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USAID'S REACTIONARY
POLICIES AND THE
CASE OF EMERGENCY
CONTRACEPTION IN
PERU

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“The United Nation’s system and the donor community should...support States in...mobilizing and providing sufficient resources to satisfy the growing demand for access to information, counseling, services and follow-up on the widest possible range of safe, effective, accessible and acceptable contraceptives, including new options and underutilized methods.”

Key Actions for the Implementation of the Program of Action of the International Conference on Population and Development

New York, USA, 1999

1970s

USAID begins family planning work in Peru

1992

Peruvian government adds emergency contraception (EC) to the country's family planning norms, although it is not actively promoted

1994

At the International Conference on Population and Development in Cairo, 179 governments—including the U.S. and Peru—agree to strive to ensure access to a wide range of contraceptive methods

1996-1998

Human rights groups and women's groups protest coercive sterilization practices by the Peruvian government

Far-right groups in Peru and the U.S. also protest sterilization policies, demanding that the entire national family planning program—including USAID family planning work in Peru—be ended immediately

1998

U.S. Congressional investigation concludes that USAID funding did not support abuses committed by the Peruvian government

USAID, still under political pressure, ends its previous financial support for post-abortion care and insists that the health ministry remove EC from Peru's national family planning norms

2001

Peru's Ministry of Health (MOH) reincorporates e. c. into the national family planning norms and, with technical support from USAID, passes a Ministerial Resolution mandating its distribution within the public health system. The MOH also approves the commercial sale of an EC product, Postinor 2.

2001-2003

Implementation of Ministerial Resolution is stalled by conservative Ministers of Health in Peru

2003-2004

Peruvian national debate concludes with official support for EC's distribution within public programs

2004

Dr. Pilar Mazzetti appointed as Minister of Health, implements Ministerial Resolution

U.S.-based group Population Research Institute (PRI) establishes office in Peru

2005

PRI sends letter to USAID, complaining that two Peruvian grantees of USAID/Peru violated the Global Gag Rule by promoting EC

USAID, while taking no punitive actions against the two grantees, requests reimbursement of funds used for these activities

USAID sends letter to all partners in Peru which requests that, regarding EC, they “maintain a neutral position, not giving preference to any position in any circumstances that involves USAID financing, for example, information materials or planned events, among others.”

2006

Nongovernmental organizations in Peru protest letter and EC policy

USAID states that its policy since 1997 has been not to participate in public debate around EC

Introduction

For 30 years the United States Agency for International Development (USAID) has been the primary foreign donor to health programs in Peru. In 1998 alone it provided \$21 million to Peru's public health sector, making up approximately one-fourth of the bi- and multilateral financial aid in this area.¹ A significant portion of USAID's funding has been directed to reproductive health, with a focus on family planning. For example, between 1994 and 1998, USAID provided \$85 million to family planning activities,² or three quarters of all of its reproductive health aid to Peru. USAID's support has contributed significantly to improving the reproductive health and rights of people living in poverty in Peru, particularly women.

Nevertheless, politically driven U.S. policies governing USAID's programs have at times inhibited reproductive rights and adversely affected the health and well-being of individuals. Depending on the goals of successive U.S. administrations, USAID's support for family planning programs in Peru has shifted since it began working there in the 1960s. Initially, it focused on meeting demographic goals, with a mindset toward simply slowing rapid population growth. After the International Conference on Population and Development in Cairo in 1994, USAID sought to implement that agreement, shifting to a rights-based approach to population policy, which emphasized women's needs and context, rather than fertility targets. Today, under the conservative Bush administration, USAID's position on emergency contraception in Peru negates fundamental human rights, including the right to informed and voluntary decisions over one's body, reproduction, and contraceptive use.

¹ Baffigo de Panillos V, Neves C, Villa E. Inversiones en salud, población y nutrición en el Perú 1994–2005. Lima: USAID/Peru, 2000.

² This includes both public (governmental) and private (nongovernmental) sectors.

