Neeri K. Rao. An Annotated Bibliography of Reproductive Rights Laws in India. A Master's Paper for the M.S. in L.S degree. November, 2010. 28 pages. Advisor: Scott Childs

This annotated bibliography contains primary and secondary sources of reproductive rights law in India, including statutes, case law, and scholarly books and articles published in India and abroad. The sources contained in this bibliography trace the development of Indian reproductive rights law over the last 40 years; however, new developments, such as the rise of reproductive outsourcing, are addressed. Because Indian courts and legal scholars frequently refer to foreign sources of law in areas where Indian laws are not fully developed, such as surrogacy law, an appendix of American legal sources which are relevant to Indian reproductive rights law is also included.

Headings:

Legal literature / Bibliography

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Abortion

AN ANNOTATED BIBLIOGRAPHY OF REPRODUCTIVE RIGHTS LAWS IN INDIA

by
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INTRODUCTION

The law of reproductive rights in India is rapidly evolving. While reproductive rights are often thought of in the West primarily in terms of access to birth control and abortion, India faces other challenges, such as the use of amniocentesis to determine the sex of the fetus, which is often used for sex-selective abortions.[1] Forced abortion is another issue in India which is rarely considered by courts or legislators in the West; this is often tied to the issue of sex-selective abortions, as there is often pressure from family members to abort a female fetus.[2]

Recently, surrogacy and other forms of reproductive medicine have become a problematic issue for Indian courts, as India has become a center for medical tourism, offering relatively inexpensive fertility treatments to wealthy clients from foreign countries.[3] Surrogacy and other forms of reproductive medicine, such as in-vitro fertilization, are largely unregulated; this makes India an appealing destination for medical tourists, as patients who might be considered "too old" for in-vitro fertilization treatments in their home countries would face no such restriction in India. However, the unregulated state of surrogacy in India may also present a danger to women who serve as surrogates, as they have no legal rights under Indian law.

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[1] Chandrasekhar, S. (1994). India's abortion experience. Denton, TX: University of North Texas Press
[2] Sen, G. & Snow, R., eds. (1994).Power and decision: The social control of reproduction. Boston, MA: Harvard University Press.
[3] Points, K. (2009). Commercial surrogacy and fertility tourism in India: the case of Baby Manji. Retrieved from http://www.duke.edu/web/kenanethics/CaseStudies/BabyManji.pdf on November 14, 2010.

Abortion has been legal in India since 1971, when the Medical Termination of Pregnancy Act was passed.[4] However, although abortion is theoretically available at government hospitals at no expense to the pregnant woman, in practice, women are frequently reluctant to go to these government-run facilities due to the quality of care, or lack thereof. Pressure from family members to produce more children (particularly male children) may also deter women from seeking abortions; however, families may also pressure pregnant women to have abortions, particularly if they are pregnant with a female fetus; thus, the incidence of forced or coerced abortions in India is also unfortunately high.[5]

I chose reproductive rights law in India as the topic of this bibliography because it is an area where the law is rapidly evolving, and I wanted to document both the history of reproductive rights law as well as the rapid changes in Indian law which reflect the pace of change in Indian society and reproductive technology. It seems almost impossible for the law to keep up with new forms of technology and economic conditions that have made India a center for outsourcing reproduction and fertility treatments; however, India has addressed emerging issues with draft legislation which promises to regulate the emerging industry of reproductive tourism without suppressing its economic growth.

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[4] The Medical Termination of Pregnancy Act, 1971 (Act No. 34 of 1971, http://www.maha-arogya.gov.in/actsrules/MTP-Act-1971.pdf , last visited on November 14, 2010).

[5] United Nations Department of Economic and Social Affairs, Population Division (2001). Abortion policies: A global review. New York, NY: United Nations.

METHODOLOGY

When I started researching this topic, I planned to rely mostly on the print resources available at the UNC Law Library, the Georgetown Law Library and the Law Library of Congress; however, I soon discovered that the most current materials are often available online, either through a database such as Manupatra, or on the websites of Indian courts, government agencies, or nongovernmental organizations, in India or elsewhere, which are concerned with reproductive rights in India.

I began the search process by searching the catalogs of the three libraries mentioned above using search terms such as "abortion", "birth control", "amniocentesis", or "surrogacy" in combination with the search term "India". I found numerous results in the library catalogs, but most of the books I found were outdated. Many of them were published in the 1970s or 1980s, and while they provided a good overview of the state of reproductive rights law in India at that time, I wanted to find more information about the current situation, particularly with respect to topics such as surrogacy, which were not addressed by materials published thirty or forty years ago. I considered excluding outdated materials from my bibliography, but ultimately I decided that including resources on the historical development of reproductive rights laws in India would shed some light on why certain laws are in place today in India.

