

A REVIEW OF THE 2017 TRAFFICKING IN PERSONS REPORT

HEARING

BEFORE THE

COMMITTEE ON FOREIGN RELATIONS UNITED STATES SENATE

ONE HUNDRED FIFTEENTH CONGRESS

FIRST SESSION

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JULY 13, 2017
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A REVIEW OF THE 2017 TRAFFICKING IN PERSONS REPORT

THURSDAY, JULY 13, 2017

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC.

The committee met, pursuant to notice, at 9:33 a.m., in Room SD-419, Dirksen Senate Office Building, Hon. Bob Corker, chairman of the committee, presiding.

Present: Senators Corker [presiding], Gardner, Young, Cardin, Menendez, Kaine, and Booker.

OPENING STATEMENT OF HON. BOB CORKER, U.S. SENATOR FROM TENNESSEE

The CHAIRMAN. The Foreign Relations Committee will come to order.

This morning, we will continue our oversight efforts with regard to the 2017 Trafficking in Persons Report. I want to thank Senator Cardin and members of the committee for their leadership and engagement in combating this affront to human dignity and the rule of law.

This committee has conducted extensive oversight on this issue. We have instituted annual briefings for members of the committee with the Office of Trafficking in Persons Ambassador and regional bureaus at the State Department prior to the release of the annual Trafficking in Persons Report.

We ask every nominee before this committee to commit to help lead the fight against modern slavery. This oversight has been noted at the State Department and in our embassies.

We appreciate that the Deputy Secretary of State volunteered to lead the administration's testimony today. The Secretary spent about 45 minutes with Senator Cardin and I before this meeting, and we thank him very much for his openness and the way that he is serving. We look forward to having an outstanding relationship with him.

We thank you for being here today.

I know the Secretary of State wanted to be here. He had an unplanned trip to the Middle East.

And we thank you for sitting in, in his stead. We thank you for the elevation of this issue at the State Department and, again, for your being here.

The deputy's attendance demonstrates the State Department's interest in the stability of this report after Ambassador Coppedge finishes her assignment.

We also want to welcome Ambassador Susan Coppedge, who agreed to remain in her post to ensure the continuity with the 2017 report. We appreciate her leadership and service.

I have to say that I think you have been outstanding. I think there are people around the world that have benefited greatly from your service. Certainly, we have. And I cannot thank you enough for your leadership, for your dedication to this issue. And I hope our paths cross many, many times in the future.

We also appreciate that Secretary of State Tillerson and Ivanka Trump personally and passionately led the rollout of the 2017 report, flanked by TIP Heroes in a packed room. It was a great event, and I was glad to be there.

I would like to begin by commending Ambassador Coppedge at the State Department for the focus of this year's report on the responsibility of governments to criminalize human trafficking and hold offenders accountable. Human trafficking largely exploits the vulnerable for profit. There is no greater deterrent than to make it clear that perpetrators and those who collaborate with them will pay a heavy price for these crimes.

This year's report contains specific elements that our country and other countries can use to prosecute the crime of modern slavery. I hope that, in compiling this year's report, you will continue to highlight examples of progress and prosecution, and scrutinize where corruption and lack of progress are failing victims of modern slavery.

The 2015 report and how it was perceived did real damage to this issue, and we are still recovering from that. We all need to continue to reinforce trust in the process of developing the report and tier rankings. We, for our part, are careful not to politicize the oversight process, and that remains important.

I do believe that, beginning last year and again this year, the State Department has taken the integrity of the report seriously, and we thank you very much for that.

Senator Cardin and I were talking. There may be questions about some of the outcomes, but I think one of the things that absolutely everyone feels is there was no politicization. There may have been differences in judgment, but we appreciate the integrity with which this was put together.

Finally, I would like to thank Secretary Tillerson for announcing at the Trafficking in Persons rollout that the State Department is proceeding with the \$1.5 billion End Modern Slavery Initiative that Senator Menendez and I first presented to this committee in 2015. This is a critical step in the effort to end modern slavery globally.

To quote British Prime Minister Theresa May, "Victims will only find freedom if we cultivate a radically new global and coordinated approach to defeat this vile crime."

Thank you both for being here.

And I will turn to my friend, Senator Cardin.

**STATEMENT OF HON. BENJAMIN L. CARDIN,
U.S. SENATOR FROM MARYLAND**

Senator CARDIN. Thank you, Mr. Chairman.

Before I comment on today's hearing on the Trafficking in Persons Report, let me just share with our colleagues that the chair-

man and I have been very focused on trying to get the Russian sanction bill passed in the United States House of Representatives.

I want to thank the chairman. We have expressed as much flexibility as we possibly can to our colleagues in the House, to deal with their particular procedural issue. We do not think that is a problem. And we want to make sure that this bill is passed as quickly as possible in the House, and in the form that it passed the United States Senate.

I want to thank the chairman for his cooperation. We have been working without any difference here, in trying to get this bill passed in the House.

It passed by 98–2. I reminded Secretary Sullivan that in that bill is the requirement for review before any sanction relief is given. And I particularly mention that because of press reports concerning the compounds in New York and Maryland, and we consider that a really major affront to Congress, if action was taken on that without working with the Members of Congress.

Let me thank you very much, Mr. Chairman, for this hearing. This hearing, as we will review the most recent Trafficking in Persons Report. As you pointed out, this is one of the great moral challenges of our time. It is modern-day slavery.

Just last week, I was not present, but another hat I wear is as the ranking member of the Helsinki Commission. We had our annual meeting of the OSCE Parliamentary Assembly in Minsk, Belarus, and our delegation was very much actively engaged on this issue of trafficking.

The U.S. leadership on this globally has made a huge difference. It was the leadership of the United States Congress and the United States Government that has raised this issue to the international community, making it clear we will not tolerate trafficking in persons and that we will take all necessary steps to end this tragedy.

It distorts labor markets. It destroys people. It erodes communities. It undermines stability and rule of law, and is fueled by corruption, greed, and violence.

We will continue, and our Trafficking in Persons Report, to me, is the gold standard for what is used to have all countries do better.

I have mentioned previously, when foreign guests come into my office, whether they are heads of state or Foreign Ministers, I have the Trafficking in Persons Report in my office and will review that country's need for additional progress in order to deal with this.

So it was with great anticipation that we had this hearing, and looked forward to the 2017 report.

Ms. Coppedge, I want to thank you for your extraordinary leadership on this issue. We know that you will be doing other things.

I want to, first and foremost, acknowledge that the 2017 report represents the professional dedication that we expect to see in the Trafficking in Persons Report. And I am very pleased with the manner in which this report was handled, and the way that decisions were made.

It does not mean that I agree with all the decisions that were made.

I think, in regard to China, I applaud you. I think that was absolutely the right decision, and I know that it came with some polit-

ical and diplomatic challenges. It was the right thing to do, and I applaud you on it.

I am going to talk a little bit about Malaysia, because I am concerned by what happened in Malaysia. It was upgraded to Tier 2. That was one of the major countries that we were concerned about, the manner in which it was handled in 2015, because of the apparent connections between the decision made in the TIP Report and the TPP negotiations that were taking place. Senator Menendez was one of the principal leaders. He had legislation on this, et cetera. And it seemed to be a very political decision that was made in 2015.

Malaysia is home to more than 2 million documented migrant laborers, and millions more undocumented laborers, many of whom continue to face debt bondage and forced labor. Yet, Malaysia was only able to identify a little over 1,500 trafficking victims. That is all they could identify.

Moreover, Malaysia has yet to prosecute any Malaysian officials for their involvement in the Rohingya smuggling rings and the mass graves found on the Malaysia-Thai border in 2015, an incredible tragedy in which there has been virtually no progress made in resolving that issue. During the 2017 reporting period, Malaysian authorities released 12 police officers suspected of trafficking, again raising questions as to the country's commitment.

I know that the numbers are higher on the numbers of cases that have been brought. But as far as concrete results, I have not seen it. And I would be interested as to why the upgrade was made.

I am also happy that Secretary Sullivan is here, because I am concerned as to how the reorganization will affect our ability to deal with trafficking issues. I know there are discussions in regard to the elimination of the Bureau of Population, Refugees, and Migration, and some of those functions being handled by the Department of Homeland Security. I also know there is consideration of the Consular Affairs Office being transferred to the Department of Homeland Security.

I think, in both of those cases, it would compromise not only the mission of the Department of State that I think is critically important but how we deal with trafficking moving forward.

So I look forward to the Secretary's testimony, and I look forward to our discussion today.

The CHAIRMAN. Thank you very much.

With that, our first witness is Deputy Secretary of State John Sullivan.

We welcome you here.

Our second witness today is the Ambassador-At-Large to Monitor and Combat Human Trafficking, Susan Coppedge.

We are grateful that both of you are here and are doing the jobs that you are doing and have done.

If you would take about 5 minutes to summarize, we would appreciate it. We look forward to questions after that.

Please just proceed in the order introduced. Thank you.

STATEMENT OF HON. JOHN J. SULLIVAN, DEPUTY SECRETARY OF STATE, U.S. DEPARTMENT OF STATE, WASHINGTON, D.C.

Mr. SULLIVAN. Good morning. Thank you, Mr. Chairman, Senator Cardin, members of the committee.

I am honored to appear before you again today to discuss the important topic of the 2017 Trafficking in Persons Report, which the State Department released last month. I am grateful for the opportunity to testify about the report.

The State Department is also grateful for the committee's leadership and input on this issue, and on human rights and democracy more broadly. Individual liberty and the freedoms of religion, speech, press, assembly, and the right to petition the government are at the core of who we are as Americans.

Secretary Tillerson and I share a personal commitment in this regard, and we are proud of the significant efforts across the Department of State to protect and promote individual freedom.

Through hearings like this one and strong legislation backed by this committee, you have been consistent and tireless in fighting the insidious crime of human trafficking. I look forward to our continued collaboration on this and our broader efforts to defend the world's most vulnerable.

I would also like to particularly thank Ambassador-At-Large Susan Coppedge, who leads the State Department's Office to Monitor and Combat Trafficking in Persons, also known as the TIP Office. Susan and her team have done a remarkable job, not only in producing the detailed report that has been released, but also through efforts to encourage foreign officials, NGO leaders, and others around the world to join us in this fight.

At the public rollout of the report in June, Secretary Tillerson read a sobering line from the preamble of the Trafficking Victims Protection Act of 2000. "As the 21st century begins, the degrading institution of slavery continues throughout the world." Seventeen years later, there are still more than an estimated 20 million victims of human trafficking. But the Secretary also encouraged us to join in a shared hope that the 21st century will be the last century of human trafficking.

The TIP Report is an instrument that will help us to make that hope become a reality. It is not only a symbol of U.S. global leadership on combating human trafficking, but a diagnostic tool to assess government efforts across the three Ps: prosecuting traffickers, protecting and empowering victims, and preventing future trafficking crimes.

Since the enactment of the TVPA in 2000 and the TIP Report's first publication in 2001, the report has prompted foreign governments to enact comprehensive legislation, prosecute human traffickers, establish national action plans, implement anti-trafficking policies and programs that protect victims, and conduct prevention campaigns.

