

ISSUE BRIEF

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Strengthening the End Modern Slavery Initiative (EMSI)

Olivia Enos, Sarah Torre, and Ana Rosa Quintana

A complex problem affecting an estimated 21 million people worldwide, human trafficking demands comprehensive solutions to achieve the long-term eradication of slavery. Sex trafficking, labor trafficking, bonded labor, debt bondage, peonage (the involuntary servitude of laborers), and the use of child soldiers—all forms of trafficking according to the U.S. Department of State—constitute exploitation and are therefore clear violations of inherent human rights.¹ To eliminate modern-day slavery, the U.S. must take the lead in advocating approaches that ensure the rule of law on a permanent basis, but its leadership must be rooted in the principle that every life has value and dignity.

Congress is currently considering the End Modern Slavery Initiative (EMSI), a human trafficking initiative that would establish a congressionally chartered organization to galvanize funding for anti-trafficking and serve as a grantmaking authority to countries and non-governmental organizations (NGOs). The initiative could receive U.S. funding on an annual basis while also receiving additional funding from foreign governments and private sources. To be an effective complement to existing U.S. government efforts to combat human trafficking, any legislation creating

an anti-trafficking program should reflect long-standing U.S. anti-trafficking policies that respect life and ensure that the individuals who are being served are the individuals who are most vulnerable to the traffic in persons.

Anti-Trafficking Efforts Should Protect Life

U.S. anti-trafficking policy should continue to reflect the fact that every victim of human trafficking, whether male, female, child, or adult, deserves care and to have his or her natural rights respected. That principle necessitates not only providing compassionate assistance to pregnant victims of human trafficking, but also protecting the lives of their unborn children. The United States cannot stand up to a global human trafficking industry that violates the basic human rights of millions around the world unless it recognizes the worth and dignity of all victims of human slavery, including unborn children, and defends their basic right to life.

For guidance on structuring U.S. funding and programming in accordance with these principles, Congress, the U.S. Department of State, and relevant agencies can look to the long-standing policy that taxpayer funding should not be used to pay for abortions overseas or to lobby for the legalization of abortion in other countries.²

The Helms Amendment, first added to the Foreign Assistance Act of 1961 and included in most annual foreign assistance appropriations since 1980, states that no U.S. taxpayer funds “may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions.”³ Similarly, the Siljander Amendment,

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The Heritage Foundation
214 Massachusetts Avenue, NE
Washington, DC 20002
(202) 546-4400 | heritage.org

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also added to most foreign operations appropriations since 1982, states that no taxpayer funds “may be used to lobby for or against abortion.”

The policy embodied in the Siljander Amendment is particularly important to ensure respect for the sovereignty of other nations, many of which place more limits on elective abortion than the United States places.⁴ The same principle animates other policy provisions in domestic appropriations that prevent the use of taxpayer funding for elective abortions.⁵

Currently, these funding conditions will apply only to U.S. funds given to the EMSI but not to money provided by private organizations or other foreign governments. Congress should ensure that no funds—private or public—from the initiative can be used for abortion or to lobby for or against abortion.

Prioritization of Anti-Trafficking Efforts

Each year, the Office to Monitor and Combat Trafficking in Persons (J/TIP) at the U.S. Department of State produces the *Trafficking in Persons Report*, which ranks countries according to their compliance with minimum standards for combating trafficking in persons from best to worst in Tier 1, Tier 2, Tier 2 Watch List, and Tier 3. The EMSI recommends providing funds to countries according to their tier ranking.

EMSI programming would provide limitedly conditioned funding to Tier 2 Watch List countries and certain jurisdictions in Tier 3 countries. Tier 2 Watch List countries include China, Cuba,

Malaysia, Pakistan, and Burma, among others.⁶ Tier 3 countries include North Korea, Syria, Thailand, and Belarus, among others. Tier 2 Watch List and Tier 3 countries are clearly among the worst international actors.

In its current iteration, the EMSI provides little clarity with respect to how countries would be selected for assistance beyond stipulating that the countries or jurisdictions should have a high prevalence of human trafficking, that the government should be committed to addressing human trafficking, and that the country should have an active civil society. Assistance provided to countries to fight trafficking should be conditioned on their demonstrating both the will and the capacity to combat trafficking in persons.

Foreign aid provided in ways (such as bilateral aid programs) that allow the U.S. to control and oversee the flow of taxpayer money more effectively is more likely to align with U.S. policy and objectives. The U.S. should not provide to these countries without first clearly identifying standards for receipt of aid and establishing parameters on its use.⁷ Such a program could be modeled after Millennium Challenge Corporation (MCC) smart aid programs that tie a country’s eligibility to receive aid directly to its willingness to promote economic freedom and protect political freedom.⁸ A country’s eligibility for MCC assistance is based on predetermined benchmarks using measurable indicators such as free trade, corruption, political freedom, and public health data.

