

The New Day at Its Dawn: Evidence Is Back, but Politics Endures

By Susan A. Cohen

The early weeks of 2009 constituted proof positive that with strong supporters of reproductive health and rights occupying the White House and leadership positions in both houses of Congress, policy change for the better is possible. They demonstrated equally dramatically, however, that real progress will not come easily.

Within days of his inauguration, President Barack Obama made strong statements endorsing the right to abortion as well as the need to promote policies and programs—at home and abroad—aimed at reducing unintended pregnancies in the first place. He then acted on those statements by rescinding the global gag rule and committing the United States to refund the United Nations Population Fund (UNFPA), decrying as he did the use of family planning “as a political wedge issue.”

The very next day, with Congress on the verge of advancing a small but significant change in Medicaid to make it easier for states to expand eligibility for family planning services to low-income women, Republican leaders and social conservatives lambasted the provision’s inclusion in the House version of the president’s economic recovery package. The president reacted to their distortions and outright ridicule swiftly, not by defending the provision, but by personally calling House Democratic leaders to ask them to excise it from the legislation.

It is not that the president and his top staff do not understand or accept the merits of the case for the Medicaid family planning expansion. In

fact, the president cosponsored specific legislation on this very topic only last year. Rather, the administration came to the conclusion that the provision was expendable, at least at that time and on that specific legislation. That decision, in sharp contrast to the immediately preceding positive policy developments, illustrates that having the facts, common sense, public support and even advocates in the highest places of government are necessary but not always sufficient to move the agenda forward.

The Good...

Just two days after being sworn in, on the anniversary of the U.S. Supreme Court’s decision in *Roe v. Wade* legalizing abortion nationwide, President Obama made his first comments on reproductive rights. In unequivocal terms, he said, “I remain committed to protecting a woman’s right to choose.” At the same time, he called for stepped-up efforts to reduce the need for abortion by reducing unintended pregnancy, linking these efforts to the need to give more support overall “to women and families in the choices they make” (see box, page 4).

The next day, on January 23, the president rescinded the global gag rule, known officially as the Mexico City policy. The gag rule had disqualified foreign nongovernmental organizations (NGOs) from receiving U.S. aid for family planning services if they used their own, non-U.S. funds to provide legal abortion services or even information about abortion, or to advocate for ways to make abortion safer. First enunciated by the Reagan administration at the 1984 United Nations population conference in Mexico City,

the gag rule remained in effect until 1993 when President Clinton rescinded it. President George W. Bush reinstated it in 2001.

Continuing the theme from his statement on *Roe*, President Obama lamented the politicization of international family planning assistance and called for “a fresh conversation on family planning.” He reiterated the importance of reducing unintended pregnancy and, equally important, related family planning to promoting safe motherhood and to greater educational and economic opportunity for women and girls (see box, page 4).

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Revocation of the gag rule means that, effective immediately, indigenous overseas NGOs need no longer have to choose between receiving desperately needed U.S. family planning assistance and providing often life-saving information to women about where to obtain a safe abortion. It also means that long-blacklisted organizations such as the International Planned Parenthood Federation and its member associations around the developing world are now eligible to partner with the United States to provide family planning and reproductive health services.

Obama also used the occasion of rescinding the gag rule to declare his intention to work with Congress to renew support for UNFPA. The final version of the FY 2009 appropriations bill—likely to reach the president’s desk in early March—is expected to include a substantial contribution to UNFPA. Obama has indicated that he will award those funds, unlike his predecessor who withheld them on the trumped-up charge that UNFPA’s mere presence promoting contraception in China somehow made it complicit with the country’s coerced abortion practices. The timing will be particularly significant, coming as the global sexual and reproductive health and rights community is now marking the 15th anniversary of the landmark International Conference on Population and Development in Cairo, with the

first events taking place at the United Nations in March (related article, page 12).

On the domestic front, less than two weeks later, Congress sent the eagerly awaiting president major legislation extending the Children’s Health Insurance Program (CHIP). CHIP has long been important as a funding source for reproductive health services for adolescents, but the law’s extension also made some major breakthroughs in extending care to pregnant women. The new law, for the first time, allows states to cover pregnant women under CHIP without having to obtain permission from the federal government

to do so. It also gives states the option to cover recently immigrated children and pregnant women under CHIP and Medicaid, overriding a provision in the 1996 welfare reform law that had banned coverage of legal immigrants during their first five years of residency.

...And the Not So Good

The battle to extend and expand CHIP had been long and hard-fought; twice in 2007, reauthorization legislation was approved by both houses only to be vetoed by President Bush. During the first of those attempts, the Medicaid family planning expansion provision was included in the House bill. At that time, it was essentially non-controversial and went through virtually unnoticed, falling prey only to the larger politics of CHIP. This year, House Energy and Commerce Committee Chairman Henry Waxman (D-CA) chose to include it in the House economic recovery legislation, along with a raft of other public health care expansions including some \$87 billion in additional federal Medicaid spending.

Assisting states with their Medicaid programs is a long-standing, widely accepted federal strategy for promoting economic recovery in times of economic distress. Moreover, the family planning provision had no dollar figure attached to it in terms of cost. Rather, it simply would have

allowed states to increase their income-eligibility ceilings for family planning services under Medicaid to the same levels they use for pregnancy-related care, without having to go through a long and costly process of obtaining a “waiver” from the federal government to do so (related article, page 19).

