

The decade-long campaign to change Australia's 'Global Gag Rule'

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The Pacific and Southeast Asia region includes some of the most remote areas on Earth, with tiny islands and highly diverse populations. These are interesting and wonderful places – places that matter – but they are forgotten by most of the world.

For example, Timor Leste is one of the newest nations in the world (it was ten years old in August). It is a tiny, fragile state with little infrastructure and great challenges. Forty-five percent of its population is under the age of 15, and maternal mortality has doubled in recent years. But the world does not know this. According to UNFPA estimates, the birth rate in Timor Leste is 6.48 children per woman – the highest in the Pacific region and second highest in Asia. At maternal health clinics I have visited in Timor Leste, many women had eight or nine children, and some had as many as 24. A midwife told me that a few women used contraception after they had eight to ten children, but not before. Restrictive laws in the mainly Catholic country mean women cannot request elective abortion for any reason, including preserving their health or saving their lives. Also, "Forty per cent of all emergency obstetric care was managing and treating complications from early pregnancy losses, and doctors and midwives continued to be reluctant to speak with women about induced abortion."

Australia's aid programme – AusAID – is the largest donor of development aid in the Pacific and one of largest in Southeast Asia. Therefore, what the Australian government does matters, particularly in places like Timor Leste. So the fact that AusAID's Family Planning Guidelines mirrored the US Global Gag Rule is disturbing. The Guidelines have limited Australia's aid program and contributed to the deaths of thousands of women and their children in our region.

While the Guiding principles of the policy said that Australian funds can provide medical treatment support and counselling to women suffering from complications resulting from an unsafe abortion, this is the case only after an unsafe abortion occurs. According to a former Chair of the Parliamentary Group and a doctor of medicine: "Saving a woman after an abortion is all very well, but how much better to prevent the unsafe abortion to begin with, let alone provide family planning information, education and supplies." And of course if you 'saved' a woman from the physical complications of an illegal, unsafe abortion, there remain serious legal and social ramifications and consequences.

It took more than a decade to overturn the regulations, and success came only last week. There were many difficulties, false hopes and much disillusionment, but tenacity, a bit of brinkmanship and daring led to their abolition. The Australian Parliamentary Group on Population and Development along with the Australian Reproductive Health Alliance, of which I am CEO, led the campaign. The story of the campaign is important and achieving support within the community and government was complex and challenging. It proves the need for, and power of, strategic advocacy in our sector and an informed, committed and activist Parliamentary Group.

The story of the campaign

In a cynical move to achieve the support of a fundamentalist Christian Senator who held the balance of power in the Australian Parliament's upper house, (legislation must successfully pass the Senate for it to be enacted); support for the privatization of the national telephone company, two pernicious policy and legislative changes were put in place.

One meant that medical abortion could not be provided in Australia despite the fact that surgical abortion was not only available but for most women legally and affordably available. This prohibition was overturned in a historic move by four women from the major political parties. These four women Parliamentarians, from the Australian Labor Party, The Australian Democrats, The Nationals and the Liberal Party came together despite their party political differences, to jointly allow the abortifacient RU486 (or mifepristone) to be used under medical supervision in Australia, putting us in line with other nations as diverse as the US, Russia, China, South Africa and most of Europe including Italy.

The second was the insertion of the 'AusAID Family Planning Guidelines' into Australian aid policy in 1996. The Guidelines prevented the full range of family planning services, education and information going to aid recipients in our region. The wording of the Guidelines may not be immediately disturbing: "Australian aid funds are not available for activities that involve abortion training or services, or research trials or activities which directly involve abortion drugs." But it has had both direct and indirect effects.

