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End Political Manipulation of Trafficking in Persons Report

*Rep. Chris Smith, Chairman
Hearing of the House Subcommittee on Africa,
Global Health, and Global Human Rights
Excerpts of Remarks
March 22, 2016*

Welcome to today's hearing, "Getting it Right this Time: A Victim-Centered Trafficking in Persons Report," at which we will look closely at the records of several countries including Cuba, China, Malaysia, Oman, and Burma whose trafficking tier rankings were manipulated and falsified for political reasons in last year's report.

As the prime sponsor of the Trafficking Victims Protection Act of 2000, which among its many policy provisions created the Trafficking in Persons (TIP) Report and tier rankings, I am extremely disappointed and concerned that last year's TIP Report gave a pass to several countries meriting Tier 3 accountability—countries whose trafficking victims desperately needed protection and America's powerful voice. The 2015 TIP Report failed the victims. The victims deserved better.

The politically contrived passing grade for failing governments was exposed by a series of investigative reports by Reuters which found that the professionals at the State Department made one set of recommendations—only to be overruled at a higher level for political reasons. For example the TIP office recommended Tier 3 ranking for Cuba, China, Malaysia, and Oman – fourteen countries in all—which was rejected by the Obama Administration in last year's report. Each of the fourteen countries were given passing grades.

Alexandra Harney, Jason Szep and Matt Spetalnick of Reuters authored several incisive reports including an expose on China's politicized ranking, finding that, "Two years after China announced it was ending the "re-education through labor" system, extrajudicial networks of detention facilities featuring torture and forced labor thrive in its place." China had deceived the US in 2014, and when that became apparent last year—we let them keep their ill-gotten upgrade.

The State Department must get the TIP Report right, or we will lose the foundational tool created to help the more than 20 million victims of trafficking enslaved around the world today.

In the end, the Trafficking in Persons Report is about the victims. The threshold question must be as Ambassador Mark P. Lagon included in his 2008 TIP report, “a country’s performance is based strictly on the trafficking-specific criteria stipulated by the TVPA.”

A tier ranking is about protecting vulnerable lives—lives destroyed or saved by the on-the-ground impact of a government’s inaction or action.

We’ve seen many countries take a Tier 3 ranking seriously and make real, systemic and sustainable changes that improved their tier rankings, but that, more importantly, protected trafficking victims—countries such as South Korea and Israel come to mind.

When the Bush Administration branded South Korea and Israel Tier 3 based on their records, both countries enacted and implemented policies to combat human trafficking and were given earned upgrades for their verifiable actions. But today we’ve seen other countries attempt to end-run the accountability system with endless, empty promises of action or mostly meaningless gestures of compliance.

Congress in 2003 created a “Tier 2 Watch List” for those countries which may have undertaken significant anti-trafficking steps late in the evaluation year. Unfortunately, this ranking is being misused to reward insignificant actions and enable irresponsibility.

How would the 16 year old girl being pimped—legally—in Cuba’s sex tourism industry rank Cuba on human trafficking? I can assure you, not with a politically motivated passing grade.

How would the Rohingya migrant trapped in Malaysian forced labor rank Malaysia when his trafficker laughs at the mention of penalties?

How would the sex trafficking victim forced to labor in a Chinese detention center year after year, or be sent back to torture and death in North Korea rank China?

How would a young boy rank Burma when he is forced to labor for the military while his sister is turned into a modern day “comfort woman”?

Tier rankings are about real prosecutions, real prevention, and real protection—for real people who are suffering as slaves.

Cuba is an egregious example of a nation being given an unwarranted passing grade because of other non-human trafficking considerations. President Obama is there today, hobnobbing with the very people who are kept in power by the profits of slave labor. The very people who do not have a law against labor trafficking. The very people whose hotels are filled with sex tourists who came to Cuba specifically to sexually exploit minors.

My latest trafficking law, P.L. 114-119, The International Megan’s Law, fights sex tourism, but assumes a willing, not profiting, partner country. Some tourists go to Cuba because Cuba facilitates sex trafficking. Cuba also harbors criminals—just ask the family of Werner Forrester, a New Jersey state trooper who was gunned down at a traffic stop by Joanne Chesimard. Cuba protects Chesimard to this day.

Maria Werlau will testify this afternoon that, “What makes the Cuban case unique, as well as astounding, is that trafficking is a huge operation run by the government through numerous state enterprises with... accomplices, participants, sponsors, and promoters all over the world.” And that the Cuban dictatorship is involved in “four main sources of human trafficking... i.) Export services of temporary workers; ii.) Forced labor and sex trafficking; iii.) ‘State-sponsored or forced migration’; and iv.) Export sales of human and body parts.” And that “Our State Department’s Trafficking in Persons Report addresses only two of these aspects and, in my view, quite poorly.”

The trafficking rankings should not be used as cheap chits and sweeteners that can be compromised in the hope of bringing about better governmental relations with Cuba (or any other nation); rather, better relations with Cuba should be pre-conditioned on real protection for Cuba’s prostituted children and women, and recognition of labor trafficking.

The President is lending his stature to the very people who are imprisoning human rights advocates at a higher rate than ever. Cuba’s actions prove once again that lifting accountability only emboldens evil.

The TIP Report was meant to hold countries accountable for their failures to fight human trafficking. It was meant to speak truth to power. It was meant to speak for the trafficking victims waiting, hoping, and praying for relief.

In 2016 the TIP Report must rank the governments exclusively on a country’s performance and should be “based strictly on the trafficking-specific criteria stipulated by the TVPA.” Every ranking must be assigned without any political manipulation or dishonesty. Get the tiers right in 2016. The lives of many of the weakest and most vulnerable—and U.S. credibility—hang in the balance.