USAID's interference in provision of and access to emergency contraception occurs despite the fact that the method is legal in Peru. Emergency contraception, which is also legal in the United States, is used immediately after sexual intercourse to prevent pregnancy (see [Appendix 1, Emergency contraception](#)). **In 2005, USAID requested that its partner organizations in Peru “maintain a neutral position” on emergency contraception, “not giving preference to any position in any circumstances that involves USAID financing, for example, information materials or planned events.”** This restriction is not an isolated incident, but rather reflects a culmination of U.S. policies and programs seeking to restrict reproductive rights globally.³

USAID's current policies toward sexual and reproductive health are consistent with perspectives held by the Catholic Church and many evangelical churches that are politically active in Peru and the United States. There are signs that far-right organizations in the United States, as well as Peru, are having an unprecedented influence on U.S. public policy, guided by the following aims:

1. **Impede access to a wide range of contraceptive methods, including emergency contraception.**
2. **Counter efforts to ensure access to safe and legal abortion.**

This approach directly contravenes international consensus documents signed by the Peruvian government that recognize reproductive rights as affirming individual freedom regarding the body, fertility, and the use of contraceptive methods. (See [Appendix 2, International conferences and documents on sexual and reproductive rights](#).)

³ International Women's Health Coalition. “Bush's Other War.” www.bushsotherwar.org, accessed May 2007.



Part 1⁴

History of USAID support for family planning in Peru

In Peru, foreign donors have played an important role in developing reproductive health services in general, and in making contraceptive methods available in particular. In the 1970s and 1980s, the Peruvian government provided scant political or financial support to national family planning services. Therefore, international donors, principally USAID, directed the bulk of their support to private nongovernmental organizations (NGOs) that delivered family planning services. At the time, the global policy goals set by donor country governments like the United States were oriented toward achieving demographic objectives to stem population growth. These demographic approaches ignored

⁴ Part 1 is based in large part on the following publications: Chávez, Susana. *Cuando los fundamentalismos se apoderan de las políticas públicas*. Centro de la Mujer Peruana Flora Tristán: Lima, Peru. 2004. Coe, Anna-Britt. "From Antinatalist to Ultraconservatives: Restricting Reproductive Choice in Peru." *Reproductive Health Matters* 12(24) pp. 56-69. London, UK. 2004. Coe, Anna-Britt. "CHANGE: Promoting Women's Sexual and Reproductive Health in Peru." *Women's Health Journal* No 3/4. Latin American and Caribbean Women's Health Network: Santiago, Chile. 2001.

the social and cultural contexts in which women lived, including gender inequity and other forms of discrimination, as well as women's own needs and rights. Programs operated under the assumption that if contraceptive methods were offered, women would automatically request and use them. This approach failed to address the different levels of inequality and access that women experienced in relation to their sexuality and fecundity.

In the early 1990s, the Peruvian government demonstrated increased political and financial commitment to its national family planning program. USAID supported this initiative by transferring a large portion of its assistance for family planning to the public health sector, while still maintaining the same demographic approach that had guided its population policies worldwide since the 1960s.

Reproductive rights: Development of a new international focus

USAID's family planning policies, globally and in Peru, began changing around the time of the 1994 International Conference on Population and Development, in Cairo. While USAID continued to focus on family planning, it slowly redefined its policies to include more comprehensive, user-centered approaches to reproductive health. In Peru, this broader focus included, for the first time, programs centered around women's actual needs—preventing unwanted pregnancy and sexually transmitted infections, improving the quality of public health services and the treatment of unsafe abortion through a post-abortion care model, and even addressing the sexual and reproductive health needs of adolescents.

These initial efforts by USAID in Peru to develop rights-based reproductive health policies and programs reflected the recognition of international agreements and the need to implement them within U.S. foreign aid. Unfortunately, this period did not last long.

The influence of fundamentalism

While USAID and other foreign donors, including the United Kingdom's Department for International Development (DFID) and the United Nations Population Fund (UNFPA), were working to transform their own policies to

embrace a rights-based approach, the Peruvian government adopted an unofficial policy that sought to fulfill demographic goals. Between 1996 and 1998, the Peruvian government, led by President Alberto Fujimori, implemented a policy that sought to rapidly increase modern contraceptive use, particularly sterilization, among the poorest and most marginalized women in the country in order to slow rapid population growth.⁵

Peru's Ministry of Health set targets for the number of new users of permanent birth control methods (tubal ligation and vasectomy) and it obligated health care providers to meet specific quotas. This strategy had serious consequences. For one, it violated human rights by taking personal decisions about reproduction and childbirth away from individuals and giving it to the government instead. Further, family planning services, in particular sterilizations, were delivered without adequate quality of care and lacked appropriate standards for voluntary and informed consent. Peruvian women's organizations and the Public Ombudsman's Office on Women's Rights led efforts to challenge government policy and propose reforms.

Fundamentalist groups in Peru—including Catholic Church officials, NGOs affiliated with the Church, and ultraconservative policymakers—exploited evidence of abuses to advance their own agenda of restricting access to reproductive health services in general. They demanded that the national family planning program be shut down immediately and that sterilization be removed from the list of State-approved contraceptive methods. Mobilizing around this agenda, several right-wing leaders in Peru began coordinating their activities with like-minded groups in the United States such as the Population Research Institute (PRI) and Human Life International (HLI).

