

Country Report: Eritrea¹



I. Introduction

Country Overview

The State of Eritrea is a country in the Horn of Africa, bordering the Red Sea to the northwest, Ethiopia and Djibouti to the south, and Sudan to the north and west.² It is a multi-ethnic, multi-lingual country created from the incorporation of a number of independent, distinct kingdoms and sultanates.³ As of 2015, the U.S. Department of State estimated that the country was approximately 50% Muslim and 50% Christian.⁴

The country gained independence from Ethiopia in 1993.⁵ Although nominally a democracy, Eritrea is a one-party state run by the People's Front for Democracy.⁶ Although the Constitution of 1997 (Ratified Constitution) establishes Eritrea as a democracy,⁷ other parties have not been permitted to legally organize,⁸ and the Constitution itself has not been fully implemented.⁹ No national election has occurred since the first one in June 1993 and President Isaiar Afewerki has held office since independence.¹⁰

Trafficking in Persons ("TIP") Context

Eritrea is a "source country for men, women, and children subjected to forced labor. To a lesser extent, Eritrean adults and children are subjected to sex and labor trafficking abroad."¹¹ It was rated a Tier 3 country by the U.S. Department of State's Office to Monitor and Combat Trafficking in

¹ The statements and analysis contained within this report are the work of the American Bar Association Rule of Law Initiative, which is solely responsible for its content. The views expressed herein should not be construed as representing the policy of the ABA. This report was funded by a grant from the United States Department of State. The opinions, findings and conclusions stated herein are those of the author[s] and do not necessarily reflect those of the United States Department of State.

² *Eritrea*, CIA WORLD FACTBOOK, <https://www.cia.gov/library/publications/the-world-factbook/geos/er.html> (last visited July 22, 2017) [hereinafter *Eritrea*, CIA WORLD FACTBOOK].

³ *Id.*

⁴ U.S. DEP'T OF STATE, BUREAU OF DEMOCRACY, HUM. RTS. & LAB., INTERNATIONAL RELIGIOUS FREEDOM REPORT: 2015 - ERITREA 2, available at <https://www.state.gov/documents/organization/256233.pdf> (last visited July 22, 2017).

⁵ *Eritrea*, CIA WORLD FACTBOOK, *supra* note 2.

⁶ *Id.*

⁷ Constitution of Eritrea (1997), art. 1(1), available at <http://confinder.richmond.edu/admin/docs/Eritrea1997English.pdf> (last visited July 22, 2017).

⁸ See Martin Plaut, *Divided and Dispersed, Eritrea Opposition Struggles to Harness Spirit of Resistance*, The Guardian (Aug. 19, 2015, 7:15 AM), <https://www.theguardian.com/politics/2015/aug/19/inside-eritrea-political-opposition-threat-isaias-afwerki> (last visited July 22, 2017).

⁹ *Eritrea*, CIA WORLD FACTBOOK, *supra* note 2.

¹⁰ *Id.*

¹¹ U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016 164, available at <https://www.state.gov/documents/organization/258879.pdf> (last visited July 22, 2017) [hereinafter U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016].

Persons (J/TIP) in 2016 for an eighth consecutive year.¹² J/TIP reports that the government “continues to be complicit in trafficking through the implementation of national policies and mandatory programs amounting to forced labor within the country.”¹³ These programs and initiatives include an obligation to participate in mandatory national service; although individuals below the age of 18 are technically excluded from this mandate, they are nonetheless recruited into the Sawa military and education camp.¹⁴ It is reported that Eritreans are often forced to serve indefinitely “under threats of detention, torture, or familial reprisal” in these roles.¹⁵ Furthermore, Eritrea’s strict exit controls prevent most Eritreans from travelling abroad legally; as a result, those who flee the country generally do so outside the confines of the law, which increases their vulnerability to trafficking abroad.¹⁶

Eritrea’s efforts to prosecute, prevent, and protect against TIP are by and large negligible. Although Eritrea’s criminal law prohibits the trafficking of women and young people for sexual exploitation,¹⁷ no investigations, prosecutions, or convictions occurred during the reporting period for the 2016 Trafficking in Persons Report (TIP Report).¹⁸ While it is reported that the government did provide some degree of assistance to female victims of sex trafficking in the Gulf states, that J/TIP has not been able to confirm the specifics of this assistance.¹⁹ Finally, while Eritrea has engaged in awareness-raising campaigns on TIP, because these conflate the issues of transnational migration and illegal human trafficking their use has been limited.²⁰ Furthermore, it does not appear that any anti-TIP training has been provided to government personnel, including diplomatic personnel.²¹

¹² *Id.* at 165.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Penal Code of the State of Eritrea, art. 315, *available at* <http://www.refworld.org/pdfid/55a51ccc4.pdf> (last visited July 22, 2017).

¹⁸ U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 11, at 165.

¹⁹ *Id.* at 166.

²⁰ *Id.*

²¹ *Id.*

II. Institution Mapping

Government Structure

The state of Eritrea is a single-party republic governed by the People's Front for Democracy and Justice; the party controls the presidency and directly selects 75 of the 150 seats in the unicameral legislature. The country drafted and ratified a new constitution in 1997, but it remains partially unimplemented. For instance, there have not been national elections since achieving independence in 1993, nor are other political parties permitted. As of 2016, the country is in the process of drafting a new constitution.

Executive

The State of Eritrea is nominally a presidential republic.²² The President is to be indirectly elected by the National Assembly by an absolute majority vote of all the legislative members, and candidates for the role must be nominated by at least 20% of that body.²³ The President, Isaias Aferki, is the chief of state, the head of government, the head of the State Council, and the head of the legislative National Assembly.²⁴ Although the Ratified Constitution as written provides that the President shall not serve for more than two five-year terms,²⁵ President Aferki has served in this role since the last election in 1993.²⁶

As noted, the President presides over the Eritrean cabinet, known as the Council of State.²⁷ The current Constitution permits the president to select Council ministers from amongst members of the National Assembly, or from among any other group.²⁸ The President is responsible for issuing rules and regulations on the organization, functions, and roles of the Council ministers.²⁹ The Council takes on an advisory role, and is charged with directing, supervising, and coordinating government affairs; preparing the national budget; preparing draft laws to be submitted to the National Assembly; and otherwise drafting and preparing national action plans for the government.³⁰

Eritrea is divided into six regional administrative divisions, known as *Zobas*.³¹ Each *Zoba* is divided

²² *Eritrea*, CIA WORLD FACTBOOK, <https://www.cia.gov/library/publications/the-world-factbook/geos/er.html> (last visited July 22, 2017) [hereinafter *Eritrea*, CIA WORLD FACTBOOK].

²³ Constitution of Eritrea (1997), art. 41(1), available at <http://confinder.richmond.edu/admin/docs/Eritrea1997English.pdf> (last visited July 22, 2017) [hereinafter ERITREA CONST.].

²⁴ *Eritrea*, CIA WORLD FACTBOOK, *supra* note 22.

