



SENSELESS: **THE WAR ON BIRTH CONTROL**



**POPULATION
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The background of the entire page is a monochromatic orange-tinted photograph. It features a blister pack of white, round birth control pills on the right side. In the lower-left foreground, there is a condom, partially visible and showing its ribbed texture. Other pills are scattered in the upper-left area. The overall composition is a close-up, focusing on these items as symbols of birth control.

INTRODUCTION

Senseless: The War on Birth Control

Since the introduction of the 'pill' more than half a century ago, modern methods of contraception have had a transformative effect on the lives of women in the U.S. and all around the world. On so many levels, contraception has been a game changer. The ability to prevent unwanted pregnancies has empowered women, enabling them to complete their education, plan their families, and work outside the home. In developing countries, the use of contraception has significantly lowered maternal and infant mortality rates and helped families escape poverty. Public opinion polls in the United States show that Americans, regardless of their age, gender, faith, or party affiliation, support access to contraception, and research indicates that the overwhelming majority of women in the U.S. use some form of contraception at some point in their reproductive years.

And that is what makes the war on birth control so surprising ... and senseless.

PART ONE

Expanding Access to Birth Control: 1965–2010



It has been more than a half a century since the U.S. Supreme Court in 1965 declared in *Griswold v. Connecticut*¹ that access to contraception is constitutionally protected by “the right to marital privacy.” The *Griswold* decision, which struck down a Connecticut law prohibiting any person from using “any drug, medicinal article, or instrument for the purpose of preventing conception,” was a landmark case. In 1972, the U.S. Supreme Court, in *Eisenstadt v. Baird*,² extended this right of privacy to unmarried couples. Today, constitutional experts regard access to contraception as “settled law.” And that judicial consensus reflects a broader public consensus about the value of contraception.

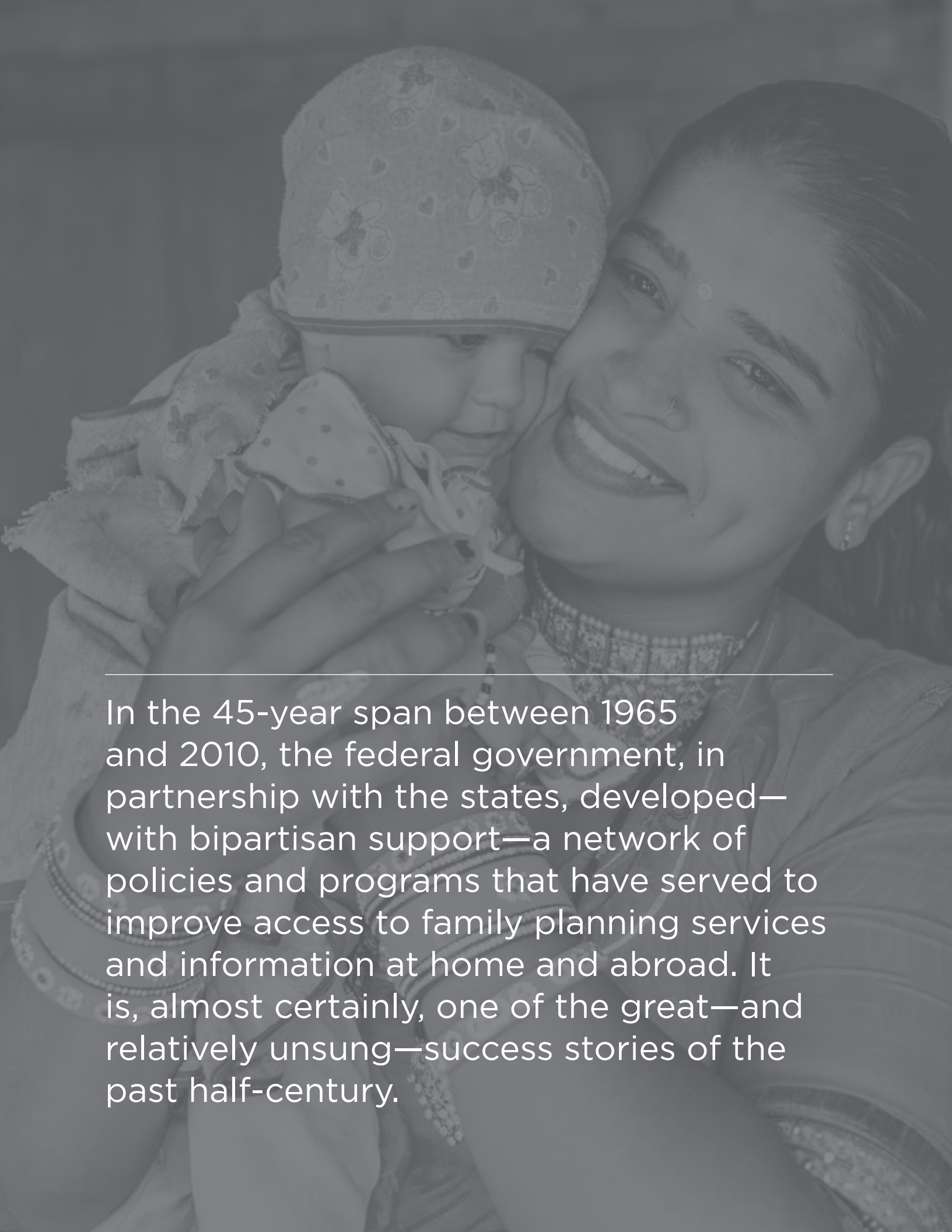
Since the *Griswold* decision was handed down in 1965, governments at all levels have created, funded, and administered programs aimed at improving public access to birth control, and the creation of these programs occurred with the strong support of Republicans and Democrats alike. In 1970, when President Nixon signed Title X into law, there was no partisan divide on the issue of contraception. One of the biggest champions of the bill in the U.S. House of Representatives was a Republican from Texas: then-Rep. George H. W. Bush. In the House debate, Bush declared that, “If family planning is anything, it is a public health matter.”

At the White House signing ceremony, Nixon said:

“It is noteworthy that this landmark legislation has had strong bipartisan support. I am confident that by working together—at federal, state, and local levels—we can achieve the goal of providing adequate family planning services within the next five years to all those who want them, but cannot afford them.”

With strong bipartisan support, Title X,³ became the cornerstone of a nationwide effort to expand and improve access to contraception, and over the course of four decades much progress has been made toward the goal of providing family planning services “to all those who want them, but cannot afford them.”





In the 45-year span between 1965 and 2010, the federal government, in partnership with the states, developed—with bipartisan support—a network of policies and programs that have served to improve access to family planning services and information at home and abroad. It is, almost certainly, one of the great—and relatively unsung—success stories of the past half-century.

IMPROVING ACCESS TO CONTRACEPTION AT HOME AND ABROAD

TITLE X FAMILY PLANNING SERVICES

Since its enactment in 1970, Title X, with support from both the federal government and state governments, has been providing family planning and other vital health care services to low-income communities. The program, which is administered by the Office of Population Affairs (OPA) in the Department of Health and Human Services (HHS), has helped tens of millions of low-income households.

