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***The Global Gag Rule: Trump's violation of
women's reproductive rights***

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1. INTRODUCTION

1.1. OBJECTIVE

The aim of this dissertation is to critically analyze the negative implications that the Mexico City Policy (2017), also known as the Global Gag Rule, has on the lives of women in developing countries, and the ways in which it violates International Human Rights Law, particularly the Convention on the Elimination of All Forms of Discrimination Against Women. The Mexico City Policy restricts the action of several NGOs whose goal is to defend the reproductive rights and protect the sexual health of women in developing countries, affecting and endangering the lives of thousands of women all over the world. In doing so, this dissertation will argue that this law, implemented by all Republican governments of the United States since Ronald Reagan and expanded by Donald Trump's administration, is a threat for the reproductive rights and the sexual health of women in all developing countries that receive Foreign Aid of the United States (USAID). Furthermore, this dissertation will argue that the Global Gag Rule is a threat for the development of developing countries, since it has huge impact on the poorest population groups in the world.

1.2. STRUCTURE

In order to defend this thesis, I will begin by theoretically explaining what the Mexico City Policy is and what does it consist on, providing a historical background of the different policies and laws that the United States has implemented in relation to reproductive rights and family planning since John F. Kennedy's administration in the 1960s until the present day, including the origins and development of the Global Gag Rule. Then, I will proceed by explaining the current situation of the Global Gag Rule and how has Donald Trump's administration expanded its scope, increasing the damage that this law causes internationally. Lastly, and in parallel to the previous point, I will briefly explain and analyze the current situation of women in developing countries with regards to their sexual health and reproductive rights, emphasizing on the main challenges that they have to face daily in this respect and how the Mexico City Policy would do nothing but worsen their situation. As the last part of the theoretical background, this dissertation will discuss the reasons why reproductive rights are indeed human rights, and why they should be respected as such. This

is a debate that is very much in vogue nowadays in the field Human Rights and it is considered of absolute importance in order to understand the main thesis of this dissertation.

After the theoretical background of the topic is explained, this dissertation will proceed with the argumentative analysis and main body of the essay. This part will be divided into two different chapters: the first one will focus on making a jurisdictional analysis of the Global Gag Rule, focusing especially on what elements of International Law and Human Rights treaties does the Mexico City Policy violate. This analysis will also focus on the impact that the Global Gag Rule has on development, by analyzing its lack of compliance with the Sustainable Development Goals and how the rule contributes to the disempowerment of women in developing countries. On the second half of this chapter, we will analyze the indirect effects of the Global Gag Rule, particularly how it goes against some of the basic principles outlined in the United States Constitution, such as the Equal Protection Principles, the *First Amendment*, and the Right to Participate in the Political Process. To illustrate the arguments of this chapter and give a clearer image the effects of the Global Gag Rule, I will propose the cases of Ethiopia and Kenya, where the Global Gag Rule has affected widely the lives of women by hindering the work of local NGOs. The second chapter of the analysis will focus on the human impact of the Global Gag Rule.

Once the flaws and the harms of the Global Gag Rule have been explained, the last part of this chapter of the dissertation will focus on the international community's reaction to the policy and what could be done against it. This dissertation will defend that this law should be repealed based on the grounds that if it were to be applied domestically, the law would be unconstitutional. Furthermore, this chapter will also explain how the Global Gag Rule could be fought against from outside of the United States and will give examples of campaigns and policies implemented by countries such as Norway to make up for the damage caused by the Global Gag Rule in developing countries. Lastly, this dissertation will conclude that the Global Gag Rule is, all in all, against reproductive –and therefore human- rights, against development, and unconstitutional if applied domestically. For all of this reasons it should be repealed.

1.3. JUSTIFICATION FOR CHOOSING THE TOPIC

With the recent election of Donald Trump as President of the United States, the restoration and expansion of the Global Gag Rule has clearly been a topic of media but also academic discussion. Most movements in favor of women's rights and a lot of academic scholars and lawyers have spoken against this law and, as I was very interested in women's rights, this dissertation was a great opportunity for me to understand and fully comprehend what exactly they were speaking against. The fact that Trump has just restored and expanded the scope of the Global Gag Rule is the perfect opportunity to legally analyze what exactly does this policy consist on and to study the ways in which it affects the life of women in developing countries.

Moreover, even though it is a very discussed topic in the United States, it is not so much discussed in the media in Europe, especially not in Spain. In my opinion, doing a dissertation in this topic is also a way of taking this academic discussion out of the United States as it is a topic that affects women worldwide and that we should all be concerned about.

1.4. QUESTIONS AIMED TO BE ANSWERED

This dissertation aims to answer two main questions: first, how does the Global Gag Rule affect development and the lives of women in developing countries and, second, what could be done to limit the harmful effects in women's rights.

The main goal of this dissertation is not only to evaluate all the harm that the Mexico City Policy could potentially cause and that it causes daily, but also to explain the legal actions that could be done to fight it, and the political measures that could be implemented to minimize its harm as much as possible. Especially now that Donald Trump is in power, the study of how flawed and harmful policies could be legally fought against in the domestic arena seems of paramount importance. But this dissertation also wishes to evaluate what other countries and organizations could do in order to minimize the harm of the policies of the Trump administration, and how all those actions could benefit women all over the world. It is important to internationalize the issue, because even though it is a policy

implemented by the United States, it is also an international human rights issue, as it affects women from various different countries.

In order to respond to these questions accurately and academically, other related topics will be addressed, such as the notion of reproductive rights as human rights and the actual reproductive and sexual health conditions of women in developing countries, since all of these topics are necessary to analyze all the ways in which the policy violates international law and affects the lives of women around the world. All in all, every topic raised in the dissertation is necessary in order to respond to the main two questions that this dissertation aims to answer: how is the Mexico City Policy harmful for women's reproductive rights in developing countries and what could be done to minimize or eliminate its harm.

1.5. METHODOLOGY

There is currently a lot of academic literature on the subject, which is why I will have a wide amount of reliable sources and data to further my research. It will also be an opportunity to give a legal focus to an International Relations dissertation, and to apply all the knowledge I have acquired in my itinerary of Law and Diplomacy. By analyzing this law, I will also be gaining a lot of knowledge on the legal system of the United States, which I will have to use in order to describe the unconstitutionality of the Global Gag Rule and the ways in which it could be repealed. The legal system of the United States has been a topic of my interest for a very long time and this dissertation gives me the change to explore it further.

This dissertation will consist on an academic literature review of what has been written and researched about the subject, and will humbly provide a critical compendium of all the reasons why this particular policy is damaging for the lives of women all over the world.

2. THEORETICAL BACKGROUND AND CURRENT SITUATION

2.1. CHAPTER 1: CONCEPT DEFINITION AND HISTORICAL OVERVIEW OF THE MEXICO CITY POLICY

As this dissertation aims to provide empirical evidence to support the thesis that the Mexico City Policy, critically known as the Global Gag Rule is a flawed policy that puts women's rights and development at risk, let us begin a the discussion with a theoretical and historical background of family planning laws and the Mexico City Policy, in order to understand the concept. The Mexico City Policy was first instituted during the Ronald Reagan administration with the objective of restricting “non-governmental organizations that receive any U.S. international family planning assistance from providing a wide variety of services, including abortions in cases other than rape, incest or threat to the woman's life; counseling and referral for abortion; or lobbying to make abortion legal or the services more available in their country” (Population Action International, 2017). In other words, it is a policy aimed to cut US funding to any international and private non-governmental organization if it is in any way involved in the practice of abortion, whether that may be counseling or providing information, lobbying for the legalization of safe abortion services, providing abortion services or referring to other clinics that provide safe terminations of pregnancies. It has effectively:

“Required foreign NGOs to certify that they will not perform or actively promote abortion as a method of family planning with non-U.S. funds as a condition for Receiving U.S. global family planning assistance and, as of Jan. 23, 2017, any other U.S. global health assistance, including U.S. global HIV, maternal and child death, malaria, nutrition, and other program areas.” (KFF, 2017).

As this thesis will analyze in further chapters, this policy has resulted in a restriction of the services that several NGOs provide in relation to women's health, since the fear of association with abortion is preventing them to engage in matters of reproductive rights particularly where the discussion is needed the most: developing countries (KFF, 2017). Before describing the historical background of the Mexico City Policy it is important to state that this dissertation considers family planning as “the ability of individuals and couples to anticipate and attain their desired number of children and the spacing and timing of their births” (WHO, 2018).

2.1.1. Historical background

The Mexico City Policy was first announced by the Reagan administration in Mexico City on August 6-14, 1984, based on previous pieces on legislation that had been putting restrictions and requirements to voluntary family planning programs abroad. In order to understand the context in which the Mexico City Policy is introduced, it is important to comprehend the legislative history about this topic in the United States (Crimm, 2007).

Kennedy and Johnson administrations:

If we want to go to the roots of Foreign Assistance legislation we need to go back to the Kennedy administration. It was particularly during 1961 that “President John F. Kennedy established the U.S. Agency for International Development (USAID), [which] became the first U.S. foreign assistance organization whose primary emphasis was on long-range economic and social development assistance efforts” (USAID, 2002). The creation of the USAID showed the commitment of the United States to promote the development of nations overseas and it compromised the nation to give all kinds of assistance to states in need (Crimm, 2007). With the creation of the USAID came the *Foreign Assistance Act*, which, according to the words of J.F. Kennedy, it had the goal of “helping less-developed nations, [providing] decent living standards for their people and [achieving] sufficient strength, self-respect and independence to become self-reliant members of the community of nations” (Kennedy, as seen in Crimm 2007, p.595). The *Foreign Assistance Act* had a positive outlook on family planning and global population issues. Further on, President Lyndon B. Johnson, Kennedy’s successor, who ruled between 1963 and 1969, continued Kennedy’s positive trend by focusing on global population issues such as hunger and diseases by backing international family planning and population initiatives and publicly stating that, in order to achieve development (Crimm, 2007), “women (and couples) must be given the means to voluntarily exercise control over their fertility” (Kennedy, as seen in Crimm, 2007, p. 596). During these years, the UNFPA (The United Nations Population Fund) was created and international reproductive rights movements started to emerge.

