A Conversation on the 'The Effects of the Global Gag rule in Asia'

Hosted by: The International Women's Health Coalition (IWHC) and the Asia Safe Abortion Partnership (ASAP)

Date: 28th November 2017 | **Venue**: Novotel, Ha Long Bay, Vietnam

The meeting was convened as an attempt to study the impact of the '*Protecting Life in Global Health Assistance*' policy (also known as the *Global Gag Rule* and the *Mexico City Policy*) on access to healthcare, particularly on contraception and sexual and reproductive health and rights. The discussion was structured to not only be an evaluation of the impact of the policy on program work, but also take into consideration a reduction of spaces to openly discuss SRHR, and other challenges to fundamental healthcare provision.

Further, the meeting specifically sought to map the changing landscape of SRHR work across Asia, across countries where they particularly anticipate effects on such work. The meeting was attended by representatives from Bangladesh, Cambodia, India, Indonesia, Nepal, Pakistan, Philippines, and Vietnam.

Context

The *Protecting Life in Global Health Assistance*' policy (henceforth known as *Global Gag Rule*/GGR) refers to a specific clause in American healthcare funding that prevents organisations from receiving healthcare aid unless they are certified as not engaging in abortion related activity and work. Under the clause if an organisation is certified, they not permitted to:

- Provide information about abortions,
- Make available abortion services,
- Offer counselling and referrals,
- Engage in advocacy to increase access to safe and legal abortion.

Although the Global Gag rule is not a new intervention that seeks to control how healthcare funding is spent, there are few significant differences in President Trump's version of the GGR, as compared to earlier versions of the policy. Most critically, the rule previously applied only to funding extended to family planning assistance, whereas now it extends to all funding, including contracts. Further, the rule now covers all funding extended to the healthcare sector, where it previously applied to only SRHR funding. Finally, the rule includes all abortion related activities that an organisation might choose to provide with its own, non-US funds, regardless of the source of those funds. Consequently, it has been calculated that the implementation of the GGR affects *15 times* the amount of funding it previously did, which in real terms equals an amount of $ 8.8 billion.

Breakout Discussions on Country Contexts

The meeting then broke into small group discussions that sought to understand the impacts at the country level of the GGR. Although there was an attempt to categorise the impact of the GGR into current impacts and anticipated impacts, it was often difficult to draw this distinction. The information that emerged from the breakout discussions have been summarised below.

BANGLADESH

Although there is currently no public discourse around the impact of the rule, it is anticipated that the GGR will have a serious impact on the SRHR environment in Bangladesh.

Funding: Estimates show that 3% of all family planning funding in Bangladesh comes from the USAID, and is now likely to be in jeopardy. However, the government of Bangladesh has agreed to step in and bridge the deficit in funding. On the other hand, it is expected that there will be an increase in funding from the European Union, specifically the Netherlands.

A note of optimism was struck when it was pointed out that although SRHR work in Bangladesh has largely been externally supported, the GGR will now force organisations to think about sustainability and ways on generating feasible revenue models internally.

Sectoral Impacts: For the moment, the supply of contraceptives and other products to INGO's are already in place and not under threat. However, impacts are likely to be felt in program work focussed on incoming refugee populations.

CAMBODIA

Funding: There is likely to be cascading effect of certification amongst INGOs and partners. As a result, a situation where future activities will necessarily have to be limited because of a funds crunch is likely to emerge. In addition, existing partnerships that influence dialogue and implement program are likely to have to shut down as well.

Sectoral Impacts: The country is likely to see a drastic decrease in safe abortion rates, and decreasing number of referrals and access to hotlines. The GGR is likely to make more acute the context of limited information on the issue as well.

INDIA

Funding: India finds itself in a unique situation as a majority of India's family planning budget comes from the government.

Sectoral Impacts: However, it is anticipated that the GGR will negatively influence access to healthcare funding in three fields – programs that focus on tuberculosis, nutrition, and sanitation. In addition, allied programs, especially those that focus on LGBTQI issues and safety are also likely to see a decrease in access to funding.

