FACTSHEET: THE GLOBAL GAG RULE AND HUMAN RIGHTS

CENTER FOR REPRODUCTIVE RIGHTS

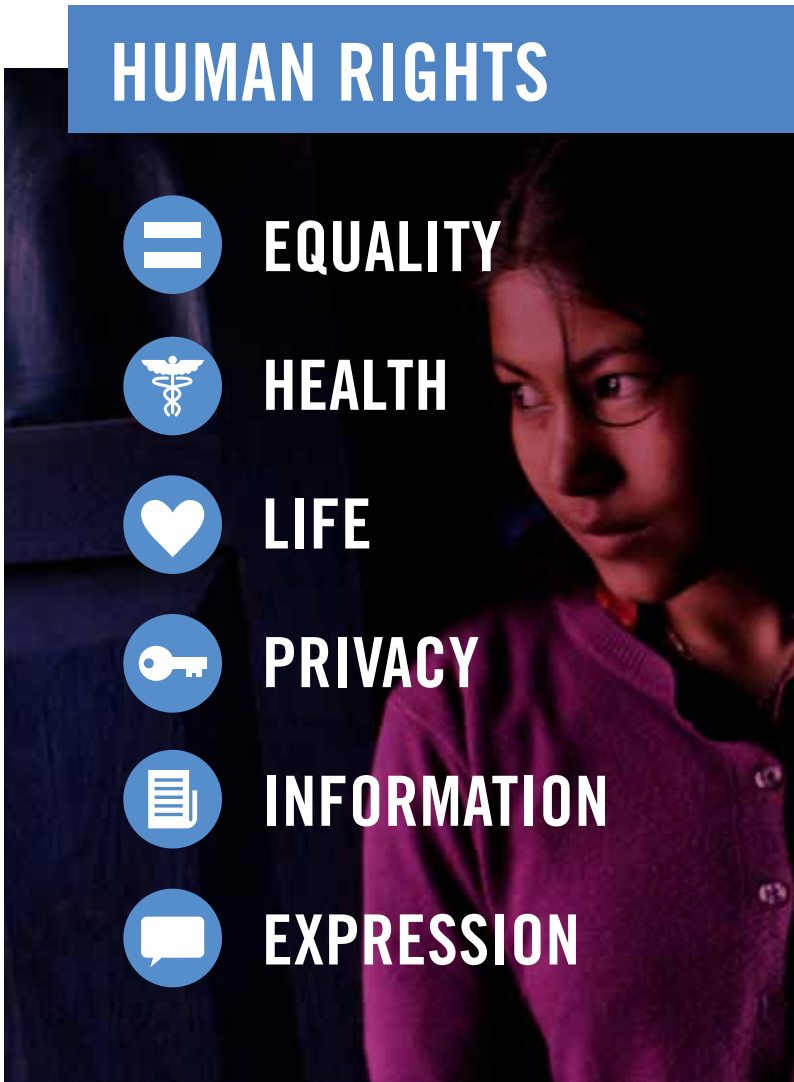
Under the Global Gag Rule, the U.S. is turning its back on the human rights of women and girls around the world. Denying access to abortion does not stop women and girls from seeking abortion services, it just makes the procedure less safe and contributes to maternal mortality. The Global Gag Rule undermines fundamental human rights to life, health, equality, information, privacy and expression.

WHAT IS THE GLOBAL GAG RULE?

On January 23, 2017, in one of his first actions as President, Donald Trump reinstated and expanded the Mexico City Policy, now officially known as "Protecting Life in Global Health Assistance" (and referred to as the "Global Gag Rule" or the "GGR" throughout this document).[1] Under this policy, nongovernmental organizations (NGOs) incorporated outside the United States and receiving U.S. global health assistance funds for grants or cooperative agreements are prohibited from using this money or any of their own funds from any other sources to perform or actively promote abortion as "a method of family planning." The prohibition includes providing referrals and counselling for women seeking an abortion as "a method of family planning" or advocacy to make abortion safe and legal as "a method of family planning."[2] The GGR states that the only abortions that are not considered "a method of family planning" are those in the cases of rape or incest, or if the life of the pregnant woman would be endangered if the fetus were carried to term.[3] Non-U.S. NGOs receiving U.S. government health assistance funds will now be required to certify that they do not perform or actively promote abortion as a method of family planning as a condition of receiving assistance from the U.S. government.[4]

