



Alliance to End Slavery and
Trafficking
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The Honorable John F. Kerry
Secretary of State
U.S. Department of State
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May 25, 2016

Dear Secretary Kerry:

I write to you today on behalf of the Alliance to End Slavery and Trafficking (ATEST), a coalition of 13 human rights organizations that advocate for solutions to prevent and end human trafficking in the United States and globally, and allied organizations from around the globe with different missions, but a common goal to address widespread human trafficking in global supply chains. We wish to express our serious concern about the State Department's Trafficking in Persons (TIP) Report tier rankings, and urge you to reestablish the integrity of the TIP Report by ensuring that the tier rankings this year are based on evidence on the ground, not political considerations.

We know that you and President Obama are deeply committed to combating human trafficking and wish to make optimal use of the means at your disposal in furthering this important US objective. The TIP Report has proven to be an effective diplomatic tool in the fight against human trafficking, but only if the State Department ranks countries according to the facts, without regard to whether a nation is friend or foe. We were gravely concerned that the State Department's unwarranted upgrades in the 2015 TIP report severely weakened the report's credibility. As content experts in various countries, we were deeply disturbed in particular by decisions to upgrade Malaysia and Uzbekistan, which were not justified based on our assessment of the efforts of those governments. Press reports confirmed our concern that the determinations were influenced by political factors unrelated to performance in combatting human trafficking.

This year, given the political debate around trade, there has been discussion of keeping Malaysia on the Tier 2 Watch List and upgrading Thailand to the Tier 2 Watch List, despite neither country making significant or effective efforts to combat human trafficking, particularly forced labor and sexual exploitation, in their countries. Such a move would continue to damage the reputation of the TIP report, and further weaken the usefulness of the report as a tool to impact efforts to combat modern slavery globally. It will also deepen the perception that the Department applies the TIP Report's standards unevenly. Those given a lower ranking than desired may try to deflect criticism of their own behavior by pointing to the Department's lack of consistency. For this reason, it is critical that all countries are held to the same high standard.

As you prepare the tier rankings for the 2016 TIP Report, we urge you to prioritize a country's enforcement of laws that prohibit all forms of trafficking in persons, rather than enactment of legislation or stated commitments that fail to substantively change the situation of trafficking victims on the ground. While legislation and public commitments are important procedural steps, it is the implementation of those laws that protects vulnerable populations and holds perpetrators accountable for their crimes, and makes the greatest difference in ending modern slavery globally.

Specifically, we believe it is important to see the following rankings when the TIP Report is issued later this year:

1. Malaysia: Downgrade to Tier 3

Malaysia should be downgraded to Tier 3. Last year's upgrade was and remains unjustified. Importantly, this year's ranking should account for the discovery of mass graves along the border with Thailand – this gross human rights violation was excluded from consideration in last year's assessment – and the lack of holding anyone accountable for these murders.

Early last year, Malaysian police unearthed the remains of more than 130 human trafficking victims held in mass graves near the country's northern border with Thailand. Senator Bob Menendez (D-N.J.) responded to the horrors in Malaysia, Thailand and other countries by proposing an amendment, which subsequently became law, mandating that a trade agreement cannot receive "fast track" consideration in the U.S. Congress if it includes a country that was ranked as a Tier 3 country in the TIP Report. As you know, Tier 3 countries do not meet the minimum standards as laid out in the Trafficking Victims Protection Act (TVPA) of 2000 and are not making significant efforts to do so. Malaysia was both a Tier 3 country and a country participating in the negotiation of the Trans-Pacific Partnership (TPP) trade agreement. The United States' credibility as a leader in the fight against human trafficking suffered a blow when the State Department yielded to U.S. commercial and political interests and upgraded Malaysia from Tier 3 status. We believe the upgrade was an attempt to avoid the impact of the Menendez amendment and ease the way for the TPP.

