

Menendez, Human Rights Advocates to Host Media Call on Reports the Admin Will Upgrade Malaysia on List of Worst Human Trafficking Centers in Newest TIP Report

Suspicious, Troubling Move Would Reward Worst Actors, Fast-Tracking their Access to U.S. Markets

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WASHINGTON, D.C. – U.S. Senator Bob Menendez (D-NJ) will be joined by representatives from Human Rights Watch and other human rights advocates, and faith leaders in a media conference call to discuss press reports of the possible upgrade by the Administration of Malaysia's Tier III Ranking in the State Department's Trafficking in Persons Report (TIP). A provision authored by Menendez as part of the TPA trade bill passed last month would bar Malaysia and other countries with the worst human trafficking record from entering into fast track trade deals.

Speakers:

U.S. Senator Bob Menendez (D-N.J.)

Sister Simone Campbell, NETWORK

John Sifton, Human Rights Watch, Asia Advocacy Director

Agile Fernandez, Tenaganita

Transcript:

Melinda St. Louis:

Hello, everyone, welcome to this very important and timely conversation. My name is Melinda St. Louis from Public Citizen, and I'll be moderating the call today.

As you've likely heard, Reuters first reported Wednesday evening that the State Department's Trafficking in Persons or TIP report, which is expected to be released next week, may include an upgrade of Malaysia's Tier III ranking. Particularly in the wake of the horrific revelations of mass graves of human trafficking victims in Malaysia, this raises serious concerns for anti-trafficking advocates in the United States and Malaysia — as well as members of Congress, who included a provision in the Fast Track Trade

Promotion Authority bill last month that would bar Malaysia and other Tier III countries with the worst human trafficking record from entering into Fast Track trade deals.

We are very pleased to have with us Senator Robert Menendez to be able to talk with us today as well as human rights advocates from the United States and Malaysia to respond to the news of Malaysia's possibly upgrade in the TIP report.

This conversation is also timely, as the House and Senate are set to convene a conference committee on a Customs and Enforcement bill that could weaken a strong anti-trafficking provision that is in the Fast Track law.

So first, I'm honored to introduce Senator Robert Menendez from New Jersey, who has been a leading voice in Congress on these issues. Senator?

Senator Robert Menendez:

Thank you, Melinda. Thanks to Public Citizen for their advocacy on this and so many other issues. To all the others on the call, Sister Simone, John Sifton and Agile Fernandez, thank you all for joining us as well.

Earlier this year, on February 4th, the Foreign Relations Committee under the Chairmanship of Chairman Corker had two important hearings on human trafficking. On April 22nd, Congressman Chris Smith of New Jersey held a House subcommittee hearing examining the State Department's Trafficking in Persons report, emphasizing in that hearing the need to maintain the integrity of the Tier ranking system. And on that same day, the Senate voted 99 to 0 on April 22nd for the Justice for Victims of Trafficking Act, authored by Senator Cornyn.

Later on that day on the Finance Committee, of which I am a member, a bipartisan group of 16 senators voted for my amendment to prohibit Fast Track procedures from applying to any trade agreement with a country as Tier III — Tier III being the worst ranking possible. That amendment passed the Senate and the House as part of the TPA bill the president just signed. I relate that history because this is an issue of clear bipartisan priorities and principles.

Now, I am concerned when I hear the news reports from Reuters and others that, in fact, Malaysia might very well be raised to a status which at this point, from everything I understand, has no reason to be raised. As recently as April 17th of this year, the United States Ambassador to Malaysia said that the Malaysian government needs to show greater political will when prosecuting human traffickers and protecting their

victims if the country hopes to improve on its current lowest ranking in the TIP report. So, that's just a couple of months ago.

The TIP report is published annually in June. With the exception of the first report, all subsequent reports until this year were released in June. On June 1st, the Assistant Secretary of State for Population Migration and Refugees, Anne Richard, said that quote, "The 2015 TIP report covers until March of 2015, which means that Malaysia's handling of the Rohingya refugee crisis will only be reflected in the 2016 report."