²⁵ ERITREA CONST., *supra* note 23, at art. 41(2).

²⁶ *Eritrea*, CIA WORLD FACTBOOK, *supra* note 22.

²⁷ *Id.*

²⁸ ERITREA CONST., *supra* note 23, at art. 46(2).

²⁹ *Id.* at art. 46(4).

³⁰ *Id.* at art. 46(3).

³¹ Luwam Dirar & Kibrom Tesfagabir, *UPDATE: Introduction to Eritrean Legal System and Research*, 2.2, GLOBALEX (Sep. 2015), available at <http://www.nyulawglobal.org/globalex/Eritrea1.html> (last visited July 22, 2017).

into three tiers of administration on the basis of size, each of which has its own legislative body and judiciary.³²

Legislative

The National Assembly was established as a unicameral legislature, of which 50% of the 150 seats were reserved for members of the ruling People's Front for Democracy and Justice and the remainder were to be allocated to popularly-elected representatives.³³ The National Assembly was given the power to issue laws, prepare and approve of foreign policy, approve national budgets and development plans, and ratify international agreements.³⁴

Following the enactment of the Constitution in 1997, a Transitional National Assembly was formed.³⁵ However, only 75 members were ever elected, and while National Assembly elections were to have been held in December 2001 these were "postponed indefinitely due to the war with Ethiopia."³⁶ As a result, the National Assembly has effectively disappeared from Eritrea's political landscape.³⁷

At the regional level, Eritrean law following independence did authorize the creation of *Baito Zoba* to propose laws and regulations consistent with central government policies, and provided for the election of members.³⁸ These laws also provided for 30% of the seats on the *Baito Zoba* to be reserved for women;³⁹ however, ABA ROLI has been unable to determine whether the *Baito Zoba* have gone the way of their national counterpart.

Judicial

Eritrea's judiciary can be generally divided into civil, military, and special courts.⁴⁰

The highest civil court in Eritrea is the Supreme Court, which carries *certiorari* power to review the constitutionality of laws, and the jurisdiction to confirm death sentences.⁴¹ The High Court is a court of first instance for cases that involve movable and immovable property worth more than 1 million Nafka, as well as other civil matters.⁴² The High Court has jurisdiction over class 1 - class 7 criminal cases, and appellate jurisdiction over cases that come from the *Zoba* courts.⁴³ The High Court consists of 20 judges appointed by the President.⁴⁴

³² *Id.*

³³ *Id.* at 2.1.

³⁴ *Id.*

³⁵ *Eritrea*, CIA WORLD FACTBOOK, *supra* note 22.

³⁶ *Id.*

³⁷ *See* Dirar & Tesfagabir, *supra* note 31, at 2.1.

³⁸ *Id.* at 2.2.

³⁹ *Id.*

⁴⁰ *Id.* at 3.

⁴¹ *Id.* at 3.1.1.

⁴² *Id.* at 3.1.2.

⁴³ *Id.*

⁴⁴ *Eritrea*, CIA WORLD FACTBOOK, *supra* note 22.

Although it is unclear whether the *Baito Zoba* have any real power, the *Zoba* level courts do appear to exist. They are cases of first instance over low-level criminal offenses, and lower-level property offenses; they also have appellate jurisdiction over cases that rise up from the community courts.⁴⁵

The military courts exercise personal jurisdiction over members of the Eritrean Defense Forces, the Police Force, militia units, the national reserve army, prison wardens, and national service members.⁴⁶ Owing to Eritrea's national service policies,⁴⁷ this theoretically allows the Military Courts to exercise jurisdiction over vast swathes of the population. However, there is a possibility that the Criminal Procedure Code does away with the military court system; ABA ROLI has been unable to confirm whether this is the case.⁴⁸

The Special Courts of Eritrea have specific jurisdiction over corruption-related measures, including "theft, embezzlement, corruption, [and] abuse of power."⁴⁹ They also retain jurisdiction over national security cases;⁵⁰ Special Court trials are not open to the public, and tribunal decisions are not appealable.⁵¹

Finally, Eritrea does have a number of administrative tribunals, including the First Instance Labor Court, the Labor Relations Board, and the Tax Appeal Commission.⁵² The First Instance Labor Court has jurisdiction over employment contract cases, and its decisions are appealable to the *Zoba* courts.⁵³ The Labor Relations Board deals with unfair labor practices cases, and the Tax Appeal Commission deals with tax assessments. Tax Commission decisions are directly appealable to the High Courts.⁵⁴

Criminal Justice

Eritrea's main law enforcement agency is the Eritrean Police Force (EPF), which is part of the Eritrean Police and Security Command.⁵⁵ ABA ROLI has been unable to determine what form, if any, the country's prosecutorial services take.

⁴⁵ See Dirar & Tesfagabir, *supra* note 31, at 3.1.3.

⁴⁶ *Id.* at 3.2.4.

⁴⁷ See U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016 165, available at <https://www.state.gov/documents/organization/258879.pdf> (last visited July 22, 2017) [hereinafter U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016].

⁴⁸ See Dirar & Tesfagabir, *supra* note 31, at 3.2.4.

⁴⁹ *Id.* at 3.2.1.

⁵⁰ U.S. DEP'T OF STATE, BUREAU OF DEMOCRACY, HUM. RTS. & LABOR, COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 2016: ERITREA 7, available at <https://www.state.gov/documents/organization/265464.pdf> (last visited July 22, 2017) [hereinafter U.S. DEP'T OF STATE, ERITREA HUMAN RIGHTS REPORT].

⁵¹ *Id.*

⁵² Dirar & Tesfagabir, *supra* note 31, at 3.2.5.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Eritrea*, INTERPOL, <https://www.interpol.int/Member-countries/Africa/Eritrea> (last visited July 22, 2017).

Anti-Corruption and Ethics

As noted, Eritrea's Special Courts have jurisdiction to hear cases that relate to corruption.⁵⁶ However, as with the Military Courts, it is unclear whether the Criminal Procedure Code does away with the Special Court system,⁵⁷ or—if it does—what body, if any, would replace it.

Regulatory Bodies

Generally-speaking, it appears that members of the State Council and their relevant ministries are charged with regulation of various TIP- and non-TIP related matters. ABA ROLI has been unable to find more detailed information with respect to regulatory portfolios, or any promulgated regulations that are freely available online.

Traditional Justice Systems

Traditional justice systems are recognized through the community courts and the Shari'ah courts.⁵⁸ Community courts use local norms and customs to resolve disputes, and do not apply statutory laws in their decisions.⁵⁹ Community court judges are elected by their communities, and do not require knowledge of law or a legal background to run for election.⁶⁰ However, the Ministry of Justice does operate capacity-building programs for community court judges.⁶¹ Decisions of the community courts are appealable to the *Zoba* courts, which do apply statutory law in reviewing community court decisions.⁶²

Shari'ah courts have jurisdiction over personal matters such as family, marriage, and inheritance.⁶³ ABA ROLI has not been able to determine whether Shari'ah courts have a separate appellate structure.

