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**POPULATION ISSUES AND THE
FY'96 FOREIGN AID APPROPRIATIONS BILL**

CORE COURSE THREE ESSAY

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**POPULATION ISSUES AND THE
FY'96 FOREIGN AID APPROPRIATIONS BILL**

Foreign aid appropriations bills have traditionally been the least popular of the 13 annual spending bills that Congress must pass because the programs funded therein are generally perceived as benefitting foreign, rather than American, citizens. Legislators in both the House and the Senate recognize the necessity of this appropriations bill and, at least since 1980-81, have counted on the popularity of aid to Israel to be the catalyst for action. The foreign aid spending bill for fiscal year 1996 (FY'96), the first such bill to be managed by the Republican Congress elected in 1994, moved through both houses with surprising speed and attracted strong bi-partisan support. However, an unprecedented situation arose when House and Senate conferees failed to resolve a predominantly ideological dispute over funding for population activities, a little-known program which accounted for less than \$400 million of the \$12 billion in funds appropriated by the bill.¹ A four-month stalemate ensued that was broken only by high-level negotiations between the White House and the House Republican leadership. This paper looks at why the population program became the central issue dividing the House, the Senate and the Administration, and at how key actors influenced the process and the outcome.

WHAT HAPPENED? THE FACTS:

Debate on the House floor over the foreign aid appropriations bill began June 22, three weeks after the bill was reported out of the Appropriations Subcommittee on Foreign Operations. The Subcommittee chairman, Rep. Sonny Callahan (R-AL), had taken a pragmatic approach to the bill and kept it remarkably free of earmarks and foreign

policy “riders” likely to draw opposition.² The full Appropriations Committee followed Callahan’s lead, approving the bill on June 15 with only a few changes. During the floor debate Rep. Chris Smith (R-NJ) offered an amendment to reinstate a Reagan-era measure known as the “Mexico City policy”, which barred funding to organizations that involved themselves in any way with abortions in foreign countries. The amendment was a direct challenge to President Clinton, who had signed an executive order overturning the Mexico City policy soon after taking office. Smith’s amendment passed by a vote of 243-187. The bill itself passed on a vote of 333-89.³

The Senate Appropriations Subcommittee on Foreign Operations took up the House bill on September 12, making substantial revisions which generally softened the legislation. Senator Patrick Leahy (D-VT) offered a multi-faceted amendment which deleted the Smith language on abortion curbs, added language blocking the “censorship of medical information”, and added language proposed by Senator Nancy Kassebaum (R-KS) specifically barring the imposition of Mexico City-type restrictions. Leahy’s amendment was adopted, 8-5.⁴ Two days later the full committee, chaired by Senator Mark Hatfield (R-OR), one of the Senate’s strongest supporters of family planning aid, gave its unanimous consent to the bill during a brief and uneventful mark-up session. No attempts to modify the Senate’s position were made during the September 21 floor debate. The bill passed the Senate on a vote of 91-9 and was sent to conference.⁵

The conferees did not meet until October 24, appropriators having been distracted by the budget battle between the Republican Congress and the Clinton White House. There were 193 instances in which the House and Senate bills differed (some more

important than others), but conferees disposed fairly rapidly of 192 of them. The last issue, restrictions on population aid, proved intractable and, after hours of heated negotiations, the House and Senate simply agreed to disagree. The conference report cited the issue as one which was in "true disagreement".⁶ This required each chamber to vote again on whether to retain or jettison its original provision.

The House acted first, voting 232-187 on October 31 to retain its position, despite an Administration announcement that senior officials would recommend that the President veto the bill if it contained restrictions on population assistance beyond those in existing law. The Senate acted the following day, voting 53-44 to strike the House language and reinsert its original provision. The conference report bounced back to the House on November 15 where members again voted (237-183) to retain their position. Later the same day, Sen. Hatfield tried to end the tit-for-tat voting with a rarely used parliamentary maneuver. He moved to table (kill) the original Senate amendment, which the House had just replaced with its own language.⁷ The effect of this gamble was to delete both the House and Senate provisions, producing a 'clean' conference report with no items in disagreement. Hatfield's motion passed 54-44 and the Senate parliamentarian ruled that no further action by the House was necessary, the bill could go directly to the President for signature. Rep. Chris Smith was enraged by this attempt to circumvent House opposition and persuaded the House leadership to protest. The House parliamentarian rejected the Senate's interpretation of the rules and insisted the bill be returned to the House.⁸ The impasse continued.