The focus of this year's report is on government's responsibility to criminalize human trafficking in all its forms and to prosecute offenders. It also emphasizes the responsibility of governments to enforce anti-trafficking laws, to prevent the use of child soldiers, and to prosecute corrupt officials who choose to turn a blind eye.

To combat human trafficking effectively, governments must also root out complicity and corruption by law enforcement and public officials. The report makes clear that many countries are taking this issue seriously.

I would like to emphasize some of the positive efforts countries have made in the past year that are discussed in the report.

As Secretary Tillerson noted, Afghanistan serves as an example of progress. Last summer, President Ghani ordered an investigation into the institutionalized sexual abuse of children by security forces, and promised punishment for perpetrators.

In January of this year, the Afghan Government enacted a new law to criminalize the practice of bacha bazi, a practice that exploits boys for social and sexual entertainment.

We will continue to work with the Afghan Government toward even greater progress this year as they build on these efforts to investigate, prosecute, and convict traffickers, including complicit government officials.

Ukraine is another example. The country has been on the watch list for 4 years but was upgraded to Tier 2 status this year because of its efforts to improve investigations of trafficking. This has led to the arrest and conviction of police officers, public officials, and others found to be complicit or willfully negligent in the trafficking of girls and boys under their care.

Today, officials are on notice that complicity in trafficking leads to strict punishment in Ukraine.

But, unfortunately, some countries have backpedaled.

This year's report reveals that China has not taken serious steps to end its own complicity in trafficking. Tens of thousands of North Korean citizens are working overseas as forced laborers, primarily in China and Russia. The North Korean regime profits financially, making hundreds of millions of dollars per year on the backs of their exploited citizens working abroad.

Responsible nations cannot allow this. Because of China's lack of significant efforts to address and eliminate trafficking, China was downgraded to Tier 3.

The TIP Report is one component of the State Department's year-round effort to combat human trafficking around the world. It informs our foreign assistance programming to develop anti trafficking strategies for each region and to prioritize countries according to their need for assistance and their political will to make improvements. We use the analysis and recommendations as a roadmap to guide U.S. diplomacy on human trafficking, so our Ambassadors and officials at every level can engage with foreign counterparts to encourage renewed efforts in this fight.

I commit to you today that, as I engage with foreign government officials, I will, like many of you, raise anti-trafficking concerns, as well as broader human rights issues. All countries, including our own, including the United States, have more to do to fight to end modern slavery.

I am proud of the progress reflected in the 2017 TIP Report, but there is much more work to do to make the 21st century the last for human trafficking. We are eager to work with Congress to that end, and I look forward to your questions.

Thank you.

[Mr. Sullivan's prepared statement follows:]

PREPARED STATEMENT OF JOHN J. SULLIVAN

Good morning, Mr. Chairman, Senator Cardin, members of the committee. I am honored to appear before you again today to discuss the 2017 Trafficking in Persons Report, released by the State Department last month. Thank you for the opportunity to testify.

The State Department is grateful for the committee's leadership and input on this issue, and on human rights and democracy more broadly. Individual liberty and the freedoms of religion, speech, press, assembly, and the right to petition the government are at the core of who we are as Americans. Secretary Tillerson and I share a personal commitment in this regard, and we are proud of the significant efforts across the Department of State to protect and promote individual freedom.

Through hearings like this one, and strong legislation, you have been consistent and tireless in fighting the insidious crime of human trafficking. I look forward to our continued collaboration on this and our broader efforts to defend the world's most vulnerable.

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The Trafficking in Persons Report is an instrument that will help that hope become a reality. It is not only a symbol of U.S. global leadership on combating human trafficking, but a diagnostic tool to assess government efforts across the 3Ps: prosecuting traffickers, protecting and empowering victims, and preventing future trafficking crimes.

Since the enactment of the TVPA in 2000 and the TIP Report's first publication in 2001, the Report has prompted foreign governments to enact comprehensive legislation, prosecute human traffickers, establish national action plans, implement antitrafficking policies and programs that protect victims, and conduct prevention campaigns.

The focus of this year's Report is on governments' responsibilities to criminalize human trafficking in all its forms, and to prosecute offenders. It also emphasizes the responsibility of governments to enforce anti-trafficking laws, to prevent the use of child soldiers, and to prosecute corrupt public officials who choose to turn a blind eye. To combat human trafficking effectively, governments must also root out complicity and corruption by law enforcement and public officials.

The Report makes clear that many countries are taking this issue seriously. I would like to emphasize some of the positive efforts countries have made in the past year, as discussed in the Report.

As Secretary Tillerson noted:

- Afghanistan serves as an example of progress. Last Summer, President Ghani ordered an investigation into institutionalized sexual abuse of children by security forces, and promised punishment for perpetrators. In January, the government enacted a new law to criminalize bacha baazi [BAH-chah BAH-zee], a practice that exploits boys for social and sexual entertainment. We will continue to work with the Afghan government toward even greater progress this year, as they build on these efforts to investigate, prosecute, and convict traffickers—including complicit government officials.
- Ukraine serves as another example. The country has been on the Watch list for four years, but was upgraded to Tier 2 status because of its efforts to improve investigations of trafficking. This has led to the arrest and conviction of police officers, public officials, and others found to be complicit or willfully negligent in the trafficking of girls and boys under their care. Today, officials are on notice that complicity in trafficking leads to strict punishment.

But unfortunately, some countries have back-pedaled.

- As Secretary Tillerson mentioned, this year's Report reveals that China has not taken serious steps to end its own complicity in trafficking. Tens of thousands

of North Korean citizens are working overseas as forced laborers, primarily in China and Russia. The North Korean regime profits financially—making hundreds of millions of dollars per year on the backs of their exploited citizens working abroad.

Responsible nations simply cannot allow this. Because of the Chinese government's lack of significant efforts to address and eliminate trafficking, China was downgraded to Tier Three.

The Report is one component of the State Department's yearround efforts to combat human trafficking around the world. It informs our foreign assistance programming to develop antitrafficking strategies for each region, and to prioritize countries according to their need for assistance and their political will to make improvements. We also use the analysis and recommendations as a roadmap to guide U.S. diplomacy on human trafficking, so our Ambassadors and officials at every level can engage with foreign counterparts to encourage renewed efforts in this fight. I commit to you today that as I engage with foreign government officials, I will, like many of you, raise antitrafficking concerns, as well as broader human rights issues. All countries—including the United States—have more they can do to fight modern slavery.

I am proud of the progress reflected in the 2017 Trafficking in Persons Report, but there is much more work to do to make the 21st Century the last for human trafficking. We are eager to work with Congress to that end, and I look forward to your questions.

The CHAIRMAN. Thank you so much.
Ambassador?

STATEMENT OF HON. SUSAN COPPEDGE, AMBASSADOR-AT-LARGE, OFFICE TO MONITOR AND COMBAT TRAFFICKING IN PERSONS, U.S. DEPARTMENT OF STATE, WASHINGTON, DC

Ambassador COPPEDGE. Thank you, Mr. Chairman, Senator Cardin, and members of the committee. It is a real privilege to be here before you today on an issue to which we are all dedicated.

I am honored to join Deputy Secretary Sullivan, and I am happy to answer questions on this year's TIP Report.

I also have to say that I am very humbled by the kind words that have been spoken about me this morning, but the effort to reduce this report is a State Department-wide effort. There are fabulous staff in the TIP Office here. Our Embassy personnel around the world, none of this hard work could be done without them. And I am the beneficiary of that hard work and dedication by the State Department employees.

Hearings like this are very important to highlight the U.S. Government's commitment to combat trafficking. And the TIP Report is used not only by governments, but also by NGOs and civil society members, some of whom are here today and many of whom will be watching.

This conversation is a valuable opportunity to discuss the report's analysis and how it can be used as an effective tool to help improve government responses around the world.

I look forward to discussing the report with you.

The CHAIRMAN. Thank you.

I, again, thank you both for your testimony. I know there will be numbers of written questions, and some here today, about some of the actual results.

I would like to talk to you a little bit about just the bigger picture. I think for those people here in the audience, most of whom are interested in this issue and have spent years on this issue, they may be surprised at some of the things that were even cited in

John's opening comments about what is happening around the world.

Could you share with us maybe, Susan, you most, since Secretary Sullivan is new, but what are you seeing in trends right now around the world as it relates to this issue, and countries and citizens, if you will, taking up the challenge of ending modern slavery and trafficking in persons?

Ambassador COPPEDGE. Since the report first was produced, many more countries have passed laws banning the practice of human trafficking. Many of those are in compliance with the international protocol known as the Palermo standard, but we are still encouraging governments to criminalize all forms of trafficking.

Some areas that were sometimes overlooked in laws in countries were labor trafficking or trafficking of juveniles under the age of 18 without requiring force, fraud, or coercion. So if someone is under 18, they cannot consent to engage in prostitution. They are sex trafficking victims, and we are pushing countries around the world to recognize that.

So some laws have been passed, and some laws are still incomplete.

We are also seeing an increase among law enforcement in the ability to identify victims of trafficking. I share with governments when I travel that, once you get better at identifying victims, your numbers are going to go up before they go down. The number of trafficking cases a country will find will increase.

It is not enough to say, "We have passed a law. We have solved the problem. There are no trafficking victims." That is not an accurate statement. Once you understand, law enforcement understands the ability to recognize trafficking victims, then the number of prosecutions around the world should increase.

Once law enforcement recognizes these victims, there is then a need to provide services to victims, to make them whole again, to reintegrate them into society. So a lot of the grants that my office manages, and a lot of the efforts we are encouraging on behalf of foreign governments now, is to provide services and shelter for victims.

One key component of that is to allow victims to remain in a country and work while the case is pending. If victims cannot stay there, a prosecutor loses their best evidence, and those cases will not be successful.

We are also still concerned globally with corruption and complicity of government officials. If government officials are involved in human trafficking, then human trafficking victims will not report that crime, because they will fear retaliation or fear they will not be believed or listened to.

So those are just a few of the global trends we are still engaging on, both from the TIP Office and with our Embassies around the world.

The CHAIRMAN. How much of the focus on this is being generated in countries because of their own citizens' awareness of this scourge, if you will? And how much of it is because of countries like ours, but others also, that are leading efforts to end it?

Ambassador COPPEDGE. I think you need both those pressure points. One of the three P areas that we look at is protection and

prevention. Prevention is really informing citizens what is going on in that country so they can be aware of the dangers of human trafficking.

One of the reasons, for example, the Philippines was raised to Tier 1, I believe last year, was that they are informing their citizens who are going to work abroad what trafficking indicators are and what to do if you find yourself in a trafficking situation.

So governments are informing their citizens, but everyday citizens are also becoming involved.

I meet with NGOs when I travel, and you met with the TIP Heroes at the rollout of our report. People around the world are really focused and galvanized around this issue, and are making a difference, whether it is through faith-based groups, through academia. We had a judge here from Morocco who was instrumental in that country's laws.

So really, it is a whole-of-society effort to combat trafficking.

The CHAIRMAN. And what role is End Modern Slavery Initiative going to play in our continued efforts in this regard?

Ambassador COPPEDGE. So the program to end modern slavery, the \$25 million that has been provided to the State Department, will go to addressing prevalence areas. So the report focuses on what governments are doing, but even governments who are taking substantial efforts, significant efforts, may still face a large number of trafficking situations in their country, a large number of criminal actors and a large number of victims.

