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# **Demanding Accountability: Evaluating the Trafficking in Persons Report**

*U.S. Rep. Chris Smith, Chairman  
Subcommittee on Africa, Global Health, and Global Human Rights  
November 4, 2015*

Welcome to today's 2015 Trafficking in Persons Report oversight hearing. Far more than simply ink on paper, this report has proven to be both prize and prod: a *prize* for those countries whose progress in the fight against the grave abuse of human trafficking the report acknowledges, a *prod* to those nations that are failing the trafficking victims within their borders.

The power of the Report lies in its credibility. And the credibility of the Report lies in its accuracy. We must get the Report right, or we will lose the most effective tool we have to help the more than 20 million victims of trafficking enslaved around the world today.

Some countries openly credit the TIP Report for their increased and effective anti-trafficking response. Over the last 14 years, 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 for those who fully meet minimum standards, Tier 2 for those who are making significant efforts to meet minimum standards, and Tier 3 for those who are *not* making significant efforts to meet minimum standards and, indeed, may be subject to sanctions.

And for those in a Purgatory between Tier 2 and 3, Congress in 2003 created a "Tier 2 Watch List" for those which may have undertaken significant anti-trafficking steps late in the evaluation year. Unfortunately, this ranking has been misused to allow countries to escape accountability.

We are holding this hearing today due to well-founded concern that some of the rankings in the most recent report are grossly inaccurate and greatly undermine the credibility of the Report.

Indeed, we have massive grade inflation for certain favored countries, thereby defeating accountability, and demoralizing 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 to 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 problems.

Malaysia was the subject of a Reuters investigative report in 2014, which 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 two million vulnerable migrants work in the informal economy in Malaysia. NGOs on the ground tell us that 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.

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

What happened is that this Administration wanted Malaysia to be eligible to join the Trans-Pacific Partnership. This spring, Congress approved the Trade Priorities Act of 2015, excluding Tier 3 countries from expedited consideration by Congress, for the simple reason that Congress did not want to increase trade with countries that engage in persistent labor trafficking.

Malaysia was disqualified—until their upgrade.

More than “bad optics,” more than flouting the will of Congress, such circumventing of accountability is disastrous for the labor trafficking victims in Malaysia.

Instead of demanding change before Malaysia became a major trading partner, the Administration changed 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 flimsy justifications—namely, that Cuba began sharing information with the U.S. on trafficking and that it convicted 13 traffickers two years ago (which is outside 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, is the top destination in the Western Hemisphere for child sex tourism, and does not criminalize labor trafficking at all—indeed, Cuban health care 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.

The trafficking rankings should not be used in hopes of bringing about better bilateral relations with Cuba; rather, better relations with Cuba should be pre-conditioned on real protection for Cuba's prostituted children and recognition of labor trafficking.

The bar also seemed to be lowered this year for 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.

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

China's premature upgrade to Tier 2 Watch List in 2014 and continued presence there in the 2015 Report also raises the question—How can a country that systematically traffics its own people be anything other than Tier 3?

After one year on Tier 3 in 2013, China passed a law to allegedly close its 320 Re-education Through Labor (or RTL) 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 the "reform" in 2014. But now we know from the Report itself that the government only closed "several" of the 320 forced labor sites, and converted other RTL facilities into state-sponsored drug detention or 'custody and education' centers.

In other words, China continues to force detained citizens to perform manual labor—and yet it got to keep the Tier upgrade it was given for allegedly ending this practice.

Additionally, China's official birth limitation policy, in combination with a cultural preference for boys, has resulted in approximately 40 million women and girls missing from the population—making China a regional magnet for sex and bride trafficking as men who reach marrying age cannot find a mate.

Just ask the Burmese, Cambodian, Vietnamese, Laotian, and North Korean women imported to meet China's demand.

To wit, an estimated 90 percent of North Korean women seeking asylum in China have been trafficked. Yet China refuses these women refugee status and sends them back to possible execution in North Korea.

Nothing in China's record in 2014 warrants any ranking other than Tier 3.

Consider this: China convicted 35 traffickers last year in a country of 1.3 billion people. That is one trafficker out of every 37 million people.

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 just any—efforts that go to prosecutions, protection, and prevention.

Tier rankings are a tool to aid real change, not a rubber stamp for simply holding a meeting and being a major trading partner.

The rankings in this 2015 report seem to be a real opportunity lost, not just for the countries we gave a pass to but other countries whose good faith efforts at reform were not acknowledged.

No country will take U.S. trafficking rankings seriously when there seems to be a ‘wink and 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, and the bureaus. This year the two sides split on 17 countries in particular—and that J/TIP lost almost all of the conflicts.

I look forward to hearing our witness’s input today on the facts and the process behind the rankings of the 2015 report.

And I ask our witnesses to remember: Real people are suffering. Real lives are at stake.