



April 27, 2022

U.S. House of Representatives  
Judiciary Committee  
Subcommittee on Crime, Terrorism, and Homeland Security

Re: Written testimony by ATEST Director Terry FitzPatrick for the hearing “Oversight of Federal Efforts to Combat Human Trafficking”

Dear Members of the Committee:

Thank you for the opportunity to brief you on the scope and dynamics of human trafficking and forced labor, on U.S. activities to combat it, and on gaps and recommendations to strengthen the U.S. government’s activities. The Alliance to End Slavery and Trafficking (ATEST) applauds your leadership in confronting these heinous, criminal violations of fundamental human rights.

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), Covenant House, Free the Slaves, HEAL Trafficking, Human Trafficking Institute, Human Trafficking Legal Center, 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.

Our diverse team of experts include shelter and service providers in more than 30 U.S. cities, and program officers who work in more than 100 countries. We advocate for bipartisan, whole of government funding and approaches, which include programs at the Departments of Justice,

Homeland Security, Labor, Education, Health and Human Services, State, Treasury, the U.S. Trade Representative and the U.S. Agency for International Development.

I suggest that you think of human trafficking and forced labor not only as crimes, but as the results of violations of human rights, civil rights, child rights, women's rights, worker rights and migrant rights. Trafficking is an unfair trade practice, it is a tool of repression, it is a result of racial, ethnic, class and religious discrimination, and it undermines economic development. By combating human trafficking, we seek to directly confront those societal problems. And in turn, by addressing those root causes, we help reduce the vulnerabilities that make people easier targets for traffickers. ATEST advocates for breaking the cycle of exploitation through holistic, systemic change. It's not only the right thing to do, it's the smart thing to do. Policing this crime in one tool to do that, but not the only one.

Human trafficking and forced labor are happening everywhere, in every state (and quite possibly in every congressional district at some point or another), as well as in every country. Here are the global estimates from the United Nations: 21 million people in forced labor in mines, farms, factories, hotels, restaurants, construction sites, fishing boats, private homes and prisons; 4 million people are trapped in forced commercial sex work; roughly 60 percent of victims are women and girls, 25 percent are under age 18, and 23 percent are outside their home country.<sup>1</sup> There are no reliable statistics for prevalence inside the U.S.

There are two major legislative issues before the 117th Congress: reauthorization of the Trafficking Victims Protection Act (TVPA), and appropriations for federally-funded anti-trafficking programs.

At this writing, three bills have been introduced covering different aspects of the TVPA reauthorization. One bill is in the House: H.R. 6552 (our thanks to Representatives Bass, Smith and McCaul as original cosponsors). It has passed the House Foreign Affairs Committee and been referred to the House Judiciary Committee for consideration. There are two bills in the Senate: S. 3946 and S. 3949. They have been referred to the Senate Judiciary Committee. A fourth and final bill is expected in the Senate this week, which will be referred to the Senate Foreign Relations Committee.

ATEST supports these bills and urges you to enact them. These bills will reauthorize hundreds of millions of dollars in spending on anti-trafficking programs over the next five years throughout the federal government. They include many policy provisions that advance the fight against traffickers:

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<sup>1</sup> [https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms\\_575479.pdf](https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_575479.pdf)

- Many provisions have been broadened to include a focus on both labor and sex trafficking, including the creation of dedicated labor trafficking investigation teams at the Departments of Justice and Homeland Security and dedicated funding to enforce the United States prohibition on importing goods tainted by forced or child labor
- The integration of counter-trafficking strategies into all foreign aid programs run by the U.S. Agency for International Development, and a provision to ensure the U.S. champions the inclusion of trafficking assessments and mitigation in loans by multilateral development banks to countries with weak anti-trafficking track records
- Stronger protection for domestic workers brought to the U.S. by foreign diplomats and staffers of international organizations such as the U.N. and World Bank
- Creation of a national research agenda on trafficking prevention strategies, and creation of a GAO study on the accessibility of mental health and substance use treatment for survivors
- Updated rules to prohibit forced labor in U.S. government contracts, and federal travel preference guidelines for hotels with zero tolerance policies for trafficking
- Mandatory anti-trafficking training for all federal employees, prohibition of retaliation against a trafficking survivor or witnesses in a trafficking case, and creation of multidisciplinary teams at the FBI to ensure proper support services are available during investigations
- Continuation of the toll-free National Human Trafficking Hotline and the U.S. Advisory Council on Human Trafficking, which provides expertise to federal agencies from human trafficking survivor-advocates
- Easing barriers to ensure survivors can get identification documents, and new rules to ensure traffickers can't avoid paying damages to survivors by filing bankruptcy

