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“Out of the Shadows: The Global Fight Against Human Trafficking”

Mr. Chairman, Ranking Member Ros-Lehtinen, Mr. Smith, and other distinguished members of the Committee, thank you for holding this hearing on one of the most terrible human rights abuses – the widespread occurrence of modern-day slavery and human trafficking. It is a privilege for me to return to this hearing room where I have personally witnessed so many critical moments in the development of this country's foreign policy.

This time I appear in my new role as the Director of Policy and Government Relations at Humanity United. Humanity United is a philanthropic organization based in Redwood City, California that works to advance human freedom by combating human trafficking and ending modern-day slavery. As I will discuss below, our work encompasses a range of activities, including funding organizations that act domestically and abroad, supporting meaningful engagement of multinational corporations, and engaging directly in Nepal, from where I just returned a few days ago.

Mr. Chairman, human trafficking continues to inflict suffering on tens of millions of people around the globe. Estimates of those who are in various forms of human bondage range from 12 to 27 million people. President Khoo of Interpol recently estimated that human trafficking in all its forms yields \$32 billion dollars in profits every year.¹ David Arkless of Manpower, Inc. reports that despite this Committee's and the international efforts of a wide array of countries, the worldwide economic downturn has led to a surge in human trafficking as those desperate for some way to sustain themselves become more vulnerable to the predators who engage in modern-day slavery.² Hopefully this worrying rise in trafficking cases will subside as the global economy improves.

These statistics are sobering, particularly when we remember that they represent millions of individual stories of tremendous suffering and exploitation. In 2007, your Committee heard testimony from Zipora Mazengo, who came to the United States seeking a better life as a domestic worker to a Tanzanian diplomat here in Washington, DC, only to have her passport seized, to be forced to work up to 16 hours a day without pay just a few miles from this very building, and to be subject to serious physical abuse and denial of medical care. Ms. Mazengo, whose abuser left the country without ever providing compensation or paying for his crime, still seeks redress to this day.

Ms. Mazengo's story is only one of many that are occurring every day. Women and children are exploited in the streets and brothels of South Asia; migrant workers are being abused here in the United States and in distant countries; and agricultural

¹ President Rhoo, Interpol, Speech at Interpol Conference on Human Trafficking, June 7, 2010, <http://www.thenational.ae/apps/pbcs.dll/article?AID=/20100608/FOREIGN/706079866/1002/RS>

² David Arkless, Manpower, Inc., Speech at Carnegie Council, February 18, 2010, reprinted at <http://www.cceia.org/resources/transcripts/0260.html>

workers labor in fields in atrocious conditions around the world with little or no pay and no ability to leave. Mr. Chairman, this is not a far away problem – thousands of adults are trafficked into forced or exploitative labor here in the United States, and estimates of U.S. youth trafficked into commercial sex has been estimated to be as high as 100,000.

Each of these victims, Mr. Chairman, deserves the freedom to be a survivor. They deserve to have trafficking prevented, their own lives protected, and their perpetrators convicted.

Mr. Chairman, at Humanity United we believe that there are solutions to these heinous abuses but that they require a unity of effort between civil society, the private sector, and governments around the world. Non-governmental organizations can reach out to communities to educate at the local level, help free victims and provide essential services to survivors. The private sector can help ensure that its supply chains are free of slavery and labor exploitation, down to the raw material level, and that their employees do not avail themselves of trafficked women. And governments can institute policies and fund programs that can reduce and eventually eliminate widespread use of these human rights crimes.

In that regard, Mr. Chairman, this Committee has been a leader in creating and implementing a framework for U.S. and international efforts to combat human trafficking. It was almost 10 years ago today that the Trafficking Victims Protection Act of 2000 (TVPA) was signed in to law. That legislation, introduced by Representative Smith of New Jersey and Representative Gejdenson of Connecticut, with the bipartisan support of the late Senator Wellstone of Minnesota and Senator Brownback of Kansas has been implemented vigorously by three Administrations under Presidents from both political parties.