Finding the print volumes I considered including in the bibliography took longer than expected. At the Georgetown Law Library, I found that some of the relevant books were at the Wolff Library, which focuses on international law, while others were at the Williams Library, which is the larger of Georgetown's two law libraries. The Law Library of Congress requires users to request materials which are not readily available on

the shelves, so I was unable to browse through the books I wanted to look at. It was hard to know whether the materials would turn out to be relevant based on the catalog entry, so I ended up looking at a lot of materials which turned out to be only marginally relevant to my topic; these were excluded from the bibliography.

Initially, I planned to restrict this bibliography to statutes, cases, and secondary sources from Indian jurisdictions; however, I found that Indian courts and legislators often rely on American sources of law, since the law of reproductive rights is more clearly established in the United States. Particularly with respect to areas of law that are rapidly changing, such as the law of surrogacy, the laws in the United States are more clearly established, and thus Indian courts and legislators often model their decisions and policies on foreign laws, since there is no Indian law to speak of. Additionally, secondary sources often refer to foreign statutes and cases if there is no Indian law to speak of. For these reasons, I decided to include an appendix of American legal sources which are relevant to Indian reproductive rights law.

In compiling this appendix, I chose to focus on the time period from 1965 to the present date. I chose this date range because it has been a period of enormous changes in reproductive rights law, both in India and the U.S.; correspondingly, there are more legal resources available for this time period than for earlier dates.

While compiling this appendix, I wanted to include both statutes and case law; however, I ended up with a large number of cases and few statutes. In the U.S., much of the legislation restricting abortion rights has been done at the state level, and these state laws have little impact on Indian laws in this area. However, Constitutional issues with these state laws are frequently dealt with by federal courts, and these decisions do

influence Indian law; thus, the large number of U.S. Supreme Court cases in this appendix.

I also wanted to make sure that the appendix contained resources addressing the fact that Federal restrictions on abortion affect not only U.S. citizens and residents, but also people in India and around the world who receive family planning services from nongovernmental organizations funded by the U.S. government. To that end, I included Executive Orders from President Obama and President Bush, demonstrating how U.S. policy regarding family planning and reproductive rights has flip-flopped depending on which political party has control of the White House.

I think the resources I found provide a good overview of influential cases and statutes which have been cited by Indian courts and legislators, as well as some insight into what we might be able to expect in the future. I included certain materials, such as a post from the White House blog explaining President Obama's reasons for signing an executive order rescinding the Mexico City Policy, which may not seem as relevant as some of the things I left out. However, I wanted to include that item because it gives some insight into future policies, such as reinstating U.S. funding for the U.N. Population Fund.

Although I left out some notable Supreme Court decisions, this was primarily because they have not been cited by Indian courts or legislators. I tried to choose decisions that clearly demonstrated the progression in the U.S. from enumerating a Constitutional right to privacy, to legalizing abortion, to placing further restrictions on abortion. In that sense, I think the materials I found were extremely helpful, as they show a clear progression from the Griswold case to the legislative restrictions in place today.

This provides a framework for the development of Indian reproductive rights law, in which many of these issues remain unsettled.

I mainly relied on GPOAccess to find the sources cited in this appendix, although I also used Google's U.S. government search, as well as Findlaw for Supreme Court cases. I focused on cases which have been cited by Indian courts or secondary sources of law, so I ended up including numerous U.S. Supreme Court cases. I excluded some cases, such as Gonzales v. Carhart, 550 U.S. 124 (2007), which upheld the Federal ban on partial birth abortions, mostly because they were not cited by the cases and other materials included in the main portion of my bibliography.

When searching for items in GPOAccess, I tried a number of search terms, such as "family planning", "abstinence education", and "reproductive rights", but those search terms were not as useful as a simple search for the word "abortion". That search term alone was enough to find the Executive Orders signed by Presidents Obama and Bush regarding the Mexico City Policy (A.K.A., the "global gag rule"). It was also a relatively straightforward process to find the relevant Federal statutes simply by searching for "abortion".

In addition to the numerous court cases I excluded from the appendix, I also excluded items that, while relevant, were quite similar to other documents I included. For example, President Clinton's 1993 Executive Order rescinding the Mexico City Policy essentially said the same thing as President Obama's 2009 Executive Order on the same subject. I thought it was unnecessary to include every Executive Order on that subject, so I included the two most recent orders.