Non-U.S. NGOs are placed in the difficult position of losing vital funds that support a range of health services they provide, or accepting the funds but undermining their patients' well-being by not being able to provide the full range of lawful sexual and reproductive health services and information. Complying with the GGR may also undermine compliance with national laws related to the provision of health care, such as guaranteeing referrals and ensuring evidence-based counselling. The current GGR applies to a wide range of global health assistance provided by the U.S. government, impacting funds for contraception, safe motherhood, treatment of HIV/AIDS, Zika, Ebola and other infectious diseases[5] - affecting $8.8 billion in U.S. foreign aid.[6]

The rule does not directly apply to U.S. NGOs, presumably because such an application would violate the U.S. Constitution. If U.S. NGOs engage in abortion-related activities, as long as such activities are not supported with U.S. funds, they will continue to remain eligible for global health assistance from the U.S. government. However, U.S. NGOs that receive global health assistance are required to enforce the GGR on their non-U.S. NGO partners.



The GGR, by inhibiting access to comprehensive sexual and reproductive health services and information, and by barring advocacy on abortion law reform, undermines human rights.

UNDERMINING HEALTH AND HUMAN RIGHTS

Public health and U.N. human rights bodies have long recognized that denying women and girls access to abortion does not stop women from seeking abortion services, it just makes the procedure less safe and contributes to maternal mortality.[7] The GGR undermines access to a vital component of women's reproductive health care and has a chilling effect on access to other sexual and reproductive health services, and curtails advocacy on liberalization where abortion is legally restricted. By doing so, it inhibits women's access to trained providers who offer safe and legal procedures and accurate information about their options and their rights. The GGR proliferates misinformation and heightens stigma related to sexual and reproductive health care, leading to greater mistrust in the health system. Ultimately, the GGR puts women's health and human rights at risk.

Health Impact

While the U.S. is far from meeting the Official Development Assistance target of 0.7% of Gross National Product set by the Organization for Economic Cooperation and Development, it is still the single largest donor country to global health efforts.[8] Thus, the GGR is expected to have far-reaching impacts on sexual and reproductive health and other health initiatives across the globe. This undermines U.S. commitments to the International Conference on Population and Development (ICPD) Programme of Action and hinders progress on the Sustainable Development Goals set by the 2030 Agenda.[9]

214 million women of reproductive age in developing regions have an unmet need for contraception, accounting for 84% of all unintended pregnancies in developing regions.[10] If these women had access to contraception, the number of unintended pregnancies, unplanned births and abortions would drop by nearly three quarters.[11] That in turn would mean fewer maternal deaths due to unsafe abortion, which range in the tens of thousands per year, mostly in countries with restrictive access.[12] This is especially critical for adolescents who are at greater risk of pregnancy-related death and complications.[13]

Concern on the part of service providers of violating GGR regulations creates a chilling effect on access to all sexual and reproductive health services. For example, under the previous GGR, there is evidence of service providers mistakenly refusing patients access to emergency contraception.[14] In addition, because contraception is frequently provided after safe abortion services are performed, elimination of abortion access in clinical care decreases opportunities for women and girls to obtain contraceptives, which results in more unintended pregnancies.[15]

Human Rights Impact

Under the GGR, the U.S. is not only turning its back on its commitments to public health and the Sustainable Development Goals, it is also undermining human rights, particularly the rights of women and girls. The United States played a central role in developing the Universal Declaration of Human Rights (UDHR), the foundational document providing a road map to the rights of individuals everywhere and from which all modern human rights treaties and their obligations, including sexual and reproductive rights, derive.[16] The UDHR was driven, in part, by the U.S. and the U.S. has subsequently ratified several human rights treaties that include reproductive rights.[17]

Sexual and reproductive health and rights are made up of a range of human rights, including those listed below. By ratifying human rights treaties, States become obligated to respect, protect and fulfill these rights. The right to sexual and reproductive health specifically requires that 'international assistance should not impose restrictions

on information or services existing in donor States… [and] donor States should not reinforce or condone legal, procedural, practical or social barriers to the full enjoyment of sexual and reproductive health that exist in the recipient countries.'[18]

The GGR, by inhibiting access to comprehensive sexual and reproductive health services and information, and by barring advocacy on abortion law reform, undermines these human rights. International human rights standards also require states to ensure that everyone, particularly those directly affected, have an opportunity to be meaningfully involved in the design and development, implementation, monitoring and review of SRHR laws, policies and programs. Participation on a non-discriminatory basis requires attention to the involvement of marginalized groups, such as women and adolescents, who are particularly impacted by abortion laws.[19] Such restrictions also implicate the freedom of association, which guarantees an individual's right to join or leave groups voluntarily, and the right of the group to take collective action to pursue the interests of its members.

