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DEMANDING ACCOUNTABILITY: EVALUATING THE 2015 "TRAFFICKING IN PERSONS REPORT"

HEARING

BEFORE THE

SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH, GLOBAL HUMAN RIGHTS, AND INTERNATIONAL ORGANIZATIONS

OF THE

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DEMANDING ACCOUNTABILITY: EVALUATING THE 2015 "TRAFFICKING IN PERSONS REPORT"

WEDNESDAY, NOVEMBER 4, 2015

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH,
GLOBAL HUMAN RIGHTS, AND INTERNATIONAL ORGANIZATIONS,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC.

The subcommittee met, pursuant to notice, at 1:03 p.m., in room 2172 Rayburn House Office Building, Hon. Christopher H. Smith (chairman of the subcommittee) presiding.

Mr. SMITH. The subcommittee will come to order. And good afternoon to everyone.

We have come a long way since the September 14, 1999 hearing in this room that I chaired on human trafficking, one of a series that continues to this day. At that particular hearing, then Assistant Secretary of State for the Bureau of Democracy, Human Rights, and Labor Harold Koh called human trafficking a "global plague" and said that while the Clinton administration supported the objective of my bill to combat human trafficking, he testified that the "existing legislative framework was sufficient and that new legislation should not focus on developing new institutions or establishing onerous new requirements."

No TIP office, no TIP Report, no TIP sanctions, he said. Beefed up reporting in the annual country reports of human rights practices would suffice. Assistant Secretary Koh testified that the administration strongly objected to singling out and sanctioning nations with poor records and government complicity in trafficking, but did agree on the need for alien asylum protection and enhanced criminal penalties for traffickers that was also contained in my legislation.

That said, I pushed ahead in a bipartisan fashion and crafted a comprehensive piece of legislation, landmark legislation, known as the Trafficking Victims Protection Act of 2000 which just celebrated its 15th anniversary of when it was signed into law on October 28th.

The power of the Trafficking in Persons Report, a mainstay of the legislation, rests on its credibility. And the credibility of the report rests on its accuracy. We must get the report right—no fudging, no favors to nations based on other agendas—or we risk losing

the most effective tool we have to help the more than 20 million victims of trafficking enslaved around the world.

Some countries, as you know, as the distinguished people at our witness table know, openly credit the TIP Report for their increased and effective anti-trafficking response. Over the last 14 years, now into the 15th, more than 100 countries have enacted anti-trafficking laws, and many countries have taken other steps required to significantly raise their tier rankings. Tier 1 is for those who fully meet minimum standards; Tier 2 is for those who are making significant efforts to meet minimum standards and; Tier 3 is for those who are not making significant efforts to meet minimum standards and, indeed, may be subject to sanctions.

And for those between Tier 2 and 3, Congress in 2003 created a Tier 2 Watch List for those who have undertaken significant anti-trafficking steps, often late in the evaluation year. And just for the record, I wrote that law too. Unfortunately, this ranking has been misused to allow countries to escape accountability, a loophole we thought we had closed with the Wilberforce Act. And that bill was sponsored by Howard Berman.

We are holding this hearing today to focus due to well-founded concern that some of the rankings in the most recent report are inaccurate and undermine the credibility of the report. Grade inflation for certain favored countries undermines accuracy and accountability and, I would respectfully submit, demoralizes countries that actually made significant progress last year.

The State Department heard from many House Members, 161 to be exact, when it was leaked that Malaysia was upgraded this year from Tier 3 to the Tier 2 Watch List. The report justified the upgrade because Malaysia introduced, but did not pass, an amendment to their trafficking law and allowed a limited number of their trafficking victims to work outside of detention while keeping the rest of the victims in detention.

These incomplete actions pale in comparison to the size of Malaysia's trafficking problem. Malaysia was the subject of an incisive Reuters investigative report in 2014. And without objection, I'd like to make that report a part of the record.

It found that human traffickers were keeping hundreds of Rohingya refugees from Burma captive in houses in northern Malaysia, beating them, depriving them of food, and demanding a ransom from their families.

At least 2 million vulnerable migrants work in the informal economy in Malaysia. NGOs on the ground tell us that the traffickers operate openly and with impunity, and that those who get in their way are killed. Only three traffickers were convicted in Malaysia last year, three in a country of more than 30 million people.

I note for the record and parenthetically, as we went through the minimum standards over the last decade-and-a-half, we were always trying to calibrate those minimum standards because some countries like to game the system. In the very first piece of legislation we talked about the prosecutions and arrests and then found lots of prosecutions, but very few convictions. Then we started looking at how long and whether or not that individual or individuals served any time in jail, incarcerated.

Again, in Malaysia only three traffickers were convicted last year.

If that ratio were not bad enough, it also marks the third year of decline for convictions in Malaysia. Three convictions is one-third the number of convictions in Malaysia that they had in 2013 when Malaysia was Tier 3, and one-seventh of the convictions they had in 2012.

Trafficking in Malaysia is getting worse and the government's enforcement of the law was nearly non-existent, and yet Malaysia was upgraded. So what happened? Was Malaysia's upgrade in any way related to that nation's eligibility to join the Trans-Pacific Partnership?

This spring, Congress approved the Trade Priorities Act of 2015, excluding Tier 3 countries from expedited consideration by the Congress, for the simple reason that Congress does not want to increase trade with countries that engage in persistent trafficking, including labor trafficking. Malaysia was disqualified until their upgrade.

More than bad optics, more than fighting the will of Congress, such circumventing of accountability is disastrous for labor trafficking victims and victims of all kinds in Malaysia. Instead of demanding change before Malaysia became a major trading partner, the administration weakened our standards to give Malaysia a pass. In other words, we looked the other way to empower a slave economy.

The administration also upgraded Cuba this year to the Tier 2 Watch List on very flimsy justifications, namely that Cuba began sharing information with the U.S. on trafficking and that it convicted 13 traffickers 2 years ago, which is outside of the reporting period. But what has changed in Cuba for trafficking victims in the last year? Cuba legally permits the pimping of 16-year-old girls, it is the top destination in the Western Hemisphere for child sex tourism, and does not criminalize labor trafficking at all.

And I want to say again parenthetically, I read the TIP Report for all these countries. The Cuba report is excellent but it doesn't comport with the ranking. You got it right on the report, not right on the ranking.

On the labor trafficking side, Cuba does not criminalize labor trafficking. Indeed, Cuban healthcare personnel, who are sent abroad by the Castro regime to generate income for the government, report being forced to work in medical missions, having their passports withheld, and their families threatened.

Again, as the author of the TVPA, I have to say unequivocally that the spirit and the letter of the law make clear that trafficking rankings should not be used in the hopes of bringing about better bilateral relations with countries such as Cuba. Rather, better relations with Cuba should be preconditioned on real protection for Cuba's exploited and abused children and women, and recognition of labor trafficking which, again, they don't recognize it.

The bar also seems to be lowered in the case of Uzbekistan which was upgraded to the Tier 2 Watch List despite the fact that Uzbekistan's Government openly and unapologetically forces its population into forced labor every year during the cotton harvest, something that Ambassador Lagon previously testified to at a hear-

ing here, having similar parallels to slavery in this country harvesting cotton before emancipation took place in the United States.

In recent years the government has shifted away from pulling young children out of school and allowed the ILO to monitor conditions. But instead of children, they conscripted adults, continuing this systematic exploitation of its population.

China's premature upgrade to Tier 2 Watch List in 2014, and its continued presence there in the 2015 report, also raises very serious questions. How can a country that systematically trafficks its own people be anything but Tier 3?

After 1 year on the Tier 3 list in 2013, China passed a law to allegedly closed its 320 re-education through labor detention centers which forced prisoners and other detainees to perform manual labor and padded the pockets of the government. The State Department upgraded China because of that reform in 2014. But now we know from the report—and I again would add parenthetically, I chair the Congressional-Executive Commission on China and we just put out our comprehensive report on China. They just simply have changed how they do business, not the fact that the laogai system continues and is a terrible blight on the Government of China.

The report itself says the government only closed several of the 320 forced labor sites and converted other reform through labor facilities into state-sponsored drug detention or custody and education centers. Again, tjere was a great deal of hype about this; there is very little when it came to actually changing the system. In other words, China continues to force detained citizens to perform manual labor and yet it got the tier upgrade it was given for allegedly ending this practice.

I would note and remind my colleague that I have chaired 55 hearings on human rights in China, sitting right where you sit. Years ago it was six members, including a Tibetan Palden Gyatso, who talked about the so-called reform through labor camps. He held up a cattle prod and said, "They put it here in our groin area, and that's how they get us when we are reluctant to perform the mission." Twelve to fourteen hours a day, or more, they are forced to be a part of work, so-called reform through labor.

That hasn't changed. It has morphed into a different but a very similar situation. And, again, that was the pretext for the upgrade.

Additionally, China's coercive of population control policy, in combination with the cultural preference for boys, has resulted in tens of millions of women and girls missing from the population, making China a regional magnet for sex and bride trafficking as men who reach marrying age, simply cannot find a wife. Just ask the Burmese, Cambodian, Vietnamese, Laotian, and North Korean women imported to meet Chinese demand.

And let me say and note here as well, I wrote an op-ed, it was in the Washington Times yesterday, Nicholas Eberstadt did an excellent one that was contained in The Wall Street Journal, and others have spoken out on the so-called relaxation of the one-child policy to a two-child policy has not changed one iota the coercive aspects of that population control program in China with forced abortion and forced sterilization as the mainstays and these terrible

fees that they impose, draconian fines, as a means of implementation.

So the continuance of missing girls will continue in China, and that will lead to more sex trafficking.

We have had, at this subcommittee, a number of women who have been compelled to perform sex work, in other words sex trafficking, from other nations. An estimated 90 percent of North Korean women seeking asylum in China have been trafficked. We have had them sit here and tell their stories with very few lucky ones. And of course China breaks its word to the Refugee Convention, and rather than providing them some kind of durable remedy or protection, sends them right back to North Korea at the end of their exploitation, where then they are either executed or sent to that gulag system.

Consider this: China convicted 35 traffickers last year in a country of 1.3 billion people. Three five. Not 3,500, not 35,000, 35.

Thailand by contrast, a Tier 3 country of 67 million people, had 151 convictions in 2014. Nothing, and I say again, nothing in China's deplorable record in 2014 warrants anything but a Tier 3 ranking. Thailand by contrast is Tier 3. China, with such a small number, a piddling number of convictions and government complicity up and down the system, is no longer a Tier 3 country.

I wrote the TVPA to allow flexibility and discernment in rewarding a country for making progress over their record from the year before, and for significant, not modest or superficial changes, efforts that go to prosecution, prevention, and protection.

Having a 3-day conference or making something around the edges isn't what constitutes significant. Tier rankings are a tool to aid real change, not a rubber stamp for simply holding a meeting or being a major trading partner. The rankings in this 2015 report seem to be a real opportunity lost for several countries, not just for the countries we gave a pass to, but other countries where good faith efforts were made but were not sufficiently acknowledged.

No country will take U.S. trafficking rankings seriously when there seems to be a wink and a nod agreement to look the other way when it suits U.S. business or other interests. Tellingly, Reuters reports that there was a lot of infighting at the State Department between the trafficking experts at the TIP office, who I have the highest regard for, and the bureaus. This year the two sides split, according to Reuters, on 17 countries, and J/TIP lost almost all of those conflicts.

I look forward to our distinguished witnesses. But I would like to yield to my friend and colleague Ms. Bass for any opening comments.

Ms. BASS. Thank you. Thank you, Mr. Chair. And, as usual, I want to thank you for your leadership on this issue and your creation of the TIP Report to begin with.

I want to say that I share your concerns over Malaysia and Malaysia's upgrading and say that there might be some of our colleagues that come and attend this session so that they can express their concerns over that.

I don't though, however, share your concerns about Cuba. And, in fact, I have been impressed with the way Cuba has responded to trafficking, especially sex trafficking. And I remember years ago

when it was so obvious and open and flourishing. And what I saw took place is an absolute decline in this and the Cuban Government providing a lot of education.

What was happening in the early years was that girls and women from the countryside were coming to the city because there wasn't any employment. And so to discourage that they provided a lot of education. And they actually created a soap opera on television that was shown widely throughout the country to educate people in the countryside and ask them not to come to the city and get involved with this.

So I do think that improvements have been made there and that it is important for us to acknowledge it.

In regard to doctors that go over and go to different countries, I have spoken with many of them. And one of the things that I think that we are doing that I hope we stop, especially with the change in policy toward Cuba, is to try to seduce some of the Cuban doctors that are practicing around the world from returning to Cuba but actually to come to the United States.

And when you see doctors that are providing healthcare in developing countries, to me it is important that they continue to do that.

I also have to say that I often cringe when comparisons are made with other countries to slavery that took place in the United States, in particular because you are talking about my ancestors who actually don't even know who they were. And when I think about our Capitol, our Nation's Capitol which was built with slave labor, what we did is that we rented, the U.S. Government rented slaves from local plantations and they built the U.S. Capitol. And there is an acknowledgment of this in the Capitol Visitor Center.

And so I think sometimes when those comparisons are made it can minimize what actually took place in this country for over 200 years.

And then in terms of the Trafficking Report, I am always interested in trafficking that takes place in the United States, in particular with girls who are in the foster care system. And I am proud to say that in my County of Los Angeles the Sheriff's Department as well as social services got together. And our Sheriff's Department have now adopted a policy where they will not arrest girls who are caught up in trafficking, and that they will stop using the term "John" to refer to the child molesters, because that is actually who they are.

So while we hold the world accountable, and rightfully so, I think it is important that we continue to hold our own country accountable. And I appreciate that in the TIP Report it does have a section on the United States. But I want to continue to call for our own country, and as a matter of fact all 50 states, to adopt a policy where they will no longer arrest girls.

Thank you. With that I yield back my time.

Mr. SMITH. I yield to Mr. Meadows.

Mr. MEADOWS. Thank you, Mr. Chairman. Thank you for your eloquent remarks as you opened up this particular hearing.

To my right, to your left is the gentlewoman from Missouri, Ms. Wagner. And as the ranking member was talking about putting the emphasis on what we do here in the United States, it has not only been her calling but her passion to address that. And so I wanted

to acknowledge not only her presence but her willingness to engage on this horrific crime against, for many practical purposes, young girls, but not just young girls, young boys as we well know, but not only here in the United States, but internationally. And so her presence here hopefully underscores the importance that all Members of Congress, whether they are on this committee or not, places on this particular topic.

I am troubled by the trend that I see. And I want to be very specific in terms of what I am looking for today from each one of you. I don't doubt the work that many of you do and the passion at which you do it. This is some of you have been called to this and you see it as a personal mission and not just a profession. And I thank you for that.

But I am troubled by what I see is a manipulation for political purposes of the TIP Report that basically has elevated to a level beyond many of you who are seated here at that particular desk. I am troubled by the reports, not only that the chairman has mentioned, but specifically how we seem to have all the way up to Secretary Kerry and those that are just shy of his position intervening with regards to decisions on who will be included and who will not be included.

So let me be very clear. Many times when we have the Secretary or an Under Secretary coming in to testify and things have not gone well, they say that they oversee a vast agency of hundreds if not thousands of different reporting supervisors and managers, and they couldn't individually weigh in on those when it comes to accountability. But yet as we started to do the analysis with who was included and who was excluded, it appears that it goes to the very highest levels within the State Department and then weighing in on who should be on the report and who should not.

That is troubling because once you get away from those who best understand it, the decisions are political. It is beyond my comprehension, and certainly I find it extremely interesting that Malaysia would have been removed from their status during a TPP negotiation process that is ongoing. And yet we somehow see this as being a pragmatic decision when very little on the ground appears to have changed.

Either the report and our efforts to correct these terrible crimes are meaningful or they become a political tool. And if they become a political tool, then indeed we need to do away with the agency and the very report itself because it is nothing more than sending the wrong message that we don't take this serious.

I am here today because I take this serious. I take it very serious. My daughter at 15 years of age brought this particular subject really up close and personal when she talked about what was happening in the United States and abroad. And if we are not going to stand up and be a voice, then who will?

And so I am being direct. I expect direct answers as we go into the question and answer period, and specifically with what kinds of intervention has taken place that could potentially be perceived as political.

And with that, Mr. Chairman, I would yield back.

Mr. SMITH. Very well. Mr. Cicilline.

Mr. CICILLINE. Thank you, Mr. Chairman. I thank the witnesses for being here today. And also thank you, Mr. Chairman, and Ranking Member Bass for calling this hearing and for being such leaders in the fight against human trafficking, and particularly both here in the United States and around the world.

And thank you, Mr. Chairman, for your legislation that created the TIP Report in your early years upon this issue.

The Trafficking In Persons Report which was authorized by Congress in 2000 is designed to be used as an important tool in our international diplomacy to incentivize countries to take important steps to combat human trafficking and sanction those who fall short. Since the report's inception, more than 120 countries have enacted anti-trafficking laws and many countries have taken other steps required to significantly raise their tier rankings, citing the report as a key factor in their increased anti-trafficking response.

And that is why it is my judgment that it is particularly alarming and really a shame that we are here today discussing what seems to be the obvious politicization of the report in the context of Malaysia.

I do not make that statement lightly. I think that the men and women of the State Department are dedicated public servants who fight every day to promote American values abroad. But it is nearly impossible, looking at the facts, to conclude anything other than the determination to move Malaysia from Tier 3 to Tier 2 Watch List status is without sufficient justification, and ill-advised at best.

Universally, advocates on the ground and in the anti-human trafficking community here in the United States have reported that Malaysia has made minimal progress and, in fact, has fallen in some key areas in their anti-trafficking campaign in the past year. Both The Washington Post and The New York Times editorial boards raised concerns about this year's report.

Moreover, the anti-trafficking amendments that were apparently taken into account to improve Malaysia's score have still not been adopted, more than 7 months after they were used in part to justify the change in ranking. With TPP eligibility for Malaysia hinging on this determination, it certainly comes off as a political one.

I hope to hear a thorough explanation today of how this determination was made and by whom, but I fear that the damage has already been done. Countries around the world, many of whom have made much more progress in their countries than the countries that we are going to be discussing today have seen the discussion around this year's report and decided that politics is more important than their actions. And that is a regrettable consequence.

