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- Feature: Is abortion worldwide becoming more restrictive? (*BMJ* 2012;345:e8161)
- Feature: Conflict and Rape: After war, what next? (*BMJ* 2010;341:c6910)
- Feature: What interventions work for victims of conflict related rape? (*BMJ* 2010;341:c7038)

Rape in war: how a US law prevents aid for safe abortions

A global effort is underway to end sexual violence in conflict and do more to help the victims. Yet US overseas aid cannot be used for abortion services. **Sally Howard** reports

In June the then UK foreign secretary, William Hague, flanked by his co-host, the actor Angelina Jolie, opened the Global Summit to End Sexual Violence in Conflict. He pledged £6m (€7.5m; \$10m) in UK funding to support survivors of sexual violence in conflicts and called for the world “to consign this vile abuse to history.” Amid the rhetoric of this three day jamboree of 1700 lawmakers, activists, and survivors in London, most participants missed the awkward question put by the US human rights lawyer Janet Benshoof to a panel of politicians and humanitarian aid workers on the first day of the summit. Why, Benshoof asked, with all these world leaders and health activists gathered to tackle the issue of sexual violence in conflicts, was no one talking about one of the greatest threats to the wellbeing of women raped in conflicts?

The panel, which included representatives of the US and UK governments, the United Nations, and the International Committee of the Red Cross, said that it could not comment on the target of Benshoof’s inquiry: the 1973 Helms Amendment to the US Foreign Assistance Act. Her question exposed the hypocrisy at the heart of international commitments to support survivors of sexual violence in conflict.

“The Helms Amendment was the elephant in the room at the summit,” says Benshoof, who as president of the New York based human rights organisation the Global Justice Center leads the US campaign for a reinterpretation of this constitutional clause that restricts the spending of US overseas aid on abortion provision or counselling.

The amendment unambiguously puts limitations on the circumstances under which abortion procedures can be funded by the US government.



William Hague, supported by Angelina Jolie, pledges aid for survivors of sexual violence in conflict. But what about abortion support?

It prohibits “the performance of abortions as a method of family planning or to motivate or coerce any person to practise abortions.”¹ The 1994 Leahy Amendment clarifies that “motivate” as used in the Helms Amendment does not extend to “the provision, consistent with local law, of information or counseling about all pregnancy options.”

Despite that added latitude, and the exception of limitations on the provision of abortion in cases of rape, incest, or where a pregnancy threatens a woman’s life, a May 2012 paper coauthored by the US reproductive rights organisation Ipas and the legal advocacy organisation the Center For Reproductive Rights found what many already knew. The US government implements Helms as an outright ban on US aid funds being used for all abortion related activities, other than post-abortion care.² Consequently, the paper said, “The government has not funded any [overseas] abortion services or related training, technical assistance and communications and continues to engage in censorship of government staff and grantees.”

“The current situation sentences tens of thousands of women raped in conflict to unsafe abortions—or worse”



Benshoof told *The BMJ*, “Despite the promises these agencies made to tackle sexual violence in conflict, the current situation sentences tens of thousands of women raped in conflict to unsafe abortions—or worse.”

National governments and non-governmental agencies that provide healthcare are willing to kowtow to policies advanced by the US Agency for International Development (USAID), said Benshoof, hence the summit panel’s avoidance of her question. “US and UN officials were briefed to keep silent on the issue at the summit,” Benshoof told *The BMJ*, “and, when I raised it, the UK followed this line.”

Effects in conflict zones

Rape as a weapon of war has been documented in many countries and regions. It is estimated that 25 000 children were born of rape in Bangladesh as a result of the Indo-Pakistani war of 1971.³ Between 2000 and 5000 children were born as a result of rape during the 1994 genocide in Rwanda.⁴ In more recent conflicts, reports have estimated that, up to 2011, around 1.8 million women and girls had been raped during the protracted series of wars in the Democratic Republic of the Congo.⁵

However, few women who fall pregnant as a result of rape in conflict receive safe abortions, show reports by Human Rights Watch.^{6 7} And a study conducted between 2003 and 2006 in the Democratic Republic of the Congo found that the proportion of women raped in conflict who sought medical care within 72 hours of the attack ranged from 0.6% to 3.2%, rendering emergency contraceptive care, for most, impossible.⁸

