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International Organizations of the House Committee on Foreign Affairs
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Hearing on Tier Rankings in the Fight Against Human Trafficking

Good afternoon Chairman Smith, Congresswoman Bass and other distinguished members of the Committee. Thank you for this opportunity to speak at this hearing about the Tier Rankings in the annual U.S. State Department Trafficking in Persons report and the importance of the report in holding countries accountable for their actions on human trafficking.

I am Carol Smolenski, Executive Director of ECPAT-USA. ECPAT stands for End Child Prostitution and Trafficking. We are the U.S. branch of the ECPAT International network, with headquarters in Thailand and affiliate organizations in 73 countries. We work together to end the commercial sexual exploitation of children and to promote child protection. ECPAT came into being in 1991 in Asia with the recognition of large numbers of children being sold into the sex trade, partly to meet the demand coming from foreigners who were traveling to Asia to sexually exploit the local population. As a representative of what we called a “tourist-sending” country, we started ECPAT in the United States to stop the horrific international child sex tourism trade. Since 1996 we have expanded our mission to fight against all forms of commercial sexual exploitation of children, not just related to tourism and not just in Asia. While we still conduct advocacy, awareness raising, policy development and legislative activities against child sex tourism; we also work to conduct these same activities to end the exploitation and trafficking of children in the United States.

The U.S. in the TIP Report

As a member of this network I am proud to serve as the representative from the USA. The U.S. is an international leader when it comes to child welfare. My colleagues in other countries often want to know how we built the child protection system in the U.S. because it is a model worthy of emulating. So I also bring this perspective to my comments about the U.S. State Department Trafficking in Persons report. It was an important step in 2010 when the U.S. Department of State included the U.S. in the tier system of the TIP report. As part of an international network

ECPAT-USA often received questions from colleagues around the world about why the U.S. did not hold itself to the same standard as it held other countries. It has powerful symbolic and diplomatic importance for the U.S. to list itself in the tier ranking.

I think we benefit as a society when our government publicly reports, in an honest and transparent way, how it is working to address the crimes relating to human trafficking and serve those who are harmed. As part of this reporting process, we also see that much more could be done to identify, protect and serve child victims of human trafficking in the U.S. The 2012 report shows that children who are sexually exploited are still being arrested rather than offered support and protection, although the numbers are lower than they were in previous years. It also shows that very few children trafficked from other countries are being identified and offered assistance as trafficking victims.

A shortcoming of the Report is that it does not show the many things that we still need to do to prevent children from being trafficked. The U.S. government does support various initiatives and activities to counter human trafficking and assist victims, but we are far from achieving a level of care for trafficked and exploited youth that I expect from my country. Prevention is everything. It is a disappointment that we are still counting how many services were provided and how many arrests are made, when what we really need is a laser-like focus on preventing vulnerable children from being ensnared by traffickers in the first place.

In the United States children are exploited and sold in the sex trade. Frequently, they are children who were sexually abused at home by a family member or family friend. Frequently they are children who ran away or were thrown out of their homes, or children who are in foster care. They are often children who do not have a loving and caring adult who is willing to offer the protection and support they need to see them through the challenging teenage years. Despite having a nationwide child welfare system in place, clearly there is something wrong. What we have found over the years is that the majority of workers in the child welfare system are not effectively equipped to identify a commercially sexually exploited or trafficked child. They do not know the indicators of human trafficking and they do not know how to help them when they do identify one, because of the myriad special needs they have. Fortunately some state child welfare agencies are coming around to understanding this population of children, and how to help them. Children whether trafficked for sex or labor need our existing systems to come around faster, because no one wants to think of a child spending one more night in the hands of a pimp or trafficker. We have to move our nationwide system of child welfare agencies along with more urgency to get to a place where every child-welfare worker knows the signs of human trafficking, and knows the best way to help the children. For this reason we strongly support legislation that was introduced last session, led by Rep. Bass, to strengthen the child welfare response to human trafficking. Legislation like this at the Federal level will help us get to a place where we can find and assist the most vulnerable of children living among us. We all want the U.S. to be seen as a country that values and works to protect all of its children. We have to get this right. When we do have it right, the U.S. will be able to report on this in the TIP Report and in other international fora, and hopefully become a model of child protection and child welfare for other nations to learn from.