Where women are only legally permitted to access abortion services on limited grounds or where they are denied access to lawful abortion, they are denied reproductive autonomy. Restrictive abortion laws and policies reinforce gender-based discrimination and perpetuate gender norms about women's expected role as a mother and undermines a broad range of their human rights.[20] Restrictive laws and policies also reinforce the gender-based stereotype that women are not competent to make decisions about their bodies and their future.[21]

In addition, the GGR's restriction on advocacy undermines fundamental principles of democracy, including civic participation and the related right to freedom of expression.

The Right to Equality and Non-Discrimination[22]

Denying women access to services only needed by women, such as abortion, is a form of discrimination against women.[23] States must address women and girls' distinct health needs in order to ensure equality and fulfill obligations of non-discrimination.[24] Women and girls from marginalized populations, including those with disabilities, indigenous women and other ethnic or racial minorities, rural women, and economically disadvantaged women, are particularly impacted by such restrictions because of the intersectional discrimination that they face.[25] Furthermore, the denial of women and adolescents' reproductive autonomy, which the Global Gag Rule does by limiting access to a needed service as well as to information on abortion and abortion advocacy, perpetuates discriminatory social norms about their role in society. This in turn affects all facets of their lives, including their educational attainment, ability to pursue economic opportunities, and their participation in public and political life.

The Right to Life[26]

The Global Gag Rule, which limits access to abortion, has implications on the right to life of pregnant women. Evidence shows that abortion restrictions do not decrease abortion rates, but only make the procedure less safe by pushing abortion underground and increasing maternal deaths.[27] States must ensure that women can survive pregnancy and childbirth, including by ensuring their access to adequate pre- and post-natal care, emergency obstetric services, and skilled birth attendants.[28] Human rights bodies have long linked high rates of maternal mortality to lack of access to reproductive health services, particularly to abortion and to contraception; as well as to adolescent pregnancy and child marriage.[29]

The Right to Health[30]

The right to health encompasses the right to sexual and reproductive health.[31] States have an obligation to guarantee available, accessible, acceptable, and good quality reproductive health information, services, goods, and facilities for all women and girls, free from discrimination, violence and coercion.[32] The Global Gag Rule inhibits the realization of the right to health by creating a chilling effect on access to all sexual and reproductive health services, in addition to the direct health impacts of denying access to safe and legal abortion.

The Right to Information[33]

The Global Gag Rule censors health care providers from informing patients of all their options related to abortion and censors advocates from calling on States to fulfill their obligation to ensure that information on sexual and reproductive health provided to women and girls both in and out of health care settings--in public and to individuals-- is complete and accurate and that information is not censored and withheld.[34] Human rights standards specifically place this obligation on both national and donor States.[35] These standards recognize that such restrictions, which impede access to information and services, can fuel stigma and discrimination.[36]

The Right to Privacy[37]

The right to privacy requires all health services to be consistent with the human rights of women and girls, including the rights to autonomy, confidentiality, informed

consent and choice.[38] Human rights bodies recognize that 'acceptable health services are those that are delivered in a way that ensures fully informed consent, dignity, guarantees confidentiality and is sensitive to the woman's or girl's needs and perspectives.'[39] Human rights bodies have found that certain restrictions on abortion and other reproductive rights violate the right to privacy.[40]

The Right to be Free from Torture, Cruel, Inhuman, or Degrading Treatment[41]

Human rights bodies recognize that denying women access to abortion, including, but not limited to, pregnancies resulting from sexual violence and in cases of fatal fetal impairment can amount to such mental and physical anguish that it rises to the level of ill-treatment.[42] While the GGR provides only limited exceptions—namely, for referrals for abortion as a result of rape or incest, or if the life of the pregnant woman would be endangered if the fetus were carried to term,[43] it does not provide an exception for abortions "performed for the physical or mental health of the mother and abortions performed for fatal fetal abnormalities."[44] The GGR would bar performance of or referral for an abortion in these cases, which human rights bodies have found amounts to cruel, inhuman, or degrading treatment.[45]

The Right to Freedom of Expression[46]