In the absence of access to safe abortion, many women resort to unsafe methods. The



ROBIN HAMMOND/PANOS

World Health Organization has estimated that 21 million women undergo unsafe abortions each year—18.5 million of them in developing countries—resulting in 47 000 deaths and many more injuries.⁹ A 2012 Guttmacher Institute report said that the proportion of worldwide abortions that were unsafe rose from 44% to 49% in the 13 years to 2008.¹⁰ Although figures on unsafe abortions that result from rape in conflict are unreliable, because of under-reporting and women's lack of access to the police and medical services, a 2011 Ipas report pointed out that 25% to 30% of all maternal deaths among refugees from conflicts were related to unsafe abortion.¹¹ "For many women in conflict situations who want to terminate a pregnancy," the report read, "unsafe abortion is their only option."

Barbara Crane, a former senior policy adviser at USAID and current executive vice president at Ipas, said that the absence of abortion provision in humanitarian responses to conflict could be squarely attributed to US foreign aid policy. "The US, via USAID, is the biggest provider of humanitarian aid in the world," Crane told *The BMJ*. "There's no doubt that USAID's drive to evangelically implement Helms interferes with reproductive health work in conflict settings and leads to a shortage of necessary equipment and medicines."

Although officially USAID invests in post-abortion care programmes for the emergency treatment of unsafe abortions,¹² those programmes cannot function because the agency refuses to purchase essential medical equipment and drugs needed for post-abortion care, including manual vacuum aspiration (MVA) equipment and misoprostol, both of which can also be used to induce abortion. A paper by Ipas and

the Center For Reproductive Rights² highlighted chronic shortages of MVA and misoprostol in US funded programmes and pointed to a 2007 USAID training memo that explicitly stated, "It is USAID's policy that the Agency does not finance the purchase or distribution of MVA equipment for any purpose, in order to avoid any appearance of supporting abortion activities."¹³

Logistical hurdles for agencies

Agencies working in reproductive health that do receive USAID funds are forced into costly logistical hurdles to separate these funds from those from other donors and from work in the areas of abortion counselling and provision. (These agencies include CARE USA, the International Center for Research on Women, the International Planned Parenthood Federation, Marie Stopes International, PATH, Pathfinder International, the Population Council, and Population Services International.)

"Given that USAID does not fund any safe abortion services, we completely separate our programmes that are USAID funded from any abortion related service provision," said James Harcourt, who leads the USAID partnership for Marie Stopes International. "We apply USAID in 13 countries of the 40 in which we operate, using the funds to scale up access to voluntary family planning services in those locations."

But faced with the hurdle of separating US aid from that of other donors, many organisations, Crane pointed out, are ultimately hamstrung into broad application of USAID's restrictive abortion policies. "Walling off funds only works for

large NGOs [non-governmental organisations]," Crane told *The BMJ*. "Smaller NGOs don't have the resources for fancy accounting, and they find they have to endure intrusive auditing to receive US aid. Their only option is to toe the USAID line."

The UK and EU position

In recent years Norway, Sweden, and the Netherlands have taken a stand, calling for an end to the draconian implementation of Helms. In 2011 Norway joined a coalition of human rights groups in calling on the US government to lift its "abortion ban on aid for women raped in war as a matter of compliance with the Geneva Conventions." Norway, through its aid programme Norad, allocates funds to non-governmental organisations working in reproductive health in developing countries that it earmarks for the provision of safe and decriminalised abortion.¹⁴

Meanwhile, other nations, including the world's top four aid donors after the US—the UK, France, Germany, and Japan—remain conspicuously silent on the issue.

In 2006, as a member of the European parliament for Wales, Glenys Kinnock was involved in the establishment of the Safe Abortion Action Fund. Funded by Norad, the UK Department for International Development (DfID), and the Dutch Ministry of Foreign Affairs, the fund was a response to the US government's restrictive Mexico City policy (box). Today Kinnock campaigns on the issue of reinterpretation of Helms from a UK and European Union perspective.