- Ninety percent of Title X funds are used to support clinical services. In 2015, there were 91 Title X grantees, including 46 state, local and territorial health departments, community health agencies, and Planned Parenthood affiliates.⁴
- In addition to family planning, services include cancer screenings and tests for sexually transmitted infections (STI), including HIV.
- Title X-funded clinics serve approximately 4 million clients annually. Services are provided free to households below the federal poverty line, while families with incomes between 100 percent and 250 percent of the federal poverty line are charged on a sliding scale.
- In FY2018, Title X received \$286 million in federal funding. In most states, Title X-supported clinics also receive funding from the state government.⁵
- Title X accounts for about 10% of all federally supported family planning and family-planning-related services.⁶

MEDICAID-SUPPORTED FAMILY PLANNING SERVICES

Medicaid, created in 1965, is a federal-state partnership providing medical and health-related services to over 70 million low-income and disabled people.

- Medicaid-compensated expenditures today account for approximately 75% of all family planning services supported by the federal government.⁷

- States are required to provide family planning services and supplies to Medicaid-eligible individuals of child-bearing age, and, depending on state law, state Medicaid programs can provide contraceptives to sexually active minors.
- The Centers for Medicare and Medicaid Services, which administers the Medicaid program at the federal level, started granting state family planning “waivers” beginning in 1993. Waivers permit states to provide family planning services under Medicaid to populations who are not otherwise eligible. The waivers, which are time-limited, have allowed states to expand coverage to a variety of populations, including households with incomes above the federal poverty line. Prior to the adoption of the Affordable Care Act in 2011, more than 20 states had applied for and received temporary waivers.⁸

CONTRACEPTIVE COVERAGE UNDER THE AFFORDABLE CARE ACT (ACA)

Obamacare has expanded access to reproductive health services, including family planning services, to millions of women.

- Under the ACA, non-grandfathered, private health insurance plans are required to cover, without cost sharing, “preventive health services.” This includes what is popularly known as the “contraceptive mandate,” which requires coverage of family planning services without cost sharing.
- In addition to expanding private insurance coverage of contraceptive services, the ACA has also increased the number of Americans receiving family planning benefits under Medicaid. This expanded coverage stems, principally, from two aspects of the ACA:
 - 1 States are incentivized under the ACA to expand their state Medicaid Coverage. To date, 37 states, including the District of Columbia, have elected to expand Medicaid eligibility up to 138% of the federal poverty line. Under the ACA, all Medicaid recipients are eligible to receive family planning services without cost sharing.⁹

- 2 States are still permitted under the ACA to expand Medicaid-compensated family planning services to populations that are not otherwise covered by Medicaid in their state. Instead of receiving a time-limited “waiver” from the federal government, states are now permitted to enact a permanent extension of benefits. While 10 states still have “waivers,” 15 states now have adopted a State Plan Amendment permanently expanding eligibility for family planning services.¹⁰

TEEN PREGNANCY PREVENTION PROGRAMS

While America’s teen pregnancy rate is still substantially higher than in many other Western industrialized nations, it has fallen dramatically in the past quarter of a century. The U.S. teen birth rate was 61.8 births for every 1,000 adolescent females in 1991, compared with 20.3 births per 1,000 in 2016.¹¹ Extensive research indicates that “abstinence-only” programs have been ineffective, but evidence-based sexuality education programs that educate student populations about the use of modern methods of contraception have played an important role in reducing teen pregnancy rates.

- State policy on sexuality education varies widely. According to the Guttmacher Institute, 24 states and the District of Columbia currently mandate sex education, but only 18 states and the District of Columbia require that information on contraception be provided.¹²
- Congress in 2010 established the Teen Pregnancy Prevention (TPP) Program,¹³ a national, evidence-based program funding organizations working to reduce teen pregnancy. Administered by the Office of Adolescent Health (OAH) in HHS, TPP currently funds 84 grants.¹⁴ During its first five years, TPP reached half a million youth, trained more than 6,800 professionals, and established partnerships with nearly 4,000 community-based organizations across the U.S. Congress appropriated \$107.8 million for TPP programs in FY2018.¹⁵

INTERNATIONAL FAMILY PLANNING AND REPRODUCTIVE HEALTH

For over a half century, the United States has been a global leader in the provision of family planning and reproductive health services to women in developing countries. Since the launch of USAID’s family planning program in 1965, families have been better able to feed, clothe, educate and provide healthcare for their children. USAID reports that modern contraceptive use in the 27 countries with the largest USAID-supported programs has increased from under 10 percent to 37 percent, and the number of children per family has dropped from more than 6 to 4.5.

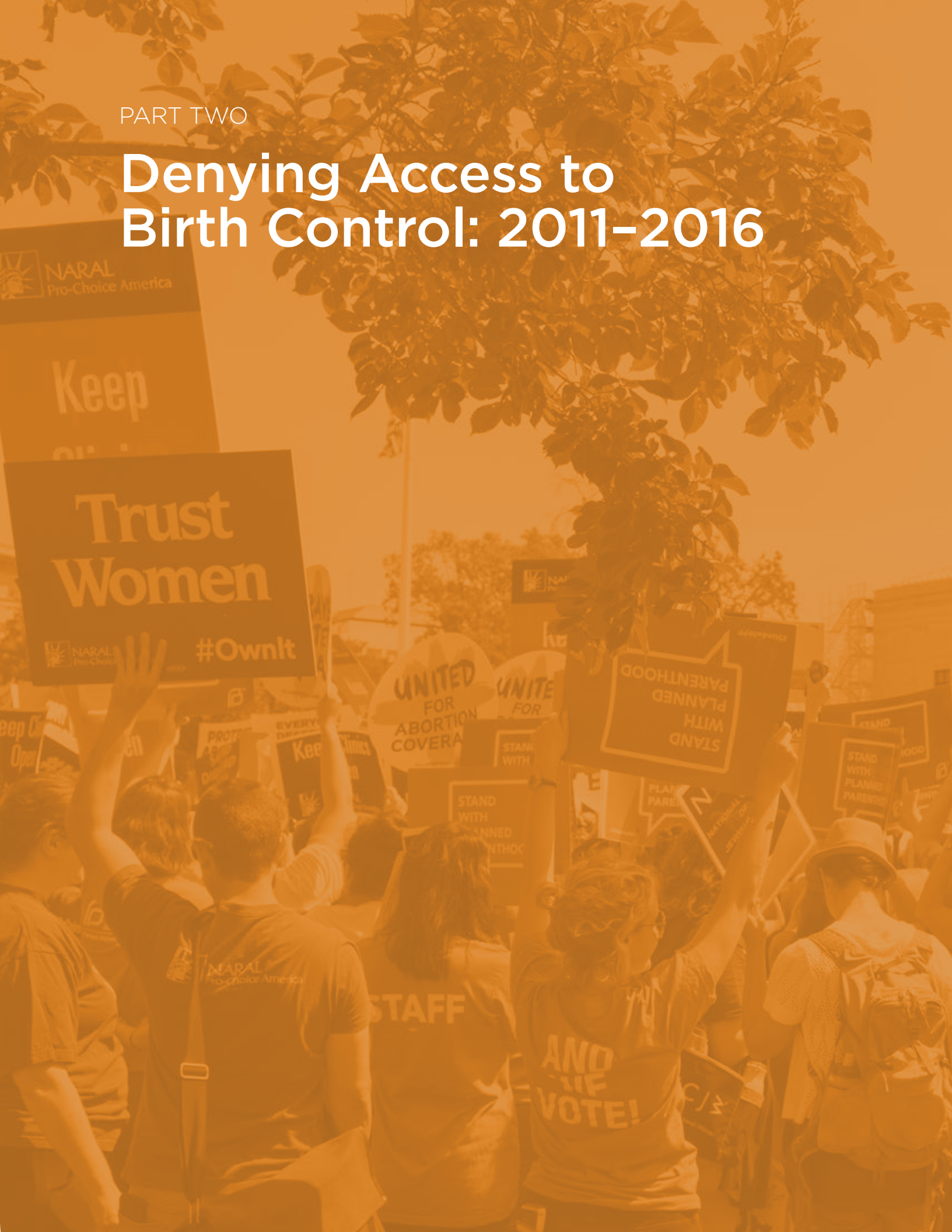
Despite those notable achievements, more than 214 million women in the developing world who want to avoid a pregnancy are still not using a modern method of contraception. To help bridge that gap, the U.S. has joined with other donor nations and organizations in pledging to expand family planning services to an additional 120 million women between 2012 and 2020.