Anti-Trafficking Institutions

The Ministry of the Labor and Human Welfare, in addition to the Ministry of Health, are primarily responsible for promoting the legal rights of women, along with the quasi-governmental National Union of Eritrean Women.

The International Ministry of the Red Cross has a presence in Eritrea and has been permitted to operate in a limited capacity.⁶⁴ The government has not freely allowed international non-governmental bodies to monitor conditions in the country. International organizations have only been granted access to implement assistance projects that provide services to vulnerable sectors of

⁵⁶ See *supra* notes 49-51 and accompanying text.

⁵⁷ See *supra* note 48.

⁵⁸ Dirar & Tesfagabir, *supra* note 31, at 3.2.2-3.2.3.

⁵⁹ *Id.* at 3.2.2.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.* at 3.2.3.

⁶⁴ U.S. DEP'T OF STATE, ERITREA HUMAN RIGHTS REPORT, *supra* note 50, at 7-8.

the population.⁶⁵

⁶⁵ *Id.*

III. National Anti-Trafficking in Persons Legal and Institutional Framework

Anti-TIP Legal Framework

Domestic Statutory Authority

Eritrea does have statutory protections against TIP and forced labor, although it does not have dedicated anti-trafficking, anti-migrant smuggling, or anti-forced labor laws.

The Constitution of 1997 (Ratified Constitution) forbids slavery and forced labor to the extent that it is “not authorized by law”.⁶⁶

Furthermore, the Penal Code criminalizes a number of TIP-related offenses. The selling, pledging, or otherwise enslaving, even in a “disguised form”, of another human being, as well as the knowing transportation or abetting the knowing transportation of an enslaved person, is punishable generally by seven to 10 years’ imprisonment.⁶⁷ Slavery becomes an aggravated offense if the victim is under the age of 18, punishable by 13 to 16 years in prison.⁶⁸ Aiding or abetting the offense is punishable by 3-5 years imprisonment.⁶⁹

The Penal Code incorporates the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations (U.N.) Convention against Transnational Organized Crime.⁷⁰ However, the Penal Code provisions related to the trafficking of women, infants, and young persons only punish trafficking to the extent that it is conducted for sexual purposes; the law states only that traffic in such individuals “to engage in prostitution or the production of pornography or for pornographic performances, even with their consent; or [to] keep such a [sic] persons in a disorderly house or to let them out to prostitution”⁷¹ is a crime. Nonetheless, it is punishable by between 5 and 7 years’ imprisonment. The crime of aggravated trafficking under this Penal Code provision occurs when trafficking is engaged in as a profession, when the perpetrator takes unfair advantage or misuses their authority over the victim, or the victim is “driven to suicide by shame, distress or despair.”⁷² In such cases, the penalties increase to 7-10 years’ imprisonment.

The Labor Proclamation criminalizes any service performed involuntarily by coercion of another person, including that of children, and any work performed involuntarily solely due to the influence of a person holding public office or traditional status of chieftaincy.⁷³ However, under the terms of

⁶⁶ Constitution of Eritrea (1997), art. 16, *available at* <http://confinder.richmond.edu/admin/docs/Eritrea1997English.pdf> (last visited July 22, 2017)

⁶⁷ Penal Code of the State of Eritrea, art. 297, *available at* <http://www.refworld.org/pdfid/55a51ccc4.pdf> (last visited July 22, 2017) [hereinafter Penal Code].

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, Nov. 15, 2000, 2237 U.N.T.S. 319; Penal Code, *supra* note 67, at art. 315.

⁷¹ Penal Code, *supra* note 67, at art. 315.

⁷² *Id.* at arts. 316(d)-(f).

⁷³ Labour Proclamation No. 118/2001, art. 3(17), *available at* <http://www.ilo.org/dyn/travail/docs/493/The%20Labour%20Proclamation%20of%20Eritrea%20No%201>

this provision, compulsory national service, forced labor as punishment for a crime, communal services, and services rendered during emergencies may not be regarded as forced labor.⁷⁴

By operation of the general laws of preclusion, TIP victims appear to have a right to take legal action against traffickers and claim compensation.⁷⁵

Domestic Policies and Action Plans

Eritrea lacks national anti-TIP policies or action plans.

International Agreements

Eritrea has ratified a number of international instruments relevant to addressing TIP, including:

- the UN Convention against Transnational Organized Crime (UNTOC);
- the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime;
- the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict;
- the Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography;⁷⁶ and
- International Labor Organization (ILO) Conventions:
 - No. 29 (concerning Forced or Compulsory Labor);
 - No. 105 (concerning the Abolition of Forced Labor); and
 - No. 138 (concerning Minimum Age for Admission to Employment).⁷⁷

Anti-TIP Institutional Framework

Eritrea lacks a national anti-TIP institutional or monitoring framework. The Eritrean police and National Security Administration have a mandate to investigate crimes, including trafficking, to the extent it is addressed by Eritrean law.

18%20of%202001.pdf (last visited July 22, 2017).

⁷⁴ *Id.*

⁷⁵ See, e.g., Penal Code, *supra* note 67, at arts. 12(4), 24(3), 78.

⁷⁶ See *Multilateral Treaties Deposited with the Secretary-General*, UNITED NATIONS TREATY COLLECTION, https://treaties.un.org/Pages/TreatyParticipantSearch.aspx?clang=_en (last visited July 22, 2017) (select “Eritrea” in the drop-down Participant list to access a full list of international treaties and agreements deposited with the U.N. Secretary-General that Eritrea has ratified or acceded to).

⁷⁷ *Ratifications for Eritrea*, INT’L LABOUR ORG., http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103282 (last visited July 22, 2017).

IV. Justice System

Access to Justice

Equality and Non-Discrimination Provisions

Eritrea does not appear to restrict access to the courts on the basis of gender or minority group membership; the Constitution of 1997 (Ratified Constitution) provides that all persons are equal under the law, and that discrimination may not occur on the basis of “race, ethnic origin, language, colour, gender, religion, disability, age, political view, or social or economic status or any other improper factors.”⁷⁸ However, whether foreigners are entitled to the same treatment is unclear; for example, non-citizens require special Presidential permission to acquire land rights,⁷⁹ and there may be other restrictions of which ABA ROLI is currently unaware.

However, ABA ROLI has not identified any legislation specifically granting or restricting access to the courts by stateless persons.

Access to Legal Aid

Eritrea provides some protections for indigent persons. Court fees can be waived upon a showing of indigent status.⁸⁰ Indigent criminal defendants who are charged with serious offenses, under the age of 18, or otherwise mentally or physically incapable of mounting their own defense have a right to free counsel,⁸¹ though civil and administrative claimants and defendants do not.

Criminal Law and Procedure

All crimes are investigated and prosecuted by the Eritrean Police Force and the Attorney General, which maintain special units to address organized crime and sexual/gender-based violence. There is no avenue for private prosecution; only the state may bring criminal charges.⁸²

Extradition

ABA ROLI has been unable to identify the existence of mutual legal assistance treaties or agreements with other countries or regions.

