



## SUMMARY OF

# ATEST RECOMMENDATIONS FOR 2021 TRAFFICKING VICTIMS PROTECTION ACT REAUTHORIZATION

Human trafficking continues to be one of the most important challenges of our time. More than 20 years after Congress first passed the Trafficking Victims Protection Act (TVPA), traffickers continue to exploit an estimated 25 million people in forced labor and sex trafficking around the world, earning over \$150 billion dollars annually from this crime. An estimated 15 million more people are trapped in forced marriages.

This year, the TVPA is set to expire and will need to be reauthorized for the sixth time. The TVPA serves as the cornerstone for the U.S. counter-trafficking response and contains the overwhelming majority of authorizations for the policies and programs that drive this important work. As Congress begins its work to reauthorize the TVPA once again, the Alliance to End Slavery & Trafficking (ATEST) is presenting recommendations we believe will help ensure a comprehensive approach to ending trafficking.

We believe it is critical that Congress continue the long history of bipartisanship on TVPA reauthorizations. Combating human trafficking remains a priority across both sides of the aisle.

We also strongly urge Members of Congress to work together to introduce a single, complete TVPA reauthorization bill. For the most recent reauthorization passed in 2018, there were four different pieces of legislation, each reauthorizing a portion of the TVPA. This process was unwieldy and contributed to significant delays. We greatly appreciate the desire of so many Members to contribute to the TVPA reauthorization, but to ensure a more productive, smoother process, we encourage offices to coordinate on a single reauthorization bill.

ATEST recommendations are summarized here not in priority order, but by categories.

| <b>ATEST 2021 TVPRA Recommendations</b>                           |   |
|---|---|
| <b>Authorizations</b>   | <ul style="list-style-type: none"> <li>• Critical increases to support prevention, survivor protection, and perpetrator prosecution</li> <li>• Lengthening the authorization timeline to at least 5 years</li> </ul>  |
| <b>Expanding Protections for Survivors</b>                        | <ul style="list-style-type: none"> <li>• Ensuring services in the child welfare system are extended to children in forced labor</li> <li>• Comprehensively addressing the nexus between human trafficking and gender-based violence</li> <li>• Providing whistleblower protection for trafficking survivors reporting forced labor</li> <li>• Updating T-visa standards to expand protections for trafficking survivors</li> <li>• Requiring the Department of State to implement post-arrival orientation, in-person monitoring and exit interviews for all visa categories of domestic workers brought by diplomatic personnel</li> </ul> |
| <b>Preventing Trafficking in Global Supply Chains</b>             | <ul style="list-style-type: none"> <li>• Strengthening regulation of foreign labor recruiters</li> <li>• Increasing transparency and improving enforcement of regulations prohibiting trafficking in government contracts</li> <li>• Authorizing the International Labor Affairs Bureau - ILAB</li> </ul>   |
| <b>Integrating Trafficking Strategies into Foreign Assistance</b> | <ul style="list-style-type: none"> <li>• Requiring USAID to integrate anti-trafficking strategies and activities into all international aid programs</li> <li>• Requiring the U.S. to oppose international development bank loans that do not have trafficking impact and mitigation strategies in Tier 2 Watchlist and Tier 3 countries</li> </ul>   |

