major difference—namely, while current law allows a surface owner to effectively veto development of coal resources, under our bill a surface owner to effectively veto development of oil or gas underlying his or her land. This difference reflects our belief that appropriate development of oil and natural gas is needed.

Reclamation Requirements

The bill’s third part (Titles III and IV) addresses reclamation of affected lands. Title III would amend the Mineral Leasing Act by adding an explicit requirement that parties that produced oil or gas (including coalbed methane) under a Federal lease must restore the affected land so it will be able to support the uses it could support before the energy development. Toward that end, this part of the bill requires development of reclamation plans and posting of reclamation bonds. In addition, so Congress can consider whether changes are needed, the bill requires the General Accounting Office to review how these requirements are being implemented and how well they are working.

And, finally, Title IV would require the Interior Department to: (1) establish, in cooperation with the Agriculture Department, a program for reclamation and closure of abandoned oil or gas wells located on lands managed by an Interior Department agency or the Forest Service or drilled for development of Federal oil or gas in split-estate situations; and (2) establish, in consultation with the Energy Department, a program to provide technical assistance to State and tribal governments that are working to correct environmental problems caused by abandoned wells on other lands. The bill would authorize annual appropriations of $5 million in fiscal 2005 and 2006 for the Federal program and annual appropriations of $5 million in fiscal 2005, 2006, and 2007 for the program of assistance to the States and tribes.

Mr. Speaker, our country is overly dependent on a single energy source—fossil fuels—to the detriment of our environment, our national security, and our economy. To lessen this dependence and to protect our environment, we need to diversify our energy portfolio and increase the contributions of alternative energy sources to our energy mix. However, for the foreseeable future, petroleum and natural gas (including coalbed methane) will remain important parts of a diversified energy portfolio and we support their development in appropriate areas and in responsible ways. We believe this legislation can move us closer toward this goal by establishing some clear, reasonable rules that will provide greater assurance of certainty for all concerned, including the energy industry and the residents of Colorado, New Mexico, and other Western States. Here is a brief outline of its major provisions:

OUTLINE OF BILL

SECTION ONE—This section provides a short title ("Western Waters and Surface Owners Protection Act"). It makes several findings about the need for the legislation, and states the bill’s purpose, which is “to provide for the protection of water resources and surface estate owners in the development of oil and gas resources, including coalbed methane.”

TITLE I—This title deals with the protection of water resources. It includes three sections:

Section 101 amends current law to specify that an operator producing oil or gas under a Federal lease must: (1) replace a water supply that is contaminated or interrupted by the activity; (2) relieve any repressurized water that goes only to the same aquifer from which it was extracted or an aquifer of no better water quality; and (3) to develop a proposed water management plan before obtaining a lease.

Section 102 amends current law to make it clear that extraction of water in connection with development of oil or gas (including coalbed methane) is subject to an appropriate permit and requirement to minimize adverse effects on affected lands or waters.

Section 103 states that nothing in the bill will: (1) affect any State’s right or jurisdiction with respect to water; or (2) limit, alter, modify, or amend any interstate compact or judicial ruling that determines water among and between different States.

TITLE II—This title deals with the protection of surface owners. It includes four sections:

Section 201 provides definitions for several terms used in Title I.

Section 202 requires a party seeking to develop federal oil or gas in a split-estate situation to first seek to reach an agreement with the surface owner or owners that spells out how the energy development will be carried out, how the affected lands will be reclaimed, and that compensation will be made for damages. It provides that if no such agreement is reached within 90 days after the start of negotiations the matter will be referred to arbitration by a neutral party identified by the Interior Department.

Section 203 provides for the Interior Department to pay for surface owners to petition the affected area for damages. It requires the GAO to review Interior Department implementation of this part of the bill, and states the bill requires the Department to notify surface owners about lease sales and subsequent decisions involving Federal oil or gas resources in their lands.

TITLE III—This title amends current law to require parties producing oil or gas under a Federal lease to prevent the closure and post bonds to cover reclamation costs. It also requires the General Accounting Office to review Interior Department implementation of this part of the bill, and states the bill requires the GAO to report on the results of that review and any recommendations for legislative or administrative changes that would improve matters.

TITLE IV—This title deals with abandoned oil or gas wells. It includes three sections:

Section 401 defines the wells that would be covered by the title.

Section 402 requires the Interior Department, in cooperation with the Department of Agriculture, to establish a program for reclamation and closure of abandoned wells on Federal lands or that were drilled for development of federally-owned minerals in split-estate situations. It authorizes appropriations of $5 million in fiscal years 2005 and 2006.

Section 403 requires the Interior Department, in consultation with the Energy Department, to establish a program to assist States and tribes to remedy environmental problems caused by abandoned oil or gas wells on non-Federal and Indian lands. It authorizes appropriations of $5 million in fiscal years 2005, 2006, and 2007.

IN HONOR OF C. BOOTH WALLENTINE

HON. JIM MATHESON
OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Mr. MATHESON. Mr. Speaker, I rise today to recognize and pay tribute to Mr. C. Booth Wallentine of Utah on the occasion of his retirement from the Utah Farm Bureau Federation.

Mr. Wallentine has spent 41 years working for the Utah and Iowa Farm Bureaus, the last 31 of those years he has served as the Utah Farm Bureau Federation’s CEO.

I first heard about Booth’s efforts on behalf of Utah’s agricultural interests when I worked with my father when he served as governor of Utah. I have been privileged to have the same opportunity to work with Booth, and he has been an invaluable asset to me in learning about Utah’s agriculture industry.

Since being elected to Congress, I have been impressed with Booth’s tireless efforts to advocate on behalf of agriculture and rural issues. His work and dedication on behalf of Utah’s farmers and ranchers has made a real difference across the state of Utah, and we all know that when it comes to championing these issues on behalf of our state. He has been involved in so many efforts over the years, and it is difficult to imagine discussions about agriculture policy in Utah without Booth’s participation.

I wish Booth and his family well in his retirement. I know he will continue to be involved in public service, and I look forward to working with him on his future endeavors.

DOCUMENTS REVEAL DECEPTIVE PRACTICES BY ABORTION LOBBY

HON. CHRISTOPHER H. SMITH
OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Mr. SMITH of New Jersey. Mr. Speaker, today, I submit to the Record documents that reveal deceptive practices used by the abortion lobby. It is critical that both the American people and the public are made aware of these documents because they shed new light on the schemes of those who want to promote abortion here and abroad. It is especially important that policy makers know, and more fully understand, the deceptive practices being employed by the abortion lobby. These documents are from recent Center for Reproductive Rights (CRR) strategy sessions where, according to a quote from a related interview session, one of CRR’s Trustees stated, “We have to fight harder, be a little dirtier.” These documents are important for the public to see because they expose the wolf donning sheep’s clothing in an attempt to sanitize violence against children. These papers reveal a Trojan Horse of deceit. They show a plan to
“be a little dirter.” In their own words, these documents demonstrate how abortion pro-
motion groups are planning to push abortion here and abroad, not by direct argument, but by
biting words and definitions. In discussing legal strategies to legalize abortion internation-
ally they go as far as to say, “... there is a steal ingly new way to work...” and that the incremen-
tal recognition of values without a huge amount of scrutiny from the opposition. These
tier lower profiles will gradually put us in a strong position to assert a broad con-
sensus around our assertions.” People should know when to push hard campaign, and that is why I submit these documents unedited and
for public review.

INTERNATIONAL LEGAL PROGRAM SUMMARY
OF STRATEGIC PLANNING THROUGH OCTOBER 31, 2003

Staff lawyers in the International Legal
Program, (ILP) have met three times with
Nancy Northup, Nancy Raybin and Elizabeth
Lowell (September 3, September 23, and
October 30) to discuss our strategic direc-
tion. In the periods between those meetings, ILP
staff met and worked on the memos attached
to this, as well as two other working memos.
We have stepped back and considered the
various tracks of legal work the ILP has
worked on to date, examining in particular how
we evaluate or measure our effective-
ness. In our key accomplishments, and the constant challenge of being
in far higher demand than we have resources.
This led us to discuss and further develop the ILP’s “Theory of change.” (See Memo 2.)
What is our overarching programmatic ob-
jective and what should that mean in terms of
how to focus our work in the near future? We have made some solid
progress in answering that question, as out-
lined below.

The ILP’s overarching goal is to ensure that
governments worldwide guarantee repro-
cutory rights out of an understanding that
they are legally bound to do so.

We see two principal prerequisites for
achieving this goal:

1. Strengthening international reproduc-
tive rights norms:

Norms establish legal standards. The strong-
est existing international legal norms rel-
ent to reproductive rights are found in
multilateral human rights treaties. Based on
our view of reproductive rights as a basic
mean for humankind, the existing human
rights treaties are not perfect. For exam-
ple, at least four substantive areas of repro-
cutory rights illustrate the limits of inter-
national protections of reproductive
ights in regional and international fora; and
(b) working for the adoption and imple-
mentation of appropriate national-level
norms.

The regional and international fora with
a quasi-judicial character arguably offer the
most promising venues for venues for
securing justice and interpretations that actually change
governments’ behavior. To date, we have
used the Inter-American Commission
on Human Rights (three cases, one pending) and
the UN Human Rights Committee (which
interacts with the CEDAW Committee, provisions from the
CEDAW Committee, provisions from the
Council of Europe, and provisions from the
Council of Europe). As a result of the hard-fought efforts of human
rights activists, hard norms have gradually
been extended to more and more of the
human family, including ethnic and racial
minorities, women, children, and refugees
and internally displaced people.