U.S. support for international family planning and reproductive health takes two forms:

- 1 **Bilateral Assistance**—In FY2018, Congress appropriated \$608 million to support family planning and reproductive health programs in more than 40 developing countries, including some of the poorest and least developed.¹⁶
- 2 **Multilateral Assistance**—In FY2018, Congress appropriated \$32.5 million to support the core work of the United Nations Population Fund (UNFPA). The Trump administration, however, blocked the Congressional appropriation for UNFPA by invoking the Kemp-Kasten Amendment. The determination also bars UNFPA from receiving any discretionary funding for its work in refugee camps.¹⁷

PART TWO

Denying Access to Birth Control: 2011–2016



Prior to the 2010 elections, abortion opponents concentrated their efforts on seeking to deny funding to Planned Parenthood and other family planning providers that, either directly or through affiliates, provided abortion services to their clients. Following the 2010 elections, the war on abortion morphed into a far broader, undeclared war on contraception itself. Social conservatives sought, on multiple fronts, to deny public funding or support for contraceptive services, whether or not the recipient organization, or its affiliate, provided any abortion services. And that war has been conducted with little or no regard for other health services provided by government-supported family planning clinics, including cancer screenings and testing for HIV and other sexually transmitted infections.

In the 1980s, as the power and influence of the “religious right” began to grow, cracks started appearing in the once strong bipartisan support for improving public access to contraception. Social conservatives eventually gained the upper hand in the Reagan administration’s first term. In 1984, prior to the UN’s Mexico City Population Conference, Reagan issued an executive order prohibiting any foreign NGO from receiving U.S. family planning funds if the organization provided or advocated for abortion services. That policy, denounced by critics as the “global gag rule,” was aimed at ensuring that U.S. dollars would not go to support abortions overseas, even though existing legislative restrictions already effectively barred any U.S. funding of abortions overseas. As a practical matter, the “Mexico City policy,” as it is sometimes referred to, has led to more abortions, not fewer,¹⁸ as it has denied funding in developing countries to some of the largest overseas providers of contraceptive services, such as International Planned Parenthood Federation members and Marie Stopes International.

The “global gag rule” has become a political football. President Bill Clinton terminated it by executive order in 1993, but President George W. Bush revived it in 2001, and then, upon assuming office in January of 2009, President Barack Obama terminated it once again.

Under President Reagan, a partisan split also developed over funding for UNFPA when “anti-choice” advocates in Congress alleged that the UN organization was supporting coercive abortions in China. While the charge was repudiated by UNFPA and the State Department under President Obama, the debate persists. Republican administrations and their allies in Congress defunded UNFPA, while Democratic administrations and their allies in Congress have revived funding.

Other splits have also arisen.

After the 2000 election of President George W. Bush, faith groups and others opposed to contraception began exerting greater political influence. The Bush administration’s Presidential Emergency Plan for AIDS Relief

“So why are we having to fight in 2012 against politicians who want to end access to birth control? It’s like we woke up in a bad episode of *Mad Men*.” — CECILE RICHARDS



(PEPFAR) initiative, which expanded U.S. foreign assistance in the fight against HIV/AIDS, came under intense criticism from global health experts for its overreliance on abstinence as a preventive strategy¹⁹ and its failure to promote condom use more aggressively.

In the past seven years, however, partisan differences over government policy on contraception has become a major divide:

THE ASSAULT ON FUNDING

The assault on birth control funding commenced in earnest in 2011, but the stage was set a year earlier when New Jersey Gov. Chris Christie, successfully persuaded the state legislature to eliminate all state funding, \$7.5 million, for 58 government-supported family planning clinics in New Jersey.²⁰ After approving Christie's budget cut earlier in the year, the New Jersey State Legislature in June got cold feet and passed a bill to restore the full \$7.5 million, but the bill was vetoed by

Gov. Christie, who brushed aside objections, insisting that the government "could not fund every worthy program."

Buoyed by Christie's successful defunding of Title X family planning clinics in New Jersey, social conservatives in Congress and state legislatures began focusing their efforts on cutting all support for family planning clinics. While Planned Parenthood remained a convenient political target, Title X became an important new front in the war on birth control after Republicans regained control of the U.S. House of Representatives in the 2010 elections.

■ Congress and Title X

Early in 2011, the House Republican Study Committee unveiled a plan to completely eliminate funding for Title X, and in February the U.S. House of Representatives passed a budget measure that would have defunded Title X, and an amendment, offered by then-Rep. Mike Pence, that would have prohibited Planned Parenthood

from being compensated under Medicaid for the provision of contraception and other preventive healthcare services.²¹ Both measures that year were blocked by the Senate and the threat of a veto from President Obama.

