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Reality Check: The Extreme Campaign Against the Hyde Amendment

Beginning in 1976, the Hyde amendment and similar measures have prevented the federal government from forcing pro-life Americans to support abortion with their tax dollars. Now the 44-year-long bipartisan consensus on this issue is under attack.

Pro-abortion groups are campaigning to rescind Hyde, and to make this policy reversal permanent through the so-called “EACH Woman” Act (Equal Access to Abortion Coverage in Health Insurance Act, S. 758/H.R. 1692). This extreme measure would require every federal health program to cover, and every federal health facility to provide, elective abortions. It would even nullify state and local policies against abortion coverage, rescinding the compromise policy agreed to by President Obama and congressional Democrats in the Affordable Care Act of 2010 (42 USC §18023).

This campaign uses claims developed by public relations strategists to overcome widespread public objections to publicly funded abortion. Here are those claims with a response.

Do Hyde and other abortion funding restrictions contradict the “right” to abortion the U.S. Supreme Court claimed to find in *Roe v. Wade*?

No, and the court itself has repeatedly said they do not. Even if there is a “right” to be free from undue government interference in the decision whether to have an abortion, that does not create an “entitlement” to active government subsidies for abortion. Upholding the Hyde amendment in 1980, the court cited its own 1977 statement that when government funds childbirth but not abortion, it “has imposed no restriction on access to abortions that was not already there.” *Harris v. McRae*, 448 U.S. 297, 314 (1980), citing *Maher v. Roe*, 432 U.S. 464, 474 (1977). By insisting that the alleged “right of privacy” demands *public* financing, abortion advocates depart from *Roe* – and they violate the right of others to freely choose *not* to promote and support abortion.

Does Hyde discriminate against women?

No, in federally funded health care it “discriminates” between live birth and abortion. In 1980 the Supreme Court said government has a perfectly legitimate reason to do so: “Abortion is inherently different from other medical procedures, because no other procedure involves the purposeful termination of a potential life.” *Harris*, 448 U.S. at 325. Later the court dropped the confusing phrase “potential life,” citing government’s legitimate interest in promoting “respect for *life*, including life of the unborn.” *Gonzales v. Carhart*, 550 U.S. 124, 158 (2007).

Does Hyde discriminate against the poor?

Not at all. The amendment covers all health programs funded through appropriations bills for the Departments of Labor, Health and Human Services, and Education – not only programs covering the poor. And Congress has enacted the same policy in programs for the military, federal employees, and others who are not poor. Moreover, low-income Americans have often been *more* likely than others to

oppose abortion.¹ This is also true of Americans who face other disadvantages, with 59% of those with a high school education or less holding that abortion is morally wrong – compared to 35% of college graduates.² As Grace Olivarez, the only Latina on the 1972 Rockefeller commission on population growth, said when she dissented from this presidential commission’s pro-abortion conclusions: “The poor cry out for justice and equality and we respond with legalized abortion.”³ *That* is discrimination against the poor.

Does Hyde discriminate against women of color, because they are disproportionately poor?

No, for the same reason that it does not discriminate against the poor. Nonwhite Americans, for example, say abortion is morally wrong by a margin of 46% to 45% (compared to a margin of 46% to 44% for whites).⁴ Yet people of color are especially targeted by the abortion industry, and the challenges they face are exploited by abortion advocates to promote public funding. *Without* federal funding of abortion, the abortion rate among non-Hispanic black women (abortions per 1000 women of reproductive age) is almost *four times* that of non-Hispanic white women; so is their abortion ratio (abortions per 1000 live births).⁵ It is the effort to increase this tragic disparity further, by promoting abortion in a population disproportionately made up of black Americans, that could be seen as racist. Hundreds of Planned Parenthood’s own supporters and current and former employees have said that “Planned Parenthood was founded by a racist, white woman” and remains guilty of systemic racism.⁶ Furthermore, Planned Parenthood operates the largest chain of abortion centers in the United States and disproportionately locates them in, or near, minority neighborhoods.⁷

Do restraints on abortion funding “force” poor women to carry their children to term?

Of course not. Even with public assistance for *some* costs of parenthood, anyone who equates the financial cost of an abortion with the lifetime expense and responsibility of raising a child is living in a fantasy land. Economic pressure makes many women consider abortion – and by funding abortion itself, government adds to that pressure, *doubling* the abortion rate among low-income women.⁸ Laws like Hyde, especially if combined with generous support for the needs of pregnant women and their children, help relieve that pressure, so many women who would have been driven to abortion allow their children to live.⁹ Hyde has an *influence* in *encouraging* childbirth over abortion – and the Supreme Court says that is a legitimate goal for government. *Harris*, 448 U.S. at 325.