Nixon, Ford and Carter administrations:

Even though during the Nixon Administration, the UNFPA continued to receive funding from the United States and the historic *Roe v. Wade* Supreme Court ruling

“established American women’s constitutional right to abortion access” (Crimm, 2007, p.596), it was precisely this ruling that emboldened religious and pro-life movements to give power to Senator Jesse Helms, a Southern Baptist from North Carolina to “legislatively reverse the impact of *Roe v. Wade*” (Crimm, 2007, p.597). Senator Helms proposed in 1973 an amendment to the *Foreign Assistance Act*, the *Helms Amendment*, which prohibited the use of USAID funds to “perform abortions or to motivate or coerce individuals to practice abortions” (Blanchfield, 2014, p.summary). This amendment was created due to the concerns that pro-life movements had that the USAID money, which was ultimately given by the United States citizens, was used for the performance of abortions overseas (Blanchfield, 2014). It differs from the Mexico City Policy in the fact that it restrict the use of U.S. funding from the performance or motivation or coercion to perform an abortion, but it does not cut USAID to foreign NGO’s if they use their own money for the performance, counseling, referral or advocating on “abortion even if those activities are supported with non-U.S. funds” (Population Action International, 2014), as the Mexico City Policy does. It is worth noting that danger to the women’s life, rape or incest were exceptions to the *Helms Amendment* (Blanchfield, 2014). Ever since 1973, the *Helms Amendment* has been in force as an amendment to the *Foreign Assistance Act* (Blanchfield, 2014).

The Ford Administration mostly supported family planning overseas, and Jimmy Carter mostly continued this trend, even though during his presidency (1977-1981), several bills were passed in relation to reproduction and USAID, some of them more coherent and rightful than others (Crimm, 2007). Some examples are the 1978 *Involuntary Sterilization amendment* of the *Foreign Assistance Act*, which prohibited the use of U.S. funds for “the performance of involuntary sterilizations, or the coercion of involuntary sterilizations (or to provide financial incentives to undergo sterilization)” (Blanchfield, 2014, p.3); the Peace Corps (1978), which restricted the use of U.S. funds to finance abortions for volunteers” (Blanchfield, 2014, p.4), the *Biden Amendment* (1981) of the *Foreign Assistance Act*, which forbade the use of USAID funds for scientific research on abortion or involuntary sterilizations methods. Lastly, the *Siljander Amendment* (1981) to the *Foreign Assistance Act*, which states, “No funds may be used to lobby for or against abortion” (Blanchfield, 2014, p.summary).

Reagan and Bush administrations:

Without a doubt, the most notorious reproductive rights policy implemented by the

Reagan Administration has been the Mexico City Policy, which, as it has been already explained, “prohibited nongovernmental organizations (NGOs) in other countries from receiving U.S. funds if, with their own funds and in accordance with the laws of their own countries, they “performed or actively promoted abortion as a method of family planning” (*U.S. Policy Statement for the International Conference on Population*, as seen in Ernst, Katzive, Smock; 2004)” (Ernst, Katzive, Smock; 2004, p.774). The only three exceptions to this policy were cases where the life of the bearing woman was in danger, rape or incest cases. It is important to state that a case where the health –either physical or psychological- of the bearing women was in danger was not an exception to this rule. As we can see, the Mexico City Policy is very similar to the *Helms Amendment*, but they differ in some very important aspects, the most important of them being that the Mexico City Policy does not permit the donation of USAID funds to NGOs that with their own money –obtained from other sources which are not the United States funds- perform abortions or inform about abortions (KFF, 2017). It applies to “international NGOs that are based outside the U.S., regional NGOs that are based outside the U.S., and local NGOs in assisted countries” (KFF, 2017). Even though it seems that the Mexico City Policy only applies to NGOs based outside the United States, indirectly, it also affects U.S.-based NGOs, since, in order to work with NGOs based outside of U.S. borders, they need to make sure that they comply with the requirements stated in the policy (KFF, 2017). We could therefore say that, either directly or indirectly, the Mexico City Policy affects all NGOs that are somehow linked to the United States or USAID. Mexico City Policy was announced for the first time at the 2nd International Conference on Population, held in Mexico City on August 6th-14th, 1984, and it “has been in effect for approximately 17 of the past 32 years, primarily through executive action, it has been instated, rescinded, and reinstated by presidential administration along party lines” (KFF, 2017). In other words, we could effectively state that the Mexico City Policy has been rescinded by all democrat administrations and reinstated by all republican administrations, the last of them being Trump’s.

During the Ronald Reagan’s Administration, which lasted from 1981 until 1989, some other amendments and provisions were introduced in the field of reproductive rights, such as the *DeConcini Amendment*, passed in 1985 with the goal of modifying the *Foreign Assistance and Related Programs Appropriations Act*, which resolved that the United States would only provide funding to projects that offered various family planning methods, “either directly or through referral, in order to reduce reliance on abortion in developing nations”

(Blanchfield, 2014, p.5). Another legal instrument approved during the presidency of Ronald Reagan would be the Additional Provision on Involuntary Sterilization and Abortion (1985), which gives the President power to decide whether an NGO violates the terms specified in the *Helms, Biden* and *Involuntary Sterilization* Amendments, and the *Kemp-Kasten Amendment* (1985) of the *Supplemental Appropriations Act*, which states that the President may decide to deny funds to any organization or program which supports coercive abortion or involuntary sterilization (Blanchfield, 2014). This program Amendment was adopted because of the concerns that the Reagan Administration had that the UNFPA in China funded family planning programs that engaged in coercive abortion (Blanchfield, 2014). This amendment cut United States' UNFPA funding for years until Obama started to support funding for UNFPA again (Blanchfield, 2014). Lastly, the *Livingston Amendment* (1986), which ensures USAID funding non-discrimination to NGOs that only support natural contraceptive methods (Blanchfield, 2014).

Clinton, Bush and Obama administration:

In accordance with his democrat views on reproductive rights, the first thing President Clinton did when he came to office in 1993 was to abolish the Mexico City Policy, stating that, in his view, “the Mexico City Policy was excessively broad, [...] and had seriously undermined much needed efforts to promote safe and efficacious family planning programs in foreign nations” (Crimm, 2007, p.603). He even affirmed that abolishing the Mexico City Policy would help to “stabilize world population” (Clinton, as seen in Crimm, 2007, p.603). Following his policy line, Clinton passed an Amendment to the *Helms Amendment*, the *Leahy Amendment* (1994), which clarified the fact, that when Helms refers to “motivate” abortion, it does not mean to “prohibit the provision, consistent with local law, of information or counseling about all pregnancy options” (Blanchfield, 2014, p.9), permitting a much more flexible interpretation of the *Helms Amendment* (Blanchfield, 2014). However, in the *Tiahrt Amendment* of 1998, Clinton did put certain requirements that NGOs had to fulfill in order to receive USAID funds, such as ensuring that “experimental contraceptive drugs and devices and medical procedures are provided only in the context of a scientific study in which participants are advised of potential risks and benefits” (Blanchfield, 2014, p.9). Unexpectedly, on January 2001, G.W. Bush re-instated the Global Gag Rule, as its detractors knew it. He stated that it was his “conviction that taxpayer funds should not be used to pay for abortions or advocate or actively promote abortions, either here or abroad”

(ABC News, 2006). The only difference this time was that the civil society in the United States was much more conscious about women's reproductive rights and critics did not take long to appear, speaking out about its impact and how it violates women's rights, and several members of Congress tried to unsuccessfully reinstate the Mexico City Policy, arguing that the *Helms* and *Biden* amendments were enough legislation on the subject (Blanchfield, 2014).

In 2009, the Obama Administration repealed the Global Gag Rule, stating that the rule had "undermined efforts to promote safe and effective voluntary family planning programs in foreign nations" (Blanchfield, 2014, p.11), which is why it should be rescinded.

Current situation:

This period of calm only lasted until 2016, when Donald Trump was elected and immediately reinstated the Global Gag Rule, not only with all its past characteristics, but also adding further features that harm even more women's reproductive rights in developing countries. He effectively "froze funding to nongovernmental organizations if they offer abortion counseling or advocate the right to seek abortion [and also] froze funding to the United Nations agency that promotes family planning efforts" (Harris, Sengupta; 2017) (UNFPA), following the lines of precedent republican presidents, with the only exception that Trump decided to add more features and therefore more restrictions to the USAID funding given to NGOs in developing countries (Redden, 2017). These new restrictions include the expansion of aid-banning to healthcare providers that discuss abortion rights, a move which will probably affect efforts to combat sexually transmitted diseases such as HIV (Aids, and other common diseases in developing countries such as Malaria or Zika (Redden, 2017), since clearly an important amount of funding will be cut from hospitals and healthcare centers in regions in which they are especially needed. Trump also increased the amount of funds to which the ban will apply, going from \$600 million affected in the Bush Administration, to \$8.8 billion (Redden, 2017). This will, of course, affect the lives and health conditions of not only women, but also men and children in developing countries, since money will be cut off from all kinds of healthcare services.

2.1.2. Current situation of women's reproductive health

The damages caused by the Global Gag Rule become particularly alarming if we analyze the current situation of women's reproductive health around the world. The World Health Organization has published in 2018 some key facts that state that "214 million women of reproductive age in developing countries who want to avoid pregnancy are not using a modern contraceptive method, and reasons for this include limited choice of methods, limited access to contraception, particularly among young people, poorer segments of populations, or unmarried people, fear or experience of side effects, cultural or religious opposition, poor quality of available services, users and providers bias, and gender-based barriers" (WHO, 2018). The World Health Organization points out that in most developing countries, in which the Global Gag Rule will affect more, "the unmet need for contraception remains too high" (WHO, 2018), and that "this inequity is fuelled by both a growing population and a shortage of family planning services" (WHO, 2018). In percentages, the organization estimates that "in Africa, 24.2% of women of reproductive age have an unmet need for modern contraception, (and that) in Asia, and Latin America and the Caribbean (...) the levels of unmet need are 10.2% and 10.7%, respectively" (WHO, 2018).

The World Health Organization "is working to promote family planning by producing evidence-based guidelines on safety and service delivery of contraceptive methods, developing quality standards and providing pre-qualification of contraceptive commodities, and helping countries introduce, adapt and implement these tools to meet their needs" (WHO, 2018). However, the efforts of the international community to promote reproductive health are clearly mitigated by laws like the Mexico City Policy.

2.2. CHAPTER 2: REPRODUCTIVE RIGHTS AS HUMAN RIGHTS

In order to provide a useful analysis about the Global Gag Rule in this dissertation, analyzing the concept of reproductive rights is imperative, since it is a contested notion that requires academic and legal study. It is often questioned whether reproductive rights can be considered as human rights. This dissertation will argue that they can, and this chapter aims to justify the reasons why.

2.2.1. The concept of reproductive rights

First of all, this dissertation would like to provide a definition of reproductive health, in order to clarify the notion of health that will be discussed in this dissertation: according to the World Health Organization, reproductive health “implies that people are able to have a responsible, satisfying and safe sex life and that they have the capacity to reproduce and the freedom to decide if, when and how often to do so” (WHO, 2018). The WHO also adds that it is implicit on this definition that men and women have “right to be informed and to have access to safe, effective, affordable and acceptable methods of fertility regulation of their choice, and the right of access to appropriate health care services that will enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant” (WHO, 2018). Therefore, we can assume that every law, regulation or policy that obstacles access to measures of family planning or reproductive health would then be violating the right to health, which includes unequivocally the right to reproductive health and family planning.

