

Testimony of Bishop James T. McHugh
before the
House Appropriations Subcommittee on Foreign Operations

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I am Bishop James T. McHugh, an auxiliary bishop of the Roman Catholic Archdiocese of Newark. I am a member of the Committee for Pro-Life Activities of the National Conference of Catholic Bishops, and it is on behalf of this Committee that I appear before you today to discuss abortion-related issues in the United States foreign assistance program. In the name of our chairman, Cardinal Joseph Bernardin, and the other members of our Committee, I want to thank you for allowing us to present this testimony.

In the area of foreign assistance, the most significant policy initiative on abortion taken by the United States in the last five years is commonly known as the "Mexico City" policy. It forbids United States support of national family planning programs and of non-governmental organizations which perform or promote abortion as a method of family planning in developing nations. Opponents have misrepresented this policy as a radical innovation by the Reagan Administration, as an imposition on developing nations, and as a thinly veiled attack on population programs generally. Briefly I would like to present some reasons why each of these charges is false.

First, the Mexico City policy is not radically new. It is similar to the abortion restriction in the Title X Family

Planning Act of 1970, which ensures that no domestic family planning funds are used "in programs where abortion is a method of family planning" (42 USC 300 a-6). It also has its roots in the Helms amendment of 1973, which remains a permanent provision of the Foreign Assistance Act (22 USC 2151b(f)(1)). Senator Helms offered this provision after learning that the U.S. Agency for International Development was subsidizing abortion programs in developing nations and even paying physicians from these nations to come to the United States for training in abortion techniques. The Helms amendment as originally worded would have prevented U.S. funds from being used "in any manner, directly or indirectly, to pay for abortions, abortifacient drugs or devices, the promotion of the practice of abortion, or the support of research designed to develop methods of abortion."

The administrator of U.S.A.I.D. opposed this measure, arguing among other things that "U.N. declarations have stated that termination of unwanted pregnancies is the single most important means of fertility control worldwide." In point of fact it has never been the stated policy of the United Nations to encourage abortion as a method of family planning. In conversations with United Nations personnel, I have repeatedly been assured that the promotion of abortion is not a goal of their family planning activity.

Notwithstanding A.I.D.'s opposition, the amendment was approved by the Senate unanimously. The House version of the bill contained no provision on this issue, and a conference committee agreed on the following language:

None of the funds made available to carry out this part shall be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions.

Senator Helms accepted this language, which has remained in law for the past 15 years, with the understanding that it would be broadly applied to prohibit funding of "associated equipment and necessities" for abortion and of "programs which offer abortion counseling" (Cong. Record, Dec 5, 1973, page S21912).

But in the intervening years this provision has been interpreted narrowly at the administrative level, thereby allowing U.S. subsidies to organizations promoting abortion so long as the organization distinguishes between U.S. funds and the funds directly used to perform abortions. This paper separation has been of little real significance, because the organizations in question clearly promote abortion as an integral part of family planning--even in developing nations where abortion is against the law.

Donald Warwick, an Institute Fellow at the Harvard Institute for International Development, described this phenomenon in 1980 in the Hastings Center Report. Dr. Warwick found numerous abortion-related initiatives by organizations receiving United States funds, and concluded that the International Planned Parenthood Federation (IPPF) is "the most outspoken advocate of legal abortion services in the developing countries."¹ Dr. Warwick reported that IPPF had distributed abortion equipment in

¹ Donald P. Warwick, "Foreign Aid for Abortion," Hastings Center Report, Volume 10, No. 2 (April 1980), 30-37 at 33.

Bangladesh, Korea, Singapore, Hong Kong, Thailand, Vietnam, India, and even in the Philippines, "where abortion is both illegal and explicitly against official population policy." In a follow-up report Dr. Warwick cited IPPF documents showing that the organization is officially committed to legalizing elective abortion in developing nations wherever feasible. Abortion programs were also discovered among the activities of the Pathfinder Fund, the Population Crisis Committee, and other organizations receiving United States funds. Such organizations have used foreign assistance funds to gain entry to developing nations, win the trust of their governments, and subsidize an overall network of family planning services, and have then used other funds to integrate abortion into this network. IPPF has even distributed policy recommendations to affiliates stating that in this context "action outside the law, and even in violation of it, is part of the process of stimulating change."²