So we hope that the program to end modern slavery will look at that prevalence number and also share best practices about what is working internationally, and do a good job of keeping statistics of what the size and scope of the problem is and what solutions can help to eradicate that.

The CHAIRMAN. Senator Cardin?

Senator CARDIN. Thank you.

I thank both witnesses.

Secretary Sullivan, in the discussion that we had with the chairman, I just really want to underscore our appreciation for the amount of time Secretary Tillerson and yourself spent on this report, and how you assured us that the decisions were made based upon the facts and only the facts. We appreciate that very much. And that leadership coming from the Secretary and from yourself is very important.

I want to drill down on the reorganization within the State Department, and the impact it could have on the trafficking in persons information received in making the report, as well as the final report itself.

There have been reports that the Consular Affairs Office is being considered for termination within the State Department, transferring its functions to the Department of Homeland Security, and that the Bureau of Population, Refugees, and Migration is being eliminated, and some of its functions would be transferred to the Department of Homeland Security.

Both of those actions, I think, would very much damage the Department of State's core function missions, as well as compromise our ability to get the information we need to deal with the Traf-

ficking in Persons Report. Refugees, we know, are very vulnerable to trafficking.

Can you just give the committee a status of those discussions, and hopefully alleviate some of our concerns that this capacity within the State Department is in jeopardy?

Mr. SULLIVAN. Thank you, Senator Cardin.

First, thank you for your statements about the Secretary's leadership on the TIP Report. My presence here is only because the Secretary is in the Persian Gulf today as we speak to address an urgent matter. Otherwise, he himself would be here.

He is committed to ensuring that the work of this office, the work of Ambassador Coppedge's office, and the production of this TIP Report is not politicized, is not influenced by factors outside of statutory standards that are applicable and apply to the facts as we find them.

We are committed to maintaining the integrity of this office and this report in whatever the outcome is in the redesign of the State Department that the Secretary has undertaken.

As we discussed this morning, we are now beginning the process of studying the redesign of the State Department. There is a steering committee that has been convened, comprised primarily of senior and junior career officials, Foreign Service Officers, civil service employees from AID and State, and working groups established under that steering committee, to study questions such as the function of Consular Affairs and PRM.

I can commit to you today, on behalf of the Secretary and the department, that the outcome of that review has not been predetermined. We appreciate the importance, and the Secretary has said this, the role that Consular Affairs and PRM play not only in combating trafficking in persons but in the mission of the department. Consular officers abroad, they are the face of the United States for foreign citizens looking to come to this country.

So I will commit to you that this office, Susan's office, will be protected in any review, because of its importance. And the integrity of the report itself that is produced every year will also be protected.

Senator CARDIN. Thank you. I appreciate that. I strongly urge that these functions remain within the State Department.

Ms. Coppedge, as I said earlier, I am very complimentary of the manner in which these judgments were made on tier ratings. But I need to concentrate on Malaysia, because I have a hard time understanding the upgrade for Malaysia.

A little bit history here. In 2015, Malaysia was taken from Tier 3 to Tier 2 Watch. I do not think there was a member of this committee after the hearings the was convinced that was made on the merits. It clearly looked like it was a political decision made so that it could be eligible for the TPP negotiations. There was virtually no justification for the upgrade.

Now in 2017, you are upgrading Malaysia, the country that got a pass in 2015, to Tier 2 rather than Tier 2 Watch. We know that the Rohingya population is still very vulnerable in Malaysia. We know that there have been no explanations as to the tragedies that occurred with the discovery of the mass graves. We know the police officers were released that were suspected. We know the number

of victims that have been identified pale in comparison to the grand numbers.

We know there have been increased numbers of prosecution activities. But there does not seem to be a fundamental shift.

And if this committee's observations were correct, that they were upgraded and they should not have been upgraded to a Tier 2 Watch, why were they rewarded again?

Ambassador COPPEDGE. Thank you, Senator Cardin.

I will engage in a little bit of history as well.

I believe after that 2015 hearing, that the Deputy Secretary came over and briefed members in a closed-door session. And I know that then-Secretary Kerry in 2016 said that there were no political considerations that went into the 2016 report.

Senator CARDIN. Exactly right, but no one believed him.

Ambassador COPPEDGE. And then today, you have had the affirmation from Deputy Secretary Sullivan and Secretary Tillerson that no political considerations went into the report this year. And you cited all of the areas from the report that the U.S. Government says Malaysia still needs to work on.

Tier 2, as a ranking, means you are not meeting the minimum standards, but that you are making significant efforts as a country. And all of those factors that you cited are areas that we still encourage the Malaysian Government to work on.

However, there are numbers that show that they did make significant efforts this year. They quadrupled the number of trafficking investigations from 158 to 581, and the number of convictions increased from 7 to 35. Now, that number is still low, as you noted, given the scope of the problem, but that is a significant increase from seven, and one that this year's report recognized with the Tier 2 ranking.

They also strengthened law enforcement efforts around trafficking, and we talk about this with foreign governments because it is so important to look at the factors and indicators of trafficking. Sometimes, when a country is getting up to speed on its trafficking law and educating law enforcement, they need to find other ways to crack down on the crime.

What Malaysia did was enforce the law prohibiting passport retention. Migrant workers to Malaysia were having their passports held. That is a clear indicator that there could be trafficking, a clear indicator that someone may not be free to move. And one of the top recommendations of the report in years past is to look at this law. They convicted 17 employers for unauthorized retention of passports, compared to zero the previous year.

They also identified a record number of victims, more than 1,100.

Again, they are starting to do these things and make these significant efforts. Do they still have progress that needs to be made? Yes. Will we still be watching very closely what happens to their prosecution and conviction numbers? Yes. And we will certainly continue to emphasize that victims need to be allowed to move freely and work in that country while prosecutions are pending.

Senator CARDIN. Well, I thank you for that explanation. I do not question the manner in which the decision was made. I question the final judgment.

And I can assure you that—I know that you will be moving on, but we will be watching this country very, very closely to see whether these trends are real and whether they are having an impact on the ground, on the trafficking that takes place in the country.

The CHAIRMAN. Thank you.

Senator Young?

Senator YOUNG. I want to thank the Ambassador and Secretary for your hard work on this important issue of trafficking.

Mr. Sullivan, on May 9 in your nomination hearing, you were kind enough to indulge a number of different requests that I made of you. You immediately followed up proactively with a letter. Thank you for your responsiveness and thoughtfulness in that letter. You have taken action steps, and I am grateful for all of that.

The first issue I raised with you in that May 9 hearing pertained to the Government Accountability Office. I think this is an underutilized institution of our Federal Government. I mean, they really provide some critical feedback on programmatic issues, organizational issues, and so forth.

I commend, for example, the Department of State for taking their recommendation to improve the clarity and usefulness of this year's TIP Report. So that is an example of the sort of thing that they often add value in.

I note that, as of this morning, GAO's website reports there are 57 publications from GAO with a total of 125 open recommendations for the Department of State, including 28 priority recommendations that have not been implemented or fully implemented. Now, some of these open recommendations relate to issues like human trafficking or diplomatic security or security assistance, so really consequential issues.

I want to make sure I am very fair and clear here. I note that 125 open recommendations is down from the 132 in May. But I would hope that we might continue to make rapid progress toward addressing some of these. I would also note that the number of priority recommendations has increased since we last visited, from 22 to 28.

So can you just provide me, Mr. Secretary, with an update on your efforts to ensure State fully and appropriately responds to GAO's recommendations?

Mr. SULLIVAN. Yes, thank you, Senator Young.

The statistics you cite are important and troubling, the fact that there are as many open items as there are, and that is reflected in recent statistics from the GAO from June. We have a letter from June 5 from the comptroller general with 28 priority recommendations that the State Department needs to address.

You mentioned the recommendation with respect to the TIP Report, which is one that we have implemented. I committed to you at my confirmation hearing, and I recommit today, and I apologize that I have not been as quick in getting back to you on the GAO open recommendations as I should have been, but they are a priority for me, both GAO and our inspector general recommendations, which we also have to respond to and implement.

I will say that it is a government-wide issue. I think the same statistics that the GAO provided show that we probably have an

above-average response rate, compared to the rest of the Federal Government. But that is still not good enough.

Senator YOUNG. No, thank you for your good work, for your recommitment to get this done. I am not going to benchmark you against the general Federal Government. That is a pretty low standard, from my view. But thank you very much.

Some positive news, the second issue I raised in the nomination hearing, you might recall, related to problems many Americans are experiencing. You verbalized it, adoption, bringing home legally adopted children from Ethiopia.

We had some really good news in my State. Working with your folks over at the State Department, the Ethiopian Ambassador, who deserves a shout-out, 122 members sent a letter that I helped lead to the Ethiopian Prime Minister. So a lot of actors involved here.

But we were able to, in our office, welcome home a new Hoosier, Genene, to Indiana last month, the son of Jon and Rachel Oren of Fishers, Indiana. Thank you, to you and your professionals.

The last thing I want to do is commend you for your leadership, your professionalism, not just consulting with Republicans and Democrats, people who have held your job and other jobs, to help inform you better about your coming work. But you have emphasized the importance of the professionals at State, at USAID. We want them to feel respected. We want their work—we want them to understand their work is important.

I have always operated under the popular assumption that there are kind of three distinct disciplines in the national security forum. We have diplomacy. We have development. We have defense. And development has its own unique skills, culture, and approaches.

Would you agree with that assessment?

Mr. SULLIVAN. Certainly, Senator.

Senator YOUNG. Okay. I also presume that whatever reforms we undertake at State and USAID will involve maintaining a skilled and experienced development work force, professional staff, who understand the art and science of development.

Is that a correct assumption?

Mr. SULLIVAN. Yes, it is.

Senator YOUNG. Okay. Thank you.

The CHAIRMAN. Thank you.

Senator Menendez?

Senator MENENDEZ. Thank you, Mr. Chairman, for holding the hearing and for your continuing leadership on the question of human trafficking. I truly appreciate it.

And thank you both for your service.

Ambassador Coppedge, let me ask you a simple yes or no. Would you agree that Malaysia has a very significant number of trafficking victims?

Ambassador COPPEDGE. Yes.

Senator MENENDEZ. And also yes or no, do you believe that the number of trafficking victims in Malaysia is significantly increasing?

Ambassador COPPEDGE. That is hard to determine.

Senator MENENDEZ. Isn't it numerically possible to determine?

Ambassador COPPEDGE. I believe that human trafficking is a hidden crime. It is very hard to get accurate data as to whether the problem is increasing or not, or whether we are just getting better, Government officials are just getting better at detecting it. NGOs are getting better at assisting victims and reporting that.

Senator MENENDEZ. Well, the TVPA defines countries that should be included on the Tier 2 Watch List as countries that otherwise meet the Tier 2 definition but where: one, the absolute number of victims is very significant or significantly increasing; there is a failure to provide evidence of increasing efforts to combat trafficking; or three, the determination a country is making significant efforts based on commitments by the country to take future action.

This year's report seems to have ignored that first group, countries with the absolute number of victims is very significant or significantly increasing, and instead made the distinction between Tier 2 and Tier 2 Watch List solely on the second and third categories.