ATEST members and the other organizations signed below strongly support efforts to use trade benefits as leverage with countries turning a blind eye to forced labor and other forms of modern slavery. The Menendez amendment was a positive step in this direction, and we also applaud Congress and President Obama for eliminating a trade loophole in the Tariff Act that has allowed goods made with forced labor into the United States. Now, we urge the State Department to demonstrate leadership and pave the way for the next administration to effectively combat human trafficking by ensuring rankings for countries like Malaysia accurately reflect their failure to meet minimum standards. We urge you to

downgrade Malaysia to Tier 3 for a systematic failure to address human trafficking in the country.

2. Thailand: Remain on Tier 3

The regularity and severity of media reports of human trafficking in Thailand's seafood industry throughout 2015 — and the findings of similar types of abuses across multiple sectors including, canned chicken, fruit processing, rubber, infant formula, and hospitality — indicates that the size of the problem of trafficking among migrant workers in Thailand has not decreased since March 2015, and action by the Thai government falls short of what is required to be considered a significant effort. The Royal Thai Government (RTG) remains dependent on cheap or free labor to fuel its booming export sector and has repeatedly demonstrated that it lacks the political will to fully institute the reforms needed to dismantle the country's trafficking infrastructure and adequately protect migrant workers from further abuse and exploitation.

As the RTG touts reforms of its fisheries management laws and practices, a closer inspection of the changes reveal minimal effect on eliminating trafficking in its fishing industry. Importantly, these changes also fail to address the root causes of labor trafficking in Thailand. Instead of establishing an environment conducive to robust civil society participation in combating human trafficking and promoting legal accountability for governmental abuse of power, the Thai Government has pressed on with its intimidation tactics towards those defending victims of trafficking against unscrupulous employers and corrupt officials. On fundamental issues such as governmental corruption, official impunity, and freedom of opinion and expression, disturbing cases such as the political repression of Police Major General Paween Pongsirin and others investigating official involvement in Rohingya Muslim trafficking rings is a disturbing sign that efforts toward accountability will only be tolerated to the point that the status quo is maintained. Meanwhile, civil society partners continue to note that victims who speak out are held against their will for long periods of time in trafficking victim centers, thereby discouraging victims from reporting abuses.

An upgrade at this time would be unjustified in light of the lack of political will to meaningfully address human trafficking and continued exploitation of migrant workers.

3. Uzbekistan: Downgrade to Tier 3.

Uzbekistan should be downgraded to Tier 3. It is inappropriate for any government that has state-led forced labor to be placed on any tier but Tier 3. Over the past year, instead of “serious and sustained efforts to eliminate severe forms of trafficking in persons,” the government once again forced more than a million of its citizens to pick cotton and farmers to grow cotton under menace of penalty. While allowing the International Labor Organization (ILO) to conduct monitoring activities, the government undermined the ILO's efforts by coercing people to sign consent

statements, instructing citizens to lie to monitors, and presenting false records. Furthermore, officials increased the frequency and severity of attempts to silence citizens documenting forced labor.

Viewed against the TVPA's Minimum Standards for the Elimination of Trafficking in Persons, the Uzbek government remains one of very few that continues to directly orchestrate human trafficking. The Uzbek government has not prosecuted any perpetrators of forced labor. In 2015, the government instead punished the victims. For example, the governor of Gallaorol district in Jizzak region, ordered the arrest of Dr. Yusuf Esirgetov, chief doctor of the district's central hospital, for not fulfilling the cotton harvest quota assigned to the hospital. Dr. Esirgetov died of a heart attack days after his release from jail. The government also fails to protect victims of forced labor and instead retaliates against complainants. For example, following a kindergarten teacher's complaint, submitted by an independent labor rights monitor to the national trade union federation hotline, the Jizzak district prosecutor threatened to dismiss complainants following the harvest. Additionally, instead of training officials to combat trafficking, the Prime Minister ordered bailiffs and police to repossess the farmers' property for debts or unfulfilled production quotas. Officials confiscated livestock, tractors, even televisions without court orders or valuation processes.

