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A Call to Review Evaluation Methods in the Trafficking in Persons Report

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The 2015 Trafficking in Persons (TIP) report has recently come under fire for upgrading the rankings of Malaysia and Cuba. Speculation about the political motives behind these seemingly unwarranted upgrades has highlighted broader challenges plaguing the Office to Monitor and Combat Trafficking in Persons, namely the difficulty of defending the objectivity of the rankings.

The Trafficking Victims and Violence Protection Act of 2000 (TVPA), the U.S.'s most significant piece of anti-trafficking legislation, created the TIP office, inaugurated the annually released TIP report, and established standards for evaluating anti-trafficking efforts. The TVPA also established the tier ranking system that ranks each country's anti-trafficking efforts from best to worst in four tiers: Tier 1, Tier 2, Tier 2 Watch List, and Tier 3.

A country's ranking in the TIP report evaluates government efforts to comply with the minimum standards for eliminating trafficking in persons as outlined in the TVPA. Standards include government efforts to identify, prosecute, convict, and sentence traffickers; government complicity in human trafficking; and efforts to rehabilitate and protect victims of trafficking. While the TIP report lays out clear minimum standards, it fails to provide a consistent method for evaluating compliance.

Inconsistencies in Tier Ranking Evaluations

New reports from Reuters suggest that the TIP office staff's recommended rankings for at least 17 different countries were disputed or overruled by senior foreign diplomats in the State Department.¹ A Reuters independent investigation revealed that if the TIP office's recommendations had prevailed, China, Cuba, Malaysia, and Uzbekistan would have been on Tier 3, and India and Mexico would have been placed on the Tier 2 Watch List—to name a few.

The 2015 report is far from the first time that the TIP report has come under fire. Former TIP Office Ambassador-at-Large Mark Lagon testified before the House Foreign Affairs Committee in April 2015, urging the TIP office to avoid grade inflation in the 2015 report. Lagon specifically questioned the TIP office's decision to upgrade China from Tier 3 to Tier 2 Watch List in the 2014 report and noted that in future reports "China's Tier ranking should depend on whether China has addressed the recommendations included in the 2014 report."²

China. The 2014 TIP report cited China's stated commitment to eliminate reeducation-through-labor camps as the reason for its upgrade in 2014. However, the 2015 report acknowledged that China failed to eliminate the camps and instead transferred prisoners to a new drug and detention facility where persons were still forced to labor. The TIP report also acknowledged that China did not collect law enforcement figures on prosecutions and convictions of traffickers. All of these factors are standards that the TIP identifies as failures to comply. Yet China remained on the Tier 2 Watch List rather than being downgraded to Tier 3 in the 2015 report.

This paper, in its entirety, can be found at
<http://report.heritage.org/ib4452>

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Burma. Burma is in a similar situation. The 2015 report marks Burma's fourth consecutive year on the Tier 2 Watch List. According to a revision to the TVPA, countries can stay on the Tier 2 Watch List for two consecutive years, after which they are automatically downgraded to Tier 3 if they have not made significant progress. However, a country can stay an additional two years on the Tier 2 Watch List if the President grants a national security waiver.

Burma will be eligible for an automatic downgrade in the 2016 report and arguably should have been downgraded in the 2015 report. The 2014 report noted that "Burma was granted a waiver from an otherwise required downgrade to Tier 3 because its government has a written plan that, if implemented, would constitute making significant efforts to meet the minimum standards for the elimination of trafficking and is devoting sufficient resources to implement that plan." The same phrasing was used in the 2015 report, implying that the plan was not implemented in 2014.³

The rest of the 2015 report indicates that Burma made little to no progress in the 2014 reporting period. Burma's government, military, and ethnic armed groups continue to be complicit in human trafficking. The report noted that Burma sustained efforts to combat trafficking, but failed to hold government officials accountable for collusion in human trafficking. These findings suggest that, by the State Department's minimum standards of compliance, Burma should have been downgraded to Tier 3 in the 2015 report.

Malaysia. Malaysia's upgrade from Tier 3 to the Tier 2 Watch List sparked significant outcry. Much of the concern has been tied to speculation that Malaysia was upgraded so that it could participate in the

Trans-Pacific Partnership trade deal after passage of Trade Promotion Authority tied a country's eligibility to participate in trade agreements to its TIP rank. However, despite this charge and reports of higher-level State Department interference in the process, the TIP report documented some reasons for Malaysia's upgrade.