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The Medical Termination of Pregnancy Act, 1971 (Act No. 34 of 1971, http://www.maha-arogya.gov.in/actsrules/MTP-Act-1971.pdf , last visited on November 14, 2010).

This statute, which applies to all of India with the exception of Jammu and Kashmir, legalized abortion until the 12th week of pregnancy (with the approval of one registered medical practitioner) or the 20th week of pregnancy (with the approval of two registered medical practitioners). The medical practitioners must determine that the pregnant woman's life, mental health, or physical health would be jeopardized by continuing the pregnancy. If the woman's life is endangered by the pregnancy, the time limits do not apply, and she may terminate the pregnancy at any time. The statute clearly states that if the pregnancy is a result of rape, it is presumed that the woman's mental health would be jeopardized by continuing the pregnancy. It is interesting to note that the statute also includes a mental health exception for married women who were using a birth control method which failed. The statute also requires the consent of a guardian for any woman under the age of 18 or a "lunatic" who wishes to have an abortion. While the Act empowers states to create additional regulations with respect to abortions, it does not specify any penalty other than a 1,000 rupee fine for violating these regulations. The 1971 Act did not specify criminal penalties for medical practitioners who violate the Act, but it did create a good faith exception which gives medical practitioners prosecuted under the Act a possible defense.

The Medical Termination of Pregnancy (Amendment) Bill, 2002 (http://indiacode.nic.in/incodis/whatsnew/Medical.htm , last visited on November 14, 2010).

This amendment to the Medical Termination of Pregnancy Act of 1971 made several changes to the original law. First, the term "lunatic" was replaced by "mentally ill person" (defined as "a person who is in need for treatment by reason of any mental disorder other than mental retardation"). Second, the 2002 amendment specifies a prison term of two to seven years for a person other than a registered medical practitioner who terminates a pregnancy, or the owner of a facility which performs such procedures, but is not approved by the government for the purpose of terminating pregnancies.

The Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act of 1994 (Act No. 57 of 1994, http://www.mohfw.nic.in/THE%20PNDT%20ACT%20%28PRINCIPAL%20ACT%291994.htm , last visited on November 14, 2010).

This Act prohibits the use of prenatal diagnostic techniques such as amniocentesis and ultrasound for the purpose of determining the sex of a fetus. Although the Act recognizes that there are legitimate medical reasons to use these diagnostic techniques, the Act severely limits the use of any diagnostic technique that may lead to sex-selective abortions. These techniques may only be used if the pregnant woman is over the age of 35, has had two or more miscarriages, has been exposed to teratogenic agents, or has a family history of mental retardation, physical abnormalities, or other genetic diseases. Other reasons for using these techniques may be established by the Central Supervisory Board created under this Act.

The Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Amendment Act of 2002 (http://www.mohfw.nic.in/PNDT%20-%20%20%28act%202002%29.htm , last visited on November 14, 2010).

This amendment to the the 1994 Pre-Natal Diagnostic Techniques Act clarifies some definitions of terms used in the earlier Act. "Pre-natal diagnostic procedures" are defined as, "all gynaecological or obstetrical or medical procedures such as ultrasonography, foetoscopy, taking or removing samples of amniotic fluid, chorionic villi, embryo, blood or any other tissue or fluid of a man, or of a woman before or after conception, for being sent to a Genetic Laboratory or Genetic Clinic for conducting any type of analysis or pre-natal diagnostic tests for selection of sex before or after conception." The term "pre-natal diagnostic test" is defined as, "ultrasonography or any test or analysis of amniotic fluid, chorionic villi, blood or any tissue or fluid of a pregnant woman or conceptus conducted to detect genetic or metabolic disorders or chromosomal abnormalities or congenital anomalies or haemoglobinopathies or sex-linked diseases." The amendment also defines "sex selection" as, " any procedure, technique, test or administration or prescription or provision of anything for the purpose of ensuring or increasing the probability that an embryo will be of a particular sex." This amendment is notable in that it seeks to prevent the use of pre-conception techniques which may be more likely to produce an embryo of the preferred gender (usually male). Since these techniques were not widely available at the time the original Act was passed, this amendment was passed in order to keep the law in step with changing reproductive technologies.

Law Commission of India, Report No. 228 (Need For Legislation to Regulate Assisted Reproductive Technology Clinics As Well As Rights and Obligations of Parties to a Surrogacy), August 2009 (http://lawcommissionofindia.nic.in/reports/report228.pdf , last visited on November 14, 2010).