1. U.S. Department of State, “What Is Modern Slavery?” <http://www.state.gov/j/tip/what/index.htm> (accessed April 4, 2016).
2. Luisa Blanchfield, “Abortion and Family Planning-Related Provisions in U.S. Foreign Assistance Law and Policy,” Congressional Research Service *Report for Congress*, July 15, 2015, <https://www.fas.org/srg/crs/row/R41360.pdf> (accessed March 29, 2016). Additional policy riders related to family planning assistance likewise include prohibitions on the use of taxpayer funding for coercive abortion or involuntary sterilization.
3. Consolidated Appropriations Act of 2016, Public Law 114-113.
4. Angelina Baglini, “Gestational Limits on Abortion in the United States Compared to International Norms,” Charlotte Lozier Institute, *American Report Series*, Issue 6, February 2014, <https://lozierinstitute.org/wp-content/uploads/2014/02/American-Report-Series-INTERNATIONAL-ABORTION-NORMS1.pdf> (accessed April 5, 2016).
5. Consolidated Appropriations Act of 2016. For example, the Hyde Amendment, included as part of the appropriations for the U.S. Department of Health and Human Services since 1976, prohibits the use of taxpayer funding for abortion except in cases of rape or incest or to save the life of the mother.
6. U.S. Department of State, Office to Monitor and Combat Trafficking in Persons, *Trafficking in Persons Report*, July 2015, “Tier Placements,” <http://www.state.gov/j/tip/rls/tiprpt/2015/243366.htm> (accessed April 5, 2016).
7. Lisa Curtis and Olivia Enos, “Combating Human Trafficking in Asia Requires U.S. Leadership,” Heritage Foundation *Backgrounder* No. 2995, February 26, 2015, http://www.heritage.org/research/reports/2015/02/combating-human-trafficking-in-asia-requires-us-leadership#_ftn27.
8. Bradley C. Parks and Zachary J. Rice, “Measuring the Policy Influence of the Millennium Challenge Corporation: A Survey-Based Approach,” College of William and Mary, Institute for the Theory and Practice of International Relations, February 2013, p. 17, http://www.wm.edu/offices/itpir/_documents/reform-incentives-report-mcc.pdf (accessed April 5, 2016).

The MCC has already applied its programming to human trafficking and has met with success. The threat of jeopardizing its MCC Compact assistance due to human-trafficking concerns motivated the government of the Philippines to make serious policy changes.⁹ Partly because of how seriously the MCC treats human trafficking as an eligibility issue, the Philippines channeled significant additional resources toward its domestic anti-trafficking body, the Inter-Agency Council Against Trafficking. Under President Benigno Aquino's leadership, the Philippines rescued more than seven times the number of trafficking victims and convicted seven times more traffickers than had been the case under the previous administration.¹⁰

The purpose of any aid given to governments for anti-trafficking should be clearly outlined. Aid is fungible, and bad actors have a proven track record of real-locating funds to serve their own political purposes.¹¹ Anti-trafficking aid should be non-fungible and used to support known successful programs. Apart from this, aid may line the pockets of corrupt government and law enforcement officials rather than providing assistance to victims who are most in need.

Finally, anti-trafficking aid should comply with standards similar to the "Leahy laws," which stipulate that the U.S. government may not fund any foreign security services believed to be committing human rights violations. Such standards should also apply to any aid given from quasi-NGOs, like the one that would be established by the EMSI for U.S. government-led anti-trafficking efforts.

Funding for anti-trafficking efforts is admittedly limited, but simply throwing money at a problem is never the whole solution. To combat trafficking in persons effectively will require significant funding, but it should be limited in its scope and purpose to ensure that those who are most in need are also those who are the best served.

Combatting Trafficking Going Forward

Anti-trafficking policy should use all of the tools in the proverbial toolbox. It is essential that trafficking victims have access to legal and judicial protection, as well as rehabilitation and counseling services after they are rescued. To deliver such comprehensive services unquestionably requires time, skill, and funding. In an effort to deliver comprehensive solutions to human trafficking, all funding and programming must be clear in its objectives. The U.S. therefore should:

- **Protect the lives of unborn children.** U.S. efforts to combat human trafficking must respect the dignity and worth of every human being by caring for pregnant victims of trafficking and protecting their unborn children. Foreign assistance from U.S. taxpayers and from any organization, program, fund, or other entity established by the United States government to address human trafficking should not be used to pay for abortion, to coerce anyone to perform an abortion, or to lobby for or against abortion.
- **Condition aid and make sure its purposes are clearly defined.** In addition to the *Trafficking in Persons Report*, utilizing requirements similar to the MCC's smart aid program should be considered when selecting recipient countries. In fact, the MCC's model could be applied to J/TIP's current anti-trafficking grant program.¹² It could also be applied to private funding to ensure that trafficking victims who are most in need are being reached and that countries with a demonstrated willingness and capacity to combat trafficking in persons are given priority in funding.
- **Implement quantitative, empirical methodologies to document not only the prevalence of human trafficking, but also the effectiveness**

9. Blair Burns, testimony before the Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations, Committee on Foreign Affairs, U.S. House of Representatives, April 29, 2014, <http://docs.house.gov/meetings/FA/FA16/20140429/102167/HHRG-113-FA16-Wstate-BurnsB-20140429.pdf> (accessed April 5, 2016).

