UNDERSTANDING RELIGIOUS AND POLITICAL OPPOSITION TO REPRODUCTIVE HEALTH AND RIGHTS

A RESOURCE GUIDE

IPPF European Network health choice rights

SIECUS

Planned Parenthood Federation of America, Inc.

IPPF®

The International Planned Parenthood Federation (IPPF) is the world's largest voluntary organization in the field of sexual and reproductive health and rights. As one of IPPF's six regions, the IPPF European Network has member associations in 39 countries throughout Europe and Central Asia, where it works to increase support for and access to sexual and reproductive health services and rights for all people.

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Understanding Religious and Political Opposition to Reproductive Health and Rights:

A Resource Guide

Introduction

Sexuality is an integral part of life — a universal experience for the more than six billion people that share our planet. Whether for pleasure or procreation, sexuality is a normal, healthy, lifelong aspect of human development and can and should be a positive source of personal enrichment, based on informed choices rooted in personal values and the concept of autonomy.

Yet unlike the right to life, liberty, and the pursuit of happiness — sexual and reproductive rights have yet to enter the global social and political consciousness whereby they are celebrated and protected in cultural and legal norms in policy and practice. Few other aspects of human rights are subject to cultural, religious, and political influences that are often at odds with what are fundamentally deeply personal, private experiences.

In the nearly 90 years since its inception, the sexual and reproductive health and rights movement in the United States has made clear progress in enshrining the right to education and information about sexuality, birth control, and abortion in its laws and policies — but not without significant political challenges from the very outset. To date, no other country has seen the sheer volume of political opposition to sexual and reproductive rights that has grown and evolved over the past three decades. But while an anti-choice movement has become entrenched in the United States, it is only within the past decade that more significant, active, and determined opposition to reproductive rights has begun to take hold in countries and regions throughout the world.

Alarmingly, opposition activities are increasingly at play in countries and regions as diverse as Africa, Asia, and western and eastern Europe. Not surprisingly, the strategies and tactics bear a striking resemblance to the U.S. experience, as U.S.-based opponents of contraception, sexuality education, and abortion have long had their sights set on a single, global agenda. Inasmuch as champions of reproductive freedom understand that reproductive rights must be universal — either everyone has them, or no one really does — opponents of sexual and reproductive self-determination will not achieve their goals until access to abortion, contraception, and sexuality education is eliminated at the local, national, and international levels.

These opposition groups have found sympathetic allies in a broad range of religious and political entities, as varied as the Catholic hierarchy and leaders of nationalistic movements in newly independent countries. They capitalize on fear, building liaisons with those who oppose immigration, primarily from poorer to wealthier (largely northern and western) countries, and offering a simple "solution" to the countries hardest-hit by the AIDS pandemic. Nongovernmental organizations, such as Human Life International and The Abstinence Clearinghouse, have established regional and national offices and affiliates in other parts of the world, facilitating the flow of strategic and financial support to nascent opposition movements in countries outside of the United States. The situation is exacerbated by unilateral, heavy-handed U.S. policies, such as the global gag rule and ideologically earmarked HIV-prevention funds, which are designed to stifle progressive advocacy while allowing, and even encouraging, right-wing fundamentalist opposition to flourish.

The U.S. experience is by no means unique, nor is it the only model of religious and political opposition to sexual and reproductive health and rights. Obviously, political strategies and tactics vary, shaped by the unique sociopolitical climate and policymaking process of individual communities and countries. The U.S. experience does, however, in combination with additional international challenges to sexual and reproductive health and rights, provide a model for progressive advocates to learn the language, tactics, and motivations of our opponents. This document is an attempt to capture that model for use by progressive activists the world over. It is by no means exhaustive; rather it highlights some of the most recent and public attempts to undermine reproductive rights in the United States and around the world. Likewise, it offers a sketch of some of the responses U.S. advocates have found helpful, but it does not attempt to offer solutions. No single answer exists for any of these challenges and any response must be, by and large, country-specific.

How to use the Resource Guide:

This guide outlines 13 topics that U.S.-based opposition has rallied around in recent years. Each topic is addressed in three components:

What it is: a description of the issue and the opposition's public message around a particular issue as well as the underlying intent or objective

Examples of tactics: examples of opposition tactics that have been used in the U.S. to advance the given issue

Useful facts: examples of applicable international standards and U.S-based facts that advocates have used to address opposition tactics

We welcome your comments and questions. For more information, please contact:

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1.

ATTACKING SEXUALITY EDUCATION:

Abstinence-only-until-marriage programs

What it is

Proponents of abstinence-only-until-marriage programs seek to divert public funds away from comprehensive, medically accurate sexuality education in favor of programs that *exclusively* promote abstinence outside of lifelong, monogamous, heterosexual marriage as the *only* acceptable standard for sexual activity. These programs use public funds and institutions to promote politically-motivated, conservative social values, including opposition to contraception, abortion, and homosexuality.

additional themes:

- Teach that one set of values is morally correct for all individuals.
- Often rely on fear or shame to control young people's sexual behavior.
- Either omit or contain biased information about topics such as abortion, masturbation, and sexual orientation.
- Discuss contraceptives, including condoms, only in terms of failure rates or not at all. Information about contraception is often misleading or wholly inaccurate.
- Often include alarmist and inaccurate medical information and exaggerated statistics about sexually transmitted infections.