Supplementing these binding treaty-based
norms is a variety of “soft norms.” These norms result from
interpretations of hard norms by
committees, rulings of international tribunals, resolutions of inter-governmental political
bodies, and agreements in international
conferences and reports of special
committees. (Sources of soft norms include:
the European Court of Human Rights, the
CEDAW Committee, and the Special
Rapporteur on Women’s Rights.

Reproductive rights advocates, including
the Center, have found guarantees of wom-
men’s right to reproductive health and self-
dermination in longstanding and hard
international norms. On such international
instruments as the Universal Declaration on Human
Rights (Universal Declaration), the
International Covenant on Civil and Political
Rights (ICCPR), and the International
Covenant on Economic, Social and Cultural
Rights (ICESCR), and the Convention on
the Elimination of All Forms of Discrimina-
tion Against Women (CEDAW). This approach
is one that we have adopted in guiding our
work.

Our goal is to see governments worldwide
ensure women’s reproductive rights out
of recognition that they are bound to do so.

The task, therefore, is to consider the current content of international laws and
policies, including those on reproductive
rights and assess its adequacy for guiding
government decision-making and holding
governments accountable for violations of
international norms.

This memo provides an overview of the
sources of international law that may be
invoked to force governments to comply with
both binding treaty provisions (hard
norms) and the many interpretative and non-
binding statements that contribute to an
understanding of what reproductive
ights activists should seek new protective
norms or whether our efforts would be better
spent seeking stronger mechanisms for en-
thusiasm of the European human rights
system, the African system, and other UN
individual complaints. Both will be par-
ticularly important in the next 3–5 years.

Ultimately, underlying the goal of
strengthening international norms and en-
forcement is that appropriate legal norms are in place at the
national level so as to improve women’s health
and lives. Working on the above pre-
quisites can help bring about national-
level normative changes (since one key way
for governments to comply with inter-
national norms is to improve national
laws). But these processes are not linear
and the adoption of appropriate national-
level norms may be feasible first (without
advocates’ emphasis on governments’ obliga-
tion to apply international norms). Such new national-level norms can, in turn, influence
and strengthen international standards. Our
goal above is reached only when govern-
ments advance in two interrelated areas:
(a) guaranteeing that appropriate legal norms are in place, and (b) ensuring that
adequate complaint mechanisms will be par-
ticularly important in the next 3–5 years.

Finally, underlying the goal of
strengthening international norms and en-
forcement is that reproductive rights in general are newly recognized in
human family, including ethnic and racial
minorities, women, children, and refugees
and internally displaced people.
ably work against us, particularly given the
right to determine the number and spacing
matters.
the highest attainable level of physical
terminate a pregnancy. To argue that such a
making in abortion, providing us with rel-
many of sexual and reproductive health.
Bolstered by numerous soft norms, the as-
within the rubric of international human
interest to reproductive health services. However, the
in a number of recognized human
lament that contravene national law would be pro-
states parties to develop family planning
s right to access services as well as the right to access services
instance in the context of adolescents, clearly stating that these rights
soft norms on the right to be free from discrimination based on age in the context of adolescents’ reproductive rights. There are soft norms relating to the age of marriage, which would impact adolescents’ ability to access services since in many countries married adolescents are granted access regardless of their age while unmarried adolescents are effectively denied access. This relates closely to soft norms on discrimination based on marital status. In this regard, the TBMs General Recommendations/Comments and Concluding Observations have explicitly condemned discrimination based on marital status in accessing reproductive health services.

C. HIV/AIDS
The rights of women implicated by HIV/AIDS include: the rights to life, dignity, life-saving treatment, nondiscrimination and equality before the
law, the right to health, including reproductive health care and reproductive self-determination. There are no hard norms in international human rights law that directly address HIV/AIDS directly.

At the same time, a number of human rights bodies have developed soft norms to secure rights that are rendered vulnerable by the HIV epidemic. In 1998, the Commission of the U.N. High Commissioner for Human Rights and UNAIDS issued "HIV/AIDS and Human Rights: International Guidelines," which is the standard for governments seeking to incorporate human rights protections related to HIV/AIDS into national law. In June of 2003, the U.N. General Assembly Special Session on HIV/AIDS issued a Declaration of Commitment on HIV/AIDS that included strong language on the need to integrate the rights of women and girls into the global struggle against HIV/AIDS.

In addition, the TMBs have interpreted existing treaties in the context of HIV/AIDS and reproductive rights, creating new and positive jurisprudence that safeguards women's reproductive rights.

In the national courts, the South African Constitutional Court interpreted the ICESCR Covenant progressively to enforce the right to HIV/AIDS prevention and treatment against the government in a case brought against the treatment by the Treatment Action Campaign (an HIV/AIDS rights NGO) seeking to compel the government of South Africa to provide Nevirapine to pregnant women and their babies, to prevent the transmission of HIV from mother to child.

Practices with implications for women's reproductive rights related to HIV/AIDS testing are still not fully covered under existing international law, although soft norms have addressed them to some extent. Two of these include: (1) denials of the right to consent to HIV/AIDS testing of pregnant women; and (2) the presumption of consent to sex in marriage.

1. Pregnant women's consent to HIV/AIDS testing

There is a lack of explicit prohibition of mandatory testing of HIV-positive pregnant women under international law. General international law provisions relating to consent of patients to medical treatment under the ICCPR (article 15.1) and the ICESCR (article 9) has been applied.

The legal and ethical foundations for HIV testing broadly require respect for the conditions for informed consent, pre- and post-test counseling and confidentiality. But on many occasions in practice, HIV positive pregnant women are subjected to mandatory routine testing, without adequate counseling. These mandatory tests often owe their justification to public health demands to curb transmission of the HIV virus to their offspring.

HIV testing that is conducted without pre- and post-test counseling violates a woman's right to health, including the right to physical and mental integrity. The same degree of consent pre- and post-test counseling and confidentiality applicable to every other person undergoing an HIV test should apply equally to a pregnant woman.

Among the most persuasive "soft norms" are the UNAIDS Guidelines on HIV/AIDS and Human Rights, which call for international human rights norms to be translated into practical observance in the context of HIV/AIDS, point out that programs emphasizing coercion, compulsory testing undermine the right of pregnancy and the risk of HIV infection. International protections for the right of women to autonomy over their sexuality and procreation can be found in the principle of bodily integrity enunciated in the ICCPR, which provides for the right to liberty and security of the person. However, with the challenges provided by HIV/AIDS, it is necessary to institute stronger protections of the rights of women in the family, especially their rights to autonomy over sexuality and reproduction. Some stronger language on women's rights in the context of HIV/AIDS is found in soft norms, including the recent UNAIDS guidelines on sexual rights. In addition, both the ICPD Programme of Action and the Beijing PFA reflect an international consensus recognizing the inalienable rights of the sexual rights of the Fourth World Conference on Women Platform for Action statements, "The human rights of women include their right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and Violence or Vagrancy." These rights are much more clearly articulated as a matter of progressive interpretation and jurisprudence than as hard norms in themselves.

D. Child Marriage (Marriage Under Age 18)

One of the global human rights treaties explicitly prohibits child marriage and no treaty prescribes an appropriate minimum age for marriage. The onus of specifying a minimum age at marriage rests with the states’ parties to these treaties.

Several treaties prescribe the hard norms we use to assert human rights violations associated with child marriage. They include (but are not limited to): the right to freedom from discrimination to choose a spouse and to enter into marriage with full and free consent; the right to health, including the right to protection from all forms of sexual exploitation and violence; and the right to the enjoyment of all human rights without discrimination.

We have to rely extensively on soft norms that have evolved from the TMBs and that are contained in conference documents to assert that child marriage is a violation of fundamental human rights.

In the main treaties and conventions relevant to marriage, the rights of women and children, the issue of minimum age at marriage has been dodged by the use of phrases—such as “full age” and references to full and free consent—over a standard for determining the validity of a marriage. Even the Convention on Consent to Marriage, Minimum Age for Marriage, and Registration of Marriages, which does not clearly articulate an appropriate minimum age. Notably, the African Charter on the Rights and Welfare of the Child, does recommend a minimum age of 18 and is the only treaty to do so.

Committees have issued general comments and recommendations emphasizing the problematic aspects of child marriage. Most have issued concluding observations that discourage and condemn child marriage as a human rights violation.

The Beijing PFA echoes most treaty provisions relevant to the issue of child marriage by calling upon governments to enact and strictly enforce laws to ensure that marriage is only entered into with the free and full consent of the intending spouses. It also recognizes the importance of ensuring "the minimum age necessary." While this provision does mark a step forward, it does not take a position on what the minimum age should be.

III. More norms vs. better enforcement

Because we wish not only to set standards for government behavior, but also to ensure that governments understand that they are bound by these standards, our success depends on some focus on enforcement of international law. Gaps in the substance of human rights instruments are accompanied by gaps in mechanisms for enforcing even the most accepted norms. Accountability is rarely achieved even for governments who engage in arbitrary killings and torture. It is even more difficult to ensure the enforcement of economic, social and cultural rights, which, while legally "binding," offer few measures for compliance. We are particularly sensitive to the practical difficulties of enforcing the Women’s Convention, which enumerates a number of rights that are fundamental to enjoyment of reproductive rights. A debate has arisen as to whether promoting the recognition of an expanding body of rights might dilute the still untested gains that we have made in the past 20 years.

