

INTERNATIONAL FAMILY PLANNING & REPRODUCTIVE HEALTH RECOMMENDATIONS FOR THE FY 2021 STATE-FOREIGN OPERATIONS BILL

Organization: [redacted] organizations supportive of international family planning and reproductive health programs (see list of endorsers below)

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FY 2021 FUNDING REQUEST

Funding Request: A total of \$1.66 billion for family planning and reproductive health (FP/RH) programs, both bilateral and multilateral, with funding provided from the Global Health Programs account and the Economic Support Fund and from the International Organizations and Programs account for a \$111 million voluntary contribution to the United Nations Population Fund (UNFPA)—but no less than \$1.030 billion, including \$69 million for UNFPA, in order to provide the first installment of the funding increases necessary to incrementally achieve the \$1.66 billion target over a five-year period.

Any increase in the FY 2021 appropriated level for FP/RH programs should not come at the expense of other poverty-focused development, global health, or women’s empowerment and gender equality programs. Funding for the overall international affairs budget to ensure ongoing U.S. leadership around the globe should be \$60 billion in FY 2021, including at least \$57.4 billion for the State Department and Foreign Operations Appropriations bill—the FY 2017 enacted level.

~~**AMEND FY 2020 FURTHER CONSOLIDATED APPROPRIATIONS ACT (H.R. 1865, P.L. 116-94)**~~—see strikethrough for subsections recommended for deletion and see changes indicated in *italics*

GLOBAL HEALTH ACTIVITIES

SEC. 7058. (a) IN GENERAL.—

. . . Provided, That of the funds appropriated under title III of this Act, not less than \$575,000,000 \$1,550,000,000 should be made available for family planning/reproductive health, including in areas where population growth threatens biodiversity or endangered species.

Rationale/Background:

This recommended level is the U.S.’ fair share of the \$12.1 billion estimated to be necessary to address the unmet need for modern contraception of 214 million women in the developing world.¹ It is calculated by adopting the burden-sharing targets included in the 1994 International Conference on Population and Development’s *Programme of Action*, which specified that one-third of the financial resources necessary to provide reproductive health care should be furnished by donor countries and two-thirds by the developing nations themselves. By applying the U.S. percentage share of total gross national income (GNI) of the developed world to its assigned one-third contribution to the total funding required to address the unmet need for contraception, the U.S. share of the cost, based on relative wealth, equals \$1.66 billion.²

Family planning and reproductive health advocates are requesting that U.S. bilateral and multilateral funding be increased in FY 2021 to no less than \$1.030 billion (including \$69 million for UNFPA) as the second annual installment above the FY 2020 House-approved level to put the U.S. government on a funding

¹ “Adding It Up: Investing in Contraception and Maternal and Newborn Health, 2017,” Guttmacher Institute, December 2017. <https://www.guttmacher.org/sites/default/files/factsheet/adding-it-up-contraception-mnh-2017.pdf>

² “Just the Math: Methodology for Calculating the U.S. Share of the Cost of Addressing the Unmet Need for Contraception in Developing Countries,” PAI, July 2018 <https://pai.org/newsletters/just-math-methodology-calculating-u-s-share-cost-addressing-unmet-need-contraception-developing-countries/>

trajectory to reach \$1.66 billion—its fair share of the global financial commitment necessary to address the unmet need for modern contraception—over five fiscal years.

U.S. investments in family planning and reproductive health (FP/RH) programs support the health and rights of women and families around the world, are cost-effective, and deliver results. FY 2019 funding of \$607.5 million for international FP/RH programs (of which \$32.5 million is a contribution to UNFPA) will make the following possible:

- 24.3 million women and couples receive contraceptive services and supplies;
- 7.2 million unintended pregnancies, including 3.2 million unplanned births, are averted;
- 3.1 million induced abortions are averted (of which 2 million would have been in unsafe conditions); and
- 14,700 maternal deaths are prevented.³

Despite these investments, an estimated 214 million women in developing countries want to delay or avoid pregnancy but face significant barriers to using modern contraceptive methods.⁴ With an additional investment of \$422.5 million in U.S. international family planning and reproductive health assistance—bringing total funding to \$1.030 billion—the following would result:

- 16.9 million more women and couples would receive contraceptive services and supplies;
- 5.03 million fewer unintended pregnancies, including 2.24 million fewer unplanned births, would occur;
- 2.15 million fewer abortions would take place (1.44 million of which would be provided in unsafe conditions); and
- 10,400 fewer maternal deaths would occur.⁵

In reality, the appropriated level for overseas FP/RH programs has fallen over \$40 million or over six percent since FY 2010. Prior to Democrats assuming the House majority last year, the Republican-controlled State Department and Foreign Operations Subcommittee had proposed slashing funding by about \$150 million from the prior year's appropriation to \$461 million for the last eight fiscal years (FY 2012—FY 2019). Family planning advocates were delighted by House approval of \$805.5 million for international FP/RH programs for FY 2020, including \$55.5 million for a U.S. contribution to UNFPA—representing a \$198 million or 33 percent increase over the FY 2019 enacted level—as well as, decisively defeating on the floor a Lesko amendment to strike the bilateral FP/RH funding earmark.