1. The direct effect is that funding is NOT available for activities that involve abortion training or services, or research trials or activities which directly involve abortion drugs. This not only affects the intended target (i.e. abortion), but other services as well. For example, one agency had to argue long, hard and in writing to include vacuum aspirators in a project on maternal health. They are commonly used to 'clean up' after child birth, and are, by all measurements, an essential procedure. The concern was that they might be able to be used to procure abortion, not just clean up after birth.
2. The indirect effect is that the Guidelines created an atmosphere of fear or led to self-censorship. Agencies felt they could not press for funding for family planning services if there was a chance their work could be interpreted as supporting abortion – even education about safe abortion and even in those countries where abortion is legal. Additionally, the onerous accountabilities, detailed on the family planning check list, put too much strain on limited resources and capacity.

Given that in our region 13–45% of maternal deaths are due to unsafe abortion, this response is unrealistic, inhumane and counter-productive. The result of the policy was, indeed, far reaching. During the decade it was in force, general family planning funding from Australia to the Pacific and Southeast Asia region decreased by 84%. This information was revealed because of the work of members of the Australian Parliamentary Group on Population and Development (PGPD).

Gathering data about the impact of the Guidelines was difficult, not just because of the reluctance of the then-government, but because sexual and reproductive health and family planning funding was often hidden in other AusAID budgets. On the one hand, the lack of clarity access to the data made it more difficult for those who wished to protest about expenditure on family planning; but it also invited the argument that family

planning funding was unnecessary since our aid programme appeared effective even without such expenditure.

The policy was not legislative in nature, which meant that no debate was required in Parliament, and thus the issue did not get a public hearing, and there was very little reportage. Essentially, it was all bit covert. What turned out to be a key piece of evidence in the fight against the Guidelines, however, was a roundtable convened by the Australian Reproductive Health Alliance and hosted by the Parliamentary Group on Population and Development on 'Sexual and Reproductive Health and Millennium Development Goals in the Australian Aid programme the Way Forward'. The report of this meeting was a little green booklet ... but it earned its weight in gold as it was used again and again to brief bureaucrats, Parliamentarians and other agencies.

The key recommendations will not surprise you:

- abolish the AusAID Family Planning Guidelines;
- enhance integration of sexual and reproductive health and HIV/AIDS; and
- strengthen systems support for sexual and reproductive health.

A long battle

But these recommendations were not enough to abolish the Guidelines. The government went through a number changes, including, at one point, giving control of our issue to a single Senator from a party called Family First, which is conservative, fundamentalist Christian and pro-life. His support was needed for any bill to get through and while the Guidelines did not come before the Parliament in any formal way, the Government was loathe to alienate this Senator, fearing they may have to trade off the Family Planning Guidelines for his support on other legislation. This was similar to what had happened more than a decade before when the Guidelines were created. Once again, a conservative Christian Australian Parliamentarian held hostage the reproductive health of women in our region.

Eventually, the Australian Reproductive Health Alliance and the Parliamentary Group produced advocacy packs and distributed them to parliamentarians, to international and national stakeholders and like-minded organisations. We briefed journalists and commentators as well; but everyone was too afraid to act openly for fear of making the situation worse. This is a common dilemma for those of us trying to decriminalize abortion or legalize condoms or get governments to support family planning.

When the Prime Minister took a leading role in the high-level conference on the MDGs at the UN in New York, we at last had a public hook we could hang our advocacy upon. We sent email letters to all international organizations and the Parliamentary Groups to make the case for the removal of the Guidelines as fundamental for the achievement of the MDGs. Similar letters were also sent to women's groups, human rights groups, health-related organizations, nurses' and doctors' representatives and unions in Australia, to encourage the Prime Minister to announce the removal of the Guidelines when he spoke at the United Nations. Letters to the editor were sent to the nation's newspapers: country, regional and metropolitan.

But despite the excellent contributions of Jeffrey Sachs on the MDGs and the internationally positive coverage of him and our issues, our Guidelines remained, and the window of opportunity presented by the meeting was firmly closed.

The members of the majority party in the Government, the Australian Labor Party, had agreed to work covertly on the issue so as not to inflame protest. However, without overt external pressure, those who could make the decision to remove the Guidelines seemed to feel safe in doing nothing. And because of the oft-touted, informal advice that the Minister would not be pushed and that in fact any public campaign would work against the removal, entrenching the Minister's caution and entrenching the Guidelines, the issue was largely out of the public gaze.