These groups carried out aggressive advocacy campaigns against USAID's support to Peru's national family planning program, even though USAID was not supporting or encouraging coercive activities. For example, in early 1998 a PRI representative traveled to Peru to meet with the ultra-conservative physician and future congressperson, Dr. Hector Chávez Chuchón. Upon returning to the United States, PRI contacted Representative Chris Smith, a conservative ally and member of the U.S. Congress, claiming that USAID had financed human rights violations in Peru and therefore its program should be shut down immediately. In response, Rep. Smith ordered a congressional hearing on forced sterilization in Peru with four witnesses: a representative from USAID, Dr. Chávez Chuchón and two Peruvian women who had been sterilized against their will.⁶

⁵ Sterilization was legalized in Peru in 1995.

⁶ The Congressional hearing did not include testimony by USAID's partners in Peru, or representatives of women's rights groups, the Peruvian Physicians' Association, or the Public Ombudsman.

In order to ensure that no funds were being used to force sterilizations, an investigation of the program was initiated. The investigation—carried out by the U.S. government—did not find any evidence that USAID had financed the abuses committed by the Peruvian government.

Nonetheless, pressure from fundamentalist groups undermined USAID's support for reproductive health programs in Peru and led to other limitations. In 1998, USAID/Peru ended its financial support for post-abortion care and insisted that the Ministry of Health remove emergency contraception from the Peruvian national family planning norms, which had been added in 1992.⁷ Given that the U.S. administration had no scientific or public health motivation to carry out such a measure, it appears that USAID officials took these steps in order to preempt future attacks by opponents in the United States and Peru. In all likelihood, USAID anticipated that right-wing groups would ease their pressure if the agency demonstrated that its family planning program in Peru did not include support for health care interventions like post-abortion care or contraception—including emergency contraception, which many erroneously likened to abortion.

However, the USAID “preemption strategy” backfired: instead of stepping back, right-wing groups continued their attempts to restrict access to contraceptive methods and limit reproductive choice. In the ensuing years, U.S.-based anti-abortion groups such as Human Life International (HLI) joined PRI in working with conservative Peruvian allies to develop an ongoing strategy for discrediting and harassing USAID and other organizations working in support of reproductive health and rights in Peru.⁸

Following President Fujimori's abrupt departure from office in 2000, a transitional government under the leadership of Valentín Paniagua took over for nine months. During his administration, Peru's Ministry of Health reincorporated emergency contraception into the national family planning norms. The Ministerial Resolution signed on July 13, 2001, also mandated its distribution within the public health system.⁹ In spite of conservative opposition and the ascension to power of the ultra-conservative Bush administration in the United States, USAID understood the renewed commitment to this measure and provided technical assistance to the Ministry of Health to develop the resolution.

⁷ Persons involved in preparing this publication obtained this information first-hand through their involvement at the time in reproductive health projects in Peru that were funded by international donors.

⁸ For more examples, see the archives of electronic newsletter on PRI and HLI's websites, and Chávez, S & Coe, A-B, “Emergency Contraception in Peru: Shifting Government and Donor Policies and Influences” *Reproductive Health Matters* 2007 15(29).

⁹ Ministerial Resolution #399-2001-SA/DM.

That same month, the newly elected government of Alejandro Toledo was installed. Toledo appointed conservative physicians as Ministers of Health during the first two years of his administration. Between 2001 and 2003, Dr. Luis Solari, followed by Dr. Fernando Carbone, led the Ministry of Health in implementing various policy measures designed to restrict access to reproductive health information and services. Although they permitted commercial sales of emergency contraception, they systematically refused to fulfill the Ministerial Resolution requiring its distribution within public health services—a discriminatory policy against primarily low-income women who used the public health service. Drawing on their close ties with HLI and PRI, Solari and Carbone¹⁰ succeeded in blocking USAID in Peru from lending support to another means of EC provision—through its nongovernmental partners.¹¹

Between mid-2003 and early 2004, Peru held a national debate on whether emergency contraception should be made available in publicly funded programs. Participants in the debate included relevant government institutions such as the Ministries of Justice, Health, Women and Social Development, and the Public Ombudsman. All of these institutions officially recognized emergency contraception as a contraceptive method and supported its distribution within public programs. Peruvian civil society organizations, including women's community-based organizations, NGO, and professional associations of the medical community, evaluated emergency contraception and concluded that it should be made available in public services.

