

US high court weighs dispute over AIDS funding

April 22 2013, by Mark Sherman

(AP)—The U.S. Supreme Court wrestled Monday with the constitutional implications of a policy that forces private health organizations to denounce prostitution as a condition to get AIDS funding.

The court appeared divided, and not along ideological lines, in an argument over whether the anti-prostitution pledge violates the health groups' constitutional rights to free speech.

Four organizations that work in Africa, Asia and South America are challenging the 2003 law. They say their work has nothing to do with prostitution.

The Obama administration says it is reasonable for the government to give money only to groups that oppose prostitution and [sex trafficking](#) because they contribute to the spread of [HIV/AIDS](#).

A [federal appeals court](#) in New York struck down the pledge as an unacceptable intrusion on the groups' right to speak freely. Another appeals court, in Washington, upheld the provision against a similar challenge.

Among the justices most receptive to the groups was Samuel Alito who questioned whether the government could force a group to express agreement with a policy it opposes just to get money.

"It seems to me like quite a dangerous proposition," Alito, a

conservative, said. Liberal Justices Ruth Bader Ginsburg and Sonia Sotomayor also aggressively challenged Justice Department lawyer Sri Srinivasan in his defense of the law.

By contrast, when David Bowker, the groups' lawyer, said Congress is courting trouble when it decides whether to give money to an organization based on its viewpoint, Justice Antonin Scalia chimed in.

"They can't fund the Boy Scouts of America because they like the programs that the BSA has? They have to treat them equivalently with the Muslim Brotherhood? Is that really what you're suggesting?" Scalia said.

Two groups—Alliance for Open Society International Inc., which runs a program in Central Asia to prevent the spread of HIV/AIDS by reducing drug use, and Pathfinder International, which provides family planning and reproductive health services in more than 20 countries—went to the courts after they adopted policy statements opposing prostitution in order to keep their eligibility for funding intact. Pathfinder did so even though it wishes to remain neutral on the issue of prostitution, the [appeals court](#) said.

The other two groups are Global Health Council and Interaction.

The groups pointed out in court papers that the World Health Organization and other international organizations receive U.S funds to fight AIDS and do not have to comply with the anti-prostitution pledge. Indeed, some of the international agencies support lesser penalties for prostitution as part of their AIDS-fighting strategy.

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