Currently, an estimated 303,000 women in developing countries die each year from pregnancy-related causes, and unsafe abortion continues to be a major cause of these unacceptably high maternal mortality rates.⁶ Addressing the demand for access to reproductive health services, including through the provision of a full range of effective contraceptive methods and accurate information about sexual and reproductive health and rights, along with integration with other health services, will improve maternal and child health, reduce unintended pregnancies, lower HIV infection rates, promote women's and girl's rights, enhance women's and girl's education and economic empowerment, raise standards of living, and support more sustainable development.

Furthermore, for the 1.8 billion adolescents and young people worldwide, the largest youth population in history, access to quality and youth-friendly reproductive health services, including comprehensive sexuality education and contraceptives, is critical to ensure they have the opportunity to remain healthy, continue their education, and develop skills to build more peaceful and prosperous communities. This includes both those unmarried and already married as well as out-of-school adolescents.

³ “Just the Numbers: The Impact of U.S. International Family Planning Assistance, 2019” Guttmacher Institute, April 2019. https://www.guttmacher.org/sites/default/files/article_files/2019_just_the_numbers_us.pdf

⁴ “Adding It Up.”

⁵ “Just the Numbers.”

⁶ World Health Organization Global Health Observatory Data. http://www.who.int/gho/maternal_health/en/.

The unmet need for contraceptives is also a key driver of the 89 million annual unintended pregnancies in developing regions and a contributor to the net increase in global population of nearly 85 million people annually today. In 2019, world population reached 7.69 billion, and the next billion people is expected to be added by the year 2030 at current growth rates, creating serious challenges to the efforts of the international community to improve human health and wellbeing, promote economic development, enhance security and stability, and protect the global environment.

In order to meet these 21st century challenges, the United States should be increasing investment in international FP/RH programs. Investments in FP/RH are integral to the future progress of U.S. global health programs, in particular achieving the goals of important initiatives to improve maternal, newborn and child health and combat HIV/AIDS (the President’s Emergency Plan for AIDS Relief and DREAMS).

In countries with high HIV prevalence, where most new HIV infections are occurring in women and adolescent girls, it is particularly important that reproductive health services be integrated with programs addressing HIV/AIDS, as well as maternal and child health. Integration of FP/RH information and services with other sector programming, including those which aim to prevent and mitigate the negative impacts of child, early and forced marriage, early pregnancy, and gender-based violence and advance gender equality and women’s empowerment, ensure progress on a wide range of development goals shared by the United States and the international community.

In humanitarian crises, including conflicts and natural disasters, the resulting displacement can greatly limit access to health services. Women and girls face increased vulnerability during crises and in the aftermath to gender-based violence, including rape, sexual exploitation and abuse and child marriage. These, and other crises, highlight the importance of all women being able to access the contraceptive services needed to plan their families and other critical sexual, reproductive and maternal health services.

In addition, the United States must also continue to support the critical role of the United Nations Population Fund (UNFPA), which is the only intergovernmental institution with an explicit mandate to address the reproductive health needs of men and women worldwide. UNFPA was slated to receive U.S. funding of about \$70 million in FY 2017 from all accounts before the Trump administration’s March 2017 decision to withhold all funding. UNFPA complements the U.S.’s bilateral family planning program by working in more than 155 countries, many in which USAID does not operate. With UNFPA and USAID providing the bulk of donated contraceptives in 47 low-income countries, drastic funding cuts will further worsen supplies shortages. UNFPA also plays an indispensable role in humanitarian settings. For example, UNFPA is the sole provider of lifesaving reproductive health supplies and medicines in Yemen. UNFPA also leads the UN’s Rapid Response Mechanism (RRM) across the country, distributing emergency supplies to those who have been displaced, stranded close to the front lines or destitute returnees. RRM kits include ready-to-eat food provided by the World Food Programme, basic family hygiene kits provided by UNICEF, and dignity kits provided by UNFPA.

Funding levels:

(in millions of dollars)	FY 2019 enacted	FY 2020 Senate committee - approved bill	FY 2020 enacted	FY 2021 budget request
Global Health Programs account	(523.95)	(581.5)	(523.95)	237.0
Economic Support Fund	—	(51.05)	—	—
TOTAL, bilateral FP/RH	575.0	632.55	575.0	237.0
U.S. contribution to UNFPA (IO&P)	32.5	32.5	32.5	0
TOTAL, bilateral & multilateral FP/RH	607.5	(665.55)	607.5	237.0

NOTE: FP/RH funding levels that were earmarked in the statute are indicated in **bold**, while funding levels that were specified in report language are denoted in (parentheses).

FY 2021 BILL & REPORT LANGUAGE REQUESTS

DELETE AND AMEND THE FY 2020 FURTHER CONSOLIDATED APPROPRIATIONS ACT (H.R. 1865, P.L. 116-94)— see strikethrough for subsections recommended for deletion and see changes indicated in *italics*

UNITED NATIONS POPULATION FUND

SEC. 7057. (a) CONTRIBUTION.—Of the funds made available under the heading “International Organizations and Programs” in this Act for fiscal year 2021, \$111,000,000 shall be made available for the United Nations Population Fund (UNFPA).

(b) AVAILABILITY OF FUNDS.—Funds appropriated by this Act for UNFPA, that are not made available for UNFPA because of the operation of any provision of law, shall be transferred to the “Global Health Programs” account and shall be made available for family planning, maternal, and reproductive health activities *with due consideration given to allocating assistance to the locations and populations served by and to the programs provided by UNFPA with funds appropriated in prior Acts*, subject to the regular notification procedures of the Committees on Appropriations.