"The Helms Amendment restricts the spending of US overseas aid on abortion provision or counselling"

"The UK government is severely compromised by the fact that DfID's partner of choice in conflict situations, the International Committee of the Red Cross, is heavily dependent on USAID," she told *The BMJ*. "This means that DfID is stymied by US government policies it doesn't support and which allow for a situation where lifesaving abortion is being denied, even to very young girls raped in conflict." Between 2009-10 and 2011-12 DfID provided £176m to the Red Cross, and provisional figures indicate that it provided £22m to the charity in 2012-13.

The department's Julia Smith did not respond to questions about the Helms Amendment. Instead she told *The BMJ*, "DfID's policy on abortion is clear: in countries where abortion is permitted we can support programmes that make safe abortion more accessible." This stance exasperates Kinnock: "So, a 15 year old raped in conflict should bear a child because abortion is illegal under DRC [Democratic Republic of Congo] law? No. Under the Geneva Convention women in conflict deserve



PETE MULLER/APPA

Congolese soldiers (in green uniforms) after receiving their sentences in a mass rape trial in the Democratic Republic of Congo in February, 2011

Down Mexico way

First announced by the Reagan administration in Mexico City in 1984, the Mexico City policy or global gag rule is an intermittent US government policy that goes further than the Helms Amendment in its proscription against the activities of recipients of US aid grants. It requires all bodies that receive US aid funding to refrain from performing or promoting abortion services as a method of family planning with non-US government funds even when these services are not paid for with US funds. The bill was rescinded by Bill Clinton on 22 January 1993, restored by George W Bush on 22 January 2001, and rescinded again by Barack Obama on 23 January 2009, his third day in office. Obama said at the time, “For too long, international family planning assistance has been used as a political wedge issue, the subject of a back and forth debate that has served only to divide us.”



At the pleasure of the president: clockwise, Ronald Reagan, Bill Clinton, Barack Obama, George W Bush

‘appropriate medical care,’ and this should extend to abortion in the case of rape.”

There are signs that the DfID is changing its stance on Helms. In a June 2012 report an updated paragraph read, “It is the UK’s view that in situations of armed conflict or occupation where denial of abortion threatens the woman’s or girl’s life or causes unbearable suffering, international humanitarian law principles may justify offering a safe abortion rather than perpetuating what amounts to inhumane treatment in the form of an act of cruel treatment or torture.”¹⁵

However, the EU and UK positions on Helms are under pressure from agencies campaigning to bring EU policy in line with the current US aid restrictions. In 2013 a European citizens’ initiative backed by Catholic pro-life groups gathered 1.9 million signatures across the EU, forcing a review of EU policy on funding of “any activities that involve the destruction of the human embryo.” But in May 2014 the European Commission announced that no further action would be taken on the initiative.¹⁶

Call for clear guidance

Of course, the US is the necessary author of any change to current humanitarian aid provision around abortion, and there the debate is more divisive. Members of Congress, aid workers, and faith groups have joined the call for Helms to be clarified or repealed, and a Twitter campaign (#HelmsHurts) surpassed 100 000 tweets in June 2014. At the same time pro-life groups led by the Republican congressman Chris Smith are calling for a reinstatement of the more restrictive Mexico City gag rule (box). This is a notorious bill that requires all non-governmental organisations

that receive any US aid funding to refrain from performing or promoting abortion services as a method of family planning with non-US government funds even where these services are not funded by US aid.

Asked about the prospect of the US government responding to the key requirements of the paper by Ipas and the Centre for Reproductive Rights—that the US government clarify that abortion related funding is permitted in the case of rape, incest, and danger to the mother and for clear and detailed guidance to grant recipients to this effect—Crane rated the chances at “around 50:50.” She added, “Although, if the Republicans take the Senate at the upcoming midterms, all bets are off.”

Asked about the likelihood of any change to the current implementation of Helms, USAID told *The BMJ* that no review was currently planned, but it said, “The United States government periodically reviews our policies to ensure maximum effectiveness in improving the health and status of women and girls, while maintaining consistency with US law, including the Helms Amendment.” USAID continued, “The United States is committed to saving women’s lives and advancing their health by investing in voluntary family planning and sexual and reproductive health programs.”

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