

Briefing note: State Department Update to the Global Gag Rule

March 28, 2019

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## Background

On Tuesday, March 26<sup>th</sup>, US Secretary of State Mike Pompeo held a press conference announcing the US government's plans to ensure that US tax dollars are not used to fund abortion-related services in other countries. It signals changes to enforcement of the Global Gag Rule that will further harm organizations and movements we support. Much clarification is still needed, but there are some immediate actions for funders to consider.

Pompeo's full remarks: <https://www.state.gov/secretary/remarks/2019/03/290669.htm>.

To date, the State Department has not released any other details about this announcement, and our intel suggests they do not plan to.

### What we know so far:

**Subgranting:** One major reversal is the definition of 'financial support'. The major implication is around subgranting relationships, which will likely be where many OSF grantees will experience the most harm. Up until now, gagged organizations (aka organizations receiving US funds that are forced to comply with the Global Gag Rule) could still subgrant to ungagged organizations that engage in abortion-related work, as long as the funds they were using for subgranting came from non-US government sources (like OSF) and were not used for abortion-related activities. With this announcement, Pompeo made clear that they will defund any organizations that provides any financial support to groups engaged in abortion-related activities (which could be interpreted as services, referrals, and advocacy). This represents a reversal from the [US State Department's clarification](#) they issued after their 6 month review of the policy, and means that a new layer of organizations who do not receive funding from the US government, will now be bound by the policy.

The implications of this change are that organizations, donor governments, and funders, including OSF, will now find themselves bound by a US government policy, even if they do not accept any US government funding. Any money that flows through a gagged organization, regardless of the funding source and where the funding is headed, will now be gagged.

**Investigation:** This announcement also suggested that the US government plans to beef up proactive investigations into and enforcement of any potential violations of this policy, which means that organizations can expect that their partnerships, budgets, and activities will be closely monitored. It is unclear what strategies will be used to investigate, but there has been fear among many advocates that USAID and their proxies are sending "fake" patients to clinics to test whether or not groups are complying with the policy.

**The OAS:** The second part of Pompeo's announcement was to make clear that it will slash funds to "bodies" that lobby for abortion rights. It will immediately move to reduce funding to the Organization

of American States (OAS), which houses the Interamerican Commission on Human Rights (ICHR), emboldened by claims made by conservative Republicans late last year that the ICHR has been lobbying for abortion law reform, which would be a violation of the US' Siljander amendment. A number of civil society groups have strongly pushed back against this claim, and backed a civil society letter clarifying that the ICHR is not violating the Siljander amendment in its protection of reproductive rights.

### **Intelligence / outstanding questions:**

Grantees of ours in DC with connections to high-level government staff have learned that there appears not to be an intention to attempt to expand the Global Gag Rule to the Global Fund at this time, though of course Global Fund partners (and other multilateral institutions like UN WOMen) will be secondarily gagged in the manner described above. There is still concern among advocates that, given this administration's carelessness about global institutions and other donors, there could be future actions taken to directly tie this policy to multilateral contributions, however loosely tethered to law they might be.

### **Funder Actions for Consideration:**

#### **Information sharing:**

- Join funder webinar: in partnership with other funder networks and interested funders, join a briefing on the GGR, the implications of this recent expansion on foundations and grantees, and discuss potential joint actions. The webinar is scheduled for Wednesday, April 17<sup>th</sup> at 11 AM EST and is jointly hosted by FCAA, FRE, GPP, AJWS, OSF, and Global Fund for Women. [Register Online](#)
- Educate staff: Foundations should consider holding briefings for staff to discuss the potential implications for OSF funding and for the movements and organizations we support.

#### **Funder Advocacy:**

Our analysis is that there still may be opportunity for the White House and State Department to walk back this decision-- they can have their public moment about abortion, while privately agreeing not to drastically shift implementation. Because this policy will have profound implications for other funders, our recommendation actions are about mobilizing private funders and bilateral donor governments.

- Direct interventions: we recommend that heads of foundations, particularly those that fund global health, consider making immediate calls to the State Department and White House to express outrage at the gagging of private donor funds, and to focus on the terrible precedent this sets for donors enforcing policy beyond their grantees, and the harmful impacts it will have on health services.
- Donor government outreach: we recommend that foundations with relationships with bilateral donor governments encourage them to utilize state diplomacy to encourage the State

Department and White House to walk back implementation of this policy and to focus on the impacts on donor government cooperation and development assistance for health.