

A PRESIDENTIAL AGENDA FOR ENDING MODERN SLAVERY AND HUMAN TRAFFICKING

2021-2024



**Alliance To End
Slavery & Trafficking**

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About the Alliance to End Slavery and Trafficking (ATEST)

The Alliance to End Slavery and Trafficking (ATEST) is a U.S.-based coalition that advocates for solutions to prevent and end all forms of human trafficking and forced labor around the world. We promote 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 gives us an unparalleled breadth and depth of expertise.

As ATEST, we are social workers, counselors, lawyers, doctors, workers' rights activists, children and youth advocates, researchers, immigrant rights protectors, human rights defenders and others. We believe in a holistic, comprehensive approach to anti-trafficking work, striving to address the needs and vulnerabilities of communities particularly at risk, including immigrants, migrant workers and refugees, LGBTQ+, children, runaway and homeless youth, communities of color, and ethnic and religious minorities. We are committed to focusing on racial and gender equity throughout our work. We promote victims' rights and access to justice and remedy, and the decriminalization of coerced and forced conduct. We insist on the separation of labor law and immigration enforcement. We take a victim-centered, trauma-informed, and worker-experience approach and center our work in a human, civil, and worker rights framework. We advocate for

inclusion of survivor voices in the shaping of anti-trafficking policies and programs. We believe in consensus building, collaboration, and partnerships to support bi-partisan solutions that address the root causes of trafficking and the vulnerabilities of the populations for whom we advocate. We promote inclusive growth and sustainable development in our anti-trafficking programming and advocacy, focused on concrete actions, long-term solutions, and measurable impact.

Since its inception, ATEST has focused equally on both labor and sex trafficking. In recent years, we have witnessed back sliding and misinformation about the scope and extent of human trafficking, with the much less attention given to forced labor, and false information about the scope and underlying root causes of trafficking for sexual exploitation. We urge the new administration to engage in an awareness raising information campaign and implement meaningful policies to dispel the harm caused by this unbalanced and unsubstantiated approach. 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.



Traffickers burned down the homes of these villagers when they declared their freedom. Many villagers wanted to give up. The women in front rallied their frightened neighbors and led them to freedom. Grassroots activists helped the village get a quarry lease of their own. The women say, "This is our quarry, we are the owners, we will never go back to slavery again." They do the same backbreaking work, but they get paid and they do it for themselves, in freedom. It makes all the difference in the world.

Photo by Lisa Kristine

EXECUTIVE SUMMARY

Human trafficking impacts an estimated 24.9 million people globally, earning traffickers approximately \$150 billion in illicit profits annually. The U.S. Government currently spends about \$250 million annually combating trafficking both at home and abroad, or, a small fraction of one penny on every dollar a trafficker earns. In order for the United States to continue leading on trafficking issues globally, we must significantly increase our investment in both domestic and international programs. We must strategically prioritize programs and funding that have a measurable impact on preventing human trafficking and forced labor.



WHOLE-OF-GOVERNMENT APPROACH

To harmonize these efforts, **ATEST recommends a whole-of-government approach** on all counter-trafficking in persons efforts coordinated through a National Strategic Action Plan led by the White House. This process should address trafficking comprehensively—including sex trafficking and forced labor of adults and children internationally and domestically—and be trauma-informed, vulnerable population-advised, survivor-oriented, and must address the root causes that underlie trafficking, as well as the crime itself. An impactful National Strategic Action Plan must be developed in consultation with stakeholders, within and outside of government, and must include activities that agencies can take with existing budgets to combat trafficking and also outline new investments that must be made to best combat human trafficking through a whole-of-government approach.



SIGNIFICANT NEW INVESTMENTS IN DATA AND RESEARCH

The National Strategic Action Plan must include **significant new investments in data and research**, including the development of prevalence methodology for the United States and international research to inform decisions about current and future counter-trafficking in persons programs. Additionally, studies are needed around the impact of the COVID-19 pandemic on the prevalence of sex trafficking and forced labor, services available to survivors and recommendations on policies to better protect vulnerable groups. Our counter-trafficking in persons efforts will be more effective only if this Administration substantially increases comprehensive data collection, sharing across agencies and analysis.



EMPHASIZE PREVENTION

Additionally, a successful National Strategic Action Plan needs to include resources allocated for the prevention of human trafficking domestically and internationally. Over the next four years, we need agencies to propose solutions that **emphasize prevention** to address underlying causes and prevent people from ever becoming victims of trafficking. The U.S. Government approach has focused heavily on criminal enforcement and now must scale its prevention programs up to the same levels of investment. ATEST urges this

Administration to prioritize prevention programs that have a measurable impact on the prevalence of trafficking in the National Strategic Action Plan, particularly programs in the Departments of Health and Human Services, Labor, Education, Housing and Urban Development, Department of State and the Agency for International Development. Supporting these Agencies with expertise in addressing root causes for vulnerable populations is particularly critical in the immediate term, especially in light of the increasing vulnerabilities caused by the COVID-19 crisis and its aftermath.



PRIORITIZE COUNTER-TRAFFICKING IN PERSONS EFFORTS IN ALL U.S. FOREIGN POLICY

Internationally, as we rebuild our diplomatic institutions and re-engage in multilateral institutions, the Administration needs to **prioritize counter-trafficking in persons efforts in all U.S. foreign policy, including trade efforts** as a core principle for engagement. All trade agreements should include anti-trafficking strategies—particularly strategies to eliminate forced labor in supply chains—and a set of minimum trafficking in persons standards should guide every trade deal to protect vulnerable workers and promote responsible American businesses desperate for a level playing field. The U.S. Government should continue to lead the global movement against trafficking in persons by not allowing any goods made with forced or child labor to enter our borders.



SERIOUS EXPANSION OF RESOURCES FOR VICTIMS AND SURVIVORS

Successful anti-trafficking efforts also require **a serious expansion of resources for victims and survivors** to ensure they are able to access safe housing, treatment, medical care, legal services and exploitation-free jobs. Funding for victim services has not been sufficient to meet the growing needs of survivors, especially with increased needs during the COVID-19 crisis. ATEST calls for survivor-oriented, trauma-informed services and law enforcement actions in the United States; new approaches to address criminal records issues, including through enhanced legislation that vacates prior convictions of survivors; and urgent fixes to procedures for immigration relief. We call for enhanced victim services for vulnerable populations, including children and runaway and homeless youth; expanded housing and employment and training resources for all survivors; and strengthened worker protections, particularly in the nonimmigrant work visa (or guestworker) programs and for domestic workers, including greater regulation for the role that foreign labor recruiters play in increasing the vulnerability of migrant and immigrant workers to trafficking in persons.

The recommendations in this report are organized by U.S. Government agency. The order of the agencies does not reflect their priority. Each section includes background information on agency responsibilities and actionable processes we urge the Administration to set into motion within the first 100 days of this Presidency. Issues that require more in-depth explanation outside the scope of this report are featured in additional briefs linked to in the document.

INTRODUCTION: A CALL FOR CATALYTIC INVESTMENT IN PREVENTION AND STRATEGIC GLOBAL LEADERSHIP IN ANTI-TRAFFICKING EFFORTS

The Administration of Joseph R. Biden, Jr. and Kamala D. Harris has the opportunity to spearhead a major turning point in the counter-trafficking in persons (C-TIP) movement at a critical moment in the United States, twenty years after the passage of the first comprehensive federal law on human trafficking.⁴ The COVID-19 pandemic highlights the cracks we knew existed in our social safety net, including inequity, racism, weak protections for workers, rampant homelessness and housing insecurity, inequitable access to resources and healthcare, gender-based violence, threats to LGBTQ+ rights, poverty, system-involved youth, and a broken immigration system. Human trafficking lies at the intersection of all of these issues and we cannot address trafficking without reckoning with these problems. The members of ATEST implore this Administration to adapt the U.S. Government C-TIP approach to prioritize prevention and address the root causes of trafficking and forced labor.

Big, bold investments of resources in prevention efforts that address trafficking from a human rights-based approach is the only path forward. Rather than continuing to address trafficking through disconnected programs scattered across various agencies, we propose a whole-of-government approach focused on preventing people from ever becoming trafficked. Interagency cooperation is essential. If we forget that potential victims, victims, and survivors' specialized needs are best served by a wide range of federal government agencies, we will not provide sufficient preventative services or ongoing support. When agencies coordinate, they are better equipped to prevent trafficking, serve the needs of victims and help survivors thrive. While we fight the COVID-19 pandemic through public health responses and help businesses build back, we cannot rebuild our economy on the backs of exploited and trafficked workers. As we rebuild we must ensure that businesses, supply chains and our own government procurement policies ensure fair and safe jobs for all American and global workers. As President Biden promised during the campaign, business needs cannot be prioritized over the general public's needs and funding should be dramatically increased to social safety nets and human rights-based programs. With the economic instabilities for workers in the aftermath of COVID-19, both are critical in preventing exploitation before it starts. We can be assured that traffickers will be benefitting from increased economic vulnerability and our C-TIP response must prevent trafficking before it starts.

To address the social issues that make people vulnerable to trafficking, efforts should be directed at fixing the social safety net through a C-TIP inclusive lens. Robust anti-trafficking analysis, evaluation and interventions across the range of social service programs will ensure these efforts do not increase vulnerability to trafficking, but rather maximize the effectiveness of such programs.

Just as the United States should integrate a C-TIP lens into all interventions, a race and equity lens should frame these programs as well, as we know that traffickers benefit from racial bias and inequity and although robust data is lacking, we know trafficking likely impacts communities of color at far greater levels than other populations. Therefore, while addressing the effects of the COVID-19 pandemic, we must also keep in mind the centuries of racial injustice that have left Black and other communities of color disproportionately vulnerable to traffickers. We must build and fortify institutions so they are less likely to fail the people they intend to help. A C-TIP approach will therefore only be successful with a commitment to racial equity at the forefront.

Recognizing the nexus between gender-based violence and harassment and human trafficking is critical. While trafficking in persons can be a form of gender-based violence and harassment, various forms of gender-based violence and harassment can also serve as a driver to human trafficking and/or a method of controlling and manipulating individuals across all forms of trafficking. Comprehensive efforts to reduce human trafficking must include efforts to prevent and respond to gender-based violence and harassment.

Further, when we address the systemic issues that make people vulnerable to trafficking, we cannot forget the effects of climate change that continue to make people vulnerable to exploitation. As we see more climate refugees and scarcity of resources, both in the United States and abroad, more people will become vulnerable to trafficking. Fighting the climate crisis is an essential step to ending human trafficking.

Over the past 20 years, the United States has focused its C-TIP efforts on criminal enforcement. *The Trafficking Victims Protection Act (TVPA)* outlined three important goals for the C-TIP movement: prosecution of traffickers so they cannot harm again, protection of victims through services to increase safety and treat trauma, and prevention efforts to alleviate social vulnerabilities to exploitation. **The time is now to focus our commitment on prevention and protection efforts.**

The criminal justice and immigration systems require massive reforms to prioritize the needs of survivors of violence. Indeed, one of the greatest tragedies for trafficking victims is that they continue to be arrested and convicted of crimes their traffickers forced them to commit. Ensuring we treat victims as victims, rather than as perpetrators, and that the criminal justice system works for them on their terms is critical in reformulating the U.S. approach to combating trafficking. A more just system will prevent the criminalization of victims and provide for federal vacatur relief, a reform long overdue, to provide relief to the trafficking survivors our federal system has failed to protect. This Administration should commit to creating more proactive protocols and explicit guidance to ensure all federal law enforcement agencies and their state counterparts do not arrest victims of trafficking forced to commit crimes by their exploiters or put immigrant victims in deportation or removal proceedings. It should work to reform the temporary visa program across categories to remove the opportunities for exploitation inherent in its current form, including banning recruitment fees, increasing transparency and untying visas from employers. And it should ensure that there is a firewall between labor law and immigration enforcement to protect foreign workers who speak out about rights violations. Further, investments should increase for outreach programs that are based in communities and worker empowerment, and collaboration with law enforcement intervention.

