be afforded the highest protection.

THE GLOBAL DEMOCRACY PROMOTION ACT ENSURES RESPECT FOR HUMAN RIGHTS

The Global Democracy Promotion Act's main purpose is to ensure that U.S. foreign policy is consistent with fundamental human rights values, including medical ethics and practice, as well as freedom of speech. It prevents the imposition of requirements that are unconstitutional or untenable as a matter of policy here in the U.S. from being exported as a matter of U.S. foreign policy. The bill has two main provisions.

The first provision of the Global Democracy Promotion Act provides that foreign NGOs cannot be denied funding based on the medical services they provide with their own funds, including counseling and referral services. As a fundamental principle of medical ethics and heath care practice, health care providers in the United States are expected to supply patients with all of the information they need to make appropriate decisions about their health care. In the United States it would be considered an intolerable intrusion into the health care provider/patient relationship if the government were to determine what information providers can or cannot give to their patients. Requiring foreign health care providers to withhold critical medical information from their patients as a condition of receiving U.S. assistance constitutes unjustifiable interference by the U.S. government into the delivery of health care in other countries.

Conditioning the eligibility for U.S. assistance on a foreign NGO's willingness give up providing, *with its own funds,* the legal medical services it deems appropriate for its own patients demonstrates a disregard and disrespect for the ability of independent organizations to serve the critical heath care needs of their fellow citizens. The Global Democracy Promotion Act would ensure that such restrictions are abolished.

The second provision of the Global Democracy Promotion Act provides that foreign NGOs, as a condition of eligibility for U.S. development assistance, cannot be forced to sacrifice their right to use their own funds to engage in free speech and assembly activities any more than U.S.-based groups are asked to do.

Furthermore, conditioning the receipt of federal funds upon the sacrifice of the constitutionally-protected "right of the people to peaceably assemble and to petition the government for a redress of grievances" (First Amendment to the U.S. Constitution) is itself unconstitutional where U.S. citizens are concerned. Exporting a policy that is an violation of both the U.S. Constitution and internationally-recognized human rights is contrary to the great weight of U.S. foreign policy in support of such rights.

A principal goal of U.S. foreign policy is the promotion of democracy. To this end, supporting—as opposed to hindering—the ability of foreign organizations to use their non-U.S. funds to engage in advocacy—regardless of the subject or point of view—is essential to nurturing an independent and politically active civil society. The Global Democracy Promotion Act would ensure that freedom of speech and the support of democracy are restored as fundamental tenets of U.S. foreign policy.

CONCLUSION

With this testimony, I have outlined the importance of freedom of speech and association of human rights advocacy organizations to the evolution of international human rights law. The significance of these fundamental freedoms underscores the necessity of overturning the Global Gag Rule. I strongly urge your support of the Global Democracy Promotion Act of 2001, appreciate your kind attention to my testimony and your thoughtful consideration of these critical matters.

Senator BOXER. Thank you very much. I have a couple of questions, and then I have a one o'clock meeting that I must attend.

First let me start off by saying that each of you, I thought, was terrific in terms of presenting your point of view. In the case of Dr. Eberstadt, an interesting question for us all, which is the practical effect of this. I just disagree with him that it's theater. I think it's lives, and I think we saw very much a little girl here and what we're talking about.

I want to pick up, Mr. Neier, on your point about the Americans being impacted. I want to ask you a question because I really don't have the answer at this point, and I'm looking for the answer. If an American is working in Peru let's say for Ms. Galdos' organization or working in Nepal for Dr. Bista or in Bangladesh with the organization Dr. Pellegrom talked about, is that American gagged?

Mr. NEIER. I would say yes on the ground that the prohibition applies to the organization. If the person is acting on behalf of the organization, it would be a violation for the organization to have an American or anyone else who is working for it provide information on the availability or the benefits of abortion.

Senator BOXER. So then this gag rule takes away freedom of speech from American citizens who would be working abroad, not by the country in which they are serving, their duty if they feel it is such, but by the American Government.

Mr. NEIER. Yes. My foundation funds many Americans to work in non-governmental organizations in other countries. We support internship programs of various sorts, and any of those interns or any of the people we support, if they were working for an organization receiving U.S. family planning funds, those persons would be barred from this activity.

Senator BOXER. Well, I would be really interested to see a legal matter on whether or not our freedom of speech by our Government can be taken away by virtue of the fact that we have to get

on a plane and go somewhere else. I just raise that. I think it is an interesting question.

Let me switch to Dr. Pellegrom here. You mentioned sadly that another organization in addition to the one we heard about today is refusing to take USAID funds because they don't want to be gagged on what they can do in their own country. Do you know how much we are talking about in terms of dollars? You said you are going to try very hard to make up those dollars. Do you know in this case what we are talking about here?

Dr. PELLEGROM. It is in the vicinity of a million dollars a year for that particular organization, and it is three million women who are served in that particular instance.