Now we hear this year's Trafficking in Persons report, already passed due, may very well give Malaysia an upgrade to Tier II. Now if that is true, that looks to me like a cynical maneuver to get around the clear intent of Congress, with no regard for the effect on a key document, a key tool of our country's human rights policy.

So I'm leading a letter from the Senate to Secretary Kerry, stating our shock at this development. I have put in a call to him. I know he's in the midst of the Iran negotiations, but I have put in a call to him on this issue. I plan to speak with him in person as well. I raised this with Ambassador Froman just yesterday as he was before the Senate Finance Committee in a private session.

And I worked in good faith with the Administration, with the help of groups like many of those on the phone, to modify the categorical ban on Fast Track for Tier III trafficking countries. The goal was to take the full weight of the whole TPP deal off the fragile TIP report process. The integrity of America's international human rights reputation, in my view, is at stake. And instead of choosing the route that we worked out together — a written attestation by the President that Malaysia has taken concrete steps to deal with their very serious human trafficking problems — they appear to be giving Malaysia a sweetheart deal.

They put extra time on the clock for Malaysia to put some promises on paper. We don't know for sure what they plan to count as progress, instead of taking the time for Malaysia to demonstrate real action. And I think that in addition to the fact that Malaysia obviously needs to earn its way into Tier II, that the undermining of the TIP report is an incredibly, incredibly dangerous proposition as it relates to our ability to promote our efforts globally against human trafficking and for human rights. And with that, I appreciate the opportunity to speak with all of you.

St. Louis:

Thank you, Senator Menendez. Next, I'm pleased to introduce Sister Simone Campbell, who is the Executive Director of NETWORK, a Catholic social justice lobby. She's a

lawyer and advocate on a range of social justice issues and is well known for her cross-country “Nuns on the Bus” tours. Sister Simone?

Sister Simone Campbell:

Thank you so much. It’s an honor to be on this call, and I’m so grateful to Senator Menendez for his key leadership on this issue, and to the other organizations that we stand with. You will hear about the actual impact in Malaysia, but what I want to list out is the moral consequence of moving in any direction that gives permission for human trafficking.

People of the United States find human trafficking horrifying. In fact, I’ve found that many people find it hard to believe that it is such a big problem in our world. But when the graves of almost 150 trafficked people were found in Malaysia in May, I think it stirred the world’s conscience — that conscience that we need to keep alive in our nation.

We in the United States have been a leader in promoting the dignity of all human beings in the globe. And right now, this potential raising of Malaysia’s category from a III (a bad actor category) to a II (only a moderately bad actor category) seems to me or appears related directly to our trade negotiations, where trade and the economy trumps human people’s lives.

That is wrong. It is not the way forward. And we at NETWORK are working valiantly to ensure that we stand strong for the dignity of all people in our globe.

Pope Francis recently said, and I quote, “People of goodwill, whether or not they profess religious beliefs, must not allow these women, men, and children to be treated as objects, to be deceived, raped, bought and sold and resold for various purposes, and in the end either killed or left devastated in mind and body, only to be finally thrown away or abandoned. It is shameful, and we must stop it.”

That’s where we are now. The United States has led in calling out global behavior that is wrong, that is exploitative of people. We cannot back away from that now because of some economic benefit that we might gain in this spurious trade agreement.

As a person of faith, I say no. We must stand with the moral clarion call of respecting all lives, caring for our people, ensuring that we are leaders in the world — not just militarily, but in the human rights, the human dignity that we know is essential for a quality life for everyone.

So I urge the State Department as they process this to make sure there is no change in the rating of the Malaysia, as long as there has been no change in Malaysia's actions, not just words. And I'm very grateful for this opportunity to speak with you today. Thank you so much.

St. Louis:

Thank you, Sister Simone. Next, I am glad to introduce John Sifton, who is the Asia Advocacy Director of Human Rights Watch, who has been following this issue closely as well.

John Sifton:

Thank you. I wanted to start with some basics on the factual situation, in case there are any journalists out there who are not familiar with Malaysia's trafficking record. Just a quick review:

There are refugees from Burma who are fleeing violence and persecution, who will pay anything and do anything to get away from that persecution, with the end result that they end up in situations of forced labor or essentially an involuntary detention where they're forced to work or worse.