(c) PROHIBITION ON USE OF FUNDS IN CHINA.—None of the funds made available by this Act may be used by UNFPA for a country program in the People’s Republic of China.

(d) CONDITIONS ON AVAILABILITY OF FUNDS.—Funds made available by this Act for UNFPA may not be made available unless—

(1) UNFPA maintains funds made available by this Act in an account separate from other accounts of UNFPA and does not commingle such funds with other sums; and

(2) UNFPA does not fund abortions.

(e) REPORT TO CONGRESS AND DOLLAR-FOR-DOLLAR WITHHOLDING OF FUNDS.—

(1) Not later than 4 months after the date of enactment of this Act, the Secretary of State shall submit a report to the Committees on Appropriations indicating the amount of funds that the UNFPA is budgeting for the year in which the report is submitted for a country program in the People’s Republic of China.

(2) If a report under paragraph (1) indicates that the UNFPA plans to spend funds for a country program in the People’s Republic of China in the year covered by the report, then the amount of such funds the UNFPA plans to spend in the People’s Republic of China shall be deducted from the funds made available to the UNFPA after March 1 for obligation for the remainder of the fiscal year in which the report is submitted.

AMEND THE FY 2020 FURTHER CONSOLIDATED APPROPRIATIONS ACT (H.R. 1865, P.L. 116-94)— see strikethrough for subsections recommended for deletion and see changes indicated in *italics*

Provided further, That none of the funds made available in this Act nor any unobligated balances from prior appropriations Acts may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further*, That for purposes of this Act, the term “supports or participates in coercive abortion or involuntary sterilization” means working with the purpose to continue, advance, or expand the practice of coercive abortion or involuntary sterilization: *Provided further*, That any determination made pursuant to the _____ proviso must be made not later than 6 months after the date of enactment of this Act, *must be based on a thorough investigation of the policies, programs, and activities of the organization*, and must be accompanied by the evidence and criteria utilized to make the determination:

Rationale/Background

The proposed changes in statutory language would modify the 1985 Kemp-Kasten amendment to limit the ability of the President to interpret the law in such a manner as to unfairly and inconsistently apply the prohibition on funding to organizations that are merely working with government institutions in countries in which coercive abortion or involuntary sterilization may be occurring. The revision would provide a more precise definition of what constitutes the type of involvement in human rights abuses that would properly trigger a termination of all U.S. government financial assistance to an organization. Prompted by the superficiality and shallowness of the analysis utilized in the Trump-Pence administration's determination of March 30, 2017 that resulted in the withdrawal of all U.S. funding to UNFPA, the proposed modification would also require that the President conduct an actual investigation of the policies and programs of the organization each year before issuing the required determination.

AMEND THE FY 2020 FURTHER CONSOLIDATED APPROPRIATION ACT (H.R. 1865, P.L. 116-94)—see strikethrough for subsections recommended for deletion and see changes indicated in *italics*

GLOBAL HEALTH PROGRAMS

Provided further, That information provided about the use of condoms *and modern contraceptives* as part of projects or activities that are funded from amounts appropriated by this Act shall be medically accurate and shall include the public health benefits and failure rates of such use.

Rationale/Background

The statutory requirement that complete and medically accurate information on condoms be provided in U.S.-funded programs was first included in foreign assistance legislation in FY 2004, the year after the President's Emergency Plan for AIDS Relief (PEPFAR) was first authorized, in response to reports that some PEPFAR grantees were disseminating misinformation on the effectiveness of condoms in the prevention of HIV transmission. Modern contraceptives should be added to the existing requirement to ensure that information on family planning methods and services is also medically accurate in order to guarantee that women that benefit from U.S.-funded programs are fully informed about all their options for preventing unintended pregnancies. (It is important to note that it is the technical position of USAID's Office of Population and Reproductive Health that fertility awareness methods are modern contraceptives.)

ADD THE FOLLOWING NEW SECTION

ASSISTANCE FOR FOREIGN NONGOVERNMENTAL ORGANIZATIONS

SEC. _____. The Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by inserting after section 104C the following new section:

“SEC. 104D. ELIGIBILITY FOR ASSISTANCE. *“Notwithstanding any other provision of law, regulation, or policy, in determining eligibility for assistance authorized under sections 104, 104A, 104B, and 104C, a foreign nongovernmental organization—*

“(1) shall not be ineligible for such assistance solely on the basis of health or medical services, including counseling and referral services, provided by such organization with non-United States Government funds if such services—

“(A) are permitted in the country in which they are being provided; and

“(B) would not violate United States law if provided in the United States; and

“(2) shall not be subject to requirements relating to the use of non-United States Government funds for advocacy and lobbying activities other than those that apply to United States nongovernmental organizations receiving assistance under this part.”.

Rationale/Background

The proposed amendment was included in the FY 2020 House-passed bill ([H.R. 2839](#)) and would ensure that foreign nongovernmental organizations are not prohibited from receiving U.S. assistance based on their provision of counseling, referrals or medical services that are legal in the U.S. and the country in which they operate. Furthermore, the language would ensure that foreign nongovernmental organizations are treated fairly and afforded the same ability as U.S. organizations to engage in advocacy and lobbying activities with non-U.S. funding. The amendment would amend the Foreign Assistance Act of 1961, the permanent foreign assistance authorizing statute, and block the enforcement of the Trump-Pence administration's dramatically expanded version of the Global Gag Rule.

