

# Negotiating with People's Lives

RELIGION AND POLITICS IN THE PEPFAR NEGOTIATIONS

By Jodi Enda

IT WAS THE START OF 2007 AND, for the first time in a dozen years, Democrats controlled both chambers of Congress. President Bush had been chastened. This was the Democrats' chance to get something done.

Their newfound power in mind, Representative Tom Lantos and his staff began to craft the bill that would triple funding for America's AIDS work overseas. The California Democrat was confident he would be able to lift restrictions on family planning and ease requirements on funding for abstinence-only education—provisions he felt prevented the program from being as effective as it could be in fighting the disease.

But before the legislation could move out of the Foreign Affairs Committee that he chaired, Lantos died of cancer.

His goal of linking family planning to HIV and AIDS prevention died soon thereafter, a victim of the US Conference of Catholic Bishops and a handful of other religious groups that equated family planning with abortion. By spreading fear that the legislation was an abortion bill in disguise, conservatives managed to keep the federal government from expanding the weapons it uses to combat the AIDS pandemic, effectively limiting the value

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The late Rep. Tom Lantos, a key architect of PEPFAR and supporter of reproductive rights, listens to a testimony during a hearing on Capitol Hill. He passed away on February 11, 2008.

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of a program that can mean the difference between life and death for millions of people. Without their leader, Democrats quietly and quickly gave in to the opposition.

The bill, which extended the life of a law enacted in 2003, passed with bipartisan support last July, about a year after Lantos' staff drafted it. The media reported that it was perhaps President George W. Bush's most enduring legacy, a \$48 billion, five-year commitment to stopping the spread of HIV and AIDS, particularly in Africa, legislation so popular that it was backed by liberals and

conservatives, advocates of reproductive rights and antichoice religious groups and cosponsored in the Senate by then-presidential opponents Barack Obama and John McCain.

Indeed, Democratic and Republican staffers said in interviews, there is something for everyone in the President's Emergency Plan for AIDS Relief (PEPFAR). The Catholic hierarchy got a strengthened conscience clause that permits organizations to opt out of portions of the law they find morally objectionable, such as distributing—or even mentioning—condoms. And it excised all references to family plan-

ning. Progressive groups got rid of earmarks that dedicated a specific pot of money to abstinence-only education, a victory that allowed for greater flexibility in the use of prevention techniques.

Still, questions remain about why the Democrats compromised at all. After all, they had majorities in the House and Senate. Prospects looked good for a Democratic victory in the presidential race and increased gains in Congress. And the White House was so weak as to be invisible during much of last year.

The explanation proffered by staff members is that they knew the economy was heading south and felt they needed to compromise in order to get as much money as they could. It makes sense—except that both Democrats and Republicans now say the bonanza of nearly \$50 billion almost certainly will not be spent. The nation simply can't afford it anymore.

"We made big compromises on our side," said a staffer on the House Foreign Affairs Committee, now chaired by Rep. Howard L. Berman, another California Democrat. Every staffer—Republican and Democratic alike—interviewed for this article spoke on condition of anonymity in order to talk more openly. "Berman decided if we could get the Catholics on board for a \$50 billion bill against the fiscal conservatives on here, we should do it. We knew we would keep the majority and take the White House and a new president could fix things."

As for the Catholic hierarchy—represented by the US Conference of Catholic Bishops, Catholic Relief Services and their lobbyists—it had every motivation to support some form of the legislation. CRS was the third-largest recipient of PEPFAR funding in fiscal year 2007, with grants totaling \$103 million, according

to an analysis of State Department figures compiled by AVERT, an international HIV and AIDS charity based in the United Kingdom.

"The Catholic bishops either hired or designated a liaison to the Hill process who was very good. She knew how to keep the ball moving down the court," said a House

returned phone calls to be interviewed for this article.

Stephen Colecchi, director of the bishops' Office of International Justice and Peace, said that they and CRS worked together "to forge a bipartisan consensus on the bill that would expand PEPFAR, that would improve PEPFAR." The church, he said, supported not only an increase in money, but an increase in the breadth of the bill to include such things as improved nutrition for patients with HIV or AIDS.

"What we wanted was to ensure the legislation would pass and in a way that we thought would be morally appropriate and also effective," Colecchi said. "Often the Catholic church has extensive outreach in rural areas that many other organizations do not have. We wanted to make sure that PEPFAR was fashioned in a way that would respect the conscience of providers, to enable all of us to bring our strengths to the PEPFAR effort."

