WebMemo
Published by The Heritage Foundation
No. 1921
May 13, 2008

From Good Intentions to Bad AIDS Policy: The Moral Hazards of Redesigning PEPFAR

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The President's Emergency Plan for AIDS Relief (PEPFAR) has received praise from across the political spectrum, both for its principles and for its successes in fighting HIV/AIDS in some of the world's poorest countries. Announced by President George W. Bush in the 2003 State of the Union Address, PEPFAR fights HIV/AIDS primarily in countries with generalized epidemics.[1] These countries are mostly, though not exclusively, in Africa.

PEPFAR's successful track record is a result of its focus on three points:

- Treating those infected with HIV,
- Preventing new HIV infections, and
- Ensuring, through bilateral programs, that assistance is in accord with U.S. policy.

Bills under consideration in the U.S. House and Senate (H.R. 5501 and S. 2731) represent significant departures from the current law. These bills are hugely expensive, and would take existing U.S. policy off its present, successful course.

Rather than simply reauthorizing PEPFAR, Congress seeks to rewrite it, vastly expanding funding while removing structural guidance that stipulates how it is apportioned. The structure of the original PEPFAR law was essential for keeping it focused on its prevention and treatment objectives. The congressional bills fail to do this. Both more than triple the $15 billion cost of the original program, yet neither adjusts the targets of the program to reflect this increase. Instead, both propose to spend tens of billions of dollars on projects not directly related to the fight against HIV/AIDS. This proposed spending duplicates existing programs, and diverts resources into social engineering projects at odds with the values of many Americans.

To achieve PEPFAR's goal, policy must continue to be guided by strong requirements that will direct funding toward effective prevention and treatment strategies, rather than a diffuse set of general development goals.

From Good Intentions to Good Policy: The Original Design of PEPFAR. As proposed by President Bush in 2003, PEPFAR was built around three priorities:

- Providing medicine to treat those who have HIV/AIDS in those countries where the disease affects the general population,
- Funding local programs that aim to prevent new HIV infections, and
- Providing palliative care to those suffering from HIV/AIDS, including children orphaned as a result of HIV-infected parents.

To justify its ambitious agenda and $15 billion price tag, the original law[2] used three structural features to keep the program focused on its priorities:

This paper, in its entirety, can be found at:
www.heritage.org/Research/TradeandForeignAid/wm1921.cfm

Produced by the Richard and Helen DeVos Center for Religion and Civil Society

Published by The Heritage Foundation
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Washington, DC 20002–4999
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ambitious targets, spending requirements, and an emphasis on bilateral agreements.

The law set ambitious targets for the number of people in its treatment, prevention, and care programs. These goals were so ambitious that they could not be met were the money lost to waste or corruption, or simply diverted to other development activities not directly providing treatment, care, or prevention of HIV/AIDS.

The law also provided strong guidance so that the money would be spent in proportion to the law's priorities. It did this in two distinct but related sections of the law. The first, a "Sense of Congress" resolution, declared that 55 percent of the funds should be spent on medicine and treatment, 10 percent on orphans and children affected by HIV, 20 percent on prevention programs, and 15 percent on palliative care. This gave the Global AIDS Coordinator some idea how to balance the competing ends of the bill. The next section, which actually allocated the funds, made the first two elements of this nonbinding resolution into binding spending requirements. Though it did not make binding that 20 percent be spent on prevention, it did require that one-third of funds spent on prevention be spent on programs that promote abstinence outside of marriage and fidelity within it. By requiring that the money be spent according to these specific percentages, rather than authorizing particular dollar amounts, the law ensured that its priorities would always be implemented in the same proportions, even were Congress later to appropriate funds at amounts different than the law had authorized.

The law required that PEPFAR deliver aid through bilateral arrangements with each of the partner countries, rather than through multilateral organizations. This procedural safeguard gave the U.S. its best opportunity to make sure the funds were spent on its priorities. It was consistent with the President's belief that welfare and aid programs work best when they support civil society, rather than supplant it with an international bureaucracy.

The bills in the House and the Senate undermine these principles. They set goals too low for their budgets, remove most of the spending mandates under the guise of "flexibility," and add radical new agendas on which the unstructured and abundant funds are to be spent.

Funding Should Fit Program Goals. In asking Congress to reauthorize PEPFAR for the next five years, the Bush Administration sought to increase the budget by 100 percent to $30 billion over five years. However, the President sought to increase its goals by a mere 20 percent to 70 percent (depending on the criterion) over that period.[3] Some Members of Congress have complained that the Administration's goals are too low to justify doubling the funding. They note that the program is on track to meet its original goals of 2 million treated, 7 million infections prevented, and 10 million people in care, while staying close to its original budget of $15 billion–$18 billion. Given such a history, the Administration's moderately increased goals should require only moderately increased funding, particularly now that so much early infrastructure has been laid in the focus countries and some efficiencies of scale may be expected.