To reprioritize prevention, funds and efforts should be directed to existing Department of Health and Human Services and Department of Labor programs that strengthen workers' rights and alleviate vulnerabilities to trafficking locally and globally. Additional funding should support programs in the Departments of Education and Housing and Urban Development that prevent and identify trafficking early and provide safe housing and educational opportunities for all.

This Administration is tasked with repairing our economy during the COVID-19 crisis and reinventing our leadership abroad. A failure to include C-TIP standards in trade negotiations and diplomacy efforts during this process would fail trafficking survivors globally. We should set the standard now that a strong effort to combat human trafficking is essential to doing business with the United States. Our economic recovery cannot be on the backs of exploited workers. We should encourage other states to improve, but we also have to clean up our own supply chains to prevent goods tainted with forced labor from entering our country. As such, this Administration should prioritize continued implementation of Executive Order 13627 and the related Federal Acquisition Regulations to set a global standard for ensuring forced labor is not tolerated in this country's procurement policies.

As we re-engage global leaders in diplomacy, foreign assistance and multilateral institutions, this Administration should integrate a C-TIP approach into every intervention and agreement. This Administration can bring a sense of security to our country by enforcing the rule of law across borders to ensure only goods made by free workers are allowed into and out of the United States through robust enforcement of the Tariff Act's forced labor importation prohibitions. To prove our leadership, the credibility of the State Department's annual Trafficking in Persons report must be protected by preventing politically-motivated tier upgrades and basing rankings on proven efforts to combat trafficking rather than false promises.

The Biden Administration has a moral duty to ensure survivors of trafficking are at the forefront of its efforts to rebuild our hollowed out institutions. Only if we remove the conditions in our society that lead to social upheaval and make people vulnerable to exploitation, and listen to those with lived experience and who are the most impacted, can we lead the way in combating trafficking and forced labor. The members of ATEST urge this Administration to be bold and to cement a unique legacy as the Presidency that sets the world on a course to abolish human trafficking once and for all. This report seeks to lay out a road-map of how to achieve this through practical and strategic steps that we believe the President-elect and his team should urgently and purposefully undertake from day one.

HUMAN TRAFFICKING DEFINED

In the United States and abroad, there is a plethora of language used to describe the crimes of commercial sexual exploitation and forced labor, or labor trafficking, including “human trafficking,” “slavery,” “forced labor” and so on. The word “slavery” carries specific connotations that complicate its use in a modern context and holds a unique racial history in the United States, as it does in many other countries. The use of chattel slavery to build much of this country was an especially violent and racially targeted form of enslavement. The word “slavery” provokes a particularly violent image here. We are only a few generations removed from the mass enslavement of Black people in the United States, and ATEST is equally cognizant that systemic racism and suppression continue to be rampant in our country, including in the approach and responses to human trafficking. The language we use in this document is intended to reflect the experiences of ATEST member organization clients and communities who have experienced slavery, forced labor and sexual exploitation, while also taking into account recent reconsideration throughout the counter-trafficking movement of the words we use to describe these forms of exploitation.

Within our membership, certain individual organizations are moving away from using the word “slavery” to focus more on “human trafficking” (including sex trafficking and labor trafficking) or “forced labor.” This move is intended to differentiate the current forms of exploitation from that of chattel slavery. They are intentionally choosing

to avoid “slavery” in the U.S. context (given the historical racist implications, particularly as Black slavery was a legal structure in the United States) and only use the words “slavery” or “modern slavery” when discussing a global context, where “human trafficking” is used more rarely. While in the United States, “slavery” carries a history of racial violence, much of the global movement uses the word regularly. The International Labour Organization (ILO) uses the phrase in some of its publications, like the “Global Estimates of Modern Slavery,” though the ILO more commonly uses the term “forced labor” in its international standards and in its programs. Simultaneously, the phrase “forced labor” can be inherently lacking when used to describe crimes under the umbrella of “human trafficking”, including forced marriage, organ harvest, sacrifice and the like. In other instances, the term “forced labor” is more accurate and easily understood to describe severe forms of labor exploitation that make up the majority of human trafficking cases.

While some organizations within our membership find language like “forced labor” or “trafficking” is preferred with the clients they assist, others work with clients and communities that feel the word “slavery” is appropriate to describe their specific experiences. They have even used anti-slavery statutes to win justice, not only for individual clients but for systemic solutions driven and designed by the communities themselves. For some of our members, survivors often describe themselves as slaves or refer to their situations as slavery-like. Furthermore, advocates have recognized

the widespread and institutionalized practice of using forced labor in the U.S. industrial prison context—which is entirely legal and thus constitutes a form of “legal slavery.” Above all else, we recognize and defer to the specific language that individual victims and survivors of human trafficking, forced labor and/or slavery use to describe their own lived experiences. For our members who work internationally, “slavery” is the framework some of them rely on in countries of focus as that is what is widely understood locally; while other members use “forced labor” in their international work as its more easily understood by workers, for example, and is in line with ILO labor standards.

Lastly, we acknowledge that the term “human trafficking,” which has gained much traction in the United States, is also inherently limited in its ability to describe the experiences of forced commercial sexual exploitation and/or forced labor. “Trafficking” implies movement, which is not needed under the *Trafficking Victims*

Protection Act of 2000, and is often inappropriately conflated with smuggling. Its legacy as a term originating in late-19th and early-20th century efforts to exclude immigrants from the United States—including the Chinese Exclusion Act of 1882, which barred immigration by all Chinese workers and was the first, and only, law prohibiting all members of a specific national group from immigrating to the United States—is also problematic. In conclusion, ATEST recognizes that the current language used in the anti-trafficking movement is inherently limited and subject to nuances and influences by geographic regions and industries where used (in the United States versus abroad, etc.). We call for legislators, advocates and allies to be thoughtful and inclusive when using language. Finally, we acknowledge that no single term is fully inclusive nor free from bias and that our most authentic use of language must be rooted in clients’ self-reported experiences.

KEY RECOMMENDATIONS BY AGENCY

I. *White House*

Executive Office of the President

Promote interagency coordination on C-TIP efforts

The Executive Office of the President (EOP) should encourage and require interagency coordination on counter-trafficking in persons (C-TIP) efforts across the whole of government. C-TIP efforts are slower and less effective when they are isolated to individual agencies. To increase interagency coordination, EOP should:

- Call for a National Strategic Action Plan (NSAP) that focuses beyond law enforcement-based solutions to human-rights based solutions including prevention by emphasizing the roles of the Departments of Health and Human Services (HHS), Labor (DOL), Education (ED), Housing and Urban Development (HUD), State (DOS) and the Agency for International Development (USAID) in C-TIP efforts. The first Federal Strategic Action Plan on Services for Victims of Human Trafficking⁵ expired in 2017 and contained no additional resources or recommendations by agencies for additional resources to implement innovative programs to combat human trafficking. A National Action Plan was released in October 2020, though did not commit any resources to the strategy. This Administration should draft and implement a five-year plan with input from survivor leaders and civil society organizations that should include agency commitments for what they can do with existing resources and outline initiatives over five years that would take additional funding and itemize these costs to implement effectively;
- Designate a senior White House staffer to ensure every agency participates fully in the Senior Policy Operating Group (SPOG) and facilitate coordination efforts between all relevant domestic and international-facing agencies;
- Require all agencies to consult with the U.S. Advisory Council on Human Trafficking on C-TIP efforts and compensate survivor consultants accordingly;
- Promote data sharing across agencies to increase coordination. While we face the global COVID-19 pandemic, this data sharing should include pandemic-related impacts on the prevalence of forced labor and sex trafficking and its effects on vulnerable groups;
- Promote the whole-of-government approach for efforts to enforce the *Tariff Act of 1930* (P.L. 71–361) by encouraging DOL, Departments of Justice (DOJ), Homeland Security (DHS), State (DOS) and Commerce (DOC) to better coordinate issue areas related to enforcement, including: 1) criminal referrals to DOJ, where appropriate; 2) potentially overlapping cases where forced labor is identified in a federal contract (entailing needed actions under the Federal Acquisition Regulations (FAR)⁶); 3) potentially overlapping cases where trafficking is identified in *Foreign Corrupt Practices Act* (FCPA)⁷ violations, 4) leveraging and analyzing existing information and



Each day, children make several trips down the mountain, delivering stones from higher up in the Himalayas carrying stone weighing more than their own body weight. They use makeshift harnesses out of ropes and sticks, strapping the stones to their heads and backs.

Many of them come from families where everyone is trapped in debt bondage. One of the mothers describes what it was like to be exploited, "Neither can we die, nor can we survive."

Photo by Lisa Kristine

and potentially actionable intelligence through regular coordinated discussions and specific tasking of relevant partners within the intelligence community, Immigration and Customs Enforcement (DHS/ICE), DOS Office to Monitor and Combat Trafficking in Persons (DOS/J/TIP), DOS Bureau of Democracy, Human Rights and Labor (DOS/DRL), and especially DOL International Labor Affairs Bureau (DOL/ILAB), 5) integrate effective enforcement as a tool in the context of broader trade policy and trade negotiations, 6) coordinate with DOL/ILAB to ensure that any compliance based regulations that DHS Customs and Border Protection (DHS/CBP) promotes (e.g. social audits, reimbursement of recruitment fees, training on forced labor, etc.) are based on DOL/ILAB's existing guidance and tools regarding supply chain compliance, and 7) ensure DOL/ILAB plays a larger role in training DHS and DHS/CBP on the definition of forced labor and how to identify cases of forced labor.

C-TIP integration across non-trafficking specific programs

The integration of C-TIP efforts into all domestic and international development and social service programs is necessary to increase efforts to combat sex trafficking and forced labor in the United States. EOP should encourage all agencies to integrate a C-TIP lens into programs that involve vulnerable populations. Many survivors do not know they meet the definition of a trafficking victim and are therefore left out of key services. By expanding cultural sensitivity to better identify trafficking survivors and applying a C-TIP lens to programs like those combatting homelessness, fighting food insecurity and promoting worker rights, agencies will be better able to prevent forced labor and identify those already experiencing human trafficking. C-TIP efforts should involve interagency coordination so when trafficking in persons (TIP) issues are discovered, they can be properly handled by HHS and DOL.

Presidential Initiative on Decent Work

The Administration should create a Presidential Initiative on Decent Work and Inclusive Growth that creates a comprehensive whole-of-government approach that prioritizes the creation of quality jobs, worker rights and strong social protections for workers in the formal and informal economy. Such an initiative should include a focus on all workers in the United States, including immigrant or migrant workers. As workers' rights protections are critical for trafficking prevention, such an initiative would provide a coherent and comprehensive approach to reducing the prevalence of forced labor and human trafficking in the United States. To lead the Presidential Initiative, ATEST urges the Administration to:

- Establish a position at the National Security Council (NSC) to coordinate global economic and development policies and programs that advance the objectives of the decent work and inclusive growth agenda to further the goals related to trade and forced labor prevention in supply chains outlined elsewhere in this report; and
- Establish an NSC-led interagency group on corporate accountability that prioritizes effective implementation of international labor standards in business practices.