So I hope to hear from our witnesses how the State Department intends to take action to restores credibility to this vitally important report and to restore our credibility around the world on the issue of anti-trafficking efforts.

And with that I yield back, Mr. Chairman. Thank you.

Mr. SMITH. Mr. Donovan.

Mr. DONOVAN. Thank you, Mr. Chairman.

From what I have heard from my colleagues, if any of this is true this is alarming. So I am going to yield the rest of my time so we can hear from the witnesses.

Mr. SMITH. Okay.

Mr. DONOVAN. Thank you, sir.

Mr. SMITH. Thank you. Without objection, we are joined by Ann Wagner. And I would like to recognize my good friend.

Ms. WAGNER. Thank you very, very much, Mr. Chairman. And I thank our witnesses for being here today to testify, many of whom are good and loyal, upstanding members of the State Department, of which I had the pleasure of serving as a United States Ambassador for 4 years. I applaud your work in this area. I applaud the chairman's work, lifelong work in this area, along with Ranking Member Bass and the kind indulgence of the subcommittee in letting me come and speak on this very important issue.

And I thank you for convening this hearing to investigate the potential political interference in this year's Trafficking In Persons Report. I applaud the committee's efforts to increase awareness of human trafficking, especially Chairman Smith's ongoing leadership and dedication to combating this terrible crime that affects the most vulnerable members of our society, both here in the United States of America and around the globe.

On July 27th, the State Department published the 15th installment of the Trafficking In Persons Report. This independent annual publication ranks 188 countries on their efforts to combat human trafficking in accordance with standards outlined in the Trafficking Victims Protection Act. As a former United States Ambassador, I know well, very well, how the TIP Report serves as an important tool for pressuring countries to take meaningful action to address human rights violations.

Frankly, my very first introduction to the world of human trafficking, both sex trafficking and labor trafficking, girls, boys, men, women, all of the above, came when I served at the State Department as a U.S. Ambassador and was responsible for the TIP Report that came out of my mission.

And thus, when I came home from my tour of duty began to delve into this horrific crime against humanity and the most vulnerable, mostly young girls and women in the United States of America, and have worked hard with many on this committee and many throughout Congress in a bipartisan way to pass some of the most cutting edge legislation that we have seen in many, many years on human trafficking here domestically, and I am pleased that the President signed into law this past May.

But it is absolutely, the TIP Report is key, key to addressing human rights violations.

These recent media reports indicate that political appointees meddled in the compilation of this publication by challenging State Department human rights experts' ratings recommendations for 17 political strategic countries, and inflating the assessment of 14 of these. Over the objections, I am told, of the State Department's own experts, Malaysia and Cuba were among countries upgraded from the blacklist of worst offenders on human trafficking.

Malaysia's unsubstantiated upgrade is particularly alarming because of its overt importance to the Trans-Pacific Partnership. Congress has restricted TPP negotiations with countries that have the worst records in combating human trafficking. Malaysia was one of those countries. However, on the eve of the July TPP negotiating

round, the State Department took Malaysia off its human rights blacklist by upgrading its status from a Tier 3 to the less incriminating Tier 2 Watch List rating.

If it is true that the administration politicized this report there are questions about why they chose to significantly, significantly diminish a tool that has been effective in fighting the scourge of human trafficking around the world. The United States cannot be a leader in the fight against human trafficking if we do not honestly assess the state of the problem for all countries, even our own, and most importantly including trading partners like Malaysia. The U.S. cannot allow political interest to outweigh the safety and the freedom of the thousands of trafficked men, women, and children. We have to hold governments accountable for their actions.

I welcome the continuing investigations into this year's TIP Report, and I would urge the administration to remain vigilant against any attempts to circumvent the veracity of future TIP reports and the protections they provide.

I thank again the chairman, the ranking member and other members of the subcommittee for their kind indulgence. I yield back, Mr. Chairman.

Mr. SMITH. Curt, do you want any opening comments?

Mr. CLAWSON. Thank you for coming. I like you a lot. Yield back.

Mr. SMITH. Thank you.

Let me now introduce our very distinguished panel beginning with Dr. Kari Johnstone who is the Principal Deputy Director of the Office to Monitor and Combat Trafficking in Persons. She began serving in this role in November 2014.

Previously she served in the Bureau of Democracy, Human Rights, and Labor in the Office of International Religious Freedom. She also served as the Director for Russia and Central Asia at the National Security Staff of the White House, as an election officer at the U.S. Embassy in Afghanistan, and the Human Rights Officer at the U.S. Embassy in Uzbekistan.

Then I would like to introduce Mr. James Carouso who is the Acting Deputy Assistant Secretary in the Bureau of East Asian and Pacific Affairs. He joined the Department of State in 1995 following a 14-year career in international banking and finance.

Most recently Mr. Carouso served as the Counselor for Economic Affairs at the U.S. Embassy in Indonesia. Prior to that he served with the State Department in a variety of economic and commercial roles in the Dominican Republic, South Africa, Australia, Thailand, and Cyprus.

And finally we'll hear from in this panel Mr. Alex Lee, who serves as Deputy Assistant Secretary for South America and Cuba in the Bureau of Western Hemisphere Affairs. He is a career member of the Senior Foreign Service and he was named to his current position in February 2014.

Mr. Lee has led the biannual U.S. delegation to the migration talks with Cuba in 2013 and 2014, and was Deputy Chief of Mission at the U.S. Interests Section in Cuba. Prior to joining the State Department Mr. Lee was a staffer in the U.S. House of Representatives.

Dr. Johnstone, the floor is yours.

STATEMENT OF KARI JOHNSTONE, PH.D., PRINCIPAL DEPUTY DIRECTOR, OFFICE TO MONITOR AND COMBAT TRAFFICKING IN PERSONS, U.S. DEPARTMENT OF STATE

Ms. JOHNSTONE. Thank you, Chairman Smith, and members of this subcommittee for inviting us here today to talk about the 2015 Trafficking In Persons, or TIP, Report. It has been my honor to be associated with the TIP Report and to lead the work of the Office to Monitor and Combat Trafficking in Persons in recent months.

I also want to thank Deputy Assistant Secretary Alex Lee and Acting Deputy Assistant Secretary Jim Carouso for testifying alongside me.

Producing the annual TIP Report is a year-round, department-wide effort involving hundreds of staff in Washington and at U.S. Embassies and consulates around the world. The final report reflects the Department's best assessment of foreign government efforts to comply with the minimum standards to eliminate trafficking in persons as outlined in the Trafficking Victims Protection Act, or the TVPA.

I know how important the issue of modern slavery is to Congress. On behalf of the entire Department I want to thank you for your commitment to this issue and, Mr. Chairman, for your authorship of this important legislation. We are thrilled that your colleagues in the Senate have recently confirmed our new Ambassador-at-Large to head the TIP office, Susan Coppedge. Last week Ambassador Coppedge and the TIP office recognized the 15th anniversary of the TVPA.

Over these last 15 years we have learned that the TVPA's legal framework is what makes the TIP Report such an effective tool in combating human trafficking across the globe. Since the passage of the TVPA, the TIP Report has helped to draw public attention to the issue of human trafficking and prompted foreign governments to take meaningful steps to address this crime. It is often referred to as the gold standard. And I have learned during my time leading the TIP office that it truly lives up to this designation.

Not only is it one of the most effective diplomatic tools our Government has for encouraging a foreign government to take action and make progress in combating modern slavery, it also gives voice to the many stakeholders working on the front lines of the problem, whether they be government officials who want to see change in their country, activists who confront the crime wherever it occurs, or professionals providing services to victims around the world. And it conveys the human face of the world's trafficking crimes to its readers. There is much to be proud of in this report.

As always, the narratives and tier rankings reflect government efforts to increase prosecutions, improve protections and enhance prevention efforts to combat modern slavery, not to the extent of human trafficking in any particular country. We saw tangible progress in many places in the world. Many governments adopted new anti-trafficking laws or improved existing laws, strengthened their law enforcement efforts to convict and punish traffickers, increased inter-governmental coordination to combat human trafficking by establishing senior-level bodies and adopting national action plans, and improved victim protection measures.

Between April 2014 and March 2015, Afghanistan, Angola, Barbados, the Czech Republic, Eritrea, Sierra Leone, and Sudan all became parties to the 2000 U.N. TIP Protocol, which we also refer to as the Palermo Protocol. Of the 188 countries and territories assessed in the 2015 TIP Report, 18 countries were upgraded this year. Unfortunately, we also saw efforts fall short in the 18 countries that were downgraded. Much work remains, and all of us must continue to improve our efforts to fight this crime.

We will continue to use the report to elevate human trafficking and encourage governments to implement the actions recommended in the TIP Report. Secretary Kerry personally raises the issues with foreign leaders, as he recently did in both Cuba and Malaysia. Ultimately, the purpose of the report and our shared goal is to effect change. We continuously review how we can use the report ever more effectively as a lever year-round to motivate tangible progress around the world.

For example, I just returned from a productive trip to Thailand, Malaysia, Hong Kong, and China during which I urged these governments to make stronger efforts to implement the recommendations in the 2015 TIP Report. I was pleased to see that every official I met with was aware of their tier designation in the TIP Report. I won't claim that all these officials fully agreed with our assessment, but the report and minimum standards have clearly focused attention on the realities of modern slavery and the tangible steps required to combat this crime.

It was also clear in each country I visited last month that officials in our Embassies and consulates are regularly engaging their host governments to improve their anti-trafficking efforts and to implement the TIP Report recommendations. Amidst all the important information found in the annual TIP Report, one message becomes clear year after year: Human trafficking is a challenge in nearly every corner of the globe, including here in the United States. Governments all over the world, including those on Tier 1, struggle to keep up with a crime that affects millions of individuals compelled into service for sex or labor or both. We must all continue to improve our efforts to fight and end this crime.

We know our work is critical. We remain committed to addressing these challenges. And we look forward to helping to create a world free from modern slavery.

Thank you.

Mr. SMITH. Would either of you like to add? I know it is a joint statement but please.

STATEMENT OF MR. JAMES CAROUSO, ACTING DEPUTY ASSISTANT SECRETARY, BUREAU OF EAST ASIAN AND PACIFIC AFFAIRS, U.S. DEPARTMENT OF STATE

Mr. CAROUSO. Thank you, Chairman Smith, and members of the subcommittee. It is a privilege to testify with Dr. Kari Johnstone. This acknowledged expert on this issue has done so much to combat trafficking across the region, I echo her appreciation for inviting us here today to talk about the 2015 Trafficking In Persons Report. And I want to again acknowledge the work of this subcommittee and you, too, Mr. Chairman, on the importance of this report for the work we do in our Embassies across the region.

As Dr. Johnstone explained, producing the TIP Report is a year-round Department-wide effort involving all of our Embassies and consulates around the world. As a Foreign Service Officer I have experience myself when I served in Thailand I was in the border with China I was sent to a room full of garlic, a mountain of garlic, and all these young women peeling the garlic, speaking Chinese. Obviously they didn't belong in Thailand.

The credibility that we have as an Embassy, as U.S. Embassy employees, and using tools like the TIP Report help us solve problems like that. And some of my proudest moments are to be able to deal with things like that.

It truly is, the TIP Report, is one of the best diplomatic tools we have to ensure the governments across the region take seriously the efforts to combat trafficking in persons. When progress is insufficient, as it unfortunately is in a number of countries in East Asia and the Pacific, the recommendations of the TIP Report provide guidance, concrete guidance, to our Embassies and consulates overseas as they carry out their diplomatic duties, as the Ambassador was saying.

EAP and the TIP office collaborate closely with foreign governments and international partners to combat trafficking. EAP and the TIP office also work very closely with federal partners to provide foreign assistance to combat human trafficking, particularly the Bureau of International Narcotics and Law Enforcement; Population, Refugees, and Migration; Bureau of Democracy, Human Rights, and Labor; USAID, and the Department of Labor. The TIP office currently funds 20 projects in 14 EAP countries.

I would like to just highlight a few examples of this bilateral engagement. In the Philippines, civil society organizations are providing law enforcement with training and support to address the ongoing commercial sexual exploitation of children. Across the Pacific Islands we fund programs to enhance victim protection, strengthen anti-trafficking investigations and prosecutions.

In Thailand we recently collaborated with the Department of Homeland Security to embed agents in the Royal Thai Police's Anti-Trafficking Division and we are considering ways to replicate that model in other countries.

Our approach to trafficking is not limited to just bilateral engagements. Due in part to the focus the U.S. Government places on combating trafficking in the region, we are working with ASEAN, the Association of Southeast Asian Nations, as they come close to endorsing a Convention on Trafficking in Persons. And the State Department is planning to fund regional ASEAN projects to help meet the requirements of the convention.

Year-round, even after the report is complete, U.S. officials at every level from Ambassadors down to the most junior officer regularly engage host governments in trafficking issues. From my own experience I know that these efforts are well-integrated into our Embassies' overall strategic plans as well as their daily work. And thanks largely to the effectiveness of the report's tier ranking system, we are able to urge progress. Armed with these rankings, the TIP office, EAP, and our posts overseas will continue to be able to effectively collaborate on programs and diplomatic strategies better combating this scourge in the future.

Once again I truly thank you and we look forward to your questions.

Mr. SMITH. Thank you very much.

Mr. Lee.

STATEMENT OF MR. ALEX LEE, DEPUTY ASSISTANT SECRETARY, BUREAU OF WESTERN HEMISPHERE AFFAIRS, U.S. DEPARTMENT OF STATE

Mr. LEE. I have a short statement.

Thank you, Chairman Smith and members of the subcommittee for the opportunity to develop and present remarks about the 2015 Trafficking In Persons Report.

The scourge of modern day trafficking in persons touches every region of the globe, including that of the Western Hemisphere. And the Bureau of the Western Hemisphere Affairs takes trafficking in persons and the challenge of addressing effective solutions to it very seriously. We regularly engage with partner governments to encourage the prosecution of traffickers, provide protection to victims, and to provide programs for prevention.

Our Embassy personnel are on the front lines of this diplomatic engagement, whether at the senior level of the front office of our Ambassadors, whether at the working level with the ministries of foreign affairs, justice, or the security or public security ministries. And in addition, our Embassy personnel provide the reporting that informs much of the annual Trafficking In Persons Report.

U.S. programs that promote rule of law, good governance, citizen security, and economic prosperity throughout the Western Hemisphere seek to address the underlying factors that allow trafficking in persons to persist. For example, the Department of State funds capacity building of law enforcement and immigration officials in the region to screen and identify victims of human trafficking and to investigate and prosecute those cases.

We work closely with the Office to Monitor and Combat Trafficking in Persons and with partner governments to compile the most accurate information that will allow us and our partners to assess government efforts and work toward the most effective solutions.

I look forward to answering your questions.

[The joint statement of Ms. Johnstone, Mr. Carouso, and Mr. Lee follows:]

JOINT STATEMENT

Kari A. Johnstone
Principal Deputy Director
Office to Monitor and Combat Trafficking in Persons
U.S. Department of State

Alex Lee
Deputy Assistant Secretary
Bureau of Western Hemisphere Affairs

James Carouso
Acting Deputy Assistant Secretary
Bureau of East Asian and Pacific Affairs

Before the
House Subcommittee on Africa, Global Health,
Global Human Rights, and International Organizations
Hearing on the 2015 Trafficking in Persons Report

November 4, 2015

Thank you Congressman Smith and members of this subcommittee for inviting us here today to talk about the 2015 Trafficking in Persons (TIP) Report. It has been my distinct honor to be associated with this Report and to lead the work of the Office to Monitor and Combat Trafficking in Persons in recent months.

I also want to thank Deputy Assistant Secretary Alex Lee and Acting Deputy Assistant Secretary Jim Carouso for testifying alongside me. Producing the annual TIP Report is a year-round Department-wide effort involving hundreds of staff in Washington and at U.S. embassies and consulates around the world. The final report – as approved by the Secretary of State – reflects the Department's best assessment of foreign government efforts to comply with the minimum standards to eliminate human trafficking as outlined in the Trafficking Victims Protection Act (TVPA).

I know how important the issue of modern slavery is to Congress and, on behalf of the Office to Monitor and Combat Trafficking in Persons (TIP Office) and the

entire Department, I thank you very much for your sustained commitment. Last week, Ambassador Coppedge and the TIP Office recognized the 15th anniversary of the Trafficking Victims Protection Act. Over these last 15 years, we have learned that the TVPA's legal framework is what makes the TIP Report such an effective tool in combating human trafficking across the globe. The TVPA establishes clear "minimum standards" for the elimination of trafficking in persons and delineates additional criteria for the Department to assign tier rankings to governments according to the quality of their anti-trafficking efforts. In the last 15 years, human trafficking has gone from a niche issue that received very little attention to one found in multiple headlines across the globe every single day.

Since the passage of the TVPA, the State Department – through the TIP Report, sustained diplomatic engagement, and foreign assistance programs – has helped to draw public attention to the issue of human trafficking and urged foreign governments to take meaningful steps to address this crime. It is often referred to as the gold standard for anti-trafficking efforts and I have learned during my time leading the TIP Office that it truly lives up to that designation. Not only is it one of the most effective diplomatic tools our government has for encouraging a foreign government to take action and make progress in combating modern slavery, it also gives voice to the many stakeholders working on the front lines of the problem – whether they be government officials who want to see change in their country, activists who confront the crime wherever it occurs, or professionals providing services to victims around the world. And it serves a compelling public awareness function by conveying the human face of the world's trafficking crimes to its readers. There is much to be proud of in this Report.

As with past reports, the 2015 TIP Report is the product of a full year of hard work and dedication by our staff in the TIP Office, the many bureaus and offices here in Washington, and our missions around the world.

Throughout the year, Department experts worked with foreign governments and civil society to collect data and objectively assess each government's efforts to meet the minimum standards for the elimination of trafficking laid out in the TVPA. Using this comprehensive factual analysis, and in accordance with the minimum standards, countries were assigned a tier ranking – Tier 1, Tier 2, Tier 2 Watch List, or Tier 3. As is standard practice in the Department, tier ranking

decisions went through an extensive and rigorous process that reflects coordination and dialogue within the Department and helps to make the report as objective and accurate as possible.