This made things very difficult, and presented real difficulties in the organization's relationship with its stakeholders and the rest of the sector. We could be seen to do nothing and activists were getting more and more frustrated.

Success at last

Time passed, and after women's day in March 2009, the Minister put out a media statement saying the Guidelines would change, that Australia's overseas development assistance program would 'support the same range of family planning services for women in developing countries as are supported for women in Australia, subject to the national laws of the relevant nation concerned.'

We sent out congratulatory media releases.... but the Guidelines remained, apparently part of AusAID aid policy, featuring on its website. Enquiries to both AusAID and the Minister's office elicited suggestions that the matter was waiting resolution in the other's office. There had been predictable attacks from senators aligned to the Right to Life (or 'Cherish Life' as it is now called). For example, Senator Boswell said the policy change could take aid funds away from programmes for maternal and child welfare, food and clean water. But beyond his cries, there had been no great opposition to the March announcements. However, the Guidelines remained.

Finally, I sought legal advice about international conventions to which the government was signatory that were being breached by the existence of the Guidelines, and the potential for taking the issue to the Hague. Last week, on Monday, six months after the announcement that the Guidelines were going, I let senior people in the government know I had sought such advice. I explained that I was going to be at important meetings in Europe and in Bangkok on the MDGs, ICPD and sexual and reproductive health and that I would be speaking on this issue. In summary, the Human Rights Law Resource Centre advised that the Guidelines constitute discrimination against women and therefore contravene Australia's legal obligations under international human rights law.

Human rights treaties, including the International Covenant on Economic, Social and Cultural Rights ('ICESCR') and the Convention on the Elimination of All Forms of Discrimination Against Women ('CEDAW') require the provision of development assistance and provide that such assistance must promote the equal enjoyment of human rights between men and women. By prohibiting funding for safe and legal reproductive health services that have been recognized as core components of the right to health, the Guidelines fall short of human rights standards. I explained that for a nation known to be keen to win a place on the Security Council these breaches would not look good and that international women's groups, population and development groups and sexual and reproductive health funders and advocates would be askance and active.

Late the next night, new Guidelines were signed by the Minister. They refer to Australia's commitment to the ICPD's goals of 'achieving universal access to family planning by 2015', and 'support the same range of family planning services for women in developing countries as are supported for women in Australia, subject to the national laws of the relevant nation concerned'. The Guidelines place a gestational term limit on abortion of up to 20 weeks, which is higher than in some parts of Australia. The Guidelines were ostensibly drafted back in March. In addition, funding for family planning will be identified with the insertion of the OECD DAC code 13030 Family Planning (Family planning services including counselling; information, education and communication (IEC) activities; delivery of contraceptives; capacity building and training).

Work with parliamentarians is essential

While many partners and supporters were essential to this success, the Alliance and the Parliamentary Group led the campaign and did the great bulk of the work. We need more parliamentarians who understand the implications of poor sexual and reproductive health. We need male and female parliamentarians. In 2008 the Centre for Democratic Institutions research indicated that in the Pacific, if you exclude the French and US Territories, only 4% of parliamentarians are women. In Australia it is almost 30%. Six Pacific nations have no women in their parliaments (Micronesia, Nauru, Northern Mariana Island, Palau, Solomon Islands and Tuvalu), and Papua New Guinea has only one.

Parliamentary Groups on Population and Development should be established in the Pacific nations. We are working with the newly formed Papua New Guinea Parliamentary Group, are working to establish one in Timor Leste, and hope to be able to do so in other Pacific nations and in Bougainville in future.

In our region, without the Parliamentary Group on Population and Development, the pernicious Family Planning Guidelines which mirrored the global gag rule and contributed to the deaths of thousands of women and their children in our region, might still be in force.

The presentation summarized here can be accessed at <http://www.eurongos.org/Default.aspx?ID=18832>.