

**CORRUPTION, GLOBAL MAGNITSKY, AND MODERN
SLAVERY: A REVIEW OF HUMAN RIGHTS
AROUND THE WORLD**

HEARING

BEFORE THE

**COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE**

ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

JULY 16, 2015

Printed for the use of the Committee on Foreign Relations



Available via the World Wide Web: <http://www.gpo.gov/fdsys/>

U.S. GOVERNMENT PUBLISHING OFFICE

29-842 PDF

WASHINGTON : 2019

For sale by the Superintendent of Documents, U.S. Government Publishing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
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CORRUPTION, GLOBAL MAGNITSKY, AND MODERN SLAVERY: A REVIEW OF HUMAN RIGHTS AROUND THE WORLD

THURSDAY, JULY 16, 2015

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

The committee met, pursuant to notice, at 10:04 a.m., in room SD-419, Dirksen Senate Office Building, Hon. Bob Corker (chairman of the committee) presiding.

Present: Senators Corker, Gardner, Cardin, Menendez, and Kaine.

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

The CHAIRMAN. Foreign Relations Committee will come to order.

I want to say in advance, we have got about seven votes that are coming up in about 40 minutes. And, with the approval of our ranking member and other members, I think what we may do, because that is probably too long of a period to have a recess, I would think, is that we just move back and forth and alternate chairmans and ranking members. We may have to substitute others to keep this going. But, we certainly know the importance of this hearing.

I very much want to thank our ranking member, Senator Menendez, and others for their tremendous efforts in this regard, along with Senator McCain. I want to make sure I am in the right place, here.

As Americans, we believe our government should secure and do—and not do harm to our rights. What this really means is that we believe in the rule of law. Where the rule of law is absent or weak, we know that we can expect to see governments, groups, and individuals violating the rights of others. Where societal norms have broken down, you are not all surprised to see the worst of human nature take over. And we do not have to look too far around the world to find examples of how corruption distorts economics and fuels social conflict, and how it robs citizens of opportunity and dignity.

With similarly devastating effect for security and stability throughout the world, human rights abuses continue to manifest themselves in various forms, from disenfranchisement to unlawful imprisonment, torture, and even extermination. Yesterday, the ranking member and I were over at a presentation by the Holocaust Museum depicting a young man named Caesar who had basi-

cally chronicled what was happening in prisons in Syria. It offends even the most basic human sensibilities. And to know that that is happening right now as we are sitting here in this hearing, that people are being tortured in the most crass ways—ways that I think people never imagined could take place in this time. So, I very much, again, appreciate our ranking member's pursuit and certainly his impassioned comments yesterday.

The world continues to look at the United States to defend basic freedoms and the rule of law when attacked. Furthering the cause for democratic governance and rule-based economic systems also happens to benefit us here at home. Respect for individual rights not only defines us as Americans, but it is embedded in our foreign affairs laws by requiring the State Department's annual human rights report and human rights vetting for military training and creating authority to support civil society and the rule of law through foreign assistance.

That certainly does not mean that we do not struggle to find the right balance between our concerns over human rights and competing interests. There is an additional balance to be struck between what we would like to see happen on the human rights front and the reality of how much leverage or influence we actually have to achieve these goals.

Arguably, the human rights landscape changed over the past few years. After the end of the cold war, our view of universal human rights and political freedom was dominant. But today, major international players simply do not accept these views and have not embraced the rule of law. Countries like Russia and China, for example. Instead, they have used law to criminalize dissent and isolate dissenters. Terrorists and criminal nonstate actors also carry out unspeakable human rights violations.

In addition, modern slavery violates the most fundamental human rights. As many as 27 million men and women, especially women and children, are held in conditions of slavery. And I am proud that this committee passed out, on a unanimous vote, a bill that it appears may benefit from appropriations and begin a process where the United States takes an even stronger lead in this issue. These victims are overwhelmingly poor and vulnerable, living without the protections of the rule of law. This reality should call us to action to work to deepen our partnership with governments and civil society globally who are willing to work to eliminate modern slavery.

I appreciate this committee for voting out the legislation on a unanimous basis, as I mentioned. I hope that our witnesses today will help us explore these issues.

I would just point out, for the benefit of members, that questions about human trafficking and modern slavery are best directed at our second panel, since those issues are not directly within the purview of Assistant Secretary Malinowski at the State Department.

And with that, I recognize our distinguished ranking member, Senator Cardin, for opening comments.

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

Senator CARDIN. Well, Mr. Chairman, first, thank you so much, not just for convening this hearing, but for championing human rights. This committee has a very proud record of advancing basic rights. The trafficking legislation that you referred to, your initiative, is very important. The United States has been the global leader in fighting modern-day slavery. And we thank you very much for your commitment to strengthen our position so that we can strengthen the resolve internationally against human trafficking.

During the State Department reauthorization discussions that we had, we included many provisions that strengthen basic human rights as part of our foreign policy objectives, including requiring our State Department to assess the status of corruption globally. That is another area that this committee advanced. There have been many, many, many examples of this committee advancing human rights. Particularly—just recently, we passed legislation that says the State Department should accumulate the information on war crimes committed by the Assad regime so that we can hold them accountable. And the Senate agreed with our position on accountability for war crimes in Syria.

So, we have a strong track record. I am particularly proud of the Magnitsky Human Rights Accountability Act that was passed by this committee and enacted into law in the last Congress, and that we have set up a way to hold those who were responsible for gross violations of human rights accountable.

As I said yesterday, Sergei Magnitsky was not the first Russian to be incarcerated for no reason, tortured and killed, but he is one that we knew about. And due to the courage of Bill Browder, that information became public and we took action to let the world know that we will stand by those who stand up against corruption, and we will help. And we passed the Magnitsky Accountability Act. Many said, Why are we doing this? Why do we want to create this type of a challenge in our relationship with Russia? The United States is strongest when we not only get engaged, but we get engaged and stand by our principles. And we were successful in getting that legislation done.

As a result, dozens of people have been sanctioned, many other countries have also taken action to say that they will join us in our crusade against the human rights violators, and we are seeing a different attitude. And, quite frankly, lives have been saved, and people have been encouraged, and change is taking place.

So, this hearing, I think, gives us a chance to focus on what we can do to strengthen that. One effort will be to change the Magnitsky Human Rights Accountability Act to the Global Magnitsky Human Rights Accountability Act so that it will apply to all countries, not just Russia. I will just remind the members of this committee, that the legislation was changed, in conference, to be restricted solely to Russia as an accommodation to the House, an accommodation to the administration, in order to get the bill enacted. I think now there is general consensus that this should be done globally. Quite frankly, the tools are being used by the administration today, beyond Russia, in other countries. What this does is legislate that, giving the administration—any administration—

the tools to use, but also allowing for congressional committees to initiate requests to the administration to review individuals.

This is a strong bipartisan bill. You already acknowledged Senator McCain. Senator McCain has been a great leader on this crusade for human rights. I want to acknowledge other cosponsors: Senators Shaheen, Rubio, Durbin, Wicker, Markey, Kirk, Blumenthal, and Cruz. We have all sides of the political spectrums. We come together on fighting for human rights globally.

And lastly, Mr. Chairman, let me just acknowledge Tom Malinowski and his incredible career, both in government and outside of government, crusading for human rights. He makes us all proud. He has taken on not only other governments and other people; he takes on, at times, the State Department, which we appreciate, and he is here to testify, which we very much appreciate.

I also want to acknowledge Mark Lagon, from the Freedom House—Freedom House has done incredible work in regards to human rights—and Sarah Margon, from the Human Rights Watch.

The CHAIRMAN. Thank you, Senator. And again, thanks for your tremendous leadership on this issue. I know this is one that you spent a great part of your career working on, and I thank you for that.

Our first witness of the first panel today is Assistant Secretary of State for Democracy, Human Rights, and Labor Tom Malinowski. Previously, he was Washington Director for Human Rights Watch from 1998 to 2001. He served as Senior Director on the National Security Council at the White House from 1994 to 1998. He was a speechwriter for Secretaries Warren Christopher and Madeleine Albright, and a member of the Policy Planning Staff at the Department of State.

It is good to have you before our committee. I first met Tom, having an adult beverage in Munich, I think, a few years ago. It is good to have you here.

I also want to welcome our other witnesses. Professor Mark Lagon is the president of the Freedom House. Previously, he was Global Politics and Security Chair at the Master of Science and Foreign Policy Program at Georgetown University. He was executive director and CEO of the leading anti-human-trafficking nonprofit Polaris Project until January 2009. He also directed the Office of Monitor and Combat Trafficking in Persons at the U.S. Department of State. He is also a staff alumnus to the Foreign Relations Committee.

We welcome you back, Mark, and thank you for your great service here.

Ms. Sarah Margon is the Washington director at Human Rights Watch. Prior to joining Human Rights Watch, she was associate director of Sustainable Security and Peacebuilding at the Center for American Progress. She also served as senior foreign policy advisor to Senator Russ Feingold, and is also a staff alumni of the Foreign Relations Committee, where she was staff director to the Subcommittee on African Affairs.

We also welcome you back, and know that both of you will be treated exceptionally well. We thank you for being here today.

I would remind all of you that, if you would—you all have done this before—keep your comments to about 5 minutes. Your written comments will be made part of the record.

And we apologize for the votes that are getting ready to take place, but we thank you so much for being here to help us with this issue.

And, with that, Tom, why do you not go ahead.

STATEMENT OF HON. TOMASZ P. MALINOWSKI, ASSISTANT SECRETARY, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEPARTMENT OF STATE, WASHINGTON, DC

Mr. MALINOWSKI. Thank you so much, Mr. Chairman, Senator Cardin. Thanks for holding this hearing. Thanks for placing such a high priority on these important bipartisan issues.

And let me also thank you for giving me such a small subject to try to summarize in 5 minutes. [Laughter.]

I am going to—I will try. I may—

The CHAIRMAN. I will tell you what: Take 6, if you wish.

Mr. MALINOWSKI. Thank you. [Laughter.]

So, let me give you a general overview of what I see as the big opportunities and challenges, and then you can have at me on whatever you like.

So, you know, as you know, my work forces me to focus on the worst and most depressing things that are happening around the world. I often start, when I talk about these things, by trying to remind folks that there is a lot of good stuff happening in many parts of the world. A lot of people are still fighting the fight for human rights and for freedom, and they are winning. When I look back on the events of the last year, I think about the success of the Maidan movement in the Ukraine, and all the work those folks are still doing to try to hold their country to the path that they have chosen. I think about Afghanistan and Indonesia and the elections that took place there, where, amongst all the choices people had, they went for the candidates who had the most progressive human-rights-oriented visions for the future of their country. I think about this remarkable movement for term limits that has started and spread throughout Africa; the more recent elections in Nigeria and Sri Lanka, where people risked so much to assert the right to change their leaders; about the opportunities I think we still have in Burma, and the new opportunities that are emerging in Vietnam. And in all of these cases, the United States, we, have played, I think, a very, very central role in supporting people who are fighting for their rights. And that ought to give us, not just some hope for the future, but confidence in ourselves, a very, very important quality.

Now, all that said, the global movement for human rights has run into some pretty significant headwinds, and there are days when it feels to me like the number and intensity of the crises we face is about as great as at any point in recent history. So, let me mention what I think are three of the biggest overarching challenges we face.

The first is the—obviously, the brutality of nonstate actors like Daesh and Boko Haram and al-Shabaab and the Taliban groups that have launched systematically planned efforts to target whole

groups of people because of their ethnicity or faith, and propagated an ideology that justifies, even celebrates, the killing and enslavement of people. We have to defeat these groups, and that necessarily involves coercive measures. But, at the same time, we have to remember what they came from. They did not come from nothing. Many cases—certainly true in Nigeria and Syria and Iraq—extremist groups came to the fore driven by atrocities and human rights abuses and corruption committed by governments. And so, our response to these groups also has to be consistent with the values of promoting human rights.

And that leads me to the second overarching challenge that I think we face daily around the world, and that is the misapplication of counterterrorism and counterterrorism laws to stifle legitimate political dissent. When a Saudi counterterrorism court sentences a blogger to 1,000 lashes, when Egypt uses the threat of terrorism to justify the prosecution of nonviolent opposition, when China prosecutes Uighur scholars who promote moderation and reconciliation, it is not just a blow to human rights, it is a setback to effective counterterrorism. And so, a great part of our engagement with partners in our coalitions against terrorism is about delivering the message that, when the paths to nonviolent change are blocked, more and more people who have grievances are going to fall under the sway of extremist groups.

Now, the third big challenge—and you mentioned this, Mr. Chairman—is that, for the first time in many, many years, we are facing a serious challenge to universal norms of human rights from two of the world's great powers: Russia and China. I think it is important, in the case of Russia, for example, to recognize that the intervention in Ukraine that we have seen is profoundly related to President Putin's increasingly harsh crackdown domestically, which has been building since 2011, when he faced those first effective protests against his rule. You have seen, of course, the progression, the laws labeling NGOs as foreign agents or undesirable foreign organizations, the complete lack of progress and accountability for cases like Sergei Magnitsky, the murder of opposition leaders, and so forth.

And this insecurity at home has increasingly led the Kremlin to view the assertion of a universal norm of human rights and democracy by governments, by civil society groups all around the world, as a threat to its interests. And so, when a democratic experiment arose in Ukraine, Russia acted against a sovereign state to stop it, leading not just to a human rights crisis, but to a threat to global order.

And in China, we are also seeing, in some ways, a very similar increasingly assertive set of measures to restrict civil society and to challenge the legitimacy of global norms that uphold the rights of civil society. In recent days, we have seen over 100 lawyers detained in China who are defending the rights of others. We have seen the passage or proposal of laws on NGOs, on national security, that will empower the government to round up, not just human rights groups, but to restrict the activities of everything from chambers of commerce to groups that do student exchanges, work on environmental issues, everything that is not controlled by the government, all justified by an increasingly assertive official

discourse of resisting what they call “cultural infiltration” from the United States and the international community. And, unfortunately, we see this trend in a lot of other smaller countries that are able to point to the example of Russia and China to justify what they are doing.

Now, all of this is very bad news. I would suggest that the global crackdown on civil society that we are seeing is, in part, a response to the effectiveness and success of these movements over the last several years. So, in a way, it is no surprise that authoritarian regimes are pushing back. What it means for us is, we have to redouble our vigilance. So, how do we do that? We have a lot of tools. We have public and private diplomacy. We can mobilize other countries through the U.N. and other international organizations. We can put great emphasis on issues like corruption. And that is something we are doing, because we know, not only is corruption linked to bad governance, to human rights abuses everywhere in the world, it is also one of the most important political vulnerabilities of regimes like Putin’s, for example, and others, because it is the one thing they cannot justify at home or abroad.

And finally, we have the option of imposing targeted sanctions, particularly targeted financial sanctions. And, as you both know, this is an option that I have supported in many cases, it is one that we have employed as a government in a number of cases, it can be effective, but it is not always the right answer. It is not something that we can uniformly do, from the standpoint of effectiveness, in every single country that faces human rights challenges. And that is why I think we need the flexibility to work with you to determine where that tool is likely to do more good than harm.

So, Senator Cardin, you mentioned the Global Magnitsky Act. I want to, first of all, commend you and thank you for all of the work that you have done on the issues that we have been discussing over the years, including the work on the Act. And we very much appreciate your efforts to address some of our concerns in preserving that important flexibility to be able to impose sanctions where it is going to be effective and appropriate. And we very much look forward to working with you, with the committee, on this and other important legislation as you move forward.

Thank you very much.