So given that you agree that Malaysia has a very significant number of trafficking victims, why did the State Department ignore that part of the legal requirement when determining Malaysia's tier ranking?

Ambassador COPPEDGE. Senator, I can assure you that we did not ignore that part of the minimum standards in the tier requirements. Those factors—the four minimum standards, 12 indicia, and three factors you just enumerated in determining the rank of a country between Tier 2, Tier 2 Watch List, and Tier 3—were all considered with respect to Malaysia.

Senator MENENDEZ. But there is no question that they have a very significant number. So it seems to me that—my understanding is that you had to meet all of these elements. Are they weighted?

Ambassador COPPEDGE. There are many factors that go into it, and factors can point to different directions.

So what we do at the State Department is sit down and discuss those facts, fill in any gaps in information we have, consult with NGOs and citizens who are invited to share information. I know individuals on the Hill share information that they receive as well.

All of these different factors are considered. Again, some may point in different directions. They are weighted, and a final result is made.

Senator MENENDEZ. Well, factors that point in different directions can be an excuse.

Let me ask you this. You testified last year before the committee, and I quote, "Malaysia stayed on the Tier 2 Watch List because it has a serious human trafficking problem, and it did not make overall increasing efforts."

So to me, that statement reflects the correct interpretation of the law, in that both the scale of the problem and the efforts of government must be considered when determining Tier 2 Watch List status. It seems to me that you abandoned that interpretation for this year's report.

I am wondering, the notion that increased efforts, subjectively defined, are enough to remove a country from the watch list seems

to be a newly created standard that was not noted in the report in past years.

Ambassador COPPEDGE. Senator, we do not rely on just one standard. I can say that we did not abandon the minimum standards in making the evaluation.

We looked at—and you missed a bit of my conversation with Senator Cardin—the increases in the number of trafficking investigations. They quadrupled from 158 to 581. The number of trafficking convictions increased from 7 to 35. That number is still woefully low, given the scope of the problem, but there were significant efforts, given the efforts in the previous year.

We will continue to look at the numbers of prosecutions, investigations, and convictions.

Senator MENENDEZ. Is criminalization of forced labor a requirement to meet the minimum standards of the law?

Ambassador COPPEDGE. It is certainly something that is looked at to see whether the law is comprehensive in addressing all forms—

Senator MENENDEZ. That is not a minimum standard of the law? You interpret it as just looking at it?

Ambassador COPPEDGE. No, Senator. If you look at that, and a country does not criminalize all forms of forced labor, I submit to you that they would never be a Tier 1 country.

Senator MENENDEZ. Well, Cuba was granted a waiver from an otherwise automatic downgrade to Tier 3 because the Government of Cuba devoted resources to some written plan, if implemented. But the law has not changed. They do not criminalize forced labor.

Ambassador COPPEDGE. And that is something that we continue to raise with the Government of Cuba, and something that is addressed in their written plan.

Senator MENENDEZ. But how do they deserve a waiver?

Ambassador COPPEDGE. The waiver looks at the written plan to make sure that that plan would apply—

Senator MENENDEZ. Do we have access to that written plan?

Ambassador COPPEDGE. The written plan is submitted by governments to the State Department, and we believe it would be chilling to share that plan submitted by a foreign government.

Senator MENENDEZ. So it would be chilling to share a plan that is the basis of a statutorily mandated report, and for which we could not make a judgment without knowing whether that plan is significant enough to give a country like Cuba—for that fact, any other country similarly situated—a waiver.

That is ridiculous. That is beyond—beyond—the whole notion that, in order not to freeze the deliberative process internally in the State Department, as it relates to these rankings, that, in fact, that we should not have access to a report that a government gets a waiver on.

Mr. Chairman, this is why reform of the existing legislation is so important.

If I may, one last question.

Secretary Sullivan, a Reuters report on June 23 claims that Secretary Tillerson overruled his staff assessments on the use of child soldiers in Iraq and Myanmar, and removed them from the Child

Soldier Prevention Act. It goes on to say that he also rejected a staff proposal to add Afghanistan to that list.

I would ask consent that the Reuters article be entered into the record, Mr. Chairman.

The CHAIRMAN. Without objection.

[The information referred to above is located at the end of this hearing transcript.]

Senator MENENDEZ. Is that account accurate?

Mr. SULLIVAN. Senator, the Secretary took the facts that were presented to him through the TIP Report process, through the process that generated the recommendations to him, applied the legal standard in his judgment to the facts that were presented, and reached his determination with respect to those three cases. I am happy to discuss each of those three, Burma, Afghanistan, and Iraq.

But it was his judgment of applying the legal standards to the facts that led to the—

Senator MENENDEZ. I would be very interested in understanding why he rejected the advice of State Department experts.

Mr. SULLIVAN. Mr. Chairman, may I?

The CHAIRMAN. Go ahead.

Mr. SULLIVAN. Just two points on that.

The Secretary, for each of these determinations, makes his own independent judgment. I would be happy to brief you on this issue, as well as the issue that you raised previously with Ambassador Coppedge on Cuba with respect to our determinations with respect to Cuba, the facts there, as well as going forward on our engagement with Cuba, both law enforcement and migration issues, and with respect to trafficking in persons, and provide you with information, if not the plan that Susan described, sufficient information, so that you understand what our position is with respect to Cuba.

Senator MENENDEZ. I will not belabor it, because the chairman has been, even though there are no other members present, the chairman has been very gracious with time.

I will just simply say, first of all, I would like an answer for the record in writing, and I would be happy to take your briefing as well.

But let me just say, this answer that we cannot even see a report that has nothing to do with the deliberations to determine whether a country should get a waiver or not, that is beyond the scope, from my perspective, it is beyond the scope and not acceptable.

Thank you, Mr. Chairman.

The CHAIRMAN. Yes, sir.

Senator Cardin?

Senator CARDIN. I am troubled, Secretary Sullivan, with your answer there.

The Child Soldier Prevention Act requires the identification of those governments, armed forces or government-supported armed forces that recruit and use child soldiers. The 2017 report lists Burma and Afghanistan as countries that use and recruit child soldiers by government forces.

It seems that that is a direct contradiction, if it is listed in the TIP Report but removed from the Child Soldier Prevention Act.

Mr. SULLIVAN. Senator Cardin, with respect to Burma, for example, the Burmese Government has undertaken, in response to prodding from the United States and others, significant efforts to prevent the recruitment of child soldiers, and in having anyone who was recruited as a child to serve as a soldier to be released from that service. So we had 112 cases in 2016 of child soldiers in Burma who were released from their service because they had been recruited as children.

That was among the factual bases that the Secretary relied on in making his determination.

Senator CARDIN. But is it correct? Was the TIP Report correct to say that Burma still recruits and uses child soldiers?

Mr. SULLIVAN. We have concerns about the recruitment of child soldiers in Burma, and we will continue to monitor that extremely closely.

But factually, the Secretary made the determination that, with respect to this particular reporting period, given the results through Ambassador Coppedge's efforts, among others, to get the Burmese Government to remove those individuals who have been recruited as child soldiers, 112 from that service, that, factually, that that determination was mandated.

Senator CARDIN. I understand you are saying they are making progress. My understanding of the Child Soldier Prevention Act is that, if they do recruit and use child soldiers, they are listed.

So it seems to me that there is an inconsistency with the findings in the TIP Report and the determination on the Child Soldier Prevention Act.

Mr. SULLIVAN. The factual determination on whether there were, in fact, child soldiers recruited during that time period, as opposed to prior instances of the Government of Burma recruiting child soldiers, the factual basis for the Secretary's determination was that, in fact, the Burmese Government was releasing child soldiers from service.

We still have concerns about that practice, about the Burmese Government commitment to end that practice and maintain that practice, but that was the factual basis for the determination.

Senator CARDIN. I should have the report in front of me, but at least the summary I have shows the 2017 report indicates that Burma still uses and recruits child soldiers. Am I wrong?

Ambassador COPPEDGE. So with respect to the report, the report always looks back at a 5-year snapshot to capture what has been going on in a country, and there is also a difference in definition between trafficking laws and the Child Soldier Prevention Act. There are some age differences in those two laws.

Senator CARDIN. I understand that. My question is, during the reporting period, did Burma use and recruit child soldiers?

Ambassador COPPEDGE. With respect to individuals under the age of 18, there have been reports in the past 5 years that child soldiers were recruited and used.

Senator CARDIN. It seems to me that this is a mixed message.

I think Congress very clearly, with the Child Soldier Prevention Act, wanted the United States to be very clear. It is not a matter of making improvements. It is a matter of whether they do it or don't do it. It seems to me that the TIP Report says, yes, they still

do this. And the delisting indicates an inconsistency with our commitment against child soldiers.

The CHAIRMAN. Do you want to follow up on any of these? Are we good?

Senator MENENDEZ. Thank you, Mr. Chairman.

The CHAIRMAN. Go ahead.

Senator MENENDEZ. I have one other question that I did not get to.

Let me ask you this, Ambassador. How many rankings could not be decided between you and other senior State Department officials and, therefore, had to be elevated to the Secretary?

Ambassador COPPEDGE. So as you know, Senator, we sit down at the working level and reach consensus recommendations in the majority of cases. This year, five were elevated.

Senator MENENDEZ. And in those instances, was there ever an occasion where factors not related to the government's efforts to combat trafficking came up in the discussion of a country's ranking?

Ambassador COPPEDGE. Not that I am aware of. Not in the discussions that I participated in.

I would like to back up a bit to—

Senator MENENDEZ. If I may, because my time, let me—in those instances, did you consider any actions that took place outside the reporting period?

Ambassador COPPEDGE. No.

Senator MENENDEZ. Mr. Secretary, one last question to you. In the context of those that were elevated to the Secretary, was there any occasion where factors not related to the government's efforts to combat trafficking came up in the discussion about a country's ranking?

Mr. SULLIVAN. None.

Senator MENENDEZ. None whatsoever.

Mr. SULLIVAN. None whatsoever.

Senator MENENDEZ. So, for example, in China's case, it was purely what they did as it relates to the lack of their standards meeting under the Trafficking in Persons Act?

Mr. SULLIVAN. Exactly. The Secretary applied the statutory standards to the facts.

Senator MENENDEZ. Okay.

Thank you, Mr. Chairman.

The CHAIRMAN. I appreciate the kind of questions that have been asked, I really do, and I think that highlighting the importance of this to all of us, but also the pre-meetings that we have with many of the people that you referred to, Ambassador, that put this report together and are in charge of regions, points to the fact that we care deeply about this issue.

I do think that this year's report was vastly, vastly different than what we experienced in 2015. But I still appreciate the fact that people want to probe and understand why decisions are made about child soldiers or other issues.

So I hope you can see the importance to us. We see firsthand, as we travel around the world, the effect of us paying attention to this.

So thank you for being here.

Is there something else that we can be doing, that our Nation can be doing, to really stamp out, to help stamp out, to move toward stamping out what is occurring that is not being done today?

Ambassador COPPEDGE. Well, certainly, this committee's dedication to the issue has raised its profile and shown that it is not simply one branch of the U.S. Government that cares. The executive branch cares. The legislative branch cares and raises these issues. I think that has been very important on the global stage in contributing to U.S. leadership on this issue.