Examples of conservative tactics

Proponents of abstinence-only-until marriage programs campaign to have these programs in both public and private schools. They also run programs outside of the education system and are increasingly taking all types of their programs overseas. Proponents work to secure government funding, put sympathetic public administrators and officials into office, and undermine or outlaw comprehensive sexuality education. They also use anti-choice and other conservative groups to publicize their message and generate community support.

additional tactics:

- vilifying comprehensive sexuality education and prevention programs and harassing organizations that provide or advocate for comprehensive prevention programs. This includes running negative media campaigns and promoting excessive and frivolous government inquiries.
- undermining international conventions that would support comprehensive sexuality education. For example, the Bush administration pushed for language promoting sexual abstinence for adolescents instead of comprehensive sexuality education and against language referring to reproductive health care at the United Nations Special Session on Children in May 2002. Aligning itself with Iran, Iraq, Libya, Sudan, and the Vatican, the Bush administration failed in its effort to pressure the special session to include abstinence-only programs for adolescents but succeeded in excluding a paragraph detailing comprehensive sexuality education from the final document. [1]

Useful facts

- Failing to provide comprehensive sexuality education to young people violates their international human rights. Programs that focus exclusively on abstinence infringe on freedom of speech, freedom of access to information, and the right to health. These rights are enshrined in numerous international agreements, including the International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the World Association for Sexology's Declaration of Sexual Rights, and the International Conference on Population and Development (ICPD; Cairo). Comprehensive prevention programs that include information about condom use, abstinence, and other prevention methods, affirm human rights and are consistent with countries' obligations under international law.[2]
- As stated in the International Conference on Population and Development Programme of Action (ICPD PoA), "Information and services should be made available to adolescents to help them understand their sexuality and protect them from unwanted pregnancies, sexually transmitted diseases and subsequent risk of infertility … such programmes should provide information to adolescents and make a conscious effort to strengthen positive social and cultural values. ..."[3]

U.S. Experience

Researchers have found that young people who take "virginity pledges" are one-third less likely to use contraception when they become sexually active than their peers who have not pledged.[4] In addition, young people who take such pledges have the same rates of sexually transmitted infections as young people who do not pledge abstinence.[5]

Evaluations of abstinence-only-until-marraige programs in the United States show that these programs fail to curtail sexual activity among adolescents or provide them with the skills they need to negotiate sexual relationships in order to abstain from sexual activity or protect themselves from unintended pregnancies and sexually transmitted infections.[6]

ATTACKING CONTRACEPTIVES:

Disparaging condom use

What it is

Family planning opponents distort scientific fact. They often rely on flawed laboratory tests or manipulate the findings of reliable tests to create public doubt about the scientifically proven effectiveness of condoms in reducing the risk of sexually transmitted infections, including HIV and HPV (human papilloma virus). The goal is to discourage condom use and cut off public funding for condom education and supply.

Three popular myths promoted about condoms:

- Talking about condoms or giving people condoms will make them more likely to have sex.[7]
- Condoms cause AIDS because HIV allegedly passes through microscopic pores in the latex.[8]
- Condoms are responsible for the high prevalence of HPV or cervical cancer among women in the U.S.[9]

Tactics include:

- demanding warning labels on condom packaging
- limiting the availability of funding for prevention programs that educate about condom use
- removing scientifically based evidence that was formerly available on government health Web sites and/or replacing it with politically driven, censored information that emphasizes abstinence and has an exaggerated focus on the potential risks of condom use
- manipulating and publicizing flawed findings that latex condoms have holes in them large enough for HIV to pass through. The study they most rely on used particles that were 100 million times smaller than the HIV particles found in semen.[10]
- undermining international conventions that would support the promotion of condoms

Useful facts

- UNFPA, the United Nations Population Fund estimates a need for at least 18.6 billion condoms for the prevention of sexually transmitted infections, including HIV, in Africa, Asia, Eastern Europe, and Latin America by 2015. These numbers are regarded as minimum figures.[11]
- As stated in the International Conference on Population and Development Programme of Action (ICPD PoA), “It should be the goal of public, private and non-governmental family-planning organizations to remove all programme-related barriers to family planning use by the year 2005. … Promotion and the reliable supply and distribution of high quality condoms should become integral components of all reproductive health-care services.”[12]
- Experts throughout the world affirm that condom use, education, and availability are essential elements to successful HIV prevention campaigns. Examples in many countries show that promotion of consistent and correct condom use can help turn the tide of the HIV pandemic.[13]

U.S. Experience

In June 2000, a number of U.S. federal agencies including the Centers for Disease Control and Prevention, National Institutes of Health, U.S. Agency for International Development, and U.S. Food and Drug Administration reviewed scientific evidence of the effectiveness of latex condom use to prevent the spread of sexually transmitted infections during vaginal intercourse. Their analysis supports that condoms are the best method for sexually active people to reduce the risk of infection.[14]

ATTACKING CONTRACEPTIVES:

Restricting access to emergency contraception (EC)

What it is

Anti-choice groups, whose goal it is to eliminate access to abortion, oppose this important means of preventing unplanned pregnancies. In order to hinder women's access to EC, they falsely claim that it is an abortifacient, and disseminate other alarmist information about its safety and efficacy.