Many human rights activists have focused on developing better mechanisms for enforcing existing norms, rather than filling the substance gaps in existing instruments. The campaign for the International Criminal Court is an example of an effort to make highly accepted international legal norms—the treaties of the UN—more practically enforceable in an international forum.

As a program, we should consider whether we would be better served engaging in the process of enforcing existing norms—through international litigation, factfinding, reporting to the treaty monitoring bodies—rather than developing the substance of international law. (In reality, both of these goals can be pursued simultaneously, but our question here is one of emphasis.) We could also develop new mechanisms for governmental accountability, which could themselves be the basis of a new legal instrument.

Should we decide, however, that we cannot move forward in our work without the development of stronger substantive norms, there are a few strategies we can take. These strategies are not exclusive and each can reinforce the others. However, because we wish to take a more self-conscious approach to choosing our strategy, we have laid them out in the following section.

IV. How to fill normative gaps

A. Seeking Authoritative Interpretations of Existing Norms

This approach involves developing a jurisprudence that pushes the general understanding of any existing norms to encompass human rights law to encompass reproductive rights. Such a jurisprudence is developed primarily through:

1. Relying on the treaty monitoring bodies;

2. Bring cases to international and regional adjudicative bodies (such as cases we have so far brought before the Inter-American Commission on Human Rights);

3. Bring claims based on international law to national-level courts (such as the recent PMTC cases brought before the South-African Constitutional Court and the local HIV/AIDS Advocacy group, Treatment Action Campaign).
While, given the variety of jurisdictions, the common law concept of “precedent” has little bearing in this context, international jurists are aware of how legal questions have been answered in their peers in other fora. Arguments based on the decisions of one body can be brought as persuasive authority to decision-makers in other bodies.

The advantages to relying primarily on interpretations of hard norms. As interpretations of norms acknowledging reproductive rights are repeated in international bodies, the legitimacy of these rights is reinforced. In addition, the gradual nature of this approach ensures that we are never in an “all-or-nothing” situation, where we must succeed or fail in a single go. Further, as the campaign proceeds, we are not committed to a strategy that does not require a major, concentrated investment of resources, but rather it can be achieved over time with regular use of staff time and funds. Finally, there is a stealth quality to the work: we are achieving incremental recognition of values without a huge amount of scrutiny from the opposition. These lower profile victories will gradually put us in a strong position to assert a broad consensus around our assertions.

There are also disadvantages to this approach. Arguments are made on the basis to apply to a variety of situations. There may be a lack of clarity or uniformity in the facts. There may be too many two-to-one relationships to one position as an “accepted” interpretation. In addition, the incremental nature of this approach escapes the notice of those who are not interested in the campaign and the surrounding conditions, in turn, depends upon profound change. We can identify a broad consensus that is important for the establishment of international and national bodies, the overlapping jurisdictions, that we can achieve to be lost in subsequent campaigns. We have seen encouragement in international and national levels legislation.

C. Seeking Adoption of a New Legal Instrument

The second approach has much in common with the first. It involves a gradual process of seeking repetition of interpretations of existing norms to encompass and protect reproductive rights. Once a norm is established, it can then become a basis for applying to a variety of situations. There may be a lack of clarity or uniformity in the facts. There may be too many two-to-one relationships to one position as an “accepted” interpretation. In addition, the incremental nature of this approach escapes the notice of those who are not interested in the campaign and the surrounding conditions, in turn, depends upon profound change.

2. Do most governments currently think about reproductive rights: broadening authoritative interpretations of existing norms; gradually establishing normative and legal protections for women’s rights and include these?

3. As a matter of public perception, does the strengthening of international legal norms protecting reproductive rights: and (2) would the strengthening of international legal norms protecting reproductive rights; and (2) consistent and effective action on the part of civil society and the international community to enforce these norms. Each of these conditions, in turn, depends upon profound social change at the local, national and international (including regional) levels. Ultimately, the goal of strengthening international norms and enforcement is to ensure that appropriate legal norms are in place and that international law can improve women’s health and lives.

4. Would it be more strategic, to consider a campaign of sorts, it is a difficult one to execute. Although we are talking about undertaking a campaign of sorts, it is a difficult one to execute. One might still try to sound out additional gaps in existing norms to encompass and protect reproductive rights. (For a more detailed description of these approaches, see Memos #1.)

5. How have other movements succeeded at creating norms that governments consider binding?

6. What would be an appropriate timeline for pursuing a new legal instrument? Would we be the group to take the lead on a campaign for a new legal instrument? The approach would involve the establishment of a broad consensus around our assertions, with the leadership of a sophisticated, media savvy team.

There are advantages to this approach. First, it offers the potential for strong, clear, and permanent protection of women’s reproductive rights. Further, having a campaign with clear objectives could serve as a focal point for advocacy around the world. In addition, the campaign itself could have an educational function with the potential to influence national-level legislation.

There are also potential disadvantages to considering a campaign for a new legal instrument. A new legal instrument appears to concede that we do not have legal protections already made, making failure potentially costly. Moreover, during the many years it takes to succeed in adopting an instrument, we create the impression that women are “protected.” Second, the campaign is unlikely to succeed in the near term, and thus might be deemed a waste of limited resources. Finally, depending of the timing of the campaign and the surrounding conditions, its impact in the region in which might ultimately set the movement back, at least temporarily.

V. Conclusion and further questions

There are a number of questions that we would not have been able to decide on our strategy. Some of these questions may be best answered by people outside the organization. These include: Ruth Wedgwood, David Weisbrodt, Oscar Schacter, Donna Sullivan, Ken Roth, Rebecca Cook, Roger Norman, Wimborne Brown, Anika Rahman, and certainly others. Whatever strategy we pursue, we should continue to research our approach, perhaps by enlisting the assistance of students at a law school clinic.

Here are some questions we would like answered:

1. Are the weaknesses in international norms protecting reproductive rights of a severity that can only be remedied by the adoption of a new instrument?

2. Do most governments currently think of having a duty to uphold reproductive rights: broadening authoritative interpretations of existing norms; gradually establishing legal protections for women’s rights and include these?

3. As a matter of public perception, does pursuing a new instrument—without any assurance of success—undermine current claims regarding the existence of reproductive rights?

4. Would it be more strategic, to consider an instrument covering other “gaps” in legal protections for women’s rights and include these?

5. How have other movements succeeded at creating norms that governments consider binding?

6. What would be an appropriate timeline for pursuing a new legal instrument? Would we be the group to take the lead on a campaign for a new legal instrument?
Regardless of the mechanism, expanding legal protections requires action on multiple fronts. First, there is a process of developing broad international agreement among our allies and partners on what the norms should be. Second, steps must be taken to put reproductive rights on the agenda of international normative bodies. Finally, advocates need to build support for reproductive rights among governments while countering opposition. The following subsections will address each of these activities in greater detail.

A. Developing Agreement on Norms

Much of the work of developing agreement on norms protecting reproductive rights has been achieved at United Nations conferences, including the International Conference on Population and Development (1994) and the Fourth World Conference on Women (1995). While documents adopted at these conferences are not themselves legally binding, they are a clear articulation of most of our institutional values, and they have been formally accepted by nearly every government in the world. There are (as noted in Memo #1) a number of gaps in the content of these international agreements, and much work is needed to gather support for the Center’s position that they should be filled. For example, the Center needs to continue its advocacy to ensure that women’s ability to choose to terminate a pregnancy is recognized. Advocacy of this nature can be carried out through various means, including:

- Public education and awareness-building, in part through production of advocacy materials and publicity surrounding their release;
- Bringing reproductive rights into the mainstream of legal academia and the human rights establishment; and
- Collaboration with NGOs engaged in establishing national-level norms.

B. Putting Reproductive Rights on the International Agenda

Developing broad agreement on norms protecting reproductive rights does not in itself ensure that they will find their way into national-level legislative and policy instruments. In order to counter opposition to an expansion of reproductive rights norms, we have questioned the credibility of such reactionary yet influential international actors as the United States and the Holy See. Our activities to garner support for international protections of reproductive rights include:

- Lobbying government delegations at UN conferences and producing supporting analyses and materials;
- Fostering alliances with members of civil society who may become influential on their national delegations to the UN; and
- Preparing briefing papers and factsheets exposing the logical anti-woman agenda of our opposition.

2. Enforcing international protections of reproductive rights

For legal protections of reproductive rights to be meaningful, they must be tested through concerted enforcement efforts. Enforcement of human rights norms can be pursued at the national, regional and international levels. Some enforcement strategies, such as the use of the treaty monitoring bodies, also serve the goal of strengthening international norms. Advocates’ use of enforcement mechanisms can help cultivate a “culture” of enforceability. Implementation is whether the violations of reproductive rights are recognized as such by victims, and human rights violations are addressed under conditions of impartiality and the rule of law. Specific activities that contribute to enforcing international norms include:

- Using adjudicative mechanisms at the national, regional and international levels;
- Documenting, and publicizing reproductive rights violations and recommending appropriate reforms; and
- Supporting efforts to strengthen existing enforcement mechanisms, such as the campaign for the International Criminal Court and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

3. Adoption and implemention of appropriate national-level norms

An important measure of the extent to which a particular government accepts its obligation to respect, protect and fulfill reproductive rights is whether it has adopted and is properly implementing appropriate legislation and policy. This may come about through means other than an international agreement. For example, the national political moment may be ripe for change, with or without the influence of international standards. Such changes in one or more countries, particularly key countries in a region, may have a catalytic effect on neighboring countries or on the solidification of international norms. Moreover, these kinds of changes, whatever the impetus, must be encouraged as they are more likely to have an immediate impact on the health of those who have previously been unable to enjoy reproductive rights.