There are people who are seeking better economic livelihoods who sign up to work as domestic workers or factory workers who end up losing their passports — not losing their passports, but having their passports taken from them by traffickers. Or who are put in a situation of wage bondage where they cannot seem to make enough money to pay back the hefty fees they pay in order to be placed in employment in Malaysia.

And you have other types of situations, including on the fishing industries and boats that are run by the Malaysian seafood industry.

The bottom line is that there are millions and millions of migrant laborers and refugees in Malaysia and many of them — although it is difficult to know the number — many of them are in situations of forced labor which meet the legal definition of human trafficking.

Malaysia has done very, very little to combat this scourge. That's why they were placed on Tier III. They have done very little since being placed on Tier III to warrant an upgrade.

This is not a controversial point. Nobody in the State Department could look at me with a straight face and lay out the steps Malaysia has taken that would warrant an upgrade to the Tier II watch list. It would be a comical attempt if they attempted to do that.

That is why we are so shocked by reports that Malaysia may be moved to Tier II watch list. The State Department is telling journalists that a final decision hasn't been made. If so, that's great. What we want to say is, whatever's going on here, it's important that the message be strong from the human rights community.

The message we want to get to the State Department is this: If Malaysia is moved to Tier II watch list, we will view that decision as so extraordinarily unwarranted, that political interference can be presumed.

Let me make that clear. It is the presumption that in a case like this, where the facts are so clear, that political interference has been brought to bear on the decision that was supposed to be made according to criteria set by Congress.

Congress wrote a law telling the State Department to write this report. There are criteria for how it is to be written. The State Department has its own criteria for how decisions are to be made. If there is an upgrade, those criteria will have been discarded, which means that something has gone wrong, deeply gone wrong, with the integrity of the process — so much so that we would urge Congress to investigate. We would urge the Inspector General of the State Department to look at what's going on.

A statute was passed and the State Department is in the wrong if this happens, hypothetically. It is a very serious matter, if this happens. It's not just about the integrity of the process. It raises questions about the integrity of the State Department officials who are responsible for writing this report.

Now, it may be that the people who are actually responsible for writing this report had Malaysia staying at Tier III and political interference was brought to bear from higher levels. If so, an investigation or some sort of an analysis of outside actors is warranted to find out what happened.

Now, on a personal level, I want to emphasize, I don't assume that these reports are necessarily accurate. It may be that this is all a misunderstanding. There are lots of reasons things leak in Washington — sometimes mistakes, sometimes exploratory test balloons.

Whatever the case is now, it is absolutely imperative that the State Department listen to the outcry since the Reuters report broke on Wednesday night and make sure that this process goes through with the integrity it deserves.

Malaysia doesn't deserve the upgrade. There are other ways to work around this if the TPP is so important. We don't want the Trafficking in Persons report and the integrity of the process that leads to it to be damaged just because of a need to reach a final decision on the TPP.

A final note about Malaysia, as some of you do follow Malaysia know, the Prime Minister of Malaysia is in political and legal trouble right now and is frankly in little position to finalize a final TPP later this month in any case. A worst-case scenario I can imagine is that the upgrade occurs and yet Malaysia is not signing a TPP this month. And if that's the case, then we have to ask ourselves, why so much damage was done to the integrity of the process for so little cause? So I'll leave it there and wait for questions.

St. Louis:

Thank you. Thank you, John. Finally, we're very pleased to have with us Ms. Agile Fernandez, who is the director of Tenaganita, which means "Women's Force." Since 1991 this organization has provided legal services and conducts advocacy on behalf of migrant victims of abuse, trafficking victims, refugees and asylum seekers. It's award-winning and Ms. Fernandez is also a consultant for Anti-Trafficking in Persons and provided input to the State Department's TIP report from Malaysia. Ms. Fernandez?

Agile Fernandez:

Thank you, Melinda. And I shall say good morning to Americans while we say goodnight to Malaysians.

In terms of the whole TIP report, we understand the speculations in both our media and the overseas media is that Malaysia will be upgraded to Tier II. But this is speculation, and we are waiting for the release of the report next week.