Examples of conservative tactics

Opposition efforts around EC can best be summed up by looking at the recent decision of the U.S. Food and Drug Administration (FDA) to deny over-the-counter status to Plan B, the only branded EC product available in the United States. Despite its own advisory panels’ finding that Plan B meets the criteria for availability without a prescription, and recommending over-the-counter status, the FDA chose to deny the petition. Members of Congress called for the resignation of key FDA officials for denying the over-the-counter petition based on political and ideological — not scientific — reasons and asked that the FDA reconsider its decision.[15]

additional tactics:

- blocking efforts to make EC available through pharmacists, especially to minors
- obstructing access to EC in hospital emergency rooms (ERs), effectively withholding information from sexual assault survivors about how to prevent an unwanted pregnancy resulting from rape.[16] Catholic hospitals are often the main opponents of providing EC in the ER.Ironically, the religious and ethical directives governing Catholic hospitals allow for the distribution of EC to sexual assault victims stating that "a female who has been raped should be able to defend herself against a potential conception from the sexual assault.”[17] Despite this, a study of the nation’s nearly 600 Catholic hospital emergency rooms found that only 28 percent offered EC to women who had been raped.[18] Sometimes a Catholic hospital is a community’s only provider — leaving sexual assault survivors with very little chance of being taken to a hospital that will provide her with EC.
- passing the so-called “Schoolchildren’s Health Protection Act” that suspends all government funds to local education agencies that prescribe EC in school-based settings

Useful facts

- “Emergency contraceptive methods are effective and safe for the majority of women who may need them, as well as being simple to use. … [EC is] not effective once the process of implantation has begun, and will not cause abortion.” World Health Organization[19]
- Key Actions for the Further Implementation of ICPD PoA states, “Governments should strive to ensure that by 2015 all primary healthcare and family planning facilities are able to provide, directly or through referral, the widest achievable range of safe and effective family planning and contraceptive methods.”[20]

U.S. Experience

Ensuring that the public is informed about EC remains a challenge for advocates in the United States.[21] The lack of public information is an opportunity for the opposition to disseminate misinformation.

Many groups, including the American Medical Association and the American College of Obstetricians and Gynecologists, endorse EC as a means of reducing unintended pregnancy when taken as soon as possible after unprotected sex or contraceptive failure. The latest studies show that EC can be effective up to 120 hours after unprotected intercourse. EC can reduce the risk of pregnancy up to 95 percent if taken within the first 24 hours, and it is estimated that 43 percent of the decline in the U.S. abortion rate between the years 1994 and 2000 was due to the timely use of EC.[22]

ATTACKING ABORTION:

Abortion bans

What it is

While many of the strategies described in this guide are designed to restrict access to abortion, anti-choice opponents continue their attempts to ban abortion outright through legislation.

See also:

PPFA Fact Sheet: "Abortion After the First Trimester" http://www.plannedparenthood.org
PPFA Fact Sheet: "How Abortion is Provided" – overview of the mechanics of abortion procedures at various points in development of the pregnancy http://www.plannedparenthood.org
Alan Guttmacher Institute State Policy in Brief: "Bans on 'Partial-Birth' Abortion" and "Restrictions on Post-Viability Abortions" http://www.guttmacher.org/statecenter/spib.html

Examples of conservative tactics

A federal law passed in 2003 would ban abortions as early as 12 to 15 weeks in pregnancy. This federal ban reaches much earlier in pregnancy than the laws in 40 states that already ban third-trimester abortions except when the life or health of the woman is at stake. The unconstitutional federal ban includes no exception for the woman's health and would force doctors to stop using procedures they believe are safest and best for their patients.

additional tactics:

- "Infanticide" — calling certain abortion procedures "infanticide," outlawing "any deliberate act that is intended to" and does in fact "kill a human infant who has been born alive, but who has not been completely extracted or expelled from its mother."[23]

Useful facts

The United Nations has yet to explicitly support or condemn abortion in general. Instead, the UN claims to not "promote abortion as a method of family planning" and allows each nation to determine the legal status of abortion.[24] The UN and attendant international agencies recognize that when women cannot access safe abortion, they are likely to resort to unsafe abortion and unsafe abortion is a threat to public health. Consequently, major international documents encourage countries to decriminalize abortion.

On the fifth anniversary of the Fourth World Conference on Women, the UN General Assembly adopted a resolution to further actions and initiatives to implement the Beijing Declaration and Platform for Action that states, "All Governments and relevant intergovernmental and non-governmental organizations are urged to strengthen their commitment to women's health, to deal with the health impact of unsafe abortion as a major public health concern and to reduce the recourse to abortion through expanded and improved family-planning services." Unsafe abortion is defined as "a procedure for terminating an unwanted pregnancy either by persons lacking the necessary skills or in an environment lacking the minimal medical standards or both."[25] This document also encourages countries to "consider reviewing laws containing punitive measures against women who have undergone illegal abortions."

U.S. Experience

Bans on so-called "partial birth" abortion were enacted in many states. In 2000, the U.S. Supreme Court ruled that one state's ban was unconstitutional because it failed to protect women's health and because it could be used to "pursue physicians who use D&E procedures, the most commonly used method for performing pre-viability second-trimester abortions. All those who perform abortion procedures using that method must fear prosecution, conviction, and imprisonment. The result is an undue burden upon a woman's right to make an abortion decision."[26] That ruling had the effect of invalidating abortion ban legislation in at least 28 other states that had enacted nearly identical bans.

In 2003, Congress enacted, and President Bush signed, a nationwide ban on so-called "partial birth" abortion. That ban was challenged in three different courts, and all three federal district courts ruled that the federal ban was unconstitutional.

ATTACKING ABORTION:

So-called "informed consent"/mandatory delay before receiving abortion

What it is

Under the guise of concern for women's health, opponents of a woman's right to choose abortion attempt to limit access by creating anxiety about the safety of the procedure and the long-term emotional and health impacts of abortion by mandating that providers deliver biased information to women considering abortion.