Similar to activities outlined in #2 above regarding enforcement, possible activities in this area include:

- Providing input to civil society or government actors to change offensive laws or adopt progressive laws where none had existed;
- Examining the effectiveness of implementation of laws and policies; and
- Assessing whether those laws are adequately enforcing existing legislation.

D. Domestic Legal Program Summary of Strategic Planning Through October 31, 2003

Staff attorneys in the Domestic Legal Program (DLP) have worked with our strategic planning consultants and Nancy Northrup to discuss our current work and to plan for the future. At our initial meeting we focused on the following issues:

- Abortion Litigation: Are the litigation strategies of the last 10 years still viable? If so, for how much longer? Should we be taking a different approach to some of the issues that we have been litigating?
- How can we influence the people who influence the legal landscape around reproductive rights? How does CRR influence these communities now? Are there new strategies we should adopt? What are the key issues? What would it take to resolve those issues?
- Expanding Beyond Abortion: What are the other reproductive rights issues we have not been addressing or that we should put new energies into?

As a result of these discussions, we formed working groups on the following four issues: (1) the future of our traditional abortion litigation; (2) development of systematic approaches to or “campaigns” concerning selected core issues; (3) the development of non-abortion related litigation; and (4) developing a campaign to challenge the legal landscape. A summary of our thinking to date follows:

1. The future of traditional abortion litigation

We believe that the traditional abortion litigation that has formed the core of our legal program in the United States has been, and is likely to remain, the most effective strategy for protecting the right to choose abortion in hostile political climates, like that we face today, as well as in friendlier times. Even under pro-choice Administrations, women’s right to choose has always been and will continue to be protected by the judiciary from hostile majorities in many, if not most, states. Moreover, Supreme Court decisions in litigation arising from the hostility of the political moment may define the contours of the right to choose. If CRR is going to continue to have an impact on legal developments in our field, we need to consider how we can be involved in this struggle. Therefore, we will carry on in this area, informed by evolving standards in some areas, such as TRAP and biased counseling cases. We have also made a plan for reviewing our options to bring new “affirmative” litigation in areas such as Medicaid funding and parental involvement. The attached memo (#1) discusses these issues in some more detail.

MEMO #1—FUTURE OF TRADITIONAL ABORTION LITIGATION

I. Traditional work

When the Center was founded in 1980, its staff was already well-versed in the litigation conducted at the ACLU’s Reproductive Freedom Project. The Center built on that reputation and, through the 1990s, solidified its position as the preeminent team litigating on reproductive rights in the U.S., with the largest caseload by far of any other group. The Center’s reputation developed because of its willingness to litigate issues others had discarded (e.g., waiting periods and, originally, the “purpose” prong of Casey (which has since been eviscerated by the Supreme Court, Planned Parenthood of Southeastern PA v. Casey (1997))), its decision to push the envelope with legal theories that were sometimes on the edge, and because of the sheer
volume of cases we have been able to handle with a fairly small staff. We have also earned a reputation as being very client-focused—often assisting clients with issues that arise in their day-to-day operations—issues that other attorneys either cannot or will not handle (a recent example is the litigation in Michigan over the payment provision in the amendment to the waiting period statute, an issue the ACLU RFP declined to litigate). Although often in a defensive posture, challenging restrictive legislation enacted in the states, we have sought to use this litigation to restrict the reach of Casey’s undue burden standard and to strengthen the “state interest” inquiry in privacy and equal protection claims.

Recently, the frustration of funders with the current Administration and anti-choice Congressional assault on reproductive rights and the judiciary, has led some to question the usefulness of traditional abortion litigation. What good is all our work if the Bush Administration can simply take it all away with the stroke of a pen, by, for example, enacting the federal partial-birth abortion ban that we are currently fighting? These questions raise whether our current work will continue or whether we need to anticipate a new legal landscape, either because limitations on the right to choose will be re-established or whether legal challenges will dwindle or because Roe v. Wade will be overturned or substantially undermined, and so eliminating the cases that make up our current docket.

A. Will Our Traditional Work Continue in Its Current Form?

This group examined our traditional work, particularly focusing on whether we should alter the standards we use to evaluate whether to bring a case in one of our traditional areas, such as TRAP, parental involvement, abortion bans, based consent/mandated delay laws. We believe this work will continue, though in some altered forms.

Two examples are:

1. It is unlikely that we will bring another federal court challenge to a requirement that women make two-trips to their abortion provider, but we will continue to evaluate whether these laws can be challenged on other grounds and whether a state court challenge is appropriate.

2. We may bring limited challenges to TRAP schemes, particularly where they threaten patient privacy (the outcome of our Arizona v. Wade decision is yet to be determined). Whether Roe will be overturned or substantially undermined will determine whether other organizations’ involvement in these issues; institutional resources; and costs.

MEMO #2—REPORT TO STRATEGIC PLANNING PARTICIPANTS FROM SYSTEMATIC APPROACH SUBGROUP

This group met to discuss “systematic approaches” or “campaigns” that CRR might pursue. We considered five possible topics for such an approach to reproductive health care; (2) developing our use of equal protection jurisprudence to protect reproductive rights; (3) minimizing the burdens of the undue burden standard; (4) abortion funding/Harris v. McRae issues; and (5) developing our use of first amendment jurisprudence to protect reproductive rights. These topics were suggested at the initial strategy meeting of the domestic program. For each topic, we considered whether a campaign would be useful to the field, what the positives and negatives would be to pursuing the campaign, whether the Center is well-positioned to pursue the campaign, and how the campaign would be conducted. It is our opinion that our field would benefit from a systematic approach in the first two of these areas—minors and equal protection—and that we are well-positioned to pursue such an approach in those areas. We believe that the Center needs to undertake work in the third area—undue burden—but that such work may not be well-suited to the context of a campaign. Finally, it is our opinion that a systematic approach would not be productive or useful to the field with respect to the third and first amendment. This does not mean that we wouldn’t do work in those areas but just that they do not lend themselves as well to a systematic campaign. The following is a summary of our discussion of the five possible campaign areas. For each area, we have included an articulation of the possible campaign and some thoughts about the positives and negatives of pursuing that campaign. With respect to the three areas where we thought a campaign—or, in some cases, one more viable state constitutional challenge—might be possible, we have also included some possible elements for the campaign.

I. Minors

Articulation: A project to secure the fundamental right of minors to access all reproductive health services confidentially. This includes: (1) undoing the notion that parental rights are an adequate justification for imposing additional burdens on minors seeking abortions or other reproductive health care; (2) staying off efforts to require parental involvement for minors seeking contra¬ception and abortion; (3) undoing child abuse reporting requirements with respect to non-abusive sexual relations; (4) ensuring minors’ ability to consent to all reproductive health services; (5) developing a rights-based comprehensive information about reproductive and sexual health.

Positives: There has already been one of our priority areas. (2) We are seeing the anti-choice push hard to diminish minors’ rights, so we should see what can we come up with to push back against this (an important point in addition to defensive). (3) The topic lends itself well to a systematic approach. (4) The issue extends beyond abortion. (5) This is a topic about which we have already made efforts with our international program.

Negatives: (1) In terms of parental involvement for abortion, we have large body of federal case law which makes our campaign harder, and the reasoning of that case law could be applied to contraception. (2) It is very difficult to garner public and legislative support on issues concerning minors. (3) We will likely have to confront the politically difficult issue of whether minors have a constitutional right to have sex (or, whether minors should be treated as adults). (4) This area involves difficult line drawing and subtle points that are difficult to convey to the public in an appealing way. (5) There is growing opposition amongst minors to abortion and being pro-choice (or at least a national pro-life campaign aimed at teens that is garnering a significant amount of public attention). Possible Elements:

1. Legal research and writing to (a) de¬bunk the extent of parental rights currently recognized; (b) disentangle the concept of minors’ legal rights generally; and (c) ana¬lyze sodomy and death penalty cases to see how courts and litigants have relied on evolving societal norms and social science evidence.

2. Comprehensive survey of available sci¬entific evidence supporting our positions (e.g., re: competency of minors, importance of confidentiality for consent), to use (a) to strengthen our position and to (b) assess whether we need to rethink our legal approach.

3. Follow up to fill in the gaps with addi¬tional studies, development of expert witness¬es, etc.

4. Develop with major medical groups to de¬velop and expand public policy regarding minors’ ability to consent to medical care and need for confidentiality.

5. Advance legislation: minors’ ability to consent to care and confidentiality of care.

6. Develop litigation—bring facial chal¬lenges to laws forcing minors to file consents in federal court; as-applied challenges to parental involvement for abor¬tion laws in federal court; state courts cases to develop further the extent of parental rights.