Tier 3 sanctions and Presidential waivers

Sanctions can play an important role in pushing governments to take more action to combat trafficking. There are now 23 countries with a Tier 3 ranking, meaning their governments do not meet minimum anti-trafficking standards and are not making an effort to do so.⁸ These rankings can trigger sanctions, and each year the president determines if non-humanitarian, non-trade related aid should be cut. In 2018, however, the President issued broadly-worded Tier 3 sanctions that caused a wide range of international development projects to be slashed — even projects that reduce vulnerability to trafficking in many of the world’s poorest nations. These decisions ran contrary to the intent and purposes of the *Trafficking Victims Protection Act of 2000* (P.L. 106-386) and its subsequent reauthorizations (TVPA). The TVPA only calls for sanctions on aid to governments—it does not call for cutting off funding for democracy and governance, human rights, education and health programs with civil society in Tier 3 countries. In fact, the *Trafficking Victims Protection Reauthorization Act of 2017* (P.L. 115-427) requires DOS to work with Tier 3 countries to develop national anti-trafficking action plans.⁹

- ATEST urges the Administration to properly implement anti-trafficking laws by allowing U.S. international development assistance to reach people in Tier 3 countries, and funding programs that address the underlying root causes of human trafficking.

Office of Management and Budget

Scale up investments to combat trafficking across the government, particularly focusing on prevention strategies that address vulnerable populations

Starting in the fiscal year (FY) 22 Budget request, the Administration should begin to systematically scale up investments to combat trafficking across the government, including critical early investment in the development of a National Strategic Action Plan, and funding for research methodology (including the unfunded National Institute of Justice (DOJ/NIJ) national TIP prevalence study and the HHS vulnerable populations study), data collection and analysis that can be used to target subsequent resource expansions. In the FY 23 budget, targeted programs that can clearly deliver critical services to underserved populations, such as runaway, homeless, and system-involved youth, and help begin to move the dial on prevention should receive significant additional budget requests. These requests should focus on underfunded programs in HHS and DOL. By the FY 24 Budget request, the proposed federal investment should be significantly enhanced on a range of fronts, reflecting levels needed to have a real impact on combating trafficking over the tenure of this Administration.

Additionally, specialized programs that serve trafficking victims are needed in every state. Similar levels of funding that have been provided to DOJ for specialized victim services must be matched and provided to HHS. Currently, HHS receives about 34 percent of the level of funding that DOJ received for human trafficking programs.¹⁰ The justification for this funding is detailed in the HHS section below.

Secure additional resources for victims services

The Office of Management and Budget (OMB) should include significant expansion of resources for victim services in the Budget request. As recommended by the U.S. Advisory Council on Human Trafficking in its 2020 report, the U.S. Government should increase investment in victims' services and economic opportunities for survivors across government agencies and grant programs that have been ignored to prioritize criminal enforcement.¹¹ HHS and DOL could utilize additional resources to fund prevention and workers' rights programs. HHS is in need of additional resources to fund both existing and newly created victim services programs, particularly in the light of the COVID-19 pandemic increasing vulnerabilities for trafficking survivors. To show the U.S. Government support for survivors, all allocated funds going to the Office for Victims of Crime (DOJ/OVC) under DOJ should be matched in HHS funding. In the midst of an unprecedented unemployment crisis, for example, HHS has no funding for specialized employment and training service programs for human trafficking victims and DOJ has two specialized programs in this area. More funding is needed for trafficking survivors seeking stable and safe employment. DOL requires more funding to support its efforts to improve employment conditions for workers in the United States through the Wage and Hour Division and Employment and Training Programs. By strengthening worker protections and expanding the ability for DOL to respond to worker complaints, the U.S. C-TIP response as a whole will be able to respond more effectively to the needs of victims, and more easily prevent victimization.

All funds currently expended for law enforcement task forces should come out of the funding already provided explicitly for law enforcement through DOJ, not OVC victim services monies. The Administration should also increase funding to HHS victim services programs threefold to bring into alignment with DOJ OVC funding to ensure programming that places community response and prevention at the forefront have equal, if not additional, priority.

Support and fund the U.S. Advisory Council on Human Trafficking

DOS/J/TIP should work with OMB to adequately resource and staff the U.S. Advisory Council on Human Trafficking, including exploring avenues to provide compensation for the time and expertise of the members. The U.S. Advisory Council was established by Section 115 of the *Justice for Victims of Trafficking Act of 2015 (JVTA)* (P.L. 114-22) to allow survivors of human trafficking to provide recommendations to the President's Interagency Task Force to Monitor and Combat Trafficking in Persons (PITF) on federal human trafficking policies. The U.S. Advisory Council provides a formal role for survivors of trafficking to inform policies that directly affect people experiencing similar forms of exploitation and to prevent others from becoming victims. EOP should support the U.S. Advisory Council by:

- Pushing agencies through the SPOG mechanism to ensure that appropriate recommendations from the council are meaningfully implemented;
- Ensuring the fully authorized number of council seats are filled and remain filled moving forward as members turn over;
- Work with Congress to extend the Council's sunset clause, set to expire September 30, 2021, and allow survivors to serve up to three terms rather than two to preserve continuity of efforts; and

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- In addition to consulting with survivors on the U.S. Advisory Council on Human Trafficking, additional survivors should be hired as consultants and compensated accordingly on all C-TIP efforts across all agencies.

Fully fund the National Human Trafficking Hotline

The National Human Trafficking Hotline (Trafficking Hotline) is an essential tool to connect victims and survivors with anti-trafficking services in their area (such as shelter, case management and legal services) and collect tips on human trafficking cases. The Trafficking Hotline's toll-free phone and SMS text lines and live online chat function are available 24 hours a day, 7 days a week, 365 days a year. Calls to the hotline have grown consistently since its inception. In 2019, the Trafficking Hotline identified more than 22,300 sex and labor trafficking victims in every state and territory across the United States.¹² To meet the needs of victims reaching out to the Trafficking Hotline, OMB should fully fund the National Human Trafficking Hotline to meet its annual growing call volume.

Increase funding for the International Labor Affairs Bureau

The Administration should work with Congress to expand the role and remit of the International Labor Affairs Bureau (ILAB) reporting in their lists, to include not just commodities and goods but any good produced with child or forced labor at any point in the production chain, while specifying where in the production chain the forced or child labor occurred. *The Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2018* (P.L. 115-425) suggested that ILAB include inputs made with forced labor "to the extent practicable." This additional layer of visibility would represent major progress in global supply chain transparency, but it would only be possible if a commensurate expansion of resources is authorized and appropriated. The Administration should only support such an additional mandate with relevant additional resources, so as not to impact the quality of the lists by imposing significant new unfunded requirements.

Reevaluation of civil and criminal enforcement priorities in budget requests

EOP/OMB should reevaluate civil and criminal enforcement priorities in Budget requests. OMB should increase funding to DOL, the Equal Employment Opportunity Commission (EEOC), HHS, HUD, ED, and the National Labor Relations Board (NLRB) to support labor enforcement and victims services. The U.S. Government approach has focused heavily on criminal enforcement since the first *Trafficking Victims Protection Act* became law in 2000 (P.L. 106-386). As a result, victims services programs have been underfunded and unable to serve the growing volume of victims referred to them each year. ATEST recommends increasing funding towards prevention-focused programs at HHS and DOL in order to provide more resources to people vulnerable to exploitation. OMB should enhance the U.S. Government focus on preventing people from ever becoming victims of forced labor and human trafficking.

Office of Federal Procurement Policy

The United States took important steps in 2012 by enacting the *End Trafficking in Government Contracting Act* (P.L. 112-239) and issuing Executive Order 13627, *Strengthening Protections Against Trafficking in Persons*¹³ in Federal Contracts. These efforts addressed abuses happening on U.S. military bases overseas by requiring government contractors to implement compliance plans to prevent fraudulent labor practices, including forced labor and human trafficking. Unfortunately, much remains to be done to effectively enforce this rule.

Some of the reporting requirements of the Federal Acquisition Regulations (FAR) rule have resulted in unintended real-world 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. The Administration needs to consider how the trafficking-related FAR is responding to the evolving situation of migration. We recommend the Office of Federal Procurement Policy (OFPP) continue and expand efforts to effectively implement the FAR rule on trafficking in persons, with an emphasis on consistent and transparent enforcement, including:

- Requiring increased transparency regarding how the regulations have been implemented thus far by requiring agencies to publicly report on what policies and procedures they have in place to implement this rule, how often compliance plans have been included in new contracts, whether or not compliance plans submitted include effectively implemented best practices such as due diligence plans, how often problems have been identified, including how many incidences have been reported by contractors to Inspectors General, and what standards are being used to remediate any issues;
- Work with Congress to request a Government Accountability Office (GAO) study examining domestic procurement regulations related to human trafficking, including both services and goods procurement;
- Task OFPP with issuing new guidance requiring agencies to conduct risk assessments to identify contracts that are providing goods (including commercially available off-the-shelf items, or COTS) from high risk regions or sectors, using the DOL List of Goods Produced by Child Labor or Forced Labor¹⁴ as a reference, then require those contractors to provide compliance plans including what due diligence they are undertaking to mitigate those risks; and
- Appoint a Labor Compliance Advisor at a senior level within key agencies (including but not limited to the Department of Defense (DOD), DOS, DOL and USAID) to promote awareness of



Farmworker on a Fair Food Program farm near Immokalee, Florida.

Photo by Shane Donglasan, courtesy of the Coalition of Immokalee Workers

the human trafficking-related regulations and train procurement officers in reviewing contracts and compliance plans, while also providing high-level oversight and monitoring.

Given strong bi-partisan support in the last five years for efforts to strengthen protections against trafficking in persons, including forced labor, in federal contracts, the U.S. Government is well-positioned to conduct activities to further ensure taxpayer dollars do not contribute to human trafficking in the United States or abroad.

There is a well-documented history of forced labor in U.S. agriculture, making it a particularly risky category in U.S. Government procurement. To address this, a pilot could be conducted by including in new solicitations for hand-harvested tomatoes an incentive for producers to certify, prior to award, that their product was produced without forced labor in compliance with the Fair Food Program,¹⁵ which has been proven to effectively eliminate forced labor. The pilot program should operate pursuant to FAR Regulations 6.302-1¹⁶ and 6.302-7¹⁷ due to the identifiably limited number of verifiably responsible sources. Alternatively, bids from Fair Food Program growers could get additional points in the bid weighting process, potentially helping them to get the contract. If the outcome of the pilot can show that additional value is provided to the U.S. Government, the program could be expanded into future solicitations for other products for which worker-driven social responsibility programs or union-ratified collective bargaining agreements can be shown to prevent forced labor.

U.S. Trade Representative

Including anti-trafficking strategies in trade deals

The Trafficking in Persons (TIP) Report published by DOS annually should set guidelines for how the U.S. Trade Representative (USTR) sets standards for countries with which it engages in trade deals. USTR should encourage countries with Tier 2 Watch List (T2W) and Tier 3 (T3) rankings to improve by including anti-trafficking strategies in all trade deals. While the TIP Report can be useful in determining steps a country can take to improve, the USTR should not “fast track” trade deals with countries receiving T3 or T2W rankings. The Trade Promotion Authority legislation was amended in 2015 to prohibit any trade deals with T3 countries from being expedited through Congressional approval to avoid politicization of the tier rankings. The same should be extended to countries on the T2W.

The NSC should convene an Interagency Policy Committee (IPC), in consultation with survivors and non-governmental leaders, to develop key metrics and processes around human trafficking and labor rights that foreign states should meet before trade deals are finalized. These metrics should be articulated with reference to recommendations from the DOS TIP Report, as well as vulnerabilities a country may have related to the DOL lists of goods, and should include mechanisms to evaluate the potential impact of deals on sex trafficking and forced labor. The IPC should produce a detailed report with such recommendations for a process, which should navigate any interagency disagreement and confirm the criteria. Such an IPC should ensure coherence with negotiations related to labor provisions in trade deals.