[The prepared statement of Mr. Malinowski follows:]

PREPARED STATEMENT OF ASSISTANT SECRETARY TOMASZ P. MALINOWSKI

Thank you, Mr. Chairman and Senator Cardin, for holding this important hearing. You’ve given us a broad subject, so there are any number of issues I could touch on, but let me begin by giving you a general overview of the challenges and opportunities I see right now in our efforts to promote human rights around the world.

As you know, we recently released our 2014 Human Rights Reports, which gave us a chance to take stock of human rights conditions worldwide. We focus in those reports on what is going wrong in all the countries they examine, and we must, since the whole point of our human rights diplomacy is to help right those wrongs. But we also recognized what is going right—the achievements that people working for democracy and human rights have made in the last year that give us hope, even in this difficult period. In Ukraine, peaceful protests helped citizens reclaim their country’s traditions of political choice and freedom of expression. In Afghanistan and Indonesia, millions of people went to the polls, and chose among all the candidates before them leaders with the most progressive, democratic vision for the future of their country. In Burkina Faso, people stood up to uphold their constitution, part of a larger movement for term limits in Africa and beyond. In Nigeria, voters braved

violence, and in Sri Lanka they were galvanized by corruption and nepotism, to affirm their ability to choose and change their leaders. In each of these cases, the United States stood up for those seeking human rights, often over many years in the face of significant setbacks. These examples, therefore, should give us not just hope for progress in the world but confidence in our ability to advance it.

That said, the global movement for human rights has also run into powerful headwinds in many places, and on some days it feels like the number and intensity of crises we face are greater than at any time I can remember.

The first challenge I want to highlight is the brutality of nonstate actors, from the Taliban and al-Shabaab to Boko Haram and Daesh. We are all too familiar with the litany of crimes these terrorists have committed: murder, torture, rape, religious persecution, slavery, and more. Daesh, in particular, stands out for having launched systematically planned and organized efforts to attack whole groups of people because of their ethnicity or faith, and for propagating an ideology that justifies, and even celebrates, the killing of civilians and enslavement of women. As Secretary Kerry has made clear, the international community must confront and to defeat these groups, and coercive measures are obviously an essential part of that effort.

At the same time, we must remember that these groups did not emerge from nothing. Violent extremism in Nigeria was exacerbated by the actions—and in some ways the inaction—of the previous government. In Syria, Daesh's rise was fueled by Assad's horrific abuses against his own people. In Iraq, Daesh took hold because many in the Sunni community felt marginalized, felt that legitimate grievances were being ignored by the government in Baghdad. So these violent extremist groups are not only a primary cause of human rights abuses; they are also a product of human rights abuses.

As President Obama noted in the 2015 National Security Strategy, many of our biggest national security challenges come from the biggest human rights failures. When governments violate the rights of their citizens and ignore calls for accountability, inclusivity, rule of law, decent work, and fundamental freedoms, they fuel instability and violence.

So our response to terrorist groups must be consistent with human rights, too, which leads me to a second urgent challenge we face around the world today—the misapplication of counterterrorism laws to stifle criticism, crush dissent, and restrict the space for civil society. For example, in Saudi Arabia, peaceful Internet activist Raif Badawi was sentenced to 10 years in prison and 1,000 lashes by the Ministry of Interior's Specialized Criminal Court, a court originally set up to try terrorists. Egypt has used a real threat of terrorism to justify the prosecution of nonviolent opposition figures, human rights activists, and demonstrators. Bahrain has a legitimate interest in protecting its people against violent groups, yet its government has focused much of its energy on prosecuting peaceful critics, including this year, opposition leader Sheikh Ali Salman. Last year in China, Ilham Tohti, a Uighur scholar who promoted moderation and reconciliation among ethnic groups, was sentenced to life in prison.

Terrorism doesn't give authorities a license to use violence indiscriminately, and it's not a legitimate excuse to lock up political opponents, restrict civil society, or pin a false label on activists who are engaged in peaceful dissent. Such measures are not just wrong; they're not just violations of human rights. They're also counterproductive to our security goals; they play directly into the hands of terrorists.

As President Obama said at the Countering Violent Extremism Summit in February, "When people are oppressed and human rights are denied . . . when dissent is silenced, it feeds violent extremism. When peaceful democratic change is impossible, it feeds into terrorist propaganda that violence is the only answer available." That's why a great part of our engagement with partners in the coalition against Daesh, and with countries facing this kind of threat is about delivering the message that when the paths to nonviolent change are shut down, more and more people who have grievances will fall under the sway of extremists and the false promises they offer. It's why our security cooperation with these countries will remain bound by restrictions that promote respect for human rights and encourage a focus on violent extremism rather than peaceful dissent. We do this for our own security, as well as to advance the human rights and dignity of people around the world.

The third challenge I want to put before you today is this—for the first time in many years, we are facing a serious challenge to universal norms of human rights from two of the world's great powers.

Russia's intervention in Ukraine threatens to upend an international order that has kept the peace in Europe since World War II. We have responded accordingly, and appropriately. But we should also remember that Putin's actions in Ukraine are profoundly related to his increasingly harsh crackdown on dissent within Russia since 2011, when he saw widespread overwhelmingly peaceful public protests as a

threat to his power. Seventy-six of the country's most respected NGOs now are now listed as "foreign agents" and a new law banning "undesirable foreign organizations" will intensify the government's suppression of Russian civil society. These laws have been used not just against human rights groups, but against any NGO that receives foreign funding, from organizations that finance high school science camps, to those supporting the mothers of soldiers; recently, organizations have been targeted simply because their staff spoke at conferences on foreign soil. At the same time, there has been no progress in identifying those responsible for the murders of journalists, human rights defenders, and with the killing of Boris Nemtsov, leaders of the political opposition.

The Kremlin appears to see the assertion of a universal norm of human rights and democracy by governments and civil society groups around the world as a call to "color revolutions" and thus a threat to the regime. In Ukraine Russia has acted against a sovereign state where a successful democratic transition might set a positive example for others. The result has been an occupation of Crimea and intervention in eastern Ukraine in which widespread human rights abuses have been committed. Meanwhile, Russia has used its veto in the U.N. Security Council to oppose the enforcement of human rights norms around the world, blocking everything from efforts to hold accountable those responsible for atrocities in Syria to a commemoration of the genocide at Srebrenica in Bosnia.

Sadly, in China, we are seeing increasingly assertive measures to restrict civil society and to challenge the legitimacy of universal human rights norms. In recent days, the Chinese Government has detained a large group of lawyers who had done nothing more than defend, the rights of others brought before the criminal justice system. The timing of these arrests, shortly after China's passage of a new National Security Law has heightened our concerns that China may seek to use legislation to commit human rights abuses and to restrict enjoyment of fundamental freedoms of expression, association, peaceful assembly, and religion.

China's draft NGO and counterterrorism laws are similarly disturbing. They are broad, vaguely phrased laws that give officials considerable latitude to police civil society and suppress views that they perceive as being in any way threatening to Communist Party rule. As in Russia, the Chinese NGO law will allow the government to go after any and all foreign, and foreign supported, organizations, including groups involved in work as benign as student exchanges or environmental issues. And the Chinese Government justifies it with a new and disturbing official discourse that paints "cultural infiltration" from the United States and the international community as a threat. These developments could restrict foreign trade and investment in China and obstruct the Chinese people's interaction with the outside world, reversing a 36-year process of "reform and opening" to the outside world that has enriched both China and the international community. As we did during our recent Strategic and Economic Dialogue with China, we will continue to encourage China's leaders to weigh the costs to its citizens' well-being and productivity of blocking them from the ideas and information that spark and move the world forward. But that is what the Chinese Government appears to be determined to do.

Unfortunately, other countries around the world, from Cambodia to Ethiopia to Azerbaijan, have sought to copy Russia and China's repressive examples, passing laws to stifle NGOs and restrict what their people can access on the Internet and other media. You might recall Hungarian Prime Minister Viktor Orban's speech last summer, declaring his intention to build an "illiberal state" modeled on the likes of Russia and China. When authoritarian leaders are challenged at home and abroad by demands for more inclusive and transparent government—demands that cite universal values and international law—they find it convenient to point to an alternative model being displayed and promoted by influential world powers like Russia and China.

I realize this is quite a dark outlook, but I do want to point out that one of the reasons for the recent wave of crackdowns on civil society is that civil society has become very effective. Crackdowns are a response to the success that global civil society has had in promoting human rights—success in raising the expectations of people in countries that have long resisted democratic change that they're entitled to the same fundamental freedoms as everyone else around the world. And that success is profoundly threatening to authoritarian regimes. So it's not a surprise to seem them pushing back. But the push back does, mean that we need to remain vigilant in our defense of universal values.

There's no single approach to doing this. Different tools, in different combinations, are appropriate depending on the circumstances. But let me lay out some of the tools at hand.

First, we always strive to address our concerns in our public and private diplomacy—even with countries with which we must do business on other issues.

We work in the United Nations, in regional organizations, and other multilateral fora to strengthen and generate international support for compliance with human rights obligations.

Related to this, one thing we increasingly have emphasized is the importance of fighting corruption in countries where there is clearly a confluence between graft and poor governance. Corruption is often the reason why authoritarian leaders seize and cling to power; but it is also often one of their greatest vulnerabilities—the abuse of power that generates the greatest domestic opposition and that they are least able to justify on the world stage. The United States is well-positioned to lead a redoubled global effort to confront corruption. We were the first country to criminalize bribery by our companies overseas. We have led the creation of global standards and binding legal frameworks to prevent and combat graft, and to foster the international legal cooperation that is increasingly necessary. In the last few years, we have forged a consensus in the G20 to strengthen safeguards against the flow of illicit funds, including by cracking down on the use of anonymous shell companies. We are helping emerging democracies like Sri Lanka and Ukraine recover stolen assets, and where possible prosecuting those with links to foreign corruption in our courts. We are partnering with a number of African countries to address corruption and other sources of illicit finance there.

At the same time, we use our assistance to partners around the world, including security assistance, to leverage improved respect for human rights. And finally, we have the option of using targeted measures, including targeted financial sanctions in certain contexts. They are an important tool in many cases. They enable us to impose costs on individuals responsible for certain human rights abuses without punishing entire countries or economies. They can show how seriously the United States takes these issues, while giving the victims of human rights abuses a sense that someone is standing up for them. And America's position in the international financial system gives us unique opportunities to employ such measures. But financial sanctions aren't the right answer in every situation, and our ability to employ this tool effectively would diminish if we employed it indiscriminately. That's why we believe we need the flexibility to determine, in consultation with Congress, when financial and other sanctions will do more good than harm.

Senator Cardin, I want to commend you for all of the work you have done to combat global human rights violations, including your recent work on the Global Magnitsky Human Rights Accountability Act, which was reported out of this committee last year. We greatly appreciate your effort to address our concerns for preserving our flexibility in key areas and look forward to working with you and other members of the committee as this bill proceeds through the legislative process to ensure that it achieves common goals.

The CHAIRMAN. Well, thank you very much for that testimony. And very much appreciate your efforts in all of the places that you have served.

So, you talked about Russia—and let us just mention China, in particular—but also other countries. We had a situation come before us here recently, where we are dealing with China on a civil nuclear agreement, whereby we know that they are going to cheat and use that technology to help them in military activities. We know that is going to happen. And yet, you know, our country is entering into an agreement with them and—because of the commercial interest that exists relative to us working with China on commercial issues. So, when it comes to this particular issue, human rights, talk to me about how we deal with the balance. My guess is, your greatest challenge at the State Department is that the State Department has multiple interests that it is trying to accommodate, and issues that they are trying to achieve, or movement. So, how do we balance that? To me, that is one of the greatest rubs that we have, relative to human rights issues, is that we have other equities, if you will, with governments that sometimes compromise our abilities.

Mr. MALINOWSKI. First, I think it is important to be completely honest about that. Of course we have other interests. And I would be—it would be silly of me to suggest that this is the only set of

interests that the United States has in the world. I tend to resist the notion that our interest in promoting human rights, and our interest in protecting our security, our prosperity, is—that those interests are fundamentally at odds. I think sometimes we face short-term tradeoffs, where we may have to work with a particular country on something that is essential to our security right now. And, at times, that may lead us to calibrate our efforts on other important issues.

In the long run—and this is the point I was making about counterterrorism—and not just the very long run, but in—medium term—it is—I do not think it is possible for us to secure the broad range of our interests in the world unless we are also working with and empowering ordinary people in countries like Russia and China and Afghanistan and Indonesia, and so on, and so on. Most of our—and President Obama has made this clear; it is stated very plainly in our national security strategy—most of the most fundamental challenges to our national security around the world come from places where people’s rights are not respected. And that is not a coincidence.

So, that is the argument that I make. Even in the cases where we have short-term tradeoffs, there is no situation where we cannot stand up strongly and say what we think. In the case of China, we just had our strategic and economic dialogue here in Washington, and everybody involved, from Secretary Kerry on down, pressed extremely hard on issues like the NGO law, the arrest of lawyers, Tibet, Xinjiang—making the argument that I have just made, that these problems are related to many of our other concerns with China. And I think we find that, even if all we are doing is making statements, governments around the world are profoundly sensitive to what the United States says and does not say. That is been one of the interesting things that I have learned in this job, that even just what we say, what you say as a Congress, is heard very clearly around the world and is taken very, very seriously.

So, there is always something that we can do, even in those situations.

The CHAIRMAN. And if you would, just for our education, when you say “empower groups,” let us talk China for instance. One of our jobs is to empower groups. What are some of the most effective ways that we do that?

Mr. MALINOWSKI. There are—well, there are many different things that we can do. In some cases, we can provide direct support to civil society organizations that are advocating for universal human rights.

The CHAIRMAN. And is that permissible under the leadership that exists in China right now?

Mr. MALINOWSKI. In some places, it is harder; in some places, it is easier. In some places, we are very careful about how we talk about what we do, because of the difficulties. We take our cue, of course, from those brave activists, themselves. There are countries where, for their own safety, for their own interests, they feel like they cannot work with outside governments or groups. So, that is one way.

Speaking out on their behalf, frankly, is very, very important. I do not know how many times I have had conversations with activists in other countries who have simply said, "Just speak out on our behalf. Remind us that we exist, that we are important, that we are not forgotten." Sometimes the targeted sanctions, where that is appropriate, are a good way of empowering people, because they feel, "Somebody did something, somebody imposed a degree of accountability for what is being done to us." Wherever possible, we try to mobilize other countries. And increasingly, one of the things that my Bureau is doing is pooling funds with other countries that are dedicated to the same principles so that we are able to respond collectively to cries for help from civil society around the world.

So, many different things that we can do. Are we doing enough? Never. We always face the challenge of doing more. And we will continue to do our best.

The CHAIRMAN. I think that the way the Global Magnitsky bill is now drafted, the sanctions are permissive. They are not mandatory. Is that correct?

????Senator CARDIN.???? There is no required action by the administration to evaluate every human rights violator around the world, that is correct.

The CHAIRMAN. I know that is something that is going to be subject of debate. My guess is, the administration would prefer not to see this enacted. I do not think it has necessarily been fond of this. But, if there were mandatory sanctions, just give us practical implications of that.

Mr. MALINOWSKI. That would be a significant problem. And that is the administration's position. It is my personal position. I do not think—first of all, I—as I mentioned, I do not think that targeted financial sanctions are the answer to every single human rights abuse and human rights abuser in the world. If we were mandated by law to do it, we would have to have the subjective process, where the lawyers would say, "If there is evidence, then we have to act."