The Global Gag Rule contains direct restrictions on opinion and expression for non-U.S. organizations and their doctors and clinicians in the provision of health-care services. The GGR prohibition on advocating for abortion law reform and barring public information campaigns on the benefits of abortion, inhibits the provision of information and participation in law reform efforts by persons in organizations that have knowledge and accurate information on its impact and which can shape public discourse and law reform in effective and productive ways. International and regional human rights bodies have repeatedly condemned restrictive abortion laws, calling on states to liberalize such laws and guarantee women access to safe abortion services.[47] It would likely be found unconstitutional for the GGR to be imposed upon U.S.-based NGOs.[48]

CALL TO ACTION

- ✓ *States must ensure women and girls are able to realize their rights to life, health, privacy, information, non-discrimination and freedom from ill treatment, including by reforming restrictive abortion laws, ensuring the delivery and availability of quality abortion and other reproductive health care services, and ensure sufficient funding for these services.*
- ✓ *Donor states which are part of initiatives prioritizing access to sexual and reproductive healthcare, such as She Decides and FP 2020, should uphold these commitments and ensure they represent new funds. We also call upon more States to join these initiatives.*
- ✓ *More than ever, States around the globe must show political leadership at the United Nations and at the national level on the need for a comprehensive approach to sexual and reproductive health and rights in law and policy.*
- ✓ *The U.S. Congress should pass the Global HER (Health, Empowerment, and Rights) Act—bipartisan legislation that would legislatively repeal the Global Gag Rule and prevent future presidents from reinstating it.*
- ✓ *The U.S. Congress should conduct hearings and hold the administration accountable for the human rights violations and negative health impacts caused by the Global Gag Rule.*

If your organization needs assistance in understanding the GGR and how it may or may not apply to your organization, we may be able to assist you by connecting you to free legal assistance from a pro bono law firm. Please reach out to us at *GGRclearinghouse@reprorights.org*.

ENDNOTES

1 The name refers to the fact that the policy gags health care providers and advocates from even speaking about abortion in most cases. The ban is known as the Mexico City policy after the location of the United Nations conference where Ronald Reagan first announced the ban in 1984. Every Democrat elected since Reagan has suspended the policy. *See* The Mexico City Policy—Memorandum for the Secretary of State, the Secretary of Health and Human Services, and the Administrator of the U.S. Agency for International Development (Jan. 23, 2017), *available at* https://www.whitehouse.gov/the- press-office/2017/01/23/presidential-memorandum-regarding-mexico-city-policy; Protecting Life in Global Health Assistance – Fact Sheet, Office of the Spokesperson, U.S. Dep't St, May 15, 2017, https://www.state.gov/r/pa/prs/ps/2017/05/270866.htm; Background Briefing: Senior Administration Officials on Protecting Life in Global Health Assistance – Special Briefing, U.S. Dep't St, May 15, 2017, https://www.state.gov/r/pa/prs/ps/2017/05/270879.htm.

2 Implementation of Protecting Life in Global Health Assistance (Formerly known as the 'Mexico City Policy'), U.S. Dep't St., Bureau for Population, Refugees, and Migration, PRM Press Guidance, at 9, May 15, 2017, *available at* https://pai.org/wp- content/uploads/2017/09/FINAL-MCP-Press-Guidance_2017-05-14.pdf [hereinafter U.S. Dep't St, Implementation of PLGHA].

3 HHS Standard Provision, *Protecting Life in Global Health Assistance*, at (a)I(10(i) (May 2017); *available at* https://grants.nih.gov/sites/default/files/HHS%20Standard%20%20Provision_ProtectingLifeinGlobalAssistance_HHS_May%202017.pdf.

4 U.S. Dep't St, Implementation of PLGHA, *supra* note 2, at 10.

5 Under previous rules instituted by Presidents Reagan and Bush, the GGR only applied to assistance for family planning. Under the Trump Administration's expansion, the GGR now applies to Foreign NGOs receiving U.S. government health assistance for family planning,

maternal and child health, nutrition, HIV/AIDS (including PEPFAR), infectious diseases, malaria, tuberculosis, and neglected tropical diseases.

6 *See* U.S. Dep't St, Implementation of PLGHA, *supra* note 2, at 1. *See also* Population Action International, What You Need to Know about the Protecting Life in Global Health Assistance Restrictions on U.S. Global Health Assistance, An Unofficial Guide (Sept. 30, 2017), *available at* https://pai.org/wp-content/uploads/2017/10/WYN2K-10.5.pdf; Jeffrey B. Bingenheimer and Patty Skuster, *Commentary: The Foreseeable Harms of Trump's Global Gag Rule*, 48(3) Studies in Family Planning (Sept. 2017), *available at* http://onlinelibrary.wiley.com/doi/10.1111/sifp.12030/epdf.