The second major issue before the 117th Congress is appropriations to fund programs run by the federal government and to award grants to civil society organizations that implement programs throughout the U.S. and around the world. Human trafficking generates approximately \$150 billion in illicit profits each year.<sup>2</sup> Fighting a problem of this scale requires significant investments by the U.S. government. ATEST's Fiscal Year 2023 appropriations request is \$1.3 billion<sup>3</sup>, which includes specific recommendations for the Departments of Justice and Homeland Security, along with other departments. We urge you to support robust funding for anti-trafficking programs.

The U.S. has built one of the strongest anti-trafficking responses of any country in the world. Programs throughout the federal infrastructure work on the 3-P model of prevention, prosecution and protection. There is coordination at the White House level. The U.S. prohibits the importation of goods tainted by forced or child labor and the expenditure of tax dollars for tainted goods in federal programs or contracts. The U.S. has established global benchmarks for governmental action and evaluates more than 150 countries each year on their efforts in the State

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<sup>2</sup> [https://www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS\\_243391/lang--en/index.htm](https://www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS_243391/lang--en/index.htm)

<sup>3</sup> <https://endslaveryandtrafficking.org/atest-advocates-for-1-3-billion-in-federal-funding-to-combat-human-trafficking-and-its-root-causes/>

Department's Trafficking in Persons (TIP) Report.<sup>4</sup> The U.S. provides aid to governments and civil society organizations in the U.S. and throughout the world to conduct front-line anti-trafficking work.

However, we don't always live up to our own standards. For the years 2019 and 2020 ATEST has questioned the State Department's Tier 1 top ranking for the U.S. in the TIP report because of declining prosecutions, decreased protection for survivors, reduced prevention efforts and harmful policies that increased vulnerability and deterred many victims from seeking help.<sup>5</sup> These findings are the U.S. government's own assessment of its trafficking program performance in the TIP report. We question if other countries would receive a Tier 1 ranking with that record, and urge the U.S. to apply the same rigorous scrutiny to itself that it applies to other countries.

ATEST has specific recommendations on current gaps and shortcomings in the U.S. trafficking anti-trafficking response:

- **Prevalence study:** You can't cure what you can't count, Congress needs to know the true scope and dynamics of the problem to develop effective legislative responses and the American public has a right to know that investments of tax dollars are generating results that impact their own local communities. The Justice Department was mandated with developing prevalence methodologies in the 2018 reauthorization of the TVPA, but it has not yet been done.
- **Victim-centered Protocol:** Too often law enforcement agents arrest trafficking victims for crimes they have been forced to commit as a result of their trafficking. This is especially true in sex work raids, but can happen in circumstances involving weapons, narcotics and gang activity. Traffickers also avoid liability by forcing existing victims to recruit new victims into ongoing trafficking rings, which can result in victims of human trafficking being prosecuted as traffickers themselves. As well, law enforcement agencies don't often have referral systems in place for shelters or trauma counseling, or have multi-disciplinary teams involved during investigations, field operations or prosecutions to protect survivor rights and provide support for trafficking victims. The traumatization caused by these arrests and prosecutions only exacerbates the trauma from the underlying trafficking experience, and does not make our communities safer or mitigate human trafficking. The Justice Department was mandated with developing protocol in the 2018 reauthorization of the TVPA, but it has not yet been done.
- **Criminal Records:** House and Senate offices are working to reintroduce the Trafficking Survivors Relief Act to allow courts to vacate federal convictions and expunge arrest

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<sup>4</sup> <https://www.state.gov/trafficking-in-persons-report/>

<sup>5</sup> <https://endslaveryandtrafficking.org/2021-tip-report-u-s-tier-one-ranking-questioned/>

records for crimes a trafficking victim was forced to commit, so these records don't harm their chances of rebuilding successful lives. Criminal records are particularly harmful to those applying for immigration status as a victim of human trafficking. All victims of human trafficking face significant obstacles to their self-empowerment and recovery when burdened with criminal records, including inability to secure employment, sustainable and affordable housing, custody of children, and more. Most states (46) have some version of a law that allows victims of human trafficking to clear all or part of their criminal record as it relates to crimes they were forced to commit during their trafficking. It's time for the federal government to pass a federal vacatur bill so we expand criminal record relief to all those who need it most. Once introduced, federal vacature legislation will come to this subcommittee for consideration.

