



FACT SHEET

The Helms Amendment and Why It Needs to End

July 2022

The Helms Amendment, passed by the U.S. Congress in 1973 in the wake of *Roe v. Wade*, is a barrier to sexual and reproductive health and rights (SRHR) globally: it inhibits governments from implementing national and local health-related laws and policies, prevents healthcare providers from providing services, and is an impediment to the healthcare that people want and need around the world. This fact sheet covers the policy and legislative context for the Helms Amendment, describes how it is out of step with international movements and standards, and outlines the impacts of abortion restrictions on health outcomes.

» U.S. Laws that Address Abortion Services and Advocacy in U.S. Foreign Aid

Following the Supreme Court's 1973 ruling in *Roe v. Wade*, Congress enacted a number of foreign assistance policies that restrict or place requirements on the use of federal funds for abortion and family planning activities globally.¹ They are often named for the lawmakers that introduced them and include the following:

The Helms Amendment, passed in 1973, is the first abortion restriction added to the U.S. Foreign Assistance Act of 1961, and 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.”²

The Leahy Amendment, passed in 1994, clarifies the meaning of “motivate” in the Helms Amendment, stating that it shall not be construed to prohibit the provision of information or counseling about all pregnancy options where permitted under local law.³

The Siljander Amendment, often discussed in tandem with Helms, was passed in 1981 to forbid the use of foreign assistance funds to lobby for, or against, changes in abortion laws.⁴

Helms versus the Global Gag Rule

The Global Gag Rule, when enacted by Republican presidents, builds upon a legislative floor created by the Helms and Siljander Amendments⁵

Helms Amendment

- Act of Congress, must be removed by Congress
- Controls **what** can, and cannot, be done with U.S. foreign assistance funds

Global Gag Rule (GGR)

- Presidential action, can be removed by a president, or permanently ended by Congress through legislation
- Operates above and beyond the Helms Amendment
- Controls **who** can receive U.S. global health assistance funds

Overreach in the Implementation of Helms

- At a minimum, under U.S. law, cases of rape, incest, and life endangerment fall outside of the scope of abortion as a method of family planning.⁶
- U.S. implementing agencies of foreign assistance, such as the United States Agency for International Development (USAID) and the Centers for Disease Control and Prevention (CDC), have treated Helms as a total ban on abortion.⁷

U.S. Policy in Conflict with International and National Laws

The Helms Amendment was born out of, and currently continues to perpetuate the exportation of U.S. anti-abortion politics and assert reproductive control on women, girls, and others who can become pregnant globally. It is a neo-colonial export that conflicts with other countries' national efforts by advocates, politicians, and medical experts to modernize their abortion laws, and overturn mostly colonial legacy anti-abortion laws.

- USAID itself opposed the Amendment during the debate in Congress, arguing in a written statement that it would interfere with State sovereignty and individual rights. *“Every nation is and should be free to determine its own policies and procedures with respect to population growth and family planning. In contradiction of this principle, the amendment would place U.S. restrictions on both developing country governments and individuals in the matter of free choice among the means of fertility control . . . that are legal in the U.S.”*⁸
- The Helms Amendment acts as a barrier to patients receiving the safe abortion services that they are legally entitled to access in countries that receive U.S. foreign assistance funding but have liberalized abortion laws.⁹
- Over 40 countries - including Mozambique, Nepal, South Africa, and Uruguay - have modernized their abortion laws since the passage of the Helms Amendment, placing the U.S. restrictions even more sharply out of step with the movement of governments and civil society in countries receiving U.S. foreign assistance.¹⁰
- At the International Conference on Population and Development (ICPD) in 1994, the U.S.

joined the consensus with more than 170 other countries, where unsafe abortion was established as a major public health concern and that where abortion is legal, it should be safe. The Helms Amendment contradicts the commitment the U.S. made to support and promote the principles established at the ICPD.¹¹

- International bodies, including the UN Working Group on the Issue of Discrimination Against Women in Law and in Practice and the UN Human Rights Council, have included a right to access abortion in their findings.¹²

» Restricting access to abortion does not reduce abortion, it makes it unsafe

- Limiting access to safe abortion services forces pregnant people to resort to unsafe abortion methods, which are a significant driver of preventable maternal morbidity and mortality globally.¹³
- Of the 73.3 million abortions that occurred worldwide annually between 2015-2019, approximately 35 million of them were unsafe, resulting in an estimated 23,000 preventable pregnancy-related deaths every year.¹⁴
- The rate of unsafe abortion increases where access to safe abortion is restricted or unavailable due to external factors,¹⁵ such as poor availability of services, high cost, stigma, and restrictive domestic policy or foreign policy including the Helms Amendment.
- A recent study showed that liberalizing abortion laws may reduce maternal mortality.¹⁶
- The Helms Amendment prevents U.S. foreign assistance-funded programs from providing the full range of sexual and reproductive health services, which leads to the fragmentation of health services and inhibits integrated programming.¹⁷