USTR and DOS should actively engage with foreign governments and civil society partners, including trade unions, around these metrics as applied to the specific states where deals are being negotiated, requiring minimum standards that are locally tailored and responsive to the civil society discussions before any deal is signed. When a deal is signed, ongoing compliance with these standards should be included in the main body of the agreements.

Follow a set of minimum TIP standards in order to engage in a trade deal with a country

USTR has the opportunity to set a global standard for combating human trafficking and forced labor effectively through strategic trade negotiations. The United States cannot continue to claim to be a leader in the C-TIP movement while allowing goods produced with forced labor at any point in the supply chain into our country. Before engaging in any trade deals with other countries, the USTR should ensure the country is following a strict set of minimum TIP standards, including:

- Compliance standards based only on concrete actions taken by a country;
- Standards for minimum compliance set by the *Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2018* (P.L. 115-425); and
- Any promotion of or participation in forced labor or human trafficking by a country as a violation of minimum standards of compliance.

Congressional Support

TVPA: Engage with civil society and Congress to sign a strong reauthorization of the *Trafficking Victims Protection Act*.

Many of the challenges in the fight against human trafficking can only be addressed by working with Congress. The TVPA is a seminal law that underpins U.S. efforts at home and abroad, and it is impossible to overstate the critical importance of keeping its provisions relevant and responsive to the evolving realities on the ground. It is a responsibility as well as an opportunity, and now more than ever, ATEST believes the reauthorization must include significant fixes to existing authorities and must create new initiatives that are only achievable through legislative action, including immigration provisions. The recent reauthorizations of the TVPA have focused too many resources towards law enforcement and prosecutions, leaving grants and programs for victims underfunded or not legally mandated, and necessary fixes needed in immigration and increased worker protections for trafficking survivors uncorrected. ATEST strongly urges the Administration to support prioritizing provisions that focus more on prevention and the rights of survivors and victims. We urge the Administration to engage actively with civil society and survivors as they work with Congress on the sixth reauthorization of this important act.

Support legislation to strengthen regulation of foreign labor recruiters

Legislation was introduced in previous Congresses to address the particular vulnerability of migrant/immigrant workers to human trafficking and the specific role that foreign labor contractors or recruiters play in this. 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. Discrimination within the guestworker program is problematic and oftentimes begins with discriminatory job announcements shared by recruiters. Stricter regulation of labor recruiters across all visa categories is needed to protect workers entering the United States from human trafficking and other abuses, especially in temporary or guestworker programs (and including the Au Pair and Summer Work Travel programs).

Support human rights due diligence legislation

As human trafficking is thriving around the world, many of the products we use each day are tainted by forced labor. The Administration should aggressively pursue requiring companies to conduct due diligence to prevent forced labor in their supply chains and provide remediation to victims when forced labor is found. The United States was once seen as a leader on supply chain regulation, beginning with the *California Transparency in Supply Chain Act* that passed in 2010.¹⁸ In the last decade, however, several countries have enacted federal level supply chain accountability laws and gone a step further to require companies to report on their due diligence efforts to mitigate the risks of forced labor. To keep pace with the changing global platform, the United States must swiftly act to require companies to enact due diligence plans flowing through the entire supply chain, combined with mechanisms for liability for harms caused by their suppliers, especially when their operations are in countries or industries at high risk.

Support the Runaway and Homeless Youth and Trafficking Prevention Act reauthorization

Youth and Young Adults (YYA) experiencing homelessness and runaway youth are particularly vulnerable to trafficking for labor, commercial sexual exploitation, or both, and present unique challenges for service and engagement. An estimated 4.2 million young people (ages 13-25) experience homelessness annually.¹⁹ Research from numerous studies have found trafficking rates among YYA experiencing homelessness ranging from 19 percent to 40 percent. Although the varying populations and methods of these studies do not allow for a definitive number, this means, using the lower end estimates, that about 800,000 of the YYA who experience homelessness in a year may also be victims of sex trafficking or forced labor in cities, suburbs, rural communities and tribal nations across the country.²⁰ Traffickers exploit the particular vulnerabilities that these young people experience, including their lack of access to basic needs (like shelter, food, health care and personal connections), many of which can lead them to not seek services and to avoid visibility to law enforcement. At the same time, *Runaway and Homeless Youth Act* (RHYA) programs are embedded in local communities across the country and provide effective interventions that can actually prevent trafficking and other forms of exploitation. They can do this by reducing vulnerability, while also helping to identify at an early stage where these crimes are taking place and providing much needed support, stabilization and opportunities to young victims.

COVID-19 has only exacerbated the already dire situations of young people experiencing

homelessness and human trafficking. YYA experiencing homelessness are at high risk of acquiring infectious diseases and their mobility places them at a higher risk for both contracting and spreading COVID-19. This population is unable to self-isolate or self-quarantine in their tenuous, transient, crowded and unstable situations. Due to increasing unemployment and the difficulty youth experiencing homelessness face in accessing housing and public or tax benefits, significant funding and targeted policy changes are needed. In a September 2020 survey of youth homelessness service providers of 63 communities, a significant loss of beds was recorded due to providers complying with the Centers for Disease Control (HHS/CDC) recommendations.²¹

The COVID-19 pandemic delayed a full House vote on this bill in this Congress. The passage of the *Runaway and Homeless Youth Trafficking Prevention Act* (RHYTPA) (H.R. 5191/S.2916 in the 116th Congress) should be a priority for this Administration.

Support the passage of the *Emergency Family Stabilization Act*

Prior to the COVID-19 crisis, U.S. public schools identified a record 1.5 million homeless children and youth, in grades PreK to 12. The U.S. Department of Education (ED) estimates that an additional 1.4 million children under age six experience homelessness.²² Homelessness among youth on their own is also widespread and growing; national research found that approximately 4.2 million youth ages 13 to 25 were homeless on their own during a 12-month period.²³ The current economic crisis and family stress related to the pandemic are creating new waves of youth and family homelessness. These factors have significantly increased the number of children and youth vulnerable to all forms of trafficking.

The COVID-19 crisis has created even more barriers to their survival, yet they have been largely left out of the national response to homelessness, trafficking and COVID-19. The *Emergency Family Stabilization Act* (EFSA) (H.R.7950/S.3923 in the 116th Congress) would fill an urgent gap in the nation's social safety net by allowing youth- and family-serving agencies to provide immediate support to children, youth and families—including those who are ineligible for HUD homeless assistance because they do not meet HUD's definition of homelessness. Providing housing-related and other services to children, youth and families experiencing homelessness as early as possible prevents trafficking, supports survivors of trafficking, reduces transmission of COVID-19, and mitigates compounding trauma and negative lifelong impacts of homelessness.

In light of COVID-19, Congress should act to provide flexibility in use of funds

The COVID-19 pandemic has required service providers and programs to modify their services in order to comply with guidance from the Centers for Disease Control (HHS/CDC), local Public Health Agencies, and state and local government orders. In order for these programs to continue to operate and serve their clients effectively amidst the pandemic, Congress needs to act and provide the following temporary flexibilities:

- Waive match requirements for TVPA and other federal grant funding since many organizations have been unable to hold fundraisers to raise cash match funds, or to host volunteers and interns to in-kind match;
- Allow clients to stay enrolled in programs or stay in housing programs beyond the current

length of time limitations. This is needed because many people's lives and incomes have been impacted by the pandemic and many persons are not able to complete programs within the current limited timeframes, people in housing programs with time limits are largely unable to afford rent due to loss of employment and income; and

- Increase flexibility in what programs providers can spend federal funds on, such as personal protective equipment, increased personnel costs, transportation assistance, health care, childcare, housing-related costs and other basic needs such as food and hygiene supplies.

II. Department of Labor

Nonimmigrant work (Guestworker) visas

Limited protections provided by nonimmigrant work or guestworker visas increase the vulnerabilities of foreign workers to forced labor. The COVID-19 pandemic has only increased these vulnerabilities by making it more difficult for workers to leave abusive employers. All workers in the United States should be able to work for employers that implement worker-centered protections, including COVID-19 protections, be able to exercise their freedom of association rights without fear of retaliation, and to blow the whistle on abusive employers or and to leave dangerous working conditions without losing visa protections. ATEST recommends DOL implement the following policies to protect guestworkers:

- Increase protections for guestworkers so they are able to leave their employers if they do not implement and follow worker-centered COVID-19 guidelines or if employers engage in workplace violations such as wage theft or retaliation for speaking out against violations;
- Automatically extend worker visa authorizations should a guestworker be laid off due to COVID-19; and
- Work with Congress to reform the system of temporary visas to untie visas from employers, allowing workers to leave abusive and exploitative employers without fear of deportation. This situation has been exacerbated during the COVID-19 pandemic but has been an issue since well before the pandemic.

Wage and Hour

DOL Wage and Hour Division (DOL/WHd) and DOL Office of the Inspector General (DOL/OIG) inspectors are in a unique position to identify cases of forced labor in workplaces. ATEST supports the U.S. Advisory Council on Human Trafficking's recommendation that DOL increase the number of DOL/WHd and DOL/OIG inspectors across the country to better identify and refer possible trafficking cases.²⁴ To meet this recommendation, DOL should:

- Request additional funding to increase the number of DOL/WHd and DOL/OIG inspectors nationwide;

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- Reinstate DOL authority to investigate potential human trafficking and labor exploitation claims without the requirement to coordinate with another law enforcement agency; and
 - Consult with the U.S. Advisory Council on Human Trafficking, unions and community-based providers to develop and institute mandatory uniform training policies on forced labor for labor inspectors and other frontline DOL staff who may come into contact with human trafficking survivors nationwide.

Occupational Safety and Health Administration (DOL/OSHA)

Victims of forced labor lack control over the safety of their working conditions, including potential exposure to COVID-19. These workers are less likely to be provided adequate sanitary measures, personal protective equipment (PPE),²⁵ social distancing and other workplace safety measures or access to testing and medical care. At the same time, DOL/OSHA is extremely underfunded, is yet to issue enforceable workplace safety rules related to COVID-19 (and CDC guidelines remain advisory only) and has done almost nothing to apply existing workplace safety protections to the COVID-19 context. It is therefore critical that the next Administration issue and enforce an Emergency Temporary Standard on how to protect workers from COVID-19, ensure that all frontline workers—including industries where trafficking risks are highest, such as for migrant farmworkers and in meatpacking—have priority access to personal protective equipment (PPE) and COVID-19 testing and integrate protection of worker health and safety rights into all anti-trafficking initiatives. To give just one other salient example, workers who are at risk of trafficking are more likely to work outside and are dying in increasing numbers due to rising temperatures, yet there is no federal heat stress standard. Frontline workers also need to be given whistleblower protections for reporting cases to DOL/OSHA inspectors and others.

Expanding employment and training services

The Employment and Training Administration (DOL/ETA) should seek to expand employment and training services for survivors of trafficking. As job opportunities decrease and disappear during the COVID-19 pandemic, new safe jobs are becoming more essential for trafficking victims. To meet this growing need for trafficking victims, ATEST recommends DOL/ETA:

- Use discretionary funds under the *Workforce Innovation Opportunity Act* (WIOA) to fund-TIP specific employment programs in the Public Workforce system;
- Deliver annual webinars to that system to raise awareness of TIP issues and how to provide services in a trauma-informed manner to survivors;
- Update guidance for employment programs on specific needs for employed survivors during the COVID-19 pandemic; and
- Update and enhance the Training and Employment Guidance Letter (TEGL) on trafficking, in order to reflect learning from the various pilot initiatives. This update should be undertaken in

should be undertaken in consultation with anti-trafficking organizations and the U.S. Advisory Council on Human Trafficking.

