

Holistic Approaches to Combat Trafficking

ATEST advocates for holistic approaches which create lasting solutions to prevent labor and sex trafficking. These approaches rely on responses from many organizations and government agencies to address the numerous root causes of human trafficking. Trafficking is a complicated issue that cannot be easily addressed with a single approach. Below, we have outlined the importance of holistic approaches like ATEST's and highlighted the range of programs set up to address trafficking in the U.S.

Trafficking is a Complicated Issue:

Human trafficking occurs in every country in the world and every state in the U.S. Effective methods to combat trafficking rely on comprehensive and coordinated efforts from many forms of government and civil society. The movement to combat trafficking needs to be as diverse as the many forms of trafficking in order to truly eradicate slavery.

There are multiple forms of human trafficking. Each requires unique approaches. ATEST members focus on all of these forms:

- Sex and Labor;
- Women and Men;
- Children and Adult; and
- U.S. and Global

The issues of trafficking and slavery rest at the intersections of many issues and combatting trafficking relies on all of these movements:



These intersections require holistic approaches that address each facet of the issue rather than just one. This is why the ATEST coalition consists of organizations that address all of these issues both in the domestic and international spheres.

ATEST's Approach:

- Diverse Coalition, Forum for Consensus & Collaboration
- Co-equal Partners, Unified Collective Voice
- Holistic Approach, Non-Partisan Technical Expertise
- Amplify & Integrate Victim/Survivor Voices
- Human/Civil/Worker Rights Framework
- Laws, Policies, Research, Practices, Awareness & Action

Our member organizations are diverse so we can better address the three Ps, plus Partnerships, set out by the United Nations *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children*, also known as the Palermo Protocol. The three Ps are:



Domestic policy changes require a whole of government approach rather than the efforts of just one government agency. We focus on connecting many sectors of government to combat trafficking together, combining their unique expertise into one movement. We work toward:



There is a wide range of federal programs involved in holistically fighting trafficking:

- Congress funds programs through appropriations for Labor, Health and Human Services, Education, and Related Agencies; State, Foreign Operations, and Related Programs; and, Commerce, Justice, Science, and Related Agencies;
- State Department Office to Monitor and Combat Trafficking in Persons (J/TIP);
- United States Agency for International Development (USAID);
- Department of Homeland Security: Immigration and Customs Enforcement: Homeland Security Investigations;
- Department of Justice (DOJ): Human Trafficking Prosecution Units (HPTU);
- International Labor Affairs Bureau (ILAB): Workers' Rights Program and Child and Forced Labor Program;
- Department of Health and Human Services Office on Trafficking in Persons (OTIP); and
- Other programs across various agencies.

Recent Progress in the U.S.:

ATEST has aided in introducing new policies and laws, increasing federal funding for anti-trafficking programs, and monitoring government efforts to combat trafficking. These successes are part of the holistic, whole of government approach to combat trafficking. ATEST contributed to these efforts through:



Congressional Counter-Trafficking Milestones:

Congress has enacted and reauthorized multiple laws in the past 20 years that improve legal responses to trafficking cases, increase victim protections and services, and establish counter-trafficking programs. Some Congressional success include:

- The landmark Trafficking Victims Protection Act of 2000 and its subsequent reauthorizations in 2003, 2005, 2008, 2013, and 2018.
- Harkin-Engel Protocol of 2001
- Abolish Human Trafficking Act of 2017
- The Justice for Victims of Trafficking Act of 2015
- The Preventing Sex Trafficking and Strengthening Families Act of 2014
- Protect Act of 2003



Trafficking Victims Prevention Act 101

Congress reauthorized the Trafficking Victims Prevention Act (TVPA) in 2018 as a package of four bills including the Abolish Human Trafficking Act (S.1311), the Trafficking Victims Protection Act of 2017 (S.1312), the Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2018 (H.R. 2200) and the Trafficking Victims Protection Reauthorization Act of 2017 (S.1862) (herein TVPRA 2018). The Victims of Violence and Trafficking Prevention Act of 2000 (TVPA) was passed by Congress to implement the Palermo Protocol in the U.S. to “ensure just and effective punishment of traffickers, and to protect their victims.”¹ The TVPRA 2018 follows previous reauthorizations that instituted key provisions for improving U.S. efforts to combat human trafficking both domestically and abroad.