Senator BOXER. Well, then I would love to know if you could help us to find, and maybe some of our other witnesses can as well, with that million dollars, the family planning services that could have been given to these women and for how long a period because I think we need to quantify because I think Dr. Eberstadt makes a good point, that we don't have the quantification of this issue. And I think if this organization were not to get the million dollars, and even if they did, even if we said no to the gag rule, the fact of the matter is I am not sure—what happens is, if you replace the million, then that is a million they can't use for additional contraceptive help for women. If you could please get us that information and send a copy to Dr. Eberstadt so he can try to put that in his math equation as real people being denied real service and what that means. We would appreciate it.

Ms. Cleaver, you represent very eloquently the U.S. Conference of Catholic Bishops. I have seen you many times doing the best job that a human being could do for them, so I am complimenting you on that.

Do you know if the Conference of Catholic Bishops supports contraception.

Ms. CLEAVER. Well, Senator Boxer, the position of the Catholic Church with regard to contraception is very clear and very well-known, artificial contraception.

Senator BOXER. Well, I don't know, so perhaps you can enlighten me because it may have changed from when I was paying attention to it.

Ms. CLEAVER. Well, that's also one of the doctrines of the Catholic Church. We don't change very often, and for a long time it has been the belief and the doctrine of the Catholic Church that artificial contraception is not something that adherents to the Catholic Church may do licitly.

Senator BOXER. Artificial you mentioned. Let me be clear. In other words, that is not contraception. I mean, if you say the rhythm method, that is not contraception because it does not really work a lot of the time, so I mean—so the U.S. Conference of Catholic Bishops does not believe in family planning other than telling women a certain time of the month you should abstain from activity; is that accurate?

Ms. CLEAVER. Well, definitely family planning, I'm guessing, in your book would include abortion, and the Catholic Church's book does not include either abortion——

Senator BOXER. No, no, time out.

Ms. CLEAVER [continuing]. Or artificial contraception.

Senator BOXER. Time out. I don't tell you what you believe, and you don't tell me what I believe. I do not believe abortion is family planning, so don't tell me that I do. I view it as something that is available for a woman in the face of a crisis, and it is between her God and her doctor and her family and her conscience and her morality and all of that. It is not family planning. It is a failure, a failure of family planning. So let's start from scratch and let's start over.

The U.S. Conference of Catholic Bishops opposes then any type of contraceptive devices that a woman might use; is that correct?

Ms. CLEAVER. We don't publicly oppose artificial contraception. It is a doctrine that our adherents are asked to follow. It is a religious doctrine for Catholics. We take no position——

Senator BOXER. I am trying to understand this.

Ms. CLEAVER. I am sorry, but I am trying to help answer your question.

Senator BOXER. So in other words, do you support outside of the rhythm method, let's put that aside, do you support any other means of contraception such as a diaphragm, women having a diaphragm?

Ms. CLEAVER. And I would have to ask you for further clarification. As a matter of public policy, public funding or as a matter of religious belief or Catholic adherence, because the answer would be different in those questions?

So, as a matter of Catholic belief, the Church does not support artificial contraception of any nature. We support—you are calling it the rhythm method what we call natural family planning. It does have to do with following the natural rhythms of your body. But we do not oppose it as a matter of public policy.

Senator BOXER. OK, that is important. So you support family planning around the world?

Ms. CLEAVER. I say we don't oppose it as a matter of public policy.

Senator BOXER. So you don't support it?

Ms. CLEAVER. We have long taken the position that when family planning programs overseas are expanded to include the use of abortion——

Senator BOXER. I'm not talking about abortion.

Ms. CLEAVER. Well, that is what the hearing is about. That is what I am here to testify to today, the Catholic Church's position with regard to the Mexico City Policy, and the Mexico City Policy simply clarifies the distinction between family planning funding and abortion.

Senator BOXER. Well, let me reiterate. No U.S. funds since 1973 have been able to be used for abortion, abortion counseling, abortion services overseas, so that is not at all what we are talking about here today. It may be what you are talking about, but it is not what this committee is talking about. We are talking about the Mexico City gag rule.

So publicly—I am really confused. You don't oppose or support family planning. You oppose abortion, but you do not either support or oppose family planning other than that you support—how do you phrase the rhythm method?

Ms. CLEAVER. But otherwise, we don't support family planning.

Senator BOXER. OK, let me move on. Do you support, not you personally, the organization, any exceptions to your anti-abortion policy? For rape or incest, for example, do you support exceptions for rape or incest as an organization?

Ms. CLEAVER. The position of the Catholic Church on this also is well-known, and I will restate it for you.

Senator BOXER. Well, ma'am, I just asked you—honestly, if I knew the answer, I wouldn't—I have a meeting at one, so just tell me yes or no.

Ms. CLEAVER. The Catholic Church never finds it licit to intentionally kill anyone.

Senator BOXER. Never finds it what?

Ms. CLEAVER. Licit, licit.

Senator BOXER. Licit?

Ms. CLEAVER. A licit act to intentionally kill innocent human life of any sort.

Senator BOXER. Do you support an exception to your anti-abortion policy for rape or incest; yes or no?