The Administration defends its lower goals on the grounds that they are realistic given local infrastructure. It also notes that its proposed goals represent a U.S. commitment to treat a number of people equal to the commitment of all other aid-donor

1. *Generalized* epidemics affect the general population, including married women, children and others without unique risk behaviors, as opposed to a *concentrated* epidemic, which is narrowly concentrated in certain risk groups, such as drug users or prostitutes. Public Law 108-25, Sec. 102 (a)(2) names 14 "focus countries," 12 in sub-Saharan Africa and two in the Caribbean. In July 2004, Vietnam became the 15th focus country, and it remains the only one without a generalized epidemic.
2. Public Law 108-25, enacted May 27, 2003.
3. Statement of Ambassador Mark Dybul, U.S. Global AIDS Coordinator, before the Senate Committee on Foreign Relations, October 24, 2007, p. 10, at *http://senate.gov/~foreign/testimony/2007/DybulTestimony071024pp.pdf* (April 21, 2008). Increases were from $15 billion to $30 billion; from 2 million people treated to 2.5 million; from 7 million new infections prevented to 12 million; and from 10 million people receiving care to 12 million, including 5 million orphans and vulnerable children.

nations combined. For the U.S. to treat more would not demand enough of the world community. It also expresses doubts that in 2013 there will be as many people to be treated in the focus countries as some of its critics predict.

If the Administration's request is disproportionate to its goals, the bills in the House and the Senate are even more so. Both bills add an additional $20 billion to the President's request—more than the entire first five years of the program—while barely changing the Administration's underwhelming new goals.[4] The bills authorize up to $9 billion to fight other diseases common in Africa (i.e., tuberculosis and malaria), and they authorize billions more in contributions to the Global Fund to Fight AIDS, Tuberculosis, and Malaria. After taking all these into account and after assuming full funding of the bills' priorities, the Congressional Budget Office concluded that the bills would still have at least $15 billion left over. To date, no one in either chamber has adequately explained what will be done with the "extra" billions.

Congress could improve the fit between PEPFAR's funding and its goals by making the latter more ambitious. For example, Senators Tom Coburn (R-OK), Jon Kyl (R-AZ), Saxby Chambliss (R-GA), and Richard Burr (R-NC) have introduced S. 2749, the Save Lives First Act of 2008. This bill would set PEPFAR's treatment goal at providing HIV/AIDS treatment and pre-treatment medical monitoring to 7 million people, about one-half of them in sub-Saharan Africa—an increase from 3 million in the House and Senate bills. It would also reinstitute the provision in current law allocating at least 55 percent of all PEPFAR funds to treatment. To treat that many people is estimated to cost between $8.4 billion and $11.5 billion.[5]

Higher goals require more money, but the draft bills' proposed goals for treatment, prevention, and care are not by themselves high enough to justify even the Administration's $30 billion price tag. Activities extraneous to the original program are likely to make up the difference. Whether Congress decides to increase PEPFAR's treatment goals along the lines of the Save Lives First Act, or whether it sticks with its current goals, a $50 billion budget would still include extra billions likely to be spent on purposes irrelevant to PEPFAR.

"Flexibility" Means Blank Check Worth Billions. The original PEPFAR law contained binding requirements that 55 percent of all funds be spent on medical treatment, and 10 percent on orphans and vulnerable children. It further required that 33 percent of the prevention funds be spent on abstinence and fidelity programs.[6] The spending restrictions (except for that regarding orphans) have been criticized, both by NGOs that disagree with U.S. priorities, and by bureaucrats who implement the program.[7]