The permanent repeal language reflects the operative text of the bipartisan Global Health, Empowerment and Rights (HER) Act ([H.R. 1055](#) and [S. 368](#)), which is cosponsored by 193 Representatives and 47 Senators and would end the harmful global gag rule, including the Trump-Pence administration's expanded version which prohibits foreign organizations from receiving any U.S. global health assistance if they provide information, referrals, or services for legal abortion or advocate for the legalization of abortion in their country, even if these activities are supported solely with non-U.S. funds. A diverse group of [114 organizations](#), drawn from the health, development, and human rights sectors, have also endorsed the Global HER Act.

The global gag rule is a harmful policy that negatively impacts the health and lives of communities worldwide, particularly women and girls and LGBT people who are often the most marginalized in their countries. The policy undermines access to contraception, HIV/AIDS services, and maternal health care, contributing to more unintended pregnancies and more unsafe abortions. Research and data about previous iterations of the policy, as well as the current expanded global gag rule, point to the policy disrupting a range of health services, silencing public debate, and rolling back progress. By undermining the effectiveness of our global health investments, the global gag rule hinders our ability to meet our global health, development and foreign policy goals.

ADD THE FOLLOWING NEW SECTION

SEC. ____. *The Foreign Assistance Act of 1961 is amended—*

- (1) in section 116(d) (22 U.S.C. 2151n(d))--*
 - (A) in paragraph (11)(C), by striking 'and' at the end;*
 - (B) in paragraph (12)(C)(ii), by striking the period at the end and inserting `; and';*
 - and*
 - (C) by adding at the end the following new paragraph:*
- (13) the status of reproductive rights in each country, including--*
 - (A) whether such country has adopted and enforced policies to--*
 - (i) promote access to and prevalence of safe, effective, and affordable methods of contraception and comprehensive and accurate family planning information;*
 - (ii) promote access to appropriate health care services to prevent maternal deaths and ensure safe and healthy pregnancy and childbirth;*
 - (iii) expand or restrict access to safe abortion services, including post-abortion care, in accordance with the country's laws; and*
 - (iv) promote the prevention, detection, and treatment of sexually transmitted infections, including HIV, and of reproductive tract infections and of reproductive cancers.*
 - (B) a description of the rates and causes of maternal deaths in such country, including deaths due to unsafe abortions, where applicable; and*
 - (C) a description of the nature and extent of instances of discrimination, coercion, and violence against women and girls in health care settings in such country, and*

the actions, if any, taken by the government of such country to respond to such discrimination, coercion, and violence, where applicable; and

`(D) wherever applicable, a description of the proportion of women of reproductive age (aged 15-49 years) who have their need for family planning satisfied with modern methods of family planning, the barriers to access, and the nature and extent of instances of denial of comprehensive and accurate family planning information and services in such country, and the actions, if any, taken by the government of such country to respond to such denials.'; and

(2) in section 502B (22 U.S.C. 2304)--

(A) by redesignating the second subsection (i) (relating to child marriage status) as subsection (j); and

(B) by adding at the end the following new subsection:

`(k) The report required under subsection (b) shall include the status of reproductive rights in each country, including--

`(1) whether such country has adopted and enforced policies to—

`(A) promote access to and prevalence of safe, effective, and affordable methods of contraception and comprehensive and accurate family planning information;

`(B) promote access to appropriate health care services to prevent maternal deaths and ensure safe and healthy pregnancy and childbirth;

`(C) expand or restrict access to safe abortion services, including post-abortion care, in accordance with the country's laws; and

`(E) promote the prevention, detection, and treatment of sexually transmitted infections, including HIV, and of reproductive tract infections and of reproductive cancers.

`(2) a description of the rates and causes of maternal deaths in such country, including deaths due to unsafe abortions, where applicable; and

`(3) a description of the nature and extent of instances of discrimination, coercion, and violence against women and girls in health care settings in such country, and the actions, if any, taken by the government of such country to respond to such discrimination, coercion, and violence, where applicable; and

`(4) wherever applicable, a description of the proportion of women of reproductive age (aged 15-49 years) who have their need for family planning satisfied with modern methods of family planning, the barriers to access, and the nature and extent of instances of denial of comprehensive and accurate family planning information and services in such country, and the actions, if any, taken by the government of such country to respond to such denials.'

(b) Consultation Required- In preparing the Annual Country Reports on Human Rights Practices required under sections 116(d) and 502B of the Foreign Assistance Act of 1961 (as amended by subsection (a)), the Secretary of State, the Assistant Secretary of State for Democracy, Human Rights, and Labor, and other relevant officials, including human rights officers at United States diplomatic and consular posts shall consult with--

(1) representatives of United States civil society and multilateral organizations with demonstrated experience and expertise in sexual and reproductive health and rights or promoting women and girls' human rights, including local civil society organizations whenever possible; and

(2) relevant local non-governmental organizations in all countries included in such Reports, including women and girls' organizations focused on sexual and reproductive health and rights.

Rationale/Background

The Foreign Assistance Act of 1961 and Trade Act of 1974 require the Secretary of State to report annually to Congress on status of human rights practices in countries receiving U.S. foreign assistance along with each United Nations member state. Beginning in 2011, the country reports have included detailed information on women's access to reproductive rights. But in 2017, the State Department deleted all subsections on reproductive rights from its Country Reports of Human Rights Practices without notice or justification. The

State Department country reports are a critical resource to civil society, journalists, and governments in helping to better understand and address violations of women’s reproductive rights.