Strengthen regulation of foreign labor recruiters (U.S. and abroad)

Foreign labor contractors are increasingly relied upon to facilitate the movement of labor from one country to another and strong statutory fixes as discussed above are necessary. However, there is a lot that can be done through agency intervention in this critical issue as it is well documented that foreign labor contractors are often complicit with or directly involved in the trafficking of workers. Most problematic is that contractors often charge exorbitant fees for their services, forcing workers into debt bondage, falsifying documents and deceiving workers about their terms and conditions of work, ATEST recommends the Administration implement requirements for employers and contractors that protect the rights of workers, especially temporary or guestworkers, and eliminate financial hurdles to safe employment by:

- Requiring employers to pay all recruitment-related costs across all visa categories and implement policies where the burden is on the employer to proactively document to DOL that any foreign labor recruiter they utilize is not charging workers fees;
- Creating a system where workers can easily report if they are charged fees, and make information about bad acting employers/recruiters publicly available;
- Establishing mechanisms for administrative, civil and criminal remedies for foreign workers exploited by recruiters;
- Issuing guidance clarifying that the *Fair Labor Standards Act* (FLSA)²⁶ requires all recruitment fees across all visa categories to be repaid in the first workweek to the extent necessary to bring wages up to the minimum. These repayments cannot take the form of loans to workers;
- Issuing a memo to all Wage and Hour field offices reminding them of the agency's authority to enforce the FLSA with regard to any FLSA-covered worker, regardless of visa category, even when there is no specific regulatory authority with respect to specific visa program rules; and
- Implementing a policy across agencies that regardless of recruitment fees paid or reporting of illegal recruitment practices, workers will not be denied visas.

International Labor Affairs Bureau

Expand the role and remit of DOL/ILAB lists

The Administration should work with Congress to require DOL/ILAB to include not just commodities and goods but inputs produced with child or forced labor at any point in the production chain on their biennial lists. As mentioned, the *Frederick Douglass Trafficking*

Victims Prevention and Protection Reauthorization Act of 2018 (P.L. 115-425) suggested that DOL/ILAB include inputs made with forced labor “to the extent practicable,” but additional authorizations and appropriations are needed to make this requirement feasible. ATEST recommends DOL/ILAB:

- Expand the List of Goods Produced by Child Labor or Forced Labor to include any good produced with child or forced labor at any point in the production chain;
- Specify where in the production chain the forced or child labor occurred; and
- Support this additional mandate by requesting relevant additional resources, so as not to impact the quality of the lists by imposing significant new unfunded requirements.

III. Department of Health and Human Services

Secure additional resources for victim services

The U.S. Government should dedicate more resources and attention to the needs of victims of human trafficking and forced labor. The federal response to trafficking has focused heavily on prosecutions of traffickers, leaving behind victims in need of assistance and making many more vulnerable to exploitation. The victims and survivors of forced labor and sex trafficking have requested the government direct more funding to their immediate and long term needs, but have gone largely ignored. In the U.S. Advisory Council on Human Trafficking’s 2020 Report, they note, “There are many obstacles victims face after they have experienced trafficking, and services need to be tailored to not only focus on physical safety and well-being but also the psychological and emotional aspects of healing. Medical, dental, vision, housing, job training and placement, substance abuse treatment and mental health are some of the services needed to provide wraparound supports for victims and their families.”²⁷ HHS departments have worked efficiently to provide these services with limited resources, further funding would allow HHS to fulfill legislated and circumstantial needs of victims more fully. HHS should request additional funding to fulfill the following obligations:

- Increase services to meet expanded needs for all victims of trafficking during the COVID-19 crisis;
- Commit additional resources to prevention programs to combat the heightened vulnerabilities to exploitation from the COVID-19 crisis;
- Expand funding for outreach and training programs that take a public health approach to combating trafficking and forced labor. Outreach and training programs should not be funded by resources dedicated to victims services, but should be supported with additional funding;
- Provide sufficient funds for HHS to fund grant programs like those funded through OVC for



Farmworker on a Fair Food Program farm near Immokalee, Florida.

Photo by Scott Robertson, courtesy of the Coalition of Immokalee Workers

human trafficking providers for both foreign national and U.S. citizen survivors, and increased funding for the current per capita program to fund services for foreign national victims and their family members with additional funding for up to two years with the flexibility to extend beyond 2 years if needed given extended visa processing times and COVID-19;

- Eliminate the match requirement for all victim grant programs;
- Remove the policy barring organizations from receiving HHS per capita funding if they already receive DOJ grant funding if they can show need in their areas;
- Dedicate new and specific HHS funding for critical legal services for trafficking survivors, as current funding levels have not allowed adequate funding for this necessary service;
- Collect information on the true cost of providing shelter/housing to trafficking survivors, per night and providing funding recommendations to meet the unmet housing needs of trafficking survivors nationally; and
- Consult with the U.S. Advisory Council on Human Trafficking and other survivors in the creation of all new programs and program evaluation and compensate them appropriately.

Increasing effectiveness of National Human Trafficking Hotline

HHS should fully fund the National Human Trafficking Hotline and support the hotline in order to provide optimal services for victims. To ensure the effectiveness of the hotline HHS should:

- Request full funding for the National Human Trafficking Hotline; and
- As required by the *Abolish Human Trafficking Act of 2017* (P.L. 115-392), implement a policy requiring the hotline number be posted in a visible place in all federal buildings.

Expanding employment and training services

ATEST commends HHS efforts to establish a pilot project to connect service providers of foreign national victims of trafficking in Seattle, Miami and Phoenix from 2012-2015. This pilot should be resourced and expanded to more cities and to serve all victim populations.

- Expand the pilot project to include domestic survivors as well as foreign nationals and fund a second round in more cities, integrating lessons learned; and
- Consult with C-TIP organizations and the U.S. Advisory Council on Human Trafficking on expansion tactics.

Highly vulnerable population study

Because homeless and human trafficked youth are often indiscernible and unwilling to disclose their housing and victimization status, a new national multi-tiered research and data

collection effort is needed. To identify, scale and improve access to the most effective interventions, including housing and services for vulnerable homeless and human trafficked youth, regular large-scale research is needed to gather data and information on the number, characteristics, and needs of unaccompanied homeless youth in the United States. To prioritize the improvement of data collection and C-TIP interventions, HHS should:

- Request funding for a new study on the prevalence, characteristics, and needs of programs serving homeless youth in America; and
- Use the results of this study to inform future interventions for homeless youth.

IV. Department of State

Continue to support the U.S. Advisory Council on Human Trafficking

Engaging survivors in policy development is critical to creating and implementing effective policies and practices. The Administration should build in a significant and meaningful survivor consultation practice in its policy development process, including in the NSAP strategic review and drafting. The U.S. Government must clearly communicate the value and importance of survivor engagement from the highest levels.

- DOS/J/TIP should work with OMB to adequately resource and staff the U.S. Advisory Council on Human Trafficking, including exploring avenues to provide meaningful compensation for the time and expertise of the members. Through the SPOG mechanism, DOS/J/TIP should push agencies to ensure that appropriate recommendations from the council are meaningfully implemented. DOS/J/TIP should also ensure the fully authorized number of council seats are filled and remain filled moving forward as members turn over.

Strengthen regulation of foreign labor recruiters (U.S. and abroad)

As stated previously in the Department of Labor recommendations, regulating foreign labor recruiters is critical to protect workers entering the United States from human trafficking and other abuses. Coordinating with DOL, DOS should:

- Ensure each diplomatic mission assigns a person responsible for receiving information from workers;
- Relay that information to DOL, DOJ and other relevant agencies;
- Working with DOL, create a mechanism to respond to the information shared;
- Coordinate with countries of origin to provide support to the workers;



Entire families are in bonded labor. Often, families get a loan for an emergency or to pay a broker a fee for getting hired on a new job. Traffickers, the only people near with any money to lend, trick the borrowers into bonded labor through illegal, exorbitant interest rates that are impossible to repay. Children inherit the bogus debt from their parents. Generations of families have been exploited for a loan of just \$18.

Photo by Lisa Kristine

Preventing abuse of visa classifications to ensure domestic workers can enjoy trafficking prevention measures enacted in TVPRA 2008

A troubling trend has recently emerged of the deliberate visa misclassification to avoid compliance with worker rights laws in the United States. Unlike an A-3 visa, which is intended for private domestic workers of diplomats and consular officials, an A-2 visa is intended for general embassy employees and confers few rights upon the recipient. The law permits A-3 and G-5 visa holders to remain in the United States to sue their employers for abuse. In contrast, A-2 visas, usually reserved for technical and administrative staff, include no such protections. The Vienna Convention explicitly delineates between services staff of embassies and private domestic workers. The Department of State needs to implement a monitoring and accountability system to ensure domestic workers are not misclassified under less-protected visas in order to avoid worker protections. Countries that intentionally misclassify workers should be suspended from visa privileges. To create accountability so that domestic worker employers will be discouraged from misclassifying their domestic workers to avoid the worker rights protections attached with A-3 visa holders, we recommend that:

- The Secretary suspend the issuance of A-3 and G-5 visas to applicants seeking to work for officials of a diplomatic mission or an international organization; if the State Department determines that there is credible evidence that one or more employees of such mission have sought to classify an A-3 visa holder as an A-2 visa holder or a G-5 visa holder as a G-1 visa holder to avoid the protections of this section.

Consulate reporting system for labor exploitation abroad

Immigration relief and work authorization must be provided to workers on temporary visas who report abuses in the recruitment process or during their employment in the United States or who participate in labor and employment investigations. To protect potential trafficking victims, DOS should:

- Implement intake and referral processes for workers who experience labor exploitation, trafficking, discrimination, retaliation, or recruitment abuses while abroad; and
- Designate staff at consulates to coordinate responses with the Departments of Labor, Justice and Homeland Security and serve as point person for communicating with workers.

J/TIP: Office to Monitor and Combat Trafficking in Persons

Trafficking in Persons (TIP) Report integrity

The TIP Report is one of the centerpieces of U.S. foreign policy related to human trafficking. The integrity and accuracy of this report is critical to U.S. diplomatic credibility when engaging foreign governments on their counter-trafficking efforts. Past years have seen efforts by some in the U.S. Government to tilt the scales of the clearance process so that trade or other

national security policy priorities prevail over the interests of transparency and integrity. While we recognize the U.S. Government's need to balance a range of interests and equities, the credibility and strength of the TIP Report, coupled with the important national security interests that promote a C-TIP policy advance, are sufficient to outweigh other concerns when it comes to the integrity of the State Department's reporting.

The integrity of the TIP Report is a foundation on which other U.S. Government interventions can be based. In particular, efforts to leverage trade policy to achieve anti-trafficking objectives, as we call for above, would be greatly hampered by the perception of a lack of objectivity in the report's outcomes, but would be significantly bolstered by a perception of integrity and credibility that would create a lever and a benchmark to push trade partners to effect real change.

- We recommend DOS/J/TIP continue implementing and using the new standards set in the *Trafficking Victims Protection Reauthorization Act of 2017* (P.L. 115-427) including:

- 1) clarifying that tier rankings can only be based on concrete actions taken by the country during the TIP Report's reporting period; and 2) placing governments that direct trafficking in persons and/or support it through government policy automatically on Tier 3.²²⁸

Interagency support for CTIP Integration in foreign assistance

U.S. foreign assistance represents a pivotal and underutilized avenue for potential U.S. Government impact on preventing and ending human trafficking overseas while protecting and supporting victims of this crime. Effective integration of a robust C-TIP policy and concrete C-TIP activities across the range of assistance programs is critical, with a particular focus on programs directed at the promotion of governance and democracy, economic development, public health and humanitarian response. In coordination with USAID:

- DOS/J/TIP should provide support and expertise around forced labor and human trafficking to support USAID C-TIP Integration initiatives in foreign assistance.