This report explicitly addresses India's new role as a destination for international medical tourism, and the consequent need to regulate the surrogacy industry. The report states that surrogacy costs $25,000 to $30,000 in India, which is "around 1/3rd of that in developed countries like the USA." The report goes on to say, "It seems that wombs in India are on rent, which translates into babies for foreigners and dollars for Indian surrogate mothers." The Commission examined the laws of various foreign countries, including England, Australia (where commercial surrogacy is illegal), and the United States (where, as the Commission noted, laws vary from state to state, with some states prohibiting commercial surrogacy while others have minimal regulations governing surrogacy arrangements). The Commission also considered the Supreme Court of India's decision in *Baby Manji Yamada v. Union of India*[6], which was a high-profile case that demonstrated the need for clearer laws and regulations regarding surrogacy. The draft legislation states that surrogacy contracts are enforceable in India, but it also imposes certain requirements on foreign couples seeking the services of an Indian surrogate. The foreign party is required to appoint a local guardian for the surrogate during and after the pregnancy, and is required to take custody of the baby "irrespective of any abnormality the child may have"; although "refusal to do so shall constitute an offence," the report is silent as to what the penalty may be. The draft legislation also states that the names on the birth certificate should be the names of the genetic parents, clarifying an issue that was at the heart of the Baby Manji case.

Baby Manji Yamada v. Union of India, JT 2008 (11) SC 150

[6] *Baby Manji Yamada v. Union of India*, JT 2008 (11) SC 150

This case involved a Japanese couple who hired an Indian surrogate. The couple, Ikufumi and Yuki Yamada, hired the surrogate, Pritiben Mehta, and an anonymous Indian egg donor through a fertility clinic called Akanksha. Mr. Yamada's sperm and the donor's egg were used to create an embryo which was then implanted in Mehta's womb. A month before the baby girl, Manji Yamada, was born, the Yamadas divorced. Mrs. Yamada no longer wanted the baby, but Mr. Yamada did; however, Mr. Yamada was unable to obtain a birth certificate for Manji, since none of her three possible mothers were legally recognized as her mother under either Indian or Japanese law. Because Indian laws did not address the issue of surrogacy, genetic parents of surrogate children such as Mr. Yamada were required to adopt them before taking them out of the country; however, this, too, was not legally possible, since a colonial-era Indian law prohibits unmarried men from adopting girls. Mr. Yamada's attorney succeeded in having a birth certificate issued for the baby, but then a child welfare organization called Satya filed a habeas corpus petition in the Rajasthan High Court accusing the Akanksha fertility clinic of child trafficking. The case was appealed to the Supreme Court of India, which dismissed Satya's claims and granted temporary custody to Manji's grandmother, Emiko Yamada. Ultimately, Manji was issued an Indian identity document which did not specify her mother's name; this document was accepted by the Japanese government, which issued her a humanitarian visa, allowing her to return to Japan with her grandmother. However, the case highlighted the need to clarify the legal status of children born through surrogacy arrangements in India.

Laxmi Mandal v. Deen Dayal Hospital, W.P. (C) 8853/2008 (http://www.hrln.org/hrln/court-

orders/Laxmi%20Mandal%20v%20Deen%20Dayal%20Hospital.pdf , last visited on November 14, 2010)

In this case, the High Court of Delhi ruled that a hospital and a maternity home violated the constitutional and reproductive rights of two women, one of whom died, and one of whom suffered serious damage to her health and her baby's health. Because the hospital and maternity home were government facilities, the court ordered the State of Haryana, the government of the National Capital Territory of Delhi and the Municipal Corporation of Delhi to compensate the women and/or their survivors financially for depriving them of their constitutional rights to life and health.

Secondary Sources:

Center for Reproductive Rights (2008). Maternal mortality in India: using international and Constitutional law to promote accountability and change**.** Retrieved from http://reproductiverights.org/sites/crr.civicactions.net/files/documents/pub_br_maternal_mortality_in_india_2009.pdf on November 14, 2010.

This report provides an overview of the maternal mortality situation in India, the international human rights law framework in this area, including international treaties ratified by India which may apply to maternal mortality, India's Constitutional norms, public interest litigation involving Constitutional rights in India, and recommendations for further legal action.

Sood, A. (2006). Litigating reproductive rights: using public interest litigation and international law to promote gender justice in India. Retrieved from http://reproductiverights.org/sites/default/files/documents/media_bo_India1215.pdf on November 14, 2010.