The statutory language requested would amend the Foreign Assistance Act to mandate that specific reporting requirements on the status of women’s reproductive rights be met by the State Department and require that the State Department fully consult with local non-governmental organizations and U.S. civil society and multilateral organizations with expertise and experience in sexual and reproductive health and rights in the preparation of the country reports. The text of the statutory language is derived from the “Reproductive Rights Are Human Rights Act,” introduced in both the House ([H.R. 1581](#)) and Senate ([S. 707](#)) with 144 House and 33 Senate cosponsors.⁷

AMEND THE FY 2020 FURTHER CONSOLIDATED APPROPRIATION ACT (H.R. 1865, P.L. 116-94)—see strikethrough for subsections recommended for deletion and see changes indicated in *italics*

SPECIAL PROVISIONS

Sec 7034. (o) HIV/AIDS WORKING CAPITAL FUND.—Funds available in the HIV/AIDS Working Capital Fund established pursuant to section 525(b)(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (Public Law 108–477) may be made available for pharmaceuticals and other products for child survival, malaria, and tuberculosis *other global health and child survival activities* to the same extent as HIV/AIDS pharmaceuticals and other products, subject to the terms and conditions in such section: Provided, That the authority in section 525(b)(5) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (Public Law 108– 477) shall be exercised by the Assistant Administrator for Global Health, USAID, with respect to funds deposited for such non-HIV/AIDS pharmaceuticals and other products, and shall be subject to the regular notification procedures of the Committees on Appropriations: Provided further, That the Secretary of State shall include in the congressional budget justification an accounting of budgetary resources, disbursements, balances, and reimbursements related to such fund.

Rationale/Background

Current law only allows “child survival, malaria, and tuberculosis” programs to use the HIV/AIDS Working Fund to procure and distribute pharmaceutical commodities for use in USG-funded programs. This change would broaden the fund to allow USAID to use the fund to procure contraceptive commodities, as well as to clarify and ensure that pharmaceutical products to prevent and treat other infectious diseases like Zika and Ebola—not just malaria and TB—could be procured.

This technical language change would allow USAID, specifically the Office of Population and Reproductive Health (PRH), to increase the purchasing power of family planning funding. It would allow their forecasting to be more efficient by providing the technical staff with the time and flexibility to purchase the right commodities for countries, when they are needed, in the right amounts.

This technical language change will not affect in any way the amount allocated to the fund for the procurement of HIV/AIDS, malaria, TB, or child survival commodities. It will only serve to increase the purchasing power of the FP/RH funds allocated to the fund when it comes to the procurement of contraceptive commodities by allowing the use of this more efficient and cost-effective procurement mechanism utilized by most of the other global health sectors at USAID, except for contraceptives.

⁷ In the absence of the proposed statutory language being included in the FY 2021 Senate bill, add the following language on the topic included in the FY 2020 House report ([H. Rpt. 116-78](#)): *Annual human rights reports.—The Committee directs the Department of State to include in its annual country human rights reports violations of women’s reproductive rights and descriptions of official government discrimination of LGBTI persons.*

AMEND THE FY 2020 FURTHER CONSOLIDATED APPROPRIATION ACT (H.R. 1865, P.L. 116-94)—see strikethrough for subsections recommended for deletion and see changes indicated in *italics*

GLOBAL HEALTH ACTIVITIES

Sec. 7058. (a) IN GENERAL.—Funds appropriated by titles III and IV of this Act that are made available for bilateral assistance for child survival activities or disease *global health* programs including activities relating to research on, and the prevention, treatment and control of, HIV/AIDS may be made available notwithstanding any other provision of law except for the provisions under the heading “Global Health Programs” and the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (117 Stat. 711; 22 U.S.C. 7601 et seq.), as amended:

OR—potential amendment to existing Section 7058 exempting FP/RH programs from termination of U.S. foreign assistance as a result of a coup d’e’tat in a country—Section 7008—only)

After the word “amended,” add the following new provisos:

Provided, That funds appropriated by this Act that are made available for family planning activities may be made available notwithstanding section 7008 of this Act: *Provided further*, That the previous proviso shall only apply to ongoing family planning activities through governments to which assistance appropriated by this Act has been terminated under section 7008: . . .

Rationale/Background

The 2012 coup in Mali and the resulting cut-off of U.S. government foreign assistance to that country points out the fact that only one global health program—family planning and reproductive health—is not exempted from a variety of prohibitions on assistance that can and have been enforced against country governments that commit coups, nuclear proliferation, loan default, expropriation of U.S. assets, and other misdeeds. In contrast, child survival and HIV/AIDS, and other disease-specific programs are currently exempted from these country assistance prohibitions, as well as many other provisions of law.

In order for the U.S. government to be consistent in its efforts to use the leverage of a foreign aid cut-off on a country to encourage changes in national policy or behavior—but in not at the same time punishing citizens for the actions of their government—it would be entirely appropriate that the exemption currently granted only to child survival, HIV/AIDS, and other disease programs be extended to the full spectrum of life-saving global health activities. (According to USAID staff, maternal health has always been considered a part of child survival for purposes of this exemption.)