It is such a challenging area to work in, but having the support and even the probing questions, as you noted, at this hearing, I was able, when I travelled to Malaysia, which was the first country I went to after the TIP Report was released last year, I was able to say, "You need to watch this hearing to see how concerned our elected officials are about trafficking in this country."

So certainly, having a double-fisted approach to the problem has been incredibly helpful, and I appreciate the collaboration that we have had.

Mr. SULLIVAN. May I add one point, Mr. Chairman, not directly related to the TIP Report but just on human rights generally?

I want to note, with sadness and regret, that Liu Xiaobo, the Chinese Nobel laureate, has passed away. Both the Secretary and I, and our Ambassador, have raised his case previously with the Chinese Government. It is an example of our commitment to human rights.

It is regrettable what happened to this person, a Nobel laureate. But it is, again, an example of our commitment to human rights, and our commitment to you and this committee, that we will take those issues very seriously.

The CHAIRMAN. When Secretary Tillerson was having his confirmation hearings, I know there had been some concerns about focusing on human rights and our leadership in that regard. I will have to say, and I think the committee has had a degree of effect on that, but I think his own experiences, as he has traveled the world and seen the importance of U.S. leadership in this regard, and the effect that it has on other countries, has caused him to really step up in that regard.

I just hope, as a result of this meeting, with the many encounters that we have had, and I know Susan has had, with people throughout the State Department, to us holding up the ideals of human rights, of ending trafficking, is something that is part of an American ideal and something that we want to see championed in every way.

Thank you for being here.

Senator CARDIN. Senator Kaine is here. I think he wants to question.

Mr. Secretary, thank you for raising that case. That information came to us during this hearing. A tragic loss of a great human rights figure in China. I appreciate you mentioning it at this hearing, and the attention that we gave this to the Chinese.

The CHAIRMAN. Senator Kaine?

Senator KAINE. Thank you, Mr. Chairman.

Thank you to the witnesses. I apologize for being late. I hope I do not ask a question that has already been covered.

The administration is reportedly considering a new position, Ambassador-At-Large for Human Rights, that would focus on refugees and humanitarian aid issues, in addition to combating trafficking. I think this may be a potential consolidation.

What effect would it have on the TIP process if, Ms. Coppedge, your position were effectively eliminated or subsumed under a broader position overseeing the State Department's role in humanitarian aid and refugees, in addition to trafficking?

Ambassador COPPEDGE. Senator, thank you.

Certainly, the State Department and this administration are committed to combating trafficking. Secretary Tillerson spoke to that at the rollout of the report 2 weeks ago. The administration, the White House has had listening sessions about human trafficking. So I know this is a priority for this administration and will continue to be as the reorg is examined.

As I understand it, there have been no firm decisions made about a reorganization. But there are people in our embassies around the world and in my office who will keep this issue on the front burner.

Senator KAINE. And if I could, Mr. Sullivan, could you respond to that as well? What is the current status of thoughts about reorg in this area?

Mr. SULLIVAN. They are only in the thought process, Senator. No decision has been reached on this issue, except the decision that Susan has noted, that the Secretary's commitment, the administration's commitment, as noted by the presence of the senior adviser, Ivanka Trump, senior adviser to the President, who was with the Secretary when the TIP Report was rolled out, this administration's commitment to this problem, trafficking in persons, and the integrity of the process that produces this report, is as sound as it possibly could be, and will be preserved and protected however the redesign goes forward.

Senator KAINE. Thank you for that.

In January 2016 at the President's interagency task force, DNI Clapper reported that the National Intelligence Council intends to issue, for the first time, a National Intelligence Estimate on human trafficking this summer. That was reported in January.

Do you know what the status of that effort is? Is that still underway, to do an NIE report on human trafficking sometime this year?

Mr. SULLIVAN. I do not, Senator. I defer to Ambassador Coppedge. But if we do not have the answer, we will get back to you promptly with that.

Senator KAINE. Ambassador Coppedge, do you know the answer to that question?

Ambassador COPPEDGE. I do not know the answer. We will have to get back to you.

Senator KAINE. Okay. I will submit it specifically in writing and would appreciate your response to that.

I almost always try to ask Western Hemisphere questions, so let me jump to that hemisphere.

The budget request for the administration in Central America is significantly reduced with a 30 percent proposed cut to the region. We are grappling with budget questions.

Costa Rica, St. Lucia, Trinidad and Tobago were upgraded to join Mexico, El Salvador, Honduras, and Panama as Tier 2 in 2017. Guatemala and Nicaragua were dropped from Tier 2 to join Cuba and Bolivia as Tier 2 Watch List countries. So there is clearly a lot of action in the Americas on this issue now.

How do you think that cut, if it is carried out in the budget, would affect the ability of the countries in that region, or our ability to help them, combat trafficking in persons?

Ambassador COPPEDGE. So, certainly, with trafficking being a priority, I am hoping that the budget cuts will stay away from what the administration has acknowledged is a priority.

We also just recently entered into a child protection compact with the Government of Peru, whereby we will focus approximately \$5 million over 3 years to 4 years with NGOs there addressing the problem of child trafficking in Peru.

So we are still very engaged. We obviously have international program funds going to Central and South America. It is an area where we believe we will still continue to be an important player and still put our energies and focus on that area.

Senator KAINE. I know this is kind of a hard question to answer generally, but as you are looking at Latin America generally, do you think the arch is going in the right way, the wrong way, kind of staying the same? Or is it spotty, depending on the country?

Ambassador COPPEDGE. So I think, around the world, law enforcement and governments are getting better at identifying trafficking, recognizing it for the crime that it is, instead of a smuggling crime or an immigration crime or a prostitution crime. They are getting better at identifying the crime as trafficking.

So the numbers for trafficking cases are going up. I do not think that is because the problem is getting worse. I think it is because we are getting better at naming it and identifying it. So it is very hard to say which way it is going.

The report, though, documents government efforts to combat this crime. And I believe government efforts are on the positive side of that arch, that they are increasing.

Senator KAINE. Any additional comments to that, Mr. Sullivan, on Latin America?

Mr. SULLIVAN. No, I think the Ambassador has summed it up very well.

Senator KAINE. Thank you.

Mr. Chair, I have no other questions. I appreciate the witnesses, for your commitment and for your testimony.

Senator CARDIN. I think we are about ready to wrap up.

The CHAIRMAN. Thank you. I am sorry. We have multiple things happening right now, none more important than this.

We will keep the record open until the close of business Monday.
The CHAIRMAN. We thank you for your testimony, for coming back for this, and for staying through the report's great production.

We look forward to continuing to work with you on this issue in the department, and all the outstanding people that Ambassador Coppedge referred to.

We look forward to a continuing relationship with you in other ways, we hope.

With that, the meeting is adjourned. Thank you.

[Whereupon, at 10:36 a.m., the hearing was adjourned.]

Additional Material Submitted for the Record

EXCLUSIVE: OVERRULING DIPLOMATS, U.S. TO DROP IRAQ,
MYANMAR FROM CHILD SOLDIERS' LIST

Jason Szep, Matt Spetalnick

WASHINGTON (Reuters) [June 23, 2017]—In a highly unusual intervention, Secretary of State Rex Tillerson plans to remove Iraq and Myanmar from a U.S. list of the world's worst offenders in the use of child soldiers, disregarding the recommendations of State Department experts and senior U.S. diplomats, U.S. officials said.

The decision, confirmed by three U.S. officials, would break with longstanding protocol at the State Department over how to identify offending countries and could prompt accusations the Trump administration is prioritizing security and diplomatic interests ahead of human rights.

Tillerson overruled his own staff's assessments on the use of child soldiers in both countries and rejected the recommendation of senior diplomats in Asia and the Middle East who wanted to keep Iraq and Myanmar on the list, said the officials, who have knowledge of the internal deliberations.

Tillerson also rejected an internal State Department proposal to add Afghanistan to the list, the three U.S. officials said.

One official said the decisions appeared to have been made following pressure from the Pentagon to avoid complicating assistance to the Iraqi and Afghan militaries, close U.S. allies in the fight against Islamist militants. The officials spoke on condition of anonymity.

Foreign militaries on the list can face sanctions including a prohibition on receiving U.S. military aid, training and U.S.-made weapons unless the White House issues a waiver.

Human rights officials expressed surprise at the delisting, which was expected to be announced on Tuesday, the officials said, as part of the State Department's annual Trafficking in Persons (TIP) Report.

A State Department official said the TIP report's contents were being kept under wraps until its release and the department "does not discuss details of internal deliberations."

The Pentagon did not immediately respond to a request for comment.

Under the Child Soldiers Prevention Act of 2008, the U.S. government must be satisfied that "no children are recruited, conscripted or otherwise compelled to serve as child soldiers" in order for a country to be removed from the list and U.S. military assistance to resume.

In the lead-up to Tuesday's report, the State Department's Bureau of Democracy, Human Rights, and Labor, which researches the issue and helps shape U.S. policy on it, along with its legal office and diplomatic bureaus in Asia and the Middle East concluded that the evidence merited keeping both countries on the list, the officials said.

Officials said that although the report had been finalized there was always the possibility of last-minute changes.

Betraying Children

Human Rights Watch said removing Myanmar, formerly known as Burma, from the list would be a "completely premature and disastrous action that will effectively betray more children to continued servitude and rights abuses."

The decision also would put the Trump administration at odds with the United Nations, which continues to list the Myanmar military, along with seven ethnic armed groups, on its list of entities using and recruiting child soldiers.

"What's particularly astonishing is this move ignores that the U.N. in Burma says that it is still receiving new cases of children being recruited" by the Myanmar military, said Phil Robertson, deputy Asia director at Human Rights Watch.

Rights groups have long accused Myanmar of using child soldiers. Bordering both China and India, Myanmar is also of growing strategic importance to the United

States at a time of increasing encroachment in the region by China, which has sought closer relations with its neighbor.

Iraq, which has received more than \$2 billion in U.S. arms and training over the last three years, was added to the State Department's "Child Soldier Prevention Act List" in 2016. However, the flow of U.S. assistance has continued.

Former President Barack Obama handed out full or partial waivers regularly, including last year to Iraq, Myanmar, Nigeria, South Sudan and others out of 10 countries on the list.

Last year's State Department report said some militias of Iraq's Popular Mobilization Forces (PMF), an umbrella group of mostly Shi'ite Muslim factions with ties to the Iraqi government and backed by Iran, "recruited and used child soldiers."

The report said that despite the PMF being funded by the government, Baghdad struggled to control all of its factions.

"The government did not hold anyone accountable for child recruitment and use by the PMF and PMF-affiliated militias."

Human Rights Watch said in January that it had learned that militias had been recruiting child soldiers from one Iraqi refugee camp since last spring.

The broader TIP report, the first of Trump's presidency, is sure to be closely scrutinized for further signs that under his "America First" approach there will be little pressure brought to bear on friendly governments, especially strategically important ones, for human rights violations at home.

The Obama administration, while more vocal about political repression around the world, also faced criticism from human rights groups and some U.S. lawmakers that decisions on annual human trafficking rankings had become increasingly politicized.