In most cases, the factors leading to the tier placement of a country are agreed upon throughout the Department in early discussions. At times, however, they require further discussion among senior Department officials in a process that ultimately leads to the Secretary's final decisions. This is consistent with Department practice in the context of other annual reports and procedures.

As always, the tier rankings reflect government efforts to increase prosecutions, improve protections, and enhance prevention efforts to combat modern slavery, not the extent of human trafficking in any particular country. We saw tangible progress in many places in the world: many governments adopted new anti-trafficking laws or strengthened existing laws, strengthened their law enforcement efforts to convict and punish traffickers, increased inter-governmental coordination to combat human trafficking by establishing senior-level bodies and enacting national action plans, and improved victim protection measures. Between April 2014 and March 2015, Afghanistan, Angola, Barbados, the Czech Republic, Eritrea, Sierra Leone, and Sudan became parties to the 2000 UN TIP Protocol. Of the 188 countries and territories assessed in the 2015 TIP Report, 18 countries were upgraded. Unfortunately, we also saw efforts fall short in the 18 countries that were downgraded. Much work remains, and all of us must continue to improve our efforts to fight this crime.

We will continue to use the Report to elevate human trafficking and encourage governments to implement the actions recommended in the TIP Report. Department staff in Washington and overseas draw from the Report to inform efforts to raise public awareness about human trafficking, build foreign government and civil society capacity through training and assistance, and urge governments to address human trafficking with effective action. Secretary Kerry personally raises the issue with foreign leaders, as he recently did in Cuba and Malaysia. Ultimately, the purpose of the Report – and our shared goal – is to effect change. We consider ways we can strengthen the recommendations in the Report and use them more effectively to push progress through year-round engagement. Our anti-trafficking foreign assistance programs provide tangible

support to implement TIP Report recommendations by governments, civil society, and international organizations. We continuously review how we can use the Report even more effectively as a lever to motivate tangible progress around the world.

For example, I just returned from a productive trip to Thailand, Malaysia, Hong Kong, and China during which I urged these governments to make stronger efforts to combat human trafficking and implement the recommendations in the 2015 TIP Report. I was pleased to see that every official I met was aware of our assessments in the 2015 TIP Report. I will not claim these officials fully agreed with our assessments, but the Report and minimum standards have clearly focused attention on the realities of modern slavery and the tangible steps required to combat this crime.

Amidst all the important information found in the annual TIP Report, one message becomes clear year after year – human trafficking is a challenge in nearly every corner of the globe as it is here in the United States. Governments all over the world, including those on Tier 1, struggle to keep up with a crime that affects millions of individuals compelled into service for sex or labor or both. We must all continuously improve our efforts to fight and end this crime.

We know our work is critical. We remain committed to addressing these challenges. And we look forward to helping create a world free from modern slavery.

Thank you.

Mr. SMITH. Thank you. Thank you very much for your testimony. And again thanks to all of you for being here today.

Let me just ask you, in light of the Reuters report, in light of concerns that many of us have about Malaysia, China, some of us at least have strong concerns about Cuba and Uzbekistan, and even Vietnam—I mean Vietnam has complicity in trafficking, particularly labor trafficking—did any other concern, such as a trade, factor in any way or come into play in the administration's decision to upgrade Malaysia or Cuba or China?

Again, I read the report on Cuba three times. It is excellent. It frames it. It gets it. It captures the information based on everything else I know and other sources. And yet it, it doesn't warrant an upgrade.

And I am wondering in light of the rapprochement that has occurred between Washington and Havana, was that in any way a part of this, any way? Because I would think that the TIP Report made recommendations—and perhaps, Doctor, you might want to speak to that—there should be more transparency in this process. I know very often the default is to say we can't say what we recommended. But we need to know that. This is all about a gross human rights abuse that disproportionately now affects women and children. And, you know, like as I said in my opening, China had 35 convictions; Watch List. Thailand had 151 convictions; Tier 3. Malaysia had three convictions and Cuba is down in the single digits as well.

You know, Thailand must feel aggrieved with the juxtaposition of these other countries, the upgrades. And there appears to be other issues that come into play.

I will note parenthetically, I was never more proud, and I am a very stauch supporter of Israel and South Korea, but during the previous administration both Israel and South Korea were designated as Tier 3 countries because that is where the evidence took the administration. And, frankly, both countries did robust things, did tremendous things. South Korea passed new laws. And certainly, I met with the Ambassador from Israel several times, they are reporting, their closing up of brothels just was extraordinary. And they got off Tier 3 the old fashioned way, they earned it.

But then to look at, was there any other factor in this continuum of decision made by TIP, goes on to the Assistant Secretary, the Deputy, the DASes, right up to Secretary Kerry and to President Obama. And if you could—and I hope you will—if you could provide us with who made these decisions at the end of the day?

Ms. JOHNSTONE. Thank you very much, Mr. Chairman. If I may begin at least to answer that question.

This year when we prepared the 2015 TIP Report, as in previous years it was a truly deliberative, fact-based process of discussions between our experts throughout the State Department, both at our Embassies and consulates overseas, with our colleagues in regional bureaus here in Washington, and experts in the TIP office. That is the same process that we use every year. We compare and assess governments' efforts against that own government's efforts the previous years, against the minimum standards as outlined in the TVPA, specifically looking at those criteria and whether or not the

government has indeed made significant efforts to fulfill those minimum standards.

That is the process that was true for all of the countries this year when we made those decisions. Ultimately, the final tier designations are made by the Secretary of State, this year as they are every year, by the authority given to him in the TVPA. So these decisions are in fact his to make, not the TIP office or others in the State Department.

Mr. SMITH. But again, Doctor——

Ms. JOHNSTONE. The recommendations certainly——

Mr. SMITH [continuing]. You do make a recommendation as to what the designations should be when there is a split? I mean no one knows more about it than you and the daily calls that went out to the various Embassies. They are on the ground. They know.

And I think 15 years later we are really getting it right because every Embassy I go to, and there are many, I always ask who is doing TIP there. And I am always impressed just how seriously they take this.

But, again, my big question is like with Malaysia, did TPP play a role in that upgrade?

Ms. JOHNSTONE. The Secretary himself has said publicly that TPP did not come into it. He did not consult others in the administration, nor did the White House through USTR weigh in. I have no knowledge that that came up at any other officials' discussions on the tier designation for Malaysia or any other country.

Mr. SMITH. How about with regards to Cuba? Again the Report is excellent in its detail. And I mean when a country doesn't even acknowledge its forced labor, when it pimps out girls who are 16. And we know that the government runs the infrastructure for hotels and the like. And it is a very, very cruel exploitation of young girls and young boys. And I am just wondering who, you know, what was the recommendation of the TIP Office and then to the bureau? Was it to keep it at Tier 3, Cuba?

Ms. JOHNSTONE. As you yourself indicated, we don't discuss the internal deliberations and recommendations of the different parts of the State Department. There is a robust discussion. In the vast majority of cases we reach consensus at the expert level and discussions don't go further.

There are some cases that the evidence may be pointing in different directions. As you know yourself, within the minimum standards there are four minimum standards and 12 indicia. So there are a lot of different factors we are looking at. In some cases they all point in the same direction of either progress or lack thereof. In some cases they are mixed, as was the case in Malaysia that we saw increased prosecutions and investigations but a decline in convictions.

So when we do have more complicated situations like that, the discussions do go further up the chain and ultimately the Secretary makes the decision.

Mr. SMITH. But again on this increased prosecution, without objection the testimony of Most Reverend Eusebio Elizondo an Auxiliary Bishop of Seattle who led a delegation of the U.S. Conference of Catholic Bishops to Malaysia. They make the point that despite the presence of an anti-trafficking law, the delegation learned that

the government offers little or no protection or rescue to victims. And on the very issue you just mentioned, while Malaysia's arrests increased, arrests for human traffickers, the conviction rate remains low due to the ability of the traffickers to bribe or threaten officials.

That is exactly what we thought we corrected in previous iterations of the TVPA. It is not just how many arrests you make and then put that out as a neon light. Yes, look at all these arrests. What good is it if there are no convictions and nobody does real time or have their assets seized that they gleaned through such a nefarious enterprise.

So, again, if there is a way you could tell us who made this decision? I mean TPP had no impact on this? Mr. Carouso, you might want to speak to that?

I mean the Senate was very robust, including my senior Senator, in raising this issue, Bob Menendez.

Mr. CAROUSO. I can tell you in every meeting I was ever in to discuss this, the discussions were strictly related to the facts of the trafficking in persons situation in the countries involved. And that includes reports you got in from the Embassy.

Ms. JOHNSTONE. If I may add, also you asked about the importance of the TVPA and the criteria outlined therein in the discussions. Absolutely they are central. And in the case of Malaysia we did look across the three P's. And as you noted, we have serious concerns about victim protection in Malaysia. That has been our number one recommendation in the last several years in the TIP Report, encouraging the government to fundamentally change how it treats trafficking victims.

They have essentially been held in government shelters that essentially serve as detention facilities where the victims have neither freedom of movement nor the right to work. And that has been our top priority recommendation in the last several years because, as you point out, it is a very serious concern

The government did make significant efforts over the course of the 2015 reporting period in the 2014 calendar year to improve that. And the amendments that were passed just after the reporting period ended do seek to fundamentally revise that system. We are cautiously optimistic that once they are implemented they will make meaningful progress in this area. But that was the number one priority.

Mr. SMITH. I have more questions but two of our members do have to leave.

Ms. JOHNSTONE. Sure.

Mr. SMITH. I would like to yield to Ms. Bass and then to Mr. Meadows both.

Ms. BASS. Thank you. I really appreciate that.

I wanted to ask you about online trafficking. And it is certainly a growing problem, especially in the U.S. when there are like large sporting events like, like the Super Bowl, for example. And there was this big, huge bust on sex trafficking and then there are sites like Backpage, Craigslist, and even Facebook.

And so I wanted to know what, what efforts within the Federal Government are being made to curtail this? And then also, is this an international phenomena?

Ms. JOHNSTONE. We are definitely tracking that issue, both in the United States. Our colleagues and other parts of the Federal Government are increasing their efforts on that in terms of law enforcement efforts to try to identify traffickers who are using online methods to find their victims.

We, unfortunately, are also seeing that as a growing trend in some other countries. The Philippines, for example, is an area that we have focused on. So both through our diplomatic efforts, but also our programming efforts, we are trying to get a better handle on this because there does seem to be an increasing problem around the world.

Ms. BASS. Thank you.

Mr. SMITH. I would like yield to Mr. Meadows for questions he has.

Mr. MEADOWS. Thank you, Mr. Chairman.

So, Dr. Johnstone, your testimony today, and let me be clear, is that no factor other than trafficking issues, no trade issues, no domestic policy issues have entered in in the decisions to either raise or lower the status of any of these countries this year? Is that your testimony?

Ms. JOHNSTONE. In all of the discussions that we had within the TIP office——

Mr. MEADOWS. Not discussions. I am asking about your testimony here today. Is that your testimony that it did not play a factor?

Ms. JOHNSTONE. None of the discussions with respect to the recommendations that were made by my colleagues in regional bureaus or the TIP office included any other factors other than trafficking itself.

I cannot speak to the discussions that took place amongst the——

Mr. MEADOWS. I am not asking about discussions, okay. You are giving a great answer to a question I didn't ask. I am talking about consideration. There is a difference between discussion and what is really considered in terms of the way that a decision is arrived at. And I am just saying that the evidence wouldn't support that there were not other mitigating factors.

And I want to know what your testimony is here today because that, you are leading us that direction and I want to make sure that we are clear.

Ms. JOHNSTONE. The decisions on the tier rankings themselves were made by the Secretary of State. He himself has publicly said no other factors came into it. That is the full total of my knowledge.

Mr. MEADOWS. I am asking for your testimony. You are here today. If he was here I would ask him the same question. But I am asking for your testimony.

Ms. JOHNSTONE. Any of the recommendations that were made——

Mr. MEADOWS. Yes or no.

Ms. JOHNSTONE [continuing]. By my colleagues——

Mr. MEADOWS. I need to know, yes or no?

Ms. JOHNSTONE. There were no factors other than the TVPA criteria to my knowledge.

Mr. MEADOWS. Okay. Are you and Mr. Carouso, are you willing to give us your split memos or split reports and supply them to this committee as it relates to the decisions and how they came?

Ms. JOHNSTONE. The State Department does not share the internal deliberations.

Mr. MEADOWS. I know they don't. I said are you willing to give them? Because that would help us eliminate the decision-making process without you having to weigh in on it personally. And do you not think the American people have a right to know?

Ms. JOHNSTONE. I believe that the question of what information we would share and what documents we are able to share is being discussed currently by——

Mr. MEADOWS. Do you think the American people have a right to know?

Ms. JOHNSTONE. Have a right to know about how we——

Mr. MEADOWS. Arrive at these horrific crimes and whether we trade with them, how it would be trade, do you think the American people have a right to know? It is an easy question.

Ms. JOHNSTONE. I think it is very important to the American people how we address the issue. And I think that the facts speak for themselves in the reports themselves.

Mr. MEADOWS. All right. So will you supply the split memo to this committee?

Ms. JOHNSTONE. I will have to consult with my colleagues back in the State Department what documentation we are able to provide.

Mr. MEADOWS. Are you saying that you are prohibited? Because I don't believe you are prohibited.

Ms. JOHNSTONE. I am saying I don't have the authority to decide what documentation the State Department can provide.

Mr. MEADOWS. All right. Mr. Carouso, are you willing to give us your split memos?

Mr. CAROUSO. I agree with Dr. Johnstone, I would have to go back to my bosses and——

Mr. MEADOWS. Well you guys, I am sure you prepared for this hearing today. And as you were preparing for this hearing I believe that you would anticipate that this particular question would have come up. And so when you prepared what was the decision was made? Were you going to give that information to this committee or not, Mr. Carouso?

Mr. CAROUSO. I never asked, sir.

Mr. MEADOWS. Okay. All right. So let me ask you this. There were 17 different cases. Of the 17 cases, the initial recommendations were only adhered to, according to my information, in three times, three out of 17. That is a batting average of .175. Normally it wouldn't put you on the Kansas City Royals with that kind of batting average.

So if your recommendation was only followed and not overruled, that is the way that I view it, being overruled, by people up the line, only out of 17 times you were overruled 14 times, would you say that that is indicative of people up the line making a decision that may not be based on those closest to the information?

Ms. JOHNSTONE. That would certainly not be how I would characterize it. I do believe that the entire State Department takes the issue very seriously and our obligation——

Mr. MEADOWS. I am not denying that. What I am, what I am getting at is it appears that Secretary Kerry and the Under Secretary made a decision in 6 of the 17 cases. Is that correct?

Ms. JOHNSTONE. We are not discussing the internal positions but——

Mr. MEADOWS. That is not an internal position. That is just saying how many times did they weigh in? Did they weigh in six times or not?

Ms. JOHNSTONE. The internal discussion process and which countries who weighed in on them we are considering to be the internal deliberation process. And to maintain the——

Mr. MEADOWS. Well, I, I appreciate——

Ms. JOHNSTONE [continuing]. Reliability of the report——

Mr. MEADOWS [continuing]. That. But you know what it appears is is that you're coming here, we are asking very specific and not difficult questions and yet you seem to want to avoid those. Wendy Sherman, who I have a great deal of respect for, admire, weighed in on 11 countries; is that correct?

Ms. JOHNSTONE. I am not able to comment on the internal deliberations.

Mr. MEADOWS. Not able to not willing?

Ms. JOHNSTONE. Not able.

Mr. MEADOWS. So you are saying by statute you are not allowed to tell this committee, who has oversight of this particular issue? Is that your testimony?

Ms. JOHNSTONE. The way that the process goes within the State Department, we have expert-level discussions within our office and——

Mr. MEADOWS. Are you willing to have us review that when we are not in a public forum with just members of both the minority and the majority looking at those split memos? Are you willing to do that?

Ms. JOHNSTONE. That is certainly something that I will consult with my colleagues on.

Mr. MEADOWS. When will you have an answer back to this committee?

Ms. JOHNSTONE. As soon as we possibly can.

Mr. MEADOWS. So within 7 days?

Ms. JOHNSTONE. That should be possible.

Mr. MEADOWS. All right. I will yield back. Thank you.

[The information referred to follows:]

WRITTEN RESPONSE RECEIVED FROM KARI JOHNSTONE, PH.D., TO QUESTION ASKED DURING THE HEARING BY THE HONORABLE MARK MEADOWS

These types of documents requested are inherently deliberative in nature.

In order to inform his tier ranking decisions, the Secretary draws upon the expertise of the entire State Department and considers different perspectives on the facts and criteria set forth in the Trafficking Victims Protection Act (TVPA). In the case of a few countries each year—as in 2015—senior Department officials may offer the Secretary their assessments of the totality of a government's efforts measured against the minimum standards in the TVPA, thereby helping inform the Secretary's decisions.

As a matter of policy, the Department does not share internal documents that are part of the deliberative process. It is critical that Department officials are able to convey their views frankly during the deliberative process, which ultimately contributes to the integrity of the TIP Report and the strength of tier ranking decisions. If you would like to discuss further, we are happy to answer any remaining questions you may have.

Mr. SMITH. Let me just follow up and continue my questioning and then I will yield to Mr. Cicilline. We do have a break. We have five votes on the floor. Take about 20 minutes if we all make the last one, or the first one I should say.

Just with regards to Vietnam, I have chaired hearings on Vietnam Human Rights Act that I have gotten passed four times in the House. I have been there. We know that labor trafficking is a huge problem. The first case that was prosecuted successfully was against Vietnamese leaders from Daiwa. And that was the first conviction that was gleaned from that law.

Mark Lagon from Freedom House, also a former TIP Ambassador, makes an excellent point that the upgrade of Vietnam to Tier 2 is bewildering and claims that there is an utter absence of prosecutions for labor trafficking, as well as official complicity, which we know is a huge problem. And we have had hearings on just that: Vietnam's complicity with human trafficking.

And I am wondering why they even got an upgrade to Tier 2?

Also if you could answer again on the Chinese issue. As I said in my opening comments, the reform through labor. I am probably the only member, along with Frank Wolf, who has ever been in a laogai, Beijing Number 1. Soon after the Tiananmen Square massacre we saw 40 Tiananmen Square, protesters we weren't allowed to talk to, who had shaved heads and looked like concentration camp victims. The laogai has not been dismantled. It has morphed into something else. It is still utterly repressive. And, again, that was the pretext for upgrading China.