Exempting FP/RH programs done in cooperation with foreign governments from defunding when U.S. foreign assistance is otherwise cut off to a country because of various prohibitions in the law is important as a matter of principle and consistency and will improve program efficiency.

This ought to be a non-controversial technical change. All that is required is changing a few words so that the provision in the annual appropriations bill reads “global health programs”—rather than “child survival activities or disease programs.”

The House-passed FY 2020 bill included the change, but the Senate committee-approved FY 2020 State-foreign ops bill did not include the change, as it had for several previous years, except in FY 2016.

Alternatively, a specific exemption applying only to the section in the bill terminating U.S. foreign assistance after coup d’e’tat (Section 7008), which would allow the continuation of direct U.S. assistance to the government for ongoing family planning activities could be added.

DELETE FROM THE FY 2020 SENATE COMMITTEE-APPROVED STATE-FOREIGN OPERATIONS BILL (S. 2583)—see strikethrough for subsections recommended for deletion

TITLE VII

GENERAL PROVISIONS

. . . Provided further, That the USAID Administrator shall promptly inform the Committees on Appropriations of any instance in which 48 CFR § 752.7038 has not been applied to any USAID solicitation and resulting contract, including to any services provided under such contract, and any similar provisions in Automated Directives Systems Chapter 303 which have not been applied to any USAID assistance award, including to any services provided under such award, from funds appropriated by this Act and prior Acts making appropriations for the Department of State, foreign operations, and related programs for family planning/reproductive health and HIV/AIDS programs, projects, and activities under the headings “Global Health Programs” and “Economic Support Fund”: Provided further, That not later than 45 days after enactment of this Act, the USAID Administrator shall develop processes and procedures to implement the previous proviso, including a mechanism through which information related to such requirements in 48 CFR § 752.7038 and Automated Directives Systems Chapter 303 may be reported to USAID.

Rationale/Background

The first of two FP/RH program provisions included in the “manager’s amendment” attached to the FY 2020 committee-approved bill required the USAID Administrator to report to the committee any instances in which beneficiaries of foreign assistance supplies and services were being discriminated against.

Longstanding requirements—contained in both federal law and USAID standard provisions for NGOs—are in place to protect beneficiaries of foreign assistance supplies and services against discrimination on the basis of “race, color, religion, sex (including gender identity, sexual orientation and pregnancy), national origin, disability, age, genetic information, marital status, parental status, political affiliation or veteran’s status” in any grant or contract solicitation and in any award for FP/RH and HIV/AIDS programs, projects and activities.

The “manager’s amendment” provision required the Administrator to set up procedures to implement the nondiscrimination requirement, including establishing a new mechanism for reporting any problems uncovered to USAID. Such procedures are already in place, and there is no confirmed information of which FP/RH advocates are aware to suggest that existing reporting and accountability mechanisms are proving to be inadequate. Instances of discrimination in the provision of health care against certain classes of beneficiaries (e.g., adolescents and women of all ages during delivery) undoubtably occur at the clinic level on the part of individual health care providers and perhaps by a few NGO grantees, but there is little evidence to suggest that it is a systemic and reoccurring problem or that any problems brought to the attention of USAID programmatic staff in Washington and in country missions are not promptly and appropriately corrected.

Like the second provision mandating a GAO evaluation of USAID grantmaking procedures for FP/RH assistance that follows below, advocates feel strongly that neither of these provisions are a sufficient tradeoff for Senator Shaheen’s bipartisan comprehensive FP/RH funding and policy amendment, including most importantly the GGR repeal provision, in full committee markup. Before last year, some version of a legislative repeal of the GGR had been included in the Senate committee bill for the prior 19 years. In addition, despite having had to have some degree of bipartisan support in order to be included in the “manager’s amendment,” not only did the Republican Senate leadership at the behest of some of their caucus insist on dropping during the omnibus negotiations both the one-year and permanent GGR repeal contained in the House-passed bill but these two provisions as well.

DELETE FROM THE FY 2020 SENATE COMMITTEE-APPROVED STATE-FOREIGN OPERATIONS BILL (S. 2583)—see strikethrough for subsections recommended for deletion

(c) EVALUATION.—Funds made available by this Act shall be made available for a Government Accountability Office (GAO) evaluation of family planning/reproductive health assistance made available by this Act and prior Acts making appropriations for the Department of State, foreign operations, and related programs under the headings “Global Health Programs” and “Economic Support Fund”: Provided, That such evaluation shall be submitted to the Committees on Appropriations not later than 180 days after enactment of this Act: Provided further, That GAO shall consult with the Committees on Appropriations on the scope of such evaluation, which shall include—

(1) an assessment of the award processes, including the criteria used to select implementers and beneficiaries, the financial and programmatic oversight mechanisms, the benchmarks for measuring results, and any material changes to such processes, mechanisms, and benchmarks during fiscal years 2017, 2018, and 2019; and

(2) the effects that have resulted from including such funds in combination with other funds in grants, cooperative agreements, contracts, programs, projects, or activities that are outside the scope of family planning/reproductive health.

Rationale/Background

The second provision made funding available for a Government Accountability Office (GAO) evaluation of USAID’s award processes for FP/RH assistance including the “criteria used to select implementers and beneficiaries; the financial and programmatic oversight mechanisms; the benchmarks for measuring results; and any material changes to such processes, mechanisms and benchmarks” observed during the Trump-Pence administration; and the effects of combining FP/RH funds with other funds used for programs, projects and activities “outside the scope” of FP/RH.