The range of alarmist information and misinformation that is propagated includes allegations about the fetal nervous system, fetal response to adverse stimuli, so-called "fetal pain," an association between abortion and breast cancer, the "possible detrimental psychological effects of abortion," "post-abortion stress syndrome," risk of infection, and exaggerated medical risks that abortion poses to future pregnancies and fertility. Many claims rely on inaccurate, unsubstantiated, and misleading information that is often based on flawed studies and biased expert testimonies not supported by the scientific community or the public health sector.

Anti-choice organizers in the United States have worked to pass laws requiring abortion providers to deliver information that is severely biased and often inaccurate. Such requirements are often part of laws imposing mandatory waiting periods on women seeking abortion services. These laws require women to receive state-mandated information and then wait one to three days to obtain an abortion procedure. These waiting periods create logistical, financial, and legal barriers that limit access to abortion.

Examples of conservative tactics

Misinformation campaigns to mislead women about abortion have used many forms of media and advertising, including television, billboards, bumper stickers, and print ads. For example, advertisements sponsored by Christ's Bride Ministries appeared on public transportation vehicles in a major U.S. city, falsely warning that "women who choose abortion suffer more and deadlier breast cancer."[28]

The use of deceptive language and titles for legislation such as "women's right to know" and "informed consent" shield the fact that these bills are mandating biased counseling and forcing women to delay access to reproductive health care.

additional tactics:

- providing for a wrongful death action against a physician or providing a cause of civil action for the woman, "father," or "grandparent" against a physician who fails to obtain "informed consent" prior to performing an abortion
- mandating or encouraging a woman to view an ultrasound image of the fetus and/or hear fetal heart tones before being allowed to obtain an abortion

Useful facts

- The international public health community supports women receiving accurate information and nondirective counseling about abortion services. While waiting periods may be used to give women accurate information about abortion and reproductive health, these mandatory delays are often supported by the opposition because they limit women's access to abortion services. Mandatory waiting periods are especially burdensome for women who do not live near a clinic, who cannot afford transportation, who cannot afford to take the time off work, and who face a host of other obstacles to reproductive health care.
- "Waiting periods unnecessarily delay care and decrease safety" and the WHO recommends that governments "eliminate waiting periods that are not medically required, and expand services to serve all eligible women promptly." WHO statement[29]

U.S. Experience

The supposed link between abortion and breast cancer appears to have been finally and definitively laid to rest. Last year, the leading U.S.-based cancer research body, the National Cancer Institute (NCI) issued a document summarizing the findings and conclusions of experts that there is epidemiological evidence of no association between induced abortion (or spontaneous abortion) and subsequent increased risk for breast cancer. Peer-reviewed and approved, the NCI Web site has been updated to reflect these conclusions. On March 21, 2003, a new fact sheet, "Abortion, Miscarriage, and Breast Cancer Risk," was posted at http://cis.nci.nih.gov/fact/3_75.htm.

Also see:

National Cancer Institute, "What You Need to Know About Breast Cancer" http://www.cancer.gov/cancerinfo/wyntk/breast.

PPFA Fact Sheet, "Anti-Choice Claims About Abortion and Breast Cancer" http://www.plannedparenthood.org/library/facts/fact_cancer_022800.html.

Alan Guttmacher Institute, State Policies in Brief, "Mandatory Counseling and Waiting Periods for Abortion" (as of June 1, 2004) http://www.agi-usa.org/pubs/spib_MWPA.pdf.

ATTACKING ABORTION:

Adolescents' access to abortion and confidential health care /mandatory parental involvement

What it is

Proponents of mandated parental involvement before a minor may obtain an abortion contend that parents have a right to know about and/or decide what medical services their minor children receive. For teens who feel they cannot tell a parent about being pregnant or whose parents oppose and refuse to consent to their decisions, the results of parental involvement laws are delays that can increase both the cost of an abortion and the physical and emotional health risk to the teenager, since an earlier abortion is a safer one.[30] Such laws also have the potential to allow parents to block their daughters' ability to obtain abortion services as well as lead to breaches of confidentiality as teens attempt to negotiate the "judicial bypasses" many states have set up as alternatives to such laws.

Parental involvement laws vary in a number of ways. Some require one or both parents' consent to an abortion. Others require that one or both parents be notified 24 to 48 hours prior to the abortion. In the United States, most allow the minor to obtain a waiver of the requirement ("judicial bypass") from a court that must be granted if the minor is mature enough to decide about abortion on her own or if the proposed abortion would be in her best interests. Some laws contain an alternative to parental involvement, such as involvement of an adult family member.

Examples of conservative tactics

Limiting Judicial Bypass — access to judicial bypass has been limited in some places by laws and/or restrictive practices including: requiring that a minor prove her entitlement to a bypass by "clear and convincing evidence" (a heightened burden of proof); limiting the places where a minor may file a bypass petition (venue) to places close to her home where she may be recognized; unwillingness of some courts to hear the minor's petition. In some states judges are given broad discretion to deny petitions and, as a practical matter, some judges do so as a routine matter.