■ **State Funding for Family Planning Clinics**

In April of 2011, the Texas Legislature, at the urging of then-Gov. Rick Perry, voted to cut the state's \$111 million annual budget for family planning clinics by two-thirds. The action ultimately led to the closure of 82 family planning clinics.²² Legislators in New Hampshire cut state funding for family planning clinics by more than 50 percent, while Montana eliminated funding altogether. In May, Indiana's Gov. Mitch Daniels signed a bill making Indiana the first state to deny Medicaid funds to Planned Parenthood for general health services, including contraception and cancer screenings. The Indiana law, though later overturned by the courts, prompted six other states in 2011 to pass legislation aimed at disqualifying Planned Parenthood or other abortion providers from receiving funding for family planning services.²³

■ **Birth Control and the 2012 GOP Presidential Primaries**

In a crowded field of candidates for the 2012 GOP presidential nomination, opposition to abortion became a litmus test. Every major viable candidate, except former Gov. Mitt Romney, signed onto an anti-abortion pledge circulated by The Susan B. Anthony List, a radical "anti-choice" organization. In November, however, Romney, widely regarded as a moderate, sought to outflank his fellow primary opponents by being the first leading GOP presidential candidate to call for the elimination of Title X.²⁴ Romney also endorsed constitutional changes that would define life as starting at conception, a change that could lead to the banning of IUDs, emergency contraception, and, conceivably, other hormonal contraceptives, including the pill.²⁵

While the effort to defund Title X ultimately failed in fall of 2011, the war on birth control—thanks in part to the salience of the issue in the

GOP presidential debates—gained greater public visibility and political traction. Once regarded as a "fringe" issue pushed by right-wing religious groups, the anti-birth control agenda moved into the political mainstream. Even conservative business alliances—most notably Americans for Tax Reform and Americans for Prosperity—joined with religious opponents in calling for the defunding of Title X.²⁶

Responding to these escalating political attacks, Clare Coleman, president and CEO of the National Family Planning and Reproductive Health Association told the *Huffington Post* in 2011: "I believe in the conservative movement there's been a 15-year effort to conflate contraception and abortion. Many elected officials do not make a distinction like they used to, so the issues have become so overlapping in many Republicans' minds that they can't separate them anymore."

Stymied in Congress in their efforts to defund Planned Parenthood and Title X, "anti-choice" advocates in 2012 concentrated their political fire at the state level. Several more states passed abortion restrictions, but only one state, Maine, made a major cut in the funding of family planning clinics, and only two more states passed legislation aimed at precluding Planned Parenthood or other family planning providers from receiving state funding.

But while the campaign against birth control was faltering in the state legislatures, the GOP presidential debates kept the issue alive politically, as other candidates joined Romney in calling for the elimination of Title X. In an effort to gain the support of socially conservative primary voters, GOP presidential aspirants, in effect, entered into a bidding war. Former Senator Rick Santorum, who for years had sought to prevent Planned Parenthood from getting Title X funds, supported the elimination of the program, declaring in a February 22nd debate that "I've always opposed Title X funding."²⁷ Separately, Santorum floated the idea that the *Griswold* decision was wrong on "the right to privacy," and suggested that states should have the right to ban or restrict the sale of contraception.²⁸

“Some 48% of young Republicans think that their insurance should cover the full range of FDA-approved birth control methods without a co-pay; 33% disagree. Although young Republicans are no fans of the Affordable Care Act (ACA)—60 percent hold a negative view of the law—more support the law’s contraceptive coverage requirement (43%) than oppose it (30%). Half of young Republican women say they support keeping the requirement in place.”

— A RESEARCH REPORT PREPARED ON BEHALF OF THE NATIONAL CAMPAIGN TO PREVENT TEEN AND UNPLANNED PREGNANCY (MARCH 2015)

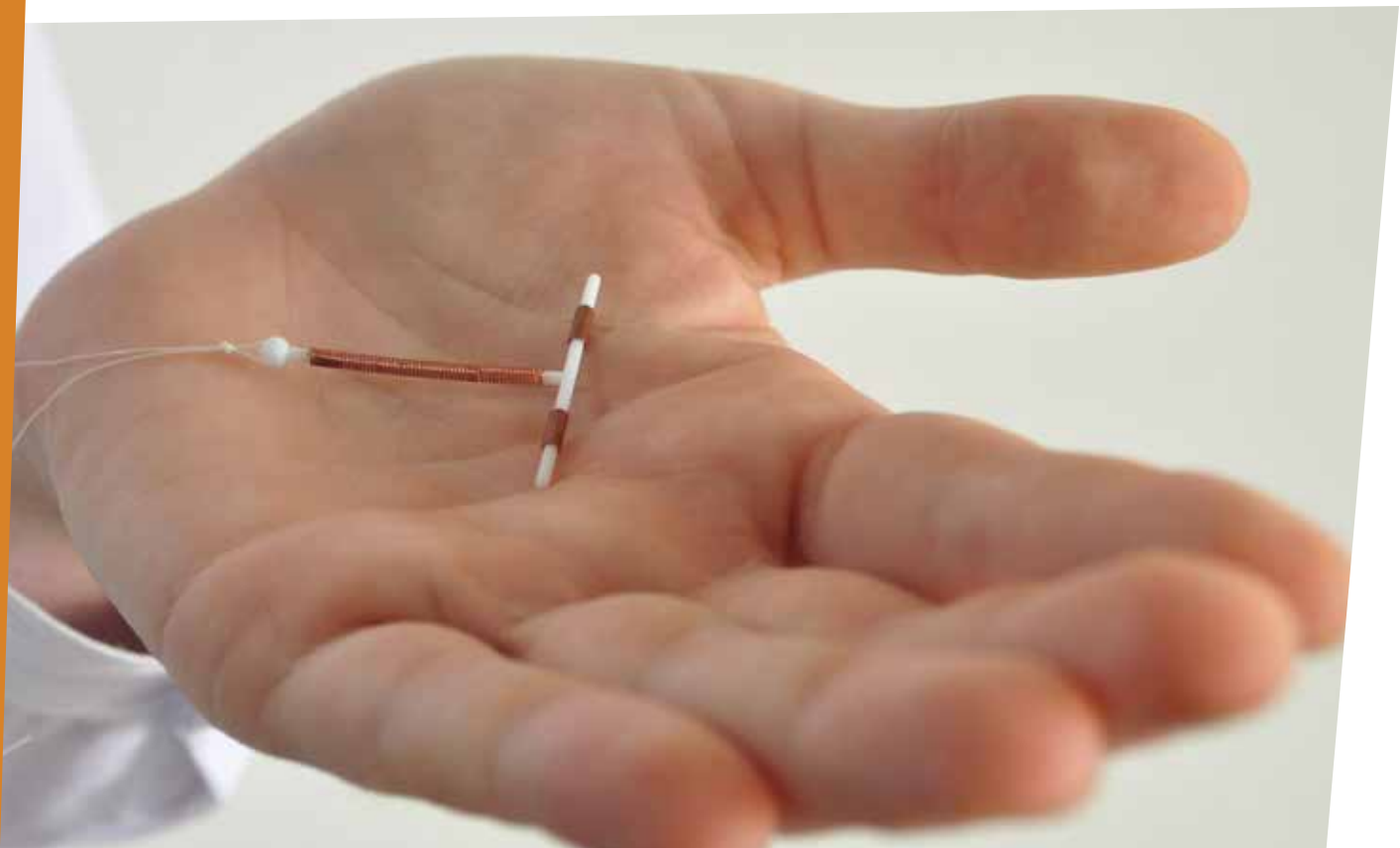
THE BATTLE OVER THE 'CONTRACEPTIVE MANDATE'

Opponents of contraception opened up a whole new front in the war on birth control after the Obama administration in August of 2011, issued a rule relating to the implementation of the Affordable Care Act. The rule categorized a number of reproductive health services, including contraceptive services, as "preventive." The ruling had the effect of requiring private insurers, with an exception for grandfathered policies, to cover contraceptive services without any requirement of a co-payment by the insured.²⁹

Under the federal regulations issued in August of 2011, group health plans of "religious employers" (organizations that are organized and operate as nonprofit entities) were granted an exemption from the requirement, but, despite that exception, leading conservatives, including candidates for the GOP presidential nomination, jumped out in opposition to the regulation on the grounds that it violated the "religious liberty" of private employers.