For the tactical reasons outlined above, advocates request that this provision not be included in the Senate committee bill.

ADD THE FOLLOWING REPORT LANGUAGE

UNFPA

- Directs the Secretary of State to include in any Kemp-Kasten determination “*the investigatory steps take over the previous twelve months to determine that such organization directly supports the management of such program, the interviews conducted, and the evidence collected.*”
- *In exercising the direction [of this subsection], consideration should be given to allocating assistance to populations and geographic areas affected by the decision to reprogram funds.*”

Rationale/Background

Both report language provisions recommended above were included in the FY 2020 House committee-approved report, the first to address the lack of any real factfinding or investigation of UNFPA’s current activities in China being conducted prior to the Secretary of State rendering the Kemp-Kasten determinations for the last three years, and the second to encourage the reallocation of withheld UNFPA funds to bilateral programs serving populations and geographies previously benefited by UNFPA financial assistance.

Under the terms of the [joint explanatory statement](#) accompanying the consolidated appropriations bill, the second report language provision was approved while the first was specifically rejected (“The Secretary of State shall not carry out the directive under this heading in the House report regarding a determination.”)

Contraceptive R&D

The Committee recognizes that there is a need to accelerate research and development of contraceptives that are more effective, affordable, and easier to deliver and may also prevent sexually transmitted diseases. The Committee directs USAID to increase funding to its Office of Population and Reproductive Health to support the expansion of such efforts and encourages partnerships and cost-sharing with USAID's Office of HIV/AIDS and National Institutes of Health. The Committee directs USAID to consult with the Committee on funding for such purposes.

Rationale/Background

USAID's contraceptive research and development program has provided strong leadership in developing new methods, especially for use in low-resource countries. And yet, the contraceptive revolution remains unfinished. One in four women in developing countries in need of contraception are not using a modern method, resulting in 74 million unintended pregnancies, 28 million unplanned births and 36 million abortions, the majority of which are unsafe. An expanding body of knowledge suggests that improving and expanding use requires more than just increasing access to existing methods. Biomedical research is needed to refine existing contraceptive methods to make them more acceptable, affordable, and accessible, and to develop new methods that fill gaps in the existing method mix, including the development of multipurpose prevention technologies that simultaneously prevent both unintended pregnancy and STIs/HIV.

The report accompanying the Senate committee-approved FY 2015 State-foreign operations appropriations bill ([S. Rpt. 113-195](#)) included the language above. According to the terms of the FY 2015 omnibus, House and Senate committee-approved report language is included in the accompanying [explanatory statement](#) unless explicitly excluded. Identical report language was also included in the FY 2014 omnibus under the same terms. However, similar language was not included in the FY 2016, FY 2017, FY 2018, FY 2019, or FY 2020 report of either the House or Senate, although both included report language supportive of global health research in general.

Alternative language encouraging support for contraceptive R&D included in the FY 2020 House report ([H. Rpt. 116-78](#)), albeit not as directive or specific as that recommended above, was duly noted and welcomed: "The Committee encourages USAID to include efforts to find new diagnostic and treatment tools for tuberculosis and effective, affordable contraceptives in their research agenda."

ADD THE FOLLOWING REPORT LANGUAGE INCLUDED UNDER THE TERMS OF THE JOINT EXPLANATORY STATEMENT ACCOMPANYING THE FY 2020 FURTHER CONSOLIDATED APPROPRIATIONS ACT (H.R. 1865, P.L. 116-94)

The Committee understands OGAC and USAID are considering entering into such partnerships to prevent the spread of human papillomavirus and cervical cancer through screening and treatment programs in low-income countries with high prevalence. The Committee directs OGAC and USAID to consult with the Committees on Appropriations on plans for and progress of such partnerships. The Committee notes there was no request for programs to diagnose or treat cervical cancer and the Committee directs that no funds be reprogrammed from multilateral organizations for such purpose. (Source: FY 2020 House committee-approved report, [H. Rpt. 116-78](#))

Background and rationale

Throughout the years, FP/RH advocates have frequently questioned the adherence to congressional intent of some of the decisions on how withheld UNFPA funds have been allocated. For example, \$12 million of the withheld FY 2017 UNFPA contribution has been allocated to create a two-year pilot project to prevent, diagnose and treat [cervical cancer](#) in two African countries. A laudable initiative, but one for which congressional appropriators made a conscious decision not to fund in either the FY 2017 or FY 2018 bill.

DELETE OR REVISE REPORT LANGUAGE INCLUDED UNDER THE TERMS OF THE JOINT EXPLANATORY STATEMENT ACCOMPANYING THE FY 2020 FURTHER CONSOLIDATED APPROPRIATIONS ACT (H.R. 1865, P.L. 116-94) - see strikethrough for language recommended for deletion and see additions indicated in *italics*

Healthy Timing and Spacing of Pregnancies

The Committee recognizes that information and assistance *for women and families* interested in healthy timing and spacing of pregnancies can enhance maternal and child health and improve the chances of survival of women and children. The Committee urges USAID to prioritize voluntarism and informed choice in expanding the reach and impact of family planning programs by providing counseling, education, and services on a full range of modern and effective contraceptive methods. (Source: minor revision to the language included under the terms of the joint explanatory statement.)