So-called *"Child Custody Protection Act"* — would make it a crime in the United States to transport a minor across state lines to obtain abortion services without fulfilling the parental consent or notice requirements in her home state

So-called *"Parents Right to Know"* bill — bans U.S. public funding for any family planning project if any service provider in the project knowingly provides contraceptive drugs or devices to a minor unless 1) the minor is emancipated; 2) the court directs otherwise; 3) the provider has given actual written notice to the custodial parent or guardian five days in advance; or 4) the minor has written consent of a custodial parent or guardian.

additional tactics:

- making consent more difficult: requiring that consents be notarized (thus creating delay and potential for breach of confidentiality)
- extending requirements beyond abortion: requiring parental consent or notification prior to dispensing prescription drugs, family planning, or prenatal care

Useful facts

- As stated in the International Conference on Population and Development Programme of Action (ICPD PoA), "Countries must ensure that the programmes and attitudes of health-care providers do not restrict the access of adolescents to appropriate services and the information they need, including on sexually transmitted diseases and sexual abuse. In doing so, and in order to, inter alia, address sexual abuse, these services must safeguard the rights of adolescents to privacy, confidentiality, respect and informed consent, respecting cultural values and religious beliefs. In this context, countries should, where appropriate, remove legal, regulatory, and social barriers to reproductive health information and care for adolescents."[31]
- "In all actions concerning children [defined as every human being below the age of 18] whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, *the best interest of the child* shall be a primary consideration." Convention on the Rights of the Child (CRC), Article 3, which contains one of four guiding principles that govern the implementation of all articles of the CRC (emphasis added)
- States have long recognized that many minors have the capacity to consent to their own medical care and that, in certain critical areas such as mental health, drug and/or alcohol addiction, treatment for sexually transmitted infections (STIs), and pregnancy, entitlement to confidential care is a public health necessity. Consequently, all states allow minors to consent to their own care for sexually transmitted infections and many allow them to consent to family planning services, prenatal care, alcoholism and mental health treatment.[32]
- The World Health Organization notes that lack of confidentiality in accessing sexual health care services severely delays or even curtails minors' use of those services. Parental notification requirements may "deter women from seeking timely care and may lead them to risk self-induced abortion or clandestine services."[33]

U.S. Experience

A survey of abortion patients around the United States, conducted by The Alan Guttmacher Institute (AGI), found that 63 percent of minors who were having later abortions (after 16 weeks' gestation) cited fear of telling their parents as reason for the delay.[34]

A study published in the Journal of the American Medical Association (JAMA) in 2002 confirmed that confidential access to reproductive health services is critical for all Americans but is especially critical for teens. The JAMA study found that nearly 50 percent of teen participants in the study said that if their parents were notified they would not seek family planning services. However, 99 percent said they would still have sex.[35]

ATTACKING ABORTION:

Clinic regulations

What it is

Not content with allowing abortion providers to be governed by the same regulations and standards as other physicians, opponents of access to abortion push for targeted regulation of abortion providers or "TRAP" laws that add additional, unnecessary, and overly restrictive requirements for abortion providers. This over-regulation creates significant, unnecessary burdens that have no medical justification.

Some examples of the requirements include physical plant requirements, detailed staffing protocols, reporting requirements, and physician liability mandates. Penalties for noncompliance are often stiff. Though this type of legislation purports to promote the health and safety of women and may appear reasonable at first glance, many of the requirements are medically unnecessary and would be financially onerous for some providers to comply with. Their true purpose is to hinder access to abortion and adequate reproductive health care.

Types of regulations

- *Ultrasound use* — requiring abortion providers with ultrasound equipment to tell women that they may view an ultrasound image of their "unborn child" prior to an abortion procedure
- *Licensing requirements* — adding burdensome licensing requirements for physician offices and facilities where abortions are performed, and permitting government officials unlimited access to facilities to check on compliance
- *Physical plant requirements* — regulating the size and number of dressing rooms, lavatory areas, lighting, hall width, heating and air conditions systems, and other details of the building
- *Reporting requirements* — requiring abortion facilities and providers to report abortion statistics/data, such as individual reports on each abortion performed, parental notice or judicial bypass information, the patient's race, the number and type of the patient's previous abortions, reasons the patient chose to have an abortion, the gestational age of the fetus, the length and weight of the fetus, informed consent information, type of procedure used, medical complications, and/or treatment
- *Physician-only requirements* — requiring that only physicians may perform both medical and surgical abortions
- *Lawsuit-related provisions* — requiring a person performing abortions to furnish and maintain proof of medical malpractice insurance with minimum coverage amounts; creating a legal cause of action against providers
- *Hospitalization* — requiring physicians to have admitting privileges at a hospital within the local area, requirements that abortions be performed in a hospital, that video viewing equipment be available to all patients, requiring abortion facilities to be located within a certain distance of a hospital emergency room

Useful facts

The World Health Organization notes that regulations and policy may create barriers to accessing legal abortion services, and explains that "the gains for public health from removing the barriers are likely to be considerable." The WHO cites a list of problematic regulations and practices, including, "unnecessary restrictions on kinds of facilities that provide abortion limit access for women eligible under national law," "only physicians are trained to provide abortion," and "health professionals exempt themselves from abortion care on the basis of conscientious objection, but do not refer the woman to another provider."[36]

ATTACKING ABORTION AND CONTRACEPTION:

Refusal clauses

What it is

Anti-choice opponents work to limit access to reproductive health care services by passing laws or policies to ensure that individuals as well as institutions are able to invoke "conscience" as a way to refuse to provide basic reproductive health care services. Refusal clauses take on many different forms and vary in terms of whom they apply to, what procedures are impacted, and what reasons are accepted.

Refusal clauses may cover *institutions* (both medical and not) including, but not limited to hospitals, health clinics, universities, various other religiously affiliated organizations (e.g., Catholic Charities) and insurance companies; or they may cover *individuals* (both medical and not) including, but not limited to physicians, pharmacists, and/or their staff (including non-medical staff) — and anyone who even remotely could be referred to as a "medical professional."

Refusal clauses may apply to abortion only; abortion and/or abortifacients only; all reproductive health services; contraception; all "medical service," and referrals, counseling, or administrative work related in any way to any of the above mentioned services.

