



February 17, 2023

The Honorable Cindy Dyer
Ambassador-at-Large
U.S. State Department Office to Monitor and Combat Trafficking in Persons (J/TIP)

RE: Request for Information for the 2023 Trafficking in Persons Report, United States government input (FR Doc. 2022-26668)

Dear Ambassador Dyer:

Thank you for the opportunity to participate in the creation of the 2023 Trafficking in Persons Report. One thing that stands out about the U.S. government's efforts to combat human trafficking is the J/TIP team's diligence in soliciting and integrating information from civil society organizations. This bolsters the credibility of the TIP Report as a tool to promote global governmental action. It is especially important that the United States subjects 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 in more than 30 U.S. cities and 100 countries provides our coalition with 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, United Way Center to combat Human Trafficking, Verité, and Vital Voices Global Partnership.

Several ATEST member organizations directly submitted information to the J/TIP office for the 2023 TIP Report. We do not repeat their in-depth, point-by-point, information here. Rather, this letter combines and reinforces themes for your consideration, along with providing additional observations from the ATEST coalition as a whole.

U.S. Accomplishments

There have been several promising actions taken during the reporting period of April 1, 2022 to March 31, 2023. These include:

- **Implementation of the Uyghur Forced Labor Prevention Act:** This legislation takes important steps to ensure the United States does not import goods made by forced labor in the Xinjiang Uyghur Autonomous Region in China. Enforcement began in June 2022. The Department of Homeland Security (DHS) reported on January 18, 2023 that the shipping of “thousands” of containers had been affected so far, with goods backlogged at ports or holding yards awaiting determinations if they may be allowed into the U.S. DHS solicited input from civil society organizations when developing implementation procedures for the new law and has published detailed guidance for importers on its requirements. DHS has committed to creating a public dashboard of enforcement actions soon. This law breaks new legal ground by presuming that goods from a region with an extensive record of forced labor are tainted unless proven otherwise, potentially setting a precedent that could be applied to other economic sectors or geographies. The new law also improves the balance between sex and labor trafficking enforcement actions by U.S. authorities.

- **Partial Reauthorization of the Trafficking Victims Protection Act:** Congress passed, and President Biden signed, two bills to reauthorize portions of the Trafficking Victims Protection Act (TVPA). They include important new initiatives and funding authorizations, including:
 - Dedicated staff and funding at the FBI and Department of Homeland Security for specialized investigation teams to focus on labor trafficking
 - Funding increases to enforce Tariff Act provisions that prohibit the importation of goods made through forced or child labor
 - Those who "attempt or conspire" to benefit from trafficking can be held liable for civil damages
 - Traffickers can't escape paying restitution to survivors by filing bankruptcy
 - Elimination of the sunset for the U.S. Advisory Council on Human Trafficking, a panel comprised of individuals with lived experience
 - Training for all federal workers on trafficking and establishment of codes of conduct at all agencies to prohibit trafficking
 - Pilot program on preventing trafficking of highly vulnerable rural youth
 - Comptroller General study on compliance with rules that ban human trafficking in federal supply chains
 - Greater transparency on federal expenditures to combat trafficking by requiring the open publication by each agency of their annual anti-trafficking spending

- GAO study on availability of mental health and substance abuse services for survivors
- Sense of Congress that all large companies should have an anti-trafficking trafficking policy, to include a prohibition of deceptive labor recruiting practices

Two other bills to reauthorize other parts of the act failed to pass Congress, leaving significant gaps in authorizations for federal programs (see section on Deficiencies for details).

- **Assistance for Migrants:** Interrelated initiatives have been announced in the past year to assist undocumented migrants seeking immigration support. The Labor Department announced it will issue letters of support for undocumented workers seeking temporary immigration protections from the Department of Homeland Security so that they can report unsafe or discriminatory working conditions without fear of deportation. The Occupational Safety and Health Administration announced it will issue U and T visa certifications to undocumented workers during workplace safety investigations if human trafficking is detected. The Department of Homeland Security announced undocumented workers or workers on temporary work visas who experience or are witness to labor violations at their worksite can now report these violations to federal or state labor agencies and with the support of those agencies, receive protection from deportation and access to work authorization. Statistics are not yet available about the implementation and impact of these new policies. The fear of deportation allows traffickers to exploit vulnerable workers and prevents victims from seeking help. The new policies will help safeguard victims and increase enforcement of anti-trafficking laws.
- **Other areas of progress:** We note progress in several areas: steps to center survivor engagement and leadership include expanded survivor consultations at the J/TIP office and the inclusion of a member of the U.S. Advisory Council on Human Trafficking at the annual meeting of the President's Interagency Task Force; greater transparency is evident in the form of public online convenings by the Department of Homeland Security and the Senior Policy Operating Group; the International Labor Affairs Bureau at the Department of Labor has met its statutory obligation to list intermediate and finished goods tainted by child and forced labor in the publication of goods prohibited for import into the U.S.; the U.S. Trade Representative has engaged civil society groups in the process of developing a trade policy to combat forced labor; the Department of Homeland Security rejected efforts by business interests to make import shipping manifests secret; DHS has increased the use of withhold release orders and findings (beyond the Uyghur Forced Labor Prevention Act) to prevent tainted products from being imported into the U.S.

U.S. Deficiencies

- **Failure to Fully Reauthorize the Trafficking Victims Protection Act:** Two bills, one passed by the House of Representatives, and one passed by the Senate, failed to receive final passage during the 117th Congress. This has left significant gaps in the U.S. government's anti-trafficking response, including:
 - Funding authorization for trafficking victim and survivor programs at the U.S. Department of Health and Human Services
 - Funding authorization to operate the National Human Trafficking Hotline
 - Funding for the State Department's Office to Monitor and Combat Trafficking in persons (J/TIP), which creates annual Trafficking in Persons Report, runs the President's Interagency Task Force on Human Trafficking and the Senior Policy Operating Group to coordinate anti-trafficking programs across federal agencies, runs the U.S. Advisory Council on Human Trafficking, and provides grants that support governmental and civil society anti-trafficking programs around the world

The two bills also included significant new policies that were not enacted, including:

- Integrating anti-trafficking strategies into all aid and humanitarian assistance programs run by the U.S. Agency for International Development
 - Strengthening protections for domestic workers brought to the U.S. by diplomats and workers at international institutions
 - Championing of anti-trafficking assessments and mitigation measures when considering the approval of loans by multilateral development banks
- **Overemphasis on Sex Trafficking:** Global U.N. estimates and statistics from direct service providers indicate that labor trafficking is more prevalent than sex trafficking. However, U.S. 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. 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, but the shortfall remains even after the worst of the pandemic has passed. 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 many states are failing to provide survivors with this essential 3-P (prevention, prosecution, protection) element of protection. There is a critical need for a federal vacatur law, which failed to pass in the 117th Congress.
- **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 continuation of Title 42 by the current administration to unfairly restrict immigration for public health reasons has continued to increase vulnerability to human trafficking, pushing many who seek safety in the U.S. by applying for asylum and refugee status into dangerous and irregular migration pathways. 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. Although new policies have been announced to ease access to T-visas, processing times remain unacceptable.
- **Funding Gap in Survivor Support:** An implementation transition in the fall of 2022 at the Trafficking Victims Assistance Program (TVAP) funded by the Department of Health and Human Services Office on Trafficking in Persons caused an abrupt gap in survivor funding to support housing, medical, transportation, and legal costs. Clients were re-enrolled

after a month, but the new implementing contractor is receiving higher overhead, causing services to survivors to decrease.

- **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.

Thank you for taking this information into consideration in drafting the 2023 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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