4. Burma: Downgrade to Tier 3.

Burma should be downgraded to Tier 3. Despite the change in government, there is no evidence of significant efforts to address trafficking in persons, especially forced labor. Burmese authorities continue to confine more than 140,000 Rohingya and other Muslims to more than 40 squalid internment camps in Rakhine State, fueling an ongoing human trafficking crisis across the Mekong Delta Region. Civil society monitors have also documented that the Myanmar Army continues its long-standing practice of conscripting ethnic minorities into forced labor in the country's north, particularly in Kachin State. Moreover, hundreds of thousands of Burmese migrant workers traveling to Thailand and Malaysia, for example, continue to pay high recruitment fees in Burma leading to debt bondage, face extortion from corrupt government officials, and deception about the jobs and conditions of work in destination countries. After being placed on Tier 2 Watch List for four years, Burma should be automatically downgraded to Tier 3.

5. India: Downgrade to Tier 2 Watch List

India should be downgraded to Tier 2 Watch List. Placement on Tier 2 is unjustified in light of the troubling reports of government-sanctioned intimidation of victims and their families. Bonded labor continues to be practiced at unconscionable levels. Moreover, India has not successfully implemented several of the recommendations from the 2015 TIP Report. Specifically, they have not significantly increased prosecutions and convictions for trafficking in person crimes, especially bonded labor. India has also failed to fully fund and staff its anti-human trafficking police units. The fast-track courts continue to lack adequate resources and funding to train

prosecutors, judges and court personnel on how to properly handle human trafficking cases, particularly those handling bonded labor cases.

6. Qatar: Remain on Tier 2 Watch List

Qatar should stay on Tier 2 Watch List. Migrant workers continue to face forced labor, debt bondage, and even death. Multiple organizations including Human Rights Watch, Amnesty International and the Building Workers International union documented continued exploitation of migrant workers working construction jobs in advance of the 2022 World Cup. Though Qatar adopted cosmetic legal reforms to the sponsorship system, the new law still binds migrant workers to their employers and allows them to prevent migrant workers from leaving the country. Both policies are indicators of forced labor. The new law also excludes domestic workers, who have no legal limit on number of hours they are expected to work nor legal protections against employers who lock them in homes. Research shows that provisions within the law are also widely not enforced and that many workers still do not have access to their passports and are not being paid. Moreover, promised labor inspections have not happened and migrant workers still lack access to legal remedies against abusive employers. Legal reforms with no increase in enforcement are insufficient to justify an upgrade.

While the Qatar government may argue that the wage protection system (WPS) is a more meaningful reform meriting an upgrade, it is important to note that it is still open to abuse. Most significantly, the WPS has not been described by authorities as an anti-TIP measure, and is not designed or implemented with that consideration. While non-payment of wages is an indicator of potential forced labor, and the WPS should reduce instances of non-payment of wages, it is critical to note that WPS does not apply to domestic workers, who are most vulnerable to forced labor. In addition, intransigent employers who regularly withhold workers' passports also have the ability to withhold ATM cards, controlling deposits and withdrawals from workers' accounts.

Finally, the Qatar Foundation for Combating Human Trafficking was dissolved during the reporting period.

7. Ghana: Remain on Tier 2 Watch list

Ghana should stay on Tier 2 Watch List. In 2015, Ghana was the first country selected for a Child Protection Compact (CPC). ATEST is encouraged to see the CPC implemented and we hope to see substantial progress under this agreement. However, the CPC was only launched in the last quarter of 2015 and we believe that progress under the CPC should be a precondition for any change in the tier ranking for Ghana.

Ghana did not implement the recommendations provided in the 2015 TIP Report. We recognize that the Protection and Reintegration of Trafficked Person Regulation

was adopted in 2015. We also acknowledge that child trafficking was, for the first time, integrated into the National Plan of Action against Child Labor. Ghana has also taken steps to make the provisions of the Human Trafficking Act more accessible to general public through the development of illustrated manuals. Nevertheless, Ghana has not finalized the National Plan of Action to Combat Human Trafficking nor has it successfully implemented the 2005 Human Trafficking Act. While there have been reports of NGO-led operations over the past year, none of those to our knowledge led to successful prosecutions and convictions under the Human Trafficking Act. Also, the Ghanaian government did not fully fund anti-human trafficking police units in 2015 which has limited the government's ability to rescue children from sexual exploitation and forced labor and prosecute and convict suspected perpetrators of trafficking in persons over the last reporting period. Finally, since the release of the 2015 TIP Report, Ghana has not made sufficient progress in providing adequate funding and maintenance for protective services and government-run shelters to provide aftercare services for survivors of trafficking. For example, the Madina Shelter that was mentioned in the 2015 TIP Report is still not operational. The Government of Ghana must make increased effort in leading investigations, securing prosecutions of perpetrators and providing excellent aftercare services to survivors if they are to be upgraded from Tier 2 Watch List.