This report outlines the Constitutional basis for public interest litigation in India, international and comparative sources of law and how they are applied by Indian courts, fundamental rights under the Indian Constitution, religion-based laws as they affect reproductive rights, statutory bodies, case studies, and strategic considerations in public interest litigation.

Points, K. (2009). Commercial surrogacy and fertility tourism in India: the case of Baby Manji. Retrieved from http://www.duke.edu/web/kenanethics/CaseStudies/BabyManji.pdf on November 14, 2010.

This article summarizes the facts of the Baby Manji case and examines some of the legal and ethical issues raised by the rise of commercial surrogacy as an industry in India. The article also provides an overview of the historical development of fertility tourism in India.

Chandrasekhar, S. (1974). Abortion in a crowded world: The problem of abortion with special reference to India. Seattle, WA: University of Washington Press.

A detailed overview of India's overpopulation problem and the history of abortion laws in India. This book also includes a detailed history of the Medical Termination of Pregnancy Act of 1971.

Chandrasekhar, S. (1994). India's abortion experience. Denton, TX: University of North Texas Press

A revised and updated version of Abortion in a Crowded World. This book covers new developments since the previous edition, including the use of amniocentesis for sex-selective abortions, RU-486, and new regulations regarding abortion. Numerous

appendices include legislation, medical indications for termination of pregnancy under Indian law, and summaries of U.S. Supreme Court cases on abortion which are frequently referred to in Indian law.

Mehta, P. (2000). Numbers, at what cost? Jaipur, India: CUTS

This book is a critique of family planning programs in India, which may be successful in reducing population growth, but often have deleterious effects on women, especially if coercion is involved. The author focuses on Rajasthan, but includes programs in other Indian states as well.

United Nations Department of Economic and Social Affairs, Population Division (2001). Abortion policies: A global review. New York, NY: United Nations.

This survey includes an overview of the Medical Termination of Pregnancy Act of 1971, as well as statistics on India's annual abortion rate from 1977 to 1989. The survey also includes information on actual abortion practices in India, such as the frequency of unsafe abortions in facilities not certified by the government to perform abortions. Although abortions are allowed under Indian law and are theoretically available for free at government hospitals, women frequently choose other alternatives due to cultural or social pressures.

Sen, G. & Snow, R., eds. (1994).Power and decision: The social control of reproduction. Boston, MA: Harvard University Press.

Chapter 13 of this book, "The Social Context of Sex Selection and the Politics of Abortion in India," by Radhika Balakrishnan, addresses the issue of sex-selective abortions in India and legal efforts to prevent this from happening.

United Nations Economic and Social Commission for Asia and the Pacific (1999). Promoting women's rights as human rights. New York, NY: United Nations.

This report includes only a brief description of the state of reproductive rights in India, but it notes that abortion is free and readily available, while also pointing out that women in India frequently have little or no control over their fertility, as that decision is often made by their husbands or families.

Timmermann, M. & Kruesmann, M., eds. (2009). Partnerships for women's health: Striving for best practice within the U.N. global compact. New York, NY: United Nations.

Chapter Nine of this book examines the use of public-private partnerships to improve women's reproductive health care in India.

APPENDIX A: Selected Foreign Legal Materials Relevant to Reproductive Rights Law in India

Griswold v. Connecticut, 381 U.S. 479 (1965)

In this case, the Supreme Court ruled that a Connecticut statute prohibiting the use of any contraceptive drug or device was unconstitutional. The case involved a married couple who received contraceptives at a Planned Parenthood clinic. The Court held that, although there is no right to "marital privacy" specifically enumerated in the Constitution, that right is implicit in the "penumbra of privacy" existing in the Bill of Rights. The Court's notion of an implied constitutional right to privacy laid the groundwork for later decisions, such as Roe v. Wade.

Eisenstadt v. Baird, 405 U.S. 438 (1972)

In Eisenstadt, the Supreme Court held that a Massachusetts statute which prohibited providing contraceptives to unmarried people was unconstitutional. Expanding on the Griswold decision, the Court expanded the right to privacy described in that case to include single people as well as married people.

Roe v. Wade, 410 U.S. 113 (1973)

In this landmark decision, the Supreme Court struck down a Texas statute criminalizing abortion, as it was unconstitutional under the Ninth and Fourteenth Amendments. The Court relied on the "penumbra of privacy" concept established in its earlier decisions, and held that, although states may still place some restrictions on abortions, the state's

interest in maternal health and developing life must be balanced against women's right to privacy.