Does Hyde endanger women by driving them to “unsafe” or illegal abortions?

This is an old and discredited claim. When Hyde took effect, pro-abortion doctors predicted it would lead to “excess mortality” among poor women – but follow-up studies instead found a *reduction* in abortion complications.¹⁰ The pro-abortion Guttmacher Institute’s own studies show that very few abortions are performed for any identifiable health reason.¹¹ The chief effect of abortion funding restrictions is to save unborn children’s lives. They may also help reduce unintended pregnancies.¹²

Do Hyde and similar laws “impose” some Americans’ views on others who disagree?

The opposite is true: Forcing taxpayers to fund abortions they find abhorrent imposes the abortion industry’s views on all of us. In fact many opinion surveys show strong majority opposition to public funding of abortion.¹³ Many abortion advocates now admit that abortion is the taking of a human life – yet they would force those who oppose abortion to promote what even *they* admit is killing.¹⁴ Nothing could be more intolerant. By contrast, laws like Hyde leave everyone, *including* those who want to pay for other people’s abortions, free to act on their own convictions.

Rescinding Hyde would even impose a pro-abortion-funding policy on states that have decided against it. Hyde allows states to choose whether or not to fund elective abortions with state taxes, and the people and elected representatives of 34 states have voluntarily chosen *not* to do so.¹⁵ Without the amendment, abortion would likely become just another basic service that *all* states must fund to be part of Medicaid.

Do such laws reflect one religious doctrine about life, contrary to the Constitution’s ban on an establishment of religion?

The Supreme Court has said no. Moral concern about abortion reaches far beyond any one religion, and these laws have the legitimate *secular* purpose of encouraging childbirth over abortion. The fact that some religions oppose abortion doesn’t change this. “That the Judaeo-Christian religions oppose stealing does not mean that a State or the Federal Government may not, consistent with the Establishment Clause, enact laws prohibiting larceny.” *Harris*, 448 U.S. at 319.

Abortion advocates claim that, “however we may feel about abortion,” we should not impose our views on others. But they do not hold themselves to this standard. How we feel about abortion – or rather, what we recognize it to be – is the whole issue. If abortion is a wrongful attack on life, as millions of American women and men believe, it is wrong to use government funds to promote it – and many times more wrong to force objecting taxpayers to be involved in this injustice. Hyde and similar laws do not fully protect the unborn; but they reduce the awful number of abortions, and protect all of us from being forced against our will to treat abortion as a positive good for women and society. As a recent in-depth survey of 217 Americans, including many with strongly “pro-choice” views, concluded: “None of the Americans we interviewed talked about abortion as a desirable good.... Americans do not uphold abortion as a happy event, or something they want more of.”¹⁶

Shouldn’t pro-life Americans be forced to pay taxes for abortion, just as people who object to a war still have to pay taxes for it?

Actually, when most Americans object to a war, the government finds that it needs to stop pursuing it, as in Vietnam. That is the case here: Most Americans – including millions of Americans who identify as “pro-choice” – object to use of their tax dollars for the war on innocent human life that is abortion.¹⁷ The war analogy is not meant sincerely by pro-abortion groups in any case, since Americans certainly have a right of conscientious objection against actually taking part in wartime killing – and these groups fiercely oppose recognizing that right for hospitals, doctors, and nurses who object to abortion.

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¹ L. Saad, “Majority of Americans Still Support Roe v. Wade Decision,” at *Gallup*, Jan. 22, 2013; <http://www.gallup.com/poll/160058/majority-americans-support-roe-wade-decision.aspx> (citing “low-income” Americans as among “the least ‘pro-choice’” in the country).

² Gallup News Service, *Gallup Poll Social Series: Values and Beliefs*, May 1-13, 2020; download available at <https://news.gallup.com/poll/312929/record-low-say-death-penalty-morally-acceptable.aspx>.

³ Separate Statement of Grace Olivarez, *Population and the American Future: The Report of The Commission on Population Growth and the American Future* (1972), http://www.population-security.org/rockefeller/018_separate_statements.htm.

⁴ See note 2 *supra*.

⁵ Centers for Disease Control and Prevention, *Abortion Surveillance – United States, 2016* (Nov. 29, 2019); <https://www.cdc.gov/mmwr/volumes/68/ss/ss6811a1.htm#suggestedcitation>.