Ms. CLEAVER. No.

Senator BOXER. OK. Do you support exceptions for life of the mother; yes or no?

Ms. CLEAVER. Not as stated. That is a more complicated question. The casual way of talking about saving a mother's life when an abortion threatens her life is known as life of the mother, and that is a casual reference to it.

What is a more precise reference to it is the notion of the doctrine of double effect whereas, if a doctor is required to undertake an action to save a woman's life and the unintended but necessary result of that is the death of an unborn child, then that is a licit undertaking. It is the principle of the double effect. You see it at the end of life as well where, if you, unintending to hasten the death of someone, you increase the morphine and your intent—it all has to do with intent, so it is never—the Catholic Church never believes it is appropriate to intend to kill innocent human life. If it is the unfortunate but necessary result to save the life of a mother—that's why life of a mother, as stated, we wouldn't say it is OK to undergo an abortion if any exception. We would say if that is the necessary result——

Senator BOXER. But if that is an unintended consequence of trying to save a woman's life?

Ms. CLEAVER. Correct.

Senator BOXER. The reason I am asking you these questions is not in any way a theological exercise or to put you in a difficult position, which I don't think you feel that you are in any case because you must believe these things and support these things.

But it is because I do believe, despite Dr. Eberstadt's mathematical presentation that we cannot really decide one way or the other, I believe as a thinking person that, if a woman in Nepal can no longer walk into Dr. Bista's clinic to get contraception because he has closed his clinic because he is out there defending little girls like this who go to jail because they were raped—I don't even want to get into whether we think—I'm not going to go there.

The fine line is I think you are going to see more abortions. That is my belief. And because I do not believe abortion is family planning, but instead it is an end result of the failure of family planning and because I want to stop these 78,000 illegal abortions which the professor here says is 66,000, so we will pick something in the middle, I believe the Mexico City gag rule, this global gag rule, is not only a violation of democracy and freedom and a slap at women around the world, but I think it will lead to more abortion, and that is why I am so confused and appalled that the people who say they are against abortion will come out in favor of this.

I also think it is very interesting that the Catholic Conference today chooses to support the gag rule when there is no exception for rape and incest. I think you ought to, being intellectually honest, you ought to take a look at that.

But, bottom line, I think that today's hearing has been very instructive. To me, the most moving testimony is from the people on the ground. The most moving part of this hearing perhaps is the fact a woman had to go to court to be able to testify here today. And I know that we have had a very carefully balanced presentation with the witnesses, which is the way we do things here in this committee. Senator Helms and others who oppose me on this had every right to have the witnesses they wanted. I am pleased that you were able to be here.

But I just want to, as one Senator, not speaking for anyone else because no one else is here to speak on this, I want to apologize to you, Ms. Galdos, I do, as a U.S. Senator under the auspices of chairing this hearing, apologize that you had to go to court to be able to speak to us today from your heart and from your soul about what you are seeing happening in your country and the fact that you have made a decision to be gagged in order to provide whatever services that you can to your people. It is moving to me. I am saddened deeply that in this land of the free and home of the brave, that is what happened. But you were able to speak.

When you walk out this door and the press comes up to you, you can't speak to them. I apologize to you for that, but I will carry on. I will speak to them, and I will speak for you. Anita Lowey will speak for you. And Senator Chafee will speak for you. And Senator Snowe will speak for you. We had five partisan voices here. We will speak for you.

And to Dr. Bista, who had to close or may have to close his clinic to go out and change a heinous law which puts 13-year-old girls in jail, I apologize to you.

And to Dr. Pellegrom, who is going to have to escalate his fundraising activities away from other things to help clinics in Bangladesh because they have informed him that they—I am sorry. I am saddened. And all I want you to know is that I know that this Senate does not agree with this President. I know it because I have counted the votes and I have the votes, Democrats and some Republicans, enough to overturn this. Whether it will be overturned or not, I can't tell you. When we have the votes to override a veto by this President, I don't know, but your voices today, those of you who argued eloquently for the overturning of this rule will be heard. You will be heard, and you will not be forgotten indeed. And to the other witnesses who came on the other side of the issue, I

guarantee your voices are heard, too. You have eloquent proponents, too, in this Senate. And that is what our democracy is about, and I guess that is where I will conclude.

I just want this democracy to happen in other countries. I don't want people like Ms. Cleaver or you in Peru to be back. I don't. I want you to go there to the Peruvian Government—right on. No more abortions, no circumstances, it is your right, just as much as I fight for Ms. Galdos to go before that body and say you are killing women, you are hurting people and you are hurting families.

That is all I want. I mean, this is the greatest country in the world. I don't want us to take away these freedoms from other people. I want us to share these freedoms, not take them away. The debate was emotional. It was difficult. But you know what? It's a debate that we have had with civility and dignity, and I want to fight for that all across the world.

I want to thank you all for being here, and we stand adjourned.

[Whereupon, at 12 noon, the committee adjourned, to reconvene subject to the call of the Chair.]

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