7. Public education strategy to support legislative/litigation efforts.

8. Develop an international component, which looks at international norms on the rights of children.

II. Equal protection

Articulation: Project to expand the use of equal protection doctrine to protect women’s reproductive rights in domestic and non¬domestic areas to insure CRR might pursue. This group met to discuss “systematic approaches” or “campaigns” that CRR might pursue. We considered five possible topics for such an approach to reproductive health care; (2) developing our use of equal protection jurisprudence to protect reproductive rights; (3) minimizing the burdens of the undue burden standard; (4) abortion funding/Harris v. McRae issues; and (5) developing our use of first amendment jurisprudence to protect reproductive rights. These topics were suggested at the initial strategy meeting of the domestic program. For each topic, we considered whether a campaign would be useful to the field, what the positives and negatives would be to pursuing the campaign, whether the Center is well-positioned to pursue the campaign, and how the campaign would be conducted. It is our opinion that our field would benefit from a systematic approach in the first two of these areas—minors and equal protection—and that we are well-positioned to pursue such an approach in those areas. We believe that the Center needs to undertake work in the third area—undue burden—but that such work may not be well-suited to the context of a campaign. Finally, it is our opinion that a systematic approach would not be productive or useful to the field with respect to the third and first amendment. This does not mean that we wouldn’t do work in those areas but just that they do not lend themselves as well to a systematic campaign. The following is a summary of our discussion of the five possible campaign areas. For each area, we have included an articulation of the possible campaign and some thoughts about the positives and negatives of pursuing that campaign. With respect to the three areas where we thought a campaign—or, in some cases, one more viable state constitutional challenge—might be possible, we have also included some possible elements for the campaign.

1. Minors

Articulation: A project to secure the funda¬mental right of minors to access all repro¬ductive health services confidentially. This includes: (1) undoing the notion that parental rights are an adequate justification for imposing additional burdens on minors seek¬ing abortions or other reproductive health care; (2) staying off efforts to require parental involvement for minors seeking contra¬ception and abortion; (3) undoing child abuse reporting requirements with respect to non¬abusive sexual relations; (4) ensuring minors’ ability to consent to all reproductive health services; (5) developing a rights-based comprehensive information about reproduc¬tive and sexual health.

Positives: There has already been one of our priority areas. (2) We are seeing the anti-choice push hard to diminish minors’ rights, so we should see what can we come up with to push back against this (an important point in addition to defensive). (3) The topic lends itself well to a systematic approach. (4) The issue extends beyond abortion. (5) This is a topic about which we have already made efforts with our international program.

Negatives: (1) In terms of parental involvement for abortion, we have large body of federal case law which makes our campaign harder, and the reasoning of that case law could be applied to contraception. (2) It is very difficult to garner public and legislative support on issues concerning minors. (3) We will likely have to confront the politically difficult issue of whether minors have a constitutional right to have sex (or, whether minors should be treated as adults). (4) This area involves difficult line drawing and subtle points that are difficult to convey to the public in an appealing way. (5) There is growing opposition amongst minors to abortion and being pro-choice (or at least a national pro-life campaign aimed at teens that is garnering a significant amount of public attention). Possible Elements:

1. Legal research and writing to (a) de¬bunk the extent of parental rights currently recognized; (b) disentangle the concept of minors’ legal rights generally; and (c) ana¬lyze sodomy and death penalty cases to see how courts and litigants have relied on evolving societal norms and social science evidence.

2. Comprehensive survey of available sci¬entific evidence supporting our positions (e.g., re: competency of minors, importance of confidentiality for consent), to use (a) to strengthen our position and to (b) assess whether we need to rethink our legal approach.

3. Follow up to fill in the gaps with addi¬tional studies, development of expert witness¬es, etc.

4. Develop with major medical groups to de¬velop and expand public policy regarding minors’ ability to consent to medical care and need for confidentiality.

5. Advance legislation: minors’ ability to consent to care and confidentiality of care.

6. Develop litigation—bring facial chal¬lenges to laws forcing minors to file consents in federal court; as-applied challenges to parental involvement for abor¬tion laws in federal court; state courts cases to develop further the extent of parental rights.

7. Public education strategy to support legislative/litigation efforts.

8. Develop an international component, which looks at international norms on the rights of children.
CRR has relied on evolving societal norms and social science evidence.

(2) Analysis of equal protection jurisprudence has evolved in other areas.

(3) Public education to talk about abortion laws (and other obstacles to repro health care) in situations against women and unfair discrimination against abortion.

(4) Look to expand the litigation areas in which we push equal protection claims and state support for contraception irrelevance, challenges to abortion restrictions as applied to medical abortion).

(5) Analysis of the kinds of factual development we should do in cases in which we bring equal protection claims.

(6) Development of studies helpful to our equal protection claims as such as by comparing the morbidity and mortality of abortion with that for other office surgeries;

(b) study establishing that other health care decisions women make are comparable to the abortion decision in relevant respects.

(7) Develop strategies for advancing legislation that would add to women’s protections of abortion. This includes in health care (e.g. establishing that disparate impact on pregnant women is sex discrimination).

III. Undue burden

Articulation: Project to overturn Harris v. McRae by building upstate court opinions, state legislation and factual bases to compel the state to act in favor. This includes, as Harris v. McRae in recognition of the fact that, for poor women, access to public funding for abortion is part of their constitutional right.

Postive Elements: (1) Reaching the state court level on issues, and the Harris decision has had a very significant on women’s access to abortion.

Negatives: Unlike what happened with sodomy laws, we are not going to be able to get an expansion of abortion funding rights in the states: we are running out of state courts to rule on these issues. In most states we have no chance of getting the legislature to act in our favor.

IV. First amendment

Articulation: Project to enhance reproductive rights theories and application of first amendment theories in areas like specialty license plates and biased counseling.

Postive: (1) We could try to develop this area of law to see if we could impose some success; (2) restrictions that are imposed on speech about abortion, and preferences given to antiabortion speech, undermine the right and contribute to anti-choice public dialogue about our issue.

Negatives: (1) First amendment theories have limited application to restrictions on reproductive rights; (2) this area does not lend itself as well to a “campaign.”

MEMO #3—REPORT TO STRATEGIC PLANNING PARTICIPANTS FROM "OTHER LITIGATION" SUBGROUP

This group met to discuss “other litigation” that CRR might pursue in addition to areas in our current docket. We focused on three main areas: (1) contraception; (2) women and collecting information. These topics were discussed at the initial strategic planning meeting of the domestic program. For each of these topics, we considered some ways that we might pursue work in these areas; the positives and negatives of pursuing these strategies; and possible elements pursuing these issues might have.

I. Contraception

Articulation: The Center’s commitment to reproductive rights includes a woman’s right to control if and when she becomes pregnant.

We considered possible ways that we may be able to expand our work in the area of contraception, including potentially focusing on: (a) funding restrictions (e.g., restrictions in Medicaid, Title X, and in abortion-only programs); (b) government restrictions, both on a macro and micro level (e.g., statutes and or regulations; police harassment of sex workers), exists; and (c) school policies that prohibit condom distribution.

V. First amendment

Articulation: Project to enhance reproductive rights theories and application of first amendment theories in areas like specialty license plates and biased counseling.

Postive: (1) We could try to develop this area of law to see if we could impose some success; (2) restrictions that are imposed on speech about abortion, and preferences given to antiabortion speech, undermine the right and contribute to anti-choice public dialogue about our issue.

Negatives: (1) First amendment theories have limited application to restrictions on reproductive rights; (2) this area does not lend itself as well to a “campaign.”

MEMO #3—REPORT TO STRATEGIC PLANNING PARTICIPANTS FROM "OTHER LITIGATION" SUBGROUP

This group met to discuss “other litigation” that CRR might pursue in addition to areas in our current docket. We focused on three main areas: (1) contraception; (2) women and collecting information. These topics were discussed at the initial strategic planning meeting of the domestic program. For each of these topics, we considered some ways that we might pursue work in these areas; the positives and negatives of pursuing these strategies; and possible elements pursuing these issues might have.

I. Contraception

Articulation: The Center’s commitment to reproductive rights includes a woman’s right to control if and when she becomes pregnant.

We considered possible ways that we may be able to expand our work in the area of contraception, including potentially focusing on: (a) funding restrictions (e.g., restrictions in Medicaid, Title X, and in abortion-only programs); (b) government restrictions, both on a macro and micro level (e.g., statutes and or regulations; police harassment of sex workers), exists; and (c) school policies that prohibit condom distribution.

V. First amendment

Articulation: Project to enhance reproductive rights theories and application of first amendment theories in areas like specialty license plates and biased counseling.

Postive: (1) We could try to develop this area of law to see if we could impose some success; (2) restrictions that are imposed on speech about abortion, and preferences given to antiabortion speech, undermine the right and contribute to anti-choice public dialogue about our issue.

Negatives: (1) First amendment theories have limited application to restrictions on reproductive rights; (2) this area does not lend itself as well to a “campaign.”
appropriate reproductive health care; (2) this has been a more recent and successful campaign by the anti-choice forces; (3) the anti-choice fighters have been weaker in other campaigns; (4) although peripheral medical and health people and groups, as well as legislators, are outraged by these tactics, there hasn't been much success in countering them; thus, we would stand out on these issues. In fact, we are the only group with significant experience litigating (and retreating) the claims of an abortion-breast cancer link.

Negatives: (1) We have struggled for years without much success to try to develop legal theories to attack these issues proactively; (2) we may not have to do the kind of constitutional legal theories, but we are not experts in some of those areas and therefore don't even know of the existence of some avenues; (3) cases in this realm might involve non-litigation, which we can't do as accustom to taking on; (4) individual cases in this area often are seen as less important than the impact litigation facing us and, therefore, fall through the cracks; (5) LD1 has been quite careful to try to stay within legal bounds with their misleading tactics.

