



Testimony of Holly J. Burkhalter, International Justice Mission
Before the Senate Committee on Foreign Relations

The Next Ten Years in the Fight Against Human Trafficking: Attacking the Problem with the Right Tools

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Thank you, Chairman Kerry and Senator Lugar for inviting me to testify at this important hearing on modern day slavery and ways to confront and eradicate it. It is an honor. I also wish to express my thanks to you both for having made this issue a priority in the United States Senate. My name is Holly Burkhalter, and I am the Vice President for Government Relations for International Justice Mission (IJM.) IJM is a human rights organization with fifteen overseas offices that works with local governments to rescue victims of sex trafficking and labor slavery and helps local police and prosecutors apprehend and prosecute perpetrators. Our anti-slavery offices are in the Philippines, Cambodia and India.¹ IJM's on-the-ground experience in combatting trafficking will inform my recommendations today for a roadmap for the coming decade.²

Why does slavery persist today? Mr. Chairman, you have asked us to reflect on the major factors that facilitate the proliferation of trafficking and slavery around the world. Explanations abound for the modern prevalence of slavery, including poverty, women and girls' subordinate status, the caste system, lack of education, cultural traditions, migration, and so on. These and other factors are of course part of slavery's context, and investments in such things as poverty reduction and girls' education can and should be directed towards slavery-prone countries. But it is a mistake to imagine that the worst forms of trafficking cannot be eradicated *until* poverty has been abolished, or all children are educated, or international migration has been rationalized.

The most important feature of slavery is that it is a crime. There are victims, and there are perpetrators. Furthermore, it is a violent crime but it is also an *economic* crime that generates enormous wealth for perpetrators, be they traffickers, pimps, slave owners, or complicit government officials. Unless and until local police, prosecutors, and judges join forces to deter the crime of slavery by providing a credible and predictable threat of imprisonment for those engaged in it, there are no natural limits to its spread.

¹ IJM offices in Africa and Latin America investigate the crimes of sexual assault of children, property expropriation from widows and orphans, and police abuse of power.

² In this testimony I use the term "trafficking" in the way it is defined in the TVPA. As such, I view it having the same meaning as slavery. Accordingly, the words are used interchangeably in this document.

If donor governments and international agencies were to expose and stigmatize governments that are complicit in or tolerant of slavery and provide extensive assistance to help deserving governments build robust public justice systems that locate and free slaves and apprehend perpetrators, this crime would diminish and eventually vanish.

What tools do we have to confront slavery? When Congress enacted the Trafficking Victims Protection Act in 2000 there weren't many models for study and replication. Today, thanks to the Office to Monitor and Combat Trafficking in Persons, USAID, non-governmental organizations, and U.S. diplomats in Washington and around the world, we have a whole array of effective tools – diplomatic, financial, technical and political – that can inform U.S. anti-trafficking policy in the coming decade. I have seen some of the most promising in countries where IJM is working.

Diplomacy: As you know, the TVPA includes minimum standards by which to evaluate governments' response to trafficking and authorization of an annual anti-trafficking report. Over the past ten years, the TIP Office has fielded talented and hardworking researchers, analysts and diplomats to gather information on the phenomenon of slavery around the world. Their excellence is apparent in the quality of the report. The creation of three "Tiers" (and eventually a fourth, the Tier II Watch List) to rank countries gives the report additional seriousness and weight. These tools have been so valuable to the cause of eradicating slavery that other human rights interest groups, such as international women's rights advocates, are requesting a "TIP Office" of their own.

Not surprisingly, there are sometimes tensions between the TIP Office, which has only one mandate – to confront slavery – and the State Department's regional bureaus and embassies, which have a host of issues and concerns to steward with foreign governments. This reality should not be a criticism of the TIP Office or a deterrent to TIP's monitoring, reporting, and diplomacy. Congress created the office with a specific anti-trafficking mandate precisely because the traditional bureaucracy was not giving the issue the prominence it deserves. The TIP Office exists to do that. In my view, the TIP Office should not be encouraged to water down its mandate or conform to the broader mandate of the regional bureaus or the embassies. Rather, the regional bureaus and embassies should be instructed to step up their own messaging to amplify the TIP Office – and Congress's – concerns about modern day slavery.