But however, we would like to reiterate here that if Malaysia is upgraded to Tier II, then we see that as an adulteration of the TIP report for financial gains. We ask then, what is the difference between human traffickers and trade supporters who are supporting deplorable rights record which is being pushed under the rug because of trade deals like the TPPA?

For us, it is simply unacceptable. And Tenaganita will then wait to see what the official report says. But if it is so and true, then it is very clear that trade is more important to the United States of America than the issue of human slavery.

Tenaganita will not compromise on human rights. Every day we are dealing with trafficked victims. It is heartbreaking. While on the other hand, we see traffickers who are roaming free. Convictions are low, as we know the track record is.

Over the years we have seen that Malaysia has not fully given its support and political will to combat human trafficking. We say that nothing, no one and no state should become a barrier to accessing justice for victims of trafficking. We hold very close to our hearts that a country's worth is measured by the track record of good governance, transparency, corruption-free, and independent justice system, and a good human rights record.

I know that earlier on, there were questions of talk about the discovery of the mass graves and the boat people tragedy. The last three days we had a regional conference in Kuala Lumpur looking at this whole crisis that is at our doorstep. We together say that again we have seen a lack of promise on human rights.

Now I understand that the TIP cut-off prevents March, and the whole crisis of the boat tragedy happened in March, so it will not be taken into account. However, we want to reiterate that Malaysia really has not showed much life, power, political will, and has been so far low convictions. We are still grappling with a lot of coming together and working together, while on the other hand that the U.S.A. has given lots of support in terms of training officials and combining how officials with the government and NGOs can work together. But it has not really taken off in the real sense.

So we will wait. We are actually waiting for next week's release to see where we stand. Then we will definitely make a proper release from this side.

St. Louis:

Thank you very, very much, Ms. Fernandez for taking the time. I'd like to thank all of our participants: Senator Menendez, Sister Simone, John Sifton, and Ms. Agile Fernandez.

Before I open for questions, I'd like to mention that several faith organizations are also poised to send a letter to the U.S. Congress. Probably within an hour after the call, we can make that available. And also, there's a statement from a Malaysian member of Parliament, Charles Santiago, that we can also make available if that is of interest.

Now I'd like to open it up for questions.

Zach Carter, *Huffington Post*:

Hi everybody, thanks for doing this report. I guess this question is for Senator Menendez, but anybody else who knows, feel free to chime in as well. The State Department was supposed to issue an interim TIP report in February to the Foreign Relations Committee in the Senate. Did that ever happen?

Sen. Menendez:

Not to my knowledge.

Zach Carter, *Huffington Post*:

Okay, thanks.

Ryan Rainey, *Inside U.S. Trade*:

Thank you very much for taking my question. Senator Menendez, you mentioned that you met with Ambassador Froman and other members of the Finance Committee. I was just hoping you could elaborate on what Ambassador Froman said on this specific issue and the reports. And I also wanted to know, in addition to writing letters and meeting with the Secretary of State, are there any legislative ideas that you have, maybe in the Customs Conference, maybe if the TIP report does indeed put Malaysia on the Tier II watch list that you plan to go through with. Thank you.

Sen. Menendez:

Well as to the first part of the question, of course Ambassador Froman isn't the author of the TIP report — that comes from the State Department — but I wanted him to know that if the reports are true, then not only would it undermine the TIP report as a powerful tool to work globally to combat human trafficking, but that it would also undermine credibility on other issues like environment and labor rights, because if you can manipulate Malaysia to a better standing than it deserves based upon its actions, then there are other elements that members are concerned about — whether it be environment or labor or other human rights issues — in order to accommodate the desire to have a particular country in the trading bloc.

So I said that undermines not only the human rights aspect, which first and foremost is my concern, but also undermines other elements. He said "Well look, I can't speak to the TIP report because I don't have it. I'm not the author of it, nor do we generate it."

The only thing he mentioned about Malaysia is that they just I think in the last few days passed a law on human trafficking, but as I reminded him, there are plenty of laws on the books. Malaysia has a terrible record of any enforcement mechanisms or actual enforcement, and so I don't care how many laws are passed. This is a constant element of trade issues that enforcement is as important — if not more important — than any particular law that might be passed. So that's the part on Malaysia.