China ought to be Tier 3. Whether or not you sanction them is all up to you. There is huge discretion there. But in terms of looking at the facts on the ground, whether it be sex trafficking or labor trafficking, China is a basket case. And it is in a race to the bottom with North Korea on these issues. And yet, superpower considerations maybe were mitigating factors there.

And that is what Mr. Meadows and I and so many others are trying to get at. Were other issues involved, intervening issues, like opening an Embassy in both Havana and Washington, China being a superpower? This TIP Report is sacred. We have got to get it right and pull no punches, and say it exactly the way it is, assign tier rankings exactly the way they ought to be. And then what you do on sanctions is all up to you; the second shoe that needs to drop, which we seem to be late in hearing anyway when it comes to the sanctions part, which we thought would be in September.

So if you could, on Vietnam, on China, and again answer on the record whether any intervening issues, not whether or not it was discussed, that could be plausible deniability, we never discussed it so we can say in front of a committee that there was never discussion on other issues—but if the elephant in the room was the TPP, well we have many members on both sides of the aisle, disproportionately Democrat, who feel that the system was gamed. I believe it was gamed on Malaysia.

Again, if I were Thailand looking at those conviction numbers, China 35 convictions, Thailand 151, Malaysia 3. I mean that is a cruel joke. And so please if you could address that and as well as our distinguished DASes.

Ms. JOHNSTONE. Do you have a preference for which country we take first?

Mr. SMITH. In the order you would like to answer.

Ms. JOHNSTONE. One thing I just wanted to point out quickly, you mentioned the sanctions and waivers piece. The White House did in fact release that information in October. I was looking for the date but we can get you the exact date. That was indeed released already.

And I think perhaps my colleague can talk about Vietnam. I am happy to talk about China.

Mr. CAROUSO. Okay. I think what impressed us in Vietnam were the arrests of 685 suspected traffickers, and that they prosecuted 472 and convicted 413. Most sentences ranged from 3 to 15 years imprisonment. More than 1,000 potential trafficking victims were identified and provided protection. And integrated support to another 668.

U.S. participated in joint investigations and rescue operations in neighboring countries. In 2012 Vietnam's anti-trafficking law expanded to specifically define and criminalize sex and labor trafficking with punishments from 2 to 20 years and 3 to 25 years imprisonment. It has also increased the number of officials who received anti-trafficking training.

So all those factors weighed on the Tier 2 ranking.

Part of the issue here is that the problems are horrific, as you point out. And when we are doing these rankings it is measuring a country against itself. Because if we try measuring countries against other countries then it gets really, really complicated, as you know, sir. So Vietnam made some progress.

And even the miserable number of three convictions in Malaysia, yes, that was terrible. So now we are working with them to train officials on how you prosecute these cases and they welcome that. We are working with them on how to get the implementing regulations right on the amendments that you passed so that there can't be loopholes which mean they can't get the convictions later on.

And again, getting to the bottom line, were are encouraged modestly by Malaysia's apparent effort to address this issue with seriousness. And this report and your subcommittee's passion about it, which we point out every chance we get, that this is being watched very, very carefully, that we have to answer to a higher authority, they know. Deputy Prime Minister Zahid of Malaysia was here just a couple weeks ago and Secretary Kerry pointed this out to him in very short, clear words and he promised how he would personally make sure these issues were addressed.

Anyway, I just, I wanted to really emphasize that.

And now you want to talk about China?

Ms. JOHNSTONE. Sure. I can take over for China.

Mr. CAROUSO. Please.

Ms. JOHNSTONE. If you would like.

When I was there last week I reinforced the serious concern that I know you share and that Deputy Secretary Blinken raised when

he was in China as well. We are deeply concerned about the situation of human trafficking in China. Particularly, they need to take robust steps to address forced labor, including in state facilities. We raised that quite directly.

We are also concerned about women and children who may be trafficking victims that are not screened and identified as trafficking victims and may in fact be arrested and ultimately either prosecuted or deported if they are not Chinese citizens for crimes that they committed as a result of being victims rather than treated as victims.

We are also concerned that the government has forcibly repatriated North Koreans, as you mentioned. We continue to raise these issues both in the report and in our engagement with the government.

I must say that in my conversations last week with Chinese officials I was somewhat pleasantly surprised by their openness to share information with us, the efforts that they are taking to address particularly sex trafficking, and their expressed eagerness to continue to share best practices and even engage in joint training. Hopefully this can be a foundation that we can help them build better understanding of the crime.

One of the things that I left the country with was a sense that the Chinese Government's understanding of the crime of human trafficking is not the same as our own or as is outlined in the U.N. Palermo Protocol. In particular, they focus on issues in their laws as more expansive than our law or than Palermo. So we are trying to get a better understanding of their law enforcement data, how much of that actually is addressing what we would consider to be human trafficking as opposed to other horrible crimes that we just don't call human trafficking, like organ harvesting and organ trafficking, illegal adoption.

We talked a lot about the issue of forced marriage and trafficking amongst those women. As you yourself mentioned, Mr. Chairman, there is plenty to be concerned about in China. We do indeed measure the government's efforts against its own efforts in previous years, which is why China remained on the Tier 2 Watch List based on its efforts in previous years and what we do believe to be increasing law enforcement efforts.

We have serious concerns that we will continue to raise with them. And, hopefully, we will make some progress in the future.

I think my colleague also wanted to answer some of your questions about Cuba if we may.

Mr. SMITH. Please.

Ms. JOHNSTONE. And before I——

Mr. SMITH. And before we leave Asia, if I could very quickly.

Ms. JOHNSTONE. Yes.

Mr. SMITH. There is a Reuters report this morning that India has been preventing trafficking victims and their families who have been granted T visas by the U.S. from leaving India and starting their lives in the United States. India is a Tier 2 country. We don't have numbers on convictions or victims identified as assisted. I am not sure why or how they could be a Tier 2 country.

I have, we have had hearings on India as well in this subcommittee raising these issues. And so that is a bit baffling as well.

We don't give out T visas mindlessly. We do our due diligence. I applaud the administration for that. But now they are on their end showing a great reluctance, claiming that it is fraudulent. So and then Cuba too, if you could.

Ms. JOHNSTONE. If I could just mention.

Mr. SMITH. Sure.

Ms. JOHNSTONE. October 5th was when the Presidential determinations with respect to waivers and sanctions for the Tier 3 countries were released. October 5th.

Mr. SMITH. Thank you.

Mr. LEE. Thank you, Chairman.

You asked in your opening presentation whether a TIP upgrade was a subject of discussion in the reestablishment of diplomatic relations. And I can answer categorically that it was not.

Mr. SMITH. And again, it was not part of the decision. Whether or not it was discussed, it just was completely separate and distinct?

Mr. LEE. It was completely separate. And but I would like to make the observation that our constructive engagement with the Cubans, which was basically done prior to the normalization talks in the migration talks, which I participated in, we have been talking about TIP sets of issues. And there was a distinct change on the Cuban side after they acceded to the Palermo Protocol, the Palermo Convention in mid-2013.

What happened after that was kind of an accelerated bilateral engagement on TIP in a way that had never occurred before. And so in a sense, our understanding of what the Cuban Government was doing, whether on prosecutions, protection, or prevention, greatly increased as a result of these exchanges.

So, for example, we had in November 2013, a first videoconference of TIP experts at a very senior level on both countries.

In March 2014 we had a joint J/TIP and WHA visit to Havana looking at what the Cuban Government was doing on the ground in a way that we had never had access to.

In February 2015 Under Secretary Sewall had a meeting with the main Cuban Foreign Ministry official responsible for the United States, again to emphasize the importance of TIP in our bilateral relationship.

A month later a technical-level group of TIP, Cuban TIP experts came to the United States for a series of technically focused meetings. And——

Mr. SMITH. Mr. Lee, if you could just suspend and we will come right back to you as soon as we can. We are on zero, we are out of time for voting. So we are going to run over and vote. We will be back in about 20 minutes. And I apologize for the interruption and for the inconvenience to all of you.

Stand in recess.

[Recess.]

Mr. SMITH. The subcommittee will resume its sitting. And again I apologize for that lengthy delay.

You were, Mr. Lee, still in the process of answering. If you would continue.

Mr. LEE. Thank you, Chairman.

I was essentially going through a litany of engagements. But to make the larger point that our understanding of what the Cuban Government does and does not do has greatly increased in the past couple of years and in a sense has been a beneficiary of the more constructive engagement between the two governments in those areas both governments have decided to work on in a cooperative manner, of which trafficking in persons is one of those.

So for all of the areas that we have reported and identified in the TIP Report on Cuba that we need to work on, we have established with the Cuban Government, an ongoing process of sharing information that allows us to make our points and also understand what they are doing and what they are not doing. And that is basically the point I wanted to make.

Thank you, sir.

Mr. SMITH. If you could, Mr. Carouso, speak to the India issue, if you would like. And really touch on the T visa report today, the Indian Government being very hostile toward that. But also, what do we have? I mean some of the earlier hearings that we had in this subcommittee were on very, very young Indian girls who were trafficked. I remember I was actually in Nigeria in between stops on a trip and I watched an unbelievably incisive CNN report that talked about in ½ hour what I had heard from a number of the witnesses from India for years about how the police were tipped off right before a brothel raid where underage girls, some as young as 10, were quickly scooted out the building so that they could not be rescued because there was an informant within the police department.

One of the things that our TIP minimum standards emphasizes is that police are part of the government. If there is complicity by the police, prosecutors, judges, or anyone else in law enforcement, that too constitutes a violation of minimum standards.

So if you could speak to India, if you would, and then I will yield to Mr. Cicilline.

Mr. CAROUSO. Actually, EAP does not cover India. So I am going to defer to Kari.

Ms. JOHNSTONE. So I will in fact speak about India.

We do have serious concerns about the trafficking situation in India. We absolutely share your concern about such appalling stories that we, unfortunately, do hear coming out of India. The Government of India does not fully comply with the minimum standards for the elimination of trafficking, but it is making improvements in efforts to do so in our assessment.

During the reporting period, the government continued to fund shelter and rehabilitation services for women and children throughout India. It trained prosecutors and judges. And upon order of the Supreme Court, several states launched searches to trace the whereabouts of thousands of lost and abandoned children, including, we believe, potential trafficking victims.

The government's law enforcement progress was unclear, however, as you stated, as the government did not provide adequate disaggregated anti-trafficking data. And official complicity remained a serious concern that we share with you as well, Mr. Chairman. We continue to be troubled that victims were sometimes penalized through arrests for crimes committed as a result of being

subjected to human trafficking, and that many anti-human trafficking units which liaise with other agencies and refer victims to shelters were not functioning.

NGOs assessed that government victim care services were inconsistent and inadequate for the scale of India's trafficking problem. We, therefore, remain concerned about the serious human trafficking situation in India, including forced and bonded labor.

On the T visa issue that you mentioned, I also would like to say that that is a concern that we share. We are deeply concerned by the reports that some Indian nationals holding U.S. T visa have experienced travel restrictions. As you noted, this is an important protection that the United States provides to trafficking victims, and we take that very seriously.

The current status of the Indian policy, as even the Reuters story that came out today indicated, is unclear. We continue to ask the Indian Government both to fully repeal the policy and give us a better understanding of what they are doing. We have engaged repeatedly, both in Washington and within India through our mission at very high levels. Ambassador Susan Coppedge and I will be heading there again this month, and we will definitely raise the issue of the T visas as well as the other, these other concerns that we have about human trafficking.

Mr. CICILLINE. Thank you, Mr. Chairman.

Thank you again to our witnesses for your work and for your testimony today. I really want to focus my questions on Malaysia.

I have looked carefully at the 2014 TIP Report. And when you compare the 2014 and 2015 TIP Reports, the bulk of the recommendations that the Department makes regarding Malaysia are substantially the same. For example, they both report the need to amend Malaysia's anti-trafficking law, to provide protective services to all victims, to implement procedures to identify labor trafficking victims, to offer alternatives to deportation to countries where victims face oppression, to increase efforts to notify migrant workers of their rights, and to better cooperate with other governments in the region. They look like the same recommendations.

And so my first question really is, if the Government of Malaysia had made a good faith effort to improve its anti-trafficking efforts, why did the government fulfill so few of the recommendations that were laid out in the 2014 TIP Report?

Ms. JOHNSTONE. If I may begin by noting that the recommendations in the TIP Report generally are quite broad and long-term. And they are usually meant to bring a government into full compliance with the minimum standards. So they are not short-term or small.

And very frequently if you look at different countries as well, you would find that from year to year many of the recommendations are repeated, even if there is tier movement, because there may be some, some progress in one area of the recommendations but not others. So that is something that you would see in many countries.

In the case of Malaysia——

Mr. CICILLINE. But again, the point is that they should do some of those before they change positions on the rankings, not just——

Ms. JOHNSTONE. And they may, indeed, be making significant efforts toward fulfilling those recommendations without completely

fulfilling the recommendations, which I think you could say is the case with Malaysia in 2015.

We had said, I mentioned earlier, for several years that our primary top recommendation, our biggest concern was how victims are treated in Malaysia. And with the adoption of amendments to their law we do believe that, if fully implemented, that the new law would fundamentally change the victim protection system.

Mr. CICILLINE. But to be clear, those recommendations were not adopted at the time of the issuance of the TIP Report. In fact, it says specifically there were draft amendments that were made to existing anti-trafficking law. The cabinet approved the draft amendments and introduced them to Parliament, but Parliament had not passed the amendments at the end of the reporting period.

So it seems to me the only significant difference is the creation of a pilot program for government workers to be out of detention. Is there anything in addition to that that distinguishes 2014 from 2015?

Ms. JOHNSTONE. We certainly saw much increased government efforts and four cabinet level meetings throughout the year in which the government did ramp up and outline significant new efforts that it was taking, including drafting this law through new consultations with civil society which it had not done in the past.

Mr. CICILLINE. Yes.

Ms. JOHNSTONE. That was indeed progress and one of our top recommendations as well.

Mr. CICILLINE. I am very concerned because when you take these two reports and put them side by side, while it identifies actions that Malaysia should take, which I think most countries would understand to mean you should do these things or some effort in a serious way to get these things done. And if you get some of them done you will presumably have some opportunity to move up in the rankings. They got none of them done other than this pilot program and they had a significant change in their status.

So my next question is, did any staff in the Office to Monitor and Combat Trafficking in Persons recommend the upgrade from Tier 3 to Tier 2 Watch List for Malaysia?

Ms. JOHNSTONE. Well again, we do not discuss the internal deliberations and who had which position within the State Department. It is a fact-based deliberative process. And to maintain the credibility of the process itself we believe it is important that the expert opinions throughout the State Department are able to be expressed freely and candidly and that the credibility of the process is really important.

Mr. CICILLINE. So is it the normal course that the Secretary of State's recommendation, without telling what they are, that they mirror regularly the recommendations of your office? Or are departures from the recommendations of your office common? Does it happen once every ten countries? Does it happen once a year? How frequently is the Secretary of State's determination at odds with the determination or the recommendation of the Department?

Ms. JOHNSTONE. As I said earlier, the decision is ultimately the Secretary's to make. Our——

Mr. CICILLINE. No, I know that. My question is, how often is his decision different from the recommendation of the staff of your office?

Ms. JOHNSTONE. In the vast majority of cases the recommendations reach consensus at the working level between the TIP office and the regional bureaus and our colleagues at our Embassies and consulates around the world.

Mr. CICILLINE. So you say this determination is fact based. And obviously you can't tell us what was in the Secretary's head. But the facts that you rely on to make the recommendation, is one difference of circumstances this pilot program?

Ms. JOHNSTONE. As well as the activity of the government throughout the year and in consulting with civil society and drafting the amendments.

Mr. CICILLINE. So on April 17th, the U.S. Ambassador to Malaysia Joseph Yun said that Malaysia needed to show greater political will in prosecuting human traffickers and protecting their victims if the country hoped to improve its Tier 3 ranking. Given that the 2015 TIP Report covers government efforts undertaken from April 1, 2014 through March 31, 2015, meaning that all actions referenced in the report had already occurred before Ambassador Yun's comments, can you explain why the Department disagreed with the Ambassador's assessment?

Ms. JOHNSTONE. Again, we are not free to discuss the internal deliberations and who had which position. The Ambassador did indeed convey accurately the concerns that the entire Department had, including the Secretary, about human trafficking in Malaysia and that the government needed to do more. Ultimately the Tier 2 Watch List assessment makes it very clear that the government still has a lot of work to do. It is far from a good grade. It is equivalent of a D minus. It indicates in fact that they still have a lot of work to do. And we do have serious concerns that are to be addressed.

Mr. CICILLINE. But, Dr. Johnstone, the fact is the Ambassador who is there on the ground makes this determination, says very clearly that they have much more work to do before they can improve its ranking. Your either recommendation or the Secretary of State's determination is contrary to that. And I am wondering if you had a basis for why it is that either you concluded as a recommendation or the Secretary concluded that the Ambassador was wrong? Because you can't both be right. It cannot be that Ambassador Yun is right and Secretary Kerry is right.

Ms. JOHNSTONE. I wouldn't characterize his quote as saying that Ambassador Yun made a recommendation on the tier ranking within that quote as well.

Mr. CICILLINE. No, but he did say that before they could move to Tier 3 they had to demonstrate greater political will in prosecuting human trafficking and protecting their victims if they hoped to improve from a Tier 3 ranking.

Ms. JOHNSTONE. And we did see increased prosecutions and investigations. Of course we are very concerned that we didn't see progress and, in fact, saw a decline in the convictions.

Mr. CICILLINE. In addition, Ambassador Yun noted that there had been a failure to engage in sufficient prosecutions of perpetra-

tors of trafficking. And although the TIP Report notes an increase in prosecutions, it also notes that there were only three trafficking convictions. That is a decline of two-thirds from last year's report.

And it also notes that "The government did not report any investigations, prosecutions or convictions of government officials complicit in trafficking, despite evidence that some government officials facilitated migrant smuggling."

Do you believe, again, that those facts represent a good faith effort to prosecute traffickers?

Ms. JOHNSTONE. We very much share the concern that you just voiced about the low number of convictions. And we have said that both publicly and privately.