Number two, the resource implications of that would be just extraordinary, particularly for countries that have very small embassies, small posts, to have to be able to look at every single case that rises to the level to potentially the evidentiary standard in the legislation. So, I think that would, in a sense, break the bank.

I think—again, very much appreciate the efforts that you have made, Senator Cardin, to make this about creating an authority to be able to target individuals around the world. Obviously, the Congress would retain its authority to impose—to pass legislation that imposes sanctions on a variety of issues, variety of countries where you think it is appropriate. So, I think flexibility is preserved all around with that approach.

We have not taken a position on the legislation, neither positive nor negative, but it is something that we very much look forward to working with you both on.

The CHAIRMAN. Thank you very much.

Senator Cardin.

Senator CARDIN. Well, Mr. Chairman, let me say, we have always intended, when the bill was originally introduced, the Magnitsky law, that it would give authority to the executive branch

to be able to use these tools and a mechanism where the legislative branch could ask the executive branch to investigate specific cases, but no mandatory aspect. And we thought that was the best way to go, because, quite frankly, if it becomes mandatory—we were concerned about resources and costs and whether you really are going to diminish the importance of these tools. We want to go after the cases where they can have the most impact, not only on the individual, but on the circumstances within a country and those who are fighting for human rights. So, it was intentionally designed that way.

And I want to thank Mr. Malinowski, because during the considerations of the bill, there were some clarifications, and we very much appreciate the input in making it clear our intentions on the legislation.

I also just really want to underscore your point about putting a spotlight on issues. I have been involved in the Helsinki Commission since my first days in the House of Representatives, many years ago, before the fall of the Soviet Union. And the Helsinki Commission by visiting a country and talking to the activists was incredibly valuable in changing the human rights records within many of the countries under the Soviet domination. And it was one of the most important steps we took in order to liberate people and give them hope. And I think it contributed to the change and the end of the dominance of the Soviet Union. So, that was an important step.

Mr. Malinowski, I will urge you to carefully engage on the Trans-Pacific Partnership. I say that because Congress has spoken. The TPA—Trade Promotional Authority—that we have given to the administration has as one of its principal negotiating objectives, which means the administration must act in this area—good governance and anticorruption. We recognize that there are times when you can make progress. And when countries want trade rights with the United States, they will change. And this is an opportunity for countries that have less than satisfactory progress on human rights to be able to do something positive. And we need champions.

Secondly, let me point out that some of your colleagues in the State Department are working with the United Nations on the Sustainable Development Goals, the next set of goals that follow up on the Millennium Development Goals. There is a Sustainable Development Goal, Goal 16, that is being proposed that deals with good governance. This would be a major change. As you know, the Millennium Development Goals tried to deal with world poverty, with women's education, with infant survival, and we made tremendous progress. But, as you pointed out in your testimony, if you have a corrupt society, you are not going to be able to do everything you need to keep babies alive or to deal with poverty or to deal with education. It is corrosive to those accomplishments.

So, we are able to at least propose it. And I would urge you also to get involved with your colleagues to make sure that we are successful in getting a good governance, anticorruption focus in the Sustainable Development Goals. We have to use every tool available. And that also includes the Global Magnitsky.

And I just wanted to ask you a question. The administration did use targeted sanctions against seven individuals responsible for serious human rights violations in Venezuela. You were able to do that. What challenges did the administration face in the Venezuela case in being able to use targeted sanctions?

Mr. MALINOWSKI. I would say there are—I would point to several challenges. One—and I think it is appropriate that we face this challenge—the evidentiary standard is quite high. And my colleagues at the Treasury Department insist that, when we propose the use of targeted sanctions for conduct, such as human rights abuses, that there be evidence, that we have solid evidence, so that, when we go to the banks, we are not—you know, we do not expose ourselves to potential legal action and other measures by those whom we sanction. So, that is always the case.

In the case of Venezuela, there was some blowback, as I am sure you saw, from the region, including from some of our allies and partners in the region, and from the Government of Venezuela itself, because, under the current law that grants us authority to impose these sanctions, IEPA, we have to—when we target individuals, we have to issue—the President has to issue an executive order that declares a state of national emergency with respect to that country. And the language of the executive order, the mandatory language, can—and was, in the case of Venezuela—be exploited to suggest that the United States is, in effect, going to war against that country. And so, the Government of Venezuela pointed to some of that language and said, you know, “You see, the Americans are coming after us,” when, in fact, all we were doing was holding accountable a number of individuals for abuses of human rights and for corruption.

Senator CARDIN. And that is one of the reasons why we would suggest that the Global Magnitsky bill could avoid those types of real problems, including statements that you have to make that are not necessarily productive to our relationship with other countries when we are going after human rights violators. So, you have already pointed out that targeted sanctions are valuable tools, so I will not reiterate that.

But, let me just make one last point on this. We have the separation of branches of government. There are not many other countries in the world that have that. We need to use that to our advantage. You know, you cannot control what Congress does. Sometimes that gives you an ability to go places and do things that you otherwise could not do. So, I would just urge the administration to play that more aggressively than you have in the past. Congress, yes, can initiate laws with sanctions. We can do it. We have done it. We have done it successfully; at times, when the administration did not want us to do it—really did not want us to do it. We still did it. And the results, I would say, have been very, very positive, not only for the advancement of human rights, but for advancement of many of our other goals.

So, the Global Magnitsky Human Rights Accountability Act, is an effort to get that right, to give you the tools that you can use, but to also say there are going to be times when Congress wants an easier process so we do not have to declare an emergency, like you have to do today when using these tools. We do not have to

pass a specific law; we can do it through our committees and direct you to take a look at an individual who we think deserves that type of attention. And I think it really does play to the strength of America's independent branches of government, allowing you to do what you should, but also allowing Congress to carry out its role, either by passing specific laws or directing the administration to take action.

And again, I thank you for your incredible record, both in government and out of government, for what you have done to advance human rights.

The CHAIRMAN. Thank you so much.

There will be a number of questions, I think, from other Senators. And if you would answer those fairly promptly, this helps us establish a record to deal with this legislation that I know you support and Senator Cardin has championed. So, thank you so much for being here. Thank you for your service.

And I think, in light of what is getting ready to happen with votes, it might be good to go ahead and bring the other witnesses up. Let us hear their testimony, and then we can alternate. Sorry this has been so brief. It is not out of disrespect for—well, I—with us questioning, I mean, it is probably okay. So—

[Laughter.]

The CHAIRMAN [continuing]. Anyway. Thank you so much.

Mr. MALINOWSKI. Thank you so much.

[Pause.]

The CHAIRMAN. Thank you both for being here. And I know you have been introduced. Just because of the way the seating order is, Sarah, if you would like to start first, that would be great.

**STATEMENT OF SARAH MARGON, WASHINGTON DIRECTOR,
HUMAN RIGHTS WATCH, WASHINGTON, DC**

Ms. MARGON. Sure, I am happy to.

Chairman Corker, Ranking Member Cardin, other members of the committee, thank you for inviting me to testify today. As a former Senate staffer and a liaison to this committee, it is a particular honor to be here. So, thank you.

I would like to specifically thank Senator Cardin for his long-standing commitment to fighting corruption and addressing global human rights abuses, including, but certainly not limited to, the bill we are discussing today, the Global Magnitsky Human Rights Accountability Act.

Now, the world is undergoing incredible turmoil with grave implications for millions of people. If you look at countries where the Arab Spring took root, it has been replaced, in many cases, by conflict and repression. ISIS and other Islamic extremists are committing mass atrocities and threatening civilians, not only in the Middle East, but in Asia, in Africa, and beyond. Even if we look past ISIS, many governments have sought to respond to the very real danger of armed militancy with a myopic security response. Legitimate counterterrorism measures are often coupled with an unprecedented crackdown on independent civil society and the media that receives, in many cases, little more than a passing criticism from the United States and other countries. Governments such as Bah-

rain and Ethiopia have thrown peaceful activists and human rights defenders in jail for being outspoken, under the guise of fighting terrorism. Partnerships with security forces and governments known to be both corrupt and abusive, from Egypt to Afghanistan to Uganda, appear to be receiving less, rather than more, scrutiny from the United States. Around the world, we have documented how repressive government tactics often spark, or at least exacerbate, many of today's most pressing security challenges. And yet, human rights defenders challenge these injustices, and risk harassment and attack, while those who threaten them generally do so with great impunity.

It is within this framework that I would like to discuss three countries where I actually think the Global Magnitsky bill might be particularly valuable.

Let us start with Iraq. More than 12 years after the United States-led forces invaded Iraq, it has become quite clear that the country's transition to a functioning and stable democracy built on the rule of law is in tatters. Even before ISIS's dramatic territorial gains more than a year ago, human rights conditions were deteriorating dramatically. Iraq grappled with a weak criminal justice system plagued by serious corruption and political interference. Courts frequently based convictions on coerced confessions and trial proceedings that fell far short of international standards.

At that time, the Iraq Government was struggling to address bombings and attacks, and it employed draconian and abusive tactics by heavy-handed security forces increasingly under the political influence of former Prime Minister Nouri al-Maliki, who also sponsored militias outside of regular security forces. ISIS's takeover of massive swaths of territory in June 2014 was a testament to the alienation of Sunni communities as many welcomed ISIS fighters as liberators from the sectarian oppression of government authorities. To put it simply, former Prime Minister Maliki's unchecked anti-Sunni policies created fertile ground for ISIS to escalate the conflict that has helped spawn today's crisis.

A sanctioned regime like the one the Global Magnitsky bill would create is certainly no panacea for what we are facing there, but, as a starting point, it sends a clear signal that the United States is not open for business to persons responsible for serious human rights abuses or large-scale corruption. It also has the potential to spur greater domestic accountability for such abuses, which is largely absent.

On Uzbekistan: Uzbekistan's human rights record is nothing short of atrocious. Thousands of people are imprisoned on politically motivated charges, torture is endemic, and the authorities regularly go after civil society activists, opposition members, and journalists in very barbaric ways. Muslims and Christians who practice their religion outside strict state controls are persecuted, and, despite some changes in 2013 due to outside pressure, the government still forces an estimated 2 million adults to harvest cotton every fall under draconian conditions. Now, Washington has some tools to encourage reform, but they have not been used, despite a much reduced need to rely on Tashkent for the transit of United States troop supplies out of Afghanistan.

When it comes to Uzbekistan, the Obama administration needs a fresh approach that leans more in the direction of strategic pressure instead of strategic patience, mainly because there is no evidence that officials who oversee or engage in torture, forced labor, or persecution of activists will change their behavior absent serious political or economic consequences.

Very quickly on Bahrain: While the majority of Bahrainis are Shiite, the country is ruled by a Sunni-dominated autocratic monarchy that has shown no real intention to reform, despite a number of cosmetic initiatives. In 2011, the authorities used lethal force to suppress a largely peaceful pro-democracy movement which proved to be a turning point. King Hamad appointed an independent commission to look into human rights violations, and dutifully accepted all of its recommendations. But, little has been done to implement those recommendations. Efforts to restart a national dialogue have failed enough over the past year. Bahrain's main opposition party has refused to participate in the national dialogue process to protest authorities prosecuting some of its senior members for exercising their right to free speech.

More generally, Bahrain's court convicts and imprisons peaceful dissenters. The trials we have been able to monitor have been exceptionally unfair. Here again, a global sanctioning regime like the Global Magnitsky bill—like the one the Global Magnitsky bill intends to authorize could help add general pressure for a more rights-respecting political environment, as it would provide the administration with the tools needed to show the opposition the United States has embraced their concerns, as well, beyond just the occasional release of a prisoner, which we saw last week and then again the re-arrest, despite the U.S. decision to lift arms restrictions.

I think I will stop there.

Thank you.

[The prepared statement of Ms. Margon follows:]

PREPARED STATEMENT OF SARAH MARGON

Chairman Corker, Ranking Member Cardin, other members of the committee, thank you for inviting me to testify today. As a former Senate staffer—and a liaison to this committee in particular—it is a true honor to sit before you now. I would like to specifically thank Senator Cardin for his long-standing commitment to fighting corruption and addressing global human rights abuses—including but not limited to the introduction of the Global Magnitsky Human Rights Accountability Act. Your support, Mr. Ranking Member, particularly in the face of such global tumult, is greatly appreciated.

Indeed, the world is undergoing incredible turmoil, with grave implications for millions of people. In almost every country where the Arab Spring took root, it has been replaced by conflict and repression. ISIS and other Islamist extremists are committing mass atrocities and threatening civilians not only in the Middle East but also in Asia, Africa, and beyond. Even beyond ISIS, many governments have sought to respond to the very real danger of armed militancy with a myopic security response that ignores the importance of upholding fundamental rights. Legitimate counterterrorism measures are often coupled with an unprecedented crackdown on independent civil society and the media that receives little more than passing criticism from the United States and other democracies. Governments such as Bahrain and Ethiopia have thrown peaceful activists and human rights defenders in jail for being outspoken on human rights under the guise of fighting terrorism. Partnerships with security forces and governments known to be both corrupt and abusive—from Egypt to Afghanistan to Uganda—appear to be receiving less rather than more scrutiny from the United States.

Around the world, Human Rights Watch has documented how repressive government tactics often spark, or at least exacerbate, many of today's most pressing security challenges. And yet, human rights defenders and others who expose and challenge these injustices risk harassment and attack while those who threaten them generally do so with impunity. It is with this framework in mind that today I would like to briefly discuss current human rights trends in three countries where a tool like the Global Magnitsky bill might be particularly valuable.

IRAQ

More than 12 years after U.S.-led forces invaded Iraq, it has become quite clear that the country's transition to a functioning and sustainable democracy built on the rule of law lies in tatters. Even before ISIS' dramatic territorial gains more than a year ago, human rights conditions in the country were deteriorating. The rights of Iraq's most vulnerable citizens, especially women, the Sunni minority, and detainees, have been regularly violated by the government with impunity.

Before ISIS, Iraq grappled with a weak criminal justice system, plagued by corruption and political interference. Courts frequently based convictions on coerced confessions and trial proceedings that fell far short of international standards. Thousands of women, as well as many men, were detained without charge, and subjected to torture and ill-treatment. Even secret detention facilities in the government district came to light.

At that time, the Iraqi Government was struggling to maintain security against terrorist bombings, and employed draconian and abusive tactics by heavy-handed security forces, increasingly under the political influence of former Prime Minister Nouri al-Maliki, who also sponsored militias outside of the regular forces. Suicide attacks, car bombs, and assassinations increased again over the past few years, killing more than 12,000 people outside of combat zones in 2014 alone. The government responded with mass arbitrary arrests, torture of detainees, and convictions after unfair trials based on information provided by secret informers.

ISIS's takeover of massive swathes of Iraqi territory in June 2014 was a testament to the alienation of Sunni communities, as many welcomed ISIS fighters as "liberators" from the sectarian oppression of government authorities. To put it simply, former Prime Minister Maliki's unchecked anti-Sunni policies created fertile ground for ISIS to escalate the conflict, enlist several Sunni armed groups, and help spawn today's crisis.

Now, as ISIS seeks to expand its brutal control and the government responds with regular forces and abusive militias, civilians have become the targets of unlawful attacks and political repression by both sides. There is virtually no accountability for grave abuses. ISIS is abhorrently proud of its summary executions, systematic rape and subjugation of women. At the same time, the Iraqi criminal justice system has proved incapable of holding members of government forces and allied militias to account for extrajudicial executions, abductions, indiscriminate attacks and widespread and deliberate destruction of civilian property.