This Committee's legislative language in the Trafficking Victims Protection Reauthorization Act, S.1301 would, if enacted, engage embassies and regional bureaus more directly in the fight against modern day slavery. The SFRC recommended that anti-trafficking specialists be named at U.S. Embassies to help collect information and convey concerns on a regular basis. The provision also requires regional bureaus to be engaged in developing country anti-trafficking strategies. While the TIP Office should retain leadership on U.S. anti-trafficking policy and drafting authority for the TIP Report, your provision would enhance diplomacy, reporting, and a unified U.S. voice on slavery. I hope and expect that the Senate will enact S.1301 before adjournment this year and send it to the House for consideration so that these and other important provisions can take effect in 2013.

When the TIP Office and regional bureaus or embassies are out of sync, governments failing to meet minimum standards to eradicate trafficking get mixed messages. Invariably slavery eradication is the loser – and that means children, women and men in slavery are the losers. Speaking in a strong and consistent voice about trafficking and slavery, with regional officials and embassy staff endorsing and amplifying the TIP office’s concerns does not mean sacrificing other U.S. interests. Surely our diplomatic corps is capable of advancing an anti-slavery policy while simultaneously engaging effectively on economic, military, and geopolitical concerns.

I have seen how effective the U.S. Government can be when it does speak in one voice about trafficking. The Philippines is a country with a significant trafficking/slavery problem and its Government was not taking significant steps to address it. Accordingly, the State Department ranked Philippines on the Tier II Watch List. Pursuant to 2008 changes to TVPRA, countries could only stay on Tier II Watch for two years and then would be downgraded to Tier III if substantial improvements were not forthcoming. The U.S. Government used this political tool to encourage the Government of the Philippines to undertake serious measures to address both labor and sex trafficking. The U.S. Embassy, led by Ambassador Harry Thomas Jr., engaged the Philippine authorities with the same strong message they were hearing from JTIP authorities. The Government of the Philippines took the matter very seriously. Among other measures, the authorities issued a judicial circular that placed anti-trafficking cases on a fast track. While prosecutions are still slow, the circular has begun to make a difference.

The Philippine Government solicited IJM’s help in scaling up investigations of child prostitution, rescue, and apprehension of suspected perpetrators. IJM’s collaboration with local police and judicial authorities in Cebu under the auspices of a grant from the Gates Foundation had resulted in a 79% reduction in the availability of children for exploitation in Cebu’s sex venues. The key to these important results was the police designating a specific anti-trafficking unit which received training and worked closely with IJM investigators, lawyers, and social workers. The Government of the Philippines is now replicating that model with IJM in Manila and in Pampanga (Central Luzon).

Another innovation in Cebu that is now being replicated elsewhere in the Philippines is the creation of a separate, comfortable, victim-friendly office to receive trafficking victims where they can meet with social workers and provide their testimony to judicial personnel. Before the creation of this separate space, called “Her Space,” by IJM in collaboration with the Philippines Department of Social Welfare and Development, victims were questioned in the presence of perpetrators.

In recognition of these and other efforts, the Philippines was removed from the Tier II Watch List last year and raised to Tier I. The Government of the Philippines deserves full credit for the advancement. But the U.S. Government’s effective and unified diplomacy played an important role, and reflects well on the Embassy, the Regional Bureau and the TIP Office.

Law Enforcement: I’d like to single out the importance of professional law enforcement as an area where donor governments and international development institutions can and should make strategic investments. Donors have, for good reason, been reluctant to invest in police forces. Ill-disciplined

police in many, if not most, countries around the world actually prey upon the poor. As the expression goes, if you are a poor person who had a crime committed against you, you have a problem. If you go to the police, you have two problems. Nowhere is the problem of police abuse more apparent than in the abuse of women and men in the sex industry. Serious human rights organizations, have reported extensively on violence, illegal detention, theft, rape and other abuses by law enforcement officials against those in prostitution. In many countries police themselves are complicit in trafficking or ignore it. It is understandable that donors are wary about strengthening an institution that is itself implicated in trafficking.