In relation to this, it is important to state that the United Nations considers reproductive rights as human rights, and so is said on the Committee on the Elimination of Discrimination against Women (CEDAW), which clearly indicates that “women’s right to health includes their sexual and reproductive health” (United Nations Human Rights Office of the High Commissioner, 2015). The CEDAW also details on article 16 that women have the human right to decide “freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights” (Committee on the Elimination of Discrimination Against Women, 1979, p.6). Furthermore, the CEDAW also notes on article 10 that women’s right to education is intrinsically related to the “access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning” (Committee on the Elimination of Discrimination Against Women, 1979, p.4). As we can see, the United Nations clearly includes reproductive rights in the human rights of right to health and right to education. Furthermore, I would like to argue that it could also be linked to the right to life (Center for Reproductive Rights, 2018), since violating the right to health is a direct violation against the right to life, and therefore putting obstacles to women’s reproductive health is a direct violation against their life. By jeopardizing safe family planning measures and making them less available to women in developing countries, as well

as by denying information on the different existing family planning measures, the Global Gag Rule is directly violating women's right to health, education and life (Center for Reproductive Rights, 2018).

It is not only in CEDAW that the United Nations defends reproductive rights as a human right, since different UN bodies such as UN Women and UNFPA (United Nations Population Fund) have also defended that reproductive rights should be considered as a human right. In 2014, the UNFPA published the report *Reproductive Rights are Human Rights: a handbook for National Human Rights Institutions*, in which this topic is thoroughly studied. In this work, the UNFPA introduces the concept of "respect for bodily integrity" (UNFPA, 2014, p.19), which is described as a human right and defined as women's "right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination or violence" (UNFPA, 2014, p.19), and introduces the concept of "sexual health" (UNFPA, 2014, p.19), and not merely reproductive health, as a reproductive right (UNFPA, 2014, p.19). This report also recognizes that even though there is no specific human rights instrument dedicated to reproductive rights, other human rights instruments directly protect reproductive rights because of the direct relation between reproductive rights (UNFPA, 2014) and other human rights such as life, health, and education, and emphasizes the fact that CEDAW obliges all state parties to ensure "access to health care services, including those related to family planning" (UNFPA, 2014, p.21), so to ensure that everybody has access to contraception measures and the necessary information about contraceptives, family planning measures and reproductive health (UNFPA, 2014). It also points out that the World Health Organization described the elimination of unsafe abortions and the provision of post-abortion care as a requirement for a country to guarantee reproductive rights (UNFPA, 2014).

However, it is clear that not all countries choose to follow the United Nations guidelines on the respect of women's reproductive rights, and, as the reinstatement of the Global Gag Rule has proven, some major powers even contribute to the violation of women's rights abroad. Scholars like Charlotte Bunch have stated the importance of considering reproductive rights as human rights, affirming that the "denial of reproductive rights (...) is a political means of maintaining control over women and perpetuating sex roles and thus have human rights implications" (Bunch, 1990, p.491). Bunch also reiterated the impact that political policies and decisions have on women's lives by stating that "governments must

seek to end the politically and culturally constructed war on women rather than continue to perpetuate it. Every state has the responsibility to intervene in the abuse of women's rights within its borders and to end its collusion with the forces that perpetrate such violations in other countries" (Bunch, 1990, p.492). Eszter Kismödi also defends laws and policies that protect women's reproductive and sexual rights, stating that "laws and regulations have an impact on the enjoyment of the highest attainable standard of sexual health. (...) Laws that foster the dissemination of objective, comprehensive sexuality information, if implemented for all, contribute to people's knowledge of what protects or damages their sexual health, including where and how to seek further information, counseling and treatment if needed" (Kismödi et al., 2015, p.254). The author particularly defends the right women have to information about their sexual health and reproductive choices, one of the most important tasks of NGOs in developing countries and one of the most damaged by the Global Gag Rule (Kismödi et al., 2015).

Other scholars such as Noreen Burrows see "the definition of women's rights as the means to move beyond the limitations of the non-discriminatory focus on women's international human rights law. She identifies rights associated with the reproductive choice and childbirth central to the category of international women's rights" (Burrows, as seen in Charlesworth, 1994, p.66), and she defends that women's have certain necessities and face certain disadvantages that need to be specifically protected and be particularly covered in universal human rights treaties (Burrows, as seen in Charlesworth, 1994).

2.2.2. Evolution of reproductive rights as human rights

The path to the acknowledgement of reproductive rights as human rights was not easy; in fact, it took several decades until reproductive and sexual health started to be considered as rights (Corrêa, 1997). At the beginning, "reproductive rights" was not a legitimized concept, it was "reproductive health" the term commonly used and "developed by institutions, including those in the international family planning network, but also and especially the World Health Organization" (Corrêa, 1997, p.108). Sonia Corrêa details that, at the beginning, "the term 'reproductive rights' (was) mostly found among women's groups and in a non-institutional framework, and it was directly linked to the struggle for the right to safe, legal abortion and contraception in industrialized countries in the 1970s and 1980s" (Corrêa, 1997, p.108). At an international human rights conference held in Teheran in 1968,

“human reproduction became a subject of international legal concern. The Final Act of the Teheran conference included a provision stating that “parents have a basic human right to decide freely and responsibly on the number and spacing of their children and a right to adequate education and information in this respect” (United Nations, 1968)” (Freedman and Isaacs, 1993, p.20). However, the first time the term “reproductive rights” was institutionalized was at the 4th International Women and Health Meeting in Amsterdam in 1984, and that ever since the International Conference on Population and Development at El Cairo that same year the concept started to become mainstream language (Corrêa, 1997). At El Cairo, “the concept was defined in collaboration with activists and researchers in the human rights field. A fundamental contribution was made by Isaacs and Freedman in 1992 in unearthing pre-existing United Nations definitions related to `reproductive rights. Along the same lines, Cook developed a line of thinking which places women’s reproductive needs within a human rights and health rights framework” (Corrêa, 1997, p.108). One year later, the Beijing Conference established sexual rights and reproductive rights as basic elements of women’s human rights (Corrêa, 1997).

Nowadays, international organizations such as the United Nations do recognize “a woman’s right to sexual and reproductive health as an essential element of international human rights law” (Hendriks, 1994, p.1), and “States are required to take all appropriate measures to respect, protect, and fulfill that right. In addition, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) obligates States to pursue this right within the context of a broader policy aimed at the elimination of discrimination against women and the removal of all female stereotypes” (Hendriks, 1994, p.1). However, States that are not parties of the CEDAW –such as the United States- do not feel they have the obligation to protect women’s right, in particular, reproductive rights, and this is precisely the topic what will be covered in the following paragraph.

2.2.3. Reproductive rights as customary law

It is often thought that if a State is not part of an international treaty or convention, it does not have to comply with what it is established in them, because said treaty is only binding to the countries that subject themselves to it. This is true for most international treaties; however, there are certain treaties and conventions, mostly those in which basic human rights are involved, which are binding to all members of the international community,

because of the existence of an international law figure called “customary international law”. This concept “refers to international obligations established from state practice, as opposed to obligations arising from formal written international treaties. According to Article 38 (1) (b) of the ICJ Statute, customary international law is one of the sources of international law, (and) it can be established by showing (1) state practice and (2) *opinio juris*” (Cornell Law School, 2009).

Many authors such as Kelly Askin argue that the principles of equality and non-discrimination, in view of their nature as fundamental constituents of the international law of human rights, are part of the *jus cogens*” (Askin as seen in Eriksson, 2000, p.139), which “designates norms from which no derogation is permitted by way of particular agreements. It stems from the idea already known in Roman law that certain legal rules cannot be contracted out, given the fundamental values they uphold (Lagerwall, 2017). Furthermore, he maintains, “there is a clearly identifiable trend toward treating gender discrimination as a violation of customary international law” (Askin, as seen in Eriksson, 2000, p.139). Professor Meron also points out that “the repetition of certain norms in many human rights instruments is in itself an important articulation of state practice and may serve as evidence of customary international law” (Meron, as seen in Eriksson, 2000, p.139). An important State practice would be measured by “the proportion of the states that have ratified the international document in question” (Meron as seen in Eriksson, 2000, p.139). In this sense it could be argued that “there is today almost unanimous support for the idea that the prohibition of racial discrimination is the subject of an international custom and that it belongs to *ius cogens*. Yet the UN Convention on the Elimination of All Forms of Racial Discrimination has, in fact, much fewer ratifications than the Women’s Convention (and that the) high level of international commitment to the non-discrimination principle on the grounds of sex clearly indicates its universal acceptance” (Eriksson, 2000, p.141).

Hannah Saona reiterates that “some of the provisions within the Universal Declaration were or have become obligations under customary international law” (Saona, 2004, p.241), and that some of those provisions include “the right to health for each individual, including the right to special protection for a woman in her role as a mother, the right to privacy for every individual, the right to marry and found a family on the basis of equality and the right to freedom of discrimination on the basis of sex” (Saona, 2004, p.242) and that “this places an obligation on states to do their part to ensure that these rights and freedoms,

including reproductive rights, are equally realized by all. Therefore, governments are not to interfere, through coercion or otherwise, with matters surrounding the founding of one's family" (Saona, 2004, p.229). In relation to abortion, the United Nations has published a statement in September 2016 affirming that "criminalization of abortion and failure to provide adequate access to services for the termination of an unwanted pregnancy are forms of discrimination based on sex" (UN, 2016) and that "restrictive legislation which denies access to safe abortion is one of most damaging ways of instrumentalizing women's bodies and a grave violation of women's human rights. The consequences for women are severe, with women sometimes paying with their lives" (UN, 2016), furthermore remarking the notion of abortion and reproductive rights as human rights and their customary international law nature.

2.2.4. *Abortion: current situation*

Due to the nature of this dissertation, a review on the current situation of the legality of abortion in the world was necessary. Marge Berer states that "the number of countries in 2002 that permitted each of these grounds varied greatly by region. Thus, abortion was permitted upon request in 65% of developed countries but only 14% of developing countries, and for economic and social reasons in 75% of developed countries but only 19% of developing countries. (...) These percentages (...) have not changed dramatically" (Berer, 2017) and the figures were fairly similar by the end of 2017. The Center for Reproductive Rights elaborated a 2014 map¹ (Center for Reproductive Rights, 2014) on the state of legality of abortion in the world. In it, it can be observed that in the majority of Western countries abortion is permitted "without restriction as to reason" (Center for Reproductive Rights, 2014), and that in the majority of Latin-American and African countries, it is only allowed "to save a woman's life or it is prohibited altogether" (Center for Reproductive Rights, 2014), only to "preserve health" (Center for Reproductive Rights, 2014) or it is only permitted due to "socioeconomic grounds" (Center for Reproductive Rights, 2014).