7 *See* World Health Organization (WHO), Safe Abortion: Technical and Policy Guidance for Health Systems 18, 87-88 (2nd ed. 2012) [hereinafter WHO, 2012 Safe Abortion Guidance]; Committee on Economic, Social and Cultural Rights, *General Comment No. 22 (2016) on the right to sexual and reproductive health (article 12 of the International Covenant on Economic, Social and Cultural Rights)*, para. 28, U.N. Doc. E/C.12/GC/22 (2016) [hereinafter ESCR Committee, *Gen. Comment No. 22*].

8 *See The 0.7% ODA/GNI target – a history*, Organization for Economic Co-operation and Development (OECD), http://www.oecd.org/dac/stats/the07odagnitarget-ahistory.htm (last visited Oct. 16, 2017); Official Development Assistance 2016, http://www2.compareyourcountry.org/oda?page=0&cr=302&cr1=oecd&lg=en (last visited Oct. 16, 2017).

9 *See, e.g.,* Sneha Barot, *The Benefits of Investing in International Family Planning – and the Price of Slashing Funding*, 20 Guttmacher Policy review 84 (2017), *available at* https://www.guttmacher.org/gpr/2017/08/benefits-investing-international-family-planning-and-price-slashing-funding; *The Mexico City Policy: A world without choice*, Marie Stopes International, https://www.mariestopes.org/what-we-do/our-approach/policy-and-advocacy/the-mexico-city-policy-a-world-without-choice/ (last visited Oct. 16, 2017).

10 Guttmacher Institute, *Adding it up: Investing in Contraception and Maternal and Newborn Health*, Fact Sheet (Jul. 13 2017), https://www.guttmacher.org/fact-sheet/adding-it-up-contraception-mnh-2017.

11 *Id.*

12 *See* Bela Ganatra, et al., *Global, regional, and subregional classification of abortions by safety, 2010-14: estimates from a Bayesian hierarchical model*, The Lancet 7-8 (Oct. 9, 2017), https://www.ncbi.nlm.nih.gov/pubmed/28964589; Guttmacher Institute, *Induced Abortion Worldwide*, Fact Sheet (Sept. 2017), https://www.guttmacher.org/fact-sheet/induced-abortion-worldwide; WHO, *Preventing unsafe abortion*, Fact Sheet (Sept. 2017), http://www.who.int/mediacentre/factsheets/fs388/en/ (last visited Oct. 16, 2017).

13 United Nations Population Fund (UNFPA), State of World Population 2013: Motherhood in Childhood 90-91 (2013), *available at* http://www.unfpa.org/publications/state-world-population-2013.

14 Center for Reproductive Rights, Breaking the Silence: the Global Gag Rule's Impact on Unsafe Abortion, at 20-21 (2003), *available at* https://www.reproductiverights.org/sites/default/files/documents/bo_ggr.pdf.

15 Eran Bendavid, Patrick Avila & Grant Miller, *United States aid policy and induced abortion in sub-Saharan Africa*, WHO Bulletin (Sept. 27, 2011), http://www.who.int/bulletin/volumes/89/12/11-091660/en/.

16 Universal Declaration of Human Rights, *adopted* Dec. 10, 1948, G.A. Res. 217A (III), U.N. Doc. A/810 at 71 (1948) [hereinafter UDHR].

17 International Covenant on Civil and Political Rights, *adopted* Dec. 16, 1966, G.A. Res. 2200A (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171 (*entered into force* Mar. 23, 1976) [hereinafter ICCPR]; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *adopted* Dec. 10, 1984, G.A. Res. 39/46, U.N. GAOR, 39th Sess., Supp. No. 51, U.N. Doc. A/39/51 (1984), 1465 U.N.T.S. 85 (*entered into force* June 26, 1987) [hereinafter CAT]; Convention on the Elimination of All Forms of Racial Discrimination, *adopted* Dec. 21, 1965, G.A. Res. 2106 (XX), Annex, 20 U.N. GAOR Supp. (No. 14) at 47, U.N. Doc. A/6014 (1966), 660 U.N.T.S. 195 (*entered into force* Jan. 4, 1969) [hereinafter CERD].

18 ESCR Committee, *Gen. Comment No. 22*, *supra* note 7, para. 52. *See also* Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, *Rep. of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of health*, *transmitted by Note of the Secretary-General*, para. 33, U.N. Doc. A/71/304 (Aug. 5, 2016).