⁷⁸ Constitution of Eritrea (1997), arts. 14(1)-(2), *available at* <http://confinder.richmond.edu/admin/docs/Eritrea1997English.pdf> (last visited July 22, 2017).

⁷⁹ *Id.* at art. 8.

⁸⁰ Civil Procedure Code of the State of Eritrea, art. 282, *available at* <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/101052/121588/F882481615/ERI101052.pdf> (last visited July 22, 2017).

⁸¹ Criminal Procedure Code of the State of Eritrea, art. 27(1), *available at* <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/101053/121589/F-308052584/ERI101053%20Eng.pdf> (last visited July 22, 2017).

⁸² *Id.* at art. 86.

V. Economic System

Economic and Financial Crimes

Money Laundering

Eritrean law prohibits money laundering under the aegis of the Anti-Money Laundering and Combating Financing of Terrorism Proclamation (Anti-Money Laundering Proclamation).⁸³ ABA ROLI has not been able to locate a free, publicly-available copy of Article 31 of this Proclamation,⁸⁴ which provides definitions and penalties for money laundering.

Financial Fraud

The Eritrean Penal Code punishes a variety of financial frauds, including the uttering of bad checks, credit card fraud, accounting fraud, insurance fraud, and fraudulent borrowing and lending.⁸⁵ Fraud is generally defined under the Penal Code as the act of, “by deception including computer or electronic misrepresentation, obtain[ing], with the intention of unlawful enrichment, any service or property, money or thing of value belonging to another.”⁸⁶ Fraud under Article 347 is punishable on the basis of the amount of the property fraudulently obtained, and penalties range between 3 and thirteen years’ imprisonment.⁸⁷

Forgery & Counterfeiting

As with financial fraud, forgery and counterfeiting are prohibited under the Penal Code.⁸⁸

Forgery is defined as the knowing making of a false instrument, writing, or document, with the intent that it be used in any way or acted upon as genuine.⁸⁹ As with financial fraud, forgery is punishable on the basis of the value of the underlying property, and carries similar terms of punishment.

The crime of forgery is distinct from the crime of uttering, which is punishable by 3-5 years’ imprisonment.⁹⁰ The possession of goods or tools that constitute the means for producing a false document is punishable by 6 to twelve months imprisonment, or a fine not to exceed 50,000

⁸³ Anti-Money Laundering and Combating Financing of Terrorism Proclamation, Proclamation No. 175/2014, available at http://www.eritreambassy-japan.org/data/Proclamation_No175_2014.pdf (last visited July 22, 2017) [hereinafter Proclamation No. 175/2014].

⁸⁴ *Id.* at art. 2(14), citing *id.* at art. 31.

⁸⁵ Penal Code of the State of Eritrea, arts. 349, 351, 352, 355, 356, available at <http://www.refworld.org/pdfid/55a51ccc4.pdf> (last visited July 22, 2017) [hereinafter Penal Code].

⁸⁶ *Id.* at art. 347.

⁸⁷ *Id.*

⁸⁸ *Id.* at arts. 368-375 and 215-228, respectively.

⁸⁹ *Id.* at art. 368(1).

⁹⁰ *Id.* at art. 369.

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Counterfeiting Eritrean or foreign coinage or paper currency, or bank notes, bonds, promissory notes and other similar State financial papers with the intent to place them into circulation as genuine is punishable by imprisonment terms between seven and 19 years, depending upon the value of the notes counterfeited.⁹² The uttering of counterfeited currency when an individual knows it to be counterfeited is punishable by imprisonment between five and 16 years.⁹³

The counterfeiting of stamps, seals, and marks is also illegal in Eritrea.⁹⁴

Terrorist Financing

The Anti-Money Laundering Proclamation also governs the prohibition against terrorist financing.⁹⁵ As with the definition of money laundering above, ABA ROLI has been unable to obtain a freely and publicly-available copy of this Proclamation in order to review the definitions and penalties associated with this crime.

The U.S. Department of State reports that while Eritrea's penal code contains a number of provisions that could additionally be used to prosecute terrorist activity, it is not a member or observer of any Financial Action Task Force (FATF)-style regional body, which limits the degree to which it can monitor and combat terrorist financing.⁹⁶

Regulation and Monitoring of International Financial Transactions

While financial institutions are required to conduct due diligence and report suspicious activity that could indicate false identities, money laundering, or financing of terrorism,⁹⁷ ABA ROLI has not identified specific laws that require investigation or reporting of potential TIP activities.⁹⁸ Furthermore, Eritrea lacks a basic banking infrastructure, which makes it challenging for the government to track international financial transactions in the manner and procedure laid out in the Anti-Money Laundering Proclamation.⁹⁹

Asset Freezing and Forfeiture

The Penal Code of the State of Eritrea does not provide for asset forfeiture as a punishment for any TIP-related criminal offenses.¹⁰⁰ The only available punishments are imprisonment and fines. Specifically, the Penal Code recognizes restitution to injured persons as one form of remedy in

⁹¹ *Id.* at art. 372.

⁹² *Id.* at art. 215.

⁹³ *Id.* at art. 217.

⁹⁴ *Id.* at arts. 219-20, 223-24.

⁹⁵ Proclamation No. 175/2014, *supra* note 83.

⁹⁶ U.S. DEP'T OF STATE, BUREAU OF COUNTERTERRORISM AND COUNTERING VIOLENT EXTREMISM, COUNTRY REPORTS ON TERRORISM 2016: ERITREA, *available at* <https://www.state.gov/j/ct/rls/crt/2016/272229.htm> (last visited July 22, 2017) [hereinafter U.S. DEP'T OF STATE, COUNTRY REPORTS ON TERRORISM 2016: ERITREA].

⁹⁷ *See generally* Proclamation No. 175/2014, *supra* note 83.

⁹⁸ *Id.*

⁹⁹ *See* U.S. DEP'T OF STATE, COUNTRY REPORTS ON TERRORISM 2016: ERITREA, *supra* note 96.

¹⁰⁰ *See* Penal Code, *supra* note 85.

criminal proceedings.¹⁰¹

Remittances

Remittances of foreign currency are authorized, but are not specifically incentivized.¹⁰² Although foreigners are required to declare when they bring in or leave with more than US\$10,000, it is unclear if Eritrea requires TIP-specific training for economic inspectors, including customs agencies and port authorities.

Eritrea is a member of the Common Market for East and Southern Africa (COMESA), a regional free-trade agreement. In 2012, the COMESA Council adopted requirements that member states implement national education, data collection, and prosecution systems targeting human trafficking; it is unclear there are enforcement mechanisms to ensure this requirement is fulfilled.¹⁰³

Eritrean law does not prohibit the government from procuring goods or services from vendors that engage in TIP or TIP-related practices.

¹⁰¹ *Id.* at arts. 78, 80.