Akron v. Akron Center for Reproductive Health, 462 U.S. 416 (1983)

In Akron, the Court struck down an Ohio law which required minors to obtain written parental consent before obtaining an abortion, but provided no alternative process for minors whose parents refused to give consent. The court held that the lack of judicial bypass or some other alternative to parental consent presented a severe obstacle to women trying to obtain abortions, and this violated their constitutional right to privacy.

Webster v. Reproductive Health Services, 492 U.S. 490 (1989)

In Webster, the Court upheld a Missouri statute which banned the use of public facilities for abortions, and banned public employees from performing abortions. This decision was notable because it was the first significant restriction on abortion which was upheld by the Supreme Court since Roe v. Wade, implying that Roe was not necessarily settled law.

Planned Parenthood v. Casey, 505 U.S. 833 (1992)

In Casey, the Court struck down a spousal notification statute, ruling that it unduly burdened a woman's right to an abortion. However, the Court upheld other provisions of the statute requiring parental consent for minors undergoing abortions, and requiring a 24-hour waiting period before an abortion could be performed. The Casey decision was significant in that it lowered the threshold for state involvement in abortion decisions.

Stenberg v. Carhart, 530 U.S. 914 (2000)

In this case, the Supreme Court struck down a Nebraska statute banning partial birth abortions. The Court held that the statute was overly broad and unconstitutional because it did not contain an exception to protect the health of the pregnant woman. However, the Court left the door open for restrictions on partial birth abortions, provided that state laws restricting such a procedure were not overly broad.

18 USC §1531 (http://www.gpo.gov/fdsys/pkg/USCODE-2009-title18/pdf/USCODE-2009-title18-partI-chap74-sec1531.pdf , last visited on November 14, 2010).

This is the Federal statute banning partial birth abortions. The annotations to the statute indicate that it was drafted with the Stenberg decision in mind, as it makes an exception for cases in which the pregnant woman's life or health are endangered. The statute specifies a possible 2 year prison sentence and/or fines for the physician performing such a procedure, but it clearly specifies that a woman undergoing such a procedure has no criminal liability under this statute.

10 USC§1093 (http://www.gpo.gov/fdsys/pkg/USCODE-2009-title10/pdf/USCODE-2009-title10-subtitleA-partII-chap55-sec1093.pdf , last visited on November 14, 2010)

This statute bans the use of Federal funds for abortions performed in Department of Defense facilities, unless the pregnant woman's life is in danger. Department of Defense facilities may be used to perform abortions in cases of rape or incest, but these procedures may not be paid for with Federal funds. Notably, the lack of Federal funding for these abortions is even more restrictive than the requirements for Medicaid recipients.

Executive Order Restoring the Mexico City Policy, signed by President Bush, Federal Register Vol. 66, No. 61, March 29, 2001 (http://frwebgate3.access.gpo.gov/cgi-bin/PDFgate.cgi?WAISdocID=YyftwY/3/2/0&WAISaction=retrieve , last visited on November 14, 2010).

This executive order, signed by President George W. Bush, reinstated the Mexico City Policy, also known as the "global gag rule". This policy, first instituted by President Reagan in 1984, states that foreign nongovernmental organizations which receive Federal funds may neither perform abortions nor promote abortion. The Mexico City Policy had previously been revoked by President Clinton in 1993, and this order reversed that decision.

Executive Order Revoking the Mexico City Policy, signed by President Obama, Federal Register Vol. 74, No. 17, January 23, 2009 (http://frwebgate1.access.gpo.gov/cgi-bin/PDFgate.cgi?WAISdocID=pAcjnQ/13/2/0&WAISaction=retrieve), last visited on November 14, 2010).

This executive order, signed by President Obama, revoked the Mexico City Policy, which had been in place since President Bush's previous executive order in 2001. It allows foreign nongovernmental organizations which receive Federal funds to perform abortions and/or to discuss abortion as a method of family planning.

White House Statement on Rescinding the Mexico City Policy, January 24, 2009 (http://www.whitehouse.gov/statement-released-after-the-president-rescinds/ , last visited November 14, 2010).

In this statement, President Obama explains why he rescinded the Mexico City policy, stating that the policy has, "undermined efforts to promote safe and effective voluntary family planning in developing countries." He also describes the policy as "unnecessarily

broad and unwarranted," and encourages Congress to restore funding for the United Nations Population Fund.

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