TVPA (2000)¹ includes three main components (the three P’s):

- Protection:
 - Provides assistance to victims of human trafficking; and
 - Establishes non-immigrant status for victims of trafficking (T-Visas) if they cooperated in the investigation and prosecution of traffickers.
- Prosecutions:
 - Establishes new crimes on trafficking, forced labor, and undocumented servitude that supplemented existing crimes related to human trafficking and involuntary servitude; and
 - Recognizes modern slavery occurs in the context of force, fraud, or coercion and specifically defined sex and labor trafficking.
- Prevention:
 - Authorizes the U.S. Government to assist foreign countries with their efforts to combat trafficking and address trafficking within

TVPRA 2003² added the following key provisions:

- Allows for materials to be disseminated which alert travelers sex tourism is illegal;
- Creates a new civil action that allowed trafficked victims to sue traffickers in federal district court; and
- Requires the Attorney General to annually report on counter-trafficking efforts.

TVPRA 2005³ added the following key provisions:

- Grant programs to expand victim assistance programs to U.S. citizens or resident aliens subjected to trafficking;

¹ Victims of Trafficking and Violence Protection Act of 2000, Public Law No. 106-386 (2000).

² Trafficking Victims Protection Reauthorization Act of 2003, Public Law No. 108-193 (2003).

³ Trafficking Victims Protection Reauthorization Act of 2005, Public Law No. 109-164 (2005).

- Grant programs to assist state and local law enforcement efforts to combat human trafficking;
- Programs to create comprehensive service and rehabilitation facilities for trafficking victims; and
- Extraterritorial jurisdiction over trafficking offenses committed overseas by persons employed by or accompanying the federal government.

TVPPRA 2008⁴ added the following key provisions:

- Establishes new crimes that imposed penalties on those who obstruct or attempt to obstruct prosecutors' investigations of trafficking crimes;
- Eliminates the requirement that the defendant knew the person engaged in commercial sex was a minor in sex trafficking charges;
- Expands the crime of forced labor, providing that "force" is a means of violating the law;
- Imposes criminal liability on those who knowingly recruit workers from outside the U.S. by making materially false or fraudulent representations;
- Increases the penalty for conspiring to commit trafficking;
- Creates a penalty for those who knowingly benefit financially from participation in ventures that engage in trafficking; and
- Adds new prevention and protection measures to provide information to persons entering the U.S. lawfully and to establish protections for unaccompanied minors.

TVPPRA 2013⁵ added the following key provisions:

- Provides resources for holistic services for survivors and for law enforcement to investigate cases;
- Prevents U.S. foreign aid from distribution to governments that use child soldiers;
- Penalizes the confiscation of identity documents, a prevalent form of coercion used by traffickers;
- Creates a grant-making program intended to respond to humanitarian emergencies that increase the risk of human trafficking;
- Authorizes the State Department's Trafficking in Persons Office (J/TIP) to form local partnerships in focus countries to combat child trafficking using Child Protection Compacts; and
- Enhances law enforcement capacity to combat sex tourism by extending jurisdiction to prosecute U.S. citizens abroad who commercially sexually exploit children.

TVPPRA 2018⁶ added the following key provisions:

- Ensures integrity of the TIP Report by:
 - Defining what actions make up a commitment to combating trafficking;
 - Requiring a detailed explanation of country's changed ranking;
 - Requiring the State Department to provide rational and consequences for a downgrade to the Tier 2 Watch List; and

⁴ William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Public Law No. 110-457 (2008).

⁵ Violence Against Women Reauthorization Act of 2013, Public Law No. 113-4 (2013).

⁶ Trafficking Victims Protection Act Of 2018 Package, Public Law No. 115-427, 115-392, and 115-425 (2017-2018).