¹⁰² Proclamation Pertaining to the Opening of Foreign Currency Deposit Accounts, Domestic Commercial Transactions and/or Contracts, Currency Remittance and Exchange and the Declaration of Currency of Travelers Arriving into and Departing from Eritrea, Proclamation No. 173/2013, *available at* http://www.embassyeritrea.org/Proclamations/Proclamation_No_173_2013_1.pdf (last visited July 22, 2017).

¹⁰³ Official Gazette of the Common Market for Eastern & Southern Africa [COMESA] 17: 20 Nov. 2012, www.comesa.int/wp-content/uploads/2016/06/Gazette-17.docx (last visited July 22, 2017).

VI. Corporations

Liability of Legal Persons for Violations of Law

The Penal Code of the State of Eritrea lays out the circumstances under which corporations (and other legal entities) are liable for criminal acts.¹⁰⁴ A “body corporate or business organization” is liable for the conduct of directors, officers, and employees with authority over formulation or implementation of corporate policy, while they are acting within the scope of their authority. This is true for crimes of negligence and strict liability, even though no such director, officer, or employee may be held individually liable for the same offense.¹⁰⁵

Eritrea’s jurisdiction over extrajudicial conduct by domestically-incorporated entities appears limited. For criminal conduct occurring outside of Eritrea, only “serious offenses,” as defined under Eritrean law, committed by “a person present in Eritrea after the commission of the offence” are punishable in Eritrean courts.¹⁰⁶ However, serious offenses against Eritrean citizens, permanent residents, or internationally protected persons (and their families) in the service of Eritrea create grounds for liability. Civil suits can be brought in Eritrean courts if the defendant has its head office, or other principal seat of business, or otherwise carries on business in Eritrea.¹⁰⁷

The law does not appear to create any specific causes of action against business corporations for engaging in TIP activities. Any legal person who has caused damage to others shall make it good,¹⁰⁸ including infringements of specific and explicit provisions of law. Thus, any violations of Eritrea’s TIP-related laws could create grounds for civil litigation against the corporation.¹⁰⁹ However, it is unclear whether shareholders, directors, or officers of the entity could be held personally liable for the corporation’s debts in such an action.

Compliance with Laws on Incorporation

There are no restrictions on who can incorporate in Eritrea. While there are requirements regarding capital, registration, and licensing, ABA-ROLI researchers are unaware of any other requirements regarding corporate structure or governance.¹¹⁰ Moreover, the legal oversight mechanisms appear limited to internal controls. For instance, the Transitional Commercial Code of Eritrea contains provisions for the appointment of independent auditors to ensure compliance with corporate articles and bylaws.¹¹¹

¹⁰⁴ Penal Code of the State of Eritrea, art. 40, *available at* <http://www.refworld.org/pdfid/55a51ccc4.pdf> (last visited July 22, 2017) [hereinafter Penal Code].

¹⁰⁵ *Id.* at art. 40.

¹⁰⁶ *Id.* at art. 44.

¹⁰⁷ Civil Procedure Code of the State of Eritrea, art. 34. *available at* <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/101052/121588/F882481615/ERI101052.pdf> (last visited July 22, 2017) [hereinafter Civil Procedure Code].

¹⁰⁸ Civil Code of the State of Eritrea, arts. 1597-1602 [hereinafter Civil Code].

¹⁰⁹ Penal Code, *supra* note 104, at arts. 12(4), 24(3), 78.

¹¹⁰ Berhane Woldu, *Investment in Eritrea*, ERITREA – MINISTRY OF INFORMATION (Jan. 20, 2012), <http://www.shabait.com/categoryblog/8210-investment-in-eritrea> (last visited July 22, 2017).

¹¹¹ *Id.*

Corporate Social Responsibility Initiatives

There do not appear to be any requirements for corporations or boards to adopt ethical, human rights, or Corporate Social Responsibility standards, nor does the State of Eritrea incentivize companies to implement such standards.

Supply Chain Transparency and Accountability

Eritrea's legal framework does not address transparency or accountability in either domestic or global trafficking supply chains. It also does not have laws require businesses to have anti-TIP policies in their supply chains.

Businesses are not required to report or disclose efforts to prevent, identify, or address trafficking in their supply chains, or to evaluate product supply chains for TIP risks, or to provide TIP training to employees.

Contract Law

Eritrea generally allows contracts to be voided for duress, fraud, or capacity.

Contracts are voidable if brought about by a party's "unjustified threat" against another party.¹¹² The threat must be so imminent and serious that the first party has no reasonable alternative; it is "unjustified" if the threatened action is unlawful in itself, or if it is wrongful to use the action to obtain the conclusion of the contract.¹¹³

The fraud of a party to the contract, including language, practices, or disclosure, can render a contract voidable. Non-disclosure can be fraudulent, if the party should have disclosed the relevant information under reasonable commercial standards of fair dealing.¹¹⁴

A party, or its representative, may void a contract if it lacked legal capacity to enter into the contract in the first place.¹¹⁵

The law does not limit the rights of women, minority groups, stateless people, or foreigners to enter into contracts.

¹¹² Civil Code, *supra* note 108, at art. 1361.

¹¹³ *Id.*

¹¹⁴ *Id.* at art. 1360.

¹¹⁵ *Id.* at art. 1357.

VII. Natural Resources, Environment, and Property

Natural Resource Extraction Laws

Eritrea's laws regulate the right to natural resource extraction and harvesting in areas such as mining, oil and gas, agriculture, logging, and fishing.

Mining and Oil and Gas

The Ministry of Energy, Mines, and Water Resources regulates mining and oil and gas. The Proclamation to Promote the Development of Natural Resources also sets forth the laws on mining and oil and gas.¹¹⁶ With respect to mining, the Proclamation states that, with certain limits, no person may prospect, explore, or mine without a license, although any Eritrean may prospect without a license as long as the land is not subject to an existing license or application.¹¹⁷ The Proclamation also provides that an individual or business may need to fulfill certain financial and human resource requirements before obtaining a license for mining or exploration.¹¹⁸ However, there do not appear to be any TIP-related conditions or limitations associated with the issuance of mining, oil, or gas licenses.

Agriculture and Logging

The Ministry of Agriculture regulates agriculture and logging pursuant to the Forestry and Wildlife Conservation and Development Proclamation.¹¹⁹ The Ministry is charged with creating, declaring, and managing protected forest or wildlife areas for the purposes of conserving Eritrea's biodiversity.¹²⁰ The Ministry is also charged with issuing logging licenses and permits, and suspending such licenses or permits "where there is reason to believe a violation of the conditions of the permit or a violation of this Proclamation has occurred or is likely to occur,"¹²¹ after the licence or permit-holder has been given an opportunity to be heard.¹²²

Permits may not be issued without the area subject to a permit undergoing any relevant environmental impact assessments, to be laid out by the Ministry.¹²³ However, ABA ROLI has been unable to review whether permit requirements include TIP or TIP-related conditions or limitations.