In relation to these percentages, Marge Berer defends the global legalization of abortion by stating that "what makes abortion safe is simple and irrefutable –when it is available on the woman's request and universally affordable and accessible. From this

¹ See *Figure 1*

perspective, few existing laws are fit for the purpose but merely repeat every possible permutation of the self-same restrictions” (Berer, 2017). She also points out the on-going discussion at the international arena about the subject and the great amount of international organizations that advocate for the consideration of abortion as a human right for women, such as the “Human Rights Committee, the Committee on the Elimination of Discrimination against Women, the Committee on Economic, Social and Political Rights, the Working Group on discrimination against women in law and practice, and the Special Rapporteurs on the right to the highest attainable standard of health, the rights of women in Africa, and torture (Berer, 2017).

3. ANALYSIS

3.1. CHAPTER 3: JUDICIAL ANALYSIS

This analysis of the effects of the Global Gag Rule will be divided into two different chapters. The first one will consist on an analysis of the Mexico City Policy from a judicial perspective, and it will be divided into two different sections. The first section will study the direct effects of the Global Gag Rule, in other words, all the ways in which the policy violates the different international treaties and laws, making the Global Gag Rule an international human rights problem. The second section will analyze the indirect effects of the Global Gag Rule by studying how the Mexico City Policy goes against the basic constitutional rights of the citizens of the United States and how, all in all, the United States is exporting an unconstitutional policy.

3.1.1. *International law*

First of all, it should be mentioned that the most important human rights treaty that the Global Gag Rule violates is the **Universal Declaration of Human Rights** (Center for Reproductive Rights, 2003), “drafted by U.S. delegate Eleanor Roosevelt and adopted by the United Nations in 1948” (Center for Reproductive Rights, 2003, p.8). The most important right that this policy violates is collected in Article 3 of said declaration, which states that “everyone has the right to life, liberty and security of person” (United Nations, 1948). By cutting the funding to NGOs that provide safe contraceptive measures, the government of the United States is putting in danger the integrity of thousands of women in developing

countries, and therefore violating their right to life (Center for Reproductive Rights, 2018). Article 7 also points out that “all are equal before the law and are entitled without any discrimination to equal protection of the law” (United Nations, 1948), which is also a basic right that the Mexico City policy violates, since, by implementing a policy that purposely harms and hampers the reproductive health and freedoms of only a sector of the population, in this case, women, the Global Gag Rule automatically becomes discriminatory (Center for Reproductive Rights, 2018).

Article 19 of the declaration also states that “everyone has the right to freedom of opinion and expression” (United Nations, 1948), and the Global Gag Rule hinders the right of NGOs to speak out against unfair legislation and for the promotion of reproductive rights in the developing countries in which they act (Center for Reproductive Rights, 2018). Article 25 defends that “everyone has the right to a standard of living adequate for health and well-being of himself and of his family, including [...] medical care” (United Nations, 1948), another Human Right directly attacked by the policy since, in order to provide safe sexual health mechanisms, NGOs need funding (Center for Reproductive Rights, 2018). Lastly, article 26 states that “everyone has the right to education” (United Nations, 1948), and, by not letting NGOs inform women about their contraceptive choices, the United States government is limiting the education women in developing countries receive regarding their own reproductive rights.

The Global Gag Rule also violates the **Convention on the Elimination of Discrimination Against Women (CEDAW)** (Hoodbhoy, Flaherty and Higgins; 2005), in particular the General Recommendation n° 19, which is dedicated to define violence against women by saying that it

“Impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions, is discrimination within the meaning of article 1 of the Convention. These rights and freedoms include: the right to life; [...] the right to liberty and security of person; the right to equal protection under the law, the right to equality in the family, [and] the right to the highest standard attainable of physical and mental health” (Committee on the Elimination of Discrimination Against Women, 1999).

This General Recommendation qualifies not providing the highest standard attainable of physical and mental health to women as an act of gender violence, and, by cutting funds to foreign NGOs and therefore cutting their resources to provide safe contraceptive measures that, not only prevent women from dying in unsafe abortions but also prevent the population from suffering sexual transmitted diseases such as HIV/AIDS would be an act of violence. Particularly, in the General Comment n° 19 of the Article 12 of the Convention states that “States parties are required by Article 12 to take measures to ensure equal access to health care. Violence against women puts their health and lives at risk” (Committee on the Elimination of Discrimination Against Women, 1999) (Hoodbhoy, Flaherty and Higgins; 2005). Equal healthcare for women requires sufficient healthcare to cover all of their necessities, and denying them safe contraceptive measures is not covering the specific needs of women. In fact, the General Recommendation n° 24 on Article 12 specifies that “states parties should report on their understanding of how policies and measures on health care address the health rights of women from the perspective of women’s needs and interests and how it addresses distinctive features and factors that differ for women in comparison to men, such as biological, socioeconomic or psychosocial factors” (Committee on the Elimination of Discrimination Against Women, 1999), clearly expressing that women have certain sanitary necessities that need to be taken into account when implementing health policies (Hoodbhoy, Flaherty and Higgins; 2005).

The General Recommendation n° 24 of Articles 16 and 5 is more specific about the topic, specifically stating that “States parties should ensure that measures are taken to prevent coercion in regard to fertility and reproduction, and to ensure that women are not forced to seek unsafe medical procedures such as illegal abortion because of lack of appropriate services in regard to fertility control” (Committee on the Elimination of Discrimination Against Women, 1999). This General Recommendation urges state parties to make sure women have safe contraceptive measures available and that their reproductive health is not at risk. Cutting funds to NGOs, as proposed by the Global Gag Rule, would reduce funds for contraceptive measures, and therefore would increase unwanted pregnancies, which would lead to unsafe abortions and an increase of women mortality, overall violating the Convention on the Elimination of Discrimination Against Women (Hoodbhoy, Flaherty and Higgins; 2005).

But the CEDAW is not the only international treaty that outlines the importance of women's reproductive rights, the **International Covenant on Economic, Social and Cultural Rights (ICESCR)** (Hoodbhoy, Flaherty and Higgins; 2005) also points out in its General Comment n° 22 (2016) on the Right to sexual and reproductive health (Article 12 of the treaty), that states should work in order to “repeal or eliminate laws, policies and practices that criminalize, obstruct or undermine individual's or particular group's access to sexual and reproductive health facilities, services, goods and information” (Committee on Economic, Social and Cultural Rights, 2016), and to “take measures to prevent unsafe abortions and to provide post-abortion care and counseling for those in need” (Committee on Economic, Social and Cultural Rights, 2016), as well as “to ensure all individuals and groups have access to comprehensive education and information on sexual and reproductive health” (Committee on Economic, Social and Cultural Rights, 2016) (Hoodbhoy, Flaherty and Higgins; 2005). Furthermore, the ICESCR related sexual health and reproductive rights to other basic human rights such as the right to education, the right to non-discrimination (Committee on Economic, Social and Cultural Rights, 2016). It also makes a specific point about retrogressive measures and policies, specifying that

“Retrogressive measures [which include] the removal of sexual and reproductive health medications from national drug industries, laws or policies revoking public health funding for sexual and reproductive health services, enacting the imposition of barriers to sexual and reproductive health information, goods and services, enacting laws criminalizing certain sexual and reproductive health conduct and decisions, and legal and policy changes that reduce the States' oversight of private actors' obligations to respect individuals' rights to access sexual and reproductive health services” (Committee on Economic, Social and Cultural Rights , 1966).

As it can be observed, this General Comment of the International Covenant on Economic, Social and Cultural Rights clearly points out all the ways in which the Global Gag Rule violates women's rights, and clarifies that reproductive rights are, indeed, human rights and that, as so, they should be respected. The United States signed both the CEDAW (United Nations, 2018) and the ICESCR (United Nations, 2018) Treaties in 1980 and 1977 respectively, however, it has not ratified neither of the documents. In spite of this, due to the nature of the document and the great amount of state parties that have ratified it –currently, 189 and 167 countries respectively (United Nations, 2018)- the rights recognized in it should

be considered of customary nature, and therefore should be respected by every government of the international community, since, not doing so would go against basic international law and human rights bodies (Hoodbhoy, Flaherty and Higgins; 2005).

But there are other human rights instruments that have been ratified by the United States and that the Global Gag Rule also goes against, such as the **International Covenant on Civil and Political Rights (ICCPR)**, ratified by the United States in 1992 (Hoodbhoy, Flaherty and Higgins; 2005). In particular, it goes against its Article 19, which states that “everyone shall have the right to hold opinions without interference [and that] everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice” (Human Rights Committee, 1966) (Hoodbhoy, Flaherty and Higgins; 2005). By cutting funding to foreign NGOs that inform about abortion, provide abortion services or fight for safe contraceptive measures in their countries of action, the Global Gag Rule is attacking the right of said NGOs to hold opinions and to receive and impart information and ideas of all kinds (Hoodbhoy, Flaherty and Higgins; 2005). NGOs reliant on the United States’ funding are coerced to not speak out against unsafe abortions due to the fact that their mere existence depends on United States’ funding (Hoodbhoy, Flaherty and Higgins; 2005). In this way, Trump’s government, as previous Republican governments did before his, are violating NGOs freedom of opinion and expression of ideas, a right contemplated in a human rights body from which the United States is a signatory party, and therefore has voluntarily bound itself to comply with (Hoodbhoy, Flaherty and Higgins; 2005).

The United Nations Population Fund (UNFPA) (Hoodbhoy, Flaherty and Higgins; 2005), “the United Nations reproductive health and rights agency” (UNFPA, 2018) has also published several documents underlining that the international community should respect the Right to Contraceptive Information and Services for Women and Adolescents (Center for Reproductive Rights, 2010), as well as the Right to Family Planning (UNFPA, 2018). With regards to the first one, the UNFPA has stated that “guaranteeing access to available, acceptable, and good quality contraceptive information and services is critical for achieving gender equality and ensuring that women can participate as full members of society” (Center for Reproductive Rights, 2010, p.6). By cutting funds to NGOs in developing countries, the Global Gag Rule is hindering the rights of all the population to

access safe contraception measures of any kind, not only of abortion, and therefore endangering the lives of both women and men, as well as disempowering women (Hoodbhoy, Flaherty and Higgins; 2005). In relation to this, the UNFPA has also published several documents about the Right to Family Planning, in which it states that “access to safe, voluntary family planning is a human right, [as it is] central to gender equality and women’s empowerment” (UNFPA, 2018). Again, we can observe how another United Nations body confirms the fact that reproductive rights are human rights, and therefore should be universally respected.