Toward that end, he said, "the strength in conscience clause was important. Also preserving real resources for abstinence and behavior change, increased partner reduction, increased faithfulness, good decision making on the part of youth. It happens that what is morally important to the church is also highly effective scientifically in reducing the spread of

HIV and AIDS in countries that have an epidemic."

Family planning advocates said they did not object to continued efforts to change sexual behavior, but contended that the church hierarchy was ignoring evidence that also demonstrates the effectiveness of condoms in preventing the spread of HIV. PEPFAR does permit the distribution of condoms, but the conscience clause now allows faith-based



A Catholic nun at a stall advertising the use of condoms to prevent the spread of HIV in South Africa.

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Foreign Affairs Committee staffer. "Minus anything that violated their conscience, it was perfect for Catholic Relief Services. Except for family planning, this was a bill for Catholic bishops to drool over."

Added a Republican staffer: "The bishops wanted to do anything not to topple the bill."

Neither the bishops' lobbyist, Kathleen Kahlau of Philadelphia, nor a representative of Catholic Relief Services



groups not only to abstain from distributing them, but to refrain from providing referrals to agencies that do.

“It’s a huge deal to decouple family planning when you’re talking about preventing HIV from spreading from mother to child,” said Jon O’Brien, president of Catholics for Choice. “The approach the bishops adopted was a very self-serving one. Few Catholics share their view in the US and globally. Family planning for most people is an absolute no brainer. The idea that you would decouple family planning from an AIDS program is bad practice...Studies show that abstinence-only programs do not work. What happened in this instance was that the bishops ignored the evidence to get their beliefs to hold sway on Capitol Hill.

“The sellout was allowing a narrow, non-representative, non-evidence-based group to prevail with their particular world view. I think it’s a travesty that it actually happened. The desire to get more HIV and AIDS money is laudable, but to make it so that the poorest of the poor don’t have access to family planning is a scandal.”

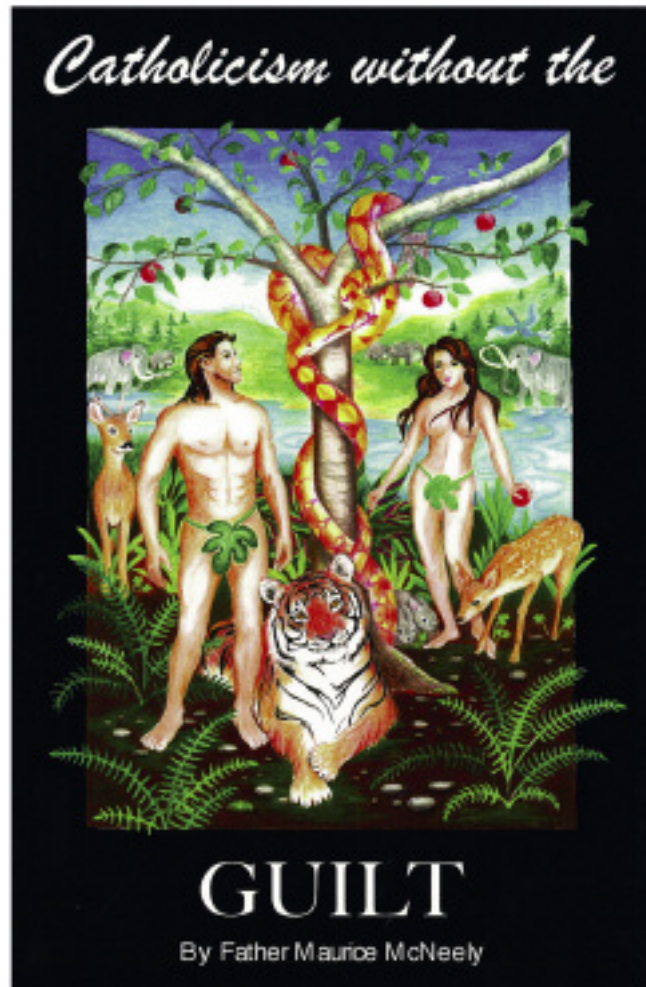
The portion of PEPFAR that focuses on prevention, as opposed to treatment, has three parts: abstinence, behavior modification and condom use, known as ABC. The Catholic hierarchy supports A and B and, Colecchi said, is silent on C. “We did not oppose funding for condoms. We did not specifically address funding for condoms,” he said. “It was a strategic decision.”