By this time, mid-November 1995, the “train wreck” predicted since the summer was about to take place and important foreign policy interests were beginning to feel the effects of the delay in enacting a foreign aid spending bill. Supporters of aid to Israel began to lobby hard for action and were bolstered by the state visit to Washington of Israeli Prime Minister Shimon Peres. Media reports indicated that Israel’s bond and credit ratings would suffer if aid was not provided by December 31.⁹ Frustrated by the lack of movement, Rep. Callahan offered a compromise on December 13 which dropped the Mexico City provision but froze all population funding unless a foreign aid authorization bill was enacted. Opponents argued that the ‘compromise’ effectively killed international family planning programs, but the proposal passed, 226-201.¹⁰ The ball was back in the Senate’s court, but since Sen. Hatfield’s parliamentary maneuver had ended action on the bill, it could not be re-opened without the consent of all 100 Senators. Two Senators objected, reportedly at the behest of Rep. Smith, leaving the Senate unable to either counter the House action or move the bill forward.¹¹

Impatience with the issue had infected both Newt Gingrich and the White House by mid-January, and higher priorities were at stake. Portions of the government had been closed for nearly 30 days and another shutdown loomed for January 26. As part of the Continuing Resolution (C.R.) package offered to White House Chief of Staff Leon Panetta during negotiations in the Speaker’s office, House leaders agreed to include the foreign aid bill in the C.R. and drop the Mexico City policy. In exchange, the White House agreed to accept a complicated “metering” scheme which had the effect of reducing funds for population activities by 35%.¹² Senator Hatfield, who was not part of

the negotiations, objected but time had run out. The House approved the C.R. with the foreign aid bill compromise on January 25 and promptly adjourned. Faced with a fait accompli and another government shutdown, the Senate approved the C.R. on January 26

WHY WAS FUNDING FOR POPULATION PROGRAMS THE KEY ISSUE?

The simple answer is that the population/family planning program was framed by conservatives as an 'abortion issue' and thus became a matter of principle for key players and important interest groups. Bureaucratic politics within the Administration and in the House are key, however, to understanding why the dispute went unresolved for so long

THE HOUSE: When the Republicans took control in January 1995, Speaker Gingrich made a strategic decision to keep abortion issues off the table while the House focussed on the Contract with America.¹³ Rep. Smith, leader of the House 'Right to Life' coalition and the chamber's most vociferous abortion opponent, disagreed with but accepted the decision. Once action on the 'Contract' was completed, abortion foes refused to be contained, and indeed grew more demanding. As chairman of the House International Relations Subcommittee on Foreign Operations, which initiates State Department and foreign aid authorization bills, Smith had tried to pass restrictions on population assistance through the normal authorization process. His effort was thwarted, however, when President Clinton vetoed the State bill, primarily over the issue of consolidating foreign affairs agencies.¹⁴ Hence, the foreign aid appropriations bill became Smith's vehicle for achieving his goal. Citing the strength of the right to life bloc (100-200 votes), he pressured House leaders to amend a rule barring the attachment of authorization provisions to the appropriations bill, paving the way for passage of his

amendment.¹⁵ The House pro-life coalition succeeded in adding abortion ‘riders’ to four of the thirteen appropriations bills, and in September 1995, the coalition rallied to defeat the DoD appropriations bill because House conferees had made concessions on an abortion provision attached to that bill.¹⁶ This experience was fresh in the minds of House conferees on the foreign aid bill when they met in October, and was central to their decision not to compromise. In addition, Speaker Gingrich had evidently concluded that abortion opponents would be undeterred until they saw for themselves that a fight was futile and that abortion riders would have to be stripped from the spending bills. “His strategy was to let proponents push the abortion initiatives, despite howls from appropriators whose spending bills got bogged down in House-Senate disagreements over contentious policy riders.”¹⁷ Gingrich made a calculated decision to tolerate an extended delay on the foreign aid bill rather than alienate a large and powerful segment of his Republican colleagues. Prepared from the outset to compromise, he could not actually do so until the game had played itself out.

THE SENATE: A coalition of moderate, well-placed senators (Hatfield, Kassebaum, Snowe, Simpson, Cohen and Jeffords), experienced with family planning issues, joined with Democrats to ensure that Rep. Smith’s proposal made no headway in the Senate. Sen. Hatfield was the key player for the Senate because as chairman of the Appropriations Committee it was, in theory, impossible for a compromise to be arrived at without his consent. Beyond the substance of the issue, a key factor influencing Republican senators was their growing disenchantment with ‘the childish antics’ of their House colleagues. A desire to teach the House Republicans a lesson was certainly one of

the motives behind Hatfield's unusual parliamentary maneuver. In the end, however, Hatfield's move may have worked against him, and induced House leaders to keep him in the dark about the compromise offered to the Administration.¹⁸

THE ADMINISTRATION: State and AID were the major players, but their traditional roles were reversed. As the agency which administers population programs and is the recognized 'expert' on the issue, AID usually has had the strongest voice. State has generally played a secondary role, viewing the issue as something alien to 'real' foreign policy, and had only one small office to oversee population policy. This equation changed because of key personalities at State.