University of Oxford Public Health scholars Martin McKee, Scott Greer and David Stuckler have considered in a recent report that Donald Trump’s stance on reproductive health as a “high risk to health” (McKee et al, 2017, p.12), by affirming that an “opposition to abortion rights is widespread in the Republican party, and support for other reproductive rights is weak” (McKee et al, 2017, p.12). They also believe that his future Supreme Court appointees [are] likely to “change balance on *Roe v Wade*” (McKee et al, 2017, p.12), and therefore endangering the rights to abortion in the United States (McKee et al, 2017). Considering that the current situation of reproductive rights inside the borders of the United States, it is no surprise that one of the first things Donald Trump did in office was reinstating the Global Gag Rule, a policy that not only violates human rights, but also goes completely against the **Sustainable Development Goals** set to be met by 2030 (McKee et al, 2017). Particularly, the Global Gag Rule goes against the third sustainable development goals about Good Health and Well-Being, as it includes the objective of “ensuring universal access to sexual and reproductive health-care services, including for family planning information and education, and the integration of reproductive health into national strategies and programs” (United Nations, 2016).

The Global Gag Rule also goes against the fifth global sustainable goal, which is to “Achieve Gender Equality and Empower All Women and Girls” (United Nations, 2016), which is defined “not only as a fundamental human right, but a necessary foundation for a peaceful, prosperous and sustainable world” (United Nations, 2016). By hampering the empowerment of women, which are one of the most important engines of a society, the Global Gag Rule is hindering development, especially taking into account that the policy is aimed to target the most vulnerable sectors of the population of developing countries. All in

all, the Global Gag Rule is a destructive weapon against sexual health, human rights and development.

3.1.2. Domestic law

The Global Gag Rule also has indirect effects that go against some of the basic principles outlined in the United States Constitution (Crimm, 2007), because, “although it is constitutionally permissible for the U.S. government to restrict how a U.S.-based organization spends U.S. government funds, the Constitution does not permit the legislature to impinge upon that organization’s constitutional interests –including the right to free speech and association- by restricting how a grantee spends segregated funds received from other, non-U.S. Government sources” (Center for Reproductive Rights, 2003, p.17). This is why, “the Global Gag Rule would be unconstitutional if applied to U.S. NGOs Receiving USAID Funds” (Center for Reproductive Rights, 2003, p.17), an issue that will be detailed in the following paragraphs:

First of all, it violates **Equal Protection Principles** (Crimm, 2007), a clause included in the *Fourteenth Amendment* of the United States Constitution that “prohibits states from denying any person within its territory the equal protection of the laws” (Cornell Law School, 2006), which means that “a state must treat an individual in the same manner as others in similar conditions and circumstances” (Cornell Law School, 2006), and the Federal Government must do the same, according to the *Fifth Amendment* (Cornell Law School, 2006). In order to test whether a law or policy abides by the equal protection clause we first have to respond to three questions, first of all, we should ask ourselves “what classification does [this] government action create?” (Cornell Law School, 2006), in order to answer this question, we need to determine whether this policy is facially neutral or not. In other words, we need to find out if it discriminates individuals or groups (Cornell Law School, 2006). In this case, we can determine that the Global Gag Rule is facially neutral, and that it “has a disparate impact on a particular group of people” (Cornell Law School, 2006), specifically, women. We also need to make sure that “the state intended to discriminate against the affected group” (Cornell Law School, 2006), which, in this case, it is clear that it did. The United States government willingly created a policy that particularly restricted the liberties of women and women only, and therefore we can establish that creating a disparate impact was indeed the purpose of the law (Cornell Law School, 2006).

Second of all, we need to define “what level of scrutiny should be applied to this classification?” (Cornell Law School, 2006). In this case it should be noted that there are three levels of scrutiny in order to determine whether a policy goes against the equal protection principles or not (Cornell Law School, 2006). The first level would be Strict Scrutiny. “When a law is subject to strict scrutiny, the government must prove that the law is narrowly tailored to advance a compelling government interest [and] the compelling interest must be compelling enough to warrant the classification” (Cornell Law School, 2006). The second level of scrutiny would be the Intermediate Scrutiny: “when a law is subject to intermediate scrutiny, the government has the burden of proving that the statutory classification is substantially related to a legitimate objective” (Cornell Law School, 2006). It is also important to mention that “a law is subject to intermediate scrutiny if it burdens a quasi-suspect class. A class is characterized *quasi-suspect* if the class is not entirely politically powerless, but traditionally lacks substantial political power. For example, women are considered a quasi-suspect class” (Cornell Law School, 2006). Lastly, the Rational Basis Test “is the lowest level of scrutiny, where an individual challenging the law must prove that the classification is not reasonably related to some rational purpose” (Cornell Law School, 2006).

The last question we need to answer in order to determine whether the policy goes against equal protection principles would be to resolve whether “this particular government action meets that level of scrutiny” (Cornell Law School, 2006). In this particular case, it is clear that the Mexico City Policy discriminated against women, and therefore it would be subject to the intermediate level of scrutiny, since women are considered a quasi-suspect class with traditionally no substantial political power. This legislation is “directly grounded upon a biological correlate of being female [...] and it co-opts a woman’s body in the service of third parties” (Crimm, 2007, p.616). Furthermore, Justice Ruth Bader stated in the Supreme Court case *Gonzales v. Carhart*, that “legal challenges to undue restriction on abortion procedures do not seek to vindicate some generalized notion of privacy, rather, they center on a woman’s autonomy to determine her life’s course, and thus to enjoy equal citizenship nature” (Bader Ginsburg, as seen in Gillman, Graber, Whittington; 2017, p.7). Justice Anthony Kennedy also stated that “legislative restrictions on abortion could be unconstitutional where they impose significant health risks to women, particularly where

alternative safe abortion procedures are unavailable” (Kennedy, as seen in Crimm, 2007, p.617).

From all of this information we can gather that the Global Gag Rule is very likely to be unconstitutional under the Equal Protection Principles, because it has “a disparate impact on a particular group of people” (Cornell Law School, 2006), which in this case are women, a quasi-suspect class with traditionally no political power (Cornell Law School, 2006), also because “the state intended to discriminate against the affected group” (Cornell Law School, 2006), and because the policy does not respond to a national interest, but rather to “another form of government cooptation” (Sunstein, as seen in Crimm, 2007, p.617). Due to this unconstitutional character, the policy that affects thousands of women in developing countries could never be applied to the United States, because it would violate the basic constitutional rights of U.S. women (Crimm, 2007). We can therefore affirm that the United States government is exporting a policy that would be against its constitutional basic principles, and that could never be applied domestically (Crimm, 2007).

But this is not the only way in which the Global Gag Rule goes against the United States Constitution. The policy also violates its *First Amendment* (Crimm, 2007), which “guarantees freedoms concerning religion, expression, assembly, and the right to petition. It forbids Congress from both promoting one religion over others and also restricting an individual’s religious practices. It guarantees freedom of expression by prohibiting Congress from restricting the press or the rights of individuals to speak freely. It also guarantees the right of citizens to assemble peaceably and to petition their government” (Cornell Law School, 2010), and this is another reason why it could never be imposed to domestic NGOs. The Global Gag Rule would put an obstacle on the freedom of speech of foreign NGOs, since by cutting the funding they receive if their message does not comply with the United States requirements, they are blocking their freedom to express their ideas about reproductive rights (Crimm, 2007). Furthermore, the Global Gag Rule is hindering the rights that NGOs have to inform about reproductive rights and to give professional and unbiased advice on women’s reproductive health (Crimm, 2007). According to the United States Constitution, “organizations are free to speak about an engage in association for the advancement of their own beliefs and ideas embedded in U.S. democratic principles” (*NAACP v. Alabama* as seen in Crimm, 2007, p.617), and therefore, coercing them into not speaking out against certain issues would be unconstitutional if applied to domestic NGOs (Crimm, 2007).

One could argue that the government is not in fact coercing their right to inform about abortion or reproductive rights to women, but rather it is incentivizing them not to do so, and for that it would not be unconstitutional (Crimm, 2007). However, this precise act goes against the Unconstitutional Conditions Doctrine, which has the goal to prevent the government from indirectly coercing any organization from renouncing to its constitutional rights through its funding or lack thereof (Crimm, 2007). Professor Kathleen Sullivan describes it as follows:

“Government may not grant a benefit on the condition that the beneficiary surrender a constitutional right, even if the government may withhold that benefit altogether. It reflects the triumph of the view that government may not do indirectly what it may not do directly over the view that the greater power to deny a benefit includes the lesser power to impose a condition on its receipt” (Sullivan, as seen in Crimm, 2007, p.618).

All in all, the Global Gag Rule is “government censorship of political speech that [Republican presidents, and now Donald Trump] disagree with” (Center for Reproductive Rights, 2003), and it prevents “the organizations that receive U.S. family planning assistance from providing or advocating for any abortion-related services” (Center for Reproductive Rights, 2003), making it a completely unconstitutional policy if applied to domestic NGOs.

In relation to the violation of the constitutional right to freedom of speech, we find that the Global Gag Rule also violates the **Right to Participate in the Political Process** (Crimm, 2007), directly linked to the right to the right to freedom of expressive association and the right to Petition, also included in the *First Amendment* of the United States Constitution (Crimm, 2007), which consists on the right to make “a formal application in writing made to a court or other official body requesting judicial action of some character” (Cornell Law School, 2010). The Global Gag Rule violates the right petition, and therefore the right to participation in the political process by preventing “the organizations that receive U.S. family planning assistance from providing or advocating for any abortion-related services” (Center for Reproductive Rights, 2003), and this includes speaking up against abusive legislation that undermines women’s reproductive rights in developing countries, which, in most cases, is essential in order to foster development in the field of women’s health

and women's rights in general (Crimm, 2007). The Global Gag Rule leaves foreign NGOs that receive funding from the United States powerless, because if they dare to speak up for reproductive rights and safe abortion measures, they will be cut off, which would cause a lot of them to cease to exist.

In the case *DKT International v. US Agency for International Development (USAID)* (Sullivan, 2006), which dealt with a case of an NGO dependent on USAID that stopped receiving funding because it refused to adhere to the time's administration's political views on prostitution, we can clearly see how the District Court of Columbia resolves that, indeed, USAID's actions are unconstitutional "under the *First Amendment*, as applied to DKT, for they constitute view point based restrictions on speech and they are not narrowly tailored to further a compelling government interest" (Sullivan, 2006, p.27). The same could be applied to the Global Gag Rule since it obliges foreign NGOs to take part in the political discourse of the United States' administration, and therefore violating their right to freedom of speech (Crimm, 2007). However, this is a source of debate and deciding whether the government's interests are narrowly tailored and which level of scrutiny should be applied to the matter is a difficult and contested issue. Domestically, the Global Gag Rule also goes against the principles derived from the *Roe v Wade* case, which legalized abortion in the United States, by affirming that women have the right to have their "liberty protected by the *Due Process Clause* of the *Fourteenth Amendment*" (Blackmun, 1973, p.170). *Roe v Wade* legalized abortion in order to defend women's right to privacy (Blackmun, 1973), and a policy that disrespects this constitutional right should not be exported abroad. The case *Planned Parenthood v Casey*, of 1992, reaffirmed *Roe v Wade*, by stating that "it is a constitutional liberty of the woman to have some freedom to terminate her pregnancy. We conclude that the basic decision in *Roe* was based on a constitutional analysis which we cannot now repudiate" (O'Connor, et.al, 1992, p.869). The fact that the right to abortion was reaffirmed years later by the US Supreme Court only make it clearer that the Global Gag Rule is a flawed and unconstitutional policy, which only illustrates the fact that "the United States government is unmoved by the fact that throughout the world, many millions of women lack access to good reproductive health care and family planning services, which causes millions of unwanted pregnancies, high-risk childbirths, cases of sexually transmitted diseases and unsafe abortions" (Neacsu, 2002, p.1).