This approach is consistent with well-established global policy. Several United Nations bodies, such the World Health Organization, Pan-American Health Organization, and United Nations Population Fund (UNFPA), have endorsed emergency contraception and supported gathering scientific evidence on its mode of action as well as the positive impact of its use. The Peruvian population has expressed its widespread support for emergency contraception: in one opinion poll, 47 percent of women respondents said they would use emergency contraception if needed.¹²

When Minister of Health Dr. Carbone took another position in early 2004, President Toledo, responding to public pressure, appointed a new Minister of Health, Dr. Pilar Mazzetti. Dr. Mazzetti demonstrated an unwavering

¹⁰ Carbone is a member of the Peruvian antiabortion organization, Ceprofarena, which is HLI's Peru affiliate.

¹¹ In December 2001, Peru's Ministry of Health approved the commercial sale of an EC product, Postinor 2, which has been available since 2002 in pharmacies and private medical services.

¹² Universidad de Lima. Grupo de Opinión Pública. Estudio 269: Barometer Social: Planificación Familiar. 21–22 May 2005

commitment to implementing the official position of the Peruvian government, which is to develop reproductive health programs according to the science- and human rights-based guidelines of the World Health Organization. She remained in this post until the end of Toledo's presidency in July 2006. During her tenure the Ministry of Health was consistently dedicated to improving the quality of and access to contraceptive services and information, including emergency contraception, and has continued to do so under the current Minister of Health, Dr. Carlos Vallejos Sologuren.

During this time, Peruvian civil society organizations working in favor of sexual and reproductive rights has expected USAID to restore the support it had formally withdrawn in 1998 for activities to make emergency contraception accessible within the public health system. However, conservative U.S. anti-abortion organizations have continued coordinating with a handful of sympathetic members of the Peruvian Congress and the U.S. Congress to discredit USAID's program in Peru.

In late 2004, PRI set up a regional office for Latin America in Peru's capital, Lima. This office is not legally registered as a foreign or Peruvian NGO with the Peruvian Agency of International Cooperation (APCI). Nonetheless, it engages in lobbying and advisory activities among a small group of Peruvian congresspersons, in order to impede legal advances in the area of sexual and reproductive rights.

Without presenting any evidence to substantiate their claims, right-wing groups have characterized USAID-funded activities as promoting abortion in the country. They advocated and argued for ending USAID's support to reproductive health programs in Peru without weighing the negative implications this would have on access to basic health services and possible consequent increases in unsafe abortion. Conceding to the demands of contraception opponents, USAID decided not to support efforts by Peru's Ministry of Health and other Peruvian organizations to make emergency contraception available to all women without discrimination. In 2005, it requested that its partner organizations in Peru "maintain a neutral position" on emergency contraception, "not giving preference to any position in any circumstances that involves USAID financing, for example, information materials or planned events" (see [Appendix 3, Letter sent by USAID/Peru to its partners](#)).



Part 2

Consequences of USAID's position on emergency contraception in Peru

In early 2004, Peru's public health system had begun to incorporate emergency contraception into its services. In November 2005, PRI sent a letter to USAID headquarters in Washington, D.C., accusing two of the agency's partners in Peru—the Public Ombudsman, a government institution, and *Movimiento Manuela Ramos*, a nongovernmental feminist organization—of violating the Global Gag Rule by including emergency contraception among their activities (funded by USAID).¹³ USAID responded by thanking PRI for bringing this issue to its attention and indicating it would require both partner organizations to reimburse USAID for funds used for these activities.¹⁴

¹³ Letter from Carlos Polo, Director, Latin America Office, Population Research Institute, Lima, to Kent Hill, Assistant Administrator, Bureau of Global Health, USAID, Washington, D.C. November 2005.

¹⁴ Letter from Kent Hill, Assistant Administrator, Bureau of Global Health, USAID, Washington, D.C., to Carlos Polo, Director, Latin American Office, Population Research Institute, Lima. 13 December 2005.

USAID subsequently questioned the Public Ombudsman's use of funds to print their 2003 Ombudsman Report #78. This document provides guidance to decision makers on the appropriate application of the Ministerial Resolution reincorporating emergency contraception into the national family planning norms. USAID also questioned the use of funds by Movimiento Manuela Ramos for a few broadcasts of the TV program, *The Women's Bar*, in which emergency contraception was discussed. The goal of this TV program is not only to inform the public but also to foster public discussion in favor of women's rights issues. USAID required that monies used for these activities be returned, although no formal punitive actions were taken (see [Appendix 4](#), [Letter sent by Kent Hill, USAID, to Carlos Polo, Director, Latin America Office, Population Research Institute, Lima](#)).