- Mandating preparation of an action plan for any country upgraded to the Tier 2 Watch List.
- Amends the National Defense Authorization Act of 2013 to eliminate the use of recruitment fees on U.S. government contracts overseas.
- Establishes a point of contact in each U.S. embassy so foreign individuals who were trafficked and returned to their home countries can report information about the trafficking;
- Requires law enforcement officers to receive victim screening training to avoid arresting, charging, or prosecuting a victim for offenses related to their victimization;
- Encourages the collection of accurate and useful data so TIP Report tier rankings are not based on assumptions of future compliance; and
- Reauthorizes programs for restorative services for victims.

Despite these efforts, the problem of human trafficking, forced labor, and modern slavery continues to grow. These victims often experience severe trauma that requires intensive therapy, recovery, rehabilitation, and restorative services as a result of their abuse. Many of these victims require comprehensive case management provided by victim services organizations to see them through their recovery, help them navigate the legal system, and provide assistance to law enforcement, all of which are necessary to prosecute criminal enterprises involved in human trafficking. For these reasons, the TVPA should continue to be reauthorized and improved to address victim needs and pursue stronger counter-trafficking measures. Beyond reauthorization, it is key for the TVPA provisions to be fully implemented so the policies have concrete effects on counter-trafficking efforts.

UN Trafficking Protocol

The *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children*, supplementing the *United Nations Convention against Transnational Organized Crime* was adopted by the United Nations General Assembly in 2000 as part of the Palermo Protocols. The Protocol acts as a global guide for counter-trafficking in persons legislation, including the U.S. Trafficking Victims Protection Act, and provides standards for the State Department's annual Trafficking in Persons Report.

The Protocol¹ provides the following:

- Intends to prevent and combat trafficking in persons, protect and assist victims of trafficking, and promote cooperation among States Parties to meet these objectives;
- Defines “Trafficking in Persons” as:
 - “the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs”;
- Requires States Parties to:
 - Adopt legislation to criminalize acts of trafficking including: recruitment, transportation, transfer, harboring or receipt of a person for the purpose of exploitation;
 - Provide assistance and protection in legal proceedings against offenders
 - Adopt measures to allow victims of trafficking to remain in its territory, temporarily or permanently;
 - Facilitate or accept the return of a person to their nation or permanent residence without unreasonable delay and with regard to the person's safety;
 - Establish comprehensive policies and programs to prevent trafficking in persons and protect victims of TIP;
 - Train law enforcement, immigration, and other officials in trafficking prevention and communicate with officials from other States Parties about perpetrators of trafficking crossing borders and means of transportation of victims;
 - Strengthen the border controls necessary to detect and prevent trafficking across borders;
 - Ensure the travel and identity documents issued by it cannot be misused or readily falsified and verify the legitimacy of travel documents used by suspects of TIP; and
- Possesses no articles which affect the rights, obligations, and responsibilities of States and individuals under international law, nor any articles which can be interpreted as allowing for discrimination of a person because they are a trafficking survivor.

¹ UN General Assembly, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, 15 November 2000

TIP Report Integrity

Each year the State Department's Office to Monitor and Combat Trafficking in Persons (J/TIP) releases the Trafficking in Persons Report (TIP Report) chronicling the successes and challenges of the counter-trafficking efforts of 187 countries over the past year. The TIP Report is the world's most comprehensive resource on human trafficking and individual countries' efforts to combat it.

The report sources both quantitative and qualitative data from foreign governments, U.S. embassies, non-governmental organizations, international organizations, reports, news articles, academic studies, and research trips to determine tier rankings to each country based on their efforts to prevent human trafficking, prosecute traffickers and protect survivors.¹

ATEST contends the integrity of the TIP report is maintained by implementing the TVPA provisions listed below. We also recommend guaranteeing vital aid for humanitarian and counter-trafficking efforts remain in effect despite the tier ranking of a country. This helps prevent people from becoming more vulnerable to human trafficking because of a country's failure to improve tier ranking.