INDONESIA

Funding: Indonesia also found itself in a position where they would be increasingly dependent on funding from the European Union rather than a single dependence on American funding. However, there was a fear that the GGR would influence Indonesian government spending policies and priorities by serving as a template for domestic health spending.

Sectoral Impacts: Although there is a law in place to ensure access to safe abortion, it is likely that the GGR will make it harder to ensure the implementation of its provisions. It is unclear in what form these challenges are going to arise.

Although the representatives were clear to point out that the GGR is likely to have an impact on the SRHR work in Indonesia, they were also cautious in pointing out that it is unclear whether these challenges were a result singularly of the GGR coming into force, or were also a reflection of growing fundamentalism domestically.

NEPAL

Funding: Organisations have lost sources of funding for family planning, especially those that work externally to the government.

Sectoral Impacts: It is likely that Nepal will face multiple challenges meeting the SDG goals, especially with regard to indicators such as maternal mortality as organisations in this field will begin to face resource crunch. Further, it is likely that the impact of this will begin to be felt in non-SRHR program work as well, as any issue that is seen as "controversial" is likely to be pre-emptively un-funded. Already, a decline in INGO presence in the field can be felt, and this is likely to intensify.

PAKISTAN

The GGR is likely to have unique impacts on Pakistan because it functions in a post-abortion care context, rather than the provision of safe abortion. As a result all the effects anticipated are sectoral impacts rather than direct hits to funding. One of the fears is that abortion, although currently restricted, is now likely to be dismissed outright as illegal. It will be accompanied by increasing stigma, which will extend to allied issues such as family planning. In program effects, it is anticipated that all family planning work will now see a shift in focus to post-partum family planning, and a steady decline in access to family planning products can already be felt. Most important however, is the constraint that is felt on spaces of discussion and dialogue with instances such as the UNFPA backing out of consultative meetings likely to become more frequent.

PHILIPPINES

The Philippines is already a unique and challenging environment given that it provides no right to safe abortion to women, and constitutionally guarantees the rights of the unborn child. In this context, the GGR marks the end of spaces to have discussions on the issue, and the silencing of existing frameworks on the matter, such as the FP conference that was supported by USAID. Further, there are concerns that the GGR, and its impact on all healthcare spending will cripple the setting up of the Comprehensive Health Strengthening Programs.

VIETNAM

Funding: It is anticipated that there will be a curbing of funding for all program work. The impact of this has already been seen on UNFPA projects in Vietnam, but there remains the concern that it will extend to other allied healthcare programs as well.
Sectoral Impacts: In addition to the limitations on services and products, it is expected that there will be a challenge to implementing existing guidelines and frameworks as there will be no funding to support training, monitoring and evaluation and so forth for these projects.

In general, the breakout discussions highlighted that funding for program work was going to be a massive challenge, especially given the fact that the GGR applies now to all healthcare services and not only abortion related programs. Another concern that was raised during the discussion was the impact that the GGR would have on the perceived credibility of organisations working in the field, where it may lead to situations where organisations are no longer empowered to provide information or services that they were providing just weeks ago.

Annexe 1: Meeting Agenda

- Welcome and Introductions
- Icebreakers: Who is in the room?
- Breakout Groups, by country:
    - Discussion Questions:
        - Is there a political debate or active public discourse around the legal state of abortion in your country?
        - What do you know about the *Protecting Life in Global Health Assistance* policy, also known as the Global Gag Rule? Where do you get this information?
- Review of the Global Gag Rule.
- Small Group Discussions: Present and Future Effects of the Global Gag Rule
    - Discussion Questions:
        - What effect of this policy have you seen in your country in 2017?
        - What impacts do you anticipate in coming years? Why?
- Questions about the Global Gag Rule
- Closing and Next Steps

Annexe 2: Global Gag Rule: A Cheat sheet

UNDERSTANDING THE GLOBAL GAG RULE: BASICS AND IMPLICATIONS

(*This document is meant to provide a guide for understanding the Global Gag Rule. It does not constitute legal advice.*)

Official name: Protecting Life in Global Health Assistance
Also known as: Global Gag Rule, Mexico City Policy
Announced: January 23rd, 2017 || **Implementation**: Announced May 15th, 2017.