The Bureau of Legislative Affairs (H), headed by Wendy Sherman, and the office of the Undersecretary for Global Affairs (G), headed by former Senator Tim Wirth, were the central figures. Ms. Sherman had been the president of EMILY's List (a PAC which raises money for female and pro-choice candidates) prior to coming to State and had excellent contacts at OMB, the White House, and with concerned interest groups. She also carried great weight with Secretary Christopher based on a track record of providing insightful advice about Congressional actions.¹⁹ As a Senator, Wirth had been an active supporter of family planning programs and a close colleague of Vice President Al Gore. Wirth's mandate was to raise the profile of transnational issues such as population and the environment within State. The Global Affairs position was created for him, and the Bureau of Refugee Programs, into which the Office of Population Policy was incorporated, was placed under his control to ensure that the issues of population growth, migration and refugees were integrated. These changes aroused the ire of Chris Smith

who was as strong an advocate for refugee programs as he was against population programs, and who expressed concern that refugee issues would be subordinated to population matters²⁰ His criticism caused some at State to view the effort to restrict population programs as a partisan attack on the Administration's priorities, not just a principled anti-abortion stance.

Legislative Affairs recommended that the Administration strongly oppose the Smith provision from the time it first appeared in the State authorization bill Tim Wirth agreed fully and no one within State challenged them²¹ The overriding consideration was that the President had overturned the Mexico City policy two days after taking office, citing the fact that the policy essentially told private organizations how they could spend their own funds Moreover, the Reagan administration had implemented the policy via an executive order It was never codified in law²² H's view was that the policy decision had already been made, accepting restrictions on population programs now would be a betrayal to key constituencies, would signal that the President would 'cave-in' to pressure from the Republican Congress, and might encourage even more radical moves (Information from highly regarded pro-family planning groups, such as Population Action International (PAI), indicated that Smith's amendment was just the first step in a campaign to eliminate international family planning programs and chip away at domestic abortion rights²³) Last, but not least, H argued that Smith and the right to life coalition could not muster the votes in the Senate to support their position If the White House and the Senate stood firm, the House would eventually back down Sherman, Wirth and their staffs argued persuasively for this position throughout the stalemate As time passed,

regional offices within State, particularly the Middle East bureau, became increasingly nervous about funds for 'their' countries being delayed, but their arguments came after the October 31 announcement of the veto threat, too late to make a difference

AID was the only actor to raise questions about the policy. AID Administrator Brian Atwood accepted State's position but wanted equal attention devoted to funding levels. AID's focus was on its survival as an agency and, in that context, preserving funding for one of its most successful programs was paramount. In addition, AID had administered population programs when the Mexico City policy was in effect, and experienced hands within the agency felt that adequate funding was the more important issue. They had lived with the restrictions before and could live with them again, if necessary.²⁴ Rumors that AID officers were 'secretly' working on a compromise with House Republicans surfaced immediately after the House-Senate conference deadlocked, adding a sense of urgency within H and G to have the White House go on record with a veto threat. It is not clear whether Atwood agreed with his staff or simply decided not to fight a losing cause, but he did not oppose the veto recommendation.

In sum, the Administration's position was arrived at because individuals at State with strongly-held views and access to key players in the White House prevailed. State persuaded the White House to publicly commit itself to vetoing the foreign aid bill over the Mexico City policy, ensuring that no compromise on principle could be made without severe ramifications. But this left funding as the obvious area for compromise.

INTEREST GROUPS: An array of powerful interest groups mounted lobbying campaigns throughout the course of the debate, but the available evidence shows that

their impact was primarily to solidify rather than create support. Nonetheless, their activities were critical. For example, it was the Christian Coalition, the Catholic Conference and the National Right to Life Organization (working closely with Rep. Smith) which framed the issue as an 'abortion vote'. Aware that many House members were relatively new to office and unfamiliar with international family planning programs, these groups focussed their letters and calls on urging members to vote against funding for foreign abortions²⁵. This resonated with conservative members and kept them committed. The tactic was unsuccessful in the Senate, however, where members were more moderate and more likely to have had experience with family planning programs. Pro-choice and pro-family planning groups joined with important environmental groups, including the Sierra Club and the National Wildlife Foundation, to bombard Senators and the President with letters and calls urging a firm stance against the Republican challenge. The intensity of their efforts combined with their political clout within the Democratic party gave the White House added impetus to commit itself to a veto, and helped offset pressure from pro-Israel aid forces to end the standoff²⁶.