The TIP Report tier rankings include²:

- Tier 1: the government has made efforts that meet the minimum standards of the Trafficking Victims Protection Act (TVPA) and makes progress each year in counter-trafficking efforts;
- Tier 2: the government does not fully meet the minimum standards of the TVPA, but is making significant efforts to comply to the standards;
- Tier 2 Watch List: the government does not fully meet the minimum standards of the TVPA, but is making significant efforts to comply to the standards, and for which:
 - The number of victims of severe forms of human trafficking is significant or is slightly increasing;
 - The government fails to provide evidence of increased efforts to combat human trafficking; or
 - The determination that a country is making significant efforts to comply with minimum standards was based on commitments by the government to take additional steps over the next year.
- Tier 3: the government does not fully meet the minimum standards of the TVPA and is not making significant efforts to comply to the standards.

¹ Alliance to End Slavery and Trafficking, "ATEST Applauds Introduction of the TIP Report Integrity Restoration Act," <https://endslaveryandtrafficking.org/atest-applauds-introduction-tip-report-integrity-restoration-act/>

² U.S. State Department, Office of Trafficking in Persons, "Trafficking in Persons Report: June 2019," <https://www.state.gov/reports/2019-trafficking-in-persons-report/>

The TIP Report minimum standards set by the TVPA:³

- Enactment of laws prohibiting severe forms of human trafficking and provision of criminal punishment for trafficking offenses;
- Criminal penalties for human trafficking offenses with a maximum of at least 4 years' deprivation of liberty, or a more severe penalty;
- Vigorous prosecution of prevalent forms of trafficking and sentencing of offenders;
- Proactive victim identification measures and procedures for law enforcement to follow in victim identification;
- Government funding and NGO partnerships to provide victims with services so they may recount their trafficking experiences with minimal pressure;
- Victim protection efforts including shelter and services without detention and with legal alternatives to removal to countries where victims would face hardship or retribution;
- Extent of government assurance of victim legal assistance and that proceedings are not prejudicial to victims' rights, dignity, or psychological well-being;
- Extent to which a government ensures safe, humane, and voluntary repatriation and reintegration of victims;
- Governmental efforts to prevent human trafficking;
- Governmental efforts to reduce the demand for commercial sex acts and international sex tourism.

Changes to the TIP Report Minimum Standards:

While the TIP Report provides vital insights into the state of human trafficking internationally, the integrity of the report was put in question when there was insufficient evidence to support a country's improved ranking. To protect the Report, Congress recently passed provisions in the Trafficking Victims Protection Act Reauthorization in 2018 (TVPRA 2018) that requires more data and transparency into the rankings process.

TVPRA (2018) TIP Report Integrity Provisions⁴:

- Defines the concrete actions necessary for a country to display commitment to combatting human trafficking;
- Limits the ability of governments to remain on Tier 2 while withholding data about human trafficking prosecutions and convictions;
- Strengthens Tier 2 Watch List qualifications to prevent designations based on promises made by countries and instead focus on concrete counter-trafficking actions performed;
- Limits the Tier 2 Watch List Presidential Waiver to one year;
- Requires the State Department to provide Congress and the governments of countries with rankings upgraded from Tier 3 to Tier 2 Watch List justifications for the improvement and a detailed action plan for improving future rankings; and
- Compels the State Department to inform countries with downgraded rankings of the consequences of the downgrade and to work with the government to determine steps the government can take to improve future rankings.

³ Victims of Trafficking and Violence Protection Act of 2000. Public Law. No. 106-386 (2000)

⁴ Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2018, Public Law. No. 115-425 (2019)

USAID Counter-Trafficking in Persons Integration

To increase the effectiveness of both counter-trafficking in persons (C-TIP) operations and development efforts, C-TIP programs should be integral in approaching broader development goals for the United States Agency for International Development (USAID). Although USAID's 2012 C-TIP Policy calls for C-TIP efforts to be integrated into initiatives and programs, a 2013 USAID Office of the Inspector General report found nine out of sixteen mission coordinators had no experience with program integration.¹

C-TIP integration involves intentionally embedding human trafficking protection and prevention efforts into programs in all sectors of development. The integration of C-TIP measures can help prevent trafficking in regions receiving USAID assistance and improve outcomes for development programs.²

Effective integration of robust C-TIP policies:³

- a. Ensures that foreign assistance efforts reach vulnerable people and do not increase their vulnerability;
- b. investments, and activities; and
- c. Supports broader development objectives, including education, public health, food security, and economic development.