In addition to establishing the framework of preventing trafficking, protecting victims, and prosecuting perpetrators, the TVPA of 2000 required an annual report on human trafficking, to be prepared by the Office to Combat Trafficking in Persons (G/TIP), on the state of human trafficking around the world, which is commonly known as the TIP Report. The report rates countries as to whether they are meeting the minimum standards contained in the Act, whether they are making significant efforts to do so, or whether they are failing to even make such efforts at all.

Before turning to the latest TIP report, let me just remind the Committee of the amazing developments that have occurred as a result of your actions in creating this extraordinary human rights tool. Facing the exposure of terrible abuses within their border, real change has occurred. I ask that a document compiled by the Alliance to End Slavery and Trafficking (ATEST), a diverse coalition of U.S. based NGOs supported by Humanity United, which lists a number of these successes be entered into the record. This document demonstrates that from Cambodia to the countries of the Gulf, from Nigeria to Japan, the TVPA and TIP report have fostered real change that has saved lives and reduced abuses.

Mr. Chairman, looking at the Obama Administration and the Clinton State Department's development of the report, the news is mostly good. Secretary Clinton, whose focus on this issue began in the 1990's, has brought high-level attention to the issue of human trafficking, including participating in serious public launches of the last two TIP reports. She has appointed a very active Ambassador from whom you have just heard, Ambassador Luis CdeBaca, who has received strong support from Undersecretary for Global Affairs Maria Otero and Deputy Secretary of State Steinberg. The Department's Protocol Office has built on and strengthened efforts to prevent domestic workers of diplomats from being exploited.

The TIP report itself, in my view, continues to improve since its introduction in 2000. Continuing the work of the Bush Administration under Ambassadors John Miller and Mark Lagon, the Report continues to focus on the wide range of abuses that encompass human trafficking, with an increasing focus on trafficking into labor exploitation and such phenomena as child soldiers, while maintaining its attention to trafficking into sexual exploitation. Continuing the trend from 2009, and pursuant to the amendments this Committee pushed through in 2008, coverage of the 2010 TIP report has risen to include a total of 177 countries, including the United States. My overall view is that the report provides a reasonably factual assessment of the global situation. Looking in particular at the assessment of the overall performance of countries under the so-called Tier System, and the new rating system for child soldiers, there seems to be significant evidence that the State Department's analysis is still working:

- 23 countries were "upgraded" to show that their performance was improving, but 19 countries were "downgraded."
- Downgraded countries included countries that are important to the U.S. national interest, such as the Democratic Republic of Congo (which was given a Tier 3 rating), Switzerland (which was moved from Tier 1 to Tier 2), and Thailand and Vietnam (which were moved down to the Tier 2 Watch List).
- As has been the case in past years, Saudi Arabia and Kuwait remain on Tier 3. Eritrea, of particular interest to the United States given its proximity to Somalia, is also on Tier 3.

It is also notable that this year's report contains an assessment for the first time of the performance of the United States, concluding that it ranks as a Tier 1 country. While there are differences within the advocacy community over aspects of the assessment, I believe that ranking the United State is a step forward. In particular, I was particularly encouraged that the report contained a number of recommendations for the United States to improve its ant-trafficking programs, demonstrating that whatever progress it has made, the United States still has a ways to go.