- Continued Enforcement of the Tariff Act and Beginning Enforcement of the Uyghur Forced Labor Prevention Act (UFLPA):<sup>6</sup> We've seen substantial progress in the issuance of Withhold Release Orders (WROs) by Department of Homeland Security Customs and Border Protection investigators. These orders block specific shipments of goods tainted by forced or child labor. ATEST urges Congress to fund continued robust enforcement of this important tool to ensure that cheap goods produced through forced labor overseas do not undercut U.S. businesses at home. ATEST applauds passage by the 117th Congress of the transformative approach embodied in the UFLPA, which presumes goods from Xinjiang Province in China are tainted until proven otherwise. Oversight of DHS implementation of the new law will be critical, including a key determination that it is not possible for a Xinjiang manufacturer under current repressive conditions to make a credible assertion that their product is free of forced labor. As well, DHS needs to work carefully to prevent transshipment of goods through third countries.
- Greater Oversight Transparency of the Federal Acquisition Regulation Prohibiting Forced Labor in Government Contracts: The U.S. government is the largest single consumer of goods and services in the world, and standards have been created to prohibit tax dollars from being used to procure products tainted by forced labor. However, enforcement should be strengthened to include the formal establishment of trafficking compliance officers at all federal agencies; the publication of reports that include the number of investigations, number of contracts terminated, number of contractors debarred, and other steps to ensure rules are being rigorously implemented. Congress must ensure that violations are referred to the Department of Justice for enforcement action when needed.
- Regulation of Foreign Labor Recruiters: Globally, half of all trafficking victims are estimated to be victims of debt bondage.<sup>7</sup> International labor recruitment is a loosely regulated field, allowing traffickers posing as legitimate recruiters to trick those looking

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<sup>6</sup> <https://www.congress.gov/bill/117th-congress/house-bill/1155/text>

<sup>7</sup> [https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms\\_575479.pdf](https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_575479.pdf)

to migrate for work. Even established recruiters charge exorbitant fees and usurious interest, falsely telling migrants they will earn enough to pay off any recruitment debt in a reasonable time. ATEST urges Congress to enact strict regulation of foreign labor recruiters. A model bill can be seen on the ATEST website as Recommendation 8 in our Recommendations for 2021 Trafficking Victims Protection Act Reauthorization.<sup>8</sup>

- Equity Gaps: There have been substantial increases over the past decade in federal funding for U.S. anti-trafficking programs. However, most funding increases and attention has been directed toward sex trafficking, leaving labor trafficking programs seriously under-resourced. As well, an emphasis on law enforcement prosecutions has left gaps in programs to prevent trafficking and protect victims and survivors. ATEST has crafted a wide range of programmatic recommendations for the Biden-Harris Administration to help restore greater equity among the 3-P's.<sup>9</sup> ATEST authorization recommendations to Congress for the Trafficking Victims Protection Act Reauthorization<sup>10</sup> and for Fiscal Year 2023 appropriations<sup>11</sup> include ways to ensure prevention and protection programs receive the resources they need.

Again, my thanks for the opportunity to provide you with this quick briefing on areas where the U.S. can strengthen its anti-trafficking response and Congress can strengthen its oversight. ATEST stands ready to help congressional offices with any questions you might have.

Sincerely,

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<sup>8</sup> <https://endslaveryandtrafficking.org/wp-content/uploads/2021/06/ATEST-TVPR-Full-Recommendations-2021.pdf>

<sup>9</sup> <https://endslaveryandtrafficking.org/wp-content/uploads/2020/11/ATEST-Presidential-Transition-Memo-November-2020.pdf>

<sup>10</sup> <https://endslaveryandtrafficking.org/wp-content/uploads/2021/06/ATEST-TVPR-Full-Recommendations-2021.pdf>

<sup>11</sup> <https://endslaveryandtrafficking.org/appropriations-guide/>