As an anti-trafficking organization ECPAT-USA has often led the conversation on the diverse populations of youth who are at risk for trafficking. We have a long history of partnering with other anti-trafficking groups. Today we are an active member of the Alliance to End Slavery and Trafficking, or ATEST – a coalition of 12 anti-human trafficking groups.

But our perspective has expanded in recent years and it is clear that there are many interest groups and communities that work to protect children who also have to be part of this discussion. The juvenile justice system, runaway and homeless groups, and schools all have to be part of an energetic network of groups and individuals proposing system changes and taking responsibility for making sure every child in the U.S. is safe from trafficking and exploitation. We are glad to hear that federal agencies are moving in the direction of understanding the disparate systems that need to be involved to protect our children. We hope that the Federal Strategic Action Plan on Services for Victims of Human Trafficking in the United States will take on this challenge and drive all child- and youth-focused agencies to play an active role.

Sex tourism

Another area where the U.S. needs to live up to international standards is in combating child sex tourism. Many countries have started to put in place public and private sector educational and awareness campaigns to educate travelers that it is against the law to exploit children in every country. For example, in the international airport in Costa Rica there are signs reminding incoming tourists that it is a country that protects its children. A similar campaign took place in Brazil. A number of countries' airlines have run in-flight videos. Air Canada is currently considering one. Some countries like the Netherlands and France have made posters and flyers available to outbound tourists about the laws against sexual exploitation. The U.S. government and U.S. industry have never undertaken this type of overt widespread public campaign despite having a strong federal law against child sex tourism that can be used to prosecute traveling sex exploiters. We must do more. Furthermore, how can the U.S. give countries a low ranking for having a large sex tourism industry when it is often Americans who are traveling there to exploit the local population? The U.S. must be willing to take on its own public education campaign to make our citizens act more responsibly when traveling abroad

International standards for protecting children.

We believe it is in the U.S. best interest for it to join the community of countries that have ratified the Convention on the Rights of the Child. The U.S. government has ratified the Optional Protocol to the UN Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography. The U.S. government's implementation of Optional Protocol was recently reviewed by the UN Committee on the Rights of the Child. The Committee's concluding observations are expansive, 14 pages worth. A three-page summary of the Committee's recommendations is attached to this testimony.

In general many of the Committee recommendations fall into these five areas:

- The U.S. should be sure that all crimes in the Optional Protocol are covered in its federal, state, and local responses as well as laws, procedures, awareness efforts, and training of

relevant professionals who work with children. Appropriate financial support must be provided to ensure effectiveness.

This includes ensuring state laws addressing trafficking include measures to address *both* sex and labor trafficking.

- As crimes against children occur across the country, a 50 state-all territory response is required. Only strong coordination and communication of a national plan across federal and state agencies and stakeholders can result in effective efforts to prevent and address the crimes in the Optional Protocol.

I note that the U.S. government has developed a draft Federal Strategic Action Plan on Services for Victims of Human Trafficking in the United States. This is a positive development. But unless it has a specific set of strategies for protection of child victims of human trafficking, both sex and labor, I fear that the children will vanish from view and their specific needs and rights will not get the attention they deserve.

- The U.S. must make efforts to synthesize federal and state legal definitions of Optional Protocol crimes in order to provide the widest protection for children and the least spectrum of interpretations.

Creating standardized definitions for the crimes in the Optional Protocol, indeed even for human trafficking, across agencies and jurisdictions is an obvious first step. For example, one place where this is obvious is in the data collected by the National Human Trafficking Resource Center, the National Center on Missing and Exploited Children and the Runaway and Homeless Youth Hotline who might all be receiving calls from or about child trafficking victims, but classifying them differently.