Fertility Awareness Methods (a.k.a natural family planning)

Furthermore, the Committee urges USAID to promote the awareness and use of Internet-based technology that supports fertility-awareness methods of family planning that are proven effective. (Source: FY 2020 House committee-approved report, [H. Rpt. 116-78](#))

The Committee urges USAID to continue to promote voluntarism and informed choice and to expand the reach and impact of family planning programs by providing counseling, education, and services on a full range of modern and effective contraceptive methods.

Faith-Based Organizations

Faith-Based Organizations.—The Committee recognizes and appreciates the current and historical contributions of the faith sector in the delivery of assistance, care, and support at the grassroots level. The Secretary of State and USAID Administrator shall continue to use the faith sector, in conjunction with the public and private sectors, for the delivery of assistance in developing countries under this heading and the GHP and ESF headings. (Source: FY 2020 Senate committee-approved report, [S. Rpt. 116-126](#))

Rationale/Background

Family planning and reproductive health supporters remain concerned that the inclusion of report language promoting “healthy timing and spacing of pregnancy” and natural family planning does not properly represent the full scope of global health activities currently supported by USAID and is therefore not constructive. Additionally, report language singling out the role faith-based organizations (FBOs) play in health care delivery is unnecessary given they—just like community organizations—have been and continue to be longstanding U.S. government service delivery partners.

The Office of Population and Reproductive Health (PRH) at USAID is already engaged in healthy timing and spacing of pregnancy (HTSP) programming, in fact, it is a core component of PRH’s program. However, HTSP is but one of a number of rationales for the program. If an overemphasis on HTSP specifically or maternal and child health more generally were to occur, it would detract from and impact the broad contributions that family planning access provides around our larger development goals, including decreasing poverty, increasing economic gains, empowering women and girls, and protecting the environment. Report language that might be construed to limit other FP/RH activities that PRH engages in, including programs to prevent child, early, and forced marriage, address adolescent sexual and reproductive health, combat gender-based violence, encourage FP/HIV integration, prevent female genital mutilation and obstetric fistula, and to expand access to permanent or long-acting reversible contraceptive methods should also not be included.

The promotion of “fertility awareness methods” (more commonly known as natural family planning or NFP or periodic abstinence) has been an integral part of USAID’s FP/RH programming dating back to the Reagan administration. In fact, USAID financed the development of cycle beads, a low-tech tool that enables women to more accurately track their menstrual cycles. However, report language promoting higher funding for NFP, if at the expense of other contraceptive methods, is ill-advised and unethical given the birth control method preference of women and couples in developing countries where unintended pregnancy can frequently be life-threatening. Especially since NFP has a lower use-effectiveness rate than the other modern contraceptive methods such as the pill, injectables, implants, and IUDs offered in USAID-funded projects.⁸ The UN estimates that less than three percent of women of reproductive age worldwide utilize NFP as their birth control method.⁹

Given the unmet need for family planning of 214 million women in developing countries, it is important that greater availability of all contraceptive options, including fertility-awareness methods, be supported in order to enable women to voluntarily select a method most appropriate to their needs. Report language should encourage USAID to continue to expand the reach and impact of voluntary family planning counseling, education, and services, through all the interventions and means and their disposal, ensuring that no one intervention is singled out.

Any report language on FBOs should convey the equal contributions the faith-based and community organizations play in the provision of global health services. Report language also should not entitle faith-based organizations to any special preferences in the awarding of grants, cooperative agreements, and contracts or in the responsibility to comply with applicable laws and regulations governing global health assistance not afforded to secular community organizations.

OTHER REPORT LANGUAGE REQUESTS

In addition to the priority requests on FP/RH funding and on bill and report language outlined above, the signatories recommend the continuation of positive and constructive Senate and House report language on sexual and reproductive health and rights-related topics including: microbicide research and development, obstetric fistula, female genital mutilation, child marriage, sexual violence in conflict, and prevention of discrimination and abuse of LGBTI individuals abroad.

⁸ U.S., Centers for Disease Control and Prevention, *Effectiveness of Family Planning Methods*

⁹ United Nations Population Division, *Trends in Contraceptive Use Worldwide 2015*

ORGANIZATIONAL ENDORSERS

(List of organizations that endorsed the House version of this FY 2021 appropriations request memo and will be included in the Senate version unless the organization requests to opt-out)

Advocates for Youth	Ipas
American College of Obstetricians & Gynecologists	Management Sciences for Health
American Jewish World Service	Medical Students for Choice
American Medical Student Association	NARAL Pro-Choice America
Amnesty International USA	National Abortion Federation
Better World Campaign	National Center for Lesbian Women
CARE USA	National Council of Jewish Women
Catholics for Choice	National Institute for Reproductive Health (NIRH)
Center for Biological Diversity	National Organization for Women
Center for Health and Gender Equity (CHANGE)	PAI
Center for Reproductive Rights	Physicians for Reproductive Health
Council for Global Equality	Planned Parenthood Federation of America
EngenderHealth	Population Connection Action Fund
Global Justice Center	Population Council
Guttmacher Institute	Population Institute
International Action Network for Gender Equity & Law	Unitarian Universalist Association
International Center for Research on Women (ICRW)	URGE: Unite for Reproductive & Gender Equity
International Women's Health Coalition	Women's Refugee Commission
IntraHealth International	The Woodhull Freedom Foundation