Possible Elements:
(1) Decide if this area is a priority for us and determine if it depends on whether we can litigate in the area or not. (2) Proceed to the following elements;
(2) Brainstorm regarding litigation versus non-litigation tactics.
(3) Do fact research on misleading information and thereby prioritize potential attacks on the different types of dissemination;
(4) Do legal research in obvious areas with which we are familiar—i.e., First Amendment entanglement/establishment clause (see U.S. Supreme Court cases and the Gibbons case in E. D. La.);
(5) Determine how to familiarize ourselves with other areas of law that we're not so familiar with—including business torts such as interference with business, torts, false advertising—both currently and how to keep abreast of changes in the area (have a law firm do a CLE for us and be our consultant on such matters?);
(6) If lawsuits are a viable option, decide how to proceed with them (alone? With a law firm?);
(7) What are our criteria for project and site selection? Do we have 'clients' of our own in need? (8) Are they in state or federal court? Is the district court or the U.S. District Court appropriate? Is the court in need of a change? Is the court's decision likely to have an impact on our future work? Are there other ways in which our domestic and international work could be integrated?

Strategic Planning: Communications—strategic planning

Like the other programs at the Center, domestic and international, Communications needs to be strategic. And for Communications to be strategic, the Center must have a clearly articulated mission.

So the first question we must ask is, Why communications? What purpose does it serve for the Center?

Depending on the organization, Communications strategies vary widely. Here are two examples from two organizations whose Communications programs I directed before coming to the Center.

Two Communications Models
The Vera Institute of Justice had an entrepreneurial goal. We wanted government officials to see us as making government justice systems fairer and more efficient. We believed that without actual government investment in projects and projects we promoted, there wouldn't be the necessary will to change. And we needed to be known, unlike government bureaucracy, as an organization that got things done.

This goal meant that Communications strategy focused on marketing more than advocacy. We developed strong research reports and public service announcements to sell our ideas and forceful "identity" materials (that described what we did). We also established the president and other key staff and colleagues as trusted and authoritative resources. But we kept a very low media profile, with a few exceptions. For example, when we launched our citizens' jury project, which essentially asked what health and rights. In New York City courts, Judge Kaye encouraged us to publicize it as much as possible, because we wanted New York City residents to use the service. In part, however, we sought less to get our name in the media than, to change the quality of reporting on crime and justice. So we held a seminar for editors and reporters at which they and criminal justice experts exchanged (no holds barred) views on how the media could do a better job and how researchers could help them do it.

An adjacent goal of Vera's was to encourage the next generation of government officials to use the services we offered. So, when we hired professional government officials, we helped them get the services our organization actually had, which would become our partner in future projects or perform pro bono work for us. For example, we invited law firms to propose young partners to attend the seminars we held, introducing them to high-level officials in New York City government who could explain how various parts of the justice system worked.

The International Women's Health Coalition had a very different goal: to promote women's and girls' reproductive and sexual health and rights. Our strategy focused on linking gender perspective into international policies and agreements, either directly through our own staff's involvement with a coalition such as the World Health Organization or, on a country level, through funding and technical assistance to groups trying to change national and local policies.

Communications developed and provided written and audiovisual tools to these groups (case studies of successful programs, how-to manuals, etc.), as well as policy papers, disseminating them widely through our website, and, when possible, publishing in peer-review journals.

We also engaged aggressively with the media, partly in order to embarrass the Bush administration for its failure to support the reproductive rights and needs of women globally. We included the development of Bush and Congress Watch fact sheets detailing the inconsistencies in funding and visions of this Administration that held back progress on women's reproductive rights both domestically and internationally.

Because IWHC also cared about involving the next generation of leaders, we too brought together potential leaders doing cutting-edge work from around the world to encourage them to generate momentum for change. Communications sometimes published the results of those dialogues.

Center for Reproductive Rights: Key Questions

In order to determine effective Communications strategies, we must first ask questions like these:

Is our goal to increase our visibility or is it to change how people think about the Center? If it is to become better known, for what and by whom?

Is there a different about the Center now as compared to earlier in its history? What do we want people to understand about how we've changed?

What is our goal to make people understand reproductive rights as human rights?

What is unique about our organization that the other groups don't have? What people?

What do we want to be known as? A cutting edge organization that generates innovative ideas, i.e. a think tank for litigation and jurisprudence?

What is the special role to play to encourage thinking about the proper role of the courts in protecting reproductive rights?

Center for Reproductive Rights—Strategic Planning Workshop, November 10, 2003

Overview

1. Introductions, agenda for workshop, strategic planning overview, rules, and roles [9:00–9:30].
2. Agree on a planning perspective [9:30–9:45].
3. What can we accomplish in this political and economic environment? What are appropriate strategic planning horizons for the Center and our issues? e.g. 1–2 years; 3–5 years; 5 years plus.
4. How do we combine strategic cost reduction and strategic planning?
5. Identify the Issues Raised During the Strategic Planning Intervets and Staff Workshops [9:45–10:15].
Focus the Work

4. International Legal Program: How can we begin to focus our International Program? [10:15–11:30].
5. Domestic Legal Program: What are the opportunities and limitations in our agenda? [11:30–11:45].
6. A Global Perspective: How can we better coordinate our International and Domestic Programs? [2:45–2:50].

What are the implications for the U.S. as we advocate for International norms?

What don't we treat the U.S. as a country in the world of nations?
Would the distinct programs have more commonality and synergy if the International Program focused on legal and Human Rights enforcement?

How can we change/enhance our domestic and international agendas?

7. Communications: What issues should we consider as we make Communications a more substantive part of the work we do?

How should we design a communications program to influence/shape the legal landscape for reproductive rights?

How should broader communications strategy integrate our litigation, legislative, research, and advocacy work?

What transactions affect our messages differently? More aggressively? With more resonance to more constituents?

What would a multi-year program look like?

Leadership

8. Leadership: How can the Center use its expertise to exert more leadership? Distinguish ourselves? Become more collaborative?

What do we mean by “leadership” and how do we better/more effectively communicate our leadership role and position ourselves as leaders?

Can we set the broader agenda for the Reproductive Rights (RR) movement?

What is it about incorporating RR work into a broader Human Rights agenda?

Can we learn and apply from other serious disciplines?

What does it mean to “stay on the cutting edge”?

How do we engage the broader public interest?

Next 3-5 years

Wrap-Up and Next Steps [3:45-5:30]

Ticket Reception [3:30-3:45]

Cocktail Reception [5:15-5:45]

Advocacy in international and regional human rights fora

Documenting reproductive rights violations in fact-finding reports; and

Training NGO’s and lawyers through legal fellowships and visiting attorney programs, workshops, and online resources and other technical assistance.

Key accomplishments under these strategies include:

Conceptualizing and publishing the Women of the World (WOW) series. Non-governmental organizations (NGOs) are now able to identify national and regional legal obstacles to furthering reproductive rights in order to craft effective advocacy strategies for re-mediating reproductive legal obstacles.

Documenting the existence of laws and policies existed, however, until the Center launched the WOW series in 1996.

Researchers and written with partner NGOs, these regional reports document the laws and policies of 50 nations. They cover a range of issues, including: health, abortion, population and family planning, contraception, and maternal health.

To date, we have completed four regional reports: Anglophone Africa, Latin America and the Caribbean, Francophone Africa, and East Central Europe.

Publishing Bodies On Trial, which documents a significant gap between reproductive rights law and judicial interpretation in five Latin American countries. The Center’s 150-page report serves as a resource not only in Latin America and the Caribbean but in other regions where advocates are evaluating potential litigation strategies to advance reproductive rights.

Filing groundbreaking legal cases in the inter-American human rights system and in national courts:

In the past year, we have achieved two significant settlements to date to ensure that Peru’s government abides by international agreements and its existing reproductive rights-related laws.

Securing favorable interpretations of international human rights law from UN and regional human rights bodies, and documenting the inattention of the international community.


Investigating reproductive rights violations in over seven countries, including two reports on Chile and El Salvador that highlighted the role of criminal abortion laws in maternal mortality and two reports that generated significant public pressure to reform criminal abortion laws in Nepal and to safeguard women’s rights to informed consent in Slovakia.

Providing technical assistance and capacity to use legal strategies to advance reproductive rights in five countries.

Summarizing and disseminating findings in over 45 countries, including training over 16 lawyers in reproductive rights advocacy at our New York office for periods of at least three months.

Launching the Safe Pregnancy Project, a series of fact-finding reports that document laws and policies contributing to maternal mortality in select countries, and make recommendations for change.

Our first report, on Mali, was released in February 2003 and was featured at the landmark seminar on the 40th anniversary of the International Conference on Women in March.

Advancing adolescents’ access to reproductive health services through reporting, fact-finding, and legal advocacy.

They noted “expertise around Reproductive Rights (RR) and Human Rights (HR),” “brilliant, focused, sophisticated lawyers who can file cases, win, and ‘who work on the cutting edge.’” One Trustee noted that it is the only organization working on the legal and international law and legal mechanisms to...
human rights aspects of RR, but most felt at a loss to speak concisely and specifically about what the Center does that makes it different from other "players" in the field. Trustee X also cited the Center's strong commitment to reproductive rights as a unique aspect of the Center, but were unclear as to the specifics of this work.

Funders could, and did, define to the Committee the international role. They talked about the Center's role in "linking groups of people trying to advance women's interests," how the Center helps "define and challenge national legal systems," and how "finely-honed the legalistic work" is. One funder declared, however, that the legal protections at the expense of economic and social justice—and gave a stark example of a Somali woman.

While one funder noted that the Center's work is unique because of its strong commitment to RR, two others noted: "other organizations are also grappling with these issues." "The Center should place itself within the range of other groups which do similar work. . . . It is not enough to assert you are unique—you must describe why." "The Center is not unique in litigation; both Planned Parenthood and the ACLU also litigate. How are the client base and issues different and has the Center deliberately developed their expertise or has it happened?" One colleague asked about how the Center views itself: "as a litigating organization or as a broader advocacy group?"