- The child's best interest and health is of paramount concern whether the child has been a victim of pornographic images, illegal adoption, egregious labor practices, or sexual exploitation. Adequately funded services must be made available to aid, restore and shelter child victims of Optional Protocol crimes, including both labor and sex trafficking victims.
- Without data, it is hard to effectively target our actions and to measure our results. The U.S. must collect disaggregated data – at the federal and state level - on all offenses in the Optional Protocol.

Generally, while we also know advocates and service providers around the country are seeing child labor trafficking occurring, there is little to no data or research to help us better understand this phenomena

Finally, I am also attaching to my testimony a copy of the ECPAT report on child sexual exploitation in Russia that the subcommittee may want to consider as it continues to look at tier rankings. It can also be viewed online here:

http://www.ecpat.net/A4A_2005/PDF/Europe/Global_Monitoring_Report-RUSSIA.pdf

In conclusion, Chairman Smith, Ranking Member Bass, I would like to thank you for your steadfast commitment to ending human trafficking – both here and abroad – and for your interest in ensuring that the State Department's Trafficking in Persons Report remains a strong tool in

our country's effort to raise awareness about and eventually end one of the most egregious human rights abuses of our time.

Summary of Concluding Observations by the Committee on the Rights of the Child on the U.S. Second Periodic Report

Source: CRC/C/OPSC/USA/CO/2

Just as the Optional Protocol covers a spectrum of crimes against children, the concluding observations include several recommendations that should be applied to the U.S. response to all crimes in the Protocol.

- ➔ The U.S. should be sure that *all crimes in the Optional Protocol* are covered in its federal, state, and local response as well as laws, procedures, awareness efforts, and training of relevant professionals who work with children. Appropriate financial support must be provided to ensure effectiveness.
- ➔ As crimes against children occur across the country, a 50 state-all territory response is required. Only strong coordination and communication of a national plan across federal and state agencies and stakeholders can result in effective efforts to prevent and address the crimes in the Optional Protocol.
- ➔ The U.S. must make efforts to synthesize federal and state legal definitions of Optional Protocol crimes in order to provide the widest protection for children and the least spectrum of interpretations.
- ➔ The child's best interest and health is of paramount concern whether the child has been a victim of pornographic images, illegal adoption, egregious labor practices, or sexual exploitation. Adequately funded services must be made available to aid, restore and shelter child victims of Optional Protocol crimes.
- ➔ Without data, it is hard to effectively target our actions and to measure our results. The U.S. must collect disaggregated data – at the federal and state level - on all offenses in the Optional Protocol.

The CRC recommends that the U.S. ratify the UN Convention on the Rights of the Child and the Optional Protocol on a Communications Procedure. More detailed recommendations include:

COORDINATION, DATA AND TRAINING

- National Strategy for Child Exploitation and Prevention should cover all offenses and coordinate with relevant stakeholders at all levels. The National Coordinator should have the authority and resources to get real results.
- The National Strategy should set targets, indicators of progress and budget allocations.
- The development of the strategy should create a model for state action to implement the Optional Protocol.

- Adopt a coordinated strategy and dedicated budget for combating the worst forms of child labor, especially in agriculture, and strengthen Department of Labor resources to ensure that effective inspections, monitoring, and child restoration take place.
- Develop and implement comprehensive, disaggregated data collection - which is consistent at federal and state level - covering all areas of the Optional Protocol, including labor and working conditions. Include risk factors data.
- Support and make funding available for research focusing on: the root causes of offenses against children; identifying the most vulnerable children; the extent and impact of protection programs; and the profile of criminals who fuel demand for sex with or pornography of children.