Fishing

¹¹⁶ Proclamation to Promote the Development of Mineral Resources, Proclamation No. 68/1995, *available at* <http://www.eritrean-embassy.se/wp-content/uploads/Mining-Proclamation.pdf> (last visited July 22, 2017).

¹¹⁷ *Id.* at arts. 4-5.

¹¹⁸ *Id.* at arts. 8-11.

¹¹⁹ Forestry and Wildlife Conservation and Development Proclamation, Proclamation No. 155/2006, *available at* <http://extwprlegs1.fao.org/docs/pdf/eri68045.pdf> (last visited July 22, 2017) [hereinafter Proclamation No. 155/2006].

¹²⁰ *Id.* at arts. 16-17.

¹²¹ *Id.* at art. 35(1).

¹²² *Id.* at art. 35(4).

¹²³ *Id.* at art. 14.

The Ministry of Marine Resources and the Fisheries Advisory Council regulate the fishing industry pursuant to the Fisheries Proclamation.¹²⁴

The Fisheries Proclamation provides that no foreign or national fishing vessel may engage in commercial fishing in Eritrean waters, except under the authority of a fishing license issued by the Ministry.¹²⁵ Fishing licenses may contain conditions relating to the type and method of fishing activity, the area which is to be fished, the target species and amount of fish authorized to be taken, the time period of the license, provisions regarding the tagging and marking of gear, and other measures intended to facilitate the enforcement of the law.¹²⁶

Fishing licenses are generally issued for a period not exceeding three years, and may not be extended beyond an additional year.¹²⁷

The Ministry is authorized to suspend or cancel fishing licenses when there are reasonable grounds to believe that a violation of the law or a licensing condition has occurred; such decisions are appealable.¹²⁸ However, it is not clear whether TIP or TIP-related offenses would constitute violations of a fishing license.

Environmental Regulation

The Regulations for the Issuance of Permit for the Importation or Exportation of Ozone Depleting Substances and Ozone Depleting Substances Based Equipment or Products sets forth certain restrictions on the use, exportation, importation, and handling of certain ozone-depleting substances.¹²⁹ These Regulations authorize Customs Officers of Eritrea to require the production of specific import or export permits, and conduct physical examination of goods at the border.¹³⁰

The Water Proclamation regulates drinking water quality.¹³¹ However, ABA ROLI has been unable to review a free or publicly-available copy of the Water Proclamation to review its terms and conditions.

At minimum, the Proclamation on the Use and Disposal of Pesticide regulates certain types of hazardous waste management.¹³² It requires that pesticide containers intended for import be specifically marked with the trade and common names of the chemical, directions for use, hazard

¹²⁴ Fisheries Proclamation, Proclamation No. 176/2014, *available at* <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/103959/126618/F-221982642/ERI103959.pdf> (last visited July 22, 2017).

¹²⁵ *Id.* at arts. 16(1), 18.

¹²⁶ *Id.* at art. 21.

¹²⁷ *Id.* at art. 23.

¹²⁸ *Id.* at arts. 24, 48.

¹²⁹ Regulations for the Issuance of Permit for the Importation or Exportation of Ozone Depleting Substances and Ozone Depleting Substances Based Equipment or Products, Legal Notice No. 117/2010, arts. 4-5, *available at* <http://extwprlegs1.fao.org/docs/pdf/eri151851.pdf> (last visited July 22, 2017).

¹³⁰ *Id.* at art. 9.

¹³¹ Water Proclamation, Proclamation No. 162/2010.

¹³² Regulations for Importation, Handling, Use, Storage and Disposal of Pesticides, Legal Notice No. 114/2006, *available at* <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/91364/105930/F-206009705/ERI91364%20Eng.pdf> (last visited July 22, 2017).

warnings, and direction in the case of poisoning, in Tigrigna, Arabic, and English.¹³³ The Proclamation's Schedule lays out a national list of pesticides that are subject to its requirements.¹³⁴

The Forestry and Wildlife Conservation and Development Proclamation regulates forest conservation, wildlife conservation, and poaching.¹³⁵ The Proclamation seeks to preserve endangered species, the conservation of other indigenous species, afforestation and deforestation, the establishment and proper management of protected areas, and prompt awareness about wildlife and forests.¹³⁶ The Proclamation also prohibits any person from hunting, taking, distributing, transporting, or possessing any wildlife or any part thereof without prior authorization.¹³⁷

Land Ownership and Eminent Domain

According to the Proclamation to Reform the System of Land Tenure in Eritrea (Land Proclamation), the land in Eritrea is owned by the State.¹³⁸ However, every Eritrean citizen has a usufruct right (to enjoy without alteration), without additional restrictions that limit the right of women and minorities to own land.¹³⁹ However, foreigners may only obtain usufruct, lease, or other legally authorized rights to land by special permission of the President of the State of Eritrea.¹⁴⁰ With respect to inheritance of property, the Civil Code of the State of Eritrea states that the sex, age, and nationality of the heir shall not affect the ascertainment of an heir's rights to succession.¹⁴¹ Any person, including a conceived child and corporate bodies, can inherit property.¹⁴²

ABA ROLI has not identified any specific legal protections against land grabbing, but the Land Proclamation does lay out the formal process by which the government may expropriate land.¹⁴³ Expropriation may occur for the purposes of various developments and capital investment projects aimed at national reconstruction or other similar purposes.¹⁴⁴ Before expropriating the land, the government must conduct a study to determine whether the land is fit for the purpose for which it is to be expropriated.¹⁴⁵ Expropriation decisions are final and unappealable.¹⁴⁶ It is unclear what standards, if any, the government must meet to justify land takings.

¹³³ *Id.* at art. 7(1).

¹³⁴ *Id.* at Annex I.

¹³⁵ hereinafter Proclamation No. 155/2006, *supra* note 119.

¹³⁶ *Id.*

¹³⁷ *Id.*

¹³⁸ Proclamation to Reform the System of Land Tenure in Eritrea to Determine the Manner of Expropriating Land for Purposes of Development and National Reconstruction, and to Determine the Powers and Duties of the Land Commission, Proclamation No. 58/1994, *available at* <http://extwprlegs1.fao.org/docs/pdf/eri8227.pdf> (last visited July 22, 2017) [hereinafter Proclamation No. 58/1994].

¹³⁹ *Id.*

¹⁴⁰ Constitution of Eritrea (1997), arts. 9(2), *available at* <http://confinder.richmond.edu/admin/docs/Eritrea1997English.pdf> (last visited July 22, 2017).

¹⁴¹ Civil Code of the State of Eritrea, arts. 711-18 [hereinafter Civil Code].

¹⁴² *Id.*

¹⁴³ Proclamation No. 58/1994, *supra* note 138, at arts. 50-52.