Expand Child Protection Compacts

The Department of State Child Protection Compacts (DOS/CPC) initiative is a means to engage with a nation to revitalize its efforts to combat child trafficking. The current DOS/CPC with Ghana has been an important first step, and the new Administration should expand this to additional countries in 2021 and beyond. It is important that DOS/J/TIP continue to be the implementing agency, and that the expansion does not take place precipitously, outstripping the State Department's capacity to execute. We also recommend:

- DOS/J/TIP expand the DOS/CPC model to additional countries in 2021 and beyond, at a rate commensurate with either funding increases or DOS/J/TIP's capacity to manage with existing resources. DOS/J/TIP should also consider expanding this approach to look at other focus issues beyond child protection.

Bureau of Democracy, Human Rights and Labor

Support the Bureau of Democracy, Human Rights and Labor

Within existing funding provided for the Bureau of Democracy, Human Rights and Labor (DOS/DRL), we recommend the Administration prioritize activities that support labor rights, labor recruitment reform and corporate accountability activities, as well as efforts to combat gender-based violence and harassment. We encourage the Administration to prioritize activities centered on advocacy and capacity building aimed at supporting survivors, advocates and survivor-advocates. To this end, multi and cross-sector engagement ensure more inclusive and sustainable support in preventing and addressing violence, trafficking and exploitation. These important programs strengthen multi-stakeholder engagement including but not limited to preventing and addressing forced labor and sex trafficking in supply chains (including products or services exported to the United States.). Examples of these programs include anti-child labor initiatives in cotton and cocoa, efforts to support Brazil's national plan against slave labor, capacity building for local labor monitoring and worker organizations, efforts to combat entrenched forms of slavery in Mauritania, Mali and Senegal and initiatives to address the particular vulnerability of migrant workers and other vulnerable populations to forced labor and other forms of abuse and exploitation.

V. U.S. Agency for International Development *Democracy, Conflict, and Humanitarian Assistance*

Counter-Trafficking in Persons (C-TIP) Integration

USAID Bureau for Democracy, Conflict and Humanitarian Assistance (USAID/DCHA) should develop training and tools around implementation of the policy and the integration of a C-TIP perspective in the day-to-day work of development professionals. 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. The Administrator 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.²⁹ To fully integrate a C-TIP lens into interventions, USAID should:

- Integrate C-TIP measures into all levels of its development programs despite social pushback;



Lake Volta is the largest man-made lake in the world. The shoreline is dotted with remote fishing villages that can only be reached by water. It is estimated there are at least 4,000 children held and forced to work on Lake Volta. Every kid on the lake knows of another child who died in the nets.

Photo by Lisa Kristine

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- Ensure 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;
 - 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;
 - 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; and
 - Ensure the Administrator also assigns a budget tracking number to this category and report how C-TIP measures are integrated into these programs.

Global Labor Program

The DCHA Global Labor Program (USAID/DCHA/GLP) plays a crucial role in addressing the underlying root causes of human trafficking and strengthening labor rights and workers’ organizations around the world. USAID/DCHA/GLP strengthens human trafficking prevention initiatives by supporting programs that improve the economic, social and democratic development of vulnerable workers, including migrant, informal economy and women workers. USAID/DCHA/GLP is a long-standing USAID program funded out of the Democracy Fund through five-year cooperative agreements. The current agreement ends in January 2021. To continue support and strengthen the efforts of USAID/DCHA/GLP, USAID should

- Continue to designate funding specifically for USAID/DCHA/GLP programs through the Democracy Fund; and
- Re-compete the USAID/DCHA/GLP and renew it for an additional five years.

VI. Department of Treasury

Engaging financial institutions

International financial institutions, most notably the World Bank, should be actively engaged in C-TIP efforts and 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 ensure 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 Secretary of the Treasury should:

- Instruct the U.S. executive director of each international financial institution to integrate C-TIP policies and objectives 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;
- Require the U.S. executive director of each international financial institution to vote no on proposed projects in Tier 2 Watch List and Tier 3 countries unless there is a counter-trafficking strategy, including an assessment and mitigation efforts as needed, as part of the program;
- Alongside interagency partners, strengthen efforts to better identify and deter money laundering related to human trafficking. The recently released *Report to Congress on An Analysis of Anti-Money Laundering Efforts Related to Human Trafficking*³⁰, which was required by section 7154 of P.L. 116-92, provides a solid roadmap for this work, including the collaborative engagement of survivors and civil society organizations that informed the recommendations. Similar efforts should follow this model;
- Educate and train financial regulators to implement best practices for combating human trafficking in the financial sector. Particularly, financial regulators should be educated about the potential negative consequences of de-risking/de-banking and best practices in due diligence and responsible finance as outlined in the Liechtenstein Initiative Fight Against Slavery and Trafficking (FAST) *Blueprint for Mobilizing Finance Against Slavery and Trafficking*³¹ and the Organisation for Economic Co-operation and Development's (OECD)³². Financial regulators should also be educated about the obstacles trafficking survivors face in obtaining legitimate financial services after exiting a trafficking situation and about best practices in ensuring financial access as exemplified by the FAST Initiative's *Survivor Inclusion Initiative*³³; and
- Direct the Financial Crimes Enforcement Network (FinCEN) to explore opportunities to increase and improve its analysis of human trafficking-related suspicious activity reports (SARs) with the goal of providing more specific and timely information to financial institutions about financial typologies associated with human trafficking.

The Department of Treasury should explore the long term financial impacts of trafficking survivors whose identities were misused by their traffickers to take out loans and lines of credit, often resulting in a ruined credit score or extensive debts attributed to the survivor. This exploration should include an analysis of current remedies for credit repair as well as recommendations for how the process could be improved through regulatory, administrative and legislative opportunities to do so.

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- The Internal Revenue Service (IRS) should establish a liaison for survivors of human trafficking and related crimes to support survivors with tax implications as a result of their trafficking experience.

VII. Department of Housing and Urban Development

Housing assistance program for survivors

The COVID-19 pandemic has further exacerbated America's housing crisis as well as increasing our already high homeless population—both of which have led to more people being at increased risk for trafficking. In addition, with such a shortage of housing options, it makes it difficult to aid persons after they exit trafficking situations and puts survivors of trafficking at risk of prolonged homelessness and further exploitation. HUD's response to the crisis should be inclusive of the specific needs of trafficking survivors and should aim to provide safe housing to all persons experiencing homelessness as a means to prevent human trafficking in the United States. To create more safe housing opportunities for survivors and potential victims of human trafficking, HUD should:

- Ensure that trafficking programs continue to qualify for Domestic Violence bonus funds through the Continuums of Care (CoC) grant program;
- Prioritize youth-appropriate housing interventions and models in Homeless Assistance Grants (HAG) to CoC to ensure youth are placed in adequate trauma-informed housing facilities;
- Provide stronger and more direct guidance on resource eligibility for trafficking victims;
- Supply guidance for HUD providers on signs of human trafficking and proper reporting channels and encourage the CoCs to work with service providers and survivor leaders to develop this guidance;
- Require CoCs to use coordinated entry assessments and tools that prioritize children, youth, young adults and survivors of human trafficking;
- Require more effective questions on intake forms to more effectively determine if someone is a victim of human trafficking and ensure these data points are added to HUD's Homeless Management Information System (HUD/HMIS); and
- Consult with the U.S. Advisory Council on Human Trafficking and partner with the Family and Youth Services Bureau to design and pilot a model online training program for homeless service providers on all forms of trafficking and make it required training for any provider receiving federal HUD funding.

VIII. Department of Education

Grants to Local Education Agencies, Title I

ED interfaces with approximately 50 million elementary and secondary school children each year, and is, therefore, in a unique position to reach vulnerable youth. As remote learning and social distancing during the COVID-19 pandemic have upset the normal interactions between school personnel and students, it is vital ED trainings are adapted to better identify possible cases of trafficking and support vulnerable youth and youth survivors. To accomplish this, ED should:

- Develop materials regarding all forms of human trafficking, including sex and labor trafficking, to ensure that educators and students are aware of how to identify and treat all types of trafficking and understand the dynamics of how children can be recruited into sex and labor trafficking;
- Develop a plan to integrate youth back into the educational system after being trafficked or exploited and provide resources to support their continued education;
- Publish a white paper on all forms of trafficking among student populations and effective means of identifying cases of trafficking;
- Create a model curriculum for educators on identifying and reporting possible trafficking cases;
- Adapt existing and new materials to challenges faced in the identification of trafficking during the COVID-19 pandemic; and
- Consult stakeholders—including educators, non-governmental organizations (NGOs), both labor and sex trafficking survivors, and the U.S. Advisory Council on Human Trafficking—on the development of materials, the white paper and the model curriculum.

Improve education support for students experiencing homelessness

The intersection between homelessness and trafficking is well documented. Schools provide a critical system to decrease the vulnerability of students experiencing homelessness, provide support to help students experiencing homelessness graduate, and ensure these students are able to access colleges and universities, even without access to a parental tax return. To decrease students' vulnerability to trafficking and open opportunities for economic upward mobility, ED should:

- Increase monitoring of the McKinney-Vento Education for Homeless Children and Youth program to ensure that all State Education Agencies and Local Education Agencies are fully implementing the law; and

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- Update and reissue the guidance letter regarding implementing the policy that unaccompanied homeless youth are not required to provide parental tax return information in order to complete the Free Application for Federal Student Aid (FAFSA).

IX. Department of Justice

Interagency coordination

The *Abolish Human Trafficking Act* (P.L. 115-392) required DOJ to work with DHS to create a victim screening protocol by July 2019. Despite this deadline having passed over a year ago, DOJ has not prioritized crafting and implementing this statutorily mandated directive. This protocol is needed to ensure trafficking survivors are not arrested for crimes their traffickers forced them to commit and to ensure victims are placed at the center of all task force efforts, in a client-centered and trauma-informed manner. Across the country, law enforcement often uses arrest and/or threats of prosecution to identify human trafficking victims, which further traumatizes survivors and deepens divisions between providers and law enforcement. We critically need this standard set of victim-centered protocols to unify federal law enforcement and local and state task force engagement with human trafficking victims. We recommend:

- DOJ immediately lead a process including DHS, and in consultation with nongovernmental agencies and survivor leaders, as required by section 906 of the Act, to develop a victim screening protocol to ensure victims are not arrested for crimes their traffickers forced them to commit, and law enforcement agencies across the country take a trauma-informed approach designed to connect survivors with services they need and deserve. Though not required in the Act, we also recommend that DOJ consult with HHS and DOL in developing this protocol, given the holistic and nuanced needs that trafficked victims have, many of which relate to health and labor exploitation issues. ATEST members with direct on-the-ground experience working with DOJ-funded task forces have noted, at times, a discrepancy between the TVPA's equal emphasis on protection, prevention and prosecution, wherein Law Enforcement Agency (LEA) task force members tend to disproportionately emphasize prosecution over victim protection and prevention;
- Additionally, the Federal Bureau of Investigation (DOJ/FBI) is past the deadline on the report required by section 401 of the *Trafficking Victims Protection Act of 2017* (P.L. 115-393) regarding the Innocence Lost National Initiative. DOJ/FBI should work to release the data required for the last five fiscal years as soon as possible; and
- DOJ develop a process through which human trafficking cases that are not prosecuted can be referred to other relevant authorities such as Treasury (particularly IRS), DOL, or DOS' Diplomatic Security Service for possible action.