4. Both bills increase the Administration's treatment target from 2.5 million to 3 million people on anti-retroviral (ARV) medication.
5. Heritage calculation assuming constant scaling up from 2 million treated in 2008 to 7 million in 2013. Costs derived from two estimates on total costs per patient year in sub-Saharan African clinics. Estimates assume that cost of ARV medications are 2008 prices based upon the official Supply Chain Management System catalog. For the higher of the two figures ($460 per patient year), the labor and lab cost estimates come from Lori Bollinger and John Stover, "Financial resources required to achieve universal access to HIV prevention, treatment, care and support: Methodology for Care and Treatment Interventions Methodological Annex – III," UNAIDS Report, August 20, 2007. *http://data.unaids.org/pub/Report/2007/20070925_annex_iii_treatment_care_methodology_en.pdf* (May 7, 2008). For the lower figure ($336 per patient year), see Julia E. Aledort et al., "Primary Estimates of the Costs of ART Care at 5 AHF Clinics in Sub-Saharan Africa" Rand Corporation/AIDS Healthcare Foundation study (2006) at *http://www.bu.edu/av/iaen/research-library-1/Aledort%20costs%20of%20ART.pdf* (May 7, 2008). Surprisingly, there are no published official numbers from the U. S. government on the total costs to treat patients with ARV medicine in PEPFAR focus countries.
6. The majority of the PEPFAR funds were directed towards ARV medicine, as the largest fixed expense of PEPFAR. This is because prices for anti-retroviral medicine are set by costs in the developed world, and do not reflect the very low labor costs in sub-Saharan Africa. Prevention and care programs are labor dependent and so are less expensive in lower-income countries.
7. Statement of Ambassador Mark Dybul, U.S. Global AIDS Coordinator, p. 3.

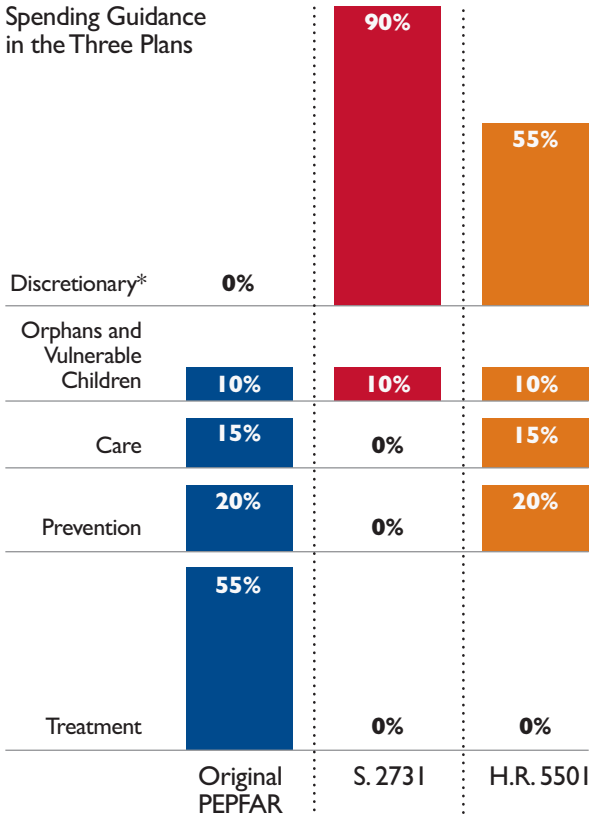
Both the House and the Senate strip out these funding requirements for prevention and treatment. (The Senate bill even strips out most of the non-binding "Sense of Congress" resolutions of the original law.) The House bill gives the Global AIDS Coordinator complete control over 55 percent of the funding, and the Senate bill writes a blank check for 90 percent of the funds. Beyond this, the bills provide some vague guidance, but not hard requirements, on how money will be spent. The Global AIDS Coordinator is left to prioritize the multiple goals and agendas of the bills.

New Funds and Radical New Agendas. The proposed legislation expands the activities eligible for PEPFAR funding well beyond the scope of the original program, offering some clues about how its "extra billions" could be spent. Some of these new agendas are duplicative of other foreign aid programs and are irrelevant to fighting HIV/AIDS. For example, the legislation promotes micro-finance, education, general health care, and food security, among other new programs.[8]

The bills also add a number of radical new agendas that change the focus of PEPFAR, are at odds with the values of many Americans, and trample on the cultural values of the partner countries. For example, the bills before Congress make it U.S. policy to teach safer drug-use techniques to injection drug users, and safer sex techniques to prostitutes, injection drug users, and men who have sex with men (MSM).[9] The original law made no special provisions for outreach to these populations, reflecting the fact that infections among these risk groups are marginal to the generalized epidemic in sub-Saharan Africa,[10] as opposed to the epidemics concentrated among these groups in countries such as Russia and Thailand. Where it did mention them, the original law sought to eradicate prostitution and

Congress's Two AIDS Plans Leave Control Over Most Spending to Bureaucrats

The original President's Emergency Plan for AIDS Relief (PEPFAR) provided strong guidance regarding in what proportions funds should be directed to specific programs, such as for the treatment and prevention of AIDS. Congress's House and Senate proposals (H.R. 5501 and S. 2731) remove most of that guidance, leaving most spending at the discretion of bureaucrats.