When I was just in Malaysia last month we made that point very clearly and indicated that we anticipate significant progress as we are making the decisions for the 2016 Report.

Mr. CICILLINE. But with all due respect, that is comforting to hear. But in the face of an upgrade it sort of raises the question of why it is that a country would receive an upgrade with very little. In fact, other than that pilot program. I don't see evidence.

And I just want to ask you finally, Tenaganita, which is a Malaysian NGO that helps trafficking victims, claims that police have known about the north Malaysian trafficking trail and the existence of human trafficking camps for many, many years. And, in fact, the organization says that migrants have been reporting about the camps since 2007 and that no police action was taken when reports were made about the camps.

Can you tell me, Dr. Johnstone, whether any officials at Tenaganita were interviewed during the compilation of the TIP Report? And does the State Department agree or disagree with those allegations, and if so, why?

Ms. JOHNSTONE. We do maintain a relationship both through our Embassy and our office here with Tenaganita. I met with them myself as well in Malaysia last month. Their information definitely is something that we take into account when we are compiling the report.

We noted in the report and subsequently in our meetings with government officials the serious concern that we take about the allegations of trafficking in those areas and the camps and mass graves that were found. We understand that there is an ongoing investigation that has produced a report that is now with the Attorney General. We stressed the importance of accountability for everyone who is responsible for any human trafficking in those places, including government officials.

Mr. CICILLINE. So you don't disagree with the allegations that were made by that NGO?

Ms. JOHNSTONE. It is definitely a serious, serious issue that we have raised with the government, yes.

Mr. CICILLINE. So let me just ask a final question. You said that this is a fact-based deliberative process. Can you tell me specifically what facts you relied upon to raise Malaysia's standing in the TIP Report?

Ms. JOHNSTONE. The facts that are outlined in the report itself, the ones that we just discussed, including the increase of prosecutions and investigations, noting that it is a mixed picture, that de-

clining convictions are still a cause of concern. The government efforts that were made to reform the victim protection system during the reporting period, which was our top recommendation for the last several years.

Mr. CICILLINE. So no investigation or prosecutions of government officials; correct?

Ms. JOHNSTONE. There have been investigations of government officials. We don't have the prosecutions or convictions.

Mr. CICILLINE. No prosecution of government officials despite evidence of complicity of government officials. A decline in overall prosecutions by two-thirds. No enactment of any anti-trafficking laws, but some expectation they will, and the pilot program. Those are the facts.

Have I missed any important ones?

Ms. JOHNSTONE. I believe that you maybe misspoke about the prosecutions. The prosecution investigations did increase. The convictions decreased.

Mr. CICILLINE. Convictions.

Ms. JOHNSTONE. So the law enforcement picture was actually a mixed one. There were increases in both prosecutions and investigations.

Mr. CICILLINE. But a significant decline, and I think it was three convictions.

Ms. JOHNSTONE. Three from nine, so.

Mr. CICILLINE. But nine wasn't——

Ms. JOHNSTONE. It is woefully inadequate. We completely agree with you on that.

Mr. CICILLINE. Before I yield back, Mr. Chairman, this raises very serious concerns for me. I consider this report to be sacred and a very powerful international diplomatic tool. And I think the context in which this decision was made about Malaysia and that woeful lack of evidence to support it, and the context of the trade agreement, is something which will do permanent damage to this process. And I am disappointed, frankly, that nothing in this hearing has disabused me of that conclusion.

For all the men and women who put so much work into this and for the mission it is designed to support, this is a very disappointing occurrence.

And with that I will yield back, Mr. Chairman.

Mr. SMITH. Thank you very much, Mr. Cicilline. I will without objection go in a moment to Brad Sherman.

Just so I am absolutely clear, no ambiguity whatsoever, because like Mr. Cicilline, I have read everything I could possibly get my hands on regarding Malaysia and I just want to have it established beyond any reasonable doubt that no other factor like trade, when it comes to Malaysia, opening an Embassy and new relationship with Cuba, or superpower relations or geopolitical considerations when it comes to China was involved, it was all exclusively on human trafficking, nothing but trafficking that decisions for each of the designations was made? Is that true? Is that your testimony?

Ms. JOHNSTONE. As I said earlier, the decisions about the tier designations are made by the Secretary of State. I was not part of the final discussions in the decision-making that he made. To my knowledge, certainly at the level of the people that you have here

today, all of our colleagues in the regional bureaus and our Embassies and posts around the world and within the TIP office, all of our discussions about the factors and criteria were specifically looking at the TVPA criteria and the minimum standards there and trafficking.

Mr. SMITH. And did you disagree with the Secretary on any of these designations?

Ms. JOHNSTONE. Again, on internal deliberation process we don't discuss that publicly, who took which position when, and so that we can protect the credibility of the process. There are robust discussions, as there are on any policy issues. People have different perspectives on things. Ultimately the Secretary has to take into account views, perspectives, and the expertise of others.

And if I may, I would also like to address that I think there is a misperception of some of our regional bureau colleagues and our Embassies and missions, and perhaps others in the State Department, who also bring expertise. It is not only the TIP office that are experts on the trafficking situation and the situation in their countries. But the discussions that we have with them inform both the tier designations, but even more importantly the report.

It could not be as factual and as accurate and as objective as it is without the expertise and knowledge——

Mr. SMITH. Again, as I said earlier, I thought your reporting on Cuba was excellent, as well as some of the other countries that where there is a dispute but the designation didn't match, in my opinion, the findings. And again, just to put an exclamation point behind it, Malaysia had three convictions. China had 35 and yet they are not a Tier 3 country as they ought to be. And Thailand had 151 convictions. Again, it is not the only minimum standard but it is a very, very important one. 151 convictions in Thailand and they remain Tier 3.

If I was in the Thai Embassy I would say, What gives here? That is very, very discouraging. I think they ought to be Tier 3, but the others ought to be Tier 3 as well.

Mark Lagon makes a number of important observations. One of them is about Uzbekistan. He notes that the report notes that child labor mobilization continues in some districts. And he points out that the government-compelled forced labor of adults remained endemic in the 2014 cotton harvest. And asks the $64,000 question: how can state-run trafficking earn anything but a Tier 3 ranking?

What alleged U.S. strategic interests could motivate even a purely cynical upgrade?

Ms. JOHNSTONE. So on Uzbekistan, this is a country near and dear to my heart. As you mentioned in the beginning, I served as human rights officer there. And while I was there actually I was asked by the Embassy to focus on trafficking in persons as that was an issue that was of growing concern to the Department and the administration, even then in 2003 when I served there.

The issues of forced labor, particularly child labor as well as adult labor, are of great concern to the Department. We have over the years in various roles that I have been in personally also engaged on this with the Uzbekistan Government in close collaboration with our NGO partners as well, who provide vital information

in very difficult circumstances. It is definitely an issue that we remain very concerned about.

And, again, I would point out that Uzbekistan was upgraded only to Tier 2 Watch List; that does indicate they are not meeting the minimum standards. They have a long way to go to improve their efforts on combating human trafficking. However, we do believe and did assess that in 2014 they did make significant efforts to dramatically reduce the use of forced child labor.

We share your concerns about adult forced labor, both in the cotton harvest and other sectors.

Mr. SMITH. And without objection, and I mentioned this earlier I believe, but if not I am doing it now, very incisive articles by Reuters reporters Jason Szep and Matt Spetalnick will be made a part of the record.

And also a series of reports of commercial fishing, slavery in Papua New Guinea and Malaysia by Robin McDowell and Martha Mendoza from the Associated Press. Without objection I would like to make those a part of the record as well.

Without objection too, I yield to my good friend and colleague for any comments he might have or questions.

Mr. SHERMAN. Thank you, Mr. Chairman.

Dr. Johnstone, you have an outstanding reputation. If you would actually tell us something, I would believe it. If you are just going to tell us that the decision was made by Secretary Kerry, you are not qualified to psychoanalyze him. If he made the decision, we ought to have him here and ask him. Because we asked you what your opinion is, and you won't tell us.

But let me go at this a different way. I tend to believe what Reuters reports. Pretty accurate service. More accurate than most. They report that Malaysia, Cuba, and China all got better ratings than your office wanted to give them. Can you give me any reason to disbelieve Reuters?

Ms. JOHNSTONE. Well, I would like to take this opportunity to reiterate that human trafficking is an issue that not only the TIP office cares about, but our colleagues throughout——

Mr. SHERMAN. I know.

Ms. JOHNSTONE [continuing]. The State Department.

Mr. SHERMAN. I know. Let us put, it is quite possible your office could make a mistake. It is quite possible you want to give some country a Tier 1, and due to factors and arguments made by others in the State Department they get a Tier 2. It is possible you give them a Tier 2——

Ms. JOHNSTONE. I think that is what happened.

Mr. SHERMAN [continuing]. And some, and for other reasons outside your office they are given a Tier 3. And all of a sudden our trade negotiations blow up. That is possible. Didn't happen in this lifetime but it is possible.

But I am asking about your office. And I, I have got a report here from Reuters that says your office wanted to give a lower rating to Malaysia, Cuba, and China than they ultimately got. Can you give me a reason to disbelieve Reuters?

Ms. JOHNSTONE. I would reiterate that, again, the narratives themselves are accurate and objective and the product of——

Mr. SHERMAN. Okay. You know, you could just say no, you are not going to give me a reason to disbelieve Reuters. Because telling me that you do a great job and that the other offices of the State Department do a great job is not answering, it is just telling me what, of course, the State Department believes, which is every office is doing a great job.

Can you give me a reason to disbelieve Reuters' report about what your office recommended?

Ms. JOHNSTONE. I believe that the process through which we came to the both the tier determinations themselves as well as the reports was very much improved by the deliberative process and the robust discussions and debates within the Department. Of course people will have different perspectives. That is natural for any——

Mr. SHERMAN. Okay. So that is not a reason to disbelieve Reuters. That is just a reason to say maybe Reuters was right, and your office recommended a lower. And maybe, and but maybe the upgrade was justified. But you are not telling me in your answer that there wasn't an upgrade from the position of your office. You are just telling me that there are other brilliant people at the State Department and they may have a good point.

Is that the point you are making? Or are you—I will stipulate, other folks in the State Department are brilliant. They have input. They may have good reason. And it could very well be that the upgrade is called for, an upgrade beyond what your department or office would recommend. But I am just asking about your office. Can you give me any reason to disbelieve the sentence I quoted from Reuters?

Ms. JOHNSTONE. Again I——

Mr. SHERMAN. Okay, okay. We will go on. We will go on.

Do you personally believe that Thailand deserves a worse grading than Malaysia? Your personal belief. Or do you simply choose not to give your personal belief?

Ms. JOHNSTONE. I am here representing the State Department, so I——

Mr. SHERMAN. Could you give us your personal belief?

Ms. JOHNSTONE. The Department's views on that, Thailand's rating——

Mr. SHERMAN. I didn't ask for the Department's views. If you refuse to give me your personal views, just say you refuse, and I will go on, on to the next question.

Ms. JOHNSTONE. If I could comment, I think that implicit in your question is maybe a misperception as well that we, I think the Reuters article also cast this as a winning and losing, and that the TIP office lost more often this year. And I don't think that is how we——

Mr. SHERMAN. That is you are answering a question I—this is great, you won't answer the questions I do ask and you are answering the questions I don't ask. I realize that your office has got to fight with, argue with or at least discuss things with other bureaus and offices around the State Department. I am not asking what is the State Department's view. I got that in writing. I am asking what your view is and what your department's view is and you won't tell us.

And the fact that Secretary Kerry would send you here without instructing you or authorizing you to tell us what really happened gives me all the information I need. I have got a Reuters report that Secretary Kerry and the State Department is unwilling to deny.

Now I am not a good enough lawyer to get you to admit it. Okay, you know, you don't have to answer a question. But Reuters reports that your office wanted to give a lower grade, lower tier than these three countries ultimately got. You are not saying that is not the case. You are saying that the State Department is a brilliant organization with lots of brilliant people. Wouldn't want you to say anything else.

But if the State Department can't deny this Reuters report, then I think we know who controls the ultimate decisions. And that is those who want this trade deal. And I think this report is an important part of our human rights efforts. I don't think it is totally discredited. I think that it can be relied upon except when there are major diplomatic or economic reasons to go another way. And for 80, 90 percent of the countries there is no other reason, there is no strong other reason to go another way.

But can you mention any respected human rights organization that says Malaysia is entitled to be treated, given a higher grade than Thailand? You know them all. You work with them all. We have got another one of them coming for the second panel. But you know that is just one. He can only invite one. You probably, if I asked you, could identify 40 organizations, some very well known, some very well respected, some less so. Can you name anybody who doesn't get a paycheck from the State Department, who is involved in human rights who says that Malaysia deserves to be in a higher tier than Thailand?

Ms. JOHNSTONE. There are indeed a variety of opinions on Malaysia, which we did take into——

Mr. SHERMAN. You know them all. Can you name one?

Ms. JOHNSTONE. All I can tell you is that we have consulted with NGOs. We certainly take their views and information. They are very important——

Mr. SHERMAN. And every NGO I am aware of, and you know a lot more than I do, every NGO I am aware of says that Malaysia is not entitled to be in a higher tier than Thailand. And so I go to you, the expert, and I say, Hey, there may be some organizations I haven't talked to or even heard of. And I ask you to name just one that thinks, you know, even if the community was 39 to 1 against the position this report takes, at least there would be one. And you know the top 40. Is there one that agrees with the report's decision to put Thailand in a lower category than Malaysia?

Ms. JOHNSTONE. As I said, there are a variety of opinions on the human trafficking situation in Malaysia, as there are on Thailand. There are serious problems in both countries. The Tier 2 Watch List ranking indicates very clearly that Malaysia still has a long way to go and they are still serious——

Mr. SHERMAN. That is a nice answer but you didn't name one. You didn't name one because there isn't one. If you knew one you would tell me, wouldn't you?

Ms. JOHNSTONE. At the end of the day the tier ranking is the decision that the Secretary of State makes.

Mr. SHERMAN. And that is why it is the Secretary of State who ought to have the whatevers to come before Congress and defend this decision. Because it puts you in a terrible position. The Secretary made these decisions. Only he can indicate why he made them.

You don't know why he made them. I know why. You don't call me as a witness, but if I was called as a witness I would say he made them because he wants TPP to go forward and is willing to throw the Trafficking In Persons Report out the window. But I am not testifying to that because I am sitting up here. You haven't asked me to sit down there.

Look, you work very hard. For those of us who think that your work is very important this is a difficult situation. I respect your personal integrity. You have been put in a very difficult position. You have done as good a job as anyone could possibly due in justifying one of the worst decisions made by the Department this year. And you didn't make it.

And I will yield back.

Mr. SMITH. Thank you very much, Mr. Sherman. And any time you want to testify, you are more than welcome.

Thank you again.

Mr. SHERMAN. I fear some of my colleagues would be as tough on me as I am on so many witnesses. They have seen it. I don't have anything good, I don't have enough, enough in the karma bank to put myself through that.

Thank you.

Mr. SMITH. Thank you.

I do want to thank our distinguished witnesses for your testimony. As you can see, there is a great deal of bipartisan concern here, particularly these countries in question. And I would like, without objection, to put a letter that was sent to Secretary Kerry from the Cotton Campaign which lays out their very specific concerns about the ranking of Uzbekistan in this year's TIP Report.

Thank you again for your testimony. And we will look forward to working with you going forward.

Ms. JOHNSTONE. Thank you. Likewise, we look forward to working with you. And thank you for your commitment to this issue.

Mr. SMITH. Thank you, Dr. Johnstone.

I would like to now welcome our second panel which is Ambassador Mark Lagon, who is our third Ambassador-at-Large for Human Trafficking and the Director of the Office to Monitor and Combat Trafficking in Persons at the U.S. Department of State.

Ambassador Lagon's record of involvement in human rights is long and diverse, spanning from Deputy Assistant Secretary in the Bureau of International Organization Affairs, responsible for human rights, humanitarian issues and U.N. reform, to academia where he was the chair for Global Politics and Security at Georgetown University's Master of Science in Foreign Service program, and Adjunct Senior Fellow for Human Rights at the Council on Foreign Relations. He was also Executive Director and CEO of the anti-human trafficking non-profit Polaris. He currently serves as the President of Freedom House.

Ambassador Lagon, the floor is yours.

STATEMENT OF THE HONORABLE MARK P. LAGON, PRESIDENT, FREEDOM HOUSE (FORMER AMBASSADOR–AT–LARGE FOR TRAFFICKING IN PERSONS, U.S. DEPARTMENT OF STATE)

Ambassador LAGON. Mr. Chairman, I am very pleased that you and the members of the subcommittee have invited me to testify on the TIP Report, as I have had occasion to do in the past. I would like to look at some of the key issues in the report.

Of course, we are here to focus on specific countries, but it is worth remembering that while getting less attention, the report each year highlights themes as well, with the text that precedes the country narratives. And this year's report highlights some very interesting and important things: Global supply chains and, in particular, offering cues to the private sector to fight the problem of human trafficking.

The report highlights harmful cultural norms and, hence, doesn't succumb to cultural relativism. Although I will note that the report would have done well to note a cultural tolerance for wide-scale sex buying in Latin America, Europe, Southeast Asia, Japan, as a driver of sex trafficking.

And I commend the report for highlighting alternatives to testimony drawn from traumatized trafficking survivors as the means of evidence to hold tormentors to account because all too often relying on testimony of the victims solely propels law enforcement in countries around the world to leverage the properly unconditional protection services to elicit cooperation.

Most important, I want to highlight in the global findings in the report, some percentages. I have pulled out my calculator, as I do every year, and to look at a chart on page 48 of the report. We see a 23.1 percent drop in convictions worldwide. And that was from an already modest 5,700 convictions the previous year.

Prosecutions for labor, as opposed to sex trafficking, dropped from an already low 12.7 percent to 4.2 percent.

And the convictions went from a low 8.1 percent the previous year to only 4.9 percent of convictions for human trafficking being for labor. So there is, in essence, global impunity for labor trafficking.

With respect to country situations, many of which you have already raised, and I am happy that you even cited some things already in my testimony, China in the view of Freedom House is the largest governance problem in the world, both in terms of its internal treatment of human rights and as a pernicious model. Freedom House, of course, ranks China as not free in its own reports.