Despite this, PRI circulated a press release, picked up by the Peruvian media, claiming that both the Public Ombudsman and Movimiento Manuela Ramos had been "penalized" by USAID. In response, USAID in Peru publicly denied having penalized these two partner organizations. In fact, USAID cannot "penalize" the Public Ombudsman Office because it is a government institution pertaining to a sovereign nation.

Then, however, USAID took additional restrictive actions on access to emergency contraception. On November 30, 2005, USAID sent a letter to its partner organizations in Peru, both governmental and nongovernmental, essentially requesting that its funds not be used for promoting emergency contraception¹⁵ (see [Appendix 3](#)). This new policy measure applied not only to NGOs, but also to government organizations such as the Ministry of Health and the Public Ombudsman. Given the large proportion of Peru's public health funding provided by USAID, this request threatened to weaken the Peruvian government's ability to provide emergency



¹⁵ Letter from Susan Thollaug, Chief, Health Office, USAID, Lima, Peru, to Dr Isabel Chao, Executive Director, Direction of Quality, Ministry of Health, Lima, Peru. 30 November 2005.

contraception, especially to poor women, who rely on public health programs in greater numbers.

To justify this new policy measure, USAID in Peru argued in the letter that the agency held a “neutral” position on emergency contraception because it was such a “controversial” issue for the country. This justification was ill-defined and, notably, ignored that fact that emergency contraception had been an approved contraceptive in Peru since 2001.

USAID's new policy on emergency contraception in Peru contradicts not only Peru's laws and policies, but also its own institutional policies that mandate support for voluntary and informed access to all contraceptive methods and other policies within the United States. Further, this restrictive measure contradicts international policy consensuses such as the International Covenant on Economic, Social and Cultural Rights and the International Conference on Population and Development. (See [Appendix 5, Consequences of denying access to emergency contraception.](#))

Civil society's reaction against USAID's policy

In response to USAID's new policy on emergency contraception, Peruvian civil society organizations working in favor of sexual and reproductive rights conveyed their opposition to USAID officials in Peru. They criticized the policy measure's failure to maintain a neutral stance, and its consequent direct interference with the application of Peru's own public policies.

In early 2006, representatives of two Peruvian organizations met with USAID officials to reiterate their concern about USAID's restrictive emergency contraception policy. They also raised concerns that USAID's policy change was based on the opinions and spurious accusations of one small, nonrepresentative U.S.-based organization, PRI; and that the change ignored scientific evidence, Peru's legal and policy framework, and the opinion of the Peruvian people. USAID/Peru's health official explained that the basis for its policy on emergency contraception was that it did not consider it a priority need for improving health and reducing poverty in the national context.

In February 2006, more than 20 Peruvian organizations working in favor of sexual and reproductive rights sent a letter expressing their concerns to Kent Hill, Assistant Administrator of the Bureau of Global Health at USAID

headquarters in Washington, D.C. (see [Appendix 6](#), Translation of letter sent by Peruvian civil society organizations to USAID headquarters).

Mr. Hill responded that USAID’s institutional policy holds that emergency contraception is a contraceptive method, and as such, counseling and provision of this method should be included within USAID-funded activities on family planning. According to Mr. Hill’s letter, the prohibition on the use of USAID funds refers only to activities that involve engaging in public debate on emergency contraception. His letter further stated that “since 1997, USAID has a policy with its partners that they are prohibited from expressing any position on emergency contraception.” USAID grantees in Peru had not been informed of this policy. During the last eight years, many of USAID’s partner organizations in Peru have actively and visibly participated in the public debate on emergency contraception.



The debate continues: What’s next?

In summary, USAID’s restrictive policy on emergency contraception in Peru appears to be based on politics and fear, rather than public health evidence and human rights standards. Further, it is nearly impossible to understand or implement its many nuances and contradictions, complicating efforts in Peru to advance reproductive health and rights. In other words, this policy has potential for real negative impact on the health and well-being of the Peruvian people (refer to [Appendix 5](#)).



Appendices

Appendix 1 Emergency contraception

Appendix 2 International conferences and documents on sexual and reproductive rights

Appendix 3 Translation of letter sent by USAID/Peru to its partners

Appendix 4 Letter sent by Kent Hill, USAID, to Carlos Polo, Director, Latin America Office, Population Research Institute, Lima

Appendix 5 Consequences of denying access to emergency contraception

Appendix 6 Translation of letter sent by Peruvian civil society organizations to USAID headquarters

Appendix 1

Emergency contraception

Emergency contraception refers to back-up methods for contraceptive emergencies which women can use within the first few days after unprotected intercourse to prevent an unwanted pregnancy.