19 *See, e.g.*, ESCR Committee, *Gen. Comment No. 22*, *supra* note 7, para. 28.

20 *See* CEDAW Committee, *General Recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19*, para. 31 (a), U.N. Doc. CEDAW/C/GC/35 (2017); CEDAW Committee, *General Recommendation No. 24: Article 12 of the Convention (Women and Health)*, para. 11, U.N. Doc. A/54/38/Rev.1, chap. I (1999) [hereinafter CEDAW Committee, *Gen. Recommendation No. 24*]; ESCR Committee, *Gen. Comment No. 22*, *supra* note 7, para. 28; Special Rapporteur on extrajudicial, summary or arbitrary executions, Rep. of the Special Rapporteur on extrajudicial, summary or arbitrary executions on a gender-sensitive approach to arbitrary killings, paras. 94-95, U.N. Doc. A/HRC/35/23 (Jun. 6, 2017) (by Agnes Callamard); UN Working Group on the issue of discrimination against women in law and practice, *Rep. of the Working Group on the issue of discrimination against women in law and practice*, Human Rights Council (32nd Sess.), paras. 79, 107(b)-(c), U.N. Doc. A/HRC/32/44 (2016) [hereinafter UN Working Group on DAW 2016 Report].

21 UN Working Group on DAW 2016 Report, *supra* note 20, paras. 79, 86.

22 ICCPR, *supra* note 17, art. 3; International Covenant on Economic, Social and Cultural Rights, *adopted* Dec. 16, 1966, art. 3, G.A. Res. 2200A (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, U.N. Doc. A/6316 (1966) (*entered into force* Jan. 3, 1976) [hereinafter ICESCR]; Convention on the Elimination of All Forms of Discrimination against Women, adopted Dec. 18, 1979, G.A. Res. 34/180, U.N. GAOR, 34th Sess., Supp. No. 46, at 193, U.N. Doc. A/34/46 (1980), U.N.T.S. 13 (*entered into force* Sept. 3, 1981) [hereinafter CEDAW]; Convention on the Rights of Persons with Disabilities, *adopted* Dec. 13, 2006, art. 5, G.A. Res. A/RES/61/106, U.N. GAOR, 61st Sess., U.N. Doc. A/61/611 (1980) (*entered into force* May, 3 2008) [hereinafter CRPD].

23 *See* CEDAW Committee, *Gen. Recommendation No. 24*, *supra* note 20, para. 11; L.C. v. Peru, CEDAW Committee, Commc'n No. 22/2009, U.N. Doc. CEDAW/C/50/D/22/2009 (2011). *See also, generally,* CEDAW Committee, *General Recommendation No. 33 on women's access to justice*, paras. 47(b), 49, 51(l), U.N. Doc. CEDAW/C/GC/33 (2015); Mellet v. Ireland, Human Rights Committee, Commc'n No. 2324/2013, Appendix II (opinion of Cleveland, S., concurring,), Appendix I (opinion of Ben Achour, Y., concurring), Appendix IV (opinion of Rodríguez Rescia, V., de Frouville, O., Salvioli, S., concurring), U.N. Doc. CCPR/C/116/D/2324/2013 (2016).

24 *See* CEDAW Committee, *Concluding Observations: Congo*, para. 35(f), U.N. Doc. CEDAW/C/COG/CO/6 (2012); *Uruguay*, para. 203, U.N. Doc. A/57/38 (2002); ESCR Committee, *General Comment No. 16*: *Article 3*, para. 29, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. I) (2008); CEDAW Committee, *General Recommendation No. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women*, paras. 3-4, U.N. Doc. CEDAW/C/GC/32 (2014).

25 *See* L.C. v. Peru, CEDAW Committee, Commc'n No. 22/2009, U.N. Doc. CEDAW/C/50/D/22/2009 (2011); Mellet v. Ireland, Human Rights Committee, Commc'n No. 2324/2013, paras. 7.10, 7.11,

U.N. Doc. CCPR/C/116/D/2324/2013 (2016); UN Working Group on DAW 2016 Report, *supra* note 20, para. 107. *See also* ESCR Committee, *Gen. Comment No. 22*, *supra* note 7, para. 30.

26 ICCPR, *supra* note 17, art. 6; Convention on the Rights of the Child, adopted Nov. 20, 1989, art. 6, G.A. Res. 44/25, annex, U.N. GAOR, 44th Sess., Supp. No. 49, U.N. Doc. A/44/49 (1989) (entered into force Sept. 2, 1990) [hereinafter CRC].