As it relates to any legislative actions, look, first we will wait for the TIP report to be issued. As John Sifton said, I hope, I really do hope that these reports are wrong. But if they are right, then we will look to talk to the conferees to see what we can do as it relates to keeping the original stronger language in, because if they're going to manipulate the report, then I want the highest standard available to us to deal with any trafficker, any country that's involved in trafficking, and to see what other results we can get. But I'll wait for the actual report.

Sifton:

I would just like to add that the way the process is supposed to work is that you merit an upgrade, not by taking one or two actions, but by making significant progress over a period of time. And any record, whether it's a human rights record or a sports record or any kind of record, is something that has to be built up over time. You can't just pass a law or do a single item, whether it's before or after March of this year. You have to demonstrate progress on a number of fronts over a sustained period of time, and that is the thing that Malaysia has not done. Not even close. This is not a gray area.

Sen. Menendez:

Just to piggyback on that, one final comment on what John just said. If on April 17th of this year the United States Ambassador to Malaysia says that the Malaysian government needs to show great political will in prosecuting human traffickers and protecting their victims if the country wanted to improve its standing, well April 17th was less than three months ago. So that's not possible that any meaningful actions were taken that would meet that standard as described by John or as described by our own US Ambassador.

Rachel Oswald, *CQ Roll Call*:

Hi, thank you for organizing this call. My question is for Senator Menendez. Recognizing Senator Wyden is going to be one of the conferees on the Customs Bill, and that he cosponsored the modification with you to your original human trafficking amendment language, have you spoke with him about your concerns? Do you have a sense of what

steps he will take? Could you elaborate on that? And also you said you were circulating a letter to Secretary Kerry. How many Senators have signed on at this point? Thank you.

Sen. Menendez:

Well, the letter that we just began when I couldn't get the Secretary on the phone, so I don't know yet how many signatories will get on it. But considering the vote that we had on the Senate on human trafficking, considering the 16 votes we had in Finance Committee on this issue, I think we'll get a healthy numbers number of Senators, and of course the timeliness of it mitigates our timeframe to get as many signatures as possible, because we want to get the letter to the Secretary before any report is issued.

As it relates to Senator Wyden, I can't speak for him, but we were together when I made these comments to Ambassador Froman, and he did express concerns about it. What he will or will not do is something you'll have to ask him.

Howard Lefanti, *Christian Science Monitor*.

Hi, yeah, thank you very much. I really had my question answered. It had to do with the calendar and the State Department's claim that this report only really address up to March, and that that wouldn't include the news, the revelations of the mass graves. I take it from what Mr. Sifton just said that that is sort of immaterial, that regardless of that, as you said, Malaysia hasn't even been close to making the improvements over the last year that would be required.

Sifton:

Yes, that is correct. Again, I want to emphasize, it is not a gray area. If they upgrade, something has gone wrong. It is a political interference. It is not a stretched rubber band; it's a broken rubber band.

Martha Mendoza, *Associated Press*:

Hi, this is Martha, I have two separate questions, and I'm going to ask them both and let you answer. The first is that there hasn't been a US ambassador for TIP since Ambassador CdeBaca left last year. Do you think this has any impact on TIP office's ability to advocate within State? And my second question is we are talking about Malaysia, but there are other Tier III's from 2014 in Asia. I'm hearing a lot of strong feelings about what you think should happen to Malaysia, but what about Thailand,

which is also Tier III or some of the other countries? Do you think they should stay or move up? What are your thoughts on that?

Sifton:

I'll go first I guess, because I'm the Asia Advocacy Director. Thailand, absolutely not. Thailand has not done anything to warrant an upgrade. They're not a member of the TPP though, so I don't see a lot of pressure there. On the issue of Luis CdeBaca not being there anymore -- look, I'm going to emphasize again, I have immense faith in the staff of the State Department who've shown persistence, integrity, diligence in putting these reports together. I don't for a minute doubt their integrity. I worry about political interference at high levels, but not among the TIP office. They have done incredible work over the years to put these reports together, and whether the leadership or acting director or what... I know that that office, and they're good people and they're trying to do their jobs.