Therefore, we can successfully assume that the Global Gag Rule could never be applied domestically, and that the United States is exporting unconstitutional values abroad (Crimm, 2007). This is particularly serious due to the fact that “the United States holds itself up to the world as a model democracy based on fundamental and equal rights for individuals and organizations. Accompanying this role is the responsibility to permit abroad what must be permitted at home” (Crimm, 2007, p.618), and this is precisely what the Global Gag Rule is not doing. All in all, “the Global Gag Rule only serves to foster anti-American sentiments, particularly related to the U.S. foreign assistance programs around the world” (Center for Reproductive Rights, 2003, p.12), which damages the United States, the aid-receiving parties and, most importantly, women.

3.2. CHAPTER 4: REAL EFFECTS OF THE GLOBAL GAG RULE

3.2.1. Effects on women

3.2.1.1. Impact on health

The Global Gag Rule not only violates numerous international and domestic laws, it also violates the basic rights of women in developing countries, causing detrimental and, in numerous cases, deadly, effects on their wellbeing and health. First of all, the most damaging effect of a lack of contraceptive availability would clearly be the increase of the impact of sexually transmitted diseases (STDs) such as **HIV/AIDS** (Frankel, 2017). In fact, “global-health advocates and experts are concerned that the expanded rule could hinder one of the largest disease-relief projects any country has undertaken: the President’s Emergency Plan for AIDS Relief, or PEPFAR, an initiative that has invested billions of dollars in providing HIV/AIDS counseling and testing, distributing life-saving antiretroviral medication, and training hundreds of thousands of health-care workers around the world, to great success” (Frankel, 2017). In past republican administrations, the Mexico City Policy affected approximately 575 million dollars of funding, mostly dedicated to family planning (Wheeler, 2017). However, Donald Trump’s new version of the policy expands it to “to an estimated 8.8 billion dollars in U.S. global health assistance, including more that 5 billion dollars disbursed through the President’s Emergency Plan for AIDS Relief (PEPFAR)” (Wheeler,

2017). In the 2017 Presidential Memorandum Regarding the Mexico City Policy, Donald Trump directed “the Secretary of State, in coordination with the Secretary of Health and Human Services, to the extent allowable by law, to implement a plan to extend the requirements of the reinstated Memorandum to global health assistance furnished by all departments or agencies” (Trump, 2017). HIV affects mostly developing countries: according to the World Health Organization (WHO), “the WHO African region is the most affected region, with 25.6 million people living with HIV in 2016. The African region also accounts for almost two thirds of the global total of new HIV infections” (WHO, 2017). HIV is an important problem in developing countries, and the Global Gag Rule would only worsen it.

By extending the Mexico City Policy to all global health assistance and not only to family planning programs, Trump’s Global Gag Rule will affect NGOs that need the funding to deal with issues such as “maternal and child health, nutrition, HIV/AIDS, infectious diseases, malaria, tuberculosis, and neglected tropical diseases” (Adhiambo Onyango, 2017) all “crucial public health programs necessary to prevent disease and improve the health status of populations of populations in the developing world” (Adhiambo Onyango, 2017). The Global Gag Rule could also stop the funding of “U.S. federal-funded NGOs and agencies focusing on diseases such as **Zika** virus [and] **Ebola** Virus [...] [that also provide] family-planning-related services that even so much as mention abortion” (Singh, Karim; 2017). Of course, all these consequences not only affect women, but also all sectors of the population, especially the most vulnerable such as children, pregnant women, and the elderly.

3.2.1.2. Impact on the availability of contraceptive measures

One of the main issues caused by the Mexico City Policy is the **lack of availability of contraceptives in developing countries** (Population Action International, 2003). In order to understand how the Global Gag Rule may have an impact on this specific issue, it is important to note that USAID (The United States Agency for International Development) is “the leading donor of family planning assistance to NGOs overseas” (Population Action International, 2003, p.3), and, therefore, it “supports technical assistance, training, contraceptives including condoms, funding and other resources needed to assure efficient and effective delivery of services to millions of couples” (Population Action International, 2003, p.3). By forcing NGOs to choose between closing down or not advising or informing about abortion to women seeking for help, the Global Gag Rule forces a lot of them to choose the

first path, since a lot of NGOs find it unethical to deny abortion services or counseling to a woman when it will most likely mean that she will seek and unsafe abortion and therefore endanger her life (Population Action International, 2003). When NGOs lose funding for contraceptives or are forced to close down, there are several disastrous consequences that affect not only women, but also the general population of developing countries.

The Global Gag Rule also causes a **lack of information about reproductive health and contraceptives**, again, not only to women but also to men (Population Action International, 2003). The Global Gag Rule is also jeopardizing the procurement of information about family planning, sexual health and contraceptives, which is causing an increase of sexually transmitted diseases (STDs) and infections (STIs) as well as unwanted pregnancies (Population Action International, 2003). This is particularly happening in Africa and South and Central America: “in Cameroon, the Cameroon National Association for Family Welfare closed a youth center where young people were taught how to be responsible parents, protect against STIs and prevent HIV/AIDS, [and] on the Caribbean island of St. Lucia, the Planned Parenthood Association eliminated plans to train 218 youth peer educators for a program that would have reached 12,000 school-aged children with reproductive health information, including critically needed education on preventing HIV/AIDS” (Population Action International, 2003, p.8). These are only a few examples of how lack of funding causes lack of information, which, in turn, is one of the main threats for the population in developing countries.

This lack of contraceptive availability and information on sexual health has a direct effect on **unwanted pregnancies**, especially of young girls (Population Action International, 2007), which proves that “the need for the option of abortion in some circumstances will always be there, [especially for women in developing countries that] are too poor to have reliable access to contraceptives, [such as] adolescents, refugees, victims of sexual coercion or violence, or suffering from acute or chronic diseases such as HIV/AIDS” (Population Action International, 2007, p.1). A recent study carried out in 2011 by Eran Bendavid, Patrick Avila and Grant Miller, from the University of Stanford, concluded that, indeed, there is a direct connection between a high exposure to the Mexico City Policy and an increase in abortions (Bendavid et al, 2011)². The study also shows that the higher the exposure to the

² See *Figures 2 and 3*

Mexico City Policy, the lower the prevalence of modern contraceptives (Bendavid et al, 2011)³, which would be a direct cause for unwanted pregnancies, which would also lead to more abortions. In addition, we should also note that, according to the United Nations, “countries with restrictive abortion policies have much higher levels of maternal mortality. The average maternal mortality ratio was three times greater in countries with restrictive abortion policies in 2013 (223 maternal deaths per 100,000 live births) than in countries with liberal abortion policies (77 maternal deaths per 100,000 live births)” (United Nations Department of Economic and Social Affairs Population Division, 2014, p.1). We would not be wrong to affirm, according to this data, that the Global Gag Rule **increases abortions**, instead of reducing them, and that restrictive abortion measures increase maternal mortality. According to Marie Stopes International, by 2020, the Global Gag Rule will result globally in “6.5 million unintended pregnancies, 2.2 million abortions, 2.1 million unsafe abortions, 21,700 maternal deaths and 400 million dollars in direct healthcare costs treating pregnancy, complications and unsafe abortion” (Marie Stopes International, 2017), and the ones that will be most affected by this policy will be poor women in developing countries, precisely because “the Mexico City Policy will prevent USAID from partnering with organizations that deliver comprehensive sexual and reproductive health services, often in places where no other services exist” (Marie Stopes International, 2017, p.2). All in all, it is a counterproductive and deadly policy that affects the most vulnerable sectors of the world’s population (Marie Stopes International, 2017), and also a threat for development, since it clearly goes against the Millennium Development Goals, particularly the goals to “improve maternal health, promote gender equality and empower women, and to combat HI/AIDS, Malaria and other diseases” (United Nations, 2015), and it clearly delays and hinders progress in developing nations that are already struggling.

3.2.2. Case studies: effects on Non Governmental Organizations (NGOs)

The Global Gag Rule also affects NGOs, and to illustrate the impact it has on them, we will continue our study by analyzing the detrimental effects of the Mexico City Policy in NGOs in Kenya and Ethiopia, in accordance with the research and field work implemented by The Global Gag Rule Impact Project, an collaboration of different research associations in the fight of the Global Gag Rule. Amongst them we can find Population Action International,

³ See *Figure 4*

Planned Parenthood Federation America, Inc., IPPF (International Planned Parenthood Federation), IPAS, Pathfinder International and Engender Health (Global Gag Rule Impact Project, 2006). We will begin our analysis by studying the case of **Kenya**. In Kenya, “the Gag Rule is undermining [...]the] reproductive health system at a time when support for family planning and basic reproductive health care is more important than ever” (Global Gag Rule Impact Project, 2006, p.2). In order to understand the specific damages that Gag Rule is causing in Kenya we need to take into account that there are only two main NGOs in charge of family planning programs: Marie Stopes International Kenya (MSI Kenya) and the Family Planning Association of Kenya (FPAK) (Global Gag Rule Impact Project, 2006).

These NGOs were in charge of providing “reproductive health services, including prenatal and postnatal obstetric care and HIV/AIDS prevention efforts, especially in rural areas” (Global Gag Rule Impact Project, 2006, p.3). However, after the imposition of Bush’s Global Gag Rule in 2001, they stopped receiving United States funds, which were key to their survival and their effectiveness (Global Gag Rule Impact Project, 2006). Marie Stopes International Kenya was forced to close down two clinics in 2002 and FKA had to close 3 of the 12 clinics it had in 2005 (Global Gag Rule Impact Project, 2006). But what is more concerning, is that, “in most cases, those shuttered clinics were the only source of health care for local communities” (Global Gag Rule Impact Project, 2006, p.3), and it has affected mostly poor and rural areas whose access to contraceptives and to sexual and reproductive health services has considerably decreased (Global Gag Rule Impact Project, 2006). This is particularly concerning in Kenya, where “unsafe or failed abortions are the cause of an estimated one-third of maternal deaths in the country each year” (Global Gag Rule Impact Project, 2006, p.6). All in all, “the United States’ Mexico City Policy significantly reduced the availability of reproductive and general health care in populations that need it most (Hoodbhoy et al, 2005, p.116).