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

Holders of land rights are entitled to just compensation when the government expropriates land.¹⁴⁷ The compensation, in cash or substitute land, must be commensurate to the loss accruing to the holder of the right, and must be paid before the holder of the right leaves the land.¹⁴⁸ The extent or type of compensation may be decided by agreement between the state and the rights holder.¹⁴⁹

If the parties disagree on compensation, a petition or suit may be brought before the High Court in accordance with the relevant provisions of the Civil Code of Eritrea.¹⁵⁰ If the expropriating agency takes measures to hold the land, initiate work on the land, or disclose indications to initiate work prior to payment of compensation, the holder of right may petition the High Court for an injunction against such measures.¹⁵¹

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

¹⁵¹ *Id.*

VIII. Individual Rights

Ratification of and Accession to International and Regional Human Rights Treaties

Eritrea has ratified or acceded to a number of international human rights treaties, and incorporated them specifically into domestic law, including:

- the International Covenant on Civil and Political Rights (ICCPR);
- the International Covenant on Economic, Social, and Cultural Rights (ICESCR);
- the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW);
- the Convention on the Rights of the Child (CRC);
- the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); and
- the International Convention on the Elimination of All Forms of Racial Discrimination.¹⁵²

Regional human rights treaties that Eritrea has ratified or acceded to include:

- the African Charter on Human and Peoples' Rights (Banjul Charter);¹⁵³
- and
- the African Charter on the Rights and Welfare of the Child.¹⁵⁴

Eritrea has not incorporated into domestic law the Optional Protocol and Second Optional Protocol to the ICCPR, the Optional Protocol to the ICESCR, the Optional Protocol to the CEDAW, the Optional Protocol to the CRC on a Communications Procedure, the Optional Protocol to the CAT, the Convention on the Rights of Persons with Disabilities, the Convention Relating to the Status of Refugees, the Protocol relating to the Status of Refugees, and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol).

Legal Guarantees of Equality and Non-Discrimination

The Constitution of 1997 (the Ratified Constitution) has not been fully implemented. However, it does lay out a number of human rights guarantees, including rights to equality and non-discrimination.¹⁵⁵

Specifically, the Ratified Constitution states that all persons are equal under the law, and explicitly prohibits discrimination on several bases, including race, ethnic origin, language, color, gender, religion, disability, age, political view, or social or economic status or any other improper factors.¹⁵⁶

¹⁵² Multilateral Treaties Deposited with the Secretary-General, United Nations Treaty Collection, https://treaties.un.org/Pages/TreatyParticipantSearch.aspx?clang=_en (last visited July 21, 2017) (select "Eritrea" in the drop-down Participant list to access a full list of international treaties and agreements deposited with the U.N. Secretary-General that Eritrea has ratified or acceded to).

¹⁵³ African Charter on Human and Peoples' Rights, June 27, 1981, 21 I.L.M. 58.

¹⁵⁴ African Charter on the Rights and Welfare of the Child, July 11, 1990, OAU Doc. CAB/LEG/24.9/49.

¹⁵⁵ Constitution of Eritrea (1997), art. 14, *available at* <http://confinder.richmond.edu/admin/docs/Eritrea1997English.pdf> (last visited July 22, 2017) [hereinafter ERITREA CONST.].

¹⁵⁶ *Id.*

The National Assembly also has the power to enact laws to eliminate inequalities existing in Eritrean society, and while not expressly stated, the Ratified Constitution does appear to grant the National Assembly the power to enact affirmative action laws.¹⁵⁷

The Ratified Constitution also contains several articles that promote gender equality and women's empowerment. The Preamble states that "the struggle for independence, human rights and solidarity, based on equality and mutual respect, generated by such struggle will serve as an unshakable foundation for our commitment to create a society in which women and men shall interact on the bases of mutual respect, solidarity and equality."¹⁵⁸ It also states that any act that violates the human rights of women, or limits or otherwise thwarts their role and participation, is prohibited.¹⁵⁹

The Ratified Constitution does not explicitly prohibit discrimination on the basis of gender identity or expression, sexual orientation, or birth, although it is possible that such discrimination could be covered under "any other improper factors."¹⁶⁰

Rights of Foreigners and Stateless Individuals

With respect to nationality, the Ratified Constitution states that any person born of an Eritrean father or mother is an Eritrean by birth and that foreign citizens may acquire Eritrean citizenship pursuant to law.¹⁶¹ However, the Ratified Constitution does not appear to explicitly protect the rights and freedoms of foreigners, asylum seekers, refugees, or stateless persons, and ABA ROLI has been unable to determine whether Eritrea has passed any laws that would establish the rights and duties of refugees or stateless individuals.

State Human Rights Guarantees

The Ratified Constitution recognizes a number of fundamental civil and political rights, including:

- the right to life;¹⁶²
- the right to liberty;¹⁶³
- the right to privacy, including the right to be free from unreasonable search and seizure;¹⁶⁴
- the right to freedom of thought, conscience, religion, and belief;¹⁶⁵
- the right to free speech and expression, including the freedom of the press and other media, and the right of access to information;¹⁶⁶
- the rights to peaceful assembly and freedom of association;¹⁶⁷

¹⁵⁷ *Id.*

¹⁵⁸ *Id.* at Preamble.

¹⁵⁹ *Id.* at art. 7.

¹⁶⁰ *Id.* at art. 14.

¹⁶¹ *Id.* at art. 3.

¹⁶² *Id.* at art. 15.

¹⁶³ *Id.*

¹⁶⁴ *Id.* at art. 18.

¹⁶⁵ *Id.* at art. 19; *see also* Civil Code of the State of Eritrea, arts. 14-15 [hereinafter Civil Code].

¹⁶⁶ ERITREA CONST., *supra* note 155, at art. 19.

¹⁶⁷ *Id.*, *but see, e.g.*, Martin Plaut, *Divided and Dispersed, Eritrea Opposition Struggles to Harness Spirit of*

- the right to freedom of movement, including the right to move freely throughout the country, and the right to leave and return to Eritrea;¹⁶⁸
- the right to marry;¹⁶⁹
- the right to equality before the courts;¹⁷⁰
- the right to a fair trial, including a number of rights for those accused of criminal offenses;¹⁷¹
- the right to a legal remedy;¹⁷² and
- the right to be free from torture or cruel, inhuman, or degrading treatment or punishment.¹⁷³

Eritrea does not appear to guarantee the right to a legal identity, or the right to self-determination.

However, the Civil Code establishes the right to be free from imprisonment for an inability to fulfill contractual obligations.¹⁷⁴

The Ratified Constitution explicitly prohibits discrimination in education, stating that every citizen should have equal access to education, and that the State will endeavor, within the limit of its resources, to make education services available to all citizens.¹⁷⁵ Eritrea also provides free education at all levels, and basic education (elementary and middle school) is compulsory.¹⁷⁶ The National Education Policy from the Ministry of Education also addresses educational strategies with respect to illiteracy, school dropouts, adult education, vocational training, and skills acquisition.¹⁷⁷

The Ratified Constitution guarantees the right of all citizens to equal access to health services, within the limit of the State's resources.¹⁷⁸ Additionally, the National Health Policy's guiding principles include promoting equity in the provision of health services, including the distribution of costs and benefits of health services to all people, regardless of their location, ethnicity, gender, age, social, economic, cultural, and political status.¹⁷⁹

Resistance, The Guardian (Aug. 19, 2015, 7:15 AM), <https://www.theguardian.com/politics/2015/aug/19/inside-eritrea-political-opposition-threat-isaias-afwerki> (last visited July 22, 2017) (noting that political parties aside from the ruling party have been abolished).