A sanctions regime like the one the Global Magnitsky bill would create is certainly no panacea for the many challenges faced by Iraq but it would, as a starting point, send a clear signal that the United States is not open for business to persons responsible for serious human rights abuses or large-scale corruption. It also has the potential to spur greater domestic accountability for such abuses. If Prime Minister Al-Abadi is sincere about his commitment to create a more inclusive government, he should welcome the establishment of such a sanctions regime as a tool to help reinforce his goals.

UZBEKISTAN

Uzbekistan's human rights record is nothing short of atrocious. Thousands of people are imprisoned on politically motivated charges, torture is endemic, and the authorities regularly go after civil society activists, opposition members, and journalists. Muslims and Christians who practice their religion outside strict state controls are persecuted and, despite some changes in 2013 due to outside pressure, the government still forces an estimated 2 million adults to harvest cotton every fall under draconian conditions.

Now, Washington already has some of the tools it needs to encourage reform, but they have not been used in quite some time, despite a much-reduced need to rely on Tashkent for the transit of U.S. troop supplies out of Afghanistan. There is little factual evidence to support concerns that stronger criticism by the U.S. over rights will lead Uzbekistan to forge a stronger alliance with Russia. Some even argue that President Islam Karimov needs (and craves) Western support and legitimacy a great deal more than the West needs him.

When it comes to Uzbekistan, the Obama administration needs a fresh approach that leans more in the direction of “strategic pressure” instead of “strategic patience”—mainly because there is no evidence that officials who oversee or engage in torture, forced labor, or the persecution of activists will change their behavior absent the prospect of serious political or economic consequences. Indeed, since 2009—when the administration increased contacts and military cooperation with Tashkent—human rights concerns have gone from bad to worse.

So the possibility of Uzbekistan officials facing a fair U.S.-based sanctions regime based on responsibility for human rights abuses and/or major graft presents an excellent, targeted opportunity to leverage change. With a new tool in the hands of U.S. diplomats and a greater potential for individual scrutiny, we might see the power of deterrence in action by stirring inaugural signs of change: just knowing that they could be banned from coming to the United States or from using its banking system could be enough to force an abusive official to think twice before acting.

BAHRAIN

Over the last year, Bahrain’s main opposition party has refused to participate in the national dialogue process to protest authorities prosecuting some of its senior members for exercising their rights to free speech. In November the party also boycotted the elections to protest a manifestly unfair electoral system. This, along with the continued detention of 13 high-profile opposition leaders jailed solely on account of their exercise of their rights to freedom of peaceful assembly, association, and expression has led to stalemate on the long-awaited national dialogue, which the authorities appear determined to undermine at every turn. More generally, Bahrain’s courts convict and imprison peaceful dissenters—the trials we have been able to monitor were without exception grossly unfair—and have yet to hold any senior officials accountable for torture and other serious rights violations. The high rate of conviction on vague terrorism charges and imposition of long prison sentences for peaceful criticism reflect the weakness of the justice system and its lack of independence.

While the majority of Bahrainis are Shiite, the country is ruled by a Sunni-dominated, autocratic monarchy that has shown no real intention to reform, despite a number of cosmetic initiatives. In 2011, the authorities used lethal force to suppress a largely peaceful pro-democracy movement, which proved to be a turning point. While King Hamad appointed an independent commission to look into human rights violations and dutifully accepted all of its recommendations, little has been done to implement those recommendations. Efforts to restart a national dialogue between the government and opposition have failed, in large part because the key opposition leaders remain imprisoned.

Notably, the last few weeks have seen a rather convulsive back and forth as the Bahraini authorities arrested, released, and then re-arrested some of these prominent detainees. At the same time, the Obama administration announced it was lifting arms restrictions to the Bahraini Defense Force—a change Bahraini authorities had long been pushing for—not only because of their participation in the anti-ISIS coalition but because they had ostensibly also taken “meaningful” steps at reform.

There is little evidence to suggest that the Bahrain Government is committed to engaging in real reform, and the administration’s decision to restart military aid may well provide a disincentive and, in fact, encourage the Government of Bahrain to pursue the path of repression rather than that of accommodation.

Once again, a global sanctioning regime like the one the Global Magnitsky bill intends to authorize could help add general pressure for a more rights-respecting political environment as it would provide the administration with the tools needed to show the opposition that the United States has embraced their concerns as well—beyond just the release of the occasional prisoner. Specifically, by denying visas and access to the U.S. banking system to members of the security forces and judicial system credibly linked to serious crimes such as torture, the United States would be reasserting its commitment to accountability and the rule of law in Bahrain—a key but very absent component of any meaningful path forward.

CONCLUSION

As what feels like cataclysmic upheaval in nearly all corners of the world persists, it often seems like those who seek to uphold basic international norms and support fundamental freedoms are consistently at risk while autocratic governments get a free pass. Even as positive change seems increasingly hard to come by, such efforts are still worth pursuing. And that’s why passing the Global Magnitsky bill is so important. This bill does not sanction governments wholesale, cut off security assistance, or restrict economic cooperation. It is not designed to interrupt bilateral,

government-to-government engagement—it is designed to take a tailored approach that creates a long overdue tool for the U.S. to easily go after abusive individuals.

Honing in on corrupt and abusive officials makes it harder for authoritarian rulers, dictators, and kleptocrats to recruit and maintain a coterie of supporters. We have seen a return to this trend and so by removing the perks of crime, this bill—if it becomes law—would shine a light on those who commit such acts and hold them to account. In that, Mr. Chairman, there can be very little downside.

I look forward to your questions.

The CHAIRMAN. Thank you very much. Thank you.

Mark. Excuse me. Doctor.

**STATEMENT OF MARK LAGON, PRESIDENT,
FREEDOM HOUSE, WASHINGTON, DC**

Dr. LAGON. Mark is fine.

Chairman Corker, Senator Cardin, thank you very much for inviting me back to testify. It is a pleasure.

I would like to talk very simply about the two kinds of human rights questions that you have called upon us to look at, and a couple of canny sets of tools that could really deal with them: on the one hand, where governments do not protect the most vulnerable people, the scourge of human trafficking, and the area that Freedom House is more focused on, which is where repressive regimes repress and rob their citizens with corruption. There are canny tools that you have been working in the committee to advance Senator Corker's legislation on an antitrafficking partnership fund, and Senator Cardin's legislation on targeted sanctions. I think these are exactly the kind of canny tools we should use.

I have a couple of overall messages. Human rights is not just about our values. But, corruption, repression, trafficking, these engage strategic and economic interests of the United States. We need American leadership globally, and not only as a beacon for human dignity, but to advance our economic and strategic interests in these areas. If you look at the way that General al-Sisi, since taking power, has instituted some of the harshest crackdowns that you have seen in modern Egyptian history, and the way that terrorism has actually spiked as a result, one sees that there are actually security interests bound up in urging changes for human rights—all the while, the United States giving massive military assistance to Egypt.

And my second major message is, let us leverage the influence the United States has. Canny tools that maximize U.S. leverage do not cost much to the taxpayer and avoid harm to innocent people while putting pressure on those who need to change and to protect human rights are important.

First, with respect to modern slavery, which the International Labor Organization, in a rather conservative estimate, says is at least 21 million people in the world, is a terrible problem for the most vulnerable groups. Labor trafficking victimizes the most people. Sex trafficking yields the most profits for traffickers on the backs of its victims. Let us not only look at human trafficking as a matter of dignity and freedom, although that is why I wake up in the morning and come to work. Businesses and economies are harmed by the very problems that human trafficking represents. Businesses' value, their productivity, their reputations suffer when human trafficking is intermingled with their operations. Human

trafficking is based on the antitheses of economic—the economic growth, prosperity, and entrepreneurship that we should be for.

In particular, on the case of Malaysia, Freedom House supports the Trans-Pacific Partnership. Thanks to Senator Cardin and Senator Menendez, the administration has made some assurances that it will not go soft on countries that deserve a Tier 3 ranking. You really should watch, as a matter of oversight, Malaysia and Thailand in that respect.

On human trafficking, Freedom House has endorsed Chairman Corker's End Modern Slavery Initiative Act as exactly the kind of tool we should proceed with, leveraging taxpayer resources with the resources of other nations, corporations, and philanthropies to fight modern slavery.

As for the larger questions of authoritarianism and corruption, they are intermingled. And, where people say that authoritarian rule brings about stability, they are wrong. Freedom House has documented that 90 percent of terrorist attacks in the world, and 98 percent of terrorism fatalities, occur in not-free or partly free countries, as opposed to free democracies. We have an interest in more countries becoming democracies, for our counterterrorism policy. Corruption often fuels human rights abuses, because corrupt officials will go to greater and greater lengths to protect their own economic benefits and fight for staying in power.

Freedom House has documented, in its Freedom in the World Report, two major trends, one that authoritarian rulers are using more and more harsh traditional tactics in places like Egypt, Rwanda, Ethiopia, Vietnam, Azerbaijan, and Russia's invasion of Crimea outside its borders.

Secondly, our research at Freedom House indicates that there is a key relationship between human rights and terrorism. Repression breeds more terrorism, and counterterrorism is being used as an excuse by governments to impose their restrictions and repression on civil society for completely nonviolent, peaceful uses. A recent newly passed national security law in China is just such an act.

Let me finish with a few brief further observations.

In Iran and Cuba, the United States needs to leverage its diplomacy to look at human rights issues and not separate its diplomacy to either look, in the case of Iran, solely at the important issue of nuclear peace, or, in the case of Cuba, treating diplomacy as an end in itself. The United States decision to plow forward, full speed ahead, with a restoration of diplomatic relations with Cuba just as 100 peaceful activists were being detained sends troubling mixed messages.

Let me end by an important word about an additional tool in the toolbox needed, besides diplomacy. The Global Magnitsky Human Rights Accountability Act is something that Freedom House has endorsed, strongly believes would be an important and effective tool by imposing visa bans and asset freezes on foreign officials responsible for either human rights abuses or corruption.

Four reasons to back it.

A visa ban would draw international attention to the individuals responsible and put authoritarian leaders in a no-win situation. They either protect the repugnant officials responsible for human

rights abuses and corruption or they cut them loose and lose their own means for keeping power.

Secondly, the act would impose tangible consequences so that perpetrators would be held to account. Those perpetrators might think twice if they are not able to leave their country for the United States or access funds in U.S. banks.

Third, by targeting high-level corruption, the bill goes right after the Achilles heel of authoritarian regimes. If there are some days in which citizens of countries find human rights an abstraction, they will never find corruption abstraction. They always understand that, and they have widespread support for going after their leaders who are robbing them blind.

And then, finally, the Global Magnitsky Act, by not targeting particular nations and allowing the executive branch and Congress with its referrals to have a targeted surgical approach, would allow sanctions to be applied to places like Saudi Arabia and Ethiopia so that you can deal with the larger economic and security interests and put pressure on those most responsible for corruption and human rights.

So, in order to deal with the problem of human trafficking for the most vulnerable people not being protected by states, or the bigger problem that Freedom House focuses on, which is the repression of people and the robbery of people by autocratic governments, these kinds of tools, both Senator Corker's bill on the Human Trafficking Fund and Senator Cardin's bill on targeted sanctions, are exactly the kinds of lean, targeted tools that we should use. We should think of Sergei Magnitsky and how we ought to look out for those who are being squeezed by corruption and human-rights-offending officials, and put the squeeze on them.

Thanks.

[The prepared statement of Dr. Lagon follows:]

PREPARED STATEMENT OF DR. MARK P. LAGON

INTRODUCTION

Chairman Corker, Ranking Member Cardin, distinguished members of the committee, it is an honor to testify before you on the current state of human rights around the world.

Today, I will look at two kinds of human rights problems and two kinds of judicious policy tools to address them. The human rights problems are (1) human trafficking—when governments fail to protect the most vulnerable—and (2) a more central problem where unaccountable governments repress and rob their citizenry, the centerpiece of Freedom House's research and programming. The prudent tools to leverage U.S. influence I want to talk about are (1) Senator Corker's legislation for an antitrafficking partnership fund and (2) Senator Cardin's legislation for targeted sanctions on corrupt and rights-abusing officials.

I offer two simple messages: First, that addressing corruption, repression, and trafficking are about our tangible economic and strategic interests every bit as much as about our values. Unfortunately, the news is grim on repressive, unaccountable, corrupt governments around the world. The 2015 edition of "Freedom in the World," Freedom House's annual worldwide review of political and civil rights, found freedom in decline for the 9th straight year. The annual State Department Human Rights Reports—finally released after weeks of delay—bear this out.

As President of Freedom House, I often hear objections that a multitude of human rights challenges globally are too ingrained for the United States to successfully affect or that there are already so many problems here at home we shouldn't bother with the many challenges overseas. These arguments are short-sighted and ill-founded.

Decisive U.S. global leadership is still needed both to serve as a beacon for human dignity and freedom and to advance our interests. Especially given globalization, our

strategic and economic interests are inextricably linked with the protection and promotion of human rights.

Let's take two of the toughest cases. It is estimated that \$300 billion is lost per year in intellectual property theft, and China accounts for 70 percent of that loss.¹ If Chinese authorities respected rule of law, nowhere near this level of IP theft, including from U.S. headquartered multinational corporations, would occur. Human rights has a direct bearing on U.S. security interests, too. In Egypt, terrorist attacks have soared since General al-Sisi took power, and he has instituted arguably the harshest crackdown in modern Egyptian history.² Activists have been arbitrarily arrested, independent groups are being harassed and shut down, and dozens have disappeared over the last several months.³ That is while the U.S. continues to give massive military assistance to that regime.

My second message is to encourage putting inexpensive, high-leverage, targeted tools in the U.S. foreign policy toolbox to advance those interests in human rights. There are tools that maximize U.S. leverage, will not cost the American taxpayer much, and avoid harm to innocent people and enterprises in the U.S. and globally. I'll touch on ones the chairman and ranking member have been advocating.

MODERN SLAVERY

In some countries, our foreign policy challenge is pushing governments to protect their most vulnerable populations. According to a conservative International Labor Organization estimate, human trafficking—aptly referred to as modern day slavery—victimizes some 21 million men, women, and children around the world through sexual and labor exploitation. While labor trafficking victimizes more people, sex trafficking yields more profits to the traffickers on the backs of its victims. Trafficking preys on the powerless and depends on corruption and weak rule of law in order to thrive.

But it is not only human dignity and freedom that suffer from the impacts of trafficking. Businesses and economies are impacted, as well. Businesses' value, productivity, and reputation suffer where gross exploitation of marginalized populations arise, so often facilitated by corruption. Economic growth, prosperity, entrepreneurship, and poverty alleviation benefit greatly from transparency, rule of law, predictability, and formal economic activity. Conversely, human trafficking is based on all the antitheses of these factors—not only dehumanizing its victims but undercutting the mutual interests of the U.S. and other nations in thriving markets grounded in access to justice for all.

Freedom House supports the Trans-Pacific Partnership (TPP) and the recent legislation to facilitate such trade deals. Senators Menendez and Cardin, among others, asked whether Tier 3 countries in the annual Trafficking in Persons (TIP) Report would be let into TPP. The executive branch must not send forward candidates for TPP who are in the lowest ranking in the TIP Report, about which it has given assurances to the Congress. In particular, Malaysia is a very problematic case with intermingled issues of corruption and lack of protections for marginalized and migrant populations, and should not be let off the hook of the intended "minimum standards" set out in the Trafficking Victims Protection Act.