RESPONSES TO ADDITIONAL QUESTIONS FOR THE RECORD SUBMITTED TO
HON. JOHN J. SULLIVAN BY SENATOR MARCO RUBIO

Question 1. What is the State Department's plan for special envoys and ambassadors-at-large? Does the Department intend to keep those for the Ambassador-at-Large for Trafficking in Persons, Ambassador-at-Large for International Religious Freedom, and the Special Envoy to Monitor and Combat Anti-Semitism?

Answer. We are evaluating the utility of the nearly 70 Ambassadors-at-Large, Special Representatives or Special Envoys within the structure of the U.S. Department of State. We want to ensure responsibility for each issue is appropriately placed and aligned with the resources needed to achieve the mission.

The Ambassador-at-Large for Monitoring and Combating Trafficking in Persons, the Ambassador-at-Large for International Religious Freedom, and the Special Envoy to Monitor and Combat Anti-Semitism are statutorily-required positions.

Question 2. How does the administration plan to use the TIP report to engage with foreign governments on addressing human trafficking concerns? What is the State Department's strategy and plans?

Answer. Fighting modern slavery is a priority for Secretary Tillerson the State Department. We take a whole-of-government approach to addressing human trafficking. Throughout the year, Department officials and staff in the TIP Office, regional bureaus, and U.S. missions around the world encourage foreign governments at senior levels to implement recommendations outlined in the TIP Report. The recommendations outlined in the TIP Report form the backbone of our foreign diplomatic engagement. In public and in private, these are the priorities we encourage foreign governments to address as they work to combat human trafficking. The recommendations guide our dialogue with NGOs and our foreign assistance programming related to human trafficking.

The State Department offers a variety of training and technical assistance to foreign governments, international organizations, and civil society groups to enhance awareness of and more effectively address human trafficking. U.S. officials highlight efforts to address human trafficking via public diplomacy initiatives, speeches, and media interviews. Further, as human trafficking is a crime that intersects with a variety of other issues, including law enforcement capacity, corruption, labor rights, and migration, the Department integrates human trafficking priorities into all appropriate forums, with the goal of enhancing and deepening the global response to this crime.

RESPONSE TO AN ADDITIONAL QUESTIONS FOR THE RECORD SUBMITTED TO
HON. JOHN J. SULLIVAN BY SENATOR ROBERT MENENDEZ

Child Soldiers Prevention Act List

Question 1. Secretary Sullivan, at the hearing I mentioned a June 23 Reuters article that suggested Secretary Tillerson rejected the advice of State Department experts and removed Iraq and Myanmar from the Child Soldiers Prevention Act List and also rejected a staff proposal to add Afghanistan to that list. Please explain how Secretary Tillerson arrived at his determination with regard to these three countries in a manner consistent with the legal requirements of the Child Soldiers Prevention Act.

Answer. The Secretary took the information presented to him through the TIP Report process that generated the recommendations to him, assessed the credibility of the information in his judgment, and reached his determination with respect to whether the facts justified a listing in those three cases.

For each of these determinations, the Secretary makes his own independent judgment.

RESPONSES TO ADDITIONAL QUESTIONS FOR THE RECORD SUBMITTED TO
HON. JOHN J. SULLIVAN AND HON. SUSAN COPPEDGE BY SENATOR TIM KAINE

National Intelligence Estimate (NIE) on Human Trafficking

Question 1. At the January 2016 President's Interagency Task Force (PITF) meeting, DNI James Clapper reported that the National Intelligence Council intends to issue its first-ever National Intelligence Estimate (NIE) on human trafficking this summer. What is the status of this NIE? What key trends have emerged thus far? How will these trends be incorporated, if at all, into the 2018 TIP Report analysis of the current state of global human trafficking problems?

Answer. The National Intelligence Estimate (NIE) on Human Trafficking is in preparation. Any specific questions on its status or content should be referred to the Office of the Director of National Intelligence, National Intelligence Council. Any trends emerging from the National Intelligence Estimate will serve as background information for the Office to Monitor and Combat Trafficking in Persons but will not be incorporated into the annual Trafficking in Persons Report as the NIE's content will be classified.

Rank Determination for Contentious Cases

Question 2. What were the five cases elevated to Secretary Tillerson for a final TIP ranking determination? Were Burma, Iraq, and Afghanistan's placement on the Child Soldiers Act Protection List considered within that group? Can you provide the legal justification for the removal of Burma and Iraq from the 2017 list?

Answer. As a matter of policy, the Department does not discuss details of internal deliberations. It is critical that Department officials are able to speak freely and frankly during the deliberative process, which ultimately contributes to the integrity of the Report and the strength of tier ranking and listing decisions. Differences of opinion within the Department are not unusual. Important policy decisions benefit from robust discussion and a diversity of views; this is also true for the process leading to a final Trafficking in Persons Report. The Secretary drew upon the expertise of the entire Department to ensure the inclusion of different perspectives in reviewing the facts in the context of the Trafficking Victims Protection Act (TVPA) and Child Soldiers Prevention Act (CSPA) criteria to inform his decisions. All final decisions are made by the Secretary, who reviewed the facts presented, made judgments as to the credibility of the information, and determined whether the facts ultimately justified a particular tier ranking or listing.

Question 3. Last year's State Department report said some militias of Iraq's Popular Mobilization Forces (PMF), "recruited and used child soldiers" and that "the government did not hold anyone accountable for child recruitment and use by the PMF and PMF-affiliated militias." What is the Department's strategy for addressing abuses associated with the PMF and supporting efforts to disband volunteer militias following the defeat of ISIS from major cities in Iraq?

Answer. The Department remains deeply concerned about reports by the U.N., NGOs, and media that some of Iraq's Popular Mobilization Forces (PMF) and other various militia and tribal groups who volunteered to assist in the defense of Iraq, specifically the defeat of ISIS, recruited and used children under the age of 18 in

operations in Fallujah and other areas of the country, while PMF-affiliated social media sites continue to celebrate the service and sacrifice of child soldiers.

The Popular Mobilization Committee (PMC) Law that Iraqi Prime Minister Haider Abadi signed into law in December 2016, formalized the status of the PMC as an umbrella organization for the PMF located in the Prime Minister's Office and recognized PMFs under PMC control as a component of the Iraqi armed forces. The law intends to solidify and enhance the Government of Iraq's (GoI) operational control over all PMF once it is fully implemented. We expect that the Iraqi government will continue to maintain oversight over all units organized under the PMC including investigating reports of child soldiers, and holding those responsible accountable, as appropriate.

As the first recommendation in the 2017 Trafficking in Persons (TIP) Report indicates, the Department continues strongly to urge the GOI to make efforts to stop the recruitment and use of children by the PMF, militias, and tribal forces, hold complicit officials accountable for child soldiering, and provide protection services for child soldiers. The Department will continue to urge the GOI to vigorously implement its law that prohibits voluntary recruitment of any person under age 18 into the governmental armed forces, including governmental paramilitary forces, militia groups, or other armed groups. The Department will also work with the GOI to ensure trafficking victims are not punished for crimes committed as a direct result of being subjected to human trafficking, including child soldiering, and to increase adequate and unhindered access to protection services for victims of all forms of trafficking in Iraq and the Iraqi Kurdistan Region (IKR).

RESPONSES TO ADDITIONAL QUESTIONS FOR THE RECORD SUBMITTED TO
HON. SUSAN COPPEDGE BY SENATOR MARCO RUBIO

Question 1. On the Tier Ranking of Countries for the TIP Report: Could you explain the State Department's assessment of Malaysia, Qatar, and Burma that ultimately led to their tier upgrading on the TIP report this year? What specific steps have these countries taken to eliminate human trafficking?

Answer. In the case of Malaysia, the government demonstrated increasing efforts by significantly expanding trafficking investigations, prosecutions, and convictions. The government nearly quadrupled the number of trafficking investigations compared to last year (158 to 581), and the number of trafficking convictions increased significantly (7 to 35). Officials also strengthened enforcement of the law prohibiting passport retention, convicting 17 employers for unauthorized retention of passports, compared to zero during the previous year. In 2016, the government reported identifying 3,411 potential trafficking victims, of which it confirmed 1,558 as trafficking victims, a marked increase over the 305 victims confirmed in 2015. To coordinate anti-trafficking operations, the government established a new interagency law enforcement taskforce, to which 17 officers from seven agencies were assigned and trained on investigative tactics. The taskforce conducted a large and successful labor trafficking raid in March, and its mandate was subsequently extended from six months to two years. During the reporting period, Malaysian officials provided three NGOs with 483,000 RM (\$107,690)—ten times more than was provided in the previous year—to conduct various programs and activities with trafficking shelter residents, and also increased its funding allocation to 5.3 million RM (\$1.18 million), up from 4.6 million RM (\$1.03 million) the previous year, to the Ministry of Women, Family, and Community Development to operate government facilities for trafficking victims. We continue to urge the Malaysian government to facilitate trafficking victims' freedom of movement and to increase the effectiveness of trafficking prosecutions, including of complicit officials.

In the case of Qatar, the government demonstrated increasing efforts to meet the minimum standards during the reporting period through initiatives such as establishing a coordinating body to oversee and facilitate anti-trafficking initiatives and enacting substantial reforms to the sponsorship system to reduce vulnerability to forced labor. The Wage Protection System, which provides workers with their own bank accounts and flags problems related to payment for follow-up, now covers more than two million workers and significant progress has been made towards implementing a new electronic contracting system and new labor dispute panels designed to greatly accelerate resolution of labor cases. The government gave Cabinet approval to new legislation—still awaiting final signature—to better protect domestic workers and strengthen enforcement against passport retention. The Qatari government also increased the number of prosecutions and convictions for trafficking-related offenses. Under various sections of the labor code, the Public Prosecutor's Of-

fice convicted up to 19 companies for labor law contraventions, including failure to comply with work hour limitations, grant a mandatory rest day, or pay overtime. Labor courts handed down 2,039 judgments in 2016, including 1,201 cases of forced payments of denied or delayed wages and benefits, in addition to fines, which reached as high as 100,000 Qatari riyal (\$27,460), according to news reports. We will continue to urge Qatar over the next year to build up and expand on these achievements.

In the case of Burma, key achievements during the reporting period merited an upgrade to Tier 2 Watch List. These included progress to eliminate the recruitment and use of child soldiers, more officers dedicated to anti-trafficking law enforcement units, and the first prosecutions of government officials for human trafficking since the enactment of its 2005 anti-trafficking law. The government strengthened efforts to identify victims in vulnerable border areas, reached its goal of appointing human trafficking case workers to all social welfare offices throughout the country, and continued cooperation with international partners to identify and demobilize children recruited into the military's ranks, culminating in the release of 112 individuals recruited as children. Much work remains to be done, however. The government continued to require troops to source their own labor and supplies from local communities, increasing the prevalence of forced labor; did not sufficiently penalize military officials who engaged in child soldier recruitment—a problem that persisted during the reporting period; and prevented the U.N. from playing a constructive role in bringing to an end the recruitment and use of children by ethnic armed groups. We continue to urge the Government of Burma to address these issues.

Question 2. Given the allegations of politicization of the 2015 Report, what steps is the TIP office taking to restore and ensure credibility to TIP Report?