10. Republic of the Philippines, Inter-Agency Council Against Trafficking, "Resources: Statistics," December 7, 2015, <http://www.iacat.net/index.php/human-trafficking-related-statistics> (accessed April 5, 2016).

11. Bruce Klingner, "Food Aid to North Korea: Time Is Not Right," Heritage Foundation *WebMemo* No. 3229, April 18, 2011, <http://www.heritage.org/research/reports/2011/04/food-aid-to-north-korea-time-is-not-right>.

12. U.S. Department of State, Office to Monitor and Combat Trafficking in Persons, "International Grant Programs: International Programs Overview," <http://www.state.gov/j/tip/intprog> (accessed April 5, 2016).

of anti-trafficking programs.¹³ The U.S. should collaborate with academic institutions and human-trafficking NGOs to develop a methodology for tracking the implementation, successes and failures, and long-term impacts of U.S. anti-trafficking programs. Once developed, the methodology should be integrated into the *Trafficking in Persons Report* as one of many determining factors in assigning tier rankings.

- **Emphasize rule of law-oriented solutions.** Victims of human trafficking must have access to fair and honest legal and judicial protection. The key to stopping trafficking is effective law enforcement and a corruption-free judicial system. The International Justice Mission's rule of law programming in the Philippines and Cambodia met with great success: a 79 percent drop in the availability of minors for sex trafficking in the Philippines alone.¹⁴ The enactment and enforcement of new and appropriate laws is critical. Police corruption and weak judicial institutions are the primary obstacles to breaking up human trafficking networks.¹⁵

Conclusion

Congress should guarantee that any U.S. efforts to address human trafficking reflect these policies by ensuring that neither taxpayer funds nor funds from any organization or program established by the U.S. government are used to take the lives of unborn children or to advocate laws that would do so. In situations where the U.S. government is creating a program or entity to fight human trafficking, the United States has both the authority and the duty to ensure that such a program uses any funds, whether public or private, in an ethical manner and in accord with long-standing policy on abortion funding. When U.S. policymakers are unable to determine whether non-U.S. contributions to international funds will be spent in ways that conflict with U.S. policy, bilateral assistance is preferable.¹⁶

—*Olivia Enos is a Research Associate in the Asian Studies Center, of the Kathryn and Shelby Cullom Davis Institute for National Security and Foreign Policy, at The Heritage Foundation. Sarah Torre is a Policy Analyst in the Richard and Helen DeVos Center for Religion and Civil Society, of the Institute for Family, Community, and Opportunity, at The Heritage Foundation. Ana Rosa Quintana is Policy Analyst for Latin America and the Western Hemisphere in the Douglas and Sarah Allison Center for Foreign Policy, of the Davis Institute.*

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13. Olivia Enos, "How to Assess Human Trafficking in Asia," Heritage Foundation *Issue Brief* No. 4403, May 8, 2015, <http://www.heritage.org/research/reports/2015/05/how-to-assess-human-trafficking-in-asia>.
 14. Holly Burkhalter, "Sex Trafficking, Law Enforcement and Perpetrator Accountability," *Anti-Trafficking Review*, Issue 1 (June 2012), pp. 122–133, http://www.antitraffickingreview.org/journals/images/documents/issue1/TheReview_article7.pdf (accessed April 6, 2016).
 15. Olivia Enos and James M. Roberts, "To Reduce Human Trafficking, Fight Corruption and Improve Economic Freedom," Heritage Foundation *Issue Brief* No. 4518, February 18, 2016, <http://www.heritage.org/research/reports/2016/02/to-reduce-human-trafficking-fight-corruption-and-improve-economic-freedom>.
 16. For further discussion of the benefits of bilateral aid in achieving U.S. priorities and strategies in foreign assistance, see Jennifer A. Marshall, Daniel P. Moloney, and Brett D. Schaefer, "Keeping PEPFAR International AIDS Relief on Target," Heritage Foundation *WebMemo* No. 1812, February 13, 2008, <http://www.heritage.org/research/reports/2008/02/keeping-pepfar-international-aids-relief-on-target>.
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