27 *See* WHO, 2012 Safe Abortion Guidance, *supra* note 7, at 23, 90, 94; Gilda Sedgh, et al., *Induced Abortion: Incidence and Trends Worldwide From 1995 to 2008*, 379 The Lancet, at 630-631 (Jan. 19, 2012).

28 *See* CEDAW Committee, *Concluding Observations: Belize*, para. 56, U.N. Doc. A/54/38/Rev.1 (1999); Human Rights Committee, *Concluding Observations: Mali*, para. 14, U.N. Doc. CCPR/ CO/77/MLI (2003); Committee on the Rights of the Child (CRC Committee), *Concluding Observations: Democratic Republic of Congo*, paras. 33-34, U.N. Doc. CRC/C/COD/CO/2 (2009).

29 *See* CEDAW Committee, *Concluding Observations: Malawi*, para. 31, U.N. Doc. CEDAW/C/MWI/CO (2006); ESCR Committee, *Concluding Observations: El Salvador,* para. 22, U.N. Doc. E/C.12/SLV/ CO/3-5 (2014); Human Rights Committee, *Concluding Observations: Panama*, para. 9, U.N. Doc. CCPR/C/PAN/CO/3 (2008); CRC Committee, *Concluding Observations: Haiti*, para. 46, U.N. Doc. CRC/C/15/ Add.202 (2003); Committee Against Torture (CAT Committee), *Concluding Observations: Yemen*, para. 31, U.N. Doc. CAT/C/YEM/ CO/2/Rev. 1 (2010).

30 ICESCR, *supra* note 22, art. 12; CEDAW, *supra* note 22, art. 12; CRC, *supra* note 26, art. 24; CRPD, *supra* note 22, art. 25.

31 *See* ESCR Committee, *General Comment No. 14: The Right to the Highest Attainable Standard of Health (art. 12)*, para. 8, U.N. Doc. E/C.12/2000/4 (2000) [hereinafter ESCR Committee, *Gen. Comment No. 14*]; ESCR Committee, *Gen. Comment No. 22*, *supra* note 7.

32 *See* ESCR Committee, *Gen. Comment No. 14*, *supra* note 31, para. 12; ESCR Committee, *Gen. Comment No. 22*, *supra* note 7, paras. 62-63; CEDAW Committee, *Gen. Recommendation No. 24*, *supra* note 20, para. 2.

33 ICCPR, *supra* note 17, art. 19; ICESCR, *supra* note 22, art. 12; CEDAW, *supra* note 22, art. 16; CRPD, *supra* note 22, art. 21.

34 ESCR Committee, *Gen. Comment No. 22*, *supra* note 7, para. 41. Safe abortion services are primary health care procedures that can be provided early on by range of providers.

35 *Id.*

36 *Id.*

37 *See* ICCPR, *supra* note 17, art. 17; K.L. v. Peru, Human Rights Committee, Commc'n No. 1153/2003, para. 6.4, U.N. Doc. CCPR/C/85/D/1153/2003 (2005); Mellet v. Ireland, Human Rights Committee, Commc'n No. 2324/2013, para. 7.8, U.N. Doc. CCPR/C/116/D/2324/2013 (2016); Whelan v. Ireland, Human Rights Committee, Commc'n No. 2425/2014, paras. 3.4-3.5, U.N. Doc. CCPR/C/119/D/2425/2014 (2017). *See also* ESCR Committee, *Gen. Comment No. 22*, *supra* note 7, para. 10.

38 CEDAW Committee, *Gen. Recommendation No. 24*, *supra* note 20, para. 31 (e).

39 CEDAW Committee, *Gen. Recommendation No. 24*, *supra* note 20, para. 22.

40 *See* K.L. v. Peru, Human Rights Committee, Commc'n No. 1153/2003, para. 6.4, U.N. Doc. CCPR/C/85/D/1153/2003 (2005).

41 *See* CAT, *supra* note 17; ICCPR, *supra* note 17, art. 7; UDHR, *supra* note 16, art. 5; Convention for the Protection of Human Rights and Fundamental Freedoms, *adopted* Nov. 4, 1950, art. 3, 213 U.N.T.S. 222, Eur. T. S. No. 5 (*entered into force* Sept. 3, 1953).