Answer. The White House and the State Department share Congress' commitment to maintaining the integrity of the TIP Report. The staff in the Office to Monitor and Combat Trafficking in Persons (TIP Office) work year-round with colleagues across the Department to gather information from embassies, foreign governments, nongovernmental and international organizations, and a full array of open sources to produce an accurate and objective Trafficking in Persons (TIP) Report.

The final country narratives and rankings reflect the Department's best assessment of governments' efforts to meet with minimum standards to eliminate human trafficking, documenting the successes and shortcomings of government anti-trafficking efforts. They represent an extensive and rigorous whole-of-department effort. The Secretary of State continues to approve all country narratives and tier rankings.

On December 5, 2016, the General Accountability Office (GAO) released a report assessing the TIP Report. While noting the Department has made improvements since the GAO's last study in 2006, the new report made four recommendations "to improve the transparency and clarity of the Trafficking in Persons Report and improve its usefulness as a diplomatic tool to encourage countries to address trafficking." The Department concurred with all four recommendations and has implemented changes to the 2017 TIP Report to address the recommendations. It is our hope these changes make the basis of a given tier ranking more clear.

The Department has and will continue to review the process for producing an honest and unbiased TIP Report that advances efforts to combat modern slavery. Ultimately, the purpose of the Report is to prompt governments to change and improve anti-trafficking efforts. The Department continuously reviews how the Report can even more effectively motivate tangible progress around the world. The Department remains committed to maintaining the Report's gold standard reputation.

Question 3. On Labor Trafficking: Of the 20.9 million trafficking victims worldwide, the International Labor Organization (ILO) estimates that 68 percent are trapped in labor trafficking. Yet, only 8 percent of the 9,071 convictions reported worldwide last year were labor cases. How is J/TIP working to ensure that more labor cases are identified and prosecuted?

Answer. The Department urges governments to combat all forms of human trafficking, including both sex and labor trafficking. As the data suggests, law enforcement efforts in response to human trafficking are inadequate to the scale of the problem, and efforts to combat labor trafficking, in particular, are disproportionately low. To adequately address labor trafficking, governments must make efforts across the 3Ps: prosecuting traffickers, protecting and empowering victims, and preventing future trafficking crimes. Through our robust bilateral diplomacy, active engagement in multilateral fora, foreign assistance, and partnerships with civil society and the international business community, the Department uses all the tools at its disposal to motivate governments to address forced labor and increase their capacity to do so.

Through its foreign assistance programming, the Department seeks to build the capacity of local law enforcement, judges, prosecutors, magistrates, and service providers to combat labor trafficking, including through victim identification, investigation and prosecution of trafficking cases, appropriate referral of victims for services, and education on relevant domestic and international legal frameworks. Programs aim to build ties between law enforcement and prosecutors to enhance understanding of key elements necessary for the successful prosecution of trafficking cases. The TIP Office seeks to support programs that include a ‘Train the Trainer’ element to advance sustainability and local ownership of training efforts, and that instill a victim-centered approach to all interactions with trafficking victims.

The Department will continue to build a cadre of criminal justice actors globally who better understand how to effectively identify victims and prosecute human trafficking cases, including labor trafficking cases, while pressing governments to end the impunity of traffickers and strengthen and enforce legal frameworks where needed. We will also continue to urge governments—including our own—to pursue robust identification and prosecution of labor trafficking cases.

The TIP Office is also engaged on reducing the risk of forced labor in global supply chains. For example, in an effort to assist federal contractors, procurement officials, and other companies understand the risks of human trafficking in global supply chains, the TIP Office partnered with NGO partners to develop the Responsible Sourcing Tool (www.responsiblesourcingtool.org). The site includes extensive research on 11 key sectors and 43 commodities at risk for trafficking or trafficking-related activities, and 10 comprehensive risk-management tools.

Question 4. On Cuba: Cuba’s tier ranking was elevated to Tier 2 Watch List in 2015 as the previous administration was normalizing relations with Cuba. However, prior to 2015, Cuba had been consistently ranked a Tier 3 country in the TIP Report. The U.N. Special Rapporteur on Trafficking in Persons visited Cuba in April 2017 and described Cuba’s anti-trafficking efforts as “at its initial stage.”

- To your knowledge, has the Cuban government followed through on any of those recommendations?
- Are there any specific actions that the Cuban government has taken this year to eliminate human trafficking from the island?
- Does the Department have a copy of the Cuban government’s National Action Plan? If so, would you please provide me with a copy?

Answer. During the reporting year, the Government of Cuba did not fully meet the minimum standards for the elimination of trafficking; however, it made significant efforts to do so. For the fourth consecutive year, the government reported continued efforts to address sex trafficking, including the prosecution and conviction of 17 sex traffickers in 2015 (the most recent available data) and the provision of services to 11 victims in those cases. The government coordinated anti-trafficking efforts across government ministries and investigated indicators of trafficking exhibited by foreign labor brokers recruiting Cuban citizens.

As previously submitted to the Senate Foreign Relations Committee, the Department’s justification for the waiver provides an overview of the plan. The Government of Cuba published a national anti-trafficking action plan for 2017 through 2020 with the objectives of amending legislation to comprehensively address trafficking in persons; strengthening law enforcement responsiveness and investigative effectiveness, including for forced labor; increasing public awareness of trafficking; providing more differentiated government services to the most vulnerable trafficking victims, particularly, children, senior citizens, and people with disabilities; engaging civil society and community groups in supporting the government’s work to prevent trafficking; and ensuring that Cuba adheres to international best practices in combatting trafficking. The written plan directs specific agencies to lead implementation of specific objectives. We do not routinely share foreign government documents that have been provided to the U.S. government in confidence. Doing so could potentially lessen foreign governments’ willingness to provide comprehensive information essential for the TIP Report’s annual assessments.

Question 5. On China: The 2017 TIP report notes that “according to unverified reports,” forced labor continues in government-run administrative detention centers, including compulsory drug detoxification centers.

- a. Has the U.S. Government requested site visits to observe conditions in these facilities?
- b. Has the U.S. Government directly questioned the Chinese Government as to the veracity of these reports of forced labor in administrative detention centers and, if so, what was the Chinese Government’s response?

c. Does the Office to Monitor and Combat Trafficking shares its factual information with relevant law enforcement agencies within the U.S. to prevent the importation of goods made with forced labor?

Answer:

a. Our embassy in Beijing has made efforts to visit a compulsory drug treatment center for over a year in the context of China's Drug Demand Reduction efforts. Embassy officials were recently advised that the Ministry of Justice has approved a visit.

b. We have engaged frequently and at high levels of government on the issue of forced labor writ large, including in administrative detention centers. We have raised our concerns that despite the 2013 decision to abolish "re-education through labor" there have been reports that forced labor continued in drug rehabilitation facilities and administrative detention centers. Chinese officials have declined to provide information in response to questions about these reports. We will continue to engage on these reports.

c. The TIP Office engages regularly with interagency colleagues, including the law enforcement community, on trafficking issues. Through the President's Interagency Task Force to Monitor and Combat Trafficking in Persons (PITF), a cabinet-level entity composed of 15 departments and agencies across the federal government and chaired by the Secretary of State, the State Department participates in interagency collaboration on efforts to combat trafficking in persons. The TIP Office also participates in the Senior Policy Operating Group (SPOG), which consists of senior officials designated as representatives of the PITF members and is chaired by the Ambassador-at-Large to Monitor and Combat Trafficking in Persons. This ensures a whole-of-government approach to the U.S. Government's anti-trafficking work. The Departments of Justice and Homeland Security also participate in both of these groups. The interagency is currently working with the National Security Council to develop more effective ways of sharing information on human trafficking and labor issues, specifically for the purposes of preventing the importation of goods made with forced labor.

RESPONSES TO ADDITIONAL QUESTIONS FOR THE RECORD SUBMITTED TO
HON. SUSAN COPPEDGE BY SENATOR ROBERT MENEDEZ

Question 1. Inconsistent Analysis on the Scale of Trafficking: In some of the country narratives, such as those for Pakistan, Mexico, and Thailand, the Report noted that certain government efforts, like labor inspections or resources provided for victim shelters, were inadequate compared to the scale of the trafficking problem in those countries. However, most of the country narratives, even for other countries with significant trafficking problems like Malaysia, do not include this analysis.

- Why did some country narratives note the discrepancy between government efforts and the scale of the problem while others did not, even though there is a legal requirement to make this evaluation when determining which countries should be placed on Tier 2 or Tier 2 Watch List?

Answer. In every country included in the Trafficking in Persons Report, the Department evaluates the government's anti-trafficking efforts in accordance with the Minimum Standards. This includes evaluations of whether and how effectively authorities are combating all types of human trafficking using the 3P framework of prosecution, protection, and prevention. While the scale of trafficking is specifically relevant in making the distinction between Tier 2 and Tier 2 Watch List countries and may be specifically cited in only some country narratives, the context in which governments make their efforts to combat trafficking is an element of the Department's assessment for every country in the TIP Report.

Question 2. "Increasing Efforts" as a Justification for Removal from Tier 2 Watch List: 22 USC 7107(b)(2)(A)(iii) defines Tier 2 Watch List as "Countries that have been listed pursuant to paragraph (1)(B) pursuant to the current annual report, where—

"(I) the absolute number of victims of severe forms of trafficking is very significant or is significantly increasing;

"(II) there is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year, including increased investigations, prosecutions and convictions of trafficking crimes, increased assistance to victims, and decreasing evidence of complicity in severe forms of trafficking by government officials; or

“(III) the determination that a country is making significant efforts to bring themselves into compliance with the minimum standards was based on commitments by the country to take additional future steps over the next year.”

- Ambassador Coppedge, at the hearing you testified that you believe that Malaysia has a very significant number of trafficking victims, thereby conceding that Malaysia meets the criterion of part (I) of the Tier 2 Watch List definition. However, the TIP report states that “The government demonstrated increasing efforts compared to the previous reporting period; therefore, Malaysia was upgraded to Tier 2.”

a. Please provide the legal justification, with specific references to the statute, for removing Malaysia from Tier 2 Watch List.

b. Please provide the legal justification, with specific references to the statute, for removing any country from Tier 2 Watch List based solely on increasing efforts during the reporting period.

c. If there is a country that otherwise meets the definition for Tier 2 but where “the absolute number of victims of severe forms of trafficking is very significant or is significantly increasing”, is it the Administration’s position that such a country may be given a different ranking other than Tier 2 Watch List based on “increasing efforts,” “significant efforts,” or other factors? If so, please provide the legal justification, with specific references to the statute, that allows the State Department to consider such factors in overriding the requirements of 22 USC 7107(b)(2)(A)(iii).