Refusal clauses define the circumstances under which an individual/institution is permitted to refuse said service. This is where the bills differ in their definition of a religious belief, entity, or institution. They may even skip the use of the term "religious/religion" and broaden the basis for refusal to include "moral" conflicts or acts that run contrary to personal "conscience" or "values." This type of broad definition would permit individuals to refuse, not based on genuine religious convictions, but rather on the basis of political ideology or bias.

Examples of conservative tactics

"Abortion Non-discrimination" — disguising refusal clauses as anti-discrimination measures. Purporting to protect those refusing to provide services from the "discrimination" of being fired, this tactic might also be used to protect an institution like a hospital from losing government funding, even when it fails to provide basic reproductive health care services required by law.

"Conscience Clauses" — using language of individual conscience to allow providers to refuse to provide services. For example, pharmacist refusal clauses often allow them to refuse to provide emergency contraception prescriptions or any other prescription that the pharmacist "believes" could be used as an abortifacient — the use of the word "believes" is key because it permits the pharmacist to act in accordance with beliefs that are rooted in religious doctrine or political ideology rather than science.

Useful facts

According to a statement from the World Health Organization, "Professional ethical standards usually require health professionals to refer the woman to another willing and trained provider in the same, or an easily accessible, health facility. Where referral is not possible and the woman's life is at stake, require the health professional to provide abortion in accordance with national law."[37]

U.S. Experience

Professional health care provider groups in the United States generally support a balance between respecting providers' moral and religious beliefs and protecting the ability of patients to give informed consent and gain access to the health care they need. The American Nurses Association asserts that although nurses have a right to refuse to participate in particular cases, a provider has an obligation to "share with the client all relevant information about health choices that are legal." The American Pharmacists Association adopted a policy in 1998 attempting to counterbalance pharmacists' right of refusal with "the establishment of systems to ensure patient access to legally prescribed therapy."[38]

See also:

Alan Guttmacher Institute State Policy in Brief: www.guttmacher.org/statecenter/spib

ATTACKING ABORTION AND CONTRACEPTION:

Redefining the Legal Status of the Fetus

What it is

While the opposition still directly attacks abortion rights, there is also focus intensely on elevating the status of a fetus as a separate legal entity from the woman. This strategy is clearly critical to the long-term anti-choice agenda and is part of the fabric that the opposition is weaving in an attempt to undermine the right to safe, legal abortion, piece by piece. Such bills create a tension in the United States with Roe v. Wade, which says that for the purposes of the Fourteenth Amendment a fetus is not a person. Passage of fetal protection laws gives anti-choice forces a launching pad from which to argue for restricting abortion.

Numerous strategies have been deployed to elevate the status of a fetus to that of a person, including "fetal homicide" laws, punishing pregnant women for engaging in both legal and illegal conduct that is potentially harmful to a fetus, and statutory and regulatory language that defines a fetus or "unborn child" as a person. Some strategies, such as "stillborn death certificates" and legislation regarding procedures for disposing of fetal remains are essentially attempts to paint pro-choice advocates as callous extremists who lack sympathy or concern for the health and well-being of pregnant women, their fetuses, infants, and children.

Types of legislation recognizing fetal personhood

Fetal harm by third parties – e.g., the federal "Unborn Victims of Violence Act" creates a penalty for violation of a number of criminal statues if an "unborn child" is injured or killed during any of the enumerated crimes. The sentence for someone who commits a crime against an "unborn child" would be equal to the sentence of someone who commits a crime against an adult woman.

Punishing conduct of the pregnant woman – defining drug and or alcohol use by a pregnant woman as "delivery of drugs to a minor" or child abuse. Some state laws establish requirements for testing and reporting of substance abuse among pregnant women. Over the last 20 years, numerous pregnant women have been subjected to prosecution or civil lawsuits for engaging in both legal and illegal conduct that is potentially harmful to a fetus. Most of these cases have been dismissed.

Wrongful death statutes – creating "wrongful death" actions for the demise of a fetus. These proposals allow someone acting on behalf of the fetus to recover damages.

"Born Alive" legislation – defining the terms "person," "human being," "child," and "individual" to include "every infant member of the species homo sapiens who is born alive at any stage of development." This definition then would apply to any law, ruling, regulation, or administrative interpretation that refers to a person, human being, child or individual.[39]

Fetal remains – further defining procedures for disposing of fetal remains, though these procedures already exist. These laws might also require that a woman be notified of her right to burial or cremation of fetal remains.

Stillborn birth certificates – issuing certificates normally issued for live births to stillborn fetuses in order to elevate the status of the fetus.

"Death warrants"– although such legislation has not been seriously considered, it is worth noting. In the U.S. state of Georgia a proposal was entertained that would have required any woman seeking an abortion go to court to obtain a "death warrant." Once a woman filed for such a warrant, a guardian would be appointed for the fetus and a jury trial would be required within 30 days, in which the rights of the fetus would be balanced against the "rights of the person seeking to have the execution performed."

State-sponsored insurance for fetuses – considering "unborn children" as eligible for government-funded insurance, even when the pregnant woman is not covered.