- By singling out abortion as a restricted health service, the Helms Amendment reinforces efforts to criminalize abortion and heightens abortion-related stigma; this, in turn, further silences and punishes both health care providers and those who seek safe abortion services.
- The Helms Amendment disproportionately affects pregnant people who are young, living in poverty, LGBTQI+, or survivors of sexual violence who are unable to access the care they want or need.¹⁸

Benefits of Repealing Helms

- If the Helms Amendment were repealed and people were able to access safe abortion services, there would be 19 million fewer unsafe abortions and 17,000 fewer maternal deaths in the 33 countries with liberalized abortion laws that also receive U.S. family planning assistance.¹⁹
- In these countries, maternal deaths due to abortion would decrease by 98% and 12 million fewer women would have abortion-related complications requiring medical treatment each year.²⁰
- Repealing the Helms Amendment would also have positive financial implications for health systems in this subset of countries, including an 89% decline in the cost of postabortion care, a 19% increase in the cost of providing safe abortion services, and an overall net savings of \$641 million annually for national health systems.²¹
- As of June 2022, approximately \$46 billion of Fiscal Year 2022 U.S. foreign assistance funds have been spent in 142 countries and 18 regional programs.²²

How to Repeal Helms

Today, Congress has the opportunity to permanently repeal the Helms Amendment by passing the Abortion is Health Care Everywhere Act (H.R. 1670/S. 4641).²³ This proposed bill would amend the Foreign Assistance Act of 1961 to remove the Helms Amendment and replace it with proactive language allowing U.S. foreign assistance funding to be utilized for comprehensive sexual and reproductive health care services, including abortion.²⁴ The bill also includes a progressive statement of policy that establishes safe abortion as a critical component of comprehensive health care and states the U.S. government's commitment to ending unsafe abortion and supporting access to safe abortion services.²⁵

In addition to its removal from the Foreign Assistance Act, Helms language must also be removed from the annual State, Foreign Operations and Related Agencies appropriations bill. The appropriations committees in the House of Representatives and Senate must ensure that this language is not included in future annual funding bills.

The permanent repeal of the Helms amendment would align with the Biden administration's policy on supporting SRHR domestically and globally.²⁶

The U.S. Congress has the power to ensure that the Helms Amendment, an ugly legacy of racist Senator Jesse Helms and an anti-rights policy, is repealed permanently. This cannot wait.



Endnotes

1. Congressional Research Service (CRS), *Abortion and Family Planning–Related Provisions in U.S. Foreign Assistance Law and Policy*, August 2020, available at <https://crsreports.congress.gov/product/pdf/R/R41360/28>.
2. United States Foreign Assistance Act of 1961, U.S. Code 22 (1961). § 2151 et seq., section 104(f) as amended.
3. Department of States, Foreign Operations, and Related Programs Act (“FY2010 Foreign Appropriations”) (Division F. of P.L. 111-117), FY2010, 123 sTAT. 3325.
4. Congressional Research Service (CRS), *Abortion and Family Planning–Related Provisions in U.S. Foreign Assistance Law and Policy*, August 2020. (Siljander originally only forbid funds being used to lobby for changes in abortion laws, but Congress has modified the amendment to state that no funds may be used to “lobby for or against abortion”.)
5. See Center for Health and Gender Equity (CHANGE), *Prescribing Chaos in Global Health: The Global Gag Rule from 1984–2018*, 57, (June 2018), available at http://www.genderhealth.org/files/uploads/change/publications/Prescribing_Chaos_in_Global_Health_full_report.pdf.
6. E.g., United States Agency for International Development (USAID), *Standard Provisions for Non-U.S. Nongovernmental Organizations: A Mandatory Reference for ADS Chapter 303 85, 89* (2019), available at <https://www.usaid.gov/sites/default/files/documents/1868/303mab.pdf>. (Where the provisions of Protecting Life in Global Health Assistance, or the GGR, defines “abortion as a method of family planning” as “for the purpose of spacing births,” including for the physical or mental health of the woman, but excluding rape, incest, and life endangerment).
7. See Sneha Barot, *Unsafe Abortion: The Missing Link in Global Efforts to Improve Maternal Health*, *Guttmacher Policy Review* 14 (Spring 2011). See also Code of Federal Regulations (e–CFR), Title 48, Federal Acquisitions Regulation System, Vol. 5, Ch. 7, Parts 700–799–Agency for International Development: 725.704 (Oct 2018).
8. JI Rosoff, *Senate–House conferees consider Helms Amendment*, *Planned Parenthood–World Population Washington Memo*, W-19:1–2 (1973).