AWARENESS AND RESPONSE

- Develop school-based prevention and early intervention programs that involve key stakeholders and children.
- Develop long-term, age appropriate awareness programs directed toward children and families and integrate them into school curricula, making the provisions of the Optional Protocol widely known.
- Promote public awareness that helps prevent and combat crimes and focuses on reaching children at risk of abuse, not allowing child risk to get lost in messaging about adult trafficking.
- Raise awareness to combat sex tourism and combat the idea that exploiting poverty stricken children is acceptable.
- Engage tour agencies to become signatories to the Code of Conduct and raise awareness of offenses under U.S. law.
- Treat unaccompanied foreign children, as well as migrants and refugees, as victims, not immigration criminals. Victimized children should not be deported. Best interest determinations should be considered and services provided throughout the process.
- Establish an independent national human rights institution to regularly monitor fulfillment of children's rights under the Protocol and address complaints from children. Encourage states to establish a Child Advocate or Ombudsman.
- Prevent child pornography proliferation by establishing internet safety authority, ISP licensing and blocking, and surveillance for harmful images.
- Strengthen efforts to identify and assist child victims of pornography and prevent and punish for child pornography.
- Review and improve standards for hiring children by U.S. companies in order to prevent egregious forms of child labor.
- Prevent, investigate, and prosecution the organ sales and protect victims. Include information on the periodic report.

LEGISLATION AND THE LAW

- Ensure full protection of children until age 18 at both federal and state level for all Optional Protocol crimes and ensure appropriate penalties, even for attempt. Define and prohibit child prostitution without any regards to whether compensation changed hands.

- Pass state-level laws protecting sexually exploited children from being arrested, detained or prosecuted for prostitution and provide proper training on such laws.
- Amend laws that allow “reasonable belief that the victim was at least 18 years of age” as legal defense for sex tourists.
- All crimes under the Optional Protocol should be subject to extradition and the double criminality requirement removed. Strengthen extraterritorial jurisdiction to prosecute child sex tourists even where the country where the offense occurred is not a party to the Protocol.
- Protect children in court by establishing procedures and standards for care and training professionals on trauma-informed techniques. Make legal defense available to all victims and allow videotaped testimony as evidence to protect children from further trauma.
- Ensure that TVPRA’s defines modern forms of servitude as related to child labor.
- Enact the 2012 Violence Against Women Act and strengthen gender-based discrimination and violence
- Sexual abuse by individuals from the faith-based community must be properly investigated. Encourage collaboration and dialogue with faith-based communities to aid with prevention, investigation, and prosecution.
- Amend laws to add legal liability of legal persons who participate in any crimes under the Protocol.
- Ratify ILO Convention no. 138 (1973) concerning the minimum age for work, and set a minimum labor age of 16 for child work on small farms, with or without parental consent. Ensure that child labor legislation specifically focuses on unaccompanied foreign minors.

ADOPTION SPECIFIC RECOMMENDATIONS

- Adequately and effectively implement the Hague Convention on Intercountry Adoption.
- Be particularly vigilant regarding petitions for adoption that fall within the 180 grace period after the Intercountry Adoption Universal Accreditation Act, S.3331 goes into effect.
- Modify the Intercountry Adoption Act of 2000 to better define “knowledge” so that it allows for suspicion as grounds for investigation of abuse or sale.
- Provide social support and counseling to adoptive parents with proper follow-up and monitoring. Establish provisions in the case of abuse, neglect or exploitation, and liability of adoptive parents in such cases.
- Train and monitor social workers and case managers on adoption laws and regulations, and ensure effective accreditation and monitoring of all agencies and individuals directly or indirectly involved in adoption, perhaps limiting their numbers.
- Take necessary measures to prevent adoption agencies or individuals from entering foreign countries and disregarding legal procedures of those countries. Ensure adoption processes do not result in financial gain to any party and regulate and monitor issues such as surrogacy payments before birth and what should be considered “reasonable costs.”

The complete document can be found here: <http://www2.ohchr.org/english/bodies/crc/crcs62.htm>