## Critical increases to support prevention, survivor protection, and perpetrator prosecution

### ATEST Recommended Authorizations FY22-26 (in millions)

| Section               | Agency/<br>Program                      | Previous<br>Authorization<br>FY 21 | FY21<br>Enacted<br>Approps | FY22<br>ATEST<br>Approps<br>Request | Recommended<br>Authorizations<br>FY 22 | FY 23     | FY 24     | FY 25     | FY 26     |
|-----------------------|---|------------------------------------|----------------------------|-------------------------------------|--|-----------|-----------|-----------|-----------|
| 22 USC §7110a         | JTIP: Admin (TIP report, PITF/SPOG)     | \$13.8                             | \$16.0                     | \$18.0                              | \$18.0                                 | \$18.0    | \$20.0    | \$20.0    | \$21.5    |
| 22 USC §7110c1        | JTIP: Grants                            | \$65.0                             | \$77.0                     | \$77.0                              | \$77.0                                 | \$77.0    | \$90.0    | \$90.0    | \$101.0   |
| Sec. 115 of PL 114-22 | JTIP: survivor advisory                 | n/a                                | n/a                        | \$0.6                               | \$1.0                                  | \$1.0     | \$1.0     | \$1.0     | \$1.0     |
|                       | JTIP: PEMS                              | \$37.5                             | \$25.0                     | \$37.5                              | \$37.5                                 | \$37.5    | \$37.5    | \$37.5    | \$37.5    |
| 22 USC §7110b1        | HHS: foreign national victim assistance | \$16.0                             | \$27.8                     | \$50.0                              | \$30.0                                 | \$30.0    | \$34.0    | \$34.0    | \$40.0    |
| 22 USC §7110b2        | HHS:US victim assistance                | \$8.0                              |                            |                                     | \$20.0                                 | \$20.0    | \$23.0    | \$23.0    | \$25.0    |
| 22 USC §7110b1        | HHS: NHTH                               | \$3.5                              | \$4.0                      | \$5.0                               | \$5.0                                  | \$5.0     | \$5.0     | \$5.0     | \$5.0     |
| 22 USC §7110f         | DOL                                     | \$5.0                              | [\$67.3]                   | [\$130.0]                           | [\$130.0]                              | [\$130.0] | [\$146.0] | [\$146.0] | [\$165.0] |
| 22 USC §7110d1        | DOJ: US victim assistance               | \$77.0                             | \$85.0                     | \$134.0                             | \$109.0                                | \$109.0   | \$123.0   | \$123.0   | \$138.0   |
| 22 USC §7110d3        | DOJ/HHS: US victim assistance           | \$11.0                             |                            |                                     | \$11.0                                 | \$11.0    | \$12.0    | \$12.0    | \$14.0    |
| 34 USC § 20705        | DOJ: task forces                        | \$10.0                             |                            |                                     | \$14.0                                 | \$14.0    | \$16.0    | \$16.0    | \$18.0    |
| 34 USC § 20702        | DOJ: minor victim services grants       | \$8.0                              |                            |                                     | \$10.0                                 | \$10.0    | \$11.0    | \$11.0    | \$13.0    |
| 22 USC §7110i         | DHS: ICE investigations                 | \$10.0                             | n/a                        | \$18.8                              | \$18.8                                 | \$18.8    | \$21.0    | \$21.0    | \$24.0    |
| n/a                   | DHS: ICE FL investigations              | n/a                                | \$15.7                     | \$15.7                              | \$15.7                                 | \$15.7    | \$15.7    | \$15.7    | \$15.7    |
| n/a                   | DHS: CBP tariff act enforcement         | n/a                                | n/a                        | \$20.0                              | \$20.0                                 | \$20.0    | \$23.0    | \$23.0    | \$25.0    |

### Authorizing the TVPA for at least 5 years:

Since first passing in 2000, Congress has reauthorized programs within the TVPA in three-year or four-year periods. This allowed for key changes to improve effectiveness and respond to the needs of trafficking victims and survivors. Now, with the foundation of the TVPA in place, extending the authorization period to at least 5 years will make space for additional opportunities to evaluate effectiveness and ensure proper Congressional oversight.

### **Ensuring services in the child welfare system are extended to children in forced labor:**

The Preventing Sex Trafficking and Strengthening Families Act and The Justice for Victims of Trafficking Act provided increased protections for child sex trafficking victims in the child welfare system. At least 15 states have taken steps to identify and prevent *both* sex trafficking and forced labor in their child welfare system. The time is now for the federal government to update its own outdated language around the definition of child abuse, to ensure data reporting and other provisions prevent and identify child sex trafficking and forced labor victims in our child welfare system, and to encourage other states who have yet to take action around this issue to do so.

### **Addressing the nexus between human trafficking and gender-based violence (GBV):**

Comprehensive efforts to reduce human trafficking must include efforts to prevent and respond to GBV given the intertwined relationship of the two crimes. Recognizing the nexus between GBV and human trafficking is critical. While trafficking in persons can be a form of GBV, various forms of GBV can also serve as drivers to human trafficking and/or a method of controlling and manipulating individuals across all forms of trafficking. Developing a Strategy to Prevent and Respond to Gender-Based Violence Globally will be a key tool to begin addressing these issues collectively.

### **Providing whistleblower protection for trafficking survivors reporting forced labor:**

Workers must be encouraged to report abusive employers by protecting them from the threat of deportation by employers who are angry that they have complained about abuse. This will prevent exploitation and abuse in the workplace and ensure that immigrant workers subject to exploitation or trafficking are not deported prior to their identification as victims of this crime.

### **Updating T-visa standards to expand protections for trafficking survivors:**

Trafficking survivors, including children who have fled to the United States after a trafficking experience, are generally not eligible for immigration relief. Usually asylum protections and special immigrant juvenile status protections do not apply despite the survivor facing horrific abuse and a fear of being re-trafficked if they are forced to return to their home countries. Currently, fewer than 1,000 T-visas have been granted to trafficking survivors each year since the enactment of the TVPA despite an annual allowable quota of 5,000 visas. Given the dire consequences that trafficking survivors face if they must return to home countries where the trafficking occurred, the U.S. Government should change the T-visa standard to protect all trafficking victims in the United States regardless of whether the trafficking occurred in the United States or outside the United States. Notably, other crime victims applying for U-visas do not need to show they are in the U.S. on account of those crimes and can apply for U-visas from

outside the United States. A higher standard should not be applied for trafficking victims applying for T-visas; instead these standards should be made uniform.

**Requiring the Department of State to implement post-arrival orientation, in-person monitoring and exit interviews for all visa categories of domestic workers brought in by diplomatic personnel:**

Orientation programs are important opportunities for workers to learn about their rights in the United States. The orientations, which should occur when the worker initially arrives, is a critical time to reach workers who may not yet be subjected to an exploitative work situation. Ongoing monitoring is crucial to ensure that new employment opportunities do not become abusive and/or exploitative over time. The U.S. Government must take a proactive approach after the domestic worker arrives to ensure that information about rights is effectively communicated. The in-person model is not unprecedented, and several countries have implemented in-person registration with successful outcomes. The State Department previously piloted a similar program for A-3 visa holders in Washington, DC. The State Department should also conduct exit interviews to screen domestic workers leaving the U.S. at the end of their visa stay. Even as monitoring and labor rights enforcement improves, some workers will not be comfortable sharing the details of their employment conditions until they are safely headed home.