Freedom House has emphatically endorsed Chairman Corker's End Modern Slavery Initiative Act (S. 553), which creates a grantmaking foundation to address global trafficking and is funded by leveraging taxpayer resources with those of other nations, corporations, and philanthropic foundations. If passed, this legislation will take a bold step forward in the fight against modern slavery and will enable U.S. foreign policy to more effectively pressure governments to protect their most vulnerable populations. It is exactly the kind of prudent, canny foreign policy tool we need, an idea I will return to.

AUTHORITARIANISM AND CORRUPTION

Authoritarianism and the corruption that usually goes hand in hand with it also pose major challenges for human rights. Some erroneously believe authoritarian rule brings stability. In fact, the opposite is true. Repression breeds discontent, and a lack of democratic governance can create an enabling environment for terrorism. Freedom House analysis highlights how 90 percent of terrorist attacks and 98 percent of terrorism fatalities occur in Not Free and Partly Free countries, as opposed to Free democracies.⁴ Moreover, corruption often fuels human rights abuses, because corrupt officials will go to ever-greater lengths to hold onto power lest they lose their access to state resources. In addition to its well-known reports, much of what Freedom House does is civil-society capacity building partnerships. One important area of programming prepares journalists to uncover corruption and criminality, and withstand threats of violence, as Freedom House programs have done

in Ukraine, Moldova, and Mexico. And I know corruption in Moldova. In 2008, as antitrafficking ambassador, the office I directed saw and called out in the TIP Report how the head of a U.S.-funded antitrafficking interagency office in Moldova was complicit in trafficking. A Tier 3 ranking lit a fire under its leaders to clean up the problem. Freedom House research indicates Moldova still has a long way to go in fighting corruption and strengthening democratic governance.⁵

The 2015 “Freedom in the World” report has two overarching findings. First, Freedom House found a troubling increase in the use of aggressive tactics by authoritarian regimes worldwide and saw worrying backsliding in accountable governance of nations of regional and economic importance: Venezuela, Egypt, Turkey, Thailand, Kenya, and Hungary. Our 2015 report found a more explicit rejection of democratic standards than previous years. Earlier, autocrats acknowledged international agreements and attempted to veil their undemocratic actions with quasi-democratic language—holding elections that were free but not fair, for example. Today, authoritarian rulers are turning to more aggressively antidemocratic behavior and harsher, more “traditional” tactics in places like Egypt, Rwanda, Ethiopia, and Vietnam; Azerbaijan’s crackdown on human rights defenders; and Russia’s invasion of Crimea.

Second, the relationship of human rights to terrorism is crucial to an enlightened understanding of U.S. strategic interests. Again, repression amplifies the discontent fueling terrorism. And our annual report found a marked increase in authoritarian regimes using “counterterrorism” as an excuse to crack down on nonviolent dissent and repress minorities. In China, terrorism is invoked as an excuse to repress the Uighur ethnic minority, jailing anyone expressing dissent and bringing ethnically Han Chinese to populate Xinjiang. A newly passed “national security law” broadened the definition of what constitutes a threat to national security and has been used—as the State Department noted—“as a legal facade to commit human rights abuses.”⁶ Over the last week, more than 100 lawyers, activists, and other peaceful human rights defenders have been detained.⁷ So, too, even in strengthening a coalition of partners to fight ISIS as itself a threat to human rights, the U.S. Government should take care not to give such partners—like Bahrain and its big sibling Saudi Arabia—a pass to crack down on peaceful opposition and civil society. I wear a Freedom House wristband (purple like the Not Free nations on our Freedom in the World map) to recall Abdulhadi al-Khawaja, a journalist jailed in Bahrain since 2011 in just such an overreach by an autocratic “partner.”

Let me focus on cases Assistant Secretary Malinowski raised at the release of the annual Human Rights Report. In dealings with Iran, the United States should address the serious human rights concerns with at least the same energy as it did in negotiating a nuclear accord. The talks with Iran unfortunately coincided with a de-prioritization and de-linking of human rights from the global agenda, when they instead should have advanced the concerns that the Iranian people and the world share about the regime’s repression. Earlier this week, in spontaneous gatherings after the announcement of an agreement, Iranians reminded us of what those priorities were. They publicly chanted for the release of opposition leaders and declared that their next agreement should secure their civil rights. We must raise the cases of Americans detained in Iran and seek tangible progress on human rights and rule of law issues, including the hundreds of political prisoners, Iran’s staggeringly high execution rate, its repressive media and online environment, and its subjugation of women and religious minorities.

In negotiations with Cuba, the United States must ensure that actual progress is made in moving the ball forward on human rights, civic space, and free elections. As in Iran, the yardstick of success for U.S.-Cuba policy is not merely the diplomacy in and of themselves—it is whether we use diplomatic relations to promote meaningful reforms and reduce cruel repression in Cuba. The United States decision to continue full speed ahead with the restoration of diplomatic relations—despite last week’s detention of more than 100 peaceful activists in Cuba⁸—sends troublingly mixed messages about the importance of human rights and civil society for U.S. foreign policy.

Diplomatic engagement, when leveraged rather than seen an end in itself, can serve as an important and powerful tool in our foreign policy tool box to address human rights. But, as the United States Senate well knows, there are times at which new tools are needed.

Global Magnitsky Human Rights Accountability Act

The Global Magnitsky Human Rights Accountability Act is just such a tool. The Global Magnitsky bill would build on current U.S. policy of condemning human rights abuses and supporting human rights defenders by imposing visa bans and

asset freezes on foreign officials responsible for gross human rights violations or large-scale corruption.

Freedom House has endorsed the Global Magnitsky Act and believes it will be an important and effective foreign policy tool for several reasons:

1. A visa ban would draw international attention to individuals responsible for human rights abuses and may constrain their ability to escape justice at home in the future by putting authoritarian rulers into a no-win situation: either they protect the most repugnant officials and thereby expose the cruelty of their regimes or they cut loose those officials who do their dirty work, undermining their ability to stay in power through any means.

2. The Global Magnitsky Act imposes tangible consequences—something that may deter future human rights abuses. Perpetrators of human rights abuses usually are shielded by their governments and expect to evade justice. Some foreign officials may think twice about cracking down on opposition or civil society activists if they are unable to leave their country for the United States or access funds in U.S. bank accounts. An escape route to the United States matters a great deal to officials in some countries, particularly in the Americas.

3. It targets high-level corruption—the Achilles heel of authoritarian regimes. While human rights may seem to many ordinary citizens as a bit removed from their daily life, the injustice of high-level corruption is widely understood, and addressing it is widely supported by the public.

4. No country would be singled out. While comprehensive sanctions serve as an important and appropriate foreign policy tool in acute cases, the Global Magnitsky Act would successfully target abusers without harming average citizens. It could apply to countries like Saudi Arabia and Ethiopia that tend to escape criticism for their human rights abuses because of U.S. economic or security interests (although it would depend to a significant degree on congressional referrals for effective implementation).

CONCLUSION

To sum up, on the one hand, human trafficking victimizes the most vulnerable—particularly women, children, minorities, and innocent migrants. The End Modern Slavery Initiative Act leverages U.S. resources with partner funders and partner implementers to give those marginalized people basic access to justice.

On the other hand, the way in which more and more governments are repressing civil society and robbing their citizens with systematic corruption is Freedom House's major analytical finding. We document how those human rights abuses are more brazen and directly coercive; fuel terrorism; and use counterterrorism as the pretext to silence, detain, torture, and kill nonviolent dissenting voices. The State Department Human Rights Report offers copious additional evidence. The global targeted sanctions legislation named after a lawyer who was abused and killed in a Russia jail, Sergei Magnitsky, is just the kind of tool we need—maximizing pressure on those who repress and rob, and minimizing collateral damage to others.

The U.S. has the smarts and more than the modest resources needed to apply these canny policy tools to move the needle back in the other direction, toward more global freedom. The U.S. Congress should swiftly pass both the End Modern Slavery Initiative Act and the Global Magnitsky Human Rights Accountability Act to promote not just our values but our strategic and economic interests by bolstering human rights.

End Notes

¹“The IP Commission Report,” The Commission on the Theft of American Intellectual Property, May 2013.

²Michele Dunne and Robert Kagan, “Obama Embraces the Nixon Doctrine in Egypt,” The Washington Post, April 3, 2015.

³Sarah El Deeb, “Egyptian security agencies increasingly detaining activists in secret, rights lawyers say,” U.S. News and World Report, June 17, 2015.

⁴Bret Nelson and Tyler Roylance, “Terrorism Remains Rare in Democracies,” Freedom House (blog), January 9, 2015.

⁵Vytis Jurkonis, “With Corrupt Elites at the Helm, Moldova Drifts Off Course,” Freedom House (blog), June 30, 2015.

⁶“U.S. Condemns Detention of Human Rights Defenders in China,” U.S. Department of State (press release), July 12, 2015.

⁷Ivan Watson and Steven Jiang, “Scores of rights lawyers arrested after nationwide swoop in China,” CNN, July 14, 2015.

⁸“U.S. raises concern over detention of 100 activists in Cuba,” Reuters, July 7, 2015.

The CHAIRMAN. Thank you both very much.

Just to not spend a great deal of time on this, Dr. Lagon, but you mentioned Iran and Cuba. I mean, do you have any sense, at present, that we have put aside human rights issues in Cuba or Iran in pursuing other agreements—or are you just raising that issue to ensure that we do not?

Dr. LAGON. Well, you know, I have huge regard for Assistant Secretary Malinowski. He is a longtime friend. I am sure he is pushing these issues. But, it is quite clear that, on the Iran matter, there has been a complete de-linkage with human rights. When you look, this week, and people going into the streets and celebrating the comprehensive sanctions being removed with the nuclear deal, some of those people said, “Now we need an agreement for our civil rights.” But, the United States and the international community should be on the side of diplomacy applied to human rights as well as nuclear matters.

On Cuba, we should just be careful that diplomacy does not become an end in itself. And it is clear the Cuban regime knew what it was doing in locking up 100 people at exactly the time the diplomatic relations were being put in place. Let us use the diplomacy to fight for reform.

The CHAIRMAN. Do you want to mention something about that, Miss Margon?

Ms. MARGON. Sure. I was just going to say, in the case of Cuba, I think, actually, by changing and lifting the embargo, what the administration has done is opened up a real opportunity to work with the Latin American countries on human rights in Cuba, which has long been missing, given their stance on the embargo.

In the case of Iran, there is obviously a lot to do, but there is potentially a new opening, if we can move forward.

The CHAIRMAN. Let me ask you both. I wonder if you would elaborate a little bit on the issue of slavery—modern slavery and its connection to really increasing criminal justice systems’ ability to deal with that. What we have found and what we believe to be the case is that modern slavery is a crime of convenience, that, since no one is really pursuing—since the poor do not have access to criminal justice the way the elite do, in essence small-business people take advantage of it, and there is no price to pay. But, when there is a price to pay, when you actually have a system that fights against that and arrests people, all of a sudden it diminishes greatly. And I wonder if either of you might want to respond to that.

Dr. LAGON. Well, if I might begin.

I entirely agree with the premise, Senator Corker, that you laid out in your opening statement, that this about the absence of rule of law. There are two basic phenomena here. There are whole groups of people—women, minorities, Dalits in India, some innocent migrants who go and work as guest workers in places—that are not accorded access to justice. And so, what happens is that the reward is much higher than the risk for the traffickers. And so, both as a human rights matter and as a law enforcement matter, you need to have those rights count. You know, for the woman who is a domestic servant in Kuwait and who is abused both because she is a woman and because she is a foreign national from the Philippines or Nepal, she has to be treated like a real human

being. And those who are responsible for holding her passport for—or for beating her, they need to be held to account.

The CHAIRMAN. Would you want to respond? Very good.

I think, because of the timing, I am going to stop my questioning. I may interject later. I think the two of you have just voted. Is that correct? I am going to step and go vote, and, if it is okay, would you become chairman of the committee for a while? Thank you.

Senator MENENDEZ [presiding]. All right, let me ask unanimous consent now. [Laughter.]

Thank you, Mr. Chairman. Thanks for your confidence.

I regret—this is a footnote—that I missed Secretary Malinowski. I would like to get an answer from him about the TIP report. And I would also—would have asked him how 2,822 arbitrary politically motivated arrests in Cuba during the first 7 months of this year alone is an indicator that we are going to be headed in the right direction. Pretty amazing to me. It is pretty amazing to me that, when our colleagues in the Senate go to visit in Cuba, they do not visit with human rights activists, political dissidents, independent journalists, because, if they do, they get barred from a government meeting. We have got to break that idea, because, if, globally, the message we send is that, in order to meet the government officials of a country, that we cannot meet with human rights activists, political dissidents, independent journalists in China, in Malaysia, and any other place in the world, that will be a sad state of affairs for the United States.

Mr. Chairman, let me start off by thanking Human Rights Watch, particularly your colleagues who do the hard work every day on behalf of trafficking victims around the world, for contributing your experience and expertise to our efforts. And before I proceed with some questions, I would like to enter a couple of documents for the record. And I am sure the chairman would not mind. The first is a letter I sent yesterday to Secretary of State Kerry, along with 18 of my colleagues—and I understand a similar letter in the House has nearly 130 signatures—expressing our concern about reports of a possible unwarranted upgrade of Malaysia in this year's long-delayed Trafficking in Persons report. And the other document I would like to submit in the record is a piece from yesterday's Hill by David Abramowitz, the vice president of Humanity United, on the same topic.

And, without objection, it is so ordered.

[EDITOR'S NOTE.—The letter and Hill article mentioned above can be found in the "Additional Material Submitted for the Record" section at the end of this hearing.]

Senator MENENDEZ. Mr. Ambassador, I am glad you are here today. Your experience as our lead diplomat on this issue can help us get some perspective on what is going on right now. The 2015 TIP report, which we have still not seen, will have the latest release date ever. So, let me ask you. What is the normal reporting period covered by a TIP report?

Dr. LAGON. The TIP report covers from March to March and comes out, typically, in June. When this committee confirmed me as the TIP Ambassador, I had to get on with the job 10 days later, because that is when it was supposed to come out, by mid-June.

It is unfortunate to leave an important job vacant, similar to what occurred with the Ambassador for International Religious Freedom for a while. I am very glad to finally see a nomination seems to be moving forward. But, in any case, the report really works. You know, it propels governments to try and change their laws.

Senator MENENDEZ. Yes, well, I certainly appreciate your service in your previous iteration, and now, I am sure, with your present leadership. It will continue to be important.

Now, I understand that it is not unprecedented for some late-breaking information after the closure of a reporting period that we just describe has been included, but, to your knowledge, have events or actions taken in June or July of a year ever affected a country's ranking?

Dr. LAGON. No.

Senator MENENDEZ. Was it your personal experience, when it comes to external pressure—did you have external pressure to get to the right answer on a country's ranking because of other diplomatic or security concerns?

Dr. LAGON. There is always a pulling and hauling at the State Department between—typically, between the TIP office and the regional bureaus, where regional bureaus are raising other equities—security interests, counterterrorism issues, energy access, commercial concerns. In general, the Department has come out in the right place refereeing between those interests. I saw it during my tenure. But, I really commend you—and before you walked in the room, I commended you and Senator Cardin—for raising, in the context of the Trans-Pacific Partnership, countries like Malaysia—and, for that matter, Thailand—who would be affected under the TPP. They should not be shielded from the basic minimum standards set out in the Trafficking Victims Protection Act.

Senator MENENDEZ. Well, as you know, my amendment prohibits fast track for Tier 3 human trafficking countries, signed into law by President Obama as part of the Trade Promotion Authority. In your view, is that type of action helpful in combating human trafficking?