9. See generally *Blueprint for Sexual and Reproductive Health, Rights, and Justice*, 36 (2019), available at <https://reproblueprint.org/wp-content/uploads/2019/07/BlueprintPolicyAgenda-v14-PR-All-1.pdf>

10. See *Accelerating Progress: Liberalization of Abortion Laws Since ICPD*, Center for Reproductive Rights, (June 3, 2020) <https://reproductiverights.org/worldabortionlaws#accelerating-progress>. See generally Louise Finer & Johanna B Fine, *Abortion Law Around the World: Progress and Pushback*, 103(4) *Am. J. of Pub. Health*. 585,585-89 (2013) (discussing changing in abortion laws around the world since 1950).

E.g. Health (Regulation of Termination Of Pregnancy) Act 2018 (Act No. 31/2018) (Ir.) (establishing the recent liberalization of Ireland’s abortion laws); Supreme Court of Nepal, *Lakshmi Dhikta v. Government of Nepal*, Writ petition no. WO-0757, 2067 (2009) (Nepal) (declaring that in the court’s view abortion is a human right); Muluki Ain [Constitution] (2002) Amend. 11 (Nepal). (establishing Nepal’s constitutional change to allow abortions); Código Penal, Lei no. 35/2014, Boletim da República, I Série, No. 105, at 101, arts. 166-168 (2014) (Mozam.). (establishing changes to Mozambique’s penal code to allow abortions).

11. United Nations Population Fund (UNFPA), *Programme of Action of the International Conference on Population and Development* (20th Anniversary ed., 2014), available at https://www.unfpa.org/sites/default/files/pub-pdf/programme_of_action_Web%20ENGLISH.pdf.

12. United Nations Working Group on the issue of discrimination against women in law and in practice, *Women’s Autonomy, Equality and Reproductive Health in International Human Rights: Between Recognition, Backlash and Regressive Trends* (Oct. 2017); Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on a gender-sensitive approach to arbitrary killings, ¶ 94, U.N. Doc. A/HRC/35/23 (Jun. 6. 2017), available at <https://www.ohchr.org/Documents/Issues/Women/WG/WomensAutonomyEqualityReproductiveHealth.pdf>.

13. Preventing unsafe abortion, WORLD HEALTH ORGANIZATION (2019), <https://www.who.int/news-room/fact-sheets/detail/preventing-unsafe-abortion>.

14. Jonathan Bearak et al. *Unintended pregnancy and abortion by income, region, and the legal status of abortion: estimates from a comprehensive model for 1990–2019*, THE LANCET GLOBAL HEALTH (2020); Elizabeth Sully et al., *Adding It Up: Investing in Sexual and Reproductive Health 2019* (2020), available at

<https://www.guttmacher.org/report/adding-it-up-investing-in-sexual-reproductive-health-2019> [Hereinafter Elizabeth Sully, *Adding It Up* (2020).]

15. Preventing unsafe abortion, *supra* note 13.

16. Su Mon Latt et al., *Abortion laws reform may reduce maternal mortality: an ecological study in 162 countries*, BMC WOMEN’S HEALTH (2019).

17. See Ipas & Ibis Reproductive Health, *U.S. Funding For Abortion: How The Helms And Hyde Amendments Harm Women And Providers*, 9-10 (2015), <https://ibisreproductivehealth.org/sites/default/files/files/publications/Ibis%20Ipas%20Helms%20Hyde%20Report%202016.pdf>; See also *Blueprint for Sexual and Reproductive Health, Rights, and Justice*, *supra* note 9 at 36; see also Sneha Barot, *Abortion Restrictions in U.S. Foreign Aid: The History and Harms of the Helms Amendment*, 16 GUTTMACHER POLICY REVIEW (2013), available at <https://www.guttmacher.org/gpr/2013/09/abortion-restrictions-us-foreign-aid-history-and-harms-helms-amendment>

18. *Id.* at 8-9.

19. Elizabeth Sully & Zara Ahmed, *The Case for Ending the “Global Gag Rule” and the Helms Amendment* (2021) available at <https://www.guttmacher.org/article/2021/02/case-ending-global-gag-rule-and-helms-amendment> [Hereinafter Sully & Ahmed, *The Case for Ending the GGR and Helms* (2021).] Elizabeth Sully, *Adding It Up* (2020), *supra* note 14.

20. Sully & Ahmed, *The Case for Ending the GGR and Helms* (2021), *supra* note 19.

21. Sully & Ahmed, *The Case for Ending the GGR and Helms* (2021), *supra* note 19.

22. ForeignAssistance.gov, *Map of Foreign Assistance Worldwide*, <https://foreignassistance.gov/explore> (2022).

23. See *Abortion is Health Care Everywhere Act of 2021*, H.R. 1670, 117th Cong. (2021); See also REPEAL HELMS (2021), available at <https://repealhelms.org>.

24. *Id.*

25. *Id.*

26. Memorandum on Protecting Women’s Health at Home and Abroad, 86 Fed. Reg. 33,077 (Jan. 28, 2021).



International Alliance
for Sexual and Reproductive
Health, Rights, and Justice