The United States has been slow in responding to this problem. But in 1984 a position paper was drafted by the White House and the National Security Council for use at the United Nations' International Conference on Population in Mexico City. This paper declared that the United States "does not consider abortion an acceptable element of family planning programs and will no longer contribute to those of which it is a part." In this way the Administration sought to enforce more effectively

² "IPPF and Foreign Aid for Abortion," Hastings Center Report, Volume 10, No. 5 (October 1980), 49; "Report of the Working Group on the Promotion of Family Planning as a Basic Human Right," International Planned Parenthood Federation, November 1983.

the congressional ban on foreign assistance for abortion, in parallel with the longstanding statutory ban on funding domestic family planning programs "where abortion is a method of family planning." The new statement was praised by the National Conference of Catholic Bishops/United States Catholic Conference, and by others who oppose use of abortion as a birth control method; it was also roundly criticized by abortion proponents, most strongly by organizations such as Planned Parenthood which could lose U.S. funding under the policy.

Particularly instructive, however, was the sequence of events at the Mexico City conference itself in August of 1984. This relates to the second charge against the Mexico City policy--the accusation that it is an unwanted intrusion by the United States into the population policies of developing nations. Former Senator James L. Buckley, chairman of the United States delegation, announced the U.S. policy in his statement to the Plenary Assembly. At the same time, the Committee responsible for preparing the final Conference Document discussed and adopted an amendment proposed by the delegation of the Holy See, on which I served. As originally worded the amendment stated that "in population programs, abortion should be excluded as a method of birth control." This proposal received considerable discussion and support. The strongest objections came from the People's Republic of China, whose national program has made use of coerced abortion. Strong support for the proposal came from delegates from both developed nations (including Norway, France, Italy and the Federal Republic of Germany) and developing nations, who said

the amendment was totally consistent with their own nations' policies and goals. Ultimately a firm majority of the delegations reached a consensus in favor of an amended version of the proposal that urged governments to "take appropriate steps to help women avoid abortion, which in no case should be promoted as a method of family planning." The United States delegation supported this wording, and added a further amendment stating that governments should, "wherever possible, provide for the humane treatment and counseling of women who have had recourse to abortion."

Thus, far from being perceived as an imposition on developing nations, the United States policy against funding abortion activity has been greeted by those nations as a welcome reform. The vast majority of these countries have legal policies against abortion, and virtually all forbid the use of abortion as merely another birth control method.³ It is the opposite policy--the promotion of permissive abortion attitudes--that is more likely to cause resentment, especially when it is perceived as a means by which the West is attempting to impose population policies and fertility control programs on developing nations as conditions for development assistance.

³ "Although legal abortions are available in 142 of 165 countries when the mother's health is in danger, in only 5 of 126 less developed nations (Tunisia, Cuba, China, Singapore and India) is abortion available on demand and in only 8 is abortion authorized for socio-economic reasons." Concise Report on The World Population Situation in 1983, Department of International Economic and Social Affairs, United Nations (Population Studies No. 85)(New York 1984).

A case in point is the Philippines, where during the Marcos regime Planned Parenthood's distribution of abortion equipment to health professionals was illegal but unofficially tolerated. With the change of government and the approval of a new constitution in 1987 the people of the Philippines gave new constitutional protection to the lives of unborn children, and deleted a provision of the 1973 constitution that had made population control a national priority. The chair of the constitutional drafting commission, former Supreme Court Justice Cecilia Munoz-Palma, said the commission deleted this provision because "those family planning programs pushed by Marcos and supported by First World countries did not solve the social and economic problems of our nation."⁴ In this and in other developing nations with rising national aspirations, especially but not exclusively in those with large Catholic populations, it is the promotion of population control and the funding of abortion programs by the West that many see as an imposition. Thus A.I.D. noted in 1985 that "a principal purpose of the (Mexico City) policy is to avoid the hostility to the U.S. resulting from U.S. identification with abortion" (A.I.D. "Population Assistance Fact Sheet," May 1985).