CONCLUSION:

Strong individuals in the Congress and within the Administration succeeded in overriding standard organizational processes, and their adeptness at 'working' their respective bureaucracies led to the four-month impasse. With a different set of actors, AID's concern about funding levels would probably have carried more weight and forced either a modification in the Administration position or a resolution more favorable to AID's interests. Similarly, a less zealous and well-connected member than Chris Smith

would probably not have been able to exert the same influence with House leaders
Pressure from pro-Israel aid groups would normally have driven House and Senate
leaders to resolve the dispute quickly Instead, individuals with strongly-held, yet sharply
opposite views drove the process, producing a stalemate which could not be resolved
until officials at the highest level stepped in

¹ "Family-Planning Compromise Helps Foreign Aid Pass" *Congressional Quarterly*, January 27, 1996 p 227 The bulk of the factual data in this paper concerning Congressional action on the FY'96 foreign aid appropriations bill comes from reports published in the *Congressional Quarterly*

² "Bill Slashing Overseas Aid Gets Bipartisan Support" *Congressional Quarterly*, June 10, 1995 p 1658

³ "Scaled-Back Foreign Aid Bill Wins House Approval", *Congressional Quarterly*, July 15, 1995 p 2083

⁴ Population Action International, *Legislative and Policy Update*, Feb 8, 1996 p 7

⁵ "Senate Votes to End 5-Year Ban on Direct Aid to Pakistan." *Congressional Quarterly*, September 23, 1995 p 2921

⁶ State Department Information Memorandum, October 25, 1995

⁷ Population Action International, *Legislative & Policy Update* pp 3-4 This publication provides a detailed description of action by both the House and the Senate following the deadlocked conference

⁸ *Ibid*

⁹ "Stalled Spending Bill Leaves Israel Facing Financial Hit" *Congressional Quarterly*, December 23, 1995 p 3896

¹⁰ Population Action International, *Legislative & Policy Update*, Feb 8, 1996 p 5

¹¹ *Ibid*

¹² *Ibid* The compromise provided that no funds for population assistance could be used prior to July 1, 1996 If a foreign aid authorization bill was not enacted by that date, the funds could be used but only at a rate of 6 7% per month for the next 15 months State officers and population groups confirmed this assessment of how the compromise was reached

¹³ "Gingrich's Abortion Strategies", *Congressional Quarterly*, Nov 4, 1995 p 3376

¹⁴ Personal experience As State's legislative officer covering immigration, refugee and population issues, I covered refugee and population issues in the State bill

¹⁵ Discussion with Smith staff aide, G J Rees

¹⁶ "Gingrich's Abortion Strategies", *Congressional Quarterly*

¹⁷ *Ibid*

¹⁸ Discussion with an aide to Sen Hatfield who asked not to be named It should also be recalled that Sen Hatfield was somewhat unpopular with the House because he cast the deciding vote against a balanced budget amendment during the Senate debate

¹⁹ Personal experience I worked for Ms Sherman and observed this on many occasions

²⁰ Discussion with Smith aide, Rees

²¹ Personal experience The refugee bureau had balked at the inclusion of population issues in its mandate and had no one on staff who was experienced in the issue During this time frame, a former hill staffer headed the Office of Population Policy Because AID was the implementor of population policy, little knowledge or experience with the program existed elsewhere within State

²² State Department fact sheet, "The Mexico City Policy"

²³ Discussion with Population Action International staffer

²⁴ Conversation with AID legislative officer

²⁵ Conversation with aide to Sen Hatfield

²⁶ Conversation with State Legislative affairs, M Donovan

MEXICO CITY POLICY

What was the Mexico City Policy?

Under the Reagan and Bush administrations a "policy" -- not a statute -- was adopted that made a non-governmental organization (NGO) ineligible for USG family planning assistance if the NGO used funds from any source to perform or actively promote abortion as a method of family planning in foreign countries. The policy was announced at an international population conference in Mexico City in 1984

How was the policy implemented?

The Mexico City policy was applied to foreign NGO's only US organizations were excepted because both the Reagan and Bush administrations recognized that if the US penalized American NGOs for their privately-funded activities in foreign countries it could have been a violation of their constitutional right to free speech and association. Although US NGOs remained eligible for assistance, they were prohibited from transferring, through grants or subcontracts, federal funds to foreign NGOs that performed or promoted abortion with funds from any source

Why does the Administration oppose the amendment offered by Rep. Chris Smith?

The amendment prohibits funding to any organization, US or foreign, that uses private funds to perform legal abortions in foreign countries. The provision makes US organizations ineligible for assistance, by law, on the basis of what they choose to do with private funds. This is much broader than the Mexico City policy that was implemented during the Reagan and Bush administrations

*The information above comes from a fact sheet distributed by the Administration to House and Senate members. It is meant to provide the reader with additional background information on the issue

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