The Basics	Foreign NGOs cannot receive U.S. global health assistance unless they sign a certification that they will not engage in certain abortion related activities and work. NGOs that decide to sign the certification are banned from: • Providing abortion services, counselling and referral for abortion services; and • Advocating to increase access to safe and legal abortion This includes abortion related activities an organisation does with its own, non-US resources, regardless of the source of those funds.
Who it applies to	U.S NGOs continue to remain eligible for global health assistance from the U.S government, even if they engage in abortion related activities using their own, non-U.S. funds. **But** U.S NGOs must enforce the eligibility requirements of the Global Gag Rule on their foreign NGO partners. Any foreign NGO that receives any sub-grant or sub-contract from a U.S. NGO that is paid for with US global health assistance must sign the Global Gag Rule certification.
What it covers	The Global Gag Rule applies to all contracts, cooperative arrangements and grants for any U.S. bilateral global health assistance, including funding for: • HIV/AIDS, including PEPFAR • Tuberculosis • Malaria, including the President's Malaria Initiative (PMI) • Pandemic Response and other emerging threats • Maternal and child health • Family planning and reproductive health • Nutrition • Health systems strengthening • Other public health threats, including neglected tropical disease and non-communicable diseases.
Who it does *not* apply to	The USAID policy exempts two specific programs: the American Schools and Hospital Abroad program, and the Food for Peace Program. Also excluded is a specific category of water supply and sanitation funding known as HL.8 (this is predominantly water and sanitation infrastructure and governance). • The Global Gag rule does not apply to foreign governments, so funding given to Ministries of Health is not subject to the provision (and it does not have to be enforced on grantees. For example, if you receive funding from the Kenyan government to provide HIV treatment services, those funds are not subject to the Global Gag Rule. • It does not apply to multilateral organisations (including UN agencies), or to "other multilateral entities in which sovereign nations participate" (including the Global Fund to Fight AIDS, TB, and Malaria, and GAVI).

	• It does not apply to humanitarian assistance, including:
	  ○ State Department migration and refugee assistance
	  ○ USAID disaster and humanitarian relief activities
	  ○ Department of Defence disaster and humanitarian relief activities

What activities can continue	Even under the Global Gag Rule, organisations can continue to provide a number of services: • Abortion services, counselling and referrals, *in case of rape, life endangerment, or incest.* • Post-abortion care • Emergency contraception (nothing in the Global Gag Rule implicates the procurement, distribution or programming of EC)
Immediate implications	If your organisation receives global health funding from the US, either directly or as a sub-recipient, this policy will apply to you. Your organisation will need to decide whether to continue to receive this funding at the expense of restricting your abortion-related activities, or to cease taking U.S. global health assistance. Until the Standard Provision that includes "Protecting Life in Global Health Assistance" is included in your funding agreement, however, you can continue to provide all the same services and information as you have previously done.
President Trump's Gag Rule vs. previous versions	Expanding to all Global Health Assistance: family planning, maternal and child health, nutrition, HIV/AIDS (including PEPFAR), infectious diseases, malaria, tuberculosis, and neglected tropical diseases. Affects 15 times more funding than before (around $8.8 billion total) Applies to grants, cooperative agreements, and for the first time, contracts. In short, President Trump's version of the Global Gag Rule represents an enormous expansion of the policy and will affect many organisations for the first time.
Global Gag Rule vs. existing U.S. restrictions on abortion	Even when the Global Gag Rule is not in place, U.S. law places restrictions on funding for abortions. Specifically, the Helms Amendment states that no foreign assistance funds may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions. The Global Gag Rule goes beyond Helms because it places limitations on what organisations can do with their own, non-US funds.
History of the Policy	**1984**: Mexico City Policy imposed by President Reagan: Prevents international NGOs from receiving U.S. family planning assistance, if they provide, counsel, refer of advocate for abortion services, even where legal and financed by non-US funds. **1989**: Policy continued by President George H.W. Bush **1993**: Policy rescinded by President Clinton **1999**: Policy temporarily reinstate by U.S. Congress **2001**: Policy reinstated by President George W. Bush **2009**: Policy rescinded by President Obama **2017**: Policy reinstated by President Trump