The final accusation against the Mexico City policy is that it has had destructive effects on family planning programs generally. In fact the funds given earlier to IPPF have simply

⁴ See "Panel Proposes Anti-Abortion Clause in New Philippine Constitution," National Catholic News Service, October 13, 1986; "Philippine Cardinals Take Different Approaches to Constitution Vote," Id., December 22, 1986.

been rerouted to organizations willing to focus their efforts on family planning instead of abortion, including Planned Parenthood's own Latin American affiliate, Planned Parenthood/Western Hemisphere. The majority of nations report progress in their own population policies and family planning programs, and while new initiatives are discussed to provide wider access to family planning, I have never heard the absence of funding for abortion portrayed as a problem by the representatives of these nations. Quite the contrary: Developing nations place far greater emphasis on the need for expanded development assistance, including technology and the resolution of the international debt crisis, all of which would increase their own capacities to provide food, health care, employment opportunities and education for their people.

The New York Times reported on February 27 that the "dramatic rise in unwanted births and unsafe abortions" predicted by opponents of the Mexico City policy cannot be documented. Proponents of abortion programs did claim that because of the Mexico City policy, family planning clinics in developing nations have been reluctant to treat complications following unsafe abortions. Considering that it was the U.S. delegation at the Mexico City conference that proposed an amendment calling for humane treatment of such complications, these charges should be viewed critically. In neither domestic nor foreign programs has any federal prohibition on funding of abortion ever been interpreted as barring medical treatment of complications following an abortion. Perhaps these false charges should alert

American policymakers and government officials to the need for clearly stating American policy and correcting the misinformation that is apparently being disseminated by organizations with a contrary self-interest.

The recent advertising campaign by Planned Parenthood, accusing the Mexico City policy of leading to an increase in unsafe illegal abortions in developing nations, prompts some observations on the phenomena of legal and illegal abortion:

(1) If illegal abortions have increased in some developing nations in recent years, some of this increase might well be attributed to groups like IPPF which have distributed abortion equipment and conducted abortion training in countries where abortion is illegal. Consequently it would be irrational to restore funding to such groups in the belief that this will somehow reduce illegal abortions.

(2) As a general rule, promoting abortion as a method of family planning does not simply replace unsafe abortions with procedures that are safer for women. It increases the total number of abortions, and this increased total number can interfere with reduction of maternal deaths through improved health care. In the United States, for example, the most dramatic decreases in abortion-related maternal mortality occurred prior to legalization; after the Supreme Court legalized abortion nationwide in 1973, abortion-related maternal deaths leveled off and have risen again in some years.⁵ Some

⁵ See: Hilgers and O'Hare, "Abortion-Related Maternal Mortality: An In-Depth Analysis," in Hilgers, Horan and Mall (eds.), New Perspectives in Human Abortion (University Publications of

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researchers estimate that legalization has increased the total number of abortions six- to eleven-fold. Such estimates should be taken into account when the claim is made that legalization renders each abortion safer for the pregnant woman.⁶

(3) Congressional supporters of family planning legislation have stated that such legislation is intended to reduce abortions, and have expressed concern that "the prevalence of abortion as a substitute or a back-up for contraceptive methods can reduce the effectiveness of family planning programs" (Cong. Record, November 16, 1970, at 37375). Reliance on easily accessible abortion may actually lead to an increase in unplanned pregnancies, by allowing abortion to replace preventive methods.⁷ If the goal of a family planning program is to allow

 America 1981), 69-91; J. Legge, Abortion Policy: An Evaluation of the Consequences for Maternal and Infant Health (1985), 150 and 154-5; U.S. Centers for Disease Control, 35 CDC Surveillance Summaries 955 (1986). Planned Parenthood's own research arm has stated that "reported rates of abortion mortality are more closely associated with the availability of modern methods of contraception (including surgical sterilization), with the general level of health services and with the adequacy of the registration system than with the legal status of abortion or the presumed incidence of illegal abortions performed by untrained operators." Tietze and Henshaw, Induced Abortion: A World Review 1986 (Alan Guttmacher Institute 1986), 127.

⁶ Syska, Hilgers and O'Hare, "An Objective Model for Estimating Criminal Abortions and Its Implications for Public Policy," in New Perspectives in Human Abortion, supra, 164-181.