Lacking the necessary votes in Congress to overturn what they characterized as a "contraceptive mandate," birth control opponents turned to the courts and challenged the Obama Administration's regulation on the grounds that it would violate the Religious Freedom Restoration Act (RFRA), of 1993. Several lawsuits were filed in 2012 and 2013, and after several lower court decisions, the U.S. Supreme Court finally agreed to review the issue. On June 30, 2014, the Supreme Court ruled 5 to 4 in *Burwell v. Hobby Lobby* that under RFRA "closely held" for-profit corporations are exempt from the requirement, if they object on religious grounds.³⁰

The *Hobby Lobby* decision is not the end of the public debate over the "contraceptive mandate." Despite the Court's decision, the vast majority of corporate employers offering plans under the ACA must continue to provide insurance coverage for contraceptive services without any requirement of a co-pay on the part of the insured.³¹ More than 40 employers in 2017 received exemptions. Birth control opponents, however, will not settle for anything less than its complete repeal.



PART THREE

The Trump/Pence Offensive: The First Two Years



Over the past two years, the Trump administration and its allies in Congress have sought by virtually every means possible to slash government support for contraception. The election of Donald Trump as President and Mike Pence as Vice President has radically changed the political landscape, and while Congress has blocked efforts to defund Planned Parenthood and Title X, birth control opponents in Congress and the administration are advancing on multiple fronts and have already won notable victories.

The 2016 election altered the balance of power in Washington. With the election of a new president and a new Congress, and the subsequent appointment of two new associate justices to the U.S. Supreme Court, birth control opponents are much closer to realizing their objectives. Here's what happened during the first two years of the Trump/Pence administration:

- **Planned Parenthood**

The House Appropriations Committee voted to eliminate all funding for Planned Parenthood in the FY2018 and FY2019 appropriation bills. The proposed cutoff would have extended to any reimbursement for the preventive health care services it delivers to Medicaid recipients and Title X beneficiaries. Fortunately, the Senate blocked these defunding efforts.³¹ In 2017, however, the Senate—with a tie-breaking vote cast by Vice President Pence—joined with the House in repealing an Obama administration regulation that prohibited states from barring the participation of Planned Parenthood affiliates in Title X. Now that the regulation has been eliminated, several states, including Texas, have laws in place that effectively bar Planned Parenthood affiliates from participating in the Title X program.³²

- **Title X**

The House Appropriations Committee has voted to eliminate Title X funding seven times in nine years, but the Senate has consistently retained the funding. Title X has been flat-funded for FY2019 at \$286.5 million.³³ In 2018, however, the Trump administration proposed new Title X regulations.³⁴ Under the new rules, which

were finalized and released publicly on February 22, 2019, Title X family planning providers will be denied funding if they provide abortion services or refer patients for abortion. This “domestic gag rule,” as it is commonly called, is aimed at cutting off funding for Planned Parenthood, which serves 41 percent of the 4 million patients who benefit from Title X services. But it also applies to other family planning providers receiving Title X grants by requiring that Title X recipients be physically and financially separate from any entity that provides or refers for abortion.

Before finalizing the new rules, HHS sought public comment. Nearly a half million people filed comments in opposition to the new rule, and they were joined by 200 members of Congress, 15 governors, and 80 mayors.³⁵

- **The ACA**

The “repeal and replacement” of the ACA, in any of the various forms in which it was proposed, would have rolled back much, if not all, of the improved access to contraception made possible by the ACA. The proposals would have dramatically decreased the number of women obtaining private insurance in the state exchanges, while also phasing out the ACA provision allowing states to expand Medicaid coverage in their states.

- **The ‘Contraceptive Mandate’**

While efforts to repeal and replace the ACA have faltered, the Trump administration has sought by regulatory means to restrict the ACA’s “contraceptive mandate.” In 2017, HHS drafted a proposed “interim final rule,” which would make it far easier

for employers, for any moral or religious reason, to delete contraceptive coverage in the insurance policies they offer their employees. Under the rules, as finalized by HHS in 2018, employers would not be required to notify the federal government of any change in coverage. Pennsylvania and New Jersey, however, challenged the new rules in federal court. And in January of 2019, Wendy Beetlestone, a District Judge of the United States District Court for the Eastern District of Pennsylvania, issued a nationwide ban on the enforcement of the revised regulations. According to Beetlestone, the question was not “whether states will be harmed, but how much.”³⁶ The fight in the federal courts is expected to continue until the U.S. Supreme Court intervenes and rules on the merits of the HHS regulations.

■ **Teen Pregnancy Prevention**

The Trump administration is eliminating the evidence-based approach to sex education that is the hallmark of the TPP program. In its budget to Congress, the administration proposed to eliminate all funding for TPP’s evidence-based, sex education curricula and programs, and substituting, instead, funding for sexual risk avoidance which is just “abstinence-only” programs and curricula that have not proven effective in reducing teen pregnancy. With the House of Representatives flipping to Democratic control and the Senate expected to support continued funding for TPP, HHS is expected to support continued funding for TPP. Anticipating a defeat in Congress, HHS is moving administratively to terminate the program by barring existing TPP grantees from reapplying for funding, two years before the grants are scheduled to end.³⁷

■ **The ‘Global Gag Rule’**

In late January 2017, during the first week of his administration, President Trump signed an executive order reinstating the “global gag rule” and vastly expanding its reach. Under prior Republican administrations, dating back to 1984, each President has signed an executive order prohibiting overseas family planning providers funded by USAID family planning funding from advocating for or referring patients to



abortion services. The Trump administration, however, has expanded the application of the “global gag rule” under a policy called “Protecting Life in Global Health Assistance” to any foreign NGO receiving funding under the Global Health Account, preventing them from advocating for or referring patients to abortion services. The change extends the restriction to an estimated \$8.8 billion in USAID funding, versus the \$600 million appropriated for international family planning. [NOTE: In February 2019, House Appropriations Chair Nita Lowey and Senator Jeanne Shaheen reintroduced the Global Health, Empowerment, and Rights (HER) Act, which would legislatively repeal the global gag rule.].³⁸