It is not acceptable for police to abuse, arrest, and extort money from women under the cover of ostensible “anti-trafficking” sweeps. Roundups where dozens of women are swept into prisons, only to be released when their pimps pay off a bribe, have absolutely nothing in common with effective and professional policing. Donors and NGO’s that work with local police can and should condemn such behavior, which hurts innocent women and sets back the anti-trafficking cause. In IJM’s experience, mentoring and professionalizing police to rescue trafficking victims and apprehend perpetrators also improves their behavior with regard to adults in the sex industry.³

One important innovation that was immensely helpful in improving the capacity, competence, and will of local police to rescue trafficking victims and apprehend perpetrators is a specialized local force designated for this work. In Cebu, for example, IJM worked closely with a newly-created Regional Anti-Trafficking Task Force (RATT Force) whose sole function is enforcement of local anti-trafficking law. By keeping key police and officers within the force (as opposed to rotating them out), giving them specific duties, and providing through IJM extensive training and mentoring the Cebu RATT Force was the key to sharply reducing child victimization there.

IJM has had a similar experience in Cambodia, where the Anti-Trafficking and Juvenile Protection force, under the excellent leadership of General Bith Kim Hong, has largely ended the exploitation of young children in the sex industry. Recently, the ATJPF led efforts to investigate and prosecute a corrupt major in the in the municipal division of the ATJPF who was receiving kick-backs from brothel owners for protecting them from police rescue operations. Major Rattana (who fled) was convicted in absentia. This is an exceedingly positive development for Cambodia that speaks well for the Cambodian Government, which, to our knowledge, has not previously tried and convicted a member of its own police officials for complicity in trafficking.

State Department Bureau: Given the importance of its work and the enormity of slavery around the world, the United States’ Government’s anti-trafficking capacity should be enhanced considerably. IJM strongly recommends that the State Department Office to Monitor and Combat Trafficking be upgraded to a State Department Bureau. There are several reasons for this recommendation. First, the United States Government should do everything in its power to recruit and retain the best of its personnel, including career Foreign Service officers, to the cause of

³ For more information on police and trafficking, see <http://www.antitraffickingreview.org/>, “Sex Trafficking, Law Enforcement and Perpetrator Accountability,” by Holly Burkhalter, June 2012.

combatting slavery. Joining an office does not offer the same opportunities for advancement within the diplomatic service that joining an embassy or a bureau does and most likely discourages some excellent officers from joining it. Second, it is vitally important that the Office's Coordinator have the same status as his counterparts at other State Department Bureaus. There is a stature gap between an Office Director and an Assistant Secretary that does not serve the anti-slavery cause well.

Reporting and Monitoring: Honest and thorough reporting on trafficking issues and government's responses are the necessary backbone of effective diplomacy. Fortunately, the State Department TIP Office is home to our nation's brain trust on modern day slavery – the highly expert men and women who research, monitor, and write the annual State Department report on Trafficking in Persons. Many of those individuals have been in that role since the office was created. I would single out Mark Taylor, who leads the research and production of the report, as one of the world's greatest experts on modern day slavery in the world.

The TIP Report's usefulness as a diplomatic tool was enhanced two years ago when Secretary Clinton directed the TIP Office to include the United States in the Report, along with 186 countries. In the past, the Justice Department has issued a separate report on the U.S. Government's response to trafficking. By including it in the actual volume that foreign leaders read, the U.S. has signaled its willingness to be judged by the same standard as the rest of the world – standards in the TVPA that are drawn directly from international law and universally applicable.

The quality of the report is very high, but I believe that political considerations occasionally erode the ranking system. We note this especially with respect to countries on the Tier II Watch list. A number of countries that did not actually meet Tier II standards were “promoted” to it from the Tier II Watch List at the end of the two-year limit. There are a handful of countries on the Tier II Watch List for the second year right now, including China, Russia, and Uzbekistan that certainly do not meet the Tier II standard. But the State Department because of political considerations unrelated to trafficking may feel that they should be moved up to Tier II.

Rewarding countries with an improved TIP tier that they do not deserve is not what Congress had in mind when it passed the TVPA in 2000. There is general agreement among policy makers who care about trafficking and NGO's that the Tier II Watch List is an appropriate category to maintain. The standards for each of the four tiers are well-known by policy makers at home and abroad, and are a realistic and appropriate ranking process. Unwittingly, the automatic up-or-downgrade is complicating the work of assessing a country's position on one of four tiers. Even though the “up or out” provision was extremely helpful in persuading the Government of the Philippines to address trafficking seriously, elsewhere the provision has been used to move undeserving countries up to Tier II, rather than down to Tier III where they belong. This year the Congress should maintain the Tier II Watch List as a fourth tier but eliminate the two-year time limit.

