



February 22, 2022

Dr. Kari Johnstone

Acting Director

U.S. State Department Office to Monitor and Combat Trafficking in Persons (JTIP)

Submitted to: tipreportUS@state.gov

RE: Request for Information for the 2022 Trafficking in Persons Report, United States government input (86 FR 70562)

Dear Dr. Johnstone:

Thank you for the opportunity to provide input for the 2022 Trafficking in Persons Report. The Alliance to End Slavery and Trafficking (ATEST) appreciates the JTIP team's diligence in soliciting and integrating information from civil society organizations as you review efforts by the U.S. government to combat human trafficking. The credibility of the TIP Report as a tool to promote global governmental action against trafficking depends on the United States subjecting itself to the same analytical rigor as other nations.

ATEST 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. We advocate for lasting solutions to prevent forced labor and sex trafficking, hold perpetrators accountable, ensure justice for victims and empower survivors with tools for recovery. Our collective experience implementing programs at home and abroad provides our coalition an unparalleled breadth and depth of expertise.

ATEST member organizations include: Coalition to Abolish Slavery and 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.

Several ATEST member organizations have directly submitted information to the JTIP office for the 2022 TIP Report. We do not repeat their in-depth, point-by-point, information here. Rather,

this letter combines and reinforces themes in those submissions, along with providing additional observations from the ATEST coalition as a whole.

Concrete Actions Taken

We note that there have been several promising actions taken during the reporting period of April 1, 2021 to March 31, 2022. These include:

- **Update of U.S. National Action Plan:** ATEST urged the Biden-Harris administration to review and revise the previous administration's National Action Plan to Combat Human Trafficking, and this was completed and published in December 2021. The new plan has some shortcomings but includes many improvements. ATEST is engaging with the administration on implementation of the plan.
- **Update of the U.S. Agency for International Development Counter-Trafficking (CTIP) in Persons Policy:** ATEST urged the Biden-Harris administration to review and revise the previous administration's CTIP policy at USAID, and this was completed and published in December 2021. USAID's actions to combat trafficking's root causes overseas have an impact on migration-related trafficking of individuals to the U.S.
- **Passage of the Uyghur Forced Labor Prevention Act:** This legislation, signed into effect in December 2021, takes important steps to ensure the United States does not import goods made by forced labor in the Xinjiang Uyghur Autonomous Region in China.
- **Increase Use of Withhold Release Orders:** Customs and Border Protection continued its stepped-up enforcement of the Tariff Act, with eight Withhold Release Orders listed on CBP's website during the reporting period as of this writing. These orders help prevent forced labor overseas from undercutting American businesses at home.
- **Passage of Debt Bondage Repair Act:** Passed in December 2021 as part of the FY22 National Defense Authorization Act, this legislation allows survivors to have adverse credit information caused by their trafficking experience to be removed from their credit report.
- **Revised Immigration Procedure:** An August 2021 policy directive from Immigration and Customs Enforcement (ICE) states ICE will no longer issue deportation or detention orders against known trafficking victims, including those with a T-visa application or other immigration benefits pending. ICE officers are directed to proactively look for evidence that someone is a victim of a crime even if they have not yet applied for benefits.
- **Release of the FY2019 and FY2020 Attorney General Reports:** The previous administration did not complete or release these congressionally mandated assessments of U.S. activity to combat trafficking, creating significant data and accountability gaps. However, Attorney General Merrick Garland pledged on January 25, 2022, during the President's Interagency Task Force on Human Trafficking meeting, that the reports would be released "this week." The reports are not on the Justice Department website as of this

writing, but we are hopeful they will be released by the end of the TIP Report reporting period in March 2022.