■ **Funding for the United Nations Population Fund (UNFPA)**

In March 2017, the Trump administration shut off UNFPA funding by invoking the Kemp-Kasten amendment, which forbids foreign aid to any organization involved in coercive abortion or involuntary sterilization. In making its determination, the administration cited UNFPA’s work in China,³⁹ but did not produce any evidence

that UNFPA was supporting any coercive activity in China or elsewhere in the world. The cutoff of funding for UNFPA has had a significant adverse impact on the services provided by the organization. While the FY2019 budget agreement provides \$32.5 million in funding, the administration continues to block UNFPA funding, citing the Kemp-Kasten provision. The amount appropriated for UNFPA will be redirected into USAID's bilateral account for family planning and reproductive health.⁴⁰

■ **Administration Appointments**

President Trump has appointed birth control critics to key administration positions. In 2017, Teresa Wagner Manning was appointed as HHS deputy assistant secretary for population affairs and, in that capacity, assumed responsibility for the administration of Title X. In January 2018, she was reportedly forced to resign her position. After Manning's departure, Valerie Huber, an advocate for abstinence education, served as the acting deputy assistant secretary for HHS for population affairs until the appointment of Diane Foley, an anti abortion and abstinence only advocate, in May 2018. In January of this year Valerie Huber was moved to the Office of Global Affairs at HHS as a senior policy advisor taking her abstinence only agenda global.

■ **Bilateral International Family Planning Assistance**

In submitting his proposed budget to Congress for FY2018, President Trump—*breaking with 50 years of bipartisan support for international family planning assistance*—called for the elimination of all U.S. funding. The House Appropriations Committee rejected that recommendation,

but it did approve a \$150 million cut (a 25 percent reduction) in the FY2018 and FY2019 appropriation bills. While Congress ultimately rejected the proposed cuts, the Trump Administration has proposed reducing funding to \$331 million in FY2019, a cut of nearly 50 percent.

■ **Judicial Appointments**

President Trump, as he promised during his campaign, is appointing judges to the federal judiciary who share his “anti-choice” views. In addition to whatever impact these picks may have on abortion case law, they may also affect court decisions impacting access to contraception. Trump has appointed two Supreme Court Justices, Neil Gorsuch and Brett M. Kavanaugh, tipping the court to a 5-4 conservative majority. During his confirmation hearings, Gorsuch refused to say that “the right of privacy,” as defined in the Griswold decision and subsequent Supreme Court cases, is “settled law.” Such a view, if adopted by the full Court, could potentially open the door to curbs on contraception. In addition, when Gorsuch served as a federal appellate court judge, he ruled in favor of Hobby Lobby, setting the stage for the U.S. Supreme Court’s decision in the Hobby Lobby case the following year. Kavanaugh’s appointment to the Supreme Court dramatically heightens the odds that the Court will ultimately repeal the Roe decision or severely limit its reach. President Trump is also having an impact on the lower federal courts. In the Trump Administration’s first two years, the Senate confirmed 53 federal district judges and 30 appellate justices on the U.S. Courts of Appeals. As of February 2019, an additional 61 nominees were awaiting confirmation.⁴¹



PART FOUR

The Shifting Rationales Behind the 'War'

Birth control opponents have sought to restrict access to contraception under a variety of banners, including opposition to abortion, but the varying arguments and rationales do not withstand scrutiny. Restricting access to birth control, whatever the reason or pretense, is simply bad public policy.

The political assault on birth control does not lack for strategic coherence. No stone is being left unturned in the effort to reduce access to contraception. But there is no coherent rationale behind the strategy. **The arguments against birth control programs are constantly shifting.**

THE MORAL ARGUMENT

Some conservatives, like former Sen. Rick Santorum, have mused publicly about “the dangers of contraception.” In his 2012 quest for the Republican presidential nomination, Santorum gave an interview in which he said, “It’s not okay because it’s a license to do things in the sexual realm that is counter to how things are supposed to be.”⁴²

Most political leaders are reluctant to speak out against contraception in purely moral terms, but “anti-choice” groups are not so reticent. The U.S. Conference of Bishops has played a leading role in the fight against contraception, but non-Catholic religious leaders have also weighed in on the “immorality” of birth control. In a column penned in 2004, R. Albert Mohler Jr., president of the Southern Baptist Theological Seminary, wrote: “The effective separation of sex from procreation may be one of the most important defining marks of our age—and one of the most ominous.”⁴³

Religious conservatives insist that women who simply want to space a pregnancy for reasons of health or personal circumstances

“Talento’s half-baked arguments are a classic example of a conclusion looking for an argument. The only reason to cherry-pick a couple of bad studies or arguments, while ignoring the scientific consensus that the pill is safe and effective, is because you don’t like women using it and you’re trying to come up with some nonsense to deter them. And the only reason not to have women take the pill is because you think it makes it too darn easy to have sex.”

— AMANDA MARCOTTE, SALON.COM



are somehow “anti-child.” Julie Brown, the president and founder of the America Life League, told the *New York Times*: “We see a direct connection between the practice of contraception and the practice of abortion. The mind-set that invites a couple to use contraception is an anti-child mind-set.”⁴⁴ Other religious opponents of birth control have gone so far as to claim that contraception has created “a culture of death.”⁴⁵

THE HEALTH AND EFFICACY ARGUMENT

Katy Talento, a White House staffer who was appointed by President Trump to advise on health policy, has been highly critical of hormonal birth control. In an article written for *The Federalist*, she claimed: “The longer you stay on the pill, the more likely you are to ruin your uterus for baby-hosting.”⁴⁶ That opinion, however, is not shared by the American College of Obstetrics and Gynecology, which has found no link between miscarriages and taking birth control before pregnancy.


Teresa Wagner Manning, who was appointed by President Trump to be the deputy assistant secretary for population affairs, has asserted against all evidence to the contrary that

“contraception doesn’t work.”⁵³ Manning was responsible for the administration of Title X.⁴⁷

THE ‘END OF CIVILIZATION’ ARGUMENT

Some opponents of birth control see the issue in apocalyptic terms. When the Obama administration announced that private insurers under the Affordable Care Act would be required to provide contraceptives without a requirement of a co-payment, Rep. Steve King, a representative from Iowa, ominously warned: “Preventing babies from being born is not medicine. That’s not—that’s not constructive to our culture and our civilization. If we let our birth rate get down below replacement rate we’re a dying civilization.”⁴⁹ The U.S. Census Bureau projects that America’s population, currently estimated at 327 million, will approach 400 million.