Useful facts

The United Nations has yet to explicitly support or condemn abortion in general nor has it explicitly stated that it recognizes "personhood" as beginning after birth.[40] International human rights instruments are open to interpretation, but the U.N. Declaration on Human Rights suggests human rights were not meant to apply to fetuses.[41] Anti-choice advocates are exploiting this loophole in international law in promoting their agenda.[42]

- According to a statement from the World Health Organization, "Women trying to resolve the problem of an unwanted pregnancy may often feel they are in a vulnerable position, especially vis-à-vis health services. They need to be treated with respect and understanding. Health providers should therefore be supportive of the woman and give her information in a way that she can understand and recall, so that she can make a choice about having or not having an abortion to the extent permitted by law, free of inducement, coercion or discrimination."[43]

U.S. Experience

Leading public health organizations, including the American Medical Association, the American Nurses Association, and the American Public Health Association, oppose punishing women for drug or alcohol use during pregnancy for reasons including the following: punitive actions or measures may be taken against drug or alcohol users, including the threat of incarceration, solely on the basis of their pregnancies; initiation of child abuse or neglect investigations and proceedings and testing without informed consent may deter women who use drugs or alcohol from seeking prenatal care and medical care during delivery, thereby potentially increasing the health risks for women and their children.[44]

The U.S. Centers for Disease Control and Prevention does not recommend creating live birth certificates, along with death certificates, for fetal deaths.[45] This causes chaos in vital statistics recording and is unnecessary.

REPLACING SCIENCE WITH IDEOLOGY:

Restricting cloning and stem cell research

What it is

Therapeutic cloning and stem cell research represent a new frontier in scientific and medical research. However, opponents' attempts to curtail research and investigation along these lines have been based on political and religious ideology that seeks to define and confine these issues within the framework of abortion politics. Such attempts include efforts to define, directly or indirectly, the unfertilized egg used in therapeutic cloning as a "fetus" or "unborn person," as well as outright bans on or limitations of such research.

Examples of conservative tactics

Restrictions include:

banning both reproductive cloning (cloning for the purposes of initiating a pregnancy) and therapeutic cloning (used to grow specific types of cells to treat diseases such as Alzheimer's and Parkinson's).

Federal funding restrictions – limiting the number of embryonic stem cell lines to approximately 70 for which researchers can obtain federal research dollars. This restriction prevents federally funded U.S. researchers from using newly developed stem cell lines that could be safer or more effective than those currently approved for use.

additional tactics:

- embryo adoption – allowing for the adoption of an embryo created in the process of assisted reproduction. Many organizations have sprung up to encourage couples who have successfully conceived through in vitro fertilization to put embryos up for adoption as opposed to donating them to science or destroying them. See for example the Christian Nightlight Snowflakes Frozen Embryo Adoption Program, http://www.nightlight.org/snowflakes_description.asp

Useful facts

"In 2003, the United Nations General Assembly voted eighty to seventy-nine to block a Bush administration-backed effort to have the UN body approve a faith-based ban on all human cloning. Many nations support a Belgian-led ban on cloning human persons that would have still allowed the use of human cloning for therapeutic and scientific purposes. The UN body voted to delay consideration of the issue until the end of 2005. Muslim countries supported the vote, opposing the U.S.-introduced ban on the ground that Islam doesn't oppose experimentation on embryos."[46]

Although any UN vote on cloning is largely symbolic, there is considerable global support for putting the body on record as opposing reproductive cloning.[47]

U.S. Experience

Therapeutic cloning has the support of the American Medical Association (AMA).[48]

ATTACKING ABORTION:

Crisis pregnancy centers

What it is

Crisis pregnancy centers (CPCs) pose as comprehensive, medically based reproductive health clinics but instead use anti-choice propaganda, misinformation, and intimidation to deny women information about the full range of their reproductive health options, all in an effort to dissuade women from exercising their right to choose.

CPCs use misleading advertising techniques to attract women who are facing an unintended pregnancy. Once a woman is in the office, CPC volunteers use anti-choice propaganda to pressure and frighten her into carrying a pregnancy to term.

Examples of conservative tactics

In addition to establishing and running CPCs, opponents work to have public funds earmarked for "alternatives to abortion" while restricting those funds from going to grantees that provide abortion referrals, counseling, or services.

additional tactics of CPCs:

- advertising in misleading ways
- locating themselves near legitimate women's reproductive health care providers
- misrepresenting the possible side-effects of abortion
- providing abstinence-only-until-marriage programming
- securing government funds

Useful facts

International agencies and reproductive rights documents emphasize the need for accurate information about all matters pertaining to sexual and reproductive health, including abortion. CPCs contravene this standard.

The WHO, in *Safe Abortion: Technical and Policy Guidance for Health Systems*, defines the central elements of a policy required to ensure access to safe abortion services. This policy includes accurate information, and the WHO defines "Core Information for Public Education" as the following:

- "Women have the right to decide freely and responsibly if and when to have children without coercion, discrimination or violence
- "Basic reproductive physiology, including how pregnancy happens, its signs and symptoms
- "How to prevent unwanted pregnancy, including where and how to obtain contraceptive methods
- "Circumstances under which abortion is permitted
- "The importance of seeking legal abortion services as early as possible when termination of pregnancy has been decided upon
- "Where and when safe abortion is available, and its cost
- "How to recognize complications of miscarriage and unsafe abortion; when and where to obtain treatment
- "The importance of seeking treatment immediately."[49]

ATTACKING FAMILY PLANNING:

Public funding/Gag rules on family planning funding

What it is

Opponents seek to put reproductive health providers out of business by denying them public funding altogether or by restricting funding for the full range of reproductive healthcare services unless providers comply with "gag rules" (bans on counseling a woman on abortion as one of her options) or complete the onerous task of total separation of funds, facilities, name, and incorporation.

Examples of conservative tactics

Anti-choice advocates have employed stand-alone legislation, government budget appropriations, and health department regulations to target funding for family planning programs that are even tangentially connected to abortion services.