42 *See* Mellet v. Ireland, Human Rights Committee, Commc'n No. 2324/2013, para. 7.6, U.N. Doc. CCPR/C/116/D/2324/2013 (2016); Whelan v. Ireland, Human Rights Committee, Commc'n No. 2425/2014, paras. 5.3-5.5, U.N. Doc. CCPR/C/119/D/2425/2014 (2017; K.L. v. Peru, Human Rights Committee, Commc'n No. 1153/2003, para. 6.3, U.N. Doc. CCPR/C/85/D/1153/2003 (2005); L.M.R. v. Argentina, Human Rights Committee, Commc'n No. 1608/2007, para. 9.2, U.N. Doc. CCPR/C/101/D/1608/2007 (2011); P. and S. v. Poland, No. 57375/08 Eur. Ct. H. R., paras. 157-169 (2013); CAT Committee, *Concluding Observations: Peru,* para. 23, U.N. Doc. CAT/C/PER/CO/4 (2006).

43 HHS Standard Provision, *Protecting Life in Global Health Assistance*, at (a)I(10(i) (May 2017); *available at* https://grants.nih.gov/sites/default/files/HHS%20Standard%20%20Provision_ProtectingLifeinGlobalAssistance_HHS_May%202017.pdf

44 HHS Standard Provision, *Protecting Life in Global Health Assistance*, at (a)I(10(i) (May 2017); *available at* https://grants.nih.gov/sites/default/files/HHS%20Standard%20%20Provision_ProtectingLifeinGlobalAssistance_HHS_May%202017.pdf

45 K.L. v. Peru, Human Rights Committee, Commc'n No. 1153/2003, para. 5.2, U.N. Doc. CCPR/C/85/D/1153/2003 (2005).

46 ICCPR, *supra* note 17, art. 19; CRPD, *supra* note 22, art. 21.

47 L.C. v. Peru, CEDAW Committee, Commc'n No. 22/2009, para. 8.15, U.N. Doc. CEDAW/C/50/D/22/2009 (2011); CRC Committee, *General Comment No. 15*, para. 70, U.N. Doc. CRC/C/GC/15 (2013); Human Rights Committee, *Concluding Observations: Ireland*, para. 9, U.N. Doc. CCPR/C/ IRL/CO/4 (2014); *Sierra Leone*, para. 14, U.N. Doc CCPR/C/SLE/CO/1 (2014); *Guatemala*, para. 20, U.N. Doc. CCPR/C/GTM/CO/3 (2012); CEDAW Committee, *Concluding Observations: Bahrain*, para. 42(b), U.N. Doc. CEDAW/C/BHR/CO/3 (2014); CAT Committee, *Concluding Observations: Paraguay*, para. 22, U.N. Doc. CAT/C/PRY/CO/4-6 (2011); CRC Committee, *Concluding Observations: Chad*, para. 30, U.N. Doc. CRC/C/15/Add.107 (1999); *Chile*, para. 56, U.N. Doc. CRC/C/CHL/ CO/3 (2007); *Costa Rica*, para. 64(c), U.N. Doc. CRC /C/CRI/CO/4 (2011); ESCR Committee, *Concluding Observations: Dominican Republic*, para. 29, U.N. Doc. E/C.12/DOM/CO/3 (2010); *Chile*, para. 53, U.N. Doc. E/C.12/1/Add.105 (2004).

48 Application of the global gag rule domestically would be an unconstitutional violation of the organizations' right to free speech under the U.S. Supreme Court's decision in *Rust v. Sullivan*, 111 S. Ct. 1759, 1774-1776 (1991) (reiterating support in *dicta* for the "unconstitutional condition" doctrine, which prohibits "situations in which the Government has placed a condition on the recipient of the subsidy rather than on a particular program or service, thus effectively prohibiting the recipient from engaging in the protected conduct [such as free speech] outside the scope of the federally funded program." (emphasis omitted) The Court declined to apply the doctrine in this case, because the government regulations at issue were "limited to the Title X funds; the recipient remains free to use private, non-Title X funds to finance abortion-related activities."). *See also*, *Federal Communications Commission v. League of Women Voters of Cal.*, 104 S.Ct. 3106, 3128 (1984) (holding that federal law "barr[ing] absolutely" non-commercial radio stations receiving federal funds from editorializing – even when editorial activity is financed with "wholly private funds" – violates the First Amendment). The Supreme Court has disfavored restrictions on controversial speech, holding that "no form of speech is entitled to greater constitutional protection" than "advocacy of a politically controversial viewpoint." *McIntyre v. Ohio Election Comm'n*, 514 US 334, 347 (1995).

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