In **Ethiopia**, the Global Gag Rule is having devastating effects. Ethiopia is the second most populated country in Sub Saharan Africa and its capital, Addis Ababa, is an important center for commerce and culture (Population Action International, 2017). As such, the country is making significant progress in the use of contraceptive methods and in areas such as reproductive and sexual health (Population Action International, 2017). In fact, over the last 20 years it has implemented several policies, such as the Criminal Code of the Federal Republic of Ethiopia, the FP2020 Commitment and the Health Sector Transformation

Plan which have set a goal of increasing family planning availability and have legalized abortion in “cases of rape, incest, fetal impairment, if the mother’s life or that of the fetus is at risk, or if a woman is unable to be a parent due to being a minor or mental infirmity” (Population Action International, 2017, p.2). As it can be noted, the Global Gag Rule “only allows organizations to use their own funds for abortion in cases of rape, incest, or if a woman’s life is at risk, despite Ethiopia’s more permissible abortion law” (Population Action International, 2017, p.2), and this causes foreign NGOs that receive U.S. funds to not be able to offer services that are, in fact, legal under Ethiopian law (Population Action International, 2017), and, even though in theory the government is trying to expand the availability of family planning services, the reality is that the most important family planning organizations in Ethiopia are U.S. funded, and, as such, have experienced important budget cuts and lost technical resources, which has hindered their efficiency (Population Action International, 2016). The Global Gag Rule is, therefore, undermining the legislative progress in Ethiopia, by not making available to women all the services they are entitled to by law (Population Action International, 2017, p.6).

The reinstatement of the Global Gag Rule by George W. Bush in 2001 caused NGOs in Ethiopia that received United States funds to not be able to participate in a historical and very important political debate in the country which took place in 2004 in which “the Ethiopian Parliament voted [...] to revise the Penal Code provisions on abortion after an extensive process of nationwide debate” (Population Action International, 2016, p.7). Luckily, important NGOs which were not subject to USAID funds were able to speak out for the reforms and the parliament approved important legislative changes in favor of family planning and contraceptive accessibility (Population Action International, 2016, p.7), but it is still important to mention that the Global Gag Rule hampered the political participation of several NGOs in a moment in which all expert voices in the subject needed to be heard. Bush’s Global Gag Rule also deepened an already important shortage in contraceptives in Ethiopia, which ultimately worsened their ongoing HIV/AIDS crisis (Population Action International, 2016). Viewing the lethal consequences of the policy in countries such as Ethiopia, Bush introduced in 2003 the already mentioned President’s Emergency Plan for AIDS Relief (PEPFAR), thanks to which NGOs in countries such as Ethiopia would receive USAID funds to fight AIDS which would be exempt of the Global Gag Rule requirements, and this helped to relatively control the AIDS crisis (Population Action International, 2016). However, Trump’s Global Gag Rule, as it was already mentioned, expanded the affected

funds to more areas of health such as the fight against HIV/AIDS, which will ultimately mean that “already vulnerable groups such as rural women and girls, young people and those living in poverty also stand to be disproportionately affected by Trump’s Global Gag Rule” (Population Action International, 2017, p.6).

3.2.3. INTERNATIONAL COMMUNITY RESPONSE

After analyzing the damaging consequences of Trump’s Global Gag Rule and all the human rights treaties it violates, we should ask ourselves what could be done about it in order to eliminate or at least reduce its damages. Of course, the first step would be to repeal the policy, or at least to legally restrict its harming effects. This is precisely what United States Senator of New Hampshire Jeanne Shaheen and Representative Nita Lowey, from New York, had in mind when they introduced the **Global Health, Empowerment and Rights (HER) Act**, just one day after President Trump reinstated the Mexico City Policy on January 23, 2017 (Shaheen, 2017). This Act was introduced on January 24, 2017, it was “read twice and referred to the Committee on Foreign Relations” (Congress, 2017) and it currently has 46 bipartisan cosponsors (Congress, 2017). The bill states that:

“Foreign nongovernmental organizations shall not be ineligible for U.S. international development assistance under the Foreign Assistance Act of 1961 solely on basis of health or medical services provided by such organizations with non-U.S. government funds if such services do not violate the laws of the country in which they are being provided and would not violate U.S. federal law if provided in the United States. Such organizations also shall not be subject to requirements relating to the use of non-U.S. government for advocacy and lobbying activities other than those that apply to U.S. nongovernmental organizations receiving such assistance under such Act” (Congress, 2017).

The passage of the Global HER Act would guarantee health care and family planning that is free from discrimination, as well as ensure freedom of speech and freedom of political participation to foreign NGOs that receive USAID funds (Amnesty International, 2017). Internationally, there have also been implemented initiatives to minimize the damage caused by the Mexico City Policy, such as the ***SheDecides*** movement, initiated by the Dutch Minister of Foreign Trade and International Development Lilianne Ploumen in 2017 as a

response to the reinstatement of the Global Gag Rule (*SheDecides*, 2018). The goal of this initiative was to make up for the damages caused by the Global Gag Rule, and, with this in mind, on March 2, 2017, “the first *SheDecides* conference was held in Brussels and was co-organized by Belgium, Denmark, the Netherlands and Sweden. More than 50 governments attended the conference, among 450 participants including youth leaders, parliamentarians and representatives from UN agencies, NGOs, private foundations and the private sector” (*SheDecides*, 2018). The goal was to raise awareness of the consequences of the Global Gag Rule for the health and wellbeing of thousands of women and girls and to raise money to minimize its damage (*SheDecides*, 2018). “This gathering enabled global leaders to raise their voices in support of girls’ and women’s rights and pledged their commitment to ensure that *SheDecides*. This outpouring of support included 181 million euros of new pledges” (*SheDecides*, 2018) and it is an initiative that still continues nowadays by organizing various events and welcoming donations to raise awareness about the dangers of the Global Gag Rule and try to minimize them as much as possible.

4. CONCLUSIONS AND PROPOSALS

The Mexico City Policy or Global Gag Rule, introduced by Ronald Reagan and reinstated by every Republican administration since, restricts United States' funding for international development to foreign Non-Governmental Organizations that are related in any way to abortion, with few exceptions. Donald Trump's 2017 version of the policy was increased to affect funds that would also be dedicated to treat lethal illnesses like Ebola, HIV/AIDS, or Zika. Due to the nature of the policy and its detrimental effects on women's rights in developing countries, Trump's Global Gag Rule violates various international law instruments, such as the Universal Declaration of Human Rights, the Convention on the Elimination of Discrimination Against Women (CEDAW), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), and the guidelines established by the United Nations Population Fund (UNFPA), as well as the Sustainable and Millennium Development Goals (SDGs and MDGs). Domestically, the Global Gag Rule would also go against the United States Constitution, by violating Equal Protection Principles, the *First Amendment*, and the Right to Participate in the Political Process. The Global Gag Rule would also have an important human impact, since it would impact on the health of women by making them more vulnerable against HIV/AIDS, Zika, Ebola, and Malaria. It would also impact on the availability of contraceptive measures, causing more Sexually Transmitted Diseases (STDs), a lack of information about reproductive health and contraceptives, more unwanted pregnancies, and, ultimately, more abortions, which would be unsafe due to the lack of safe measures to implement them. The Global Gag Rule also has an important and detrimental impact on NGOs, particularly those located in developing countries, and, therefore, the ones that are needed the most. NGOs in countries like Kenya and Ethiopia have already suffered the terrible consequences of the policy, being forced to close down clinics and becoming practically and politically ineffective and helpless.

After thoroughly researching and critically analyzing what has been previously written about the Global Gag Rule, the conclusions gathered are clear: it is a dangerous policy, aimed at advancing political objectives of a particular ideology without taking into account the health and the lives of women around the world. In other words, an easy way to ensure the votes of the most radical republicans by disregarding women's reproductive rights and endangering the lives of women in developing countries. The main problem is that, by

reinstating –and increasing the impact- of the Global Gag Rule, Donald Trump’s administration is violating international law standards, as well as exporting unconstitutional values abroad, all while targeting women with no access to resources and whose reproductive rights and health are at risk even without the implementation of the Global Gag Rule. Once again, the United States is proving that stating to be the defender of human rights and individual freedoms is not directly correlated with actually defending human rights and freedoms, especially if the lives of poor people abroad are the price to pay in order to gain political power.

The health risks and lack of contraceptive availability caused by the Global Gag Rule could have an increasingly big impact on women’s health but also on their freedoms. By denying access to contraceptive measures, the Mexico City Policy will make sure that women are not empowered nor independent, since giving them no control over their sexuality will render them powerless, vulnerable and forever destined to take care of their house and family. This is precisely why the Global Gag Rule is also a threat for development, because a country where women are not empowered is a country that will never be able to achieve development.

Thankfully, other countries like the Netherlands have realized the dangers that the Global Gag Rule will cause in developing countries, and have decided to make up for the damage caused by the infamous policy by planning initiatives to specifically allocate funds with that purpose. An example of one of these initiatives is called *SheDecides*, which involves governments, international organizations and individual participants. In spite of their goodwill, these initiatives are insufficient to actually make up for all the loss of resources that the Global Gag Rule causes. In order to truly fix the problem, United States Senator of New Hampshire Jeanne Shaheen and Representative Nita Lowey, from New York, introduced the *Global Health, Empowerment and Rights (HER) Act*, a bill that would considerably reduce the effects of the Global Gag Rule, if not nullify them. The United States population should take into consideration that the votes they cast have an effect on the health of women worldwide, and should aim to support those politicians that truly seek a positive change in the world by taking into account that some of the bills they pass have an international effect.

The population of the United States should also aim to get more informed with the detrimental effects of the Global Gag Rule, and should be educated in the fact that women’s

reproductive rights have no specific interference with religion, since both concepts aim to protect the right to life. The society of the United States has a big philanthropic tradition, and as such, it should aim to try and make up for the damaged caused by their votes, by donating when possible to those NGOs that have been and will be affected by the Mexico City Policy, since, by doing so, they would save lives.

Lastly, the United Nations should also play a more active role in this issue. The Mexico City Policy is a human rights issue, and as such, the members United Nations should work to punish the United States when it is in their power, and pressure Trump's administration to repeal the Global Gag Rule, since it goes against women's rights worldwide. Hopefully, with the work of human rights advocates and the help of the members of the United Nations, as well as the United States' society, the Global Gag Rule will start to be considered as an attack to human rights and will consequently be repealed.