C-TIP integration should be implemented on multiple levels of USAID administration in order to increase its effectiveness and bring C-TIP efforts to the forefront of all development efforts. Administrators should ensure foreign assistance programs relating to humanitarian assistance, food security, poverty reduction, social and economic growth and development, education, gender-based violence, and democracy and governance contribute to decreasing vulnerability to or prevalence of human trafficking and forced labor in the region where they operate.⁴

ATEST Recommends:

- Mandating USAID integrate C-TIP measures into all levels of its development programs despite social pushback;
- Ensuring USAID missions in countries on Tier 2, Tier 2 Watch List, or Tier 3 perform the following:
 - Integrate a C-TIP perspective and specific actionable component into development programs;

¹ OIG Report dated November 27, 2013. See Recommendation 4, page 8. Accessed at: <https://oig.usaid.gov/node/712>

² USAID Center of Excellence on Democracy, Human Rights and Governance, "Democracy, Human Rights and Governance: USAID and Counter-Trafficking in Persons (C-TIP) Integration." Accessed at: https://www.usaid.gov/sites/default/files/documents/1866/USAID_One-pager_on_C-TIP_integration.pdf

³ ATEST, "Letter to the Office of Management and Budget, Fiscal Year 2020"

⁴ ATEST, "U.S. Agency for International Development (USAID): Counter-Trafficking in Persons Policy FY 2017"

- Implement robust training and distribute tools for C-TIP integration;
- Ensure Country Development Cooperation Strategies include a C-TIP analytic element;
- Require a Trafficking in Persons assessment as a standalone analysis or as an element of another required analysis for informing development programs;
- Obligating the USAID Administrator to define “C-TIP Integrated Development Programs” as a new category of assistance programs to encompass the broader range of development programs where C-TIP Integration has taken place;
 - Ensure the Administrator also assigns a budget tracking number to this category and report how C-TIP measures are integrated into these programs.

There is growing support for C-TIP integration in Congress. In June 2019, the House Appropriations Committee recommended adding language requiring C-TIP Integration into H.R.2740, 2020 appropriations bill. Integration of C-TIP policies provides opportunity to increase the efficiency and effectiveness of taxpayer investment in both development and C-TIP programs. Integration also opens the door to show American leadership in counter-trafficking efforts and development programs on the world stage.

Trafficking in Persons Prevalence Methodology

The Trafficking in Persons Prevalence Methodology (“Methodology”) was ordered by the Trafficking Victims Protection Reauthorization Act of 2017 (TVPRA 2017). The TVPRA 2017 requires the Department of Justice (DOJ) to publish and submit a report to Congress on the “efforts by the National Institute of Justice (NIJ) to develop a methodology to assess the prevalence of human trafficking in the United States.”¹

ATEST calls for the development and implementation of the Methodology in order to address the need for reliable data on the status of human trafficking in the United States. The lack of comprehensive data currently available means U.S. counter-trafficking efforts and federal appropriations are not best utilized for maximum efficacy. Without knowing the scale of trafficking, how victims are identified and treated, where traffickers are working, where victims come from, or how law enforcement agencies are handling trafficking cases, counter-trafficking efforts cannot be improved and we cannot tackle the whole scope of modern slavery.

The Methodology will benefit counter-trafficking efforts by:

- Providing comprehensive, reliable, and academically targeted data on the status of human trafficking in the U.S.;
- Informing future appropriations decisions; and
- Informing prevention, prosecution, and survivor protection measures.

ATEST Recommends:

- The fully funded implementation of a continuous, comprehensive prevalence methodology;
- Data collection efforts are coordinated with state and federal law enforcement and in close consultation with NGOs;
- Department of Justice (DOJ) reports regularly to Congress on the progress of the Methodology;
- Department of Homeland Security (DHS) partners with the DOJ throughout the Methodology implementation;
- ATEST members are consulted about best practices during the development and implementation of the Methodology; and
- Prioritization of data collection across government agencies and Congress in order to increase the understanding of trafficking prevalence in the U.S.

¹ Trafficking Victims Protection Reauthorization Act of 2017, Public Law. No. 115-393 (2018)