Levonorgestrel emergency contraceptive pills (ECPs) have been shown to prevent ovulation and they did not have any detectable effect on the endometrium (uterine lining) or progesterone levels when given after ovulation. ECPs are not effective once the process of implantation has begun and will not cause abortion.

Based on reports from four studies including almost 5,000 women, the levonorgestrel regimen used within five days after unprotected intercourse reduced a woman's chance of pregnancy by 60 to 90 percent. The regimen is more effective the sooner after intercourse it is taken.

Emergency contraception is not a new contraceptive but rather contains the same substances as oral contraceptives.

- It is a safe and effective method.
- It has high acceptance among users.
- It is the only method that can prevent a pregnancy after unprotected sex, including cases of rape.
- It is a method that responds to specific reproductive needs of the population.
- It is a method that has been recognized and approved by the most important health institutions at the international level, such as the World Health Organization and the Pan-American Health Organization, and *in Peru it has been approved by the Ministry of Health and the General Direction of Medications.*

Sources: Adapted from World Health Organization Fact Sheet No. 244 (2005) and PROFAMILIA (2003; italicized portion is our addition).

Appendix 2

International conferences and documents on sexual and reproductive rights

“All countries should, over the next several years, assess the extent of national unmet need for good-quality family-planning services and its integration in the reproductive health context, paying particular attention to the most vulnerable and underserved groups in the population. All countries should take steps to meet the family-planning needs of their populations as soon as possible and should, in all cases by the year 2015, seek to provide universal access to a full range of safe and reliable family-planning methods and to related reproductive health services which are not against the law. The aim should be to assist couples and individuals to achieve their reproductive goals and give them the full opportunity to exercise the right to have children by choice.”

**Program of Action, 1994
International Conference on Population and Development, 7.16**

Several international instruments recognize sexual and reproductive rights and the responsibility of country governments to guarantee these rights. The International Conference on Population and Development held in Cairo (1994) and the Fourth World Conference on Women held in Beijing (1995) resulted in groundbreaking agreements that recognized sexual and reproductive rights as part of human rights, and proposed a rights-based approach to public health programs.

Specifically, these agreements establish women's right to voluntary and informed decisions regarding sexuality and reproduction as a human right. Peru is a signatory to these international agreements. **Thus, any action that limits or impedes women's access to emergency contraception in Peru constitutes a violation of their human rights.**

The agreement forged at the World Conference on Human Rights (Teheran 1968) states, “Couples have the fundamental human right to decide the number and timing of their children, and the right to obtain education and methods necessary to do so.”

The Convention for the Elimination of All Forms of Discrimination against Women (CEDAW), adopted by the United Nations in 1979, states, “States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning” (Article 12, 1).

Sexual and reproductive rights include the right to make use of the benefits provided by scientific advancements. The International Pact on Economic, Social and Cultural Rights, which has been signed by the majority of countries in Latin America, including Peru, states, “The States Parties to the present Covenant recognize the right of everyone: To enjoy the benefits of scientific progress and its applications ... Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein, or at their limitation to a greater extent than is provided for in the present Covenant” (Article 15, 1b and Article 5, 1).

Appendix 3

Translation of letter sent by USAID/Peru to its partners

USAID/Peru

From the people of the United States of America

November 30, 2005

Doctor
Isabel Chao
Executive Director
Direction of Quality
Ministry of Health

Dear Dr. Chao:

Our work in public health frequently entails confronting diverse issues, some of which generate controversy. USAID considers that, in Peru, the issue of emergency contraceptive pills is one of those; thus, since 1997, it has established a policy of neutrality on this issue. We believe that it is up to Peruvian institutions, organizations, citizens and public officials to address this issue in its entirety.

USAID/Peru continues to have a neutral position regarding emergency contraceptive pills. Neutrality implies maintaining a high-level civic debate on this important public policy issue. Therefore, through this letter, we reiterate once again, our request to our grantees, that in using our funds, you maintain a neutral position, not giving preference to any position in any circumstances that involves USAID financing, for example, information materials or planned events, among others.

We appreciate your cooperation. If you have any doubts, please consult your CTO or me personally.