Both the intrusive actions and its sins of omission are important in the human trafficking area. Intrusive actions of the state fuel trafficking, including a decades-long population policies that created a shortage of females, both as spouses and sexual partners. And I really want to highlight the report this year which says, "The government converted some reform through labor facilities into different types of detention centers that continued to employ forced labor."

What the Chinese State neglects to do also matters in terms of human trafficking. And very importantly, the report calls for China to provide legal alternatives to foreign victims' removal to countries where they would face hardship or retribution. Read: North Korea. Heinous punishment to people who would be returned to North Korea, which causes a human trafficking problem in China.

There is a terrible arbitrary rule by law pattern, as opposed to rule of law pattern in China. And that is manifest in the failure to adopt legislation on all forms of human trafficking.

Malaysia; much of the focus of your discussion today, and a major controversy. Well, Freedom House ranks Malaysia as partly free. And I will say for my own part, I have endorsed the Trans-Pacific Partnership because generally speaking I think open rules and norms put the right pressure on illiberal regimes. But the upgrade seems quite clearly to coincide with the desires of the Department of State to make Malaysia eligible for the TPP, and not the merits.

For instance, corruption is rampant. It is under-emphasized in the report. What the report does highlight seems inconsistent with an upgrade, especially merely four convictions for labor trafficking or passport retention. And screening mechanisms to identify and assist trafficking victims are truly thin.

By comparison, the State Department sustained a Tier 3 ranking for Thailand because of things like victim protection remaining insufficient in its massive sex industry, in fishing and seafood, and in Thai citizens migrating to work elsewhere.

I will repeat, as you noted, I believe that the upgrade of Vietnam to Tier 2 is bewildering, especially with the utter absence of prosecutions for labor trafficking and significant official complicity.

Uzbekistan, being upgraded to the Tier 2 Watch List is striking. The report notes that child labor mobilization continues in some districts of the country and "Government-compelled forced labor of adults remained endemic in the 2014 cotton harvest." This is one of the most heinous human rights abusers in the world, even among those countries that Freedom House rates as not free.

As far as Cuba's upgrade to the Tier 2 Watch List, well, Freedom House ranks Cuba as clearly not free. The grounds for an upgrade are really questionable. The report itself says the penal code does not criminalize all forms of human trafficking, much less are those problems a matter of enforcement. And the Cuban regime did not even claim efforts to prevent forced labor or any trafficking-specific shelters.

So with cases like Cuba and Malaysia sparking observers to suggest the report is politicized, what are we to make of this? To say that no considerations besides the pure merits of human trafficking come into play in the Department is a bit like the claim of being shocked, shocked to find gambling going on at Rick's joint in Casablanca. It shouldn't surprise us.

But what should be done to protect, to maximize the integrity of the TIP Report rankings? Some steps we could take would make the malady that you have been looking at in this hearing worse. A few years ago a Senator on the Senate Foreign Relations Committee, no longer there, concerned that Singapore and Malaysia were getting rather low rankings considering U.S. economic and

strategic interests, proposed legislation to markedly increase the role of the regional bureaus. That was a lousy idea, in short.

In the early life of the TIP office, former Deputy Secretary of State Richard Armitage, who no one could call a human rights idealist, came to the decision that the pen for the draft of the report and the proposed rankings should lie with the Office to Monitor and Combat Trafficking in Persons. That needs to be protected.

The most productive solution is for Congress to insist in its oversight role, and the Senate in focusing on appointments, that the Ambassador's position is filled and it is filled with someone with strong experience, vision and bureaucratic chops, because there is bureaucratic infighting, as your hearing has focused on. Delays nominating and confirming an envoy lead to more disputed rankings, ending up rejecting the substantive expertise and recommendation of the TIP office.

And I am really troubled how long it took to replace Ambassador Luis CdeBaca. A fellow human rights advocate in the area of women's rights, who I won't name out of respect for her, with deep experience in both civil society partnerships and multi-lateral institutions, was rejected as a finalist as I understand it because she was apparently too concerned about the commoditization of females for sex trafficking. I have said here before you when you have been kind enough to invite me to testify, we need a strong advocate for fighting both labor and sex trafficking. It is crucial.

How can we best protect the strength and integrity of the report? Congress should insist that the leader of the office be someone who themselves reflects strength and integrity. There is going to be a deliberative process in the Department; we know it. But it will be much more likely to produce credible rankings that maximize the United States' diplomatic leverage to get countries to pass better laws and, more importantly, to implement them, if there is a strong leader of the office. Then there will be fewer calls like Malaysia compared to Thailand.

So thank you for inviting me, as ever, to testify. This is an issue in which dignity or enslavement lie in the balance.

[The prepared statement of Ambassador Lagon follows:]

"The U.S. Anti-Trafficking Report and Diplomacy: Sustaining Candor and Credibility"

Written Testimony by Mark P. Lagon
President, Freedom House

House Committee on Foreign Affairs Subcommittee on
Africa, Global Health, Global Human Rights, and International Organizations

Hearing: "Demanding Accountability:
Evaluating the 2015 *Trafficking in Persons Report*"

November 4, 2015

Introduction

Mr. Chairman and members of the Subcommittee, thank you for inviting me to testify about the *Trafficking in Persons (TIP) Report*. I ask that my written testimony be admitted into the record.

Mr. Chairman, as primary author of the Trafficking Victims Protection Act (TVPA) of 2000 and several reauthorizations, you rightly ask about the content, impact, and integrity of the Report to which you helped give birth. Many legislators of both parties stand with you in their focus on combating slavery.

Thematic Issues

First, it is worth noting themes in the Report. While getting less attention, the Report each year highlights themes in the rich if succinct analytical text preceding the actual country narratives, and like those narratives, they are also elaborately drafted and cleared within the Department. Given my current job, it is amusing in retrospect how I fought when Ambassador-At-Large in that clearance process with some who objected to highlighting correlation between Freedom House's scores and TIP rankings, with the obvious implications: veritable democracy helps fight trafficking.

There is a temptation to highlight *somewhat* related issues to "sell" trafficking as a problem when a focus on its fundamental scale and barbarity suffice:

- Calling trafficking a national security threat from illicit migration diverts attention from the exploitation defining it and the profit incentives to its perpetrators.
- In recent years, some have pointed to a very real trafficking vulnerability found in spiking refugee flows, seen so starkly in Europe, or in Islamic State enslavement of women and children. But these phenomena must not obscure *longstanding* problems among legal guest workers (such as in the Gulf), bonded laborers (such at in South Asia), and those trapped in the sex industry (including in Europe).
- There has been some effort to connect trafficking to climate change to win new allies in the fight against slavery.

I commend the TIP Office when it resists suggesting abduction, unregulated adoption, organ sales, and human smuggling by coyotes are at the core of human trafficking. These are all public policy issues worth addressing. Yet some trends, or merely trendy issues, should not obscure the heart of the matter: the intentional snookering, grooming, and/or coercing into sexual or labor slavery of marginalized groups hoping for a better life.

The 2015 Report highlights some very important issues:

- Global supply chains -- featuring (1) the findings of the most impressive NGO focused on that area, Verite, and (2) cues for private sector opportunities to fight the problem.
- Harmful cultural norms (not succumbing to moral relativism), although the report should have additionally highlighted cultural tolerance of wide-scale sex buying in Latin America, Europe, Southeast Asia, and Japan as a market driver of sex trafficking.
- Seeking alternatives to testimony of traumatized trafficking survivors as evidentiary means for holding their tormentors to account (such as financial and credit card records, as recommended by my colleagues at Human Rights First); relying on testimony propels law enforcement globally to leverage the properly-unconditional delivery of protection services to elicit cooperation for prosecutions from victims.

Page 48 of the 2015 Report features the **breakdown of total prosecutions and convictions globally compared to previous years, disaggregating those for sex and labor trafficking**. Readers of the 2015 Report must not miss these findings when one calculates percentages:

- There was a 23.1% drop in convictions worldwide from the previous year's modest 5,776 convictions.
- The percentage of prosecutions that were for labor rather than sex trafficking dropped from a modest 12.7 percent the previous year to only 4.2 percent this year. And the percentage of convictions for labor trafficking dropped from an already low 8.1 percent to only 4.9 percent this year. These stark facts amount to **veritable global impunity for labor trafficking**. (These figures included only 4 convicted in Malaysia, and exactly zero prosecuted in Vietnam in the realm of labor trafficking, rollicking in scale in both nations.)

As ever, this remains, since the time I headed the TIP office, the most important single source of information in the Report other than the chart comparing Tier rankings globally on page 54.

Country Situations

The Subcommittee has the opportunity today to hear from and question witnesses inside and outside the Executive Branch about particular countries. Let me address just a few:

Due to remaining stratification by caste, **India** is demographically the country with the largest trafficking problem. (This is not to mention its persistent problem of diplomats not vigorously fighting for its vulnerable guest workers abroad, and some diplomats shielded from accountability for subjecting domestic servants to trafficking conditions.) Yet it is **China** which represents the biggest governance problem in the world. Freedom House ranks China as Not Free. *Intrusive* actions by the state fuel the trafficking problem, including: residual effects of decades of population policies creating a shortage of females as spouses and sex partners; and the intentional efforts to displace and disadvantage the main ethnic and religious groups in occupied Tibet and Xinjiang. And the report strikingly says, "the government converted some RTL [reform through labor] facilities into different types of detention centers…that continued to employ forced labor." The eradication of the *laogai* system is a chimera.

What the Chinese state *neglects* also matters: not offering a safety net for those migrating to Chinese cities to seek work; and failing to match a national security approach to combating trafficking with sufficient survivor protection according to the benchmarks of the TVPA and UN's Palermo Protocol. The Report calls for it to "provide legal alternatives to foreign victims' removal to countries where they would face hardship or retribution"—most heinously in North Korea. As such, the situation offers traffickers a potent tool to coerce victims in China. Moreover, its arbitrary rule *by* law rather than clearly established and implemented rule *of* law are seen in the failure – noted in the Report -- to adopt clear legislation on all specific forms of human trafficking per se (aligned with the UN Palermo Protocol). The conviction of 35 traffickers is tiny relative to the size of China's population. In short, China's current ranking of Tier 2 Watch List is generous.

The major controversy of the 2015 Report is the unjustified upgrade of **Malaysia**. Freedom House ranks Malaysia as Partly Free. To be clear, I have endorsed the Trans Pacific Partnership on trade to subject illiberal regimes to open, accountable rules and norms. But the upgrade seems to coincide more with desires to make Malaysia more eligible to join the TPP than the merits. Corruption is rampant, and stunningly underemphasized in the Report's recommendations. What the Report does highlight seems inconsistent with an upgrade: There were only 4 convictions for labor trafficking or passport retention in the year rated. Migrant workers lack basic access to justice. Screening mechanisms to identify and assist trafficking victims are thin. Moreover, victims face forced repatriation to countries were they "would face retribution or hardship."

In the very same region, the State Department rightly sustained a Tier 3 ranking of **Thailand**. Freedom House ranks Thailand as Not Free. Unsurprisingly, given the nature of the post-coup regime in Thailand, authorities there have been touting a sort of law and order approach on steroids as evidence of progress. Victim identification, protection, and rehabilitation remain insufficient in the areas of vulnerability: the massive Thai sex industry; Thai and foreign workers in fishing, seafood and other labor sectors; and Thais citizens migrating to work elsewhere.

The upgrade of **Vietnam** to Tier 2 is bewildering. And the most important two paragraphs in all the narratives, the third and fourth, are too long to comport with a Tier 2 ranking. For instance, the Report cites an utter absence of prosecutions for labor trafficking, as well as significant official complicity. This is a clear case of the TIP Office getting to write the narrative when it lost on an internal dispute on the

ranking itself. That disjunction is the single biggest clue of a ranking favoring other diplomatic equities over the merits.

Uzbekistan was upgraded to Tier 2 Watch List for fining college directors and farms for using child labor to pick cotton, and for finally agreeing with the World Bank and ILO to permit the latter to survey recruitment into and practice of child and forced labor in a handful of regions. But the Report notes that child labor mobilization continued in some districts. And it says "government-compelled forced labor of adults remained endemic in the 2014 cotton harvest." How can *state*-run trafficking earn anything but a Tier 3 ranking? This regime is one of the most heinous human rights abusers even among those rated by Freedom House as "Not Free." What alleged U.S. strategic interests could motivate even a purely cynical upgrade?

Cuba was upgraded to Tier 2 Watch List. With a diplomatic opening unmatched by any political opening, Freedom House ranks Cuba as Not Free. Some might claim a past downward political bias against Cuba in U.S. trafficking assessments was removed with the diplomatic opening. I do not look at the past that way.

The grounds for an upgrade are deeply questionable. The Report says:

- "The penal code does not criminalize all forms of human trafficking" on paper, not to speak of enforcement.
- The Cuba regime did not even dissemble and claim any "efforts to prevent forced labor" nor "any trafficking-specific shelters."

It is far-fetched to suppose that there is no forced labor in state enterprises or for political prisoners in one of the world's few remaining Marxist-Leninist states. Also, a burgeoning sex industry – welcoming sex tourism – fuels exploitation, despite steps the Report notes taken by Cuba to address sex trafficking.

"Politics Triumph?"

The cases of Cuba and Malaysia sparked media and other observers to say the latest report is politicized. This mirrors the common criticism of the UN for being politicized, when it is a political body. To think no other considerations besides the merits come into play in TIP ranking discussions in the Department of State is much like the claim of being "shocked, shocked" to find gambling going on at Rick's joint in the

film "Casablanca." Yet, for the most part, there is a constructive tension between the specialists of the TIP office and the officers of the regional bureaus and U.S. embassies. The dynamic is revealed by those outlier cases where regional bureaus have not motivation to raise countervailing rationales to have a higher ranking. North Korea and Iran, for instance, have gotten the rankings the TIP Office recommended "by acclamation," as it were; moreover, those are precisely the cases where a Tier 3 ranking leads to sanctions rather than them getting the waivers which you, Mr. Chairman, have justifiably long criticized.

Various Solutions

So what should be done to protect the integrity of the TIP Report rankings as a potent tool of global public diplomacy and bilateral diplomatic leverage? Some steps would be downright counterproductive. Legislative fixes proposed to increase the role and cooperation of the State Department's regional bureaus risk making the malady worse. A few years ago, concerned that Singapore and – as it happens – Malaysia were getting unhelpfully low rankings given U.S. economic and strategic interests, a Senator – now no longer in office – proposed legislation markedly increasing the role of the regional bureaus. It was an ill-conceived idea. A more benign call for increased voice of the regional bureaus was included in the TVPA Reauthorization of 2013. In the TIP Office's early life, as Deputy Secretary of State Richard Armitage, who no one can accuse of being a one-dimensional human rights idealist, decided to give the office the pen to do the first draft and proposed rankings for the Report. That role needs protecting.

Some proposals are like chicken soup for the malady; they may not help, but they would do not harm. For instance, some have proposed elevating the TIP Office to the level of a bureau and the Ambassador to Assistant Secretary rank. That ostensibly would help the TIP Director go toe to toe with the heads of regional bureaus at the same rank. But it might not achieve an appreciable effect on the integrity of the rankings in a Department inevitably dominated by regional bureaus controlling embassies worldwide.

The most productive solution is the Congress, including the Senate with its role in confirming appointees, insisting the TIP Ambassador's position is filled, and with someone with strong experience, vision, and bureaucratic infighting chops. Delays nominating or confirming the leading U.S. envoy to combat trafficking inexorably lead to more disputed rankings ending up rejecting the substantive recommendation of the TIP Office. I am troubled how long it took to fill the post after Luis CdeBaca left, after the object lesson on liabilities of a long vacancy in the post of Ambassador-At-Large for

International Religious Freedom early in the Obama Administration. A fellow women's rights advocate – who I will not name out of respect for her – with deep experience in civil society partnerships and multilateral institutions was apparently rejected as a finalist for the post for being too concerned about commoditization of females in sex trafficking. Individual candidates picked or not aside, a strong advocate for fighting **both labor *and* sex trafficking** is crucial. What is the best way to get a TIP Report that reflects strength and integrity? It is for Congress to insist through vigorous oversight that the leader of the office it created reflects strength and integrity. Then the perfectly natural deliberative process in the Department will produce credible rankings offering the most leverage to get other nations to improve their laws, and all the more essential, to energetically implement them. Then there will be more calls like Thailand, and fewer like Malaysia, in the case of this year's report.

Once again, thank you for welcoming me to speak to this important global problem, where dignity or enslavement lie in the balance.

Mr. SMITH. Ambassador Lagon, thank you so much for your testimony, for your life-long commitment to human rights.

And when you served as Ambassador you were absolutely candid both on the record as well as off. And I think that made an enormous difference. I remember it was you who finally, despite the China hands who didn't want, I'm sure, you to do it, pointed out the nexus between the coercive population control program of the PRC and the consequence, particularly of sex trafficking, because of the missing daughters in the People's Republic of China as a result of sex-selection abortion. And you made that very clear.

Your comments on Uzbekistan, and I did ask that question based on your testimony, and I thank you for it. I would agree with you that when we originally did this law the absolute intent was trafficking and only trafficking goes into the book. We want an honest assessment of friend and foe alike, allies around the world. No games, no brinkmanship.

And again, as I have cited many times, the fact that Israel and South Korea during the previous administration's watch were singled out, there was shock and dismay frankly among many quarters, but it actually led to an amelioration of the issue, victims were protected, and prevention strategies put into place. And now South Korea has very, very strong laws as does the State of Israel.

We should never pull our punches. And you have made that clear. And I want to thank you because during your tenure you were always available to this subcommittee and to other Members of Congress, House and Senate, and you were always candid. And that is beyond refreshing.

I will also say, any suggestions you have about strengthening the TIP office would be appreciated from you personally and from Freedom House.

The one of the things that you point out in your written testimony is that the last trafficking reauthorization may have inadvertently increased the role of the regional bureaus. I believe that as well, reading the language. It was not my bill. It was an amendment attached to the reauthorization of the Violence Against Women Act, which I strongly support. But I ended up voting against the reauthorization of my own law that was proffered by Senator Leahy simply because it weakened the TIP office vis-a-vis the regional bureaus. If they have input, it ought to be to say, thank you for doing your due diligence, and we accept it because you are the experts.