Few have publicly endorsed Rep. King’s “dying civilization” argument, but many members of Congress were quick to oppose the ACA’s “contraceptive mandate” on the theory that it violated religious liberty by requiring employers with religious objections to contraception to include such coverage in the policies they offer their employees. Those same members



“Past global gag rules have stopped women around the world from getting the reproductive and maternal health care they need, like contraception, cancer screenings and pregnancy check-ups. It’s made women more likely to have unplanned pregnancies. And, in a point that should be underlined over and over, it is associated with increases, not decreases, in the number of abortions that take place worldwide. Now, President Trump wants to inflict these consequences on women in America, too.”

— SENATOR ELIZABETH WARREN, *TIME*, MAY 2018

of Congress, however, have not made the argument that other religious reservations should be given similar weight, including religious objections to vaccinations, blood transfusions, and other medical practices that have drawn religious censure.

THE FISCAL ARGUMENT

When religious objections are not in play, birth control opponents are quick to raise the banner of fiscal discipline, arguing that cuts in contraceptive services are needed to reduce projected budget deficits. Experience demonstrates, however, that cuts in birth control coverage increase government outlays.

After the Texas legislature in 2011 cut support for family planning clinics in Texas by \$73 million, the nonpartisan state Legislative Budget Board warned that the cutback in family planning services could lead to as many as 20,500 additional births and increase total Medicaid expenditures by about \$230 million. The Board further cautioned that the state's share of these higher Medicaid expenditures could be nearly \$100 million.⁴⁹ Concerned about those higher Medicaid costs, the state legislature, when it reconvened in 2013, restored some of the funding for family planning services, but directed the money go to community health centers, rather than family planning clinics. The community health centers, however, have failed to fill the gaps created by the closure of 82 family planning clinics. The Texas experience amply demonstrates the consequences of cutting access to family planning clinics,⁵⁰ and those impacts include, but are not limited to, an increase in teen pregnancy rates.

A recent study by Analisa Packham, an assistant professor of economics at Miami University, found that the 2011 cuts in family planning services boosted the Texas teen birth rate by 3.4 percent and that factor alone—*not taking into account health care expenditures incurred as a result of an increase in unintended births among older women*—increased taxpayer expenditures by an estimated \$81 million.⁵¹ Nationally, the Guttmacher Institute estimates that every \$1 invested in publicly funded family planning services saves about \$7 in Medicaid expenditures that would otherwise be needed to pay the medical costs of pregnancy, delivery, and early childhood care.⁵²

THE ABORTION ARGUMENT

The most common—and logic-defying—reason given for opposition to birth control is opposition to abortion. The practical effect of denying Planned Parenthood any public funding for the contraceptive services they provide is more abortions, not fewer. Those hoping a budget crackdown on family planning clinics, including those operated by Planned Parenthood, would yield fewer abortions should look to the Texas experience. Packham's study reported that the 2011 cuts in state support for family planning boosted Texas abortions in 2013 by an estimated 15 percent.⁵³ And what is true in Texas is also true nationally. The Guttmacher Institute estimates that without the contraceptive services provided by Planned Parenthood health centers in 2015, the number of unintended pregnancies and abortions in the U.S. would have been 15 percent higher.⁵⁴



PART FIVE

What 'Victory' Would Look Like for Birth Control Opponents

The war on birth control is not a ‘war’ in any technical sense, but it has real-life consequences. If birth control opponents ultimately succeed in terminating government support for family planning and reproductive health services, the results would be catastrophic for women and their families in the U.S. and around the world.

Like wars fought with guns and bullets, the war on birth control is not without casualties. When denied access to a contraceptive method of their choice, women—and their families—often suffer the consequences. Rates of unintended and unwanted pregnancies rise, and when that happens, educations and careers can be interrupted or destroyed. For young women living in poverty, unplanned pregnancies can substantially reduce the chances of escaping poverty. In remote or impoverished areas, where access to public health services are limited or non-existent, an increase in unintended or unplanned pregnancies can contribute to an increase in maternal deaths. And in the developing and developed countries alike, increases in unintended and unplanned pregnancies will result in more abortions, not fewer. In countries where abortion is illegal, and the only abortion is an unsafe abortion, an increase in unwanted pregnancies will also boost maternal deaths.

REPEAL OF THE ACA

Birth control opponents, however, are also trying to limit private insurance coverage of contraceptives. The ACA has dramatically lowered contraceptive costs for women. A 2015 analysis conducted for *Health Affairs* indicated that the annual cost savings for consumers on birth control pills alone was \$1.4 billion.⁵⁵ Any repeal of the ACA would eliminate those savings, dramatically increasing the costs of various contraceptive options and contributing to an even higher increase in unintended pregnancies in the U.S. And that’s only on the domestic side.

It’s too early to tell how far the assault on birth control will go, but it is important—and *eye-opening*—to take a look at what would happen if government support for family planning services were eliminated altogether. The Guttmacher Institute has crunched the numbers to see what would have happened in 2014 if domestic funding had not been available. The results are sobering.

IF PUBLIC SUPPORT FOR FAMILY PLANNING IN THE U.S. HAD BEEN ELIMINATED IN 2014, THE GUTTMACHER INSTITUTE ESTIMATES⁵⁶ THAT IT WOULD HAVE RESULTED IN:

- **Two million** unintended pregnancies;
- Nearly **one million** unintended births;
- Nearly **700,000 abortions**;
- A **68 percent** increase in unplanned births and abortions;
- A **73 percent** increase in the rate of teen pregnancy;
- **99,000** more chlamydia infections;
- **16,000** more gonorrhea infections; and
- **3,700** more cases of cervical cancer.

INTERNATIONAL FAMILY PLANNING ASSISTANCE

If the Trump administration had succeeded in eliminating all U.S. support for international family planning in FY2018, the Guttmacher Institute projects it would have resulted in:⁵⁷

- **25 million fewer** women and couples receiving contraceptive services and supplies;
- **7.5 million more** unintended pregnancies would result, including **3.3 million unplanned births**;
- **3.2 million more** induced abortions, the majority of which would have been provided in unsafe conditions; and
- **14,600 more** maternal deaths would result.

While Congress has yet to act on the administration's budget for FY2020, the Trump administration issued an executive order in 2017 that terminated U.S. support for UNFPA. The administration's action not only applied to the \$32.5 million a year specifically appropriated by Congress; it also terminated the emergency relief funds UNFPA was receiving—approximately \$38 million a year—for the humanitarian work it performs in areas afflicted by conflict. The cutoff has had a significant impact on the maternal and reproductive health of women in refugee camps and war zones.

The health care consequences, however, are only part of the picture. International family planning assistance plays a vital role in the fights against hunger and poverty in developing countries. It also helps in efforts to prevent water scarcity and the deforestation caused by population pressures. When support for international family planning assistance is cut, the costs and impacts are virtually incalculable.