Sincerely,

Susan Thollaug, RN, MPH, Ph.D.
Chief, Health Office

United States Agency for International Development
La Encalada Avenue, Block 17
Tel: (5-11) 618-1200
Fax: (5-11) 618-1350
Monterrico, Surco
Lima 33, Peru
www.usaidperu.org.pe

Appendix 4

Letter sent by Kent Hill, USAID, to Carlos Polo, Director, Latin America Office, Population Research Institute, Lima



150 1 2 2005

Mr. Carlos Polo
Director, Latin American Office
Population Research Institute

Via Facsimile

Dear Mr. Polo:

I have received your memorandum relating to emergency contraceptive pills (ECPs) in Peru. I understand that you had a productive meeting with Vanessa Garza in Washington, and I want to thank you for providing me with the opportunity to address the concerns outlined in your memorandum.

As an initial matter, I believe it would be helpful to explain the U.S. government's general policy on ECPs. The policy of the U.S. Food and Drug Administration, which regulates pharmaceutical products, is that ECPs are contraceptives. In addition, the U.S. Department of Health and Human Services includes ECPs as contraceptives in its domestic federally-funded family planning program. Like these U.S. agencies, USAID shares the policy that ECPs are contraceptives. Because ECPs are contraceptives and not abortifacients, they are not prohibited by any abortion-related laws or policies that affect USAID's family planning or other development assistance.

In the case of Peru, where this issue has proven particularly controversial, USAID/Peru long ago decided to adopt a policy of neutrality on this issue, both prior to and following the Peruvian Ministry of Health's decision to make ECPs publicly available. In accordance with that policy, USAID has refrained from all public comments, either in favor of or against, ECP in Peru. Moreover, USAID/Peru has not knowingly made, financed or authorized its implementers to make or finance any public statements or publications regarding ECPs with USAID funds. In light of this policy and as requested in your memorandum, we are looking into the instances you cite where partner activities appear to be inconsistent with this neutral stance.

U.S. Agency for International Development
1500 Pennsylvania Avenue, NW
Washington, DC 20522
www.usaid.gov

Despite USAID/Peru's best efforts to remain outside of the debate, it appears that in two of the instances referenced in your memorandum, one or more implementing partners improperly utilized USAID funds and the USAID logo in a manner not consistent with USAID/Peru's branding policy. USAID/Peru has determined that in the case of both Report #18 of the *Defensoría del Pueblo* and the *Barra de Mujeres* television program, the implementing partner utilized USAID funds and the USAID logo without authorization from USAID/Peru. In the coming days, USAID will be taking steps to seek reimbursement from the implementing partners of costs relating to the report and program and to prevent recurrence of these regrettable coordination failures.

Again, I appreciate the opportunity to respond to your concerns.

Sincerely,



Kent R. Hill
Assistant Administrator
Bureau for Global Health

U.S. Agency for International Development
1100 Pennsylvania Avenue, NW
Washington, DC 20523
www.usaid.gov

Appendix 5

Consequences of denying access to emergency contraception

Unfortunately, unprotected sexual intercourse continues to occur with great frequency in Peru, putting many women at risk of unwanted pregnancy. As the only post-coital method, emergency contraception is a valuable resource even when regular contraceptive methods are available.

Method failure: Emergency contraception is useful for preventing pregnancy when a contraceptive method fails. All contraceptive methods have a risk of failure even when used correctly.

Lack of method: Emergency contraception is useful for persons who had unprotected sexual intercourse or used a method incorrectly. In Peru, several obstacles remain that prevent the population from having full access to a wide range of contraceptive methods as well as information and counseling. Adolescents in particular are frequently excluded from services and information. In cases of domestic violence, contraceptive use can put women at greater risk of abuse from their intimate partner.

Sexual violence: Emergency contraception is highly appropriate for victims of rape, which is common in Peru, including within marriage and families. In these cases, women and girl children are forced to have sexual relations against their will, making it impossible to use protection. Gúezmes et al. (2002) found that half of the female population in Lima, Peru's capital, and almost two-thirds of the female population in the city of Cusco, had experienced physical or sexual violence by their partner at least once in their lifetime.

Denying women access to emergency contraception:

- Undermines three principle reproductive rights: the right to decide whether and when to have children, to access the information and means to do so, and to autonomy over one's own body.

- Deprives women of a safe contraceptive method that they may need to satisfy their reproductive needs.
- Forces them to put their health and life in danger by having an abortion in unsafe circumstances, or carrying to term an unwanted pregnancy. According to Delicia Ferrando (2004), there are 410,000 illegal and unsafe abortions in Peru every year.