The overall assessment of U.S. performance on the international front, however, remains a story that is still being written. There are a number of areas that the Committee should bear in mind as it continues its oversight:

- Orientation of the TIP report and maintaining a focus on both trafficking into sexual and labor exploitation. Trafficking into sexual exploitation and into labor exploitation by force, fraud or coercion are both heinous human rights abuses that cause tremendous human misery. While many groups focus more on one over the other, or more on activities in the United States versus abroad, we need to continue to ensure that we attach importance to all these phenomena. That has been the approach of Humanity United, which is working to build coherence in the field by fostering a coalition of NGOs that represents this spectrum of issues. There can be little doubt that the Administration cares deeply about both trafficking into sexual exploitation and labor exploitation, but the most recent report continues a trend of increased focus on trafficking into labor exploitation. In particular, the report would benefit from an analysis of the risk facing women who migrate for legitimate labor purposes that may well end up being exploited sexually as well. The 2010 report discusses this at various points, but given that on my recent trip to Nepal, activists suggested that the figure for such dual exploitation is as high as 90 percent of those who have migrated, this issue bears greater emphasis.
- Watch the “Conveyor Belt” closely. As you may know, in the 2008 William Wilberforce Trafficking Bill Congress pushed a new approach to the so-called “Tier 2 Watch List,” requiring that countries be moved to Tier 3 if they stay on the Watch List for two years (unless the President makes other determinations). A number of important countries, including India, China and the Russian Federation will be subject to this provision in June 2011. How the Administration implements this provision will tell us much about their seriousness of purpose. There will inevitably be discussions about adjusting the tier rating of individual countries to avoid creating friction in U.S. bilateral relationships. We need to make certain that the Administration does not give in to such temptations.
- Consider whether the Presidential Waiver Authority is being used properly. Countries that remain on Tier 3 are subject to certain sanctions, but there has been a growing tendency towards the end of the Bush Administration and now the Obama Administration to waive these sanctions because the President believes that providing such assistance is in the national interest or furthers the purpose of the Act. I was encouraged that the President, in his determination two weeks ago, kept sanctions on Eritrea. He also, however, extended waivers to many countries on the list. I would rather see an honest assessment of a country’s performance and a waiver where necessary, but over time the waivers may work to erode the impact of the TIP Report. With the Conveyor Belt beginning to work this year, there is a risk that an even

larger number of countries will go on to Tier 3, but will be waived. I hope that the Administration expands the use of a targeted waiver, using the authority to waive limitation for the most necessary assistance, rather than to provide blanket waivers.

- Supporting U.S. diplomacy on trafficking issues. In that regard, Mr. Chairman, the report and the “conveyor belt” will give an important opportunity for U.S. diplomacy to ratchet up action. The beauty of the trafficking framework is that the report gives a tool for active U.S. diplomacy. However, making a difference in perennially difficult cases will require high-level diplomatic intervention. We have seen the Secretary’s public commitment, and the Presidential trafficking proclamation earlier this year indicates a continuing White House interest. However, the real proof will be in upcoming high-level meetings. For example, will human trafficking be raised at the President’s summit with Prime Minister Singh later this year? If not, will the President meet with trafficking survivors? There are many ways high-level officials can express their interest, with a potential impact on our partners. Mr. Chairman, I cannot emphasize the importance of this point – one need only look to the recent report on the efforts to stop child begging in Senegal to see that the TIP report and robust diplomacy can help end the misery of millions. Earlier this month, authorities in that country successfully completed a first ever prosecution of those who were benefitting from child begging – a practice that has been ongoing for decades. Senegalese officials specifically stated that that this prosecution occurred as a result of the TVPA.³ This approach needs to be executed on a large scale. In addition Mr. Chairman, I think that you need to recognize that Ambassador CdeBaca is a believer on these issues. It is important that the Committee raise trafficking not only through this hearing but with other senior department officials as well. Every subcommittee should ensure that human trafficking is raised when assistant secretaries from regional bureaus come to testify before them. Expressing the Committee’s interest in these issues across the Department and demanding accountability by those who are responsible for bilateral relations will do much to sensitize the Department as a whole to the importance of this issue.
- Ensuring that the Administration does not inadvertently downgrade the TIP Report. As in all Administrations, there are ongoing discussions on how to improve efficiency by consolidating reports on related subjects. I understand there are proposals on merging a number of human rights-related reports, including the TIP Report, into one large human rights document. While this might sound appealing, and at the risk of sounding parochial, I do not believe this makes sense in the TIP context. First, the TIP report may be the only annual report on trafficking issues – there is no parallel NGO report that reports annually on these issues on a global basis. Merging the TIP report