8. Turkmenistan: Downgrade to Tier 3.

Tier 3 is the only appropriate placement for the government of Turkmenistan. The Turkmen government not only fails to meet the TVPA minimum standards, it orchestrates and benefits from forced labor. Over the past year, the Turkmen government failed to meet the minimum standards of the TVPA by once again using a forced labor system of cotton production. The government forced farmers to deliver production quotas and forced tens of thousands of citizens to pick cotton, all under threat of penalty, including loss of land and jobs, docked pay or fines. The Turkmen president publicly pressured officials, who in turn forcibly mobilized people to work in the cotton fields. Corruption increased, as officials took bribes in exchange for certificates of quota completion for farmers and exemptions for citizens mobilized to the harvest. Those able to do so hired unemployed citizens to pick cotton in their place, resulting in citizens paying out-of-pocket for the labor costs of the government's cotton industry. Prior to the harvest, the Turkmen government intimidated many human rights monitors into silence when it arbitrarily arrested and imprisoned journalist Saparmamed Nepeskuliev.

Reflecting the Turkmen government's dismissal of United Nations reporting on abuses in the cotton sector over many years, in 2016, the ILO Committee of Experts noted "with deep concern the widespread use of forced labour in cotton production which affects farmers, businesses and private and public sector workers, including teachers, doctors and nurses, under threat of losing their jobs, salary cuts, loss of land and extraordinary investigations." The Committee of Experts also "strongly urge[d] the Government to take effective measures without delay to ensure the

complete elimination of the use of compulsory labour of public and private sector workers in cotton farming, and requests the Government to provide information on the specific measures taken to this end, in both law and practice, and the concrete results achieved.”

Serious efforts by the Turkmen government to combat trafficking in persons would include enforcing national laws prohibiting forced labor, fairly prosecuting those who violate forced labor laws in accordance with international standards, ending coercion-enforced work quotas in the cotton sector, and permitting journalists, human rights defenders and others to document and report human rights concerns without fear of reprisals.

Members of ATEST and our allies around the world know first-hand the positive effects that the annual TIP Report can have in moving governments to act against one of the worst human rights abuses, trafficking in persons. As a result of the TIP Report, we have worked with governments and civil society partners in countries that seemed intractable to make progress in preventing trafficking in persons, protecting victims, and prosecuting traffickers. Maintaining the integrity of the TIP Report is crucial for this work to continue. We urge you to bolster the effectiveness of the TIP Report as a diplomatic tool by restoring its integrity through non-political tier ranking decisions.

Sincerely,



Kristen Abrams
Acting Director
Alliance to End Slavery & Trafficking

The Cotton Campaign

Anti-Slavery International

International Labor Rights Forum

Walk Free

The Alliance to End Slavery and Trafficking (ATEST) is a U.S. based coalition that advocates for solutions to prevent and end all forms of human trafficking and modern slavery around the world. We advocate for lasting solutions to prevent labor and sex trafficking, hold perpetrators accountable, ensure justice for victims and empower survivors with tools for recovery. Our collective experience implementing programs at home and abroad provides our coalition an unparalleled breadth and depth of expertise.

ATEST member organizations include: Coalition of Immokalee Workers (CIW), Coalition to Abolish Slavery & Trafficking (CAST), End Child Prostitution and Trafficking – USA (ECPAT-USA), Free the Slaves, Futures Without Violence, International Justice Mission (IJM), National Domestic Workers Alliance (NDWA), National Network for Youth (NN4Y), Polaris, Safe Horizon, Solidarity Center, Verité, and Vital Voices Global Partnership

cc:

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