Articulating a broad vision for the next five years

Trustees hold the Center's staff in extremely high regard. Their level of respect and trust is extraordinary. Most Trustees would think it hard to set if not the vision for the future and determining the direction. Having said that, most believe that the domestic focus should still be on abortion. Most funders would also like to see work in the related areas of Emergency Contraception (EC), contraceptive equity and comprehensive sex education, including work with adolescents.

Most Trustees think that the image and reputation of the Center needs clarifying and heighten that collaboration with other RR and HR groups would help to improve the Center's visibility as well as move the agenda(s) forward.

Funders and colleagues believe strongly that the broad vision for the next five years must be "ruthlessly prioritized." Their approach should be outcomes-oriented. It's not good to have a research project and article and present. Engineer backwards from what they want to see happen." "I understand the causal model of theory of change; spell it out for us; define the outcome you expect . . . not just winning decisions." Most think this as requiring more sharing of expertise. Indeed, partnering with other organizations, both domestic and abroad, was a strength of the Center's need to do more. One funder said that the Center's founding would help to bring home the "so what factor"—"So what difference have we made?"

Funders and colleagues emphasize that consistent partnering with other groups will strengthen the Center's overall visibility, present constituents with the bigger picture of RR work, and help us to offer less assurance - "there's some safety in numbers." They stress that the Center should take time now to identify who those long-term partners might be, both domestically and internationally, and if relationships do not now exist, begin to build them. They further cautioned that in all collaboration the "emotional, political and strategic work rather than the credit." "The need to be the dominant partner can sap energy and good will.

STRATEGY AND PROGRAM

Assessing progress to date

Most Trustees said that the Center "does program and strategy well," but they were short on specifics. Most believe that the Center "litigates well." Backing up this assertion, two Trustees cited the Center's role in the Nebraska case and its work on Partial Birth Abortion (PBA). Several others referred to its pro-active role around EC. They noted that, despite domestic "wins," the current political climate undercuts the Center's work.

One Trustee cited progress in Chile and Mexico, which could not have happened without the Center's activities. All knew that litigation around abortion was a domestic hallmark, but most could not explain the essential components of the international programs. One did, however, single out the "spectacular WOW reports," their use at the United Nations, and their impact. Several organizations working in the RR and HR arena. Another cited the work in Nepal.

Funders and colleagues alike felt that "the Center should devote itself to international work at all," funders and colleagues felt that the international program could be more effective. The Center "works from the ground up on a country basis." "Legislative debates are needed; they have proven useful and educational else where." One argued that cases should be handled internationally through the European Court of Human Rights. And, returning to the issue of collaboration, one funder said that the Center has been less effective internationally "when it goes off on its own initiatives that are not well-developed with other partners."

Measuring success

Trustees, funders and colleagues were unaware of any systematic and specific efforts to measure the Center's success. All agreed, however, that measurements and benchmarks will be important moving forward. Someone said the hard data—which is quantifiable—is the easy part—number of cases won, number of cases lost. "What's harder, but equally valid is the soft data—the qualitative which takes note of "laws changed (although perhaps not immediately), lives improved, learnings which happened in the Center?" others asked. "Did we educate, create a precedent?" There was strong consensus overall that as new strategies are developed, they must be evaluated against the Center's vision.

Substance: a national strategy

Several Trustees identified the "shoring up of favorable state constitutions" as core to the domestic work ahead. They also want the Center to "identify trends." Funders and colleagues looked for a more proactive role around the intersection of needs, e.g., RR and HIV/AIDS. Again, they stressed network building (domestically and overseas), collaboration and outcome oriented strategies rather than identifying specific goals, litigation or issues per se (as requested by the interviewer). They also expressed their belief that leadership at the Center would embrace these tactics.

Domestic and international programs informing each other

Trustees were not sure how the domestic and international programs would better inform each other, but they were quite insistent that it needs to occur. They do not know the frequency of interchange between the two staffs, although they assume that there is some and that there should be more.

Funders and colleagues spoke about thinking collectively with move the agenda forward, broadening the discussion well beyond the Center staff. A greater
awareness of what others are doing nationally and internationally "can make us all more effective as we focus on what each does best." Most talked of identifying "cross-country" projects. The need for both domestic and international could bring experience and expertise to bear, e.g., medical abortions, access to various forms of contraception, RR and HR, AIDS, etc. One said "be more clear about the connection between global and national. Look at the US impact globally."

Race and Ethnic Discrimination as a Program Component

All study participants recognized that minorities and the poor are underserved in RR and HR. How this factor in to the Center's overall development, non could specifically say.

Domestic Program

Expanding Domestic litigation beyond abortion?

The Trustees believe that abortion is still the key issue. But many also think that the Center should "move beyond" and address linked issues. They cited EC, HIV/AIDS, work, with teens, and family planning "wherever there are legal issues (e.g., women denied prenatal care)." "If Medicare funding changes, will there be a legal issue there? Is there a legalization around abortion on the government website?" Trustees have a deep concern that the image of the Center is "only around abortion" and believe that image must change, so that the public has a greater understanding of the overall impact on women's lives of what the Center does. One suggested that every time the Center is litigating a case, there be a full explanation of how the case fits into the larger context.

One Trustee believes that Roe v. Wade could be overturned and that the Center should begin now to develop strategy. Another said, "If overturned, we need to be in advance and have time. We need to keep the thought in play, but we can't focus completely on it." Most felt that Roe itself would remain intact. Several concurred that, given the current political climate, its impact could be gutted.

Only two funders commented on Roe v. Wade. One said, "it's not going to be overturned, but everything else will be. Therefore, look to work at the state level." Another stated: "We need a serious analysis of the options out with an agonism either whether or not to continue to defend it. There are lots of weaknesses in the legal approach to Roe v. Wade. If it's flawed, we need to be clear with a remedy. Is there a clear satisfaction that it can continue to defend it? Commenting on other issues, one funder commented, "Look at the things that are winning and advancing. What is it that appeals and the legal strategy that can be derived and applies?" Asked one colleague how far the Center's work represented other issues, e.g., women's access to the full array of health services and gender choice and what that means for women's advancement in society. Who is active on college campuses and universities where is a role here that needs to be filled."

Other Strategies To Make a Forward Progress in the Courts

Most Trustees said there was nothing to be learned from the Conservative Right "because they just play a different game." Another, however, remarked, "We're not vocal enough. People pay attention to the loud voices. We have to fight harder, be a little dirtier. Be graphic and show all the roadblocks." Said yet another, "We should shine a bright light on the U.S. internal policies, domestic."

There were no specific strategies suggested for succeeding in non-litigation areas, but

many Trustees felt that the Center should be thinking in terms of education. "Young women don't know what they are losing." Abortion is a medical procedure and all medical specialties should be required to learn the procedure. Medical school curricula must address this." All agreed that collaboration is a strategy that the Center uses. Law schools, bar associations, universities, the Alan Guttmacher Institute, and the Brookings Institution were suggested as potential partners.

Funders and colleagues said: "Keep fighting." They returned, yet again, to the issue of collaboration and while most did not identify a strategy (mainstream human rights groups"), they urged working together. One quite specifically said "the Center and the ACLU should work out together to clarify, so that their religious voices for choice-so that we're not called barbaric, irreligious, immoral—we need to have the ethical leaders of our society with us at press conferences." Another noted that the "litigation messages need to be coordinated" and went on to say "litigation alone is not going to carry the day. It's also how you manage court cases, so that the Center can do its long-term strategy. It's very hard to think that way when you're preparing a brief at 120 mph.

International Program

Global, Political, Health-Related Factors Driving Scope and Direction of International Activities

Most Trustees felt that they did not know enough to comment on the direction of the international work, except to say "helping NGO's understand and implement their laws is more effective."

Dr. M said that "accumulated knowledge of the international scene remarked: "There's a need for a catalyst in developing countries. Help the women in East and West, in and out. Our laws are enforced and that new laws don't violate basic human rights. The Center can be a catalyst rather than an active litigant." Another said, "Step up the international work and link it with the domestic. The US domestic policy is affecting international programs, and we need to link with other US organizations that are addressing how the US is affecting the health of women. We also need to train NGO's in developing countries to make their concerns known." Do more and link more with other HR and RR groups."

Funders and colleagues say that "one size does not fit all. The Center needs to do a quick assessment on the work already done and make a long-term commitment in a few key places, where they can support and transfer skills to local advocates, rather than doing it with an overall rationale." "Choose litigation where it will work." "It is more important for the ILP to choose strategic wins so that it can pick certain countries because they're key priority areas, or long-term relationships, or because—you can leave something behind." "Make smart political judgments." "Collaborate with other NGOs."

"One said, "push the expertise down and out." One interviewee talked at length about the need for developing contacts within the European Union because "there is no real debate in Europe on abortion and, there is funding available." Noted one colleague, "One reason (political, economic, health-related) drive the scope and spectrum of the program, but it is how an issue is seen politically, socially and culturally and gets "getting"." They could indeed play a much more active role in the Center and be of greater assistance with education and training than they have been in the past.

Funders and colleagues could not comment on the Board, but they spoke highly of staff. One said, "They are a precious resource with skill and focus and 'on the attack.' Another said, "The importance of the education and communication in moving forward, it is the bridging skills that may need strengthening. And, you may need some on-the-ground communications/organizing."