Securing restitution and civil remedies

Convicted traffickers are mandated to pay restitution to their victims (18 U.S.C. § 1593), however federal courts ordered under 40 percent of defendants to pay restitution in 2019 according to the Human Trafficking Institute's *Federal Human Trafficking Report*.³⁴

- Ensure U.S. Attorney's offices are requesting restitution in every sentence related to human trafficking and coordinating with victim services organizations. The Money Laundering and Asset Recovery Section (MLARS) of DOJ should be given adequate resources to educate prosecutors and federal judges that restitution is mandatory in human trafficking cases and provide technical assistance as needed. The Administration should also explore innovative mechanisms to promote and enhance the collection and provision of restitution to survivors. Rather than being the norm, as mandated by law, the award of restitution is the exception, particularly in sex trafficking cases. Whether a prosecutor requests restitution is a key determinant in whether it is received;
- Additionally, DOL and EEOC can play a critical role in combating trafficking, but often are not treated as equal partners in the fight to combat trafficking, despite their ability to seek significant civil damages for victims as well as injunctive relief. For cases that are criminally declined, victims are often left without a pathway to seek justice. DOJ should coordinate closely with DOL and EEOC and ensure protocols are in place to ensure that trafficking survivors receive the civil judgments and injunctive relief against traffickers; and
- Lastly, increase the capacity of human trafficking investigators to pursue financial crimes investigations in parallel with human trafficking investigations. DOJ should explore opportunities for increased collaboration between DOJ-funded task forces and specialized financial crimes investigators (e.g. IRS - Criminal Investigations).

Secure additional resources for victim services

The U.S. Government has an obligation to comply with both domestic anti-trafficking law and international human rights law, and a core national interest in providing effective, trauma-informed, long-term and comprehensive services to victims of trafficking in the United States, regardless of their sub-categorization or the nature of their exploitation. However, the investment in victim services at the federal, state and local levels falls drastically short of the funding and level of policy priority that would be needed to make good on this obligation.

It is critical to understand that effective provision of services to those who have been trafficked has the potential to impact the core conditions of vulnerability that underlie the risk of that trafficking—and can therefore be a vital tool in the U.S. Government's toolkit to help prevent re-victimization. Services like healthcare and housing meet immediate needs without which survivors find themselves in situations of extreme vulnerability, while medium to longer-term services like employment and training or legal assistance help survivors address needs that will allow them to empower themselves and avoid re-victimization.

This is not only a funding issue—prioritizing the right kind of victim services and holding leadership in federal agencies accountable for being responsive to victims is urgently needed, and

this issue should be integrated into the NSAP planning process called for in this report. Falling short of our collective duty to help survivors of this terrible crime recover and reintegrate into society should simply not be an option. To that end, DOJ should:

- Due to funding constraints related to the COVID-19 pandemic, we recommend supporting Congress to eliminate the matching fund requirement for OVC grants from FY21 to FY24;
- Eliminate the prohibition that service providers receiving the DOJ Comprehensive Services grant cannot also access HHS Trafficking Victim Assistance Program (HHS/TVAP) funding streams;
- Remove the restriction on service providers who received Office for Victims of Crime (DOJ/OVC) and Office of Violence Against Women (DOJ/OVW) FY 18 and FY 19 grants providing criminal record relief legal services to survivors; and
- Ensure victim services money is not provided to fund LEA through the task forces and the money currently used for LEA task forces comes from LEA monies.

Prison labor

DOJ should prohibit labor trafficking, including forced labor, in federal and federally-funded prisons and detention facilities in policies and in practice. Many incarcerated people do not have a choice about whether or not to work and do not have a choice to seek a job that pays more than the average pay of less than one dollar per hour.³⁵ Even when work within prisons is deemed “voluntary,” the need for funds to purchase food, hygiene products, medical care, or phone calls as well as threats of punishments like solitary confinement make work under these conditions involuntary.³⁶ Ongoing cases alleging abuse and forced labor in the United States criminal justice system include allegations of debt bondage and forced convict labor in prisons, rehabilitation centers and mental health facilities in prisons.³⁷ The United States is one of the few democratic countries in the world to not have outlawed forced prison labor or ratify the International Labour Organisation (ILO) forced labor conventions. To ensure labor performed by incarcerated people is truly voluntary and safe in all facilities and regardless of criminal convictions, DOJ should:

- Implement performance measures for correctional facilities that review the voluntary nature of work performed by inmates;
- Compensate workers in prisons and detention facilities adequately for their work so as not to undermine local employment markets;
- Ensure DOL/OSHA, DOL, and state and local safety and health standards are followed in all facilities, including both public and private; and
- Work with Congress to expand coverage of the FLSA and National Labor Relations Act (NLRA)³⁸ to incarcerated persons.

Remove limitations on criminal record relief from grants for victims

Victims and survivors are frequently ensnared in the criminal justice system because of the activities and situations they are forced into by their traffickers. Law enforcement must be educated on the realities faced by trafficking survivors, as part of the broader training effort called for above. To achieve this, DOJ should:

- Focus policies and training so that victims—including immigrant victims—are not arrested for crimes their traffickers forced them to commit in both forced labor and sex trafficking cases;
- Work with Congress to support passage of the *Trafficking Survivors Relief Act*; and
- Ensure future DOJ/OVC human trafficking grants and DOJ/OVW grants do not contain limitations on criminal record relief.

National Institute of Justice

TIP Prevalence Methodology

Pursuant to Section 401 of the *Trafficking Victims Protection Act of 2017* (P.L. 115-393), the Department of Justice must “not later than 1 year after the date of enactment of this Act...submit to Congress a report on the efforts of the National Institute of Justice (DOJ/NIJ) to develop a methodology to assess the prevalence of human trafficking in the United States, including a timeline for completion of the methodology.” To meet this requirement, DOJ should:

- Submit this required report to Congress with a recommended methodology and advocate for funding of a U.S. prevalence study, or more accurately, a series of prevalence studies focused on specific geographies, economic sectors and forms of trafficking in the United States. For the past several years, the global anti-trafficking learning community (notably led by civil society organizations and academics) has come to realize that the value of prevalence studies lies in the ability of policymakers and researchers to correlate changes in prevalence with changes in policies and interventions; this is only possible through more granular study that allows for distinct methodologies to be used to assess different forms of human trafficking among distinct communities. DOJ/NIJ should ensure opportunities for consultation with experts and comments on the final recommendations as part of this transparent process. It is important to note that we recommend first completing the vulnerable populations study as recommended in the HHS section to help inform this study.

Executive Office of the U.S. Attorneys

Human Trafficking Coordinators

The Executive Office of the U.S. Attorneys (DOJ/EOUSA) plays a key role by providing leadership and administrative support to U.S. Attorneys' offices around the country, including legal education, administrative oversight, technical support and the creation of uniform policies, among other responsibilities. To consolidate human trafficking expertise and increase prosecutions, the *Abolish Human Trafficking Act* (P.L. 115-392) designates human trafficking coordinators, an Assistant U.S. Attorney (AUSA) in every U.S. Attorney's Office across the United States, to prosecute human trafficking cases. To better serve victims and improve prosecutions, DOJ/EOUSA should:

- Work with local service providers to provide regional trainings for these human trafficking coordinators;
- Promulgate guidance instructing U.S. Attorneys to apply for continued presence within 24 hours of identifying a potential human trafficking survivor; and
- Require that only AUSAs trained on human trafficking prosecute human trafficking cases. This training should be designed with survivor input and civil society guidance.

Human Trafficking Prosecution Unit

The Department of Justice (DOJ) Civil Rights Division's Human Trafficking Prosecution Unit (DOJ/HTPU) houses the government's top legal experts on prosecuting human trafficking cases. As recommended in the U.S. Advisory Council on Human Trafficking report, DOJ/HTPU should:

- Collaborate with the U.S. Advisory Council and other survivor consultants to create specialized forced labor units and create/enhance training on labor trafficking investigations.³⁹ Survivor consultants should be compensated accordingly for their work.
- Update guidance on providing adjustment of status letters for trafficking survivors on DOJ's website so advocates know the process to receive this important letter of support for T-visa holders. Ensure requested letters are processed in 60 days or less;
- Require the Anti-trafficking Coordination Teams (ACTeams) to partner with non-governmental organizations and survivor consultants and provide a victim services proposal as a condition of their application. ACTeams should be funded through law enforcement funding and not victim services monies;
- Pilot innovative solutions to rely less heavily on victim testimony in human trafficking trials and provide training to AUSA on promising/emerging best practices in this area.

X. *Department of Homeland Security*

Nonimmigrant work (Guestworker) visas

Limited protections provided by guestworker visas place guestworkers in vulnerable positions to experience forced labor. Recent rule changes and the COVID-19 pandemic have only exacerbated these vulnerabilities. Workers are now faced with worksites that do not supply the appropriate health and safety protection measures, while still fearing retaliation from their employer if they make a complaint, thereby making it even more difficult for workers to leave abusive employers. The approval process for employers for H-2 visas is an essential step in preventing the exploitation of guestworkers in the United States. Rules bypassing this approval process put workers in danger of exploitation by removing transparency measures and prevents workers from leaving employers who do not implement worker-centered COVID-19 safety measures. DHS should only make rule changes that increase worker safety and should reject any proposed changes that increase worker vulnerability. ATEST recommends DHS:

- Reverse the temporary rule change published in April 2020 and extended in August 2020 that removes certain limitations on visa extensions for H-2A visa workers;⁴⁰ and
- Reverse the temporary rule change published in May 2020 removing certain limitations on visa extensions for H-2B visa workers.⁴¹

Customs and Border Protection

Tariff Act implementation

The *Tariff Act of 1930* included an exemption for goods that could not be produced in sufficient quantities domestically to meet consumptive demand. This exemption has since been repealed, opening new avenues for robust enforcement of this important law that prohibits the importation of goods made with forced labor into the United States. The Administration should aggressively pursue enforcement of Section 307 of the law,⁴² in order to establish a deterrent effect and spur industry action. In order to accomplish effective enforcement, the Administration should:

- Immediately initiate much needed rulemaking to modernize the standards, procedures and practices for enforcement, including at a minimum:
 - 1) Greater required transparency on the status of the petition processes, requiring a detailed update on status to petitioners at three-month intervals, including public explanations of the reasoning behind decisions not to pursue a matter further;
 - 2) Clear timelines requiring expeditious processing of petitions, with initial determinations on whether to proceed to last no longer than six months after receipt of the petition, and outcomes of the process initiated no later than one year after receipt of the petition; and

3) Clarifying the standards for Withhold and Release Orders to align with the statute, removing requirements for enterprise level evidence;

- Lead a comprehensive interagency process, through the NSAP and the SPOG, to better coordinate enforcement across related issue areas, including ensuring that DHS/CBP:
 - Self-initiates investigations;
 - Provides for robust consultation with civil society, including on remediation practices for impacted workers;
 - Coordinate with ICE on criminal investigations;
 - Makes actions against goods made with forced labor a priority; and
 - Coordinates with DOL/ILAB on training for CBP staff on the definition and indicators of forced labor.
- In light of the rapid procurement requiring factories to rapidly scale up production of Personal Protective Equipment (PPE) for frontline healthcare workers during the COVID-19 pandemic, DHS/CBP should self-initiate investigations into high risk supply chains to ensure vulnerable workers in these industries are protected from forced labor. For example, DHS/CBP has already identified certain importers of medical gloves produced in Malaysia to be tainted with forced labor. The increased global need due to the pandemic has put tremendous pressure on factories already at high risk for abusive working conditions and should be addressed simultaneously while protecting frontline healthcare and other essential workers.