Sen. Menendez:

Let me add one thing to what John said. I too have the highest faith in the staff that puts together the TIP report. Our concern, at least my concern, does not relate to them. They've shown extraordinary integrity in work, but I do think that not having an ambassador hurts the TIP office, and from my perspective it is under-resourced and should be a higher priority. While that's not an excuse for any manipulation of Malaysia going from Tier III to Tier II, on the broader question I think it is important to have someone who can both be an advocate internally as well as have the resources necessary for what is — by all of the hearings we've had and all of the work of the people on this phone — a very clear and pressing international concern.

Mina Pullman, *TV Tokyo*:

Thank you very much. I was wondering if you could reiterate how unusual is the delay of the report being released in July instead of June? Also, can you think of any other possible explanations for this delay?

Sen. Menendez:

Well, as I said, and I guess John and others who have dealt with it... from my understanding, the TIP report has been published annually in June, and with the exception of its very first report, all subsequent reports, until this year, were released in June. I don't know why the delay, but obviously a delay with the reports that are out there about Malaysia being moved from Tier III to Tier II, if true, is incredibly alarming to

me in terms of the report not coming out on time. I don't know about anything that would have subverted the report not to be available in June, like it has been every other year, and I obviously, we've already expressed our concerns about Malaysia's change in the report.

Andrew Siddons, *New York Times*:

Hi, thank you for taking these questions. My first question is, if the report does upgrade Malaysia next week, can any of you imagine what it could possibly say to justify the upgrade? And two, can any of you think of examples in the past where the report has actually spurred bad actors to improve on their trafficking behavior? Thank you.

Sifton:

Oh yes. I mean, this report is a motive for countries to improve their record. They don't always show success in doing it, but there is an incentive there and countries have demonstrated that they respond to it. Thailand is a good example. The problem with Thailand, though, is that they don't do enough. They do cosmetic things, like they will launch anti-trafficking raids on brothels and things like that, but it doesn't address the larger problem. It's sort of symbolic — not symbolic, but sort of "Potemkin-type" attempts to get their way out of the Tier III ranking.

As far as the ostensible reasons for Malaysia to be upgraded, I imagine that if you did lack integrity and you did want to write a report that said they did deserve a Tier II upgrade, you would put together a collection of the piecemeal prosecutions there have been — which are few and far between. Fluff them up as much as possible, cite statements that are made — statements of concern. Basically just take everything that you have that demonstrates Malaysia at least acknowledging its trafficking problem, slapping that all together, and calling it progress.

It would be an intense lawyering and rhetorical lift, but I suppose anything is possible.

Ryan Rainey, *Inside U.S. Trade*:

Thank you again, I just have a couple of follow-ups. First of all, Senator Menendez, Mr. Sifton mentioned the idea of having an OIG investigation or a congressional investigation to see if there was any political involvement if Malaysia is upgraded. Is that a strategy that you are willing to endorse, at least on the congressional side? And secondly, for Mr. Sifton, you mentioned I believe this new law — I think it was passed in June. Would the State Department be able to cite any new law as proving that Malaysia had improved its human trafficking record, even if it fell outside of the timescope of the

review, which ended in March? Can they cite progress, just not cite the problems that they had like the mass graves that fall outside of the review? It's kind of a technical question. Thank you.

Sen. Menendez:

Well I'll take a stab and let Mr. Sifton answer on the latter part. I'm going to consider any and all options. I already raised in anticipation of my concerns at a Senate Foreign Relations hearing, which was not on this topic per se but included Under Secretary Sewall before us. And while this is not directly in her domain, since other elements of her portfolio are, that deal with human rights and other key issues, I raised it then to wave my saber about my concerns about any politicization of the TIP report, and I made it very clear in a full committee hearing that I had concerns and would see that as a real negative. If in fact — and I keep saying if because we don't have the report - the actual TIP report - we have reports about what will happen - If in fact that happens, then I would first of all urge the chairman, Chairman Corker, who has spent so much time on this issue, on human trafficking, and has a bill that I cosponsored with him from an international perspective, to hold a hearing to conduct inquiries as to what happened. And depending upon whether he is willing to do that or not — if he is, I want to see what that hearing produces. But if he isn't, and there's no other way to satisfy my concerns, I would consider asking for an Inspector General's report.