“Highly effective methods—such as IUDs, implants and sterilization—are ultimately cost-effective, but entail high up-front costs. In the absence of the contraceptive coverage guarantee, many women would need to pay more than \$1,000 to start using one of these methods—nearly one month’s salary for a woman working full-time at the federal minimum wage of \$7.25 an hour.” — GUTTMACHER INSTITUTE

The war on birth control has been fought under many different banners. In some sense, it is an undeclared war, as many of its adherents are unwilling to say publicly that they oppose birth control. That would be too direct and too unpopular. Instead, they assert that access to contraception must be curbed because of abortion, public morals, or the need to reduce spending. None of these arguments, however, withstand any kind of scrutiny. The war on contraception, whatever the stated rationale or pretense, is bad public policy.

Every 'war' has winners and losers. Victory for birth control opponents would be, by any measure, a major defeat for women in the U.S. and around the world.

It's time to end the war on birth control.

Endnotes

- 1 *Griswold v. Connecticut*, 381 U.S. 479 (1965)
- 2 *Eisenstadt v. Baird*, 405 U.S. 438 (1972)
- 3 <https://www.hhs.gov/opa/title-x-family-planning/title-x-grantees/index.html>
- 4 <https://www.everycrsreport.com/reports/RL33644.html>
- 5 Ibid.
- 6 Ibid.
- 7 <https://www.guttmacher.org/fact-sheet/publicly-funded-family-planning-services-united-states>
- 8 <https://www.guttmacher.org/state-policy/explore/medicaid-family-planning-eligibility-expansions>
- 9 <http://www.ncsl.org/research/health/affordable-care-act-expansion.aspx>
- 10 <https://www.guttmacher.org/state-policy/explore/medicaid-family-planning-eligibility-expansions>
- 11 <https://www.hhs.gov/ash/oah/adolescent-development/reproductive-health-and-teen-pregnancy/teen-pregnancy-and-childbearing/trends/index.html>
- 12 <https://www.guttmacher.org/state-policy/explore/sex-and-hiv-education>
- 13 <https://www.hhs.gov/ash/oah/grant-programs/teen-pregnancy-prevention-program-tpa/about/index.html>
- 14 Ibid.
- 15 <https://www.healthyyteenetwork.org/news/congress-retains-teen-pregnancy-prevention-program-funding/>
- 16 <https://www.kff.org/global-health-policy/fact-sheet/the-u-s-government-and-international-family-planning-reproductive-health-efforts/>
- 17 <https://www.kff.org/global-health-policy/fact-sheet/unfpa-funding-kemp-kasten-an-explainer/>
- 18 <https://www.guttmacher.org/article/2017/02/trump-global-gag-rule-attack-us-family-planning-and-global-health-aid>
- 19 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3984004/>
- 20 https://www.nj.com/politics/2018/01/eliminated_by_christie_8_years_ago_75m_for_womens.html
- 21 <https://www.reproductiverights.org/press-room/crr-statement-on-house-spending-plan-wiping-out-title-x-family-planning-funding>
- 22 <http://www.npr.org/2016/01/28/464728393/texas-tries-to-repair-damage-wrought-upon-family-planning-clinics>
- 23 <https://www.guttmacher.org/article/2012/01/states-enact-record-number-abortion-restrictions-2011>
- 24 https://www.washingtonpost.com/blogs/ezra-klein/post/romney-takes-on-family-planning/2011/11/04/gIQAQBcrM_blog.html?utm_term=.5a9d9110b2f5
- 25 <http://www.politifact.com/truth-o-meter/article/2012/oct/19/politifacts-guide-mitt-romney-and-abortion/>
- 26 <http://www.pfaw.org/report/the-war-on-women/>
- 27 <http://transcripts.cnn.com/TRANSCRIPTS/1202/22/se.02.html>
- 28 <http://www.cnsnews.com/news/article/santorum-court-ruled-wrongly-griswold-v-connecticut-pre-roe-right-privacy-decision>
- 29 <https://www.guttmacher.org/state-policy/explore/insurance-coverage-contraceptives>
- 30 https://www.supremecourt.gov/opinions/13pdf/13-354_olp1.pdf
- 31 <https://www.nytimes.com/2017/05/29/us/politics/birth-control-trump-obamacare-religion.html>
- 32 <https://www.guttmacher.org/state-policy/explore/state-family-planning-funding-restrictions>
- 33 https://www.nationalfamilyplanning.org/title-x_budget-appropriations
- 34 <https://www.kff.org/womens-health-policy/issue-brief/proposed-changes-to-title-x-implications-for-women-and-family-planning-providers/>
- 35 <https://mic.com/articles/190544/governors-threaten-to-withdraw-from-title-x-program-over-gag-rule-targeting-abortion-providers#.rZXh1Nsbw>
- 36 <https://www.theregreview.org/2019/01/28/hussussian-judge-suspends-rules-expanding-exemptions-contraceptive-mandate/>
- 37 <https://www.cbsnews.com/news/trump-administration-cuts-short-teen-pregnancy-prevention-program-funding/>
- 38 <https://www.congress.gov/bill/115th-congress/senate-bill/210>
- 39 <http://www.kff.org/global-health-policy/fact-sheet/unfpa-funding-kemp-kasten-an-explainer/>
- 40 https://www.plannedparenthood.org/uploads/filer_public/81/9d/819d9000-5350-4ea3-b699-1f12d59ec67f/181231-ggr-d09.pdf
- 41 <https://www.acslaw.org/judicial-nominations/>
- 42 <http://swampland.time.com/2012/02/14/rick-santorum-wants-to-fight-the-dangers-of-contraception/>
- 43 <http://www.albertmohler.com/2006/05/08/can-christians-use-birth-control/>
- 44 <http://www.nytimes.com/2006/05/07/magazine/07contraception.html>
- 45 Ibid.
- 46 https://www.sciencemag.org/news/2017/02/anatomy-alternative-fact-offered-top-trump-health-adviser?r3f_986=https://www.google.com/
- 47 https://www.washingtonpost.com/news/powerpost/wp/2017/05/01/trump-picks-antiabortion-activist-to-head-hhs-family-planning-program/?utm_term=.47ebda338629
- 48 http://www.huffingtonpost.com/2011/08/02/steve-king-free-birth-control_n_916519.html
- 49 <https://www.texasobserver.org/more-a-quarter-million-women-will-lose-birth-control-with-house-budget-cuts/>
- 50 <https://www.guttmacher.org/gpr/2014/03/state-sexual-and-reproductive-health-and-rights-state-texas-cautionary-tale>
- 51 <https://thinkprogress.org/texas-family-planning-cuts-3ed9f259c98e/>
- 52 <https://www.guttmacher.org/fact-sheet/publicly-funded-family-planning-services-united-states>
- 53 <https://thinkprogress.org/texas-family-planning-cuts-3ed9f259c98e/>
- 54 <https://www.guttmacher.org/infographic/2017/unintended-pregnancies-and-abortions-averted-planned-parenthood-2015>
- 55 <http://content.healthaffairs.org/content/34/7/1204.abstract>
- 56 <https://www.guttmacher.org/fact-sheet/publicly-funded-family-planning-services-united-states>
- 57 <https://www.guttmacher.org/article/2017/05/just-numbers-impact-us-international-family-planning-assistance>



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