One final recommendation about the JTIP Report deserves mention. A recently released report by the State Department Office of the Inspector General recommends ending the publication of the

report in book format and making it available exclusively on-line so as to accrue a small cost savings. I respectfully disagree with this recommendation and urge the Committee to insist on annual publication. This report is a precious tool in the hands of people all over the world. Many do not have access to the Internet. It is important that it be physically present on the desk of every diplomat, judge, prosecutor and police commander who serve in slavery-burdened countries. It is important that it be on each of your desks, and that it be handed to visiting officials. Please do not throw away a tool whose importance has been acknowledged by anti-slavery activists around the world, including our own.

Resources: We in the NGO community are grateful to the Congress for protecting anti-trafficking funds from cuts and even increasing them modestly in the past several years. We do not take it for granted in the current difficult budget climate. Having said that, however, we know and you know that eradicating modern day slavery requires more resources than are available. The world needs to see effective models of slavery eradication that can be documented and replicated. Our dream is for the President and Congress to do for slavery what President George W. Bush and the 108th Congress did for global HIV/AIDS.

The State Department JTIP Office and USAID should each be resourced to engage the struggle effectively around the world. USAID's February 2012 Counter-Trafficking in Persons Policy is excellent and provides an outstanding framework for the Agency's contribution to slavery eradication which I commend to your attention. IJM appreciates USAID's commitment to data collection and impact assessment. The anti-slavery movement desperately needs information and data from various investments and innovations to rescue slaves, apprehend perpetrators, and deter the crime. USAID's expertise in community-based solutions (including development models for successful, community-supported civilian police forces) is highly valuable to the field.

I would also like to applaud USAID's Counter-Trafficking Code, which includes high standards for USAID employees that extends, importantly, to contractors, sub-contractors and grantees. IJM has called for all U.S. agencies to adopt comparable standards.

Getting the United States' House in Order: In closing, I wish to say a word about S.1301, the TVPRA. As you know, the bill passed out of the Senate Judiciary last October and is still awaiting a vote by the full Senate. We're missing a critical opportunity to sharpen our tools to fight the crime of trafficking. The Senate bill includes a number of important innovations, including a provision to pursue slavery eradication in several "focus countries," enhanced protection for victims of trafficking in the U.S., and increased capacity for JTIP to respond to situations of emergency and disaster. Failure to reauthorize this landmark legislation for the first time in 12 years sends the wrong signal about U.S. leadership on this issue to the rest of the globe and sends us a step backward. We need to pass S.1301 this year.

One other piece of significant legislation will be before the full Senate in the near future: the “End Slavery in Government Contracting” bill, sponsored by Senators Blumenthal, Rubio and others. The legislation, if enacted, would require contractors of overseas labor for U.S. Embassies and bases to adhere to certain standards that would eliminate bonded labor slavery among third country nationals working in such countries as Iraq and Afghanistan. Current standards and practices by the Department Of Defense have not eliminated the problem of sub-contractors pocketing tax payer money and exploiting poor men and women who had been promised well-paying jobs. Both the House and Senate have held extensive hearings on this matter, and there has been considerable media exposure of the problem. S.2234 offers a sensible road map to end exploitation, and in some cases out-right slavery, in overseas operations. When this measure comes up, most likely in the context of the national defense authorization, I urge all Senators to support it.

In conclusion, I would like to thank the Chairman for his attention to the issue of human trafficking over many years. I would also like to say a special word of thanks to Senator Lugar, who is one of the great foreign policy leaders of our day. It has been a great honor to appear before you, Senator Lugar. I would want this occasion to reflect how grateful I am to you for your commitment to the great foreign policy issues of our day, including trafficking, violence against women and girls, and genocide. I also wish to recognize and thank your superb staff, who have always welcomed me and other NGO representatives. Their excellence reflects on you and on the Senate Foreign Relations Committee.