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August 8, 2008

Dr. Condoleezza Rice  
Secretary of State  
2201 C Street, NW  
Washington, DC 20520

Dear Secretary Rice:

Last week the Government Accountability Office issued a report documenting the ongoing problem of domestic worker abuse by foreign diplomats in the United States. The report determined that media reports of such abuse are not isolated incidents. The GAO indicates there have been 42 documented allegations in the United States of unlawful abuse, exploitation, or human trafficking by foreign diplomats with immunity since 2000, and that the Justice Department has opened 19 criminal investigations since 2005.

The GAO report also reveals the State Department has been negligent when it comes to assisting the Justice Department with its investigations, ensuring that consular officials properly implement policies to educate domestic workers about their rights, and maintaining data about allegations of abuse by foreign diplomats. The report indicates the State Department has “hampered” Justice Department investigations by long delays in providing information, in one case taking six months to answer an inquiry about whether a particular investigatory technique was permissible under the diplomatic immunity doctrine. Because time is the enemy of successful investigations, such lengthy delays are unacceptable.

Given the hurdles created by the doctrine of diplomatic immunity, it is essential that your agency act expeditiously and diligently to hold diplomats accountable for their actions to the fullest extent permitted by law. In too many instances, diplomats and their families are using diplomatic immunity as a shield from liability and are abusing domestic workers with impunity. The State Department cannot turn a blind eye to these transgressions.

In its report, the GAO recommended the State Department take the following steps: (1) respond more quickly to inquiries from federal law enforcement investigating diplomats accused of human trafficking; (2) establish a system to spot check compliance with State Department policies requiring consular officials to notify visa applicants of their rights; (3) ensure that A-3 and G-5 visas are not automatically issued to countries whose diplomats have a track record of abusing domestic workers; and (4) improve its data collection for trafficking allegations against foreign diplomats.

While I appreciate your general willingness to accept these recommendations, I seek assurance you will implement them in a comprehensive and timely manner.

I am also concerned about some positions taken in the State Department's July 9, 2008 letter to Congress regarding S. 3061, the Trafficking Victims Protection Reauthorization Act of 2008, which was recently approved by the Senate Judiciary Committee. The letter indicates the State Department "strongly opposes" several common-sense provisions that would hold foreign diplomats more accountable for their abuse of domestic workers.

In order to offer assurance that you are committed to holding foreign diplomats accountable for their abuse of domestic workers, please provide answers to the following questions:

1. Will you commit to fully implementing the four GAO recommendations by the end of this year? If not, please explain why, and indicate your proposed timetable for implementation.
2. In the State Department's written response to the GAO, regarding the issue of your agency hampering investigations by law enforcement, you stated: "it would be useful to establish an agreed-upon interagency process to address trafficking and other investigations involving foreign diplomats, including a manner for timely communicating about the use of investigative techniques in these cases." What specific steps have you taken to initiate this interagency process? Which investigative techniques are the most controversial and will require the most negotiation?
3. The State Department's July 9, 2008 letter regarding S. 3061 indicates your agency has "a number of actions under consideration" to address the problem of domestic worker abuse by foreign diplomats. Apart from implementing the four GAO recommendations, what other actions do you have under consideration to address this problem?
4. The State Department opposes a provision in Section 203 of S. 3061 that would require the Secretary of State to suspend the issuance of A-3 and G-5 visas – for such period as the Secretary deems appropriate – to foreign diplomats employed by a country or entity that has a record of abusing or exploiting domestic workers. Why do you oppose this requirement in light of the complete authority it gives the Secretary of State to determine the length of the suspension?
5. The State Department also opposes a provision in S. 3061 that would require your agency to personally interview A-3 and G-5 visa holders before renewing their visas in order to ensure they are not being abused, on the grounds that such an interview would be too burdensome. Why is this small burden not outweighed by the benefit of discovering whether domestic workers are being abused or exploited? How many A-3 and G-5 visas were renewed each year by your agency over the last ten years?

6. In a letter dated February 21, 2007, your Legal Advisor stated the State Department's practice is "to notify law enforcement agencies when potential cases of trafficking in persons come to our attention." How many such notifications has the State Department made, and what was the outcome of each notification? Has the State Department ever made notifications of non-criminal abuse to agencies like the Department of Labor?
7. The GAO report indicates not a single foreign diplomat has been successfully prosecuted for human trafficking crimes, though it notes one diplomat and his wife left the United States after the State Department requested a waiver of diplomatic immunity to allow for prosecution of the diplomat's wife. What other punishment, if any, did the diplomat's wife receive in the United States or in her home country of (according to press reports) Kuwait?
8. How many times has the State Department sought a waiver of diplomatic immunity for a foreign diplomat or family member who unlawfully (criminally or civilly) abused or exploited a domestic worker? Please provide information about each such instance.
9. How many times has the State Department sought to expel, or to declare *persona non grata*, a foreign diplomat or family member who unlawfully (criminally or civilly) abused or exploited a domestic worker? Please provide information about each such instance.
10. What efforts, if any, has the State Department made to obtain compensation for domestic workers who have been unlawfully (criminally or civilly) abused or exploited by foreign diplomats in this country? Please provide information about each instance in which the State Department has helped such victims obtain compensation. If no action has been taken to obtain compensation, please explain why.
11. What other mechanisms exist within the State Department – apart from those just referenced – to exert pressure on diplomats and foreign missions to comply with U.S. laws and end the exploitation and abuse of domestic workers? For example, would the State Department be willing to discuss cases of such abuse in its annual Trafficking in Persons Report?
12. What punishment, if any, have foreign diplomats or their family members received in their home countries for their abuse of domestic workers in the United States?

I look forward to receiving answers to these questions at your earliest convenience.

Sincerely,



Richard J. Durbin  
United States Senator