* Proportion of budget subject neither to hard spending requirements nor to nonbinding "Sense of Congress" resolutions.

Source: Public Law 108-25, sections 402-403; S. 2731; H.R. 5501.

Chart 1 • WM1921 heritage.org

8. Daniel P. Moloney, "PEPFAR 'Compromise' Abandons Successful Approaches to International AIDS Relief," Heritage Foundation *WebMemo* No. 1845, March 11, 2008, at *http://www.heritage.org/Research/ForeignAid/wm1845.cfm*.
9. *Prostitutes*: H.R. 5501 § 102(2)(F), p. 36; S. 2731 § 101(a), p. 17, and § 102(2)(F), p. 42. *Injection drug users*: H.R. 5501 101 (a)(2), p. 20, § 102(2)(F), p. 36, and § 301 (a)(5)(b)(2), pp. 74–75; S. 2731 § 102(2)(F), p. 42, and § 301 (e)(2)(B), p. 85; *Men who have sex with men*: H.R. 5501 § 101 (a)(2), p. 21, § 102(2)(H), p. 37, and § 301 (a)(4)(A), p. 59; S. 2731 § 301(c)(1)(H), p. 66, and § 301(c)(3)(C), p. 69.
10. James D. Shelton, "Ten myths and one truth about generalised HIV epidemics," *The Lancet*, Vol. 370, pp. 1809-1811, December 1, 2007.

to encourage injection drug users to stop,[11] recognizing that public health policy should not enable such high-risk behavior but seek to end it. In a clear policy reversal, the proposed legislation strips out the original commitment to eradicate prostitution, and makes PEPFAR dollars available to activities intended to make illicit drug use "safer." Not coincidentally, it also allows PEPFAR to expand to include more focus countries in Europe and Asia where the epidemics are concentrated among prostitutes and drug users.[12]

The bills would also commit the U.S. to altering the relations between men and women in developing countries to reflect the values of Western gender activists.[13] The bills encourage U.S. intervention on sensitive cultural topics that are not scientifically demonstrated to have direct impacts on rates of HIV/AIDS morbidity or mortality, but very well might offend those whom U.S. policy is designed to help. Whatever merits these provisions might have as aspirations, they were not in the original bill, they would do nothing to stop the AIDS emergency in sub-Saharan Africa, and they would commit the U.S. to agendas that are likely to be unpopular in partner countries.

Conclusion: Compassionate Aid Is Effective Aid. The three structural features of the original law—ambitious targets, spending restraints, and an emphasis on bilateral agreements—have helped PEPFAR stay on target. In the process, the U.S. has created a strong precedent for combating HIV/AIDS in poor countries with generalized epidemics. PEPFAR's commitment to abstinence and fidelity programs, which was and is still ridiculed by many activists and others, is now recognized to have a measurable impact on HIV infection rates.

Rather than write a blank check to an unelected bureaucracy, Congress should retain firm control over PEPFAR, which touches on such delicate issues as sex, marriage, and the relations between men and women. Congress should insist that PEPFAR retain its focus on preventing new HIV infections and treating those infected with HIV/AIDS. PEPFAR should not duplicate the efforts of America's other aid programs. Lawmakers should insist that the funds authorized and appropriated for PEPFAR will not support activities irrelevant to fighting HIV/AIDS in countries with generalized epidemics. Congress should authorize funds for PEPFAR at a level appropriate to its central goals. If Congress wishes to fund other activities, it should do so by increasing the budget for other assistance programs rather than diffusing PEPFAR's focus.

America's PEPFAR partners are waiting on congressional reauthorization before setting their own budgets, putting pressure on Congress to move quickly. Hasty passage of the existing House and Senate bills, however, would not allow them to make their plans either, since so many funding decisions would still be left to the discretion of the Global AIDS Coordinator in the next administration, and subject to the annual appropriations process and the lobbying of NGOs. With lives at stake, strategic efficiency and effectiveness are paramount. Ambitious goals, clear spending directives, and a reassertion of successful U.S. policies will maintain the structure and proportion that have leveraged America's generous intentions into a highly effective policy.

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11. Public Law 108-25, §101 (a)(4).
12. H.R. 5501 §102(2)(D)(iii), p. 35; S. 2731 §102(2)(E)(iii), p. 41 and §102(2)(F), pp. 41-42. See Moloney, "PEPFAR 'Compromise' Abandons Successful Approaches to International AIDS Relief."
13. H.R. 5501 §313(a) p. 111.