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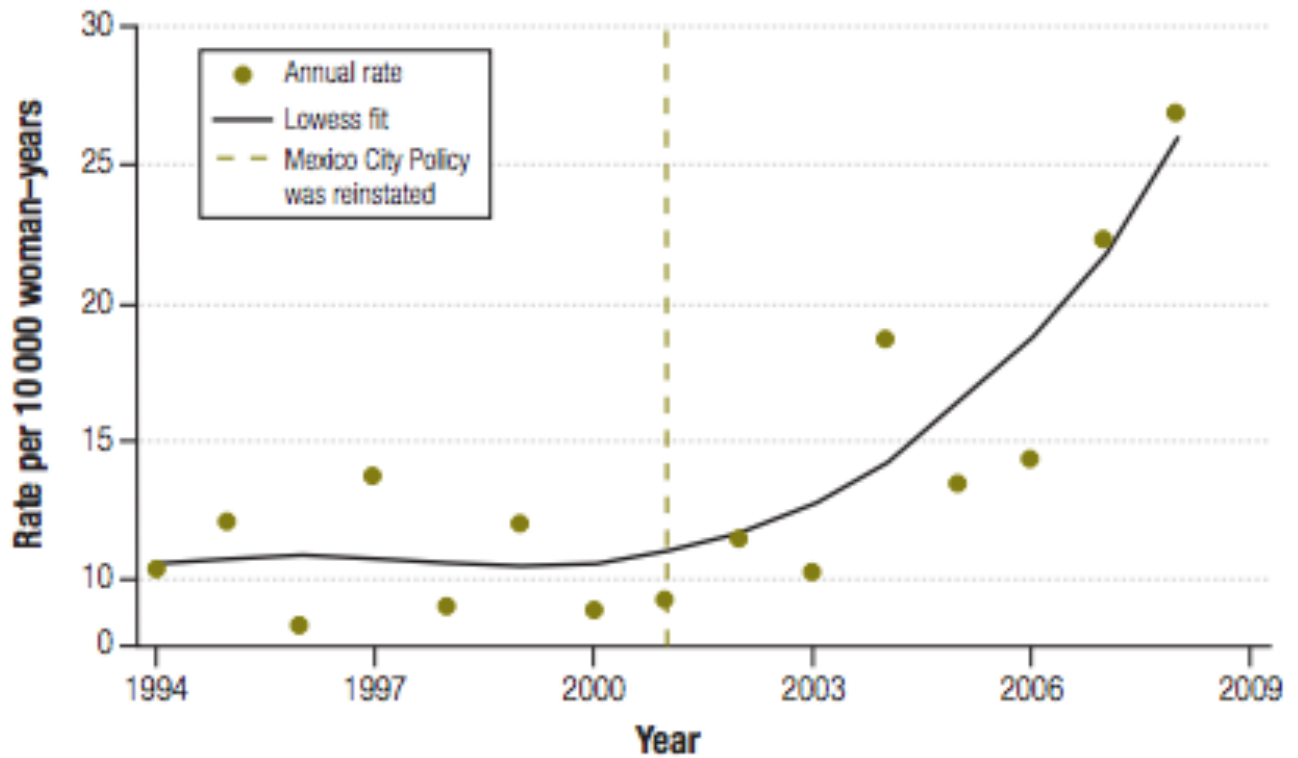
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Figure 2

Fig. 1. Induced abortion rate in 20 sub-Saharan African countries, 1994–2008^a

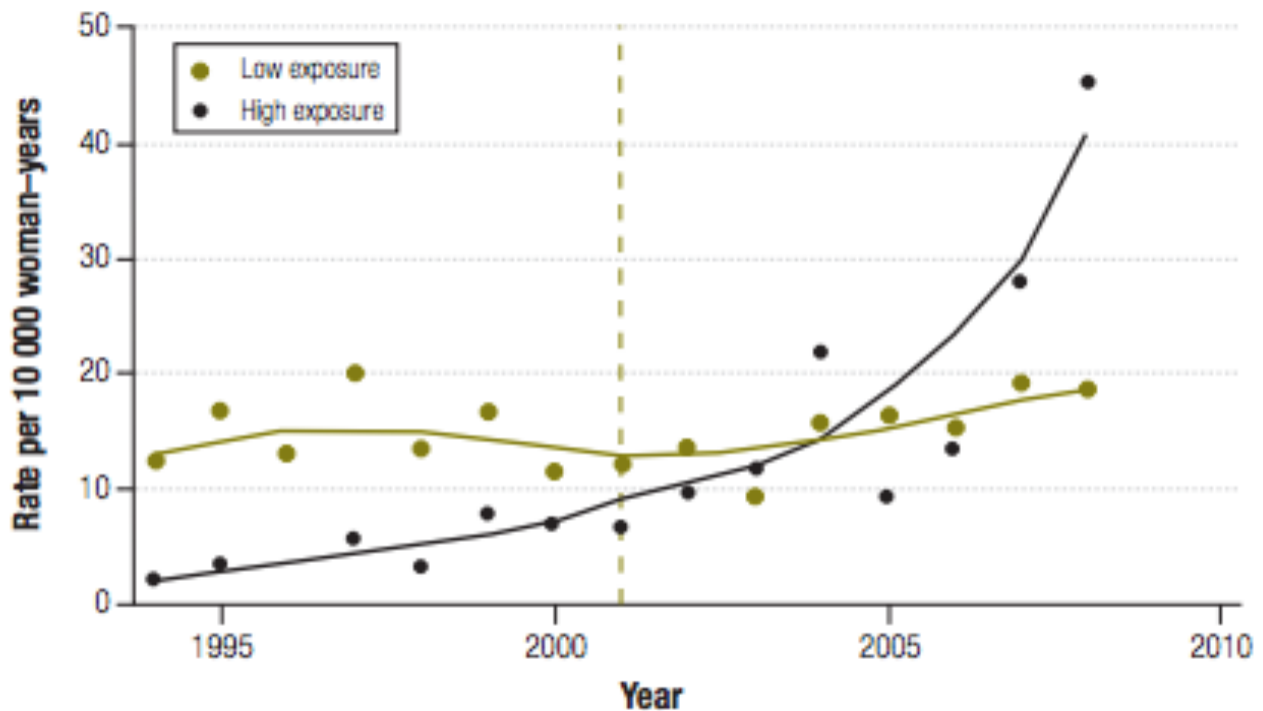


^a The curve was generated from observational data using the locally weighted scatterplot smoothing (lowess) method.

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Figure 3

Fig. 2. Induced abortion rates in 20 sub-Saharan African countries, by exposure to the Mexico City Policy,^a 1994–2008^{b,c}



^a Exposure to the Mexico City Policy was classified as high or low according to whether the level of per capita financial assistance provided to the country for family planning and reproductive health by the United States was above or below the median for the period from 1995 to 2000.

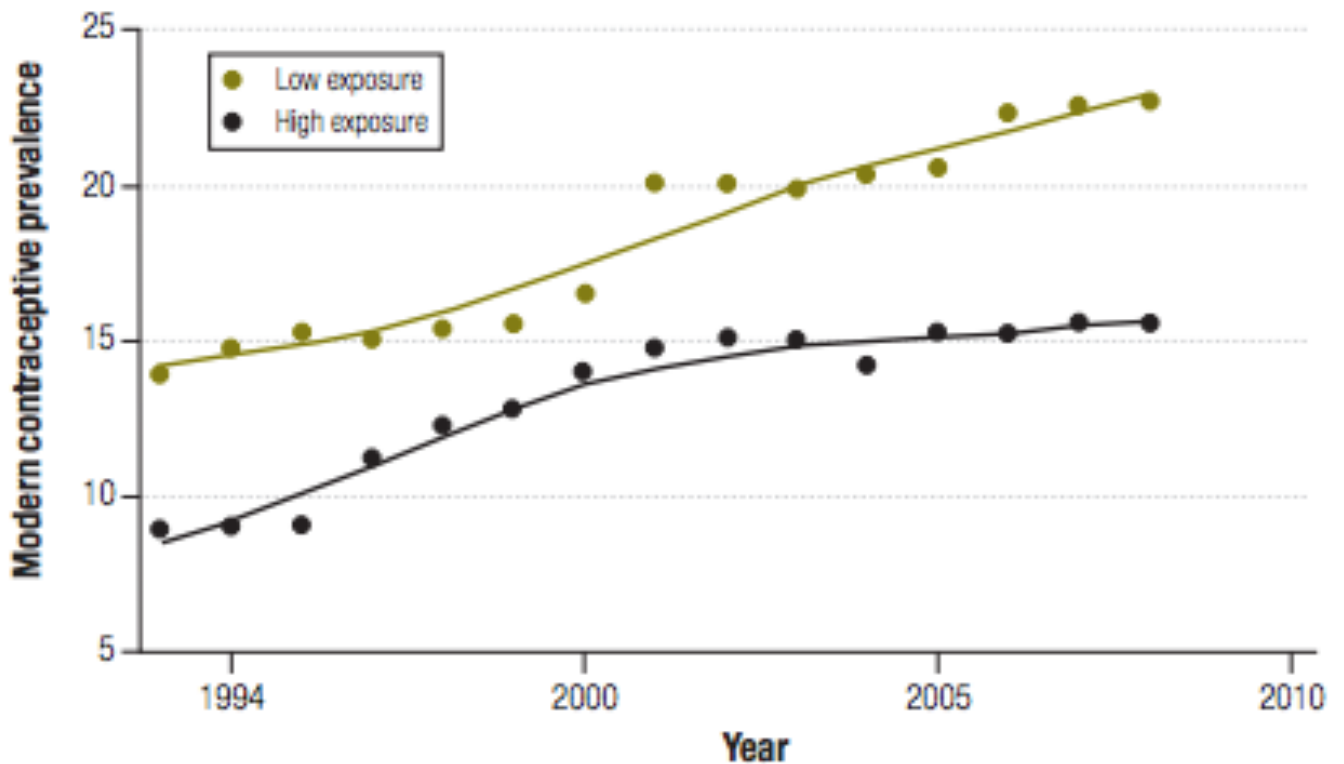
^b The dashed vertical line indicates the year the Mexico City Policy was reinstated.

^c The two curves were generated from observational data using the locally weighted scatterplot smoothing (lowess) method.

Bendavid, E., Avila, P., & Miller, G. (2011). United States aid policy and induced abortion in Sub-saharan Africa. *Bulletin of the World Health Organization*, 89, 880c. 10.1590/S0042-96862011001200010 Retrieved from <https://www.scielosp.org/pdf/bwho/2011.v89n12/873-880c/en>

Figure 4

Fig. 3. Prevalence of modern contraceptive use in 20 sub-Saharan African countries, by exposure to the Mexico City Policy,^a 1994–2008^b



^a Exposure to the Mexico City Policy was classified as high or low according to whether the level of per capita financial assistance provided to the country for family planning and reproductive health by the United States was above or below the median for the period from 1995 to 2000.

^b The two curves were generated from observed data using the locally weighted scatterplot smoothing (lowess) method.

Bendavid, E., Avila, P., & Miller, G. (2011). United States aid policy and induced abortion in Sub-saharan Africa. *Bulletin of the World Health Organization*, 89, 880c. 10.1590/S0042-96862011001200010 Retrieved from <https://www.scielosp.org/pdf/bwho/2011.v89n12/873-880c/en>