Sifton:

On the issue of the timeframe, the criteria laid out by law — and the State Department's own criteria — make it clear that the report is supposed to be about the period the report is about, and if something happens after that, it's not receptive. For Human Rights Watch's report, we have the same sort of rules. We don't go beyond the calendar year, and the State Department's human rights report is the same. It's not within the contours of the criteria set by law to use recent events to report on progress.

With that said, let's say they had made immense progress, you might say "Look, notwithstanding everything else, given that they made such extraordinary progress, we're going to upgrade them for what they've done recently even though it's beyond the period." Well then okay, we're not going to be overly lawyerly about this, but the bottom line is what they've done in the most recent months is not sufficient anyway. So even if you were to extend the period, it's not enough. It's not enough to warrant an upgrade.

Sen. Menendez:

Yeah, and I would just add to that, I would find it particularly difficult — I agree with the essence of what John is saying, which is really the core of the argument — I would find it particularly difficult that you would acknowledge an action that Malaysia took in support if you want to consider an upgrade, but not an action that is detrimental to an upgrade, both which happen in a timeframe outside of the reporting period. It's either we consider everything or we stick to the reporting period. From my perspective, you can't have it both ways.

Sifton:

One last thing Ryan, I'd just add when I first heard these reports on Wednesday, journalists contacted us even before it broke, I was shocked and I didn't believe it. I thought this is the kind of thing which doesn't happen. If this happened on *House of Cards*, I would say "Oh that's not plausible." That was how shocked I was, just to give you a sense of how far we are from what the criteria demands. This isn't a gray area. This isn't like Vietnam being a country of particular concern vis-à-vis religious freedom. It's not a gray area where we can argue back and forth. There's really no argument to be had here.

St. Louis:

I know that Senator Menendez is going to need to leave. Perhaps this could be the last question.

Zhaiyun Tan, *Inter Press Service*:

Thanks for having this call, and I would like to direct this question to the Tenaganita representative. I just want to know if there have been any prior initiatives taken by the Malaysian government in the whole process of negotiating for the TPP, or has this aspect of the whole trade bill been ignored altogether by the country?

Sifton:

I'm not quite sure I understand your question.

St. Louis:

This question was for Ms. Fernandez, correct?

Tan:

Yes, for the representative from Tenaganita.

St. Louis:

Are you still on the call Ms. Fernandez?

Fernandez:

Yes, what was the question please again?

Tan:

Yes, I just want to know, throughout the whole process of negotiating for TPP, has the Malaysian government taken any initiative at all to address the human rights issue, or did they not bring it up at all in the country?

Fernandez:

You're talking about a TPPA report, right?

Tan:

Yes.

Fernandez:

In terms of that, everything is confidential and I understand from when President Barack Obama was here there were conversations and meetings dealing with TPPA, and that was started but it was not a transparent, open information sharing between the civil society and NGO groups.

And I just tell people, talking to this, I would just like to say that last night when the Bangladesh journalists were at the Kuala Lumpur International Airport, these were the boat people who landed at Langkawi Island in Malaysia on humanitarian grounds accepted them, but then they were being, the Bangladeshi immigrants, or rather I would say survivors of jeopardy, were being sent back yesterday. We were shocked that they were chained together, every migrant worker, their feet, they were handcuffed, and they shared a report saying that they were also beaten.

That alone last night was shocking for us which proves Malaysia's track record of human rights. We are looking at survivors of human trafficking. And last night, the first group of Bangladeshis left, and tonight another group of 94 are leaving, but throughout

the two or three days at the airport, they were chained and they were squatting on the ground. That is not acceptable by any of us Malaysians here today. Not for what the state is doing.

St. Louis:

Thank you very much, and I'd like to thank everyone, our distinguished panelists: John Sifton, Agile Fernandez, Sister Simone Campbell, and of course Senator Menendez for your leadership, and for bringing your expertise to this call. I'm glad that there's been so much interest. If there are reporters who still have questions we can help to direct those questions to the speakers. You could email me at mstlouis@citizen.org and we will make available other statements that have been made as well. With that, again I'd like to thank our panelists and thank you all for joining us.