**Strengthening regulation of foreign labor recruiters:**

Labor contractors play a major role in the trafficking of migrant/immigrant workers. They often deceive or coerce workers into accepting jobs that later turn out not to be as promised. They often charge workers exorbitant fees to migrate, which in turn leads to debt bondage, and then use legal threats to maintain control of them, often by manipulating the immigration process. Over the past four years, we have seen an expansion of the temporary nonimmigrant guestworker visa program, without the accompanying worker rights' safeguards needed to prevent abuses and exploitation.

**Increasing transparency and improving enforcement of regulations prohibiting trafficking in government contracts:**

The *Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2018* strengthened compliance with existing anti-trafficking requirements in federal procurement processes. It requires the Departments of State and Labor, USAID and the Office of Management and Budget to report annually to GSA on agency actions to ensure contractors and U.S. Government officials are following anti-trafficking requirements and are tracking and reporting cases of human trafficking that are identified in the federal procurement process. However, much remains to be done. For example, some of the reporting requirements of the Federal Acquisition Regulations (FAR) rule have resulted in unintended consequences, including the canceling of audits and reduced willingness by leading companies to find and fix problems in their supply chains. Companies that undertake due diligence are likely to find issues in their supply chains and have to report them to contracting officers and agency Inspectors General, while

those who opt not to examine their supply chains, in violation of the rule, are unlikely to face repercussions. The United States was the first country to enact such rules, but as other countries are now adopting similar measures, we are poised to fall behind without adopting stronger enforcement efforts. Additionally, human traffickers routinely adopt new methods to coerce and defraud vulnerable workers to evade the changing regulatory landscape; migration patterns are changing over time, particularly now in light of the COVID-19 pandemic. Congress must consider how the trafficking related FAR is responding to the evolving situation of migration.

#### **Authorizing the International Labor Affairs Bureau:**

The Bureau of International Labor Affairs (ILAB) is an essential part of the U.S. Government's international response to forced labor, human trafficking and child labor. ILAB's mandates touch on key elements of partnership, prevention, protection and prosecution, such as child labor, international labor diplomacy, international economic affairs and labor-related trade policy. Through highly respected research, grant-making and policy development work, ILAB identifies cases of goods reported on the annual "List of Goods Produced by Child Labor or Forced Labor." In the last reauthorization, Congress mandated that ILAB include goods produced with inputs made with forced labor to the extent practicable. This expansion of the List is critical to help Customs and Border Protection enforce Section 307 of the Tariff Act by providing research to identify imports at high risk for being made with forced labor.

#### **Requiring USAID to integrate anti-trafficking strategies and activities into all international aid programs:**

It is important that the U.S. Government leverage the full range of its foreign policy impact in preventing and ending human trafficking overseas, and in protecting and supporting victims of this crime. In that context, U.S. foreign assistance represents a pivotal and underutilized avenue for potential U.S. Government impact. Effective integration of a robust C-TIP Policy across the range of assistance programs, issue areas, Bureaus and Missions is of critical importance. Such integration can (a) ensure that foreign assistance efforts do not inadvertently leave vulnerable community members behind, or even increase their vulnerability, (b) generate new avenues and opportunities to maximize the impact on trafficking issues of U.S. interventions, budgetary investment and activities, and enhance the impact of existing interventions, and c) help reinforce and support broader development objectives.

**Requiring the U.S. to oppose international development bank loans that do not have trafficking impact and mitigation strategies in Tier 2 Watchlist and Tier 3 countries:**

International financial institutions, most notably the World Bank, should be actively engaged in C-TIP efforts and have counter-trafficking priorities integrated into their programming. Development banks could have a significant impact on preventing trafficking globally given their anti-poverty programs seek to reach the very populations most vulnerable to trafficking. It is critical that U.S. engagement ensures that the World Bank's safeguard policies on environmental and social factors are effective. In addition, C-TIP policies and objectives need to be integrated into proactive programming arenas, for instance by lending money to support anti-trafficking interventions as part of larger projects or making more assertive government action against trafficking a condition of loans.

*The Alliance to End Slavery and Trafficking is a U.S. based coalition that advocates for solutions to prevent and end all forms of human trafficking and modern slavery around the world.*

*ATEST member organizations include: Coalition to Abolish Slavery & Trafficking (CAST), Coalition of Immokalee Workers (CIW), Free the Slaves, HEAL Trafficking, Human Trafficking Institute, Humanity United Action (HUA), McCain Institute for International Leadership, National Network for Youth (NN4Y), Polaris, Safe Horizon, Solidarity Center, T'ruah: The Rabbinic Call for Human Rights, United Way Worldwide, Verité and Vital Voices Global Partnership.*