In addition to attempting to simply eliminate family planning from government budgets, opposition groups have gotten creative in their funding attacks by:

- requiring that publicly funded family planning programs be physically and financially separate from privately funded abortion services
- prohibiting health care workers from discussing abortion as one alternative in a continuum of services or providing information or referrals for abortion for women facing unintended pregnancies
- prioritizing family planning funds to the organizations that do not perform, refer, or advocate for abortion (if all applicants engage in one or more of these activities, priority will go to the organizations that engage in them the least)

Useful facts

U.S. Experience

- Family planning clinics have shown that providing access to contraceptive methods and counseling on how to use them effectively reduces the number of unintended pregnancies, abortions, and unwanted births. Each year federally funded family planning services prevent 1,331,100 pregnancies and consequently, 632,300 abortions.
- Studies have found that public family planning funds prevent approximately 888,200 unintended pregnancies for women who have never married, thereby avoiding an estimated 421,900 abortions and 356,200 out-of-wedlock births.
- Publicly funded family planning prevents 385,800 unintended pregnancies to adolescents ages 15-19 annually, avoiding 154,700 teenage births and 183,300 abortions.[50]

ATTACKING REPRODUCTIVE HEALTH:

Restricting HIV prevention

What it is

In response to the global AIDS pandemic, the international community, major foundations, and individual governments are spending an unprecedented amount of resources on HIV/AIDS prevention programming. Opponents view the fight against HIV/AIDS as one more area in which to promote their agenda, with a particular eye toward undoing progressive prevention efforts and replacing them with promotion of abstinence and marriage.

There is a deliberate strategy among right-wing leaders to give verbal support to fighting HIV/AIDS, while at the same time claiming that existing efforts have failed miserably and that abstinence-until-marriage programming is the best option to stem the tide of the pandemic. Often, these individuals claim to advocate an "ABC" model of HIV-prevention: **a**bstain, **b**e faithful, and use **c**ondoms. Too often, however, there is a deliberate manipulation of this strategy that does not present these three equally important risk-reduction strategies as a comprehensive package, but rather argues that abstinence is the principal method of prevention for all people. In addition, marriage is promoted as a key public health intervention, and condoms are said only to be relevant for fringe risk groups participating in behaviors that are "abhorrent" to society. This focus on marriage continues despite evidence that in the countries most affected by HIV/AIDS, marriage is actually a risk factor for women, with married, monogamous women being the fastest growing risk group in some parts of the world.[51]

In the United States, right-wing activists have also attacked existing HIV-prevention initiatives. For example, claiming that community outreach prevention programs have proven ineffective as shown by an overall increase in new HIV infections, the U.S. Centers for Disease Control and Prevention (CDC) under the Bush administration, has dramatically re-directed its HIV-prevention activities. The bulk of resources are no longer dedicated to working with those populations at risk of infection, but rather, the new initiative seeks out individuals for testing and seeks to curb the sexual behaviors of those who have tested positive.[52]

Examples of conservative tactics

By attacking programs that include condom education and distribution, the opposition is able to funnel government HIV-prevention money towards its own organizations and leadership.

For example, although the Bush administration claims to be a leader in the fight against AIDS, the *President's Emergency Plan for AIDS Relief: U.S. Five-Year Global HIV/AIDS Strategy (the U.S. Strategy)* marginalizes condom use and threatens to undermine two decades of progress. The U.S. Strategy will provide roughly $2 billion dollars over the next five years to prevention programs in 15 countries. This funding will direct no less than $133 million annually to abstinence-until-marriage programs, totaling at least $665 million over five years. By controlling the purse strings of such a large program, the Bush administration is in a position to considerably restrict information about condoms, as well as access to condoms for individuals at risk of HIV infection.[53]

additional tactics:

- limiting condom promotion to "high-risk" groups — i.e., drug users, sex workers, and homosexuals
- allowing faith-based groups that receive funds to exclude information about contraceptive methods, including condoms, if such information is inconsistent with their religious teachings
- requiring recipients of U.S. global HIV/AIDS funds to have an explicit policy opposing prostitution

Useful facts

- The Joint United Nations Programme on HIV/AIDS highlighted components of successful prevention programs, including the following: "focused actions on all prevention behaviours (delaying age of first sexual activity, abstinence, faithfulness and reduction in 'risky' behaviour);" "focused action on means of protection;" "raising the awareness of youth and the general population on safer behaviour;" and "implementing risk reduction programmes to make young people aware of HIV/AIDS by training in safer sex negotiation skills." These same elements were endorsed in the Declaration of Commitment on HIV/AIDS adopted by the United Nations General Assembly Special Session on HIV/AIDS in June 2001.[54]
- On the fifth anniversary of the Fourth World Conference on Women, The UN General Assembly adopted a resolution to further actions and initiatives to implement the Beijing Declaration and Platform for Action that states, "Adopt measures to ensure non-discrimination against and respect for the privacy of those living with HIV/AIDS and sexually transmitted infections, including women and young people, so that they are not denied the information needed to prevent further transmission of HIV/AIDS and sexually transmitted diseases and are able to access treatment and care services without fear of stigmatization."[55]
- The Committee on the Rights of the Child in its general comment No. 3 on HIV/AIDS and the rights of the child, has interpreted the Convention on the Rights of the Child as affirming the right to sex education for children (para. 6) in order to enable "them to deal positively and responsibly with their sexuality," and continued: "The Committee wishes to emphasize that effective HIV/AIDS prevention requires States to refrain from censoring, withholding or intentionally misrepresenting health-related information, including sexual education and information, and that ... States parties must ensure that children have the ability to acquire the knowledge and skills to protect themselves and others as they begin to express their sexuality." (para. 16)[56]

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