⁶ Open Letter, “Save PPGNY,” June 18, 2020; <https://saveppgny.wordpress.com/>. Also see B. Lowry and J. Thomas, “Ex-KC area Planned Parenthood CEO exits after complaints of abusive behavior, racism,” *The Kansas City Star*, June 23, 2020; <https://www.kansascity.com/news/politics-government/article243732912.html>.

⁷ https://www.protectingblacklife.org/pp_targets/index.html; <https://thefederalist.com/2016/02/18/yes-planned-parenthood-targets-and-hurts-poor-black-women/>.

⁸ R. Jones et al., “Patterns in the Socioeconomic Characteristics of Women Obtaining Abortions in 2000-2001,” 34 (5) *Perspectives on Sexual and Reproductive Health* (Sept./Oct. 2002), 226-235 at 231; www.guttmacher.org/pubs/journals/3422602.pdf.

⁹ “Overall, I now estimate that the Hyde Amendment has saved a total of 2,409,311 lives since 1976.” M.J. New, “Addendum to Hyde @ 40: Analyzing the Impact of the Hyde Amendment,” Charlotte Lozier Institute, July 21, 2020; <https://lozierinstitute.org/addendum-to-hyde-40-analyzing-the-impact-of-the-hyde-amendment/>. This site also links to Dr. New’s more complete 2016 study, which cites over 20 peer-reviewed studies showing that such laws help prevent abortions. The estimate of lives saved takes into account the fact that some states use their state tax dollars to replace federal abortion funding.

¹⁰ R.M. Selik, W. Cates, and C.W. Tyler, “Effects of restricted public funding for legal abortions: a second look,” 71(1) *Am. J. Public Health* (Jan. 1981): 77–81, at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1619707/>. Abortion supporters publicly cited one Texas woman in particular as “a martyr to the Hyde Amendment” until it was found that the policy was not responsible for her death. R. Grauel and F. Murray, “Facts Don’t Back Link of Abortion Death in Texas to Fund Cutoff,” *Ob.Gyn. News*, December 1, 1977, at 1, 26.

¹¹ In surveys conducted in 1987 and 2004, “[s]even percent of women cited health concerns for themselves or possible problems affecting the health of the fetus as their most important reason” for having an abortion. L.B. Finer et al., “Reasons U.S. Women Have Abortions: Quantitative and Qualitative Perspectives,” 37(3) *Perspectives on Sexual and Reproductive Health* (Sept. 2005): 110–118 at 113; <https://www.guttmacher.org/sites/default/files/pdfs/pubs/psrh/full/3711005.pdf>.

¹² P.B. Levine, A.B. Trainor, and D.J. Zimmerman, “The effect of Medicaid abortion funding restrictions on abortions, pregnancies and births,” 15 (5) *J. Health Econ.* (Oct. 1996): 555-78; <https://ideas.repec.org/a/eee/jhecon/v15y1996i5p555-578.html>.

¹³ W. Saletan, “Abortion Funding Isn’t As Popular As Democrats Think,” *Slate*, June 12, 2019; <https://slate.com/news-and-politics/2019/06/joe-biden-hyde-amendment-democratic-support.html>.

¹⁴ M.E. Williams, “So what if abortion ends life?,” *Salon*, Jan. 23, 2013; http://www.salon.com/2013/01/23/so_what_if_abortion_ends_life/. Also see J. Schaeffer, “Abortion Provider: We Should Admit ‘It’s Violence, It’s a Person, It’s Killing’,” *Newsmax*, Nov. 2, 2015, <http://www.newsmax.com/Newsfront/abortion-providers-violence-killing/2015/11/02/id/700238/>.

¹⁵ Guttmacher Institute, “State Funding of Abortion Under Medicaid,” September 1, 2020; <https://www.guttmacher.org/print/state-policy/explore/state-funding-abortion-under-medicaid>.

¹⁶ T. Bruce, *How Americans Understand Abortion*, McGrath Institute for Church Life, University of Notre Dame (July 2020) at 54; download available at <https://churchlife-info.nd.edu/en-us/how-americans-understand-abortion-a-comprehensive-interview-study-of-abortion-attitudes-in-the-u.s.>

¹⁷ “Six in 10 Americans (60%)... oppose domestic taxpayer funding of abortion. This includes 89% of those who identify as pro-life, and 37% of those who identify as pro-choice.” Knights of Columbus, “Marist Poll: Americans’ Opinions on Abortion,” January 22, 2020; <http://www.kofc.org/en/news/polls.html#/>.