Sources: Gúezmes A, Palomino N, and Ramos M. *Violencia Sexual y Física contra las Mujeres en el Perú. Estudio multicéntrico de la OMS sobre la violencia de pareja y la salud de las mujeres* Lima: Centro de la Mujer Peruana Flora Tristán, Universidad Peruana Cayetano Heredia, and World Health Organization. 2002. Ferrando D. *El aborto clandestino en el Perú. Nuevas Evidencias*. Lima: Centro de la Mujer Peruana Flora Tristán and Pathfinder International. 2004.

Appendix 6

Translation of letter sent by Peruvian civil society organizations to USAID headquarters

Citizens Monitoring Group on Sexual and Reproductive Rights
February 10, 2006

Kent R. Hill
Assistant Administrator, Bureau for Global Health
U.S. Agency for International Development
1300 Pennsylvania Avenue, N.W.
Washington, DC 20523

Hilda Arellano
USAID/Peru
Avenida Encalada
Surco, Lima 33 Peru

Dear Mr. Hill and Ms. Arellano:

We are writing you as representatives of Peruvian organizations that identify with the full defense of sexual and reproductive rights, as part of human rights.

We have read with great interest Mr. Hill's letter responding to Ms. Jodi L. Jacobson, Director of CHANGE, in which he presents USAID's institutional policy regarding Emergency Contraceptive Pills (ECPs). In this letter, Mr. Hill explains that USAID considers ECPs to be a contraceptive method, and as such, the Agency and its partners can "support the provision of information about ECPs to women receiving services from Peru's family planning program where ECPs are already approved." Nevertheless, in the same letter, he explains that USAID/Peru has had a policy since 1997 with its grantees in Peru to not express any position regarding ECPs.

The two positions expressed in Mr. Hill's letter are contradictory and are oriented towards a context in Peru that no longer exists. In Peru, ECPs are a contraceptive method approved by the Ministry of Health, necessitating that both governmental and non-governmental institutions provide accurate information to the general public regarding mode of action as well as availability. The Ministry of Health has, within the National Guides for Integral Care in Sexual and Reproductive Health, developed a series of indications for the appropriate use of the method particularly within the following services: family planning, sexual violence, and post-abortion treatment.

The USAID Mission in Peru, in contrast to Mr. Hill's letter, is systematically blocking the use of its funds for information and service activities that involve ECPs, and this mandate not only affects private, nongovernmental organizations but also State agencies such as the

Ministry of Health and Public Ombudsman, given that they were also included among the recipients of Ms. Thoullaug's letter of November 30, 2005.

The contradictions in USAID's policy are also evident in the justification that the Mission has provided to the Peruvian citizenry. In a meeting between Ms. Thoullaug and representatives from two Peruvian organizations, PROMSEX and APPRENDE, she explained that USAID's decision to not address ECPs within its program was due to the fact that ECPs are "not a priority for addressing the needs of the poorest sectors of the population." In our opinion, this justification lacks technical ground given that there is sufficient evidence of the population's needs, especially those of poor women, to access a wide range of contraceptive methods, and ECPs must be considered within this range because it meets needs that no other contraceptive can.

From our point of view, the most disconcerting part of the letter was to learn that USAID's institutional policy on ECPs was adopted at least eight years ago with no modification to the new normative conditions in our country. Within the last five years, Peru has undergone an intense public debate and comprehensive evaluation process, involving all of the State institutions responsible for this issue (Ministries of Health, Justice, and Women and Social Development, as well as Public Ombudsman), as well as medical-scientific organizations (Colegio Médico) and medical schools. Following scientific evidence, these institutions concluded that ECPs are a contraceptive method and as such, should form part of the range of contraceptive methods offered by the public health sector. Thus, there should be no impediment to USAID supporting activities that allow Peruvian women to be informed about the method.

By refusing to provide technical and financial support to ECPs, as a component of a broader range of contraceptive methods, USAID contributes to increasing reproductive health problems and to widening the gaps between poor women and those women who can pay. Therefore, we consider that the neutral position USAID is demanding from its grantees is exactly the opposite (of neutral), favoring a small group of activists that oppose sexual and reproductive rights. As such, USAID turns its back on the needs of thousands of Peruvian women that want to access safe and effective contraceptive methods. In this sense, we hope that this letter will encourage USAID/Peru to adopt a position that is much more in accord with human rights, and particularly reproductive rights.

Sincerely,



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DEMUS



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PROMSEX 

CENTRO DE PROMOCIÓN Y DEFENSA DE LOS DERECHOS SEXUALES Y REPRODUCTIVOS

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