One colleague did suggest that, in terms of structure, the Center needs a working i.e., "Is there a need for a more civil society composed of non-traditional allies—Fortune 100 CEO's, heads of universities,
How has the Center measured past success? How should the Center think about and measure future success?

What should be the substance guiding the future strategy?

Specific goals we should accomplish? (identify)

Projects that we should undertake? (identify)

Substantive issues we should address that we are not addressing now? (identify)

Litigation we should pursue proactively. (identify)

Other (identify).

How can the international work be more informed by the domestic work, and vice versa?

How should the Center’s concern about race and ethnic discrimination factor into program development?

Specific (at a level of detail appropriate for the interviewee)

Should the Center expand the domestic litigation agenda beyond its primary focus on abortion?

Do clients have other issues that we should understand and pursue? If so, what are they?

While we have a lot of abortion cases on our docket, do we run the risk of running out of interesting/effective strategies or losing our funders’ interest and support?

Do we need to develop a strategy now if Roe v. Wade is overturned?

Are there more important/different issues that we are not being bold enough of our focus on abortion? Does this matter?

What other strategies can the Center pursue to make forward progress in the courts?

What are the programmatic components of a more comprehensive strategy?

What can be learned from the Conservative Right as they pursue their multi-faceted strategies to change jurisprudence?

How can the Center succeed in non-litigation areas, e.g., education and training?

With whom can the Center collaborate, e.g., similar legal organizations, advocacy and policy-based reproductive rights organizations, law schools, etc.?

What are the global, political, economic, and health-related factors that drive the scope and direction of the international work?

How all of the different strategies required in different parts of the world recognizing that “one size does not fit all”?

Given a rapidly changing world, how should the Center focus its work to be most effective and demonstrate results?

With whom should the Center collaborate?

How should the international program balance tensions in the focus and commitment of resources, e.g.,

“Promoting the application of international human rights standards to reproductive rights activities” vs. focusing on domestic action?

How will the Center involve and energize both internal and external constituents, in a new and/or expanded way?

Strategy and Program

Overall

How would you assess the Center’s progress to date?

What does the Center do well? Less well?

Why?

What have been the essential components of the domestic and international programs?

Where has the Center been most effective? Least effective?

When should the Center be more proactive?

What might we be doing now to build capacity for the future?

APPENDIX: CRAFTING A STRATEGY FOR THE NEXT FIVE YEARS—INTERVIEW GUIDE

Background

Describe current task, the link to prior strategic planning efforts, and coordination with the development audit

Clarify terms, language, jargon

Unique interviewees’—Experience and knowledge in this or related fields; and experience with and knowledge about the Center.

Reactions to White Paper

Mission and vision

What does the Center do that differentiates it from other organizations and individuals?

What have been the Center’s emphases in the “mission and values” statement in the last Strategic Plan?

How would you articulate a broad vision for the next 5 years? How will this affect Scope of activities/projects/docket; size; “Competitive advantage; and Image/Reputation, etc.?

How will the Center involve and energize both internal and external constituents, in a new and/or expanded way?

Strategy and Program

Overall

How would you assess the Center’s progress to date?

What does the Center do well? Less well?

Why?

What have been the essential components of the domestic and international programs?

Where has the Center been most effective? Least effective?

When should the Center be more proactive?
Elimination of All Forms of Racial Discrimination: International treaty upholding individuals’ human rights to be free of discrimination on the basis of race.


ICCPR—International Covenant on Civil and Political Rights: International treaty protecting individuals’ civil and political human rights.


Treaty Monitoring Bodies (TMBs)—United Nations Treaty Monitoring Bodies refer to the six committees which monitor governmental compliance with the major UN human rights treaties. While the TMBs are not judicial bodies; they influence governments by issuing specific observations about states’ progress and compliance with human rights obligations. Four committees also hear individual complaints.


The Center for Reproductive Rights Board of Directors—Primary Affiliation Information.

Executive Committee Members

Nancy J. Northup (Ex-Officio 1/13/03), President, Center for Reproductive Rights

Laurie G. Campbell (Treasurer and Chair of Finance Committee)

Jane E. Hodgson, MD, MS, FACOG, Founding Fellow, American College of Obstetricians and Gynecologists

Sylvia A. Law, Elizabeth K Dollard Professor of Law, Medicine and Psychiatry, New York University Law School

Marcie J. Musser, Vice President and Treasurer of the Board, General Service Foundation

Nafis Sadik, MD, Special Envoy for United Nations Secretary General for HIV/AIDS in Asia and Pacific

Sheldon J. Segal, PhD, MD, FRCOG (Secretary), Distinguished Scientist, The Population Council

Marshall M. Weinberg, Board Member, American Jewish Joint Distribution Committee

Deluxe Hotel

Hon. William J. Janklow

Of South Dakota

In the House of Representatives

Monday, December 8, 2003

Mr. JANKLOW. Mr. Speaker, on August 12, 2003, the Deluxe Hotel, a small business in Woonsocket, South Dakota, commemorated 100 years of family ownership and operation of the hotel.

The hotel itself is an original structure built in 1883—two months before there was a town of Woonsocket and six years before South Dakota became a state—by railroad supervisor, Charles H. Prior and his wife. On August 12, 1903, Joseph Lane and Margaret Kirby Brown bought the hotel for $2,250 in cash plus a Springfield, South Dakota hotel valued at $1,500.

Currently, J.L. and Margaret Brown’s granddaughter—Delores Brown Bissel—owns and operates the hotel. She was born in the hotel in 1926, and has been involved in its operation ever since. The descendants of Joseph Lane and Margaret Kirby Brown gathered in Woonsocket on August 2nd to commemorate 100 years of family and business history.

Family-owned businesses, such as the Deluxe Hotel, are the backbone of many small, rural South Dakota communities. I congratulate the Brown Family for this remarkable milestone, and hope that this longstanding contribution to the Woonsocket community and surrounding area will continue far into the 21st century.

Tribute to the Fannie E. Rippel Foundation

Hon. Rodney P. Frelinghuysen

Of New Jersey

In the House of Representatives

Monday, December 8, 2003

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to honor the Fannie E. Rippel Foundation, a New Jersey philanthropic organization which is highly esteemed nationally and especially in the Northeast, and that will celebrate fifty years of grant making on December 11, 2003.

During the past five decades the Fannie E. Rippel Foundation has awarded grants amounting to more than $113 million and has demonstrated its continuing commitment to improving health care in our state and nation.

The Rippel Foundation, established under the will of Julius S. Rippel, provides funds to aid the aged and women of all ages, to aid hospitals and to support institutions involved in heart disease or cancer treatment and research.

In the past, for example, the Foundation has provided and furnished funds for the construction of or to aid in the erection of hospitals and provided funds for their equipment as well as hospital maintenance.

The Foundation has also supported humanitarian programs, emphasizing ethical issues in medicine, pastoral education, programs in rural health, better case and disease management. In particular, the Foundation has supported most generously women’s health programs for elderly women with chronic conditions, academic and educational programs for women, and programs that promote better advocacy of women’s health. The Foundation also stresses what is known as “humanistic medicine,” and advances the importance of belief, support, communications and relationships in the healing process.

Mr. Speaker, there can be no doubt that each and every dollar the Fannie E. Rippel Foundation gives to a hospital or a medical research facility is much appreciated. And, we can all be grateful for the Foundation’s efforts because of its dedication to helping under-served rural and urban populations, and its interest in changing the wellness behavior of people through research and preventive care.

Throughout the years, the Fannie E. Rippel Foundation has earned an incredibly positive reputation for the many generous acts of its Board of Trustees, Officers and Staff.

Mr. Speaker, I know that you join me and my colleagues in recognizing and honoring the Fannie E. Rippel Foundation for its outstanding services to humankind for fifty years, and I ask that you and all our colleagues extend to me the best wishes for a successful Fannie E. Rippel Foundation Reception on December 11, 2003.

Introducing the War Profiteering Prevention Act of 2003

Hon. Rahm Emanuel

Of Illinois

In the House of Representatives

Monday, December 8, 2003

Mr. EMANUEL. Mr. Speaker, I am proud to rise with Representatives DEFAZIO, and DELAURA as original cosponsors to introduce the War Profiteering Prevention Act of 2003. This is an identical companion to legislation introduced by Senators LEAHY, CLINTON, DURBIN and FEINSTEIN.

This bill closely resembles an amendment that I offered during consideration of the Iraq reconstruction bill. Unfortunately, the Rules Committee declined to allow debate on my amendment, which would have established tough criminal penalties for individuals who delay or obstruct the government contracts related to the war or reconstruction of Iraq.

As the government begins to spend the roughly $20 billion appropriated for rebuilding Iraq, it is essential that we protect these funds from waste, fraud and abuse. To that end, the War Profiteering Prevention Act establishes a maximum criminal penalty of 20 years in prison and fines up to $1 million for war profiteers and cheats who exploit the postwar relief efforts.

Unlike most nations where we send foreign aid, there is no functioning government in Iraq. While I believe the Coalition Provisional Authority is doing the best it can, it simply does not maintain the manpower necessary to adequately monitor reconstruction funds. Regrettably, a handful of politically connected corporate executives, including some with scandal-ridden business records, are taking advantage of this situation.

While anti-fraud laws protect against wasteful spending here at home, there are no such laws prohibiting war profiteering overseas. In response, my bill criminalizes overcharging, kickbacks, and other abuses, and includes provisions that protect the public interest, federal agencies, and taxpayers for any good or service with the specific intent to excessively profit from reconstruction. The legislation also prohibits fraud.