



July 31, 2015

The Honorable John Kerry
Secretary of State
U.S. State Department
Washington, D.C. 20520

RE: Trafficking in Persons in Malaysia

Dear Secretary Kerry,

We understand that you will be traveling soon to Malaysia and, given your recent firm commitments to help Kuala Lumpur address its trafficking problem, we hope you will set aside time to discuss this important issue with a range of government officials.

As you know, there was significant disappointment at the recent upgrade of Malaysia in the 2015 Trafficking in Persons Report expressed by a wide array of civil society actors in the United States, Malaysia, and beyond. You may be aware that members of the Malaysia parliament, as well as the Malaysian Trades Union Congress (MTUC), Malaysian nongovernmental organizations (NGOs), and the Malaysian Bar Council publicly opposed the upgrade based on their assessment of their government's lack of effort to address the trafficking issue seriously.

Your upcoming trip to Malaysia presents you with the opportunity to make clear to the government that progress in multiple areas related to combating trafficking is essential. We urge you to press the government both publicly and privately to make concerted and measurable changes to prevent trafficking; protect survivors; and systematically investigate and prosecute those who violate the Malaysian anti-trafficking laws.

There are several critical areas where your direct engagement and encouragement can demonstrate that the United States is serious about having trade partners that do not traffic men, women, and children. Specifically we urge you to press Malaysia to take tangible steps to increase effective investigations and prosecutions, to fully investigate the mass graves along the Thai border, to revamp its migrant worker recruitment processes and procedures, and to effectively implement the amendments passed in June to Malaysia's 2007 anti-trafficking law.

Prosecuting Traffickers. Malaysia needs to do more to increase effective investigations and prosecutions of traffickers targeting persons for forced labor and sexual exploitation, and ensure timely and fair trials of trafficking cases. To do so, Malaysia should act to ensure effective and timely identification of victims. Right now far too many are identified only as undocumented migrants, detained in immigration detention centers, and then deported without an opportunity to seek protection or redress. They are also unable to seek services that could help them mentally and physically recover from their trafficking experience. Malaysia should be urged to adopt and implement a victim-centric approach that ends use of closed shelters, respects the rights of victims, establishes victims' non-criminalization for actions undertaken when they were being held as victims, and provides for participation of NGOs and migrant community activists as full partners in the victim support system. Malaysia should also be called on to

provide unconditional and comprehensive assistance to victims, including but not limited to shelters, legal services, and psychological support. Furthermore, migrants who are unjustly terminated should be allowed to seek employment until their cases are cleared. Prosecutors and court officers should be encouraged to work compassionately with trafficking victims and ensure that those who chose to assist prosecutions are protected from intimidation or retaliation.

Mass Grave Investigations. Malaysia should be pressed to undertake a comprehensive investigation into the mass graves discovered on the Thai-Malaysia border, publicly reveal the findings, and appropriately prosecute all those found responsible, regardless of affiliation or rank. To date, approximately 99 bodies (many purportedly ethnic Rohingya) have been recovered, but a discrepancy still exists as last May, the Inspector General of Police, Tan Sri Khalid Abu Bakar, stated that police had found 139 graves and 28 trafficking camps. Little information has been made public about progress in identifying and investigating suspects involved in these trafficking camps or government officials who may have aided and abetted operations.

Migrant Recruitment Procedures. Malaysian government should be called upon to revamp its processes and procedures related to licensing and operation of migrant worker recruitment and employment agencies to end debt bondage, forced overtime, and physical and sexual abuses that place foreign migrant workers in trafficked labor situations. The vulnerability of Malaysia's estimated four million migrant workers to abuse from recruiters and labor brokers, employers, and police and government officials needs to be addressed if trafficking is going to be reduced and ultimately ended. The Malaysia government should also be pressed to effectively crack down on employers who seize and hold migrant workers' passports and other identification documents as a form of coercion. Legislation needs to be amended in order to fully protect migrant domestic workers.

Anti-Trafficking Law Implementation. The Malaysia government should be pressed to effectively implement the amendments passed in June to Malaysia's 2007 anti-trafficking law, in particular by taking the necessary administrative steps to provide assistance and work authorization to all trafficking victims who desire it, while ensuring their freedom of movement.

The Malaysian government has an opportunity to prove its commitment to end trafficking by making measurable improvements in its anti-trafficking response. However, external pressure will be critical to ensure progress takes place. We hope you will make clear that the U.S. cannot accept inaction by Malaysia to address the role human trafficking and exploitation of vulnerable foreign migrant workers play in its economy – an economy that the U.S. is poised to boost considerably through the Trans Pacific Partnership.

Thank you for your time. We look forward to working with you to reestablish U.S. leadership on this important issue.

Sincerely,

Alliance to End Slavery and Trafficking (ATEST)

Human Rights First

Human Rights Watch

Humanity United

Malaysian Trades Union Congress

ATEST is a diverse alliance of U.S.-based human rights organizations, acting with a shared agenda to end all forms of modern-day slavery and human trafficking domestically and globally. ATEST member organizations include: Coalition to Abolish Slavery and Trafficking (CAST), Coalition of Immokalee Workers (CIW), ECPAT-USA, Free the Slaves, Futures Without Violence (FUTURES), International Justice Mission, National Domestic Workers Alliance (NDWA), National Network for Youth (NN4Y), Polaris, Safe Horizon, Solidarity Center, Verité, Vital Voices Global Partnership, and World Vision.