⁷ In 1970, the possibility that abortion availability could undermine the prevention of unplanned pregnancies was explored in Daniel Callahan, Abortion: Law, Choice and Morality, Chapter 7 (MacMillan: New York 1970). More recent analyses include: Kristin Luker, Taking Chances: Abortion and the Decision Not to Contracept, Chapter 1 (University of California: Berkeley, 1975) ("California women seem to be making a de facto choice of abortion as a method of fertility control"); Richard Sherlock, "The Demographic Argument for Liberal Abortion Policies: Analysis of a Pseudo-Issue," in New Perspectives on Human Abortion, supra,

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families the opportunity to choose when to conceive a child, abortion is not only irrelevant but counter-productive even on pragmatic grounds.

Organizations opposed to the Mexico City policy have ignored these realities. There is no reason to believe that restoration of U.S. funding to groups such as IPPF would prevent illegal abortions or serve women's lives and health in developing nations. On the contrary: To subsidize programs treating abortion as birth control will further denigrate human life and promote the destruction of life as a solution to individual and social problems. Organizations promoting abortion for such purposes offend against a conviction shared by the member nations of the United Nations, especially the vast majority of developing nations: i.e., it is not humane "family planning" to destroy a developing member of the human family, even before birth.

Proposals for overturning or weakening current U.S. policy have taken various forms. Most of these have avoided use of the word "abortion" but this should not blind anyone to their intent.

Realizing that bilateral agreements make it difficult or impossible for the United States to withhold funds from nations when they use some of their own funds for abortion, opponents of the Mexico City policy have proposed that groups like IPPF be given the same rights in this context as though they were

at 450-465, especially 456-460; and Jacqueline R. Kasun, "Cutoff of Abortion Funds Doesn't Deliver Welfare Babies," The Wall Street Journal, December 30, 1986 (suggesting that a cutoff of public funding for abortion in Ohio and Georgia led more people to "take steps to reduce conceptions").

sovereign nations. A more recent approach, reflected in H.R. 720 and H.R. 1078, is to allow no restrictions on the foreign aid program that may be inconsistent with the United States' constitutional right of privacy or more restrictive than current limits on the domestic Title X family planning program.

Such proposals would treat developing nations with policies against abortion as though they fell under the U.S. Supreme Court's interpretations of the "right of privacy" found in Roe v. Wade and Doe v. Bolton. The constitution of the Philippines, for example, guarantees that "the state shall equally protect the life of the mother and the life of the unborn from conception." But under H.R. 720 and H.R. 1078, organizations receiving U.S. funds would be authorized to ignore these policies and instead to act as though all developing nations have made abortion a fundamental right. Nothing could more clearly display contempt for the national sovereignty of developing nations or for the social and legal policies through which they are striving to preserve traditional protections for unborn human life. Proposals of this kind do not deserve the support of Congress.

In light of recent campaigns to promote abortifacient drugs such as RU-486 as instruments of population control, organizations receiving U.S. funds should also be scrutinized to ensure that their family planning programs exclude chemical as well as surgical abortion methods.

As I have argued above, a strong consensus among the members of the United Nations and especially among developing nations supports the United States' efforts to exclude abortion from all

family planning programs. A consensus of even longer standing condemns programs of coerced abortion and involuntary sterilization as crimes against humanity.⁸ Yet mandatory restrictions on the number of children allowed in each family, enforced through coercive use of abortion and sterilization, persist in some nations. The Kemp-Kasten amendment which was first enacted in 1985 is a modest and reasonable effort to discourage such human rights violations through denial of support to organizations involved in or supportive of coercive population programs. This provision should be retained through Fiscal Year 1990 without weakening amendments. It allows the President of the United States to conduct an ongoing determination as to which organizations are in violation of the policy, so that U.S. funding can respond effectively to reforms in such organizations' policies and practices. We urge Congress not to earmark U.S. funds to any organization that has been found to violate the Kemp-Kasten amendment.

Thank you for your consideration. I would be happy to respond to any questions.

⁸ See Trials of War Criminals before the Nuernberg Military Tribunals Under Control Council Law No. 10, Nuernberg, October 1946-April 1949 (U.S. Government Printing Office), Volume IV, at 1076-1100. Defendants Hofmann and Hildebrandt were convicted of crimes against humanity for their supervision of a population program using coerced abortion.