

Congress of the United States

Washington, D.C. 20515

December 21, 2011

President Barack Obama
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Dear President Obama:

We are members of Congress committed to women's reproductive rights at home and abroad, and we strongly support the Administration's efforts to ensure that reproductive health remains a key pillar of our global health efforts. However, we are concerned that improper implementation of current foreign-assistance restrictions may be impeding our ability to provide even more effective and life-saving information and services. In particular, we are concerned that the Helms Amendment – which restricts but does not prohibit abortion funding – is being implemented as though it were an absolute ban. We are aware that high-level officials at the State Department, the U.S. Agency for International Development (USAID), and the White House have held discussions on this matter. Therefore, we write to ask about the status of those discussions and to urge the Administration to update USAID and State Department policies to reflect a more accurate interpretation of the law.

The 1973 Helms Amendment prohibits funding for “abortion as a method of family planning” or to “motivate or coerce any person to practice abortions.” The 1994 Leahy Amendment clarifies that “the term ‘motivate’, as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options.” Nonetheless, to date, the Helms Amendment has been applied as a blanket prohibition on funding for all abortion services. A lack of proper guidance has contributed to many U.S. funding recipients' incorrect belief that the Helms Amendment also prohibits information and counseling on abortion, contrary to the Leahy Amendment.

USAID has made it clear that, in the context of the Mexico City Policy, “abortion as a method of family planning” *excludes* “abortions performed if the life of the mother would be endangered if the fetus were carried to term or abortions performed following rape or incest (since abortion under these circumstances is not a family planning act).” That interpretation has been widely accepted by all Presidents who applied the Mexico City Policy – Presidents Reagan, George H.W. Bush, and George W. Bush. Therefore, an accurate reading of the Helms Amendment would permit foreign-assistance funding for abortion in situations of rape, incest and life endangerment of the mother.

Those three exceptions are not only legally permissible but also politically in line with the current status quo established across the federal government. Throughout the federal government, where there are abortion-funding bans (e.g. Hyde amendment, Indian Health

Services, women in federal prison, federal employees health benefits and, most recently, the Affordable Care Act), there are exceptions made for situations involving life endangerment, rape, and incest. Even our colleagues who oppose abortion rights regularly carve out these minimal exceptions to the harsh anti-abortion bills and amendments they introduce, including H.R. 3 (the No Taxpayer Funding for Abortion Act) and the proposals this year to legislatively reinstate the Mexico City policy through the appropriations process. Therefore, conforming implementation of the Helms Amendment to the actual meaning of the law should not be controversial and, in any case, would be eminently defensible.

The United States plays a leading role in combating poverty and improving the health and status of women and girls throughout the world. Both the State Department and USAID are to be commended for their successes in leading that fight. But lack of access to reproductive health care continues to harm women around the world. Every year 47,000 women die from unsafe abortions and millions more suffer serious injuries. Those consequences are suffered disproportionately by the world's poorest women, particularly those living in conflict situations who are at grave risk of sexual violence and trauma. Funding abortion services in the cases of rape, life endangerment, and incest would assist women and help fulfill your stated goal of U.S. global-health-related foreign assistance: to save lives, reduce suffering, and support the health and dignity of people everywhere.

We look forward to hearing from you about steps the Administration will take toward making U.S. foreign assistance even more responsive to the needs of women in developing countries by reviewing and updating the application of current law. We urge you to undertake efforts to remedy the restrictive interpretation and implementation of the Helms Amendment.

Sincerely,

Jan Schakowsky

Yvette D. Clarke

Erin Stone

Donald M. Payne

Pete Stark

Lois Capps

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CC: Hillary Rodham Clinton, Secretary of State
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