³ *Supreme Court Forbids Children to Beg*, New York Times, September 12, 2010

with other reports will therefore take away from its impact. Second, the TIP report is unusual in that it both provides analysis and includes conclusions that have political impact through the imposition of sanctions. Congress has generally wanted to keep the annual Country Reports on Human Rights practices free of such political consequences, which endanger its objectivity. This principle will be undermined if the trafficking report is merged with the Human Rights reports.

- Evaluating whether the Administration is policing its own contracts. Over the years there have been a number of allegations on trafficking violations by contractors of the U.S. Government. The last two Administrations have established useful standards, but the review of those standards remains unclear. Earlier this year, I understand the Department of State's Inspector General's office provided the committee a summary of its activities and a report was due this summer. I urge the Committee to continue its oversight by working with the Inspectors General of the State Department, Defense Department, and USAID to look at their work in this area, as required by the Wilberforce Act. We can't be a leader in this field if the United States does not prevent trafficking in its own supply chain.
- Keeping an eye on diverging approaches to trafficking. Much has been made of the fact that the focus within the U.S. Government seems to be tilting to trafficking into labor exploitation. As I stated previously, I don't believe that this perception is justified, but it may be fueled by the amount of debate that is taking place internally on that issue. The debate appears to be between those who see the trafficking mandate as covering abuses involving the movement of people and those who believe that trafficking encompasses all forms of modern-day slavery, including inherited debt bondage and forced labor in place. It also reflects a difference of approach. Some would rather look at the whole spectrum of labor exploitation as requiring engagement with employers. Others believe that as abuses reach the realm of forced labor, criminal prosecution is the right response. Mr. Chairman, this debate is distracting the government from its real work and should be resolved. In that context, I think we need to remember that a narrow definition of trafficking would leave the State Department out of the game of pressing for reforms in key countries, such as India and elsewhere in South Asia, and would doom survivors to a world in which they would receive no protections. As strong as the language of the various slavery conventions may be, none of them have the language of protection and relief for survivors contained in the Palermo Protocol on human trafficking.
- Review the Department of Labor's standards for "best practices" to avoid the use of forced labor. Mr. Chairman, as you know, after completing a report on the origins of slave-made goods pursuant to the TVPRA of 2005 and 2008, the Department of Labor is working on best practices for companies to use to ensure that their supply chains do not include raw materials or goods

extracted by or made with slave labor. This set of practices, mandated by the TVPA, should come out later this year. These practices, if done correctly, could provide a safe harbor for firms that are interested in moving toward this area but are concerned about the right approach on these issues. Reviewing these new standards when they are promulgated, looking closely at the reception by the business community, and encouraging (depending on their content) their adoption will be an important moment in trying to engage the private sector in fighting modern-day slavery and could be critical to ending multinational corporations' involvement in this heinous abuse.

Finally, Mr. Chairman, I have some additional suggestions regarding how U.S. law could be improved to make U.S. anti-trafficking policies even more effective. In addition to some of the points above, which may suggest some possible amendments, here are a few additional thoughts:

- Enhancing civilian protection in humanitarian crises. The Administration has greatly emphasized the importance of protecting civilians during conflict or other times of vulnerability. We should be looking at ways in which we can institutionalize anti-trafficking protocols within the U.S. civilian protection approach in response to humanitarian crises. The latest TIP report approaches this by laying out principles in this regard, which the Committee could build on to ensure that these principles are applied consistently.
- Creating an emergency response fund for the State Department. On a related front, I believe the Committee should seriously support creating an emergency response fund for the TIP office that can be programmed at need. This was demonstrated most tellingly this year after the Haiti earthquake. A large number of children became homeless and those taken in prior to the earthquake under the “restevak” system were even more at risk. The State Department was able to scrape together some funding, sent an officer down to Haiti, and was instrumental in saving countless children, in part by focusing effort and by working with local partners. Rather than robbing Peter to pay Paul, an emergency fund should be established to allow this to be done on a more regular basis. A good first step has been taken with the direction in the Senate Appropriations Committee report on the FY2011 State, Foreign Operations Appropriations Act, included at the request of Senator Kerry, Chair of the Senate Foreign Relations Committee. Institutionalizing such a fund in the TVPA could be an important contribution to saving lives.
- Reauthorizing the Department of Labor’s Report on slave-made goods. As I noted previously, pursuant to the TVPRA of 2005 and 2008, the Department of Labor has issued a report on goods made with forced labor. This report has been enormously important as a way of gathering basic but critical information, which otherwise would not be available, and of raising awareness among the business community. While DOL is assembling

additional research to do a follow up report, there is no statutory requirement for such a report. I would urge the Committee to consider requiring this report on a biannual basis to provide further updates on this issue. Congress should also look at restrictions related to the importation of slave made goods to see if further tightening of those provisions is possible.

- Sharpening U.S. policy based on the experience of other countries. Our continued success getting countries to adopt new policies on human trafficking provides an enormous opportunity for the United States to see what policies work, what obstacles there are to implementation, and how the minimum standards in the TVPA can be approved. In Nepal, for example, recently enacted laws that both outlaw human trafficking and regulate the export of foreign labor draw wide praise and contain important innovations, such as prosecution of those who use trafficked women and protection for the survivors through substituting written statements for oral testimony. Yet implementation has been hampered by the political stalemate, corruption, and lack of capacity. What are best practices and how do we solve this capacity conundrum? Should implementation of existing frameworks be a greater focus of the minimum standards in the TVPA? I was very encouraged that G/TIP held a meeting on best country practices earlier this week. The outcome of this convening should be obtained and reviewed by the Committee as you work up towards the reauthorization of the TVPA next year.
- Ensuring further research on trafficking. The trafficking field is still young, and we remain unclear about which interventions have the greatest impact. Additional research needs to be done both here and abroad. I recommend that the Committee become familiar with the research that the United Nations has performed through the UN Inter-Agency Project in Southeast Asia, often referred to as UNIAP. Their data driven approach helps target programming to specific vulnerable populations. Future major trafficking programs, such as the one being implemented in Nepal, need to have a research element that will assist in identifying the best possible interventions and will evaluate results. Looking at the domestic side, although it is not within the jurisdiction of the Committee, I note that there are a number of elements of the TVPRA of 2008 in which implementation has lagged. Research looking at trafficking into sexual exploitation in the United States, as well as the creation of a new model law to combat trafficking and sexual exploitation, has not been completed. Congress should consider ways to make sure these requirements are carried out. In addition, there may be some new ways to think about prevalence research in the United States. As the U.S. assessment provides, for example, federal and state collection of information needs to be more uniform. In addition, a number of surveys done by a variety of federal agencies or other entities, such as surveys on agricultural workers and at risk youth, could be modified to add some

questions that would provide additional information on the scale of trafficking in the United States.

Mr. Chairman, these are a handful of measures that should be considered by Congress in reauthorizing the TVPA, which expires on September 30, 2011. If this committee continues to act in a bipartisan manner in accordance with its traditional approach to this issue, you can ensure an even greater impact, and save more victims like those survivors who have testified before you in the past and continue to need your help. Mr. Chairman, the voices of the victims and survivors of human trafficking are indeed so often heard from the shadows. We need to listen to those voices and remember that whatever the obstacles, this is a fight worth waging. Those of us on this panel and the broader civil society stand ready to work with you to ensure that we are on the path to eradicating human trafficking and modern-day slavery and advancing the cause of human freedom.

Thank you, Mr. Chairman.