The TIP report found that Malaysia had increased prosecution of traffickers by nearly 60 percent.⁴ Furthermore, much of the concerning revelations, such as the discovery of mass graves of potential trafficking victims in Malaysia⁵ and the entirety of the Southeast Asian migrant crisis occurred after the close of the reporting period in March 2015. Nonetheless, Malaysia has an indisputably poor track record on human trafficking. It was on the Tier 2 Watch List for four years before its automatic downgrade to Tier 3 in 2014.

What the U.S. Should Do

It is not in the American national interest to undermine the work of the TIP office. Since the passage of the TVPA in 2000, human trafficking has gone from a little known policy issue to an international concern. The TIP office's laudable efforts should be commended.

However, there is a need for empirical data on human trafficking. The U.S. government needs to evaluate not only the sheer number of human trafficking victims, but also the effectiveness of anti-trafficking programming and the short-term and long-term impacts of current U.S. efforts. Such data would provide a more objective method of assigning TIP rankings and eliminate some of the confusion over the application of minimum standards in the tier-ranking process.

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1. Jason Szep and Matt Spetalnick, "State Department Watered Down Human Trafficking Report," Reuters, August 3, 2015, <http://www.reuters.com/article/2015/08/03/us-usa-humantrafficking-disputes-special-idUSKCNQ821Y20150803> (accessed August 4, 2015).
 2. Mark Lagon, "Trafficking Trends and Key Rankings: Say No to Grade Inflation," testimony before the Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations, Committee on Foreign Affairs, U.S. House of Representatives, April 22, 2015, <http://docs.house.gov/meetings/FA/FA16/20150422/103357/HHRG-114-FA16-Wstate-LagonM-20150422.pdf> (accessed April 27, 2015).
 3. U.S. State Department, Office to Monitor and Combat Trafficking in Persons, *Trafficking in Persons Report*, June 2014, p. 115, <http://www.state.gov/j/tip/rls/tiprpt/2014/index.htm> (accessed August 4, 2015), and U.S. State Department, Office to Monitor and Combat Trafficking in Persons, *Trafficking in Persons Report*, July 2015, p. 105, <http://www.state.gov/j/tip/rls/tiprpt/2015/index.htm> (accessed August 4, 2015).
 4. Santha Oorjitham, "Malaysia's Human Trafficking Upgrade Is Not a Clean Bill of Health," *The Star* (Malaysia), July 28, 2015, <http://www.thestar.com.my/News/Nation/2015/07/28/Malaysian-human-trafficking-upgrade-US-ambassador/> (accessed August 4, 2015).
 5. Annie Kelly, "US Human Trafficking Report Under Fire as Cuba and Malaysia Are Upgraded," *The Guardian*, July 27, 2015, <http://www.theguardian.com/global-development/2015/jul/27/us-human-trafficking-in-persons-report-under-fire-cuba-malaysia-upgraded> (accessed August 4, 2015).
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Specifically, the U.S. should:

- **Develop an empirical framework and incorporate it into the TIP report.** The U.S. should collaborate with academic institutions and anti-human-trafficking nongovernmental organizations (NGOs) to develop a methodology for tracking the implementation, successes, failures, and long-term impacts of U.S. anti-trafficking programs. Once developed, the methodology should be integrated into the TIP report as one of the factors in assigning tier rankings. Incorporating additional empirical data into the TIP report could help to deflect criticism that TIP rankings are politically motivated and subjective.
- **Ensure that Burma and Malaysia's handling of the Southeast Asian migrant crisis is factored into their 2016 TIP rankings.** U.S. Assistant Secretary of State for Population, Migration, and Refugees Anne C. Richard noted that Malaysia's handling of the migrant crisis would not factor into its TIP ranking until the release of the 2016 report. The international community should make sure that Malaysia's handling of the migrant crisis is not forgotten before next year's TIP report is released.
- **Address human trafficking in high-level government-to-government meetings.** In their letter to Secretary of State John Kerry, Human Rights Watch and other anti-trafficking NGOs expressed concern that the Malaysian government has not made significant efforts to comply with anti-trafficking standards, and they urged Kerry to address human trafficking in his upcoming visit to Malaysia.

Conclusion

Advancing values that promote the human dignity of all individuals is in the U.S. best interest. Eliminating trafficking in persons contributes to that vision. Without empirical data to evaluate the effectiveness of U.S. policies, U.S. anti-trafficking efforts could be in vain. To bolster the TIP report, to charter the course for the future, and to eliminate trafficking in persons, the TIP report should strengthen its ranking system by including empirical evaluations of TIP programming.

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