Answers:

a. The Secretary of State determined the Malaysian government’s efforts over the 2017 reporting period did not meet the minimum standards for the elimination of trafficking, but that it is making significant efforts to do so, the statutory definition of a Tier 2 country (22 U.S.C. 7107(b)(1)(B)). In 2016, Malaysia was ranked Tier 2 Watch List because the government did not demonstrate overall increasing anti-trafficking efforts compared to the previous reporting period according to the statutory definition (22 USC 7107(b)(2)(A)(iii)). In 2017, we assessed that the government had made increasing efforts by significantly expanding trafficking investigations, prosecutions, and convictions. The government nearly quadrupled the number of trafficking investigations compared to last year (158 to 581), and the number of trafficking convictions increased significantly (7 to 35). Officials also strengthened enforcement of the law prohibiting passport retention, convicting 17 employers for unauthorized retention of passports, compared to zero during the previous year. In 2016, the government reported identifying 3,411 potential trafficking victims, of which it confirmed 1,558 as trafficking victims, a marked increase over the 305 victims confirmed in 2015. To coordinate anti-trafficking operations, the government established a new interagency law enforcement taskforce, to which 17 officers from seven agencies were assigned and trained on investigative tactics. The taskforce conducted a large and successful labor trafficking raid in March, and its mandate was subsequently extended from six months to two years. During the reporting period, Malaysian officials provided three NGOs with 483,000 RM (\$107,690)—ten times more than was provided in the previous year—to conduct various programs and activities with trafficking shelter residents, and also increased its funding allocation to 5.3 million RM (\$1.18 million), up from 4.6 million RM (\$1.03 million) the previous year, to the Ministry of Women, Family, and Community Development to operate government facilities for trafficking victims. We continue to urge the Malaysian government to facilitate trafficking victims’ freedom of movement and to increase the effectiveness of trafficking prosecutions, including of complicit officials.

b. The Trafficking Victims Protection Act instructs the Secretary of State to list those countries “making significant efforts to bring themselves into compliance” with the minimum standards as Tier 2 or Tier 2 Watch List. The Secretary must list a country on Tier 2 Watch List rather than Tier 2 when any of three “Special Watch List” factors exist: the absolute number of victims is very significant or significantly increasing; there is a failure to provide evidence of increasing efforts; or the determination of significant efforts is based on commitments to take efforts over the coming year. Where these factors are not present, any country determined by the Department to be making significant efforts to bring themselves into compliance with the minimum standards will be placed on Tier 2.

c. In each TIP Report, the Department rigorously applies the statutory criteria and standards laid out by the Trafficking Victims Protection Act (TVPA). The Department strives to make the Report as accurate and objective as pos-

sible, documenting the successes and shortcomings of government anti-trafficking efforts. A country is placed on Tier 2 when the government does not fully comply with the TVPA's minimum standards but is making significant efforts to bring themselves into compliance. A country is placed on Tier 2 Watch List when: (1) the absolute number of victims is very significant or significantly increasing, (2) there is a failure to provide evidence of increasing efforts, or (3) the determination of significant efforts is based on commitments to take efforts over the coming year. Each of these factors is evaluated independently and none override another. The evaluation of whether a country has a very significant number of trafficking victims comes with special challenges, as human trafficking is a hidden crime and there is no exact data reflecting the total number of victims in any country and sometimes, the increasing number of identified victims represents increased effectiveness in victim identification, rather than an increase in the magnitude of trafficking in persons in a country.

Question 3. Malaysia: In its 2016 report, The Human Rights Commission of Malaysia cited figures from the Malaysian Immigration Department that showed there were 118 deaths in immigration detention centers in 2015 and 2016. Many of these were likely refugees or victims of human trafficking, and died from preventable illnesses such as pneumonia. Furthermore, the data shows that the detainees from Myanmar, who are more likely to be trafficking victims, fared worse than people from other countries. None of this was in the last two TIP reports. Reuters reported this story before the close of this year's reporting period, and the data itself clearly relates to the government's trafficking efforts over the last year.

- a. Ambassador Coppedge, are you familiar with this report from Malaysia's Human Rights Commission?
- b. Do you believe this information is credible?
- c. Did the Malaysian government share these figures with the State Department at any point? If so, when? And why was this not included in either of the last two TIP reports?
- d. What evidence does the State Department have of increasing efforts by the Malaysian government for prosecuting complicit officials?
- e. Does the State Department consider the granting of 6 work visas and 12 passes to move freely evidence of "increasing efforts" by the Malaysian government?

Answers:

- a. I am aware of the report from the Malaysian Human Rights Commission.
- b. Yes, although we cannot verify every data point contained therein.
- c. The Malaysian Human Rights Commission published its report about immigration detention centers in April 2017. The Department's 2017 TIP Report noted the severe over-crowding of shelters for trafficking victims and the Department has engaged the Malaysian government on appropriate shelter conditions for trafficking victims. While you correctly note some migrants in the immigration detention centers are likely trafficking victims, there is an important distinction between immigration detention centers and shelters for trafficking victims. We continue to urge the Malaysian government to screen the vulnerable migrant worker population for indicators of trafficking and to provide appropriate care services to those identified as trafficking victims. The number of non-Malaysians placed into TIP victim shelters increased by more than 200 percent this year, suggesting improved victim screening.

The 2017 TIP Report notes that after discovering a scheme by immigration officials to manipulate the country's passport control system to allow traffickers to operate undetected, the government fired 15 officers, suspended 14, froze the salaries of 8, and reassigned more than 60 others. However, none of these officers were prosecuted or charged with criminal offenses for what clearly were crimes that abet trafficking. One important measure of whether a government is considered to be making serious and sustained efforts to eliminate trafficking in persons under the TVPA is whether it prosecutes, convicts, and sentences complicit public officials.

d. In 2017, we assessed that the Malaysian government made increasing efforts by significantly expanding trafficking investigations, prosecutions, and convictions. This included renewed efforts to discipline, and in some cases, prosecute government officials for complicity in human trafficking. During the reporting period, the government detained 42 immigration and police officers for their involvement in facilitating smuggling and trafficking crimes; authorities prosecuted five of these officers and the cases remained ongoing at the end of the reporting period. This was an increase from zero officials implicated during the 2016 reporting period.

e. After carefully weighing the totality of the Malaysian government's efforts, the State Department determined the Malaysian government to have made increasing efforts, given its expanded prosecution efforts, sustained prevention measures, and strengthened protection regime. We continue to urge the Malaysian government to increase the number of trafficking victims eligible to work and routinely to authorize victims of trafficking freedom of movement.

Question 3. We all remember the mass graves of 139 trafficking victims that were found on the border of Malaysia and Thailand in 2015. This year's TIP Report notes that the investigations into these camps yielded four convictions of foreigners in Malaysia on the charge of migrant smuggling. The report also states the no Malaysian nationals were convicted, much less any Malaysian government officials, some of whom must have been complicit given the scale and location of this trafficking operation. Around March 20, the Malaysian government freed 12 police officers that were detained as part of this investigation.

a. The report notes that official complicity and corruption remains a problem in Malaysia, but why does it fail to evaluate the government's efforts with respect to these 12 police officers who were suspected to have played a role in the mass graves case?

b. Do you believe that this will deter other Malaysian officials from colluding with trafficking syndicates?

Answers:

a. In March 2017, the government announced that 12 police officers detained under the investigation had been freed in 2015, not in 2017 as originally reported by the Malaysian media. The police officers had been detained for a few months under the Prevention of Crime Act but then released due to insufficient evidence. As it occurred well before the reporting period and the government lacked evidentiary support for further prosecution, the release was not included in the 2017 report.

b. We continue to press the Malaysian government at the highest levels on the need to criminally prosecute Malaysian officials who are believed to be complicit in trafficking offenses.

Question 4. Prosecutions for Labor Trafficking: Of the 20.9 million trafficking victims worldwide, the ILO estimates that 68 percent are trapped in labor trafficking. Yet, only 8 percent of the 9,071 convictions reported worldwide last year were labor cases. Labor traffickers operate with near impunity across the globe, in large part because of the increased resources it takes to recognize, investigate and prosecute these cases. How can J/TIP help build this expertise globally and ensure that more labor cases are identified and prosecuted?

Answer. The Department urges governments to combat all forms of human trafficking, including both sex and labor trafficking. As the data suggests, law enforcement efforts in response to human trafficking are inadequate to the scale of the problem, and efforts to combat labor trafficking, in particular, are disproportionately low. To adequately address labor trafficking, governments must make efforts across the 3Ps: prosecuting traffickers, protecting and empowering victims, and preventing future trafficking crimes. Through our robust bilateral diplomacy, active engagement in multilateral fora, foreign assistance, and partnerships with civil society and the international business community, the Department uses all the tools at its disposal to motivate governments to address forced labor and increase their capacity to do so.

Through its foreign assistance programming, the Department seeks to build the capacity of local law enforcement, judges, prosecutors, magistrates, and service providers to address labor trafficking, including through victim identification, investigation and prosecution of trafficking cases, appropriate referral of victims for services, and education on relevant domestic and international legal frameworks. Programs aim to build ties between law enforcement and prosecutors to enhance understanding of key elements necessary for the successful prosecution of trafficking cases. The TIP Office seeks to support programs that include a "Train the Trainer" element to advance sustainability and local ownership of training efforts, and that instill a victim-centered approach to all interactions with trafficking victims.

The Department will continue to fund programs that builds expertise among criminal justice experts globally who better understand how to properly identify victims and prosecute human trafficking cases, including labor trafficking cases, while directly pressing governments to end the impunity of traffickers and strengthen and enforce legal frameworks where needed. We will also continue to urge governments—including our own—to pursue robust identification and prosecution of labor trafficking cases.

The TIP Office is also engaged on reducing the risk of forced labor in global supply chains. For example, in an effort to assist federal contractors, procurement officials, and other companies understand the risks of human trafficking in global supply chains, the TIP Office partnered with NGO partners to develop the Responsible Sourcing Tool (www.responsiblesourcingtool.org). This web-based tool includes extensive research on 11 key sectors and 43 commodities at risk for trafficking or trafficking-related activities, and 10 comprehensive risk-management tools.

Question 5. Importation of Goods made with Forced Labor: The United States currently imports an estimated \$142 billion worth of goods that are likely to be made with forced labor, including \$83.3 billion from countries ranked at the bottom-on Tier 3 or the Tier 2 Watch List—of the TIP Report. As corporations increasingly expand their operations in the global marketplace, how can J/TIP incentivize companies to protect their supply chains from forced labor?

Answer. The TIP Office has been very engaged on the issue of forced labor in global supply chains. In fact, the introduction of the 2015 TIP Report was dedicated to this topic, outlining the risks that many individuals, including migrants, face while seeking employment. It also addresses the role governments, the private sector, and civil society can play in mitigating the risks.

One way the TIP Office makes it easier for the private sector to address human trafficking in corporate supply chains is by providing information and resources. For example, the Office partnered with NGOs to develop the Responsible Sourcing Tool (www.responsiblesourcingtool.org), a web-based tool that helps companies understand the risk of forced labor in their global supply chains. It includes extensive research on 11 key sectors and 43 commodities at risk for trafficking or trafficking-related activities, and 10 comprehensive risk-management tools.

The TIP Office is also a part of an effort to look at the impact of the USG's own purchasing power. Through the Procurement & Supply Chains Committee of the interagency Senior Policy Operating Group, the TIP Office is working on effective implementation of the Federal Acquisition Regulation, "Ending Trafficking in Persons," which requires that companies doing business with the federal government prohibit certain activities that are known to facilitate human trafficking.

Finally, the TIP Office engages directly with companies and NGOs working on this issue. Through direct engagement with the private sector and participation in multilateral dialogues and international conferences on supply chains and responsible business conduct, we are showing the private sector that the U.S. government is committed to combating forced labor in global supply chains.