U.S. Citizenship and Immigration Services

Remove hurdles to T Visa protections

We urge the Administration to work with Congress to address common barriers survivors face to access protections and immigration relief afforded by law to victims of trafficking in the TVPRA or in any comprehensive immigration reform legislation. These proposed fixes would:

- 1) Revoke the Notice to Appear (NTA) memo in removal proceedings;
- 2) Eliminate erroneous Requests for Evidence (RFE) that contravene current statutory requirements within U.S. Customs and Immigration Services (USCIS) to ensure T visa applications return to historically average processing time of six to nine months and revoke extreme vetting procedures;
- 3) Bring waiver of inadmissibility standards for T visas in line with broader requirements in place for U visas;

4) Remove the primary burden for showing cooperation with law enforcement from victims, particularly in cases where law enforcement is non-responsive;

5) Extend the length of the T visa to six years;

6) Create parity with U-visa holders for family and dependents of T visa holders with regard to options for adjusting to legal permanent resident status; and

7) Allow adult trafficking survivors to access federal benefits while their T visa or continued presence applications are in process, so that their urgent housing, medical and other basic needs can be more easily met. Alternatively, DHS and DOJ can conduct a joint review of the difference between the T visa and CP grants by jurisdiction and provide intensive training and analysis for the jurisdictions with the highest disparities. ATEST is committed to ensuring that victims of human trafficking are connected to as many methods of obtaining status as possible, especially if they are cooperating with law enforcement in an on-going investigation.

In addition, ATEST urges the Administration to expedite updating of U and T visa regulations, including provisions that allow victims who were trafficked from the United States overseas to access T visas, and ensure that updates to the regulations are appropriately enforced. We also urge administrative actions to provide better training on human trafficking-related workplace violations in U visas, better interagency coordination to make U and T visa certifications more accessible, and developing a clear and transparent process for and greater use of Continued Presence (CP) by creating an expectation of application for CP unless particular circumstances warrant not applying. We recommend that:

- The Federal Law Enforcement Training Center (DHS/FLETC) should develop and deliver training to federal, local and state law enforcement about A) their ability to apply for CP for victims, and B) how to effectively conduct such applications; and
- DHS and DOJ should issue guidance and modify field operations to create an administrative expectation of all law enforcement personnel engaging with a foreign national victim of trafficking that they apply for Continued Presence unless circumstances warrant not applying. This could be accomplished by A) building into performance standards for critical positions a certain percentage of successful CP applications for eligible victims, and B) initiating a review process when CP is not applied for but could have been, where the law enforcement must explain in writing (and follow up interviews as necessary) why they determined it was not appropriate to apply for CP.

Immigration and Customs Enforcement

Homeland Security Investigations (HSI) Victim Witness Coordinators

ICE Homeland Security Investigations (DHS/ICE/HSI) plays a critical role in combating severe forms of trafficking originating from foreign countries, including investigating violations of Section 307 of the *Tariff Act of 1930*, and is therefore the first line of defense against key aspects of this crime.⁴³ Victim Witness Coordinators support victims interacting with law enforcement and ensure that the ICE/HSI response to this crime is victim-centered.

In FY19, DHS/ICE/HSI initiated 1,024 TIP investigations, up from 849 in FY18 and from 833 in FY17. In addition, the proportion of sex trafficking to forced labor investigations remains unequal. For instance, in FY19 of the 220 federal human trafficking prosecutions initiated by DOJ, 208 involved predominantly sex trafficking and only 12 involved predominantly forced labor.⁴⁴ Additional resources are needed to train field officers on identifying victims of human trafficking and distinguishing between trafficking and smuggling, expand trafficking investigations and help reduce the incidents of trafficking and forced labor in the United States.

- The Administration should reverse directives from the previous Administration that increased HSI's role in worksite raids and other immigration enforcement efforts. There should be a clear delineation of roles between HSI and Enforcement and Removal Operations (DHS/ICE/ERO) to ensure DHS/ICE/HSI focuses on and fulfills its legal authority to investigate transnational crime, including human trafficking; and
- DHS/ICE/HSI should work with DOJ to develop the victim screening protocol, as required by *Abolish Human Trafficking Act* (P.L. 115-392):
 - The protocol should require DHS/ICE/HSI to collaborate with NGOs and survivor leaders when engaging in worksite investigations to ensure the investigations are placing worker safety at the forefront, focusing on identifying potential victims; and
 - In order to better identify victims, the protocol should outline more focused questions on labor exploitation and trafficking to redirect the workers to services, rather than support immigration raids.

Prosecutorial discretion for workers

Employers routinely hire undocumented workers under false pretenses and then use immigration status to intimidate or coerce them into poor working conditions. Workers who face retaliation from their employer, such as firing, blacklisting from other employment, or deportation are hesitant to enforce their workplace rights. This undermines the ability of all workers, not just immigrants, to win just treatment and fair wages on the job.

To help workers come forward, DHS under the Obama Administration put in place a policy to grant prosecutorial discretion on a case by case basis to crime victims, witnesses and persons pursuing legitimate civil rights complaints—including disputes with employers. The options for relief included deferred action or a stay of removal.⁴⁵ To ensure workers can remain in the United States to pursue or assist with claims:

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- The Administration should develop a policy for deferred action for workers affected by a federal law enforcement investigation or prosecution targeting their employer to prevent the employer from intimidating or retaliating against the worker.

Establish an Office of Victims Assistance

ICE should support the establishment of an Office of Victims Assistance within the ICE Homeland Security Investigations unit. This office would provide national oversight to ensure that all employees of ICE are trained on and compliant with all applicable Federal laws and policies concerning victims' rights, access to information, advisement of legal rights, just and fair treatment of victims, and respect for victims' privacy and dignity; and to oversee and support specially trained victim assistance personnel through guidance, training, travel, technical assistance and equipment to support Homeland Security Investigations in domestic and international investigations with a potential or identified victim or witness.

Prohibit labor trafficking in immigration detention facilities

ICE's "Voluntary Work" Program allows private immigration detention centers to pay detainees less than one dollar a day for their work, according to a rate set by Congress in 1950, which has never been statutorily increased, nor adjusted for inflation.⁴⁶ The work is not truly voluntary and immigrant workers are punished by withholding of essential items, isolation, or being moved to more dangerous housing units for attempting to take a day off or refusing to work. 62,000 people held in an immigration detention center in Aurora, Colorado are part of a class action lawsuit against GEO Group alleging violations of the TVPA for being forced to work while held in the center. When they refused to work, they were threatened with solitary confinement.⁴⁷ At least seven lawsuits have been filed in recent years for violations of the TVPA. The U.S. Government should:

- Prohibit government contracts with private detention centers, and establish performance measures for detention centers that review the voluntary nature of work performed by immigration detainees. Work performed by detainees should be compensated adequately, and DOL/OSHA, DOL, and state and local safety and health standards must be followed. Immigration workers in detention facilities should be covered by FLSA and NLRA protections.

CONCLUSION: A CALL TO ACTION

This Administration faces myriad complex challenges in international and domestic arenas, but it also faces a historic choice and a unique opportunity. The members of ATEST urge this Administration to boldly chart this path and strategically implement the recommendations in this report with urgency and active engagement, setting the United States squarely on a course that will lead the world towards the end of human trafficking in all its forms. Human trafficking and forced labor represent a fundamental threat to American communities, jobs, security and values. It damages the fabric of our communities, degrades our work, and taints international trade and the products and services we consume. Ending human trafficking is a challenge that deserves no less than the highest priority of concerted, strategic, momentum-shifting Presidential action, one that can set the United States on a course to abolish human trafficking once and for all.

“As leaders in the global undertaking to end the exploitation of human beings for profit, we must always remember that our freedom is bound to the freedom of others... let us find inspiration in America's progress toward justice, opportunity, and prosperity for all and reaffirm our pledge to continue fighting for human rights around the world.”

-President Barack Obama, Presidential Proclamation, National Slavery and Human Trafficking Prevention Awareness Month, December 28, 2016⁴⁸

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Free the Slaves

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LIST OF ACRONYMS

ACTeams: Anti-trafficking
Coordination Teams

AUSA: Assistant U.S. Attorney

CP: Continued Presence

C-TIP: counter-trafficking in persons

CoC: Continuums of Care

COTS: commercially available
off-the-shelf items

DHS: Department of Homeland
Security

DHS/CBP: DHS Customs and Border
Protection

DHS/FLETC: DHS Federal Law
Enforcement Training Center

DHS/ICE: DHS Immigration and
Customs Enforcement

DHS/ICE/ERO: DHS/ICE
Enforcement and Removal Operations

DHS/ICE/HSI: DHS/ICE Homeland
Security Investigations

DHS/OVC: Department of Homeland
Security Office for Victims of Crime

DOC: Department of Commerce

DOD: Department of Defense

DOJ: Department of Justice

DOJ/EOUSA: DOJ Executive Office of
the U.S. Attorneys

DOJ/FBI: Federal Bureau of
Investigation

DOJ/HTPU: DOJ Civil Rights
Division's Human Trafficking
Prosecution Unit

DOJ/NIJ: DOJ National Institute of
Justice

DOJ/OVC: DOJ Office for Victims of
Crime

DOJ/OVW: DOJ Office of Violence
Against Women

DOL: U.S. Department of Labor

DOL/ETA: DOL Employment and
Training Administration

DOL/ILAB: DOL International Labor
Affairs Bureau

DOL/OIG: DOL Office of the Inspector
General

DOL/OSHA: DOL Occupational Safety
and Health Administration

DOL/WHD: DOL Wage and Hour
Division

DOS: Department of State

DOS/CPC: DOS Child Protection
Compacts

DOS/DRL: DOS Bureau of Democracy,
Human Rights and Labor

DOS/J/TIP: DOS Office to Monitor
and Combat Trafficking in Persons

ED: U.S. Department of Education

EEOC: Equal Employment
Opportunity Commission

EFSA: *Emergency Family
Stabilization Act*

EOP: Executive Office of the President

FAFSA: Free Application for Federal
Student Aid

FAR: Federal Acquisition Regulations

FAST: Liechtenstein Initiative Fight
Against Trafficking and Slavery

FCPA: Foreign Corrupt Practices Act

FinCEN: Financial Crimes
Enforcement Network

FLSA: *Fair Labor Standards Act*

FY: fiscal year

HAG: Homeless Assistance Grants

HHS: U.S. Department of Health and
Human Services

HHS/ACF: HHS Administration for
Children and Families

HHS/ACF/OTIP: HHS/ACF Office of
Trafficking in Persons

HHS/CDC: HHS Centers for Disease
Control

HHS/CDC: HHS Centers for Disease Control
HHS/TVAP: HHS Trafficking Victim Assistance Program
HUD: U.S. Department of Housing and Urban Development
HUD/HMIS: HUD Homeless Management Information System
ILO: International Labour Organisation
IPC: Interagency Policy Committee
IRS: Internal Revenue Service
LEA: Law Enforcement Agency
MLARS: Money Laundering and Asset Recovery Section
NGO: non-governmental organization
NLRA: National Labor Relations Act
NLRB: National Labor Relations Board
NSAP: National Strategic Action Plan
NSC: National Security Council
NTA: Notice to Appear memo
OFPP: Office of Federal Procurement Policy
OMB: President's Office of Management and Budget
PITF: President's Interagency Task Force to Monitor and Combat Trafficking in Persons
RFE: Requests for Evidence

RHYA: *Runaway and Homeless Youth Act*
RHYTPA: *Runaway and Homeless Youth Trafficking Prevention Act*
SARs: suspicious activity reports
SPOG: Senior Policy Operating Group
TEGL: Training and Employment Guidance Letter
TIP: trafficking in persons
TVPA: *Trafficking Victims Protection Act of 2000* and its subsequent reauthorizations
T2W: Tier 2 Watch List (of the DOS TIP Report)
T3: Tier 3 (of the DOS TIP Report)
USAID: United States Agency for International Development
USAID/DCHA: USAID Bureau for Democracy, Conflict and Humanitarian Assistance
USAID/DCHA/GLP: USAID/DCHA Global Labor Program
USCIS: U.S. Customs and Immigration Service
USTR: U.S. Trade Representative
WIOA: *Workforce Innovation Opportunity Act*
WSR: worker-driven social responsibility
YYA: Youth and Young Adults

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