Dr. LAGON. Well, I think that you need to protect the integrity of the TIP report. It is clear that Tier 3 rankings, whether they involve sanctions or just the stigma of a Tier 3 ranking, work. And particularly where the United States has a relationship on other grounds, on strategic and economic grounds, countries have responded to that. Allies of the United States, like Israel and Turkey in earlier eras, before I even came into the trafficking position, Cambodia—

Senator MENENDEZ. So, if—

Dr. LAGON [continuing]. Facing the threat of Tier 3 or staying on Tier 3—

Senator MENENDEZ. So, if the possibility of being on Tier 3 of the TIP report was an incentivizing factor to change your actions and move into action, pass the appropriate laws, and whatnot, would it not even be a greater incentivizer that if, in addition to being on Tier 3 on the TIP report, you get—cannot get preferential access to U.S. markets?

Dr. LAGON. Well, I think that, you know, it cuts against the idea of using the leverage.

Senator MENENDEZ. Yes. It's—

Dr. LAGON. I think it is unfortunate that Tier 3 countries do not get the economic sanctions that are intended for them, and that is waived, oftentimes, but it is really important to put that—more stigma on—

Senator MENENDEZ. Now, I would ask you and Miss Margon, who—I do not want you to feel, like, left out, here, after complementing your organization's great work—if, in fact—and I hope this is not the case, because I have seen nothing for Malaysia to move from Tier 3 to Tier 2—but, if, in fact, that was the case, what would you say about such an action?

Ms. MARGON. Thank you, Senator Menendez. And thank you for your leadership on this. We have really enjoyed working with you. We also hope it is certainly not the case, but we understand a final, final decision may not have yet been made. We remain hopeful. But, if, in fact, a decision has been made, we would say that it seems very likely that it would be political interference to move it up.

Senator MENENDEZ. And would it not have—my final question and then I will turn to Senator Kaine—would it not have the consequence—beyond Malaysia, that it would be political interference—would it not have the consequence of undermining the veracity of the TIP report in a way that other countries would say, “Well, if it is—if I am important enough to the United States for trade or for some other reason, then I do not have to really live up to worrying about if I am on Tier 3 or not”?

Ms. MARGON. I think it certainly undermines the TIP report. It sends a poor message to other countries that may be sanctioned or on the Tier 3 list. It also undermines the presidentially stated goals of the TPP, in terms of moving those countries in Asia into a better place. And that is part of the longer term vision that we would like to see by having Malaysia make the required changes before it is moved up.

Dr. LAGON. I would just—

Senator MENENDEZ. Yes.

Dr. LAGON [continuing]. Add one thing.

Senator MENENDEZ. Yes.

Dr. LAGON. You know, the United States has been very comfortable putting security allies like Saudi Arabia and Kuwait—Kuwait, a country that we marshaled our military forces to liberate—on Tier 3, to call it like it is. I would like to see us even go farther on the broader human rights front and press those nations to reform. It is in their interests and in our security interests, as well.

Senator MENENDEZ. I agree with you.

And the last point I will make is that, beyond the TIP issue, if you start political maneuvering for the purposes of accomplishing a goal, then, in addition to the human rights and trafficking question, you would have to worry about labor rights and environmental issues that we are all concerned about in trade agreements, and saying, “Will you manipulate those in order to meet the standard?”

Senator Kaine.

Senator KAINE. Thank you, Senator Menendez.

And thanks, to the witnesses.

Just a couple of items. First, Dr. Lagon, I want to ask about the Americas. Your Freedom in the World Report from 2015 lists two pretty important American partners, Mexico and Colombia, as partly free. And I am interested in having you elaborate on that and sort of give me the directional arrow, sort of partly free and improving, or partly free and degrading.

Dr. LAGON. Well, you know, Freedom House is proud of trying to call it like it is. And, while it is not the State Department, it is great that the reports do get the attention of the officials of other governments, I have learned in my 6-months tenure from the number of diplomats and officials I have visited. It is almost as many as when I was the TIP Ambassador.

Colombia is an important partner of the United States, and it has much to admire, but there are serious problems. Our colleagues at Transparency International indicate that it is number 94 out of 175 on the—on its Corruption Perceptions Index. There is—you know, the military still operates with relatively limited civilian oversight. There have been soldiers, in the number of some 700, who have been convicted for crimes, but very few high-ranking officers who have been. So, you know, even with our allies, we really need to look at the problems. They are right in the middle of the scale from 1 to 7 on both political rights and civil liberties.

Now, Mexico, we are very invested in at Freedom House. It may not be widely known, but our reports are most famous, but our programmatic work with civil society partners and governments around the world is actually the bulk of what we do. And we have a program in Mexico. We work with authorities to try and protect journalists from violence. That really captures the problem in Mexico, where there is the structure of democracy, but criminality, corruption, violence are so suffusing the system that, for instance, journalists cannot be assured to have access to parts of the country to cover questions of criminality, drug trafficking, and so on. And we are working on that.

Mexico is one of the top legislative priorities of Freedom House. It is—it perfectly captures the broad theme of my opening statement, which is that our interests and our values go together, and we need to work on the governance and human rights problems in Mexico, because, in fact, issues of immigration, drug trafficking, human trafficking, that are interests of the United States, are bound up in that.

Senator Kaine. Is the violence that journalists experience in Mexico—is it pretty variable around the country, depending upon which state we are talking about?

Dr. LAGON. Yes, it is. It is.

Senator Kaine. So, different states have done a better job of trying to tackle some of these transparency and violence issues?

Dr. LAGON. We had a retreat of Freedom House's—all of Freedom House's staff last week, and I had dinner late last week with the director of our Mexico office. She was telling me about that variation. It is not just where you would expect it to be, but, you know, certain areas where you see the maximum trafficking, border regions with Central America, particularly problematic.

Senator Kaine. From Freedom House's perspective, the President has made, in his budget proposal, a proposed investment in the

three countries in the northern triangle in Central America—Guatemala, Salvador, Honduras. They all have very serious human rights challenges. As we contemplate an investment of that magnitude, what are some of the things that, you know, you would hope some of those dollars would be devoted to, to try to improve the human and civil rights situations in those countries?

Dr. LAGON. Well, I think—you know, honestly, we—it is a bargain to invest in civil society to be able to speak up for their rights, to know how they can get access to the justice system. Creating a situation in which journalists feel safe to be able to cover corruption, cover violence—I mean, it is really striking how there are more people who are dying in Central America for criminal violence than one saw during the civil wars towards the end of the cold war. It—so, that investment would be a high priority.

It is not as if the United States has not invested money in these countries, in its past. It is what we have been investing it in.

Senator KAINE. I lived in Honduras during that, kind of, cold war, civil war period in the 1980s, and it really grieves me to see a nation that is actually more violent with a, quote, “democratic government” than it was under a military dictatorship, where the oppression was very widespread, but the murder rate was dramatically lower. Really grieve for folks living in the region for that.

Ms. Margon, thank you for Human Rights Watch’s help. I recently did a CODEL to assess the war against ISIL in Iraq and also in northern Syria, visiting Gaziantep, Turkey. And you were helpful to my team, in terms of understanding some of the human rights issues in Turkey, Kuwait, Iraq, and Syria. Wanted to ask you one question dealing with that part of the world. Human Rights Watch has indicated that the Kurdish-armed group that controls much of northern Syria, they have achieved some significant battlefield success, with the United States help, against ISIL—that is a positive—but that they are having continuing challenges in not meeting their obligations to demobilize youth soldiers, those under age 18. How prevalent is this problem? Is it limited just to Kurdish forces in northern Syria? Does it flow over into the Kurdistan area in Iraq? Talk about that a little bit.

Ms. MARGON. Thank you. I hope it was a good trip. It was certainly a significant undertaking during a short few days.

The Kurdish troops in Syria have actually tried, from a lot of what my researchers have told me—in fact, one came back from a recent trip—they have acknowledged that they have this problem, and have tried to work with it. It is obviously a complicated issue to demobilize children. And when you are in the middle of a crisis, it is more difficult. But, I do think that there is some commitment to do it. We obviously found that they have not gone as far as they said they would. And so, we are continuing to press them.

The problem of child soldiers in that region is, across the board, rampant. I was in Iraq last fall, and did not see any problem with the Kurdish troops from the KRG. That was not something—in fact, I saw—what I saw there was very well-behaved, very disciplined soldiers, and commanders who were deeply upset by what they are seeing with the Shia militias, and were not at all shy to talk about it. So, that I did not see in any way—

Senator KAINE. Good.

Ms. MARGON [continuing]. In the KRG.

But, it is something we are working with. And we are pleased that the YPG is open go to working on it and trying to move to a better place. That is, for us, a very good sign, as opposed to immediately denying it and rejecting that there is a problem.

Senator KAINE. Yes.

And if I could ask one more question. I am right at the end of my time.

Interested in each of your thoughts, or either of your thoughts, about the situation with the press in Egypt. You know, another relationship that has been a strong partnership, not without tension, not without challenges—I was in Egypt a little bit over a year ago with Senator King at a propitious moment, in terms of the trial of various al-Jazeera and other journalists, and tried to have a conversation with then-General Sisi, who was not yet President, but just about how difficult it is for the United States to understand trials and prosecutions and imprisonments of journalists. Our culture just makes that so hard to give any deference to. Talk a little bit about how that has gone. And is it trending the right way or the wrong way? Press freedom.

Ms. MARGON. Do you want to start on that or—

Dr. LAGON. Sure.

Ms. MARGON. Okay.

Dr. LAGON. The wrong way. [Laughter.]

And Freedom House is really concerned about the direction things are going, under al-Sisi. And, frankly, concerned about the continuation of U.S. military assistance and general assistance at the level it is at. Military authorities have shut down virtually all opposition media outlets following the coup. And it was a coup. And it leaves state media and those private outlets that are openly pro-military and pro-al-Sisi the ones that have a voice. So, it—you know, and part of our research is focused on freedom of the press. We have a dedicated report on that we have put out for 35 years. The situation—the arrow is going down.

Ms. MARGON. I would echo that. I think what we are seeing is a crackdown, not just against Islamic extremists and the Muslim Brotherhood under the guise of stability and security, but a crackdown against activists, independent thinkers, dissent, and independent media in a way that is actually reversing what the stated goals of the Egyptian president are. We are seeing a rise in attacks in Egypt and a rise in repression. The two parallel tracks are not going to get that country where it needs to be. And I would say that the administration has not taken a strong enough stance on that government. They may be a purported important partner in the fight against ISIS, but pushing issues of independent press, activists, and independent thought to the side, and increasing their repressive legislation, including laws that crack down very severely on NGOs and independent groups, is an unacceptable way forward.

Senator KAINE. Thank you, to both of you.

I will hand it back to you, Senator Cardin.

Senator CARDIN [presiding]. Sure.

Well, Senator Kaine, thank you for the question on Egypt. There is a scheduled, not yet date-specific, fall meeting, at the ministerial level, with Egypt, and we are weighing in that human rights be

part of that strategic dialogue. So, I appreciate you raising the issue, and the response, because there is great concern as to the direction of Egypt.

Let me thank both of you for your incredible work and support on bringing together workable strategies to advance human rights globally. And I thank you for your testimony.

Let me just highlight an opportunity we have in regards to using a tool like the TIP report, but instead for corruption. This committee, in its work on the State Department Authorization Act, moved in the direction to require the State Department to assess the status of human rights and anticorruption issues in every country in the world, similar to what we do in the Trafficking in Persons report. It is a first step. The Trafficking in Persons report is well established, it has consequences depending which tier you are on. We are not there yet on corruption, and we need to work on that.

So, I would just urge you all to work with us as we try to put greater emphasis in all of our foreign policy deliberations on the anticorruption agenda. We have done that with trafficking. We truly have. Witness the debate you had with Senator Menendez on whether we can move forward with the Trans-Pacific Partnership with Malaysia. There should be consequences, and there should be consequences for countries that do not meet established standards for dealing with corruption and are not taking steps to counter that. And we should be able to develop that while working with groups such as Human Rights Watch and Freedom House. So, I just urge you to deal with that.

Let me ask you one question, if I might, about China. China's in the news a great deal. They are certainly watching what we are doing on the Trans-Pacific Partnership. The maritime security issues are of great concern. They just participated with us on the Iranian negotiations. And we have regular strategic and economic dialogue with China where human rights concerns are raised. In fact, the seventh dialogue was just concluded. And, at just about the same time, the Chinese authorities detained and interrogated over 100 human rights lawyers and activists all across China. And the more and more reports that I am getting, it looks like China, that everyone says is on this great path of liberalization and great path of human rights, does not look like they are making too much progress today.

Do we need to be more aggressive? Are the tools adequate for us to help the advancement of human rights in China? What else would you suggest?

Dr. LAGON. You first.

Ms. MARGON. Thanks, Mark.

Thank you, Senator, for that question. We would agree with you, China is not moving in the right direction, in terms of liberalization on human rights issues and the rule of law. In fact, it is very concerning to see where China is going.

We understand that human rights issues may have been raised at the recent dialogue. Assistant Secretary Malinowski said as much. But, the problem is, what we are seeing is that it is raised, there is no followup, and it is often not raised publicly. So, I have a couple of suggestions on China, but I also think that, if really im-

plemented, a tool like the Global Magnitsky bill could be a very effective tool. And ostensibly, the Chinese President should welcome a tool like that, given his commitment to root out corruption, as well.

Briefly, I think the three things that would be helpful to see more of from the administration on China would include speaking publicly about the individual cases of detained and attacked activists at the very highest level and across the entire U.S. Government. This happens sometimes, but not consistently. And, from what we can tell, it is what most effectively challenges, and likely changes, the calculations of senior officials. It does not cost anything and it would go a long way. We hear it, time and time again, from activists and the families of activists and victims.

The second is to visibly reach out to people outside the government. I think it was Senator Menendez who mentioned the importance of U.S. Government officials seeing civil society and others. And when the United States goes to China, this is particularly important as a show of solidarity. Obviously, their security would need to be checked to make sure it would not put them in any danger. But, that would also be very important to do regularly.

And then, finally, given the horrific developments over the last week or so, we would also suggest that the human rights and counterterrorism dialogues—I think they are expected in August—be postponed.

So, I will stop there. Thanks.

Dr. LAGON. Well, I think, you know, the detention of 100 human rights leaders and activists shows exactly how much fear the Chinese leadership has and—when it is about to enter a dialogue—you know, strategic economic dialogue with the United States—none, and that we really do need to amp up that emphasis on human rights. And it does need to be public.

We, at Freedom House, put out a report, at the beginning of the year, called the “Politburo’s Predicament,” that looks at the style and content of the leadership under Xi Jinping. It is getting markedly worse, let us be clear. There is more centralized power in an individual’s hands with Xi than anyone since Deng. And we look at 17 different groups, sectors, faith groups in Chinese society, and a good number of those are facing marked increased pressure.

Anticorruption campaigns, which are seen as the sort of centerpiece of Xi’s rule, are perfect manifestation of “rule by law” rather than “rule of law.” Who is getting targeted for corruption? Those people who are convenient to Xi and his inner circle to eliminate. And people who are useful to him are being allowed to live high on the hog on the corruption they have. This is a perfect place to use a Global Magnitsky sanctions bill. It is sort of accepted, among legislators, executive branch officials, business leaders, that we will never have comprehensive sanctions on China. But, this would be a great way to highlight corruption and those who are responsible for the most heinous human rights abuses, and put the Chinese leadership in an even more precarious position in its high-wire act, as society would see what it is actually doing to them, in repressing and robbing them.

Senator CARDIN. Well, let me thank you both for your testimonies and for those suggestions. And I know our committee is going to continue to be very aggressive.

