

EQUITY FORWARD

U.S. Agency for International Development
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Public Comment on USAID's 2020 Gender Equality and Women's Empowerment Policy

Equity Forward is a reproductive rights watchdog project. We exist to hold accountable those attacking access to reproductive health and other human rights, including within federal agencies. Through its [Global Spotlight](#) research, Equity Forward has tracked how Trump administration officials have narrowly interpreted human rights law to create a hierarchy of rights, severely diminishing protections in areas including gender, reproductive rights, and sexual orientation. We submitted [public comment](#) in July 2020 when the State Department's Commission on Unalienable Rights released its first draft report, raising issue with the report's furtherance of the "unalienable rights" protecting property and religion — at the expense of all other rights. Equity Forward was alarmed to see this language pertaining to "unalienable rights" embedded throughout USAID's draft [2020 Gender Equality and Women's Empowerment Policy](#), released on August 19, 2020, as well as the policy's reduction of reproductive health and rights — as we have seen in the State Department's annual human rights reports under this Administration. We thank you for the opportunity to submit this public comment today, as Equity Forward has serious concerns with these patterns as demonstrated in USAID's 2020 Gender Equality and Women's Empowerment Policy.

Elimination of Reproductive Health Data and Inclusive References to Sexual Orientation and Gender Identity

That this is a USAID policy report supposedly focusing on gender equality and women's empowerment, while simultaneously wiping references to contraception as well as sexual orientation and gender identity, is outrageous. The [previous iteration of this policy](#), published in 2012, included a comprehensive section on "Mortality and Reproductive Health" which provided critical data points on access to birth control globally and committed to closing these gaps in modern contraceptive access. By stark contrast, the 2020 draft policy replaces this section with one entitled "Maternal and Child Health, and Family Planning" in which there are no references to birth control. Rather, "family planning" is discussed in extremely vague terms related to "communications between spouses regarding fertility." The section also defines the lifespan as beginning "before birth", signaling the policy's expulsion of abortion as a protected form of reproductive health care.¹ In fact, there are now zero references to reproductive health throughout the new policy whatsoever.

¹ USAID draft [2020 Gender Equality and Women's Empowerment Policy](#), page 29.

The previous policy also stated that it was “inclusive of all women and men, girls and boys, regardless of age, sexual orientation, gender identity, disability status, religion, ethnicity, socioeconomic status, geographic area, migratory status, forced displacement, or HIV/AIDS status.” This language has been removed from the 2020 draft policy in its entirety.

An Emphasis on “Unalienable Rights” Over International Human Rights Laws’ Protected Rights

The 2020 draft policy states, “The U.S. Agency for International Development (USAID) believes that gender equality and women’s empowerment are fundamental for the realization of unalienable human rights and key to effective and sustainable development outcomes.”² The phrase “unalienable rights” is included three more times throughout the document,³ as are mentions of “basic rights” and “legal rights”. These are clear references to the State Department’s Commission on Unalienable Rights (CUR), which has made clear its intent to nationalize and narrow internationally agreed upon human rights. In Secretary Pompeo’s July 2020 speech presenting CUR’s report, the secretary justified the prioritization of certain rights at the expense of others by stating that “more rights does not necessarily mean more justice.” This sentiment is echoed in the CUR [report](#), which states, “Transforming every worthy political preference into a claim of human rights inevitably dilutes the authority of human rights.” The Commission has also noted that while the Universal Declaration of Human Rights “does not explicitly establish a hierarchy of rights”, U.S. foreign policy is free to do so — despite the international bodies and treaties to which the US is a party claiming otherwise. USAID’s new policy’s use of the unalienable rights language, which is not used in international human rights law, is further evidence of the Trump Administration’s intent to pick and choose the rights it uses its federal agencies to advance — or ignore.

Failure to Uphold International Human Rights Laws’ Protected Rights for Gender and Sexual Orientation

The USAID 2020 policy, while ostensibly committed to gender equality and human rights, fails to clearly commit itself to rights on the basis of gender and other intersectional identities as laid out by the Universal Declaration of Human Rights (UDHR). UDHR [states](#) that all rights are granted regardless of sex. (“Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”) Importantly, by the USAID policy’s erasure of reproductive health care and gender orientation, it is failing to uphold legal interpretations of UDHR which extend those rights to include freedom from discrimination on the [basis of sexual and/or gender orientation](#) and reproductive freedom. Additionally, UDHR is part of the Universal Bill of Human Rights along with the International Covenant on Civil and Political Rights (ICCPR), which the [US has signed and ratified](#). To be clear, [ICCPR explicitly extends to abortion rights](#). U.S. federal agency policies with far-reaching effects for international human rights such as this one must be aligned with international human rights laws’ protections, including for reproductive rights, gender and sexual orientation.

Conclusion

USAID’s draft 2020 Gender Equality and Women’s Empowerment Policy further solidifies the Trump Administration’s pattern of disregarding international human rights law as pertaining to

² Ibid., page 5.

³ Ibid, pages 10, 16, 25.

reproductive health, gender, sexual orientation, and other marginalized rights and identities. Having read the draft policy, Equity Forward expresses its alarm due to the reduction of reproductive health care and elimination of associated data points, and the erasure of inclusive and intersectional protections in accordance with international human rights law. The agency should not publish this harmful policy in its current form.