States availing themselves of the expansion option would be able to claim nine federal dollars for every dollar they spend on expanded family planning services. Both the federal government and the states, however, would benefit financially, because the unwanted pregnancies

averted by the expanded services would also avert much higher Medicaid expenditures for pregnancy-related care. Still, family planning proved to be the first and easiest target for Republican leaders to use to attack the Democrats’ economic recovery package. In doing so, House Minority Leader John Boehner (OH)—mistakenly or otherwise—twisted the provision from one the Congressional Budget Office had concluded would save \$200 million over five years at the federal level alone into one that he claimed would cost the federal government \$200 million for contraceptives.

President Obama, a cosponsor of similar legislation as a senator, decided not to engage in the debate at all, instead asking Waxman to drop the provision from the bill. He reiterated his support for the substance, but also termed the provision “not appropriate” for the economic recovery package. The lost opportunity, for spurious reasons, to see this modest change in the Medicaid law enacted was damaging enough. Adding insult to injury was the implication—intentional on the part of family planning opponents and abetted however unwittingly by the president’s statement—that family planning services are somehow less worthy than other health care services for inclusion in the stimulus.

Clearly, Boehner and his allies singled out the family planning provision to exploit the politics of contraception, so closely tied to the politics of abortion. This is ironic from members with staunch antiabortion voting records, because publicly funded voluntary family planning services help women to avoid 1.94 million unintended pregnancies each year, which otherwise would result in some 860,000 unintended births and 810,000 abortions. It is doubly ironic coming from self-proclaimed deficit hawks, because every dollar spent to provide publicly funded family planning services saves \$4 in state and federal dollars. And at the household level, of course, a woman’s ability to time, space and ultimately limit her childbearing is undisputedly central to her ability to finish her education, go to work, keep her job or care for her family.

PRESIDENT BARACK OBAMA: IN HIS OWN WORDS

On Legal Abortion and Preserving Reproductive Choices:

“On the 36th anniversary of *Roe v. Wade*, we are reminded that this decision not only protects women’s health and reproductive freedom, but stands for a broader principle: that government should not intrude on our most private family matters. I remain committed to protecting a woman’s right to choose.

While this is a sensitive and often divisive issue, no matter what our views, we are united in our determination to prevent unintended pregnancies, reduce the need for abortion, and support women and families in the choices they make. To accomplish these goals, we must work to find common ground to expand access to affordable contraception, accurate health information, and preventative services.

On this anniversary, we must also recommit ourselves more broadly to ensuring that our daughters have the same rights and opportunities as our sons: the chance to attain a world-class education; to have fulfilling careers in any industry; to be treated fairly and paid equally for their work; and to have no limits on their dreams. That is what I want for women everywhere” (statement on *Roe v. Wade* Anniversary, Jan. 22, 2009).

On Family Planning and Promoting Women’s Health and Empowerment:

“For too long, international family planning assistance has been used as a political wedge issue, the subject of a back and forth debate that has served only to divide us. I have no desire to continue this stale and fruitless debate.

It is time that we end the politicization of this issue. In the coming weeks, my Administration will initiate a fresh conversation on family planning, working to find areas of common ground to best meet the needs of women and families at home and around the world.

I have directed my staff to reach out to those on all sides of this issue to achieve the goal of reducing unintended pregnancies. They will also work to promote safe motherhood, reduce maternal and infant mortality rates and increase educational and economic opportunities for women and girls” (excerpt from statement rescinding global gag rule, Jan. 23, 2009).

On Comprehensive Sex Education:

“We must engage in honest, open dialogue and reach out to those most at risk. My administration will educate people about HIV/AIDS, ensure people living with HIV/AIDS have access to treatment, and work with Congress to enact an extensive program of prevention, including access to comprehensive age-appropriate sex education for all school age children” (excerpt from statement on World AIDS Day, Dec. 1, 2008).

What Remains to Be Seen

Beyond the issues that have already seen action, for good or for ill, other important ones are waiting in the wings. Still somewhat in limbo is the status of the Bush administration's 11th-hour regulation expanding the refusal rights of individuals and institutions in the health care field (related article, Fall 2008, page 17). The rule

rant continued federal support and whether the time has come to promote comprehensive federal sex education policy (see box). It is here that he will have the chance to back up his endorsement of family planning and reproductive health programs with a recommendation of adequate funding for them. And it is here that he will have the chance to make a statement that the discrimi-

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is final and presumably "in effect," although Planned Parenthood Federation of America, the National Family Planning and Reproductive Health Association and the attorneys general of Connecticut, California, Illinois, Massachusetts, New Jersey, Oregon and Rhode Island filed suit against it in January. Because President Obama is on record opposing the regulation as well, it is likely that at some point soon the Department of Health and Human Services will begin the legal process of repealing it. So far, however, that has not yet begun.

Meanwhile, it will be President Obama's FY 2010 budget request to Congress that will provide the first full picture of how he sees the various pieces of the reproductive health and rights agenda fitting together and fitting within his larger health, social and economic agenda. It is here that the president will lay down a marker as to whether or not abstinence-only programs war-

natory Hyde amendment, which bans abortion funding for women who depend on the federal government for their health care or health insurance, has no place in a U.S. health policy that truly supports women's health and choices.

In her Senate confirmation hearing, Secretary of State Hillary Rodham Clinton stressed how integral the role and rights of women are to advancing American ideals. "The United States must be an unequivocal and unwavering voice in support of women's rights in every country on every continent," she said. To be sure, speaking out—and speaking up—for these rights is an absolutely critical starting point. The dawning days and weeks of the new climate for reproductive health and rights in the Obama era clearly demonstrate, however, that winning these rights—whether abroad or at home—is another matter entirely.

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