And then the second part of the Trafficking Victims Protection Act, the sanctions portion, was always left to the TIP Office, with all kinds of collaboration, but the belief was that reasonable men and women would look at how we can best advance the ball and protect victims and mitigate trafficking in the first place. You make decisions. It is not based on empirical data: How many convictions, what is country X, Y or Z doing? The book, the TIP Report was always meant to be where we would just say it in an unvarnished way.

And so the disappointment that I and so many others feel about the artificial upgrades to Malaysia, to Vietnam, to China, Uzbekistan where, as you have been dogged in pointing out, and you did in one previous appearance here, the comparisons to the

cotton that was picked by slaves. You know, you put it in that context and lights went off. Yes, that is what many of the slaves did in the United States and they are doing it in Uzbekistan.

So any particular thoughts you might have, in addition to what you have already said, would be helpful.

Your testimony notes that Vietnam does not prosecute labor trafficking at all and that there is a high level of official complicity in labor trafficking. Again that raises questions about a favored country where there are things on the table other than trafficking. And they ought to be, in my opinion, a Tier 3 country as well.

So perhaps you can spend some time on those questions?

Ambassador LAGON. Much to address, and I thank you.

Let me note three things. First of all, you played a role in focusing on the question of official complicity. When a diplomat is involved in subjecting a domestic servant to human trafficking conditions, that should be seriously held to account in the report.

You have raised the issue of peacekeepers of nations who have in fact added to human suffering in places that they have served, from the Balkans to places in Africa, as opposed to relieving it. Complicit as agents of their government.

Think especially about a case where a government policy is in fact a source of human trafficking, this is the case in Uzbekistan. Sure, it has finally agreed to let the ILO come in and start looking at the problem of child labor. Okay, that is good. But if in fact it is a policy of the government to continue forced labor for adults, and it is not eliminating entirely the phenomenon of child labor, that is a special category. I can't see how you could give an upgrade from Tier 3 for that.

And I think that is something that is worth really driving home. If the government itself is doing it or its officials are complicit, that should be reported. In fact, it is my view that if officials of a government are involved, such as their diplomats, that that should be mentioned in the report; maybe not the names of the officials.

It has been long, secondly, my view that both the Trafficking Victims Protection Act, with due respect to you as its author, and the Palermo Protocol are heavily focused on the prosecution and law enforcement precepts. There are more things in the minimum standards there. I think it is very important that you can see progress across the so-called three P's. And in particular, I have been consistent in saying that the moral imperative lies with the protection of victims, or what I would call the re-empowerment of the survivors.

I think if there is anything one does to look at revision of the legislation it should be to make sure that you are not giving an upgrade and failing to take account of an anemic record on victim protection. I think in some of the cases in question here in East Asia with Malaysia and Vietnam that is the case.

The last thing I would say is that any fix in the process and wanting to protect the degree to which the pen is held by the TIP office, you shouldn't seek a zero role for the regional bureaus or a zero role for the Embassies. They do raise considerations that should be looked at. I remember people from the South and Central Asia Bureau who had very different views from me as the TIP Ambassador on many countries saying, so, can we say that Sri Lanka

has the capacity to take steps on fighting human trafficking when it has been facing an internal conflict?

Those sorts of questions should be raised. What is inappropriate is if there is a tier upgrade based on issues that have nothing to do with human trafficking.

Mr. SMITH. As I mentioned, is there anything that you heard in testimony by our three previous witnesses that you would like to respond to?

Ambassador LAGON. Well, I think it is an interesting argument with regard to Cuba that by our having more dialog with Cuba we found out more. I mean this was always an issue with North Korea, Iran, and Cuba. We don't have diplomatic relations with those countries so they are not about to hand over the statistics that we ask of host governments through our Embassies.

I think it is a more credible argument that Cuba may have taken some steps following ratification of the Palermo Protocol then to suggest, well, now we know because we are in dialog with them. I still kind it kind of farfetched that what remains one of the Marxist-Leninist governments of the world does not have a problem with its state enterprises or its political prisons of forced labor.

With regard to Malaysia, I heard nothing in the testimony that would lead me to believe that the TIP office did not, as Reuters reported it, recommend the Tier 3 ranking. One cannot take the evidence raised for the upgrade and see it as a tangible reason for this.

I will say I am sympathetic to the position that Dr. Johnstone is in. And I would caution that we can explore what happened, what went awry here, but ultimately if you want to keep pressure on other governments, maybe it isn't best for the specific different recommendations of the TIP office and regional bureaus, whoever wins out, to be known globally. In general, the vast majority of cases do come out where they ought to be and where the TIP office recommends.

Some are howlers, as I described to the press in this report, as mistakes. But I think we should take care about revealing that there were different opinions too much, because after all, the bill that you helped make a law and the office that you helped create puts its pressure on by credible focused leverage on other nations.

Mr. SMITH. I agree with that. But we still have to get it right for that credibility to be warranted.

Ambassador LAGON. Sure.

Mr. SMITH. And let me just ask you about India. It is a country that we have focused on in this subcommittee on a number of fronts when it comes to human rights, religious freedom, or the lack of it, and the issue of abducted children. The new Sean and David Goldman International Child Abduction Prevention and Return Act makes it very clear that India has a serious problem with parental child abduction.

And the Tier 2 ranking for India doesn't appear to be deserved at all. And I would really appreciate your thoughts on that. India has a huge child sex trafficking problem, other kinds of trafficking as well, but it is huge. And I am not sure we get the kind of data back from the government,——

Ambassador LAGON. Right.

Mr. SMITH [continuing]. Their government that would warrant such a designation.

Ambassador LAGON. I agree with you entirely. I think that the Tier 2 ranking is suspect.

You may have noticed in part of my written testimony that I did not deliver orally that we should take care. There are some very serious human rights issues or serious global issues that aren't precisely human trafficking. They should raise doubts about a country's overall human rights record. And that is true of India as well.

You have been at the heart of every reauthorization of the Trafficking Victims Protection Act. The only place in the legislation where the scale of the problem is mentioned is in the Tier 2 Watch List. That is, that is the one place where there could be a justification for a nation not being on Tier 2 but being on the Tier 2 Watch List because the scale is so large.

And it is true in India, it remains the demographic epicenter of human trafficking in the world. And while there have been improvements that might merit India no longer being a country that anyone, that the TIP office would propose be Tier 3 because of some, finally some actions, in the states in the federal system in India, the scale is so large and the implementation so spotty that it is really hard to suggest that Tier 2 is merited.

Mr. SMITH. Let me ask you one final question and then any concluding comments you might want to make.

Last week I chaired a hearing of the Commission on Security and Cooperation in Europe on the Syrian refugees. One of our witnesses was the regional representative for the UNHCR, his name is Pitterman. He said that the trigger for this massive move into Europe was a 30 percent cut in World Food Programme funding. People are so desperate now for such basics as food that they finally gave flight and now they are moving in large numbers.

We are talking about 7.5 million IDPs, 4 million refugees who are scattered everywhere. Are you convinced—and I should have asked this of the previous panel as well—that the concerns of trafficking in persons are being incorporated, integrated into our efforts to assist refugees, particularly in that part of the world?

Ambassador LAGON. I am very glad you asked that for multiple reasons. One, I noticed that former Secretary of State Hillary Clinton and former Ambassador-at-Large CdeBaca emphasized that we need to look at humanitarian situations and refugee situations and worry about the impact on human trafficking. At least on a thought leader level they were, they were focused on that earlier in this administration.

I don't think we are doing enough with respect to the refugees. It is clearly a vulnerability for human trafficking with the enormous desperation. Those who are seeking a better life when they are in hardship are ones who are going to be vulnerable.

I will say two things, however. We should not, as I say in my written testimony, forget the heart of human trafficking being exploitation rather than the movement of people. I noticed earlier that people suddenly discovered a human trafficking problem with Haiti when there was natural disaster. There has been a human trafficking problem with Haiti with restaveks for a long time. And

so, too, we should not discover a human trafficking problem when there have been some endemic problems.

But I must say with my Freedom House hat on, the situation here is a governance problem. This is a human rights calamity that has been left to fester in Syria. It is amazing how the United States and the West has not taken action to deal with the cause of the problem which is the mass atrocities from Assad. And these predated the atrocities of ISIS, which only make the situation worse and, hence, create a human trafficking vulnerability.

Mr. SMITH. Ambassador Lagon, thank you so very much for your testimony. And without objection your full written statement will be made part of the record.

Ambassador LAGON. Thank you very much.

Mr. SMITH. And please continue to provide counsel and insight to the committee, as you have done so effectively for many, many years.

Ambassador LAGON. Well, as a former Capitol Hill staffer who was around at the time of the conference on the Trafficking Victims Protection Act, I consider myself an honorary Hill staffer. So I always will think about how the oversight and the further refinement of the legislation are things I could play my small part in helping on.

Thank you for your leadership.

Mr. SMITH. Make that large part.

And thank you so very much, Mr. Ambassador. The hearing is adjourned.

[Whereupon, at 3:55 p.m., the subcommittee was adjourned.]

APPENDIX

Material Submitted for the Record

SUBCOMMITTEE HEARING NOTICE
COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515-6128

Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations
Christopher H. Smith (R-NJ), Chairman

November 4, 2015

TO: MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS

You are respectfully requested to attend an OPEN hearing of the Committee on Foreign Affairs, to be held by the Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations in Room 2172 of the Rayburn House Office Building (and available live on the Committee website at http://www.ForeignAffairs.house.gov):

DATE: Wednesday, November 4, 2015

TIME: 1:00 p.m.

SUBJECT: Demanding Accountability: Evaluating the 2015 "Trafficking in Persons Report"

WITNESSES:

Panel I
Kari Johnstone, Ph.D.
Principal Deputy Director
Office to Monitor and Combat Trafficking in Persons
U.S. Department of State

Mr. James Carouso
Acting Deputy Assistant Secretary
Bureau of East Asian and Pacific Affairs
U.S. Department of State

Mr. Alex Lee
Deputy Assistant Secretary
Bureau of Western Hemisphere Affairs
U.S. Department of State

Panel II
The Honorable Mark P. Lagon
President
Freedom House
(Former Ambassador-at-Large for Trafficking in Persons, U.S. Department of State)

By Direction of the Chairman

The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202/225-5021 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee.

COMMITTEE ON FOREIGN AFFAIRS

MINUTES OF SUBCOMMITTEE ON *Africa, Global Health, Global Human Rights, and International Organizations* HEARING

Day *Wednesday* **Date** *November 4, 2015* **Room** *2172 Rayburn HOB*

Starting Time *1:03 p.m.* **Ending Time** *3:55 p.m.*

Recesses [1] (*2:16* to *2:51*) (to) (to) (to) (to) (to)

Presiding Member(s)

Rep. Chris Smith

Check all of the following that apply:

Open Session [✓]
Executive (closed) Session [ ]
Televised [✓]
Electronically Recorded (taped) [✓]
Stenographic Record [✓]

TITLE OF HEARING:

Demanding Accountability: Evaluating the 2015 "Trafficking in Persons Report"

SUBCOMMITTEE MEMBERS PRESENT:

Rep. David Cicilline, Rep. Karen Bass, Rep. Mark Meadows, Rep. Dan Donovan, Rep. Curt Clawson

NON-SUBCOMMITTEE MEMBERS PRESENT: *(Mark with an * if they are not members of full committee.)*

Rep. Ann Wagner*, Rep. Brad Sherman

HEARING WITNESSES: Same as meeting notice attached? Yes [✓] **No** [ ]
(If "no", please list below and include title, agency, department, or organization.)

STATEMENTS FOR THE RECORD: *(List any statements submitted for the record.)*

Questions for the record from Rep. Smith for Dr. Johnstone
Articles submitted by Rep. Chris Smith
Statement of the Most Reverend Eusebio Elizondo, submitted by Rep. Chris Smith
Cotton Campaign letter onUzbekistan, submitted by Rep. Chris Smith

TIME SCHEDULED TO RECONVENE _____
or
TIME ADJOURNED *3:55 p.m.*

Gregory B. Simpkins
Subcommittee Staff Director

Questions for the Record Submitted to
Principal Deputy Director Kari Johnstone by
Representative Chris Smith
House Foreign Affairs Committee
Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations
November 4, 2015

Question #1:

Are some indicia of significant efforts more important than others? For instance, is the prosecution and conviction of traffickers equally important as attending an international conference or doing prevention education?

Answer:

The State Department evaluates government efforts to combat trafficking based on criteria established under U.S. law. The annual Trafficking In Persons (TIP) Report reflects the State Department's assessment of foreign government efforts in 188 countries and territories during the reporting period to meet the minimum standards for the elimination of trafficking in persons established under the Trafficking Victims Protection Act (TVPA). The TVPA spells out four minimum standards, and breaks the fourth standard down into 12 indicia. These criteria and requirements are comprehensive and, therefore, the Department's process to produce the annual report is both extensive and rigorous.

During this process, Department staff assesses a government's efforts against each of the individual indicia for Minimum Standard 4. Based on the performance against those indicia, Department staff makes a comprehensive assessment on whether a government has made increasing efforts compared to the previous year. This is how we ensure our country assessments factor in the individual indicia. Although all indicia are considered, the Department generally gives perhaps the greatest weight to those that embody the "3P" paradigm of prevention, prosecution, and protection—a comprehensive victim-centered approach to ensuring that the rights of individuals are guaranteed. In this paradigm, strong protection efforts bolster the effectiveness of law enforcement activities; successful prosecutions, in turn, serve to deter the crime from happening in the first place. Moreover, comprehensive protection policies complement prevention and prosecution efforts.

Question #2:

India is home to 1.2 billion people. How many labor trafficking convictions were there in India last year?

Answer:

The Department relies largely on data reported by governments, which we attempt to validate by reviewing the circumstances around reported cases and comparing to other estimates. As stated in the 2015 TIP Report, forced labor constitutes India's largest trafficking problem. The government did not report disaggregated anti-trafficking law enforcement data for 2014.

Question #3:

The Report justified Malaysia's upgrade this year in part on Malaysia allowing some trafficking victims out of detention to work. How many victims were involved in this pilot program?

Answer:

The Malaysian government adopted the pilot project in cooperation with an international hotel chain to provide temporary employment to some trafficking victims. The government approved four victims to participate in this program and the hotel chain agreed to hire them in December 2014. The Department subsequently learned that, due to medical concerns, two participants were unable to participate in the initial program, and the remaining two participants chose to depart the country prior to receiving work permits, which take an average of three months to obtain.

While the pilot project was ultimately unsuccessful during the last reporting period, the effort revealed a number of challenges the Malaysian government needs to address to allow all trafficking victims to work, as required by the 2015 amendments to Malaysia's trafficking law. These challenges include matching victims' skill sets to employer needs, determining who will bear costs of required medical tests, and providing support while victims undergo an approval process to obtain employment.

The insights gleaned from this process informed the government's development of regulations to implement the amendments. In assessing lessons learned from this project, the government determined that the new law's implementing regulations must address medical treatment for communicable diseases and the length of time required to obtain a work permit for victims. We will assess these and other government actions in the forthcoming TIP Report.

Question #4:

Comparing the Report's recommendations list in 2013 for China, when it was Tier 3, to 2015, when China is Tier 2 Watch List, the recommendations list is almost word for word the same. If the recommendations are the path forward, and China has not completed any of the recommendations in the last two years, how is China Tier 2 Watch List?

Answer:

Through the deliberative process of drafting the annual TIP Report, the Department develops tailored recommendations for each country. These recommendations – derived from the TVPA minimum standards – serve as the cornerstone of our diplomatic engagement with countries for the year following the Report's release. They also help guide the TIP Office's programming strategy for anti-trafficking foreign assistance.

The recommendations in the TIP Report narratives and TIP Office action plans represent long-term goals designed to guide a country to Tier 1 status by meeting the minimum standards. Any tier ranking short of Tier 1 is based on an assessment of the efforts of a government and whether such efforts qualify as "significant" according to the TVPA.

The Department's assessment in the 2015 TIP Report found that China had made significant efforts in the preceding reporting period, and ranked China a Tier 2 Watch List country accordingly. We continue to urge the Chinese government to improve its anti-trafficking efforts and will objectively assess the government's efforts to meet the minimum standards in the 2016 TIP Report.

State-sponsored forced labor continues to be an area of significant concern in China. We are also concerned that women and children who may be trafficking victims were punished during police raids on prostitution rings.

Despite these serious concerns, the government made efforts to address the country's vast human trafficking problem. The Government of the People's Republic of China continued law enforcement action related to trafficking, with government officials reporting the arrest of 194 alleged traffickers and conviction of at least 35 traffickers. China cooperated with neighboring countries to repatriate foreign victims and reported the presence of shelters dedicated to care for trafficking victims. The government also used social media platforms and various campaigns to raise awareness of human trafficking. We will continue to urge the Chinese government to improve its anti-trafficking efforts in the coming year.

Question #5:

Why does Cuba allow 16 year olds to be prostituted—or sex trafficked as we call a child being pimped in the United States? If Cuba is serious about preventing child trafficking, and not just fooling the State Department, why does Cuba not outlaw child prostitution—and prosecute violations?

Answer:

As indicated by its Tier 2 Watch List ranking in 2015, the government of Cuba has much work to do. The State Department recommended in the 2015 TIP Report that Cuba, consistent with its commitments under the 2000 UN TIP Protocol, draft and pass a

comprehensive anti-trafficking law that prohibits all forms of human trafficking. We also recommended that their laws define any prostitution of individuals under the age of 18 as sex trafficking, regardless of the use of force, fraud, or coercion.

Child sex trafficking and child sex tourism occur within Cuba. Cuban authorities report people from ages 13 to 20 are most vulnerable to human trafficking. In 2015, for the second consecutive year, the government reported efforts to address sex trafficking, including the prosecution and conviction of 13 sex traffickers in 2013 and the provision of services to victims in those cases. The Cuban government reported at the beginning of 2015 that the Ministry of Labor and Social Security assumed the lead role in a committee responsible for combating gender and sexual violence, including sex trafficking. The Federation of Cuban Women, a government affiliated non-governmental organization, provided some outreach and education about human trafficking within the context of violence against women, but did not specifically address forced labor or sex trafficking involving men and boys.