Need for Reform and Improvement:

- **Overemphasis on Sex Trafficking:** Global U.N. estimates indicate that labor trafficking in the form of forced labor is far more prevalent than sex trafficking, and statistics from one of New York's largest direct service providers confirm more than half its clients are labor trafficked. However, law enforcement focuses more heavily on sex trafficking than labor trafficking. This leaves the majority of trafficking situations with inadequate investigations and prosecutions as required in the Trafficking Victims Protection Act's 3-P (prevention, prosecution, protection) approach. As well, labor trafficking/forced labor receives less attention throughout U.S. government programs, leading to inadequate levels of service provision and immigration relief, as well as insufficient attention given to eradicating forced labor, debt bondage and other forms of labor trafficking globally.
- **Lack of Shelter Beds and Housing for Victims and Survivors:** There is a critical scarcity of emergency, transitional and long-term housing for trafficking survivors. The COVID-19 pandemic exacerbated the situation due to increased demand for services and decreased capacity because of social distancing protocols. Providing housing for male-identified and trans-identified survivors is especially challenging; LGBTQ-affirmative spaces that respect gender identity and expression are exceptionally hard to find.
- **Inequitable State-by-State Patchwork for Vacatur of Criminal Convictions:** Previous TIP Reports have noted the need for vacatur laws that encompass a range of non-violent offenses that trafficking victims are forced to commit. But there is an absence of uniform state action in this area. Some states are leading the way with model legislation, though most states are failing to provide survivors with this essential 3-P (prevention, prosecution, protection) element of protection. There is also still a need for a federal vacatur law.
- **Inadequate Regulation of Foreign Labor Recruiters:** Without comprehensive laws or policies to regulate foreign labor recruitment consistently across visa programs, nonimmigrant foreign and immigrant workers are at extreme risk of debt bondage and forced labor. Recruiters charge substantial illegal fees, fail to reimburse visa and travel expenses, and lure workers with false promises about pay and working conditions.
- **Exploitative Temporary Work Visa System:** A substantial number of labor trafficking victims who contacted the U.S. National Human Trafficking Hotline held temporary visas such as H-2A, H-2B, J-1, B-1 and F-1. There are serious structural and institutional flaws in these programs that increase foreign workers' vulnerability to forced labor and other forms of trafficking. These visas tie an individual's immigration status to their employer, leaving them vulnerable to exploitation and abuse. Debt bondage from recruitment fees and other deductions is also common in these programs. Such visa programs also systematically limit workers freedom of association and ability to access justice for violations, including forced labor.
- **Harmful Immigration Procedures:** The previous administration's practice of separating undocumented children from their parents has created lasting impacts that are still being

felt. The practice has ended, but not all children have been reunited with their families. The U.S. government has opposed providing compensation. Also, T-visa processing times remain unacceptable, ranging from 16 to 33 months. In many cases, foreign national trafficking victims are ineligible for public government benefits during this wait, since status is a prerequisite for many public benefits. Moreover, continuing to limit the ability of migrants to apply for asylum and refugee status in the U.S. increases their vulnerability to exploitation, including human trafficking, by denying legal status to those most vulnerable.

- **Barriers to a Health Care Response:** Human trafficking can be viewed as public health crisis, but major barriers exist to mobilizing health care providers to combat the problem. Training exists for health care professionals on how to recognize trafficking and intervene, but many professionals remain unaware how to respond to labor-trafficking victims and formalized protocols among agencies are lacking.
- **Failure to Conduct a National Prevalence Study:** America lacks reliable statistics to determine the extent of human trafficking inside the United States and within different economic sectors. Congress has mandated this work, but it has not been completed.
- **Failure to Create a National Victim Protocol:** States across the U.S. continue to arrest trafficking victims for crimes committed as a result of their trafficking situation. The U.S. Departments of Justice and Homeland Security have failed to develop legislatively mandated protocols for law enforcement agencies to treat trafficked individuals as victims and not as criminals. The deadline to develop the protocols was three years ago.
- **Lapse of the Trafficking Victims Protection Act (TVPA):** America's seminal anti-trafficking legislation, the law that authorizes the annual TIP Report, requires periodic reauthorization. Lengthy lapses have the potential to damage the standing of the U.S. as a committed global anti-trafficking leader.

Thank you for taking this information into consideration in drafting the 2022 TIP Report. We appreciate the deadline extension to allow us more time to complete this submission.

If you have any questions, please contact ATEST Director Terry FitzPatrick:
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