Still, the hierarchy does not permit the distribution of or promote the use of condoms, even in those rural areas in which Colecchi said there is a shortage of other AIDS workers (though he said condoms were plentiful). And it joined forces with other faith leaders—such as the Rev. Rick Warren, pastor of Saddleback Church in California, and Charles W. Colson, founder of Prison Fellowship Ministries—and with antichoice members of Congress, led by Republican Rep. Chris Smith of New Jersey, to effectively strip the legislation of any language on

“A professor I once knew had this to say about the teaching of others: ‘Challenge them; make them think; cause them to laugh. That’s the atmosphere that leads to wisdom.’ If that’s true, Father McNeely has indeed provided the atmosphere.

The wisdom part is up to us”.

**Fr. Paul L. Bianchi**



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Simply put, the individual’s conscience is supreme.

This belief has been - and will probably be - the best kept secret of the Catholic faith.”

**Fr. Maurice G. McNeely**

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family planning, staffers on both sides of the aisle said.

"In the early stages, there was some fear that PEPFAR funds would be diverted into abortion as a way to reduce mother-and-child transmission," Colecchi said.

Federal law prohibits the use of tax dollars for abortions. Reproductive rights advocates contend they were trying to prevent the spread of the virus not only through distribution of condoms, but with family planning that would allow women to postpone childbirth or space their children. Abortion, they said, was not part of the conversation until anti-choice groups tried to use it for leverage.

"They said we were hijacking PEPFAR to pay for abortion services even though we can't use federal money to pay for abortions," said Ellen Marshall, who lobbied on behalf of the International Women's Health Coalition.

"At the very beginning, I thought I was clever enough to appeal to Chris Smith and the bishops, that we could include language around family planning that talked about maternal mortality," said the House Foreign Affairs Committee staffer. "In Africa, once a woman gets pregnant, she has a one in 17 chance of dying...I thought those numbers were so compelling that we could form some kind of agreement on family planning language. But they would not budge even in the face of that."

Jodi Jacobson, who chaired the Prevention Working Group of the Global Aids Roundtable, part of a coalition that made recommendations for reauthorizing PEPFAR, said that language linking HIV and AIDS and family planning services was removed from the original draft legislation at the 11th hour. After Lantos died, members of the coalition received assur-

ances from key House staffers that they would stand by the original language, which the coalition helped draft. Jacobson said that the night before the House Foreign Affairs Committee was set to vote on the bill, she learned from a *Congressional Quarterly* reporter that House staffers were negotiating new language with the White House, the bishops and others to broker a bipartisan deal.



Former President George W. Bush greets Bridget Michelo Chisenga of the Catholic Relief Services of Zambia after a World AIDS Day meeting.

"The next morning we woke up to an entirely different bill," Jacobson said, "including language basically applying the global gag rule to PEPFAR funds wherever family planning programs were involved." That rule, rescinded by President Obama during his first week in office, restricted groups that received federal funding overseas from performing or even counseling or providing information on abortion. In addition, Jacobson said, "the bill expands a prior conscience clause to

include care, allowing US-funded groups to discriminate as to whom they would provide services to."

The next day, Jacobson said, Democratic staffers told the coalition they had to accept the compromise to pass the bill.

That dashed the hopes of many organizations working to prevent the spread of AIDS. "We would have liked some language in the bill about family planning," said Linda Bales, director of the United Methodist Church's Louise and Hugh Moore Population Project for the General Board of Church and Society. "We strongly support sex education in a comprehensive approach rather than an abstinence approach."

"I think it has a major impact," she added. Under the new law, Bales said, "we're not saying anything or providing the resources that we need to promote condoms and give women more access to birth control and other reproductive health services that would allow them to determine whether or not they want to get pregnant, which has an effect if you're infected, and help with overall reproductive health, like spacing children, which is life-saving in itself. The whole philosophy of downplaying condoms and playing up abstinence is problematic."

"PEPFAR I was really mostly about treatment—getting sick people well again. But in

PEPFAR 2 we were aware that we couldn't just spend funds on treatment, but turn off the faucet. To really address the epidemic you need to address prevention," said Heather Boonstra, a senior public policy associate at the Guttmacher Institute, a prochoice organization that provides social science research, public education and policy analysis. Because the law fails to utilize family planning as a prevention tool, she said, it "says a whole lot but it changes very little." ■

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