

# THE HYDE AMENDMENT: a violation of human rights

**WHAT WOULD YOU DO?** You are a single mother of two with a yearly income of \$7,800 to provide for your family. You find out you are pregnant and decide you cannot support another child. With a monthly income of \$650, how do you find \$468 for an abortion?

Through the Hyde Amendment, the federal government denies poor women, women of color, women in the military and immigrants the ability to make their own decisions about pregnancy and childbearing.

For 30 years, the Hyde Amendment has violated the human rights of women who receive Medicaid by prohibiting federal funding for abortion in the majority of cases. Medicaid is a federal and state government program that entitles beneficiaries to a right to health care. However, the right to abortion is not guaranteed for Medicaid recipients. Since 1976, year after year, the Hyde Amendment has been attached to the annual federal spending bill. Passed by Congress in 1976, as part of the Department of Labor and Health, Education, and Welfare Appropriation Act, the original amendment banned “using funds appropriated by this Act to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.” The current version also allows funds to be used in cases of rape and incest. Similar language in other bills also prohibits federal funding for abortion for women in the military, Peace Corps and federal prisons and for women who receive health care from Indian Health Services. The majority of states have also banned state Medicaid coverage for abortion.

These funding restrictions violate women’s reproductive rights and ignore universal human rights recognized by the United States and other countries around the world.

## ***The denial of abortion services is a violation of women’s:***

- right to health
- right to life
- right to equality
- right to nondiscrimination
- right to privacy
- right to be free of cruel, inhumane or degrading treatment
- right to determine the number and spacing of one’s children

## **ACCESS TO ABORTION IS A HUMAN RIGHT**

All human beings hold universal human rights, regardless of their race, color, sex, language, religion, opinion, national or social origin, property, birth or other status.<sup>1</sup> Basic to human rights is the concept of equality or nondiscrimination. Governments have a duty to respect, protect and fulfill the human rights of their citizens.

Reproductive rights, which include abortion, are among the human rights recognized in international treaties and other agreements. Reproductive rights comprise the rights to reproductive self-determination, nondiscrimination and health. At the United Nations International Conference on Population and Development in 1994, 179 governments—including the United States—affirmed that control of one’s fertility is a basic right.<sup>2</sup> This was reaffirmed at the 1995 Fourth World Conference on Women in Beijing. In 1999, the U.N. General Assembly agreed that “where abortion is not against the law, health systems should ... ensure that such abortion is safe and accessible.”<sup>3</sup>

*“All couples and individuals have the basic right to decide freely and responsibly the number and spacing of their children and to have the information, education and means to do so.”*



## THE HUMAN RIGHTS OF LOW-INCOME WOMEN

The Hyde Amendment and other funding restrictions limit the human rights of women receiving Medicaid and other government health coverage. These funding bans also discriminate on the basis of sex, race and economic status. The bans restrict access to a type of health care needed only by women and restrict it for women who are poor. Women of color make up 51 percent of nonelderly Medicaid recipients,<sup>4</sup> and 60 percent of American Indians obtain care from the Indian Health Service.<sup>5</sup> Therefore, Hyde Amendment-like restrictions disproportionately affect American Indian women and other women of color.

Paying for an abortion can be a significant burden for low-income women. Half of nonelderly women on Medicaid have incomes below the poverty level, which in 2006 is about \$9,800 for one person, according to the Department of Health and Human Services. One quarter of nonelderly women on Medicaid subsist on less than this, making about \$7,800 a year for a family of three.<sup>6</sup> Twenty-five percent of American Indian women live in poverty.<sup>7</sup> However, the average cost of a first-trimester abortion in the United States is \$468 and women pay up to \$1,179 for later term abortions.<sup>8</sup>

Denied coverage and unable to raise the money themselves, between 18 to 35 percent of Medicaid-eligible women who would have had abortions if public funding had been available instead carry unplanned pregnancies to term.<sup>9</sup> Other women sacrifice basic needs such as rent and food to raise money for an abortion or may risk their health or lives because of unsafe, unhygienic procedures.

## U.S. POLICY ALSO VIOLATES THE RIGHTS OF WOMEN WORLDWIDE

The 1973 Helms Amendment, which is the equivalent of the Hyde Amendment in the international arena, prohibits U.S. funding for abortion-related activities outside of the United States. In 2001, the Bush administration reintroduced the Global Gag Rule, which prohibits U.S. funding for foreign organizations that work to promote access to abortion with their own, non-U.S. government funding. These restrictive U.S. policies have resulted in increased risk to the health and lives of women in the developing world. Worldwide, where safe abortion is unavailable, nearly 70,000 women die from unsafe abortions each year and tens of thousands more suffer serious injury.<sup>10</sup>

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## The U.S. Supreme Court does not protect the human rights of U.S. women

In 1980, the Supreme Court upheld the Hyde Amendment. In *Harris v. McRae*, the Court held that “a woman’s freedom of choice does not carry with it the constitutional entitlement to the financial resources to avail herself of the full range of protected choices.” Four justices disagreed. Justice Thurgood Marshall wrote in his dissent: “The Court’s opinion studiously avoids recognizing the undeniable fact that, for women eligible for Medicaid — poor women — denial of a Medicaid-funded abortion is equivalent to denial of legal abortion altogether. By definition, these women do not have the money to pay for an abortion themselves.”

## WHAT YOU CAN DO

- Join the Hyde – 30 Years is Enough! Campaign, which calls for full public funding of abortion, culturally competent family planning services and support for low-income women to care for their children with dignity. For more information and to see a list of participating groups, please visit [www.hyde30years.nnaf.org](http://www.hyde30years.nnaf.org).
- Help low-income women to pay for abortions. Make a contribution to your local abortion fund, or sign up to volunteer. Find a fund in your area at [www.nnaf.org](http://www.nnaf.org). If there is no fund in your area, consider starting one.
- Advocate for increased public funding. Urge your U.S. Congress members and state legislators to provide full Medicaid coverage of abortion and family planning. Find your elected officials at [www.vote-smart.org](http://www.vote-smart.org).

<sup>1</sup> Universal Declaration of Human Rights 1948, Article 2.

<sup>2</sup> Programme of Action of the International Conference on Population and Development, Cairo, Egypt, 5-13 Sept. 1994.

<sup>3</sup> Key actions for the further implementation of the Programme of Action of the International Conference on Population and Development, report of the Ad Hoc Committee of the Whole of the Twenty-First Special Session of the General Assembly, New York, 1 July 1999, para. 63(iii).

<sup>4</sup> The Henry J. Kaiser Family Foundation. 2006. Medicaid’s role for women. Menlo Park, CA, The Henry J. Kaiser Family Foundation.

<sup>5</sup> United States Department of Health and Human Services. 2005. The 2005 national healthcare disparities report. Washington, D.C., U.S. Department of Health and Human Services.

<sup>6</sup> The Henry J. Kaiser Family Foundation. 2006. See reference 4.

<sup>7</sup> Institute for Women’s Policy Research. 2004. The status of women in the United States, Washington, D.C., Institute for Women’s Policy Research.

<sup>8</sup> Towey, Shawn, Stephanie Poggi and Rachel Roth. 2005. Abortion funding: A matter of justice. Amherst, MA, National Network of Abortion Funds.

<sup>9</sup> Henshaw, Stanley and Lawrence Finer, 2003. The accessibility of abortion services in the united states, 2001. *Perspectives on Sexual and Reproductive Health*, 35(1): 16-23.

<sup>10</sup> World Health Organization. 2003. Safe abortion: Technical and policy guidance for health systems. Geneva, WHO.