The record will remain open until the close of business on Monday.

And, with that, the committee will stand adjourned. Thank you both.

[Whereupon, at 11:30 a.m., the hearing was adjourned.]

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

RESPONSES OF DR. MARK LAGON TO QUESTIONS
SUBMITTED BY SENATOR BOB CORKER

GLOBAL MAGNITSKY

Question. What would the policy and practical implications of a mandatory Global Magnitsky sanctions regime be?

Answer. The President would have an effective, targeted foreign policy tool at his disposal to constrain human rights abusers and grossly corrupt officials without the need to implement broad-based sanctions that can be difficult to pass and can at times unintentionally harm innocent civilians. We know these types of targeted sanctions work—whereby Russia and Belarus are good examples—and are an effective method of protecting and promoting human rights by holding those most responsible to account.

WESTERN HEMISPHERE

Question. Colombia: Colombia is our ally and has made real progress on human rights. A recent detailed report states that between 2002 and 2008, army brigades across Colombia routinely executed civilians under pressure from superiors to show “positive” results and boost body counts in their war against guerrillas. While rank and file have been prosecuted and convicted, the report asserts that senior officers knew about and condoned the killings through a system of monetary and other compensation to soldiers for verified killings. The report says that no senior officer has ever been investigated.

♦ What can you tell the committee about this matter?

Answer. In Colombia, preserving rule of law and prosecuting crimes remains a serious challenge, and the individuals responsible for these killings should be held accountable. It is fairly widely known that members of both the military and police carried out killings of civilians with near-complete impunity, rationalized by some authorities due to similar actions taken by FARC and by paramilitary groups. The Colombian Government must dedicate more resources to its victims unit to make the Victims Law and its accompanying commitments a reality. This effort should include reparations for victims of attacks carried out not only by nonstate actors but also by state officials. The government must also dedicate more resources to the public prosecutor’s office at the federal and state levels so that past and current crimes can be seriously investigated and prosecuted.

ASIA

Question. Vietnam: I remain troubled by reports that the administration may consider fully lifting the lethal military equipment sales ban, amidst intense lobbying on the part of Vietnam, including during the General Secretary’s recent visit.

♦ Can you comment on these reports?

Answer. There is a renewed effort to fully lift the ban on arms sales to Vietnam after Secretary Kerry and Secretary Carter visited the country to meet with government officials this summer. The administration partially lifted a 40-year ban on arm sales last year as a way to counteract China’s expansionist efforts in the South China Sea. Freedom House is second to none in its concern about China’s human rights abuses within its borders and the pernicious model of illiberal rule it offers regionally and globally. Moreover, U.S. efforts with partners to stem China’s aggressive moves beyond its borders in the South China Sea are very sound. Yet fully lifting the ban on arms sales sends the wrong message to the Communist Party of Viet-

nam: that the U.S. is willing to overlook the increasing repression under a single party authoritarian regime.

Question. What are the specific benchmarks Vietnam must achieve in order for the administration to fully lift the lethal military equipment sales ban?

Answer. Both Secretary Kerry and Secretary Carter noted that progress on human rights issues is important to expanding the military partnership between the two countries. State Department officials told reporters during Secretary Kerry's recent trip that the ban would not be eased further without progress on human rights. Some steps have been made over the past year, but there still is significant room for improvement. The United States should push for reversal of the increased crackdown on freedom of expression and Internet, for lifting the restrictions on religious freedom, and for the release of all prisoners of conscience before agreeing to sell arms to Vietnam.

Vietnam is rated "Not Free" in Freedom in the World 2015.

RESPONSES OF ASSISTANT SECRETARY TOMASZ P. MALINOWSKI TO QUESTIONS
SUBMITTED BY SENATOR BOB CORKER

Question. What would the policy and practical implications of a mandatory Global Magnitsky sanctions regime be?

Answer. First, I want to emphasize that we share the goals behind the Global Magnitsky legislation. Combating corruption and human rights violations worldwide are key priorities for the administration.

With regard to policy implications, we believe the objectives of the visa provisions included in the Global Magnitsky legislation are already accomplished through other authorities. The administration enforces a global policy to deny entry to those who commit serious human rights violations through enforcement of the 2011 Presidential Proclamation 8697, and is working to implement section 7031(c) of the FY 2015 Department of State, Foreign Operations, and Related Programs Appropriations Act, which renders ineligible those officials involved in gross violations of human rights. Additionally, the Immigration and Nationality Act (INA) already includes ineligibilities that apply to those who have engaged in torture, extrajudicial killings, genocide, particularly severe violations of religious freedom, and the use or recruitment of child soldiers, among others.

The Global Magnitsky legislation also makes public corruption an independent ground for ineligibility, which means it also duplicates existing sanctions under the 2004 President Proclamation 7750 and the anticorruption provisions of section 7031(c) of the FY 2015 Department of State, Foreign Operations, and Related Programs Appropriations Act, each of which is being actively utilized by the Department.

On economic sanctions, the International Emergency Economic Powers Act (IEEPA) provides broad authority to impose sanctions in situations where the President has declared a national emergency due to an unusual and extraordinary threat to the national security, foreign policy, or economy of the United States.

The reporting requirements in section (4) of the Global Magnitsky legislation could detract from the multilateral frameworks we have set up around the world to carry forward our overall international anticorruption policy, including those multilateral frameworks through which we are seeking to convince other governments to adopt and apply similar visa restrictions. This successful policy has moved us over the past 15 years from unilateral accusations to meaningful peer review processes and increasing cooperation and coordination on law enforcement, asset recovery, and visa sanctions action.

In terms of practical implications, the mandatory Global Magnitsky bill does not provide additional resources for implementation. We know from the enforcement of similar human rights grounds that the investigations and examinations of credibility required under such an act would be fact-intensive and take time to develop. Many of our embassies are small, with only one or two reporting officers. Their ability to advance U.S. Government priorities would be significantly reduced if they were required to research, investigate, analyze, and report on cases that may not meet significant thresholds.

In terms of domestic staffing resources, based on the 2012 Senate version of the bill, the Bureau of Democracy, Human Rights, and Labor alone previously estimated it would need seven additional full-time equivalent (FTE) employees (one FTE per region and one supervisor) to cover the additional workload related to a mandatory human rights prong. When last reviewed in March 2012, the cost of seven FTE positions at FY 2016 levels was \$1,629,000 per fiscal year. While the Bureau for Inter-

national Narcotics and Law Enforcement Affairs has not estimated the staffing required to cover the additional workload related to the bill's corruption prong, it is likely to be substantial. Based on the additional workload, the Department anticipates that it would need significant additional staffing increases across the Department, including in regional bureaus, the Bureau of Consular Affairs, the Bureau for International Narcotics and Law Enforcement Affairs, and the Office of the Legal Advisor and other functional bureaus to meet the requirements of the bill adequately.

The State Department notes that the Senate version provides flexibility for targeted implementation and more importantly that it provides a permissive authority to apply sanctions. This approach would significantly ameliorate the resource and staffing implications associated with a mandatory sanctions regime. We further note that the House version does not incorporate this needed provision. Were the House bill to be enacted, the impacts on resources and staffing within the Department would be far greater as set forth above.

Question. Colombia.—Colombia is our ally and has made real progress on human rights. A recent detailed report states that between 2002 and 2008, army brigades across Colombia routinely executed civilians under pressure from superiors to show “positive” results and boost body counts in their war against guerrillas. While rank and file have been prosecuted and convicted, the report asserts that senior officers knew about and condoned the killings through a system of monetary and other compensation to soldiers for verified killings. The report says that no senior officer has ever been investigated.

♦ What can you tell the committee about this matter?

Answer. The Department is aware of the Human Rights Watch Report titled “On Their Watch: Evidence of Senior Army Officers’ Responsibility for False Positive Killings in Colombia,” released in June 2015. Senior officials from our Embassy in Colombia and in the Department met with Human Rights Watch to discuss these issues. I personally met with Human Rights Watch Americas Director Jose Miguel Vivanco on July 10 to discuss the report, and the Department has asked both the Colombian authorities and Human Rights Watch for additional information.

The report states Colombian prosecutors are investigating more than 3,000 alleged “false positives” extra judicial killings by military personnel. Upward of 800 army members have been convicted for extrajudicial killings committed between 2002 and 2008, most of them low ranking soldiers. No officers at the brigade-command level or above have been convicted for extrajudicial killings; Human Rights Watch notes that 16 active and retired army generals are under investigation. The Colombian Attorney General’s Office announced on April 13, 2015, it would be investigating 22 active and retired generals.

In early June 2015, judicial hearings began against five colonels from the Pedro Nel Ospina Battalion of the 4th Brigade, including Colonels Edgar Emilio Avila Doria, Colonel Jose Zanguña Duarte, Colonel Diega Padilla, Colonel Raul Huertas Ceballos, and Colonel Carlos Cadena, for their alleged involvement with more than 70 “false positives” killings. We will follow progress in these investigations very closely.

We take all allegations of human rights violations in Colombia seriously, and will continue to work to support all efforts to bring justice for victims and perpetrators alike.

Question. I remain troubled by reports that the administration may consider fully lifting the lethal military equipment sales ban, amidst intense lobbying on the part of Vietnam, including during the General Secretary’s recent visit. Can you comment on these reports? What are the specific benchmarks Vietnam must achieve in order for the administration to fully lift the lethal military equipment sales ban?

Answer. We have consistently communicated to Vietnamese officials, including during General Secretary Trong’s visit, that further progress on human rights is integral to our bilateral relationship and is necessary for a further deepening of bilateral ties, including in security cooperation. Further progress on human rights would be a key factor for the United States to consider when determining whether a full lifting of the ban on the transfer of lethal defense articles is appropriate.

Vietnam has taken positive steps on human rights, but there remains much room for improvement. During the Human Rights Dialogue, I urged the Vietnamese Government to make progress in three key areas: a more systematic release of political prisoners, including several of the priority cases such as Ta Phong Tan that we discussed with them during the Dialogue; a moratorium on new arrests and detentions of activists, bloggers, and others for peacefully expressing their views; and revising the disappointing first drafts of the Penal Code revisions and the Law on Religion.

Our message is clear: demonstrable progress on human rights is critical to the advancement of U.S.-Vietnam relations across the board, including in the security sphere.

Ahead of the modification to our policy last fall to permit the transfer of maritime security-related defense articles to Vietnam, the State Department and Defense Department consulted with Congress. If we were to consider further policy changes, we would again consult with Congress before making any decision.

RESPONSES OF ASSISTANT SECRETARY TOMASZ P. MALINOWSKI TO QUESTIONS
SUBMITTED BY SENATOR RAND PAUL

Question. With President Obama's plan to lift sanctions that are part of Executive Order 13628 related to the Iran Threat Reduction and Syria Human Rights Act of 2012, what is the State Department's leverage to influence the horrible human rights record in Iran?

Answer. Our commitments under the Joint Comprehensive Plan of Action (JCPOA) will not result in the United States Government terminating Sections 2 or 3 of Executive Order 13628, which are the sections that impose sanctions related to human rights abuses and freedom of expression consistent with the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010. Under the JCPOA, the United States commits to terminate select provisions of Executive Order 13628 that relate to nuclear-related sanctions—specifically, Sections 5–7 and 15—on Implementation Day, i.e., after Iran has completed its key nuclear-related commitments. These sections provide for technical fixes or amendments to other sanctions pertaining to Iran's petroleum sector that will be relieved under the deal and are unrelated to sanctions imposed in connection with Iran's human rights abuses.

We have enforced, and will continue to enforce, existing human rights sanctions. Since 2010, the Treasury Department, in consultation with the State Department, has sanctioned 12 Iranian entities and six Iranian individuals under Executive Order 13628 for restricting the freedoms of expression or peaceful assembly of Iranians. These designations will not go away under the JCPOA and neither will the designations of five Iranian entities and 14 Iranian individuals under Executive Order 13553 for their involvement or complicity in serious human rights abuses. Lastly, the four entities we have targeted pursuant to Executive Order 13606 for their provision of information technology that could be used by the Government of Iran to commit serious human rights abuses will remain designated. Iranian entities sanctioned pursuant to various human rights authorities include the Islamic Revolutionary Guards Corps (IRGC), the Basij, the Ministry of Intelligence and Security (MOIS), the Ministry of Culture and Islamic Guidance, the Committee to Determine Instances of Criminal Content, and the Iranian Cyber Police. We have also sanctioned top officials within some of these organizations.

We will continue to press Iran to end its mistreatment of its citizens. We will continue to cosponsor and lobby for the U.N. General Assembly's annual resolution expressing deep concern at human rights violations in Iran and to lead lobbying efforts to maintain the mandate of the Special Rapporteur on human rights in Iran—a mandate we were instrumental in establishing through our leadership at the U.N. Human Rights Council. We will also continue to document reports of Iran's human rights violations and abuses in our annual Human Rights and International Religious Freedom Reports. And we will continue to raise our voice in support of the Iranian people and their desire for greater respect for human rights and the rule of law.

Question. Each year, often without seeing improvements, the U.S. State Department and the U.S. Agency for International Development give millions of U.S. taxpayer dollars to countries that have human rights and corruption records that are considered the worst of the worst. Why does the Department continue to aid and enable these regimes?

Answer. U.S. assistance supports programs that are in the U.S. national interest, spanning a range of issues from fighting terrorism to humanitarian assistance to antipoverty and health promotion programs. It also includes programs and policies that strengthen good governance, protect human rights, strengthen the rule of law, and combat corruption. Sometimes, in order to protect or advance our national interests, we must work with governments that have poor human rights records. Congress regularly makes funds available for assistance to these types of governments.

We also regularly withhold assistance from governments that abuse human rights. We often do so as a matter of policy. We also do so as a matter of law, specifically the State Leahy law (Section 620M of the Foreign Assistance Act of 1961,

as amended), which provides that no assistance shall be furnished to any unit of the security forces of a foreign country if the Secretary of State has credible information that such unit has committed a gross violation of human rights. In every case, when an individual security force member is nominated for assistance, the Department vets that individual as well as his or her unit. In cases where an entire unit is designated to receive assistance, the Department vets the unit and the commander. All vetting results from U.S. embassies are evaluated by vetters within the Bureau of Democracy, Human Rights and Labor (DRL), where we vigorously implement the State Leahy law and evaluate the human rights records of the unit and individuals against a full spectrum of open source and classified records.

In many cases where a country has a problematic human rights record, U.S. assistance in those countries may be channeled through nongovernmental organizations (NGOs), including those that fight for greater respect for human rights and democratic principles. DRL focuses programmatic activities in countries where governments commit egregious human rights violations, are undemocratic or in transition, and where democracy and human rights advocates are under pressure. More than 90 percent of all DRL programs operate in restrictive or challenging environments. DRL grants and cooperative agreements are focused on supporting civil society organizations that work on the very problems you identified. DRL programming is intended to uphold democratic principles, promote human rights and fundamental freedoms, prevent atrocities, combat violent extremism, address gender-based violence, strengthen rule of law, increase access to justice and accountability, and target impunity and corruption. America is more secure in a world where governments protect the human rights and fundamental freedoms of all individuals.

RESPONSES OF ASSISTANT SECRETARY TOMASZ P. MALINOWSKI TO QUESTIONS
SUBMITTED BY SENATOR ROBERT MENENDEZ

Question. In an era marked by increasing global economic integration characterized by the negotiation of trade agreements, such as the TPP, in the pipeline, and preference programs that according to the administration have a new emphasis on the observance of international labor rights and standards, I understand that for State Department's Bureau of Democracy, Human Rights and Labor (DRL), labor funded programs have remained stagnant and represent only about 5 percent of its total Human Rights and Democracy Fund budget.