In addition to recommending that Cuba pass legislation that would make prostitution of minors under 18 a crime, we recommended Cuba vigorously investigate and prosecute sex trafficking offenses; strengthen efforts, in partnership with international organizations, to provide specialized victim identification and referral training for first responders; and establish formal policies and procedures to guide officials in the identification of all trafficking victims and their referral to appropriate services. We urged the government to develop an action plan to address sex trafficking and adopt policies that provide trafficking-specific, specialized assistance for male and female trafficking victims, including measures to ensure identified sex trafficking victims are not punished for unlawful acts committed as a direct result of being a victim of trafficking.

Question #6:

How many T visa holders are currently delayed from moving to the United States by Indian government requirements/interventions/obstacles?

Answer:

We are not aware of any T visa holders who are currently unable to travel to the United States due to travel restrictions imposed by the Indian government.

Question #7:

What is India's current policy toward Indian nationals who are T visa holders?

Answer:

In August 2014, anti-trafficking advocates and U.S. Government officials first reported to the Department of State that Indian officials had begun to implement a policy prohibiting

the travel of T and T-derivative visa holders between the United States and India. We understand the policy initially authorized the confiscation of Indian citizens' passports bearing U.S.-issued T visas. We understand these procedures have been revised to allow T visa holders to travel freely with additional certification from the Indian government. To acquire such certification, T visa holders must provide Indian officials with details, such as U.S. court documents, documenting that they are the victims of trafficking crimes committed in the United States. While we understand these revised procedures have facilitated the free travel of the majority of T visa holders between the United States and India, some T visa holders have characterized the requirements as burdensome and invasive.

We engage regularly with the Indian government on combating trafficking in persons and protecting trafficking victims, including on T visa issues.

Question #8:

When will the Ambassador-at-Large to Monitor and Combat Trafficking in Persons be visiting India? Does she currently have an invitation to visit India?

Answer:

We are in discussions with the Indian government about a mutually agreeable date for a visit to continue our discussions and cooperation in the fight against trafficking in persons, an effort in which the Indian government is a key partner. Ambassador Coppedge and Department leadership have made clear our desire to have the Ambassador travel to India and engage in robust discussions on human trafficking. The Department regularly engages on the issue of human trafficking with the government of India in Washington, New Delhi, and across India, including in January at the Global Issues Forum led by Under Secretary Sarah Sewall.

MATERIAL SUBMITTED FOR THE RECORD BY THE HONORABLE CHRISTOPHER H. SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY, AND CHAIRMAN, SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH, GLOBAL HUMAN RIGHTS, AND INTERNATIONAL ORGANIZATIONS

Reuters Investigative Report on Trafficking in Malaysia

March 5, 2014: Exclusive: Trafficking abuse of Myanmar Rohingya spreads to Malaysia

Reuters Articles on Human Trafficking by Jason Szep and/or Matt Spetalnick

July 8, 2015: U.S. upgrades Malaysia in annual human trafficking report – sources

July 9, 2015: Rights groups urge U.S. to reconsider Malaysia human-trafficking rating

July 16, 2015: U.S. poised to upgrade Cuba in annual human trafficking report –sources

July 27, 2015: U.S. softens view of Malaysia, Cuba in human trafficking report

August 3, 2015: State Department watered down human trafficking report

AP Articles on Human Trafficking by Robin McDowell and Martha Mendoza

March 24, 2015: Seafood From Slaves (Video)

April 3, 2015: AP investigation prompts emergency rescue of 300 plus slaves

April 4, 2015: Hundreds of fishermen rescued amid Indonesian slavery probe

April 21, 2015: Despite law, US allowing imports of fish caught by slaves on Thai boats

April 22, 2015: Congressional hearings on Seafood From Slaves

May 12, 2015: Human trafficking: 7 arrested in Indonesia in seafood slavery case

July 1, 2015: One Man's Homecoming: Myanmar Fisherman Goes Home After 22 Years as a Slave

July 27, 2015: AP tracks slave boats to Papua New Guinea

July 30, 3015: AP investigation prompts new round of slave rescues

August 6, 2015: 45 Burmese fishermen rescued, suspected trafficking victims

August 14, 2015: Indonesia nabs ship believed to carry slave-caught fish

September 17, 2015: More than 2,000 enslaved fishermen rescued in 6 months

MATERIAL SUBMITTED FOR THE RECORD BY THE HONORABLE CHRISTOPHER H. SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY, AND CHAIRMAN, SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH, GLOBAL HUMAN RIGHTS, AND INTERNATIONAL ORGANIZATIONS

Written Testimony of

Most Reverend Eusebio Elizondo, M.Sp.S.
Auxiliary Bishop of Seattle, WA,
and Chair, U.S. Conference of Catholic Bishops' Committee on Migration

on
The 2015 Trafficking in Persons Report

House Foreign Affairs Committee
Subcommittee on Africa, Global Health,
Global Human Rights, and International Organizations

2172 Rayburn
1-4 pm, Wednesday, November 4, 2015

The U.S. Conference of Catholic Bishops (USCCB) holds a long-standing interest in the issue of human trafficking, having worked to pass the Trafficking Victims Protection Act (TVPA) in 2000 and its subsequent re-authorizations in 2003, 2008, and 2013. Our interest today is to share with the subcommittee some of the findings of our recent mission to Southeast Asia. During our mission in August, we examined regional refugee protection issues as well as the status of anti-trafficking efforts in the region.

The existence of human trafficking in Southeast Asia is well-documented and our delegation found that this scourge still exists widely in this part of the world. Thailand continues to be both a transit and destination country for human traffickers, with the fishing industry being used as a conduit for human trafficking. Malaysia, another country we visited, is also a destination country, with migrants being forced into domestic servitude, often in hostile and coercive situations. It is our hope that these two nations will continue to enhance their anti-trafficking efforts in the future so they can improve their standing in the world community on this issue.

Malaysia. Due to its growing economy, high demand for unskilled labor, and geographic positioning en route to Australia, Malaysia attracts migrants and refugees from the region and around the world. However, Malaysia has not signed the 1951 Geneva Refugee Convention, and therefore offers no legal status or protection to asylum-seekers and refugees, making these populations particularly vulnerable to exploitation and human trafficking. The delegation learned from NGOs working with survivors of trafficking about loopholes in labor policies that make it easy for employers to engage in exploitative employment practices—for example, allowing government-issued permits for foreign workers without an employment contract, and not requiring employers to pay medical expenses for employees injured on the job. The large supply of refugees and migrant workers that fall outside the scope of populations protected by the Malaysian government; demand for work that is dirty, demeaning, and dangerous; and employment policies that benefit employers without providing protection to employees, within a context of corruption as a way of doing business, create a culture in Malaysia which allows exploitation and trafficking to thrive.

Human trafficking in Malaysia takes many forms, but is most prominent in the domestic labor area. Malaysia's employment act recognizes "domestic servants", contributing to a culture that normalizes and fosters domestic servitude. Women from Asian nations, but primarily Indonesia, the Philippines, and Cambodia, are recruited by labor brokers in their countries of origin. Lured by the promise of fair wages, overtime, medical coverage, and time off, they sign contracts outlining such terms. Once they arrive in Malaysia, the employment agency replaces their signed contract with a "shadow contract" outlining very different terms, in English, which the women sign, most often, without full awareness of what it is they are signing. Terms often include deduction of fees from the wages from the employee—to include fees that the employer paid the government to employ foreign workers. Their passports and other identification documents are taken. They are placed in domestic servitude situations—private homes or businesses---where they are held in debt bondage, most or all of their wages going to employer fees, working 18-20 hours a day, for months or even years. Some are sexually and/or physically abused during their captivity.

Despite the presence of an anti-trafficking law, the delegation learned that the government offers little or no protection or rescue to victims in these situations, often because of corruption, the fact that many of these practices are legal under Malaysia's labor law, and the absence of political will and accountability. For example, NGOs shared that the government refers cases of domestic workers who escaped situations of trafficking as "runaway maids" underscoring Malaysian cultural beliefs and attitudes toward domestic work. NGOs report that access to justice for victims is challenging—one Victim Advocate reported that government officials bribe victims to withdraw their cases, and another reported that recouping unpaid wages and identification documents through the labor law is very difficult—many of the deductions are deemed legal-- and requires a fight that takes as long as a year.

The delegation met several female victims of domestic servitude, who spoke of being kept in debt bondage, often not receiving wages for months. The women reported that their passports and other identification documents were taken from them, that they were socially isolated, and that their movement was restricted outside of those required to perform their duties. Each of the women we met escaped their employer—demonstrating incredible bravery and fortitude and requiring elaborate planning and faith. They spoke of their friends who were still in trafficking situations who were not so lucky. One woman we met ran away from her boss because he raped her twice, while another had been locked in a room for several hours at a time. All had been denied the wages they were promised by the broker agency before being placed in a home. One was able to recoup some of her wages and return to Cambodia, with the help of her government.

Another population at risk for domestic servitude are child brides—of which UNHCR rescued 39 in 2014, the youngest being 8-years-old. Rohingya girls are at particularly high risk for child marriage due to culturally acceptable norms about child marriage and due to the perception by their families that marriage is a safer alternative than staying in Burma, where the Rohingya are stateless and there are allegations of government-sanctioned genocide of the Rohingya. The delegation heard reports of Rohingya children ending up in debt bondage situations once married, forced to beg on the streets and turn over their earnings to the family of their spouse. As the Rohingya are stateless in Malaysia, these children fall outside of the scope of Malaysia's child protection laws. The UNHCR in Malaysia offers protection to child victims of trafficking, and the delegation met several Rohingya child victims of trafficking residing in a UNHCR-funded safe house.

Sex trafficking is flourishing in Malaysia; the delegation learned of children as young as 10 being forced into the sex trade. Migrant women are subject to triple exploitation: forced into prostitution by criminal organizations, earning the traffickers more when they become pregnant (due to high demand for sex with pregnant women), and their newborn babies being sold into the black market once they give birth. The delegation also heard reports of pregnant women in detention centers having their newborn babies taken from them to be sold on the black market.

Although we were unable to visit a palm or rubber plantation, we heard reports of the exploitation and trafficking of foreign workers, primarily Burmese and Bangladeshi in the fields, with little pay or worker's rights.

Our delegation also learned more details of the grisly discovery of bodies in "human trafficking camps" in northern Malaysia and southern Thailand, where scores of victims were found in mass graves in May and August. These jungle prison camps were used to imprison refugees from Burma and Bangladesh, primarily, as their families were extorted. It is clear that governmental authorities in both regions were aware of the presence of the camps.

While Malaysia has increased arrests for human trafficking, the conviction rate remains low due to the ability of traffickers to bribe or threaten officials. Other reforms must be taken, including allowing victims to be housed in non-governmental organization shelters instead of governmental ones; improving conditions in detention centers; regulating how foreign labor is brought into the country; and rooting out the corruption that allows human trafficking syndicates to thrive with impunity. Additionally, we would recommend that Malaysia create a standardized contract for domestic workers, change its Labor Act to refer to domestic servants as domestic workers, create laws to protect domestic workers, require interpreters and translation in negotiations with foreign workers, and improve the identification and protection of victims of human trafficking, to include collaboration with NGOs on victim-centered and trauma-informed approaches on trafficking. We would also recommend that the U.S. invest in more NGO-run, child and victim-friendly shelters for adult and child refugee survivors of trafficking, who need a safe space while undergoing refugee processing by UNHCR.

It was clear from our findings that the Malaysian government must make a more concerted effort to address human trafficking in its country in order to be considered a nation making progress against this scourge. Without improvements in enforcing provisions of its domestic law against human trafficking, and in strengthening legal

rights for foreign-born domestic workers, Malaysia will once again fall into the bottom rung of the world community in the protection of victims of human trafficking.

Thailand. The delegation also visited Thailand and learned of human trafficking in the fishing industry, in which migrants are abused on shrimp boats in inhumane conditions and with no pay. The maritime industry has in effect relied on slave labor in order to gain profits, with fully 80 percent of fishing workers without legal status. Workers have been starved and held on ships for days and months, with little or no pay. Some have been dumped at sea. Following the issuance of the TIP report, fishing boats have to register when they go out and when they come back to port, giving authorities some control over the vessels. Many of the victims are Burmese, but also Cambodians, Vietnamese, Chinese, and other nationalities are recruited with promises of high wages and good working conditions.

Thailand also hosted human trafficking camps in southern Thailand. With the discovery of mass graves, to its credit, the Thai authorities prosecuted several government officials, including a general, in connection to the camps.

The sex industry in Thailand continues to thrive, with women from the region being forced into prostitution because of the absence of jobs. Children continue to be victims of this industry.

In order to improve its standing on the human trafficking issue, Thailand must 1) use international trafficking definitions and standards for identifying human trafficking victims; 2) increase communication and coordination between government agencies working on human trafficking issues; 3) continue to prosecute Thai officials who are complicit with human traffickers; 4) use human trafficking experts to identify possible victims and not law enforcement; and 5) increase the number of private learning centers to protect children from child labor and trafficking, including in Thai government schools. While the Thai government is increasing its efforts against the human trafficking industry, it must show more results before being considered in good standing.

Thank you for your consideration of our views.

MATERIAL SUBMITTED FOR THE RECORD BY THE HONORABLE CHRISTOPHER H. SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY, AND CHAIRMAN, SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH, GLOBAL HUMAN RIGHTS, AND INTERNATIONAL ORGANIZATIONS

June 27, 2015

The Honorable John F. Kerry
Secretary of State
United States Department of State
2201 C Street NW
Washington, DC 20520

Dear Secretary Kerry:

We write to express our disappointment that the State Department upgraded Uzbekistan to the Tier 2 Watch List in the 2015 Trafficking in Persons Report. We believe the decision to upgrade Uzbekistan decreases pressure on the authorities in Tashkent to address the problem.

We agree that limited changes have taken place in Uzbekistan, but we do not see how the State Department could conclude that Uzbekistan has made significant efforts to bring themselves into compliance with the minimum standards of the Trafficking Victims Protection Act while the country's government mobilized more than a million of its own citizens to harvest cotton in 2014[1] and began this year by mobilizing thousands more to prepare the fields for the upcoming harvest.[2]

The 2015 TIP Report states that the government issued a decree reiterating its pre-existing law prohibiting child labor, fined college directors and farms for use of child labor, and signed an agreement with the ILO. However, the report also states college directors and other government officials mobilized child labor "under pressure to fulfill government-decreed cotton quotas." As the report notes, forced labor in Uzbekistan is different from forced labor in most countries in that it is "government-compelled." While a highly-ramified system of state-organized forced labor remains in place, we do not believe that Uzbek government's commitments and selective actions on child labor can be said to represent substantial efforts to comply with the TVPA minimum standards.

Having made the unfortunate decision to upgrade Uzbekistan to Tier 2 Watch List, we believe it is more incumbent than ever on the U.S. government to increase pressure on Tashkent to eliminate forced labor from the cotton sector. In particular, the United States should immediately insist that Tashkent, at a minimum, instruct officials at all levels of government to refrain from using coercion to mobilize citizens to work in the cotton fields and prosecute all officials who do; commit to an action plan to eradicate forced labor with the International Labour Organization; and permit citizens to report human rights violations in the cotton sector without fear of retaliation.

[1] Uzbek-German Forum for Human Rights, "The Government's Riches, the People's Burden: Human Rights Violations in Uzbekistan's 2014 Cotton Harvest," April 2015, http://uzbekgermanforum.org/wp-content/uploads/2015/04/cotton_harvest_Online.pdf
[2] See: http://uzbekgermanforum.org/uzbek-government-continues-forced-labor-system-to-weed-cotton-fields/

We urge the U.S. to use its voice and vote at the World Bank to block any new loans in the agricultural or education sectors of Uzbekistan until the Uzbek government demonstrates meaningful progress to end forced labor. The U.S. should also press the World Bank to conduct credible, open and inclusive monitoring for labor rights violations in its project areas, using input from Uzbek civil society, and provide effective remedies to any person who is subjected to forced labor in its project areas.

In light of increased participation of the private sector in the state-sponsored forced labor system in recent years, we also urge U.S. officials to stress to American companies operating in Uzbekistan the importance of fulfilling their human rights due diligence responsibilities, including by declining to contribute to the cotton harvest.

For our part, the unions, industry associations, investors, trade unions and NGOs that form the Cotton Campaign will continue efforts to raise corporate, public, governmental and international awareness of the problem and press the Uzbek authorities to move beyond their current phase of public denial and end their annual mass mobilization of forced labor for the cotton harvest.

Sincerely,

The Cotton Campaign

Advocates for Public Interest Law

American Apparel & Footwear Association

AFL-CIO

American Federation of Teachers

Anti-Slavery International

Association for Human Rights in Central Asia

Australian Council of Trade Unions

Bennett Freeman, former U.S. Deputy Assistant Secretary of State for Democracy, Human Rights and Labor

Boston Common Asset Management

Calvert Investments

CEE Bankwatch Network

Child Labor Coalition

Daughters of Charity, Province of St Louise

Dignity Health

The Eurasian Transition Group, e.V.

Gonggam Human Rights Law Foundation

International Labor Rights Forum

International Partnership for Human Rights

Korean Teachers and Education Workers Union

Mercy Health

Mercy Investment Services

National Consumers League

Northwest Coalition for Responsible Investment

No Slavery Australia

Open Society Foundations

Portfolio Advisory Board, Adrian Dominican Sisters

Responsible Sourcing Network

Retail Industry Leaders Association

St. Joseph Health

Solidarity Center

Sisters of St. Francis of Philadelphia

Stop the Traffik

The Sunshine Coalition

Synod of Victoria and Tasmania, Uniting Church in Australia

Textile Clothing and Footwear Union of Australia

U.S. Fashion Industry Association

Uzbek-German Forum for Human Rights

Walden Asset Management

Walk Free

cc: Pamela Spratlen, United States Ambassador to Uzbekistan
Thomas E. Perez, Secretary of Labor
Nisha Desai Biswal, Assistant Secretary of State, South and Central Asian Affairs Bureau
Tom Malinowski, Assistant Secretary of State, Democracy, Human Rights and Labor Bureau
Patricia A. Butenis, Acting Director, Office to Monitor and Combat Trafficking in Persons
Sara Aviel, United States Executive Director, World Bank

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