♦ Why does that number remain so low? Will we not need more resources to match the rhetoric of labor rights in our negotiating objectives?

Answer. DRL has supported labor programs since it began its democracy and human rights programs in 1998 and we agree that there is a need to continue emphasizing international labor rights and standards. DRL does so by dedicating at least 5 percent of Democracy Fund/Human Rights and Democracy Funds (DF/HRDF) for labor programs. We also incorporate labor projects within global rapid response mechanisms as well as regional or country-specific portfolios also funded with DF/HRDF, and manage, on behalf of other Department bureaus, Economic Support Funds (ESF) transferred to DRL. Due to these other funding streams, the overall amount DRL program to advance labor rights is de facto greater than 5 percent. Over the past 5 years, we have allocated nearly \$34 million for labor rights.

DRL dedicates at least 5 percent of our DF/HRDF budget even in the constrained budget environment in which we are operating, and as mandates for DF/HRDF have increased substantially without corresponding increases in funding. The amount of funding we allocate for labor rights is greater than our entire regional democracy-promotion portfolios for Europe and Eurasia, Middle East and North Africa, and South and Central Asia.

Question. As you think about the regional trade and economic challenges and opportunities, are there areas—at State, at Treasury, at Commerce, at USTR, at USAID—where do you think additional resources are needed?

Answer. Currently, U.S. foreign assistance programs support improving trade and investment climates in developing countries as a means to promote sustainable economic growth in countries that have the political will to carry out the needed reforms. Opening up new markets also supports U.S. jobs, eliminates barriers in foreign markets and establishes rules to stop unfair trade. President Obama's FY 2016 Request includes support for programs to be carried out by State and USAID that include technical assistance and training to build trade capacity, the establishment of bilateral and multilateral trade policy, and the negotiation of new trade agreements required to overcome regional trade barriers and economic challenges in developing nations. State and USAID work very closely together to identify and

request the resources needed to achieve the U.S. Government's foreign policy objectives and development goals for trade. State and USAID collaborate with the inter-agency (i.e., Treasury, Commerce, and USTR) on trade programming and transfer funds to these other agencies where they have a comparative advantage to provide assistance.

Question. Mr. Assistant Secretary, in March, you led the first human rights discussion with the Castro regime on human rights. Would you please share with us your impression of those talks? Also, as there have now been more than 2,822 arbitrary, politically motivated arrests in Cuba during 2015, could you please provide impression of whether these talks with the Castro regime will lead to greater protections for human rights in Cuba?

Answer. On March 31, I led the planning discussion with a 13-member Cuban delegation largely comprised of officials from the Ministry of Exterior Relations' Directorate for Multilateral Affairs and International Law. The atmosphere of the meeting was professional and there was broad agreement on methodology for a substantive dialogue. We agreed that the basis for future discussions would be compliance with international human rights standards, including the Universal Declaration of Human Rights, which will help us push back against the usual Cuban argument that Cuba has its own definition of human rights. We also agreed that each side would be open to discussing any topic. The Cuban side wished to leave the timing and location of the first substantive round of dialogue for future decision through diplomatic channels. We have proposed various dates, and we are awaiting the Cuban Government's response.

It is striking that the Cuban Government is so threatened by the peaceful activities of civil society activists that it continues to engage in the arbitrary, short-term detentions you have mentioned. As we have said, we did not expect the Cuban Government to immediately change its behavior toward its own people simply because it had reestablished diplomatic relations with the United States, and I would not expect them to change their behavior just because we have human rights discussions. But reestablishment of diplomatic relations and opening the Embassy in Havana not only allows us to better advocate for respect for universal human rights and fundamental freedoms it has changed the expectations of the Cuban people in ways the Cuban Government cannot possibly meet unless it changes its policies. Secretary Kerry and I were able to meet with several activists and other representatives of Cuban society during the Secretary's visit to Havana on August 14, and it is clear that they are thinking through how they can take advantage of these new circumstances to press for real change. Change in Cuba will come from the Cuban people, and we will use our continued engagement to support their efforts to promote respect for human rights and to advance democratic reforms.

Question. The State Department's Trafficking in Persons (TIP) Reports normally cover the reporting period from April 1 to March 31 in a given year. The 2015 TIP Report, which still has not yet been released, will have the latest release date ever for a TIP Report.

♦ In prior TIP reports, have events or actions taken in June or July of a year ever before been used to affect a country's tier ranking?

Answer. The 2015 TIP Report, which was released on July 27, covers government antitrafficking efforts through March 31, 2015, with a few exceptions for notable developments that occurred in early April. This reporting period is consistent with those for past TIP Reports, which have—on limited occasions—included developments after March 31.

Question. My amendment prohibiting fast track authority for Tier 3 human trafficking countries was recently signed into law by President Obama as part of the Trade Promotion Authority legislation. In your view, is that kind of sanction helpful in combating human trafficking?

Answer. Following the internationally agreed tenets of the U.N. Palermo Protocol and the Trafficking Victims Protection Act (TVPA), the U.S. Government's efforts to combat trafficking in persons concentrate on the 3P approach: prosecution of human traffickers, protection of the victims of sex and labor trafficking, and prevention of the crime. The Office to Monitor and Combat Trafficking in Persons engages in year-round diplomacy, working closely with foreign governments to encourage and assist their efforts to meet the minimum standards to combat trafficking in persons established in the TVPA.

The Department welcomes dialogue and continued partnership with Congress on ways to better advance efforts to combat human trafficking. We will stay apprised

of developments regarding the amendment and look forward to discussing this further with you.

Question. John Sifton, Asia advocacy director at Human Rights Watch, recently stated that, with regards to human trafficking, “Malaysia has done very little to combat this scourge,” and that “this is not a gray area.” Do you agree with this analysis? Why or why not?

Answer. The Department remains deeply concerned about human trafficking in Malaysia and continues to urge Malaysian Government officials to take bold steps to combat trafficking. Malaysia’s Tier 2 Watch List ranking clearly indicates the country does not meet the minimum standards established in the TVPA and there is much room for improvement in the government’s antitrafficking efforts. However, the Government of Malaysia made significant efforts to comply with the minimum standards for the elimination of trafficking.

In 2014 and early 2015, government officials consulted with civil society to draft amendments to Malaysia’s antitrafficking law to address the country’s flawed victim protection regime, which were approved by the Cabinet. If implemented, these amendments would address a number of the recommendations in the TIP Report over the past several years—including allowing trafficking victims to move freely and work outside of government facilities and NGOs to run shelters for victims. We will continue to encourage the government to implement the amendments to the antitrafficking law and issue associated regulations in consultation with NGO partners and consistent with international standards in the Palermo Protocol. We will closely monitor the implementation and effectiveness of these amendments as we evaluate Malaysia’s efforts.

Malaysian authorities also increased the number of trafficking investigations and prosecutions compared to 2013, adopted a pilot project to enable a limited number of trafficking victims to leave government facilities in order to work, trained government officials on human trafficking, and issued public service announcements highlighting the risks of human trafficking. Going forward, we will continue to press the government to increase its law enforcement efforts to convict traffickers.

LETTER SUBMITTED BY SENATOR ROBERT MENENDEZ



July 15, 2015

The Honorable John Kerry
Secretary of State
U.S. State Department
2201 C Street, NW
Washington, DC 20520

Dear Secretary Kerry:

Fighting human trafficking is one of the great moral challenges of our time. It is therefore with grave concern that we now hear Malaysia may be upgraded in this year's Trafficking in Persons (TIP) report based on developments that occurred after the end of the review period. A premature upgrade of Malaysia would undermine the integrity of the TIP report process and compromise our international efforts to fight human trafficking.

The 114th Congress has undertaken a vigorous bipartisan agenda to address human trafficking. In February of this year, the Senate Foreign Relations Committee held two hearings on the subject of modern slavery and reported to the Senate the End Modern Slavery and Trafficking Initiative Act of 2015. On April 22, the House Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations held a hearing examining the State Department's TIP Report and the need to maintain the integrity of the tier ranking system. Also on April 22, the Senate voted 99-0 to pass the Justice for Victims Trafficking Act. Later that day, the Senate Finance Committee passed an amendment to the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 to prohibit expedited consideration of trade agreements with countries ranked Tier 3 on the TIP Report. That amendment was ultimately included in H.R. 2146, which was subsequently passed by both houses of Congress and signed into law by President Obama on June 29. An additional provision, originally introduced by Senators Menendez and Wyden, to establish an exception process for countries that have taken concrete actions to implement the principal recommendations in the TIP report was passed by the House during its consideration of H.R. 644, the Trade Facilitation and Trade Enforcement Act of 2015.

The 2014 TIP report described the human trafficking crisis in Malaysia, noting that many migrant workers are exploited and subjected to practices indicative of forced labor, that the government made limited effort to improve its flawed victim protection regime, and that there were significant shortcomings in the Government's anti-trafficking law enforcement efforts.

In light of those findings, it is difficult to fathom how the State Department could justify upgrading Malaysia given that the country failed to address the problem in the year leading up to the June 1, 2015 statutory deadline for the TIP report's publication. Passage of legislation to amend Malaysia's anti-trafficking laws, while a step forward, occurred outside the 2015 review period and additional work remains to ensure that this legislation is implemented in a manner consistent with the recommendations in the 2014 report. Such action should therefore not be included in the Department's evaluation of Malaysia's 2015 ranking.

State Department officials have already stated that Malaysia must do more to warrant removal from Tier 3 and suggested that recent efforts to address the problem lie outside of the 2015 reporting period. As recently as April 17, the U.S. Ambassador to Malaysia, Joseph Yun, said that the Malaysian government needs to show greater political will in prosecuting human traffickers and protecting their victims if the country hopes to improve its Tier 3 ranking. On June 1, Assistant Secretary of State for Population, Migration and Refugees Anne C. Richard reaffirmed that, "the 2015 [TIP] report covers until March 2015, which mean Malaysia's handling of [the Rohingya refugee] crisis will only be reflected in the 2016 report." While we applaud the State Department's work to improve the human trafficking situation in Southeast Asia and welcome the Malaysian government's newfound interest in addressing the problem, an upgrade in the 2015 TIP report would only be justified if Malaysia had made significant efforts to bring itself into compliance with the minimum standards for eliminating trafficking within the relevant reporting timeframe.

Sadly, the report is already more than five weeks overdue; it is on pace to be the latest report ever released. As the U.S. government's principal tool to engage foreign governments on human trafficking, the integrity of the TIP report ranking process is a reflection of our country's principles and must be upheld. An unwarranted upgrade for Malaysia in the 2015 report, especially if based on actions undertaken after the closing of the 2015 reporting period, would weaken the credibility of our TIP ranking system. Ultimately, it would undermine the value of the TIP review process to obtaining meaningful international progress on human rights.

We urge you not to prematurely upgrade Malaysia's 2015 TIP ranking based on evidence outside of the review period.

Sincerely,



Robert Menendez
United States Senator




Sherrod Brown
United States Senator




Debbie Stabenow
United States Senator



Richard Blumenthal
United States Senator



Edward Markey
United States Senator


Elizabeth Warren
United States Senator


Bernard Sanders
United States Senator


Gary Peters
United States Senator

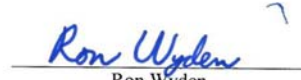

Jeff Merkley
United States Senator



Robert P. Casey, Jr.
United States Senator

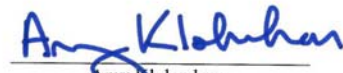

Martin Heinrich
United States Senator


Kirsten Gillibrand
United States Senator


Patrick Leahy
United States Senator


Ron Wyden
United States Senator


Rob Portman
United States Senator


Amy Klobuchar
United States Senator



Michael Bennet
United States Senator

Al Franken
United States Senator

Marco Rubio
United States Senator

ARTICLE SUBMITTED BY SENATOR ROBERT MENENDEZ

[From The Hill, July 14, 2015]

UNDERMINING THE STATE DEPARTMENT'S TRAFFICKING REPORT

By David Abremowitz

Recent press reports suggest that the State Department will recommend that Secretary John Kerry take a shameless and unprincipled stand in this year's Trafficking in Persons Report (TIP Report) by concluding that the government of Malaysia is making significant efforts to combat human trafficking in its country. Anti-trafficking groups, including the coalition I work with, are urging Kerry to reject this unnecessary capitulation to the government of Malaysia and U.S. government regional and trade experts.

Malaysia has a serious human trafficking problem, which is why last year the State Department downgraded Malaysia to a Tier 3 country in the TIP Report, a level that includes the worst human trafficking offenders in the world. Malaysia—where we see forced labor in agriculture, construction, electronics and textile industries, as well as in domestic service in homes and women coerced into prostitution—deserves to be among them. Steps that might be considered progress have only come in recent days, months after the closure of this year's reporting period (April 1, 2014 to March 31, 2015), and do not yet demonstrate real resolve by the Malaysian government.

The basis for this cynical and manipulative recommendation is simple: The State Department is trying to ensure that, come what may, Malaysia can stay part of the Trans-Pacific Partnership (TPP), a key trade agreement that is part of the White House's legacy in the pivot to Asia. Recent fast-track trade legislation signed by the president provided that no trade agreement that includes a Tier 3 country can get fast-track consideration, effectively killing Malaysia's participation in it. It appears that State Department regional bureaus and trade experts are overruling the trafficking concerns to make sure this doesn't happen.

These forces seem to be taking advantage of the absence of an Ambassador-at-Large for Trafficking in Persons, a position that has been vacant for more than nine months. This vacancy leaves no dedicated senior official to fight the battles on behalf of the trafficking office—and more importantly, on behalf of victims and survivors.

Supporters for a Malaysia upgrade point to provisions in a recent Malaysian law. These provisions, for example, permit the government to provide assistance to trafficking victims, but unfortunately they leave it to the discretion of Malaysian authorities to actually do so, and there is no guarantee of funds to make such a pro-

gram a reality. This is of particular concern because in Malaysia, as with many countries, the promise of already existing laws that could make a real impact on human trafficking falters because of poor or nonexistent implementation. What's more, some press reports suggest that the State Department will discount the mass graves on the Malaysian border because they were discovered after the reporting period, but may now count these even more recent changes because it better serves their interest.

Unfortunately, prioritizing trade over trafficking will undermine the integrity of the TIP Report and will make it more difficult to free the estimated 21 million people who are suffering from human trafficking and modern slavery. And it may undermine the U.S. ability to ensure that Malaysia follows through with its commitments.

What is particularly bewildering about the State Department's action is that it is wholly unnecessary. Several human rights groups that work to end modern slavery worked with the administration to create an exception to allow Malaysia to stay in the TPP, provided the country takes concrete actions to implement the principal recommendations in the TIP Report. This exception will likely be adopted before the end of the month, giving flexibility to the president and providing additional time for Malaysia to follow through with its commitment to, for example, actually fund new programs for victims under the new law and to pursue traffickers who confiscate documents.

Kerry has a decision to make: undermine global U.S. leadership efforts to combat human trafficking and let Malaysia off the hook, or stand up for not only thousands of victims of human trafficking in Malaysia but millions of people who suffer from modern slavery around the world. The former unprincipled capitulation will tarnish this administration's many efforts to combat human trafficking around the world, as well as Kerry's own reputation as a champion in the fight against human trafficking. The latter courageous truth-telling will confirm that the U.S. continues to be a champion in freeing those who are exploited by the more powerful. The choice is simple, Mr. Secretary.