¹⁶⁸ ERITREA CONST., *supra* note 155, at art. 19, *but see, e.g.*, U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016 165, *available at* <https://www.state.gov/documents/organization/258879.pdf> (last visited July 22, 2017) (noting that strict exit controls limit the ability of Eritreans to legally leave the country).

¹⁶⁹ ERITREA CONST., *supra* note 155, at art. 22.

¹⁷⁰ *Id.* at art. 14.

¹⁷¹ *Id.* at art. 17.

¹⁷² *Id.* at art. 28.

¹⁷³ *Id.* at art. 16.

¹⁷⁴ Civil Code, *supra* note 165.

¹⁷⁵ ERITREA CONST., *supra* note 155, at art. 21.

¹⁷⁶ Education Policy and Data Center, Eritrea, <http://www.epdc.org/country/Eritrea> (last visited July 22, 2017).

¹⁷⁷ MINISTRY OF EDUCATION, ERITREA: NATIONAL EDUCATION POLICY (Feb. 2003), *available at* <http://www.eritreaembassy-japan.org/data/National%20Education%20Policy%20Feb%202003.pdf> (last visited July 22, 2017).

¹⁷⁸ ERITREA CONST., *supra* note 155, at art. 21.

¹⁷⁹ STATE OF ERITREA, MINISTRY OF HEALTH, NATIONAL HEALTH POLICY (Mar. 2010), http://www.who.int/medical_devices/survey_resources/health_technology_national_policy_eritrea.pdf (last visited July 22, 2017).

The National Health Policy also states that budget allocation of the sector is based on the special needs of vulnerable groups and addresses the special needs of individuals living with HIV. The Policy aims to prevent new HIV infections through targeted interventions, and reduce the personal and social impact of HIV infection and AIDS, including protection of the rights of people living with HIV. ABA ROLI notes that Eritrea's National Action Plans for Health also calls for the provision of low-cost or free healthcare services to all Eritrean citizens.¹⁸⁰

State Human Rights Bodies

ABA-ROLI researchers have not identified whether Eritrean law requires the establishment of any institutions with specific mandates to protect human rights and freedoms.

¹⁸⁰ *Id.*

IX. Labor Rights

Work Protections Established by Law

Applicable International Instruments

Eritrea is party to a number of international instruments that protect workers, including:

- ILO Convention No. 29 (concerning Forced or Compulsory Labor);
- ILO Convention No. 105 (concerning the Abolition of Forced Labor); and
- ILO Convention No. 138 (concerning Minimum Age for Admission to Employment).¹⁸¹

Domestic Legal Protections

As a general matter, the Labor Proclamation guarantees equality of opportunity and treatment in employment and remuneration; for example, women and persons with disabilities may not be discriminated against solely on the basis of their status.¹⁸² The Labor Proclamation also sets forth certain unfair labor practices on the part of an employer, including discriminating on grounds of race, color, social origin, nationality, sex, political orientation, or religion.¹⁸³

In addition to these, the law provides for compensation for employment injuries.¹⁸⁴ An employee is entitled to periodic payments for temporary disability and disability compensation in cases of sustained permanent disability. The heirs of an employee who dies as a result of an employment injury are also entitled to compensation.

It also guarantees that an employees' association has the right to bargain a collective agreement with one or more employers or their associations regarding matters such as the conditions for the protection of the occupational safety and health of employees, conditions of work and the procedure for making work rules and resolving grievances, the arrangement of working hours and break intervals during working hours, and the improvement of the employees' educational standard and vocational skills.¹⁸⁵

Minimum Wage Requirements

ABA ROLI has been unable to determine whether Eritrea has minimum wage provisions in its law.

Working Hours Requirements

¹⁸¹ *Ratifications for Eritrea*, INT'L LABOUR ORG., http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103282 (last visited July 22, 2017).

¹⁸² Labor Proclamation of Eritrea, Proclamation No. 118/2001, arts. 64-65, *available at* <http://www.ilo.org/dyn/travail/docs/493/The%20Labour%20Proclamation%20of%20Eritrea%20No%20118%20of%202001.pdf> (last visited July 22, 2017) [hereinafter Proclamation No. 118/2001].

¹⁸³ *Id.* at art. 118.

¹⁸⁴ *Id.* at arts. 78-79.

¹⁸⁵ *Id.* at arts. 99, 102.

The Labor Proclamation states that regular hours of work may not exceed eight hours a day and forty-eight hours a week.¹⁸⁶ An employer who causes an employee to work beyond the maximum working hours is liable for a fine of up to 500 Nakfa.¹⁸⁷

Overtime Remuneration

The Labor Proclamation notes that an employer may demand overtime, provided that employees cannot be required to work more than two hours over their daily limit without consent.¹⁸⁸ The Labor Proclamation also lists certain exceptional circumstances where an employee must work overtime, such as where there is urgent work or where force majeure occurs.¹⁸⁹ Overtime remuneration amounts are set on the basis of what time of day the work is conducted, and whether employees are obliged to work on weekends and/or holidays.¹⁹⁰

Leave Requirements

All employees are entitled to paid annual leave based on their number of years of service.¹⁹¹ Employees are entitled to annual leave with pay for fourteen working days for the first year of service and fourteen working days plus one working day for each additional year of service.¹⁹² Annual leave may not exceed 35 working days.¹⁹³

Labor Inspection and Oversight Systems

The Labor Proclamation describes the system of labor inspection and oversight, which applies to all sectors or industries.¹⁹⁴ The Labor Inspection Service is responsible for ensuring the implementation of the provisions of the Labor Proclamation and other laws relating to labor relations, collective agreements, and decisions regarding labor disputes.¹⁹⁵ The Labor Inspection Service also conducts studies of working conditions, occupational safety, health, and standards of work. Labor Inspectors carry out the duties of the Labor Inspection Service, including conducting on-site inspections of employers to ensure the safety and health of employees.¹⁹⁶

Labor Inspectors can order employers to take corrective measures when work conditions threaten the health, safety, or welfare of employees. Employers can appeal certain orders to the Labor Relations Board, within five working days of the final decision. However, decisions of the Labor Relations Board are final and unappealable.¹⁹⁷

¹⁸⁶ *Id.* at art. 48.

¹⁸⁷ *Id.* at art. 155.

¹⁸⁸ *Id.* at art. 52.

¹⁸⁹ *Id.*

¹⁹⁰ *Id.* at art. 53.

¹⁹¹ *Id.* at art. 56.

¹⁹² *Id.*

¹⁹³ *Id.*

¹⁹⁴ *Id.* at arts. 143-145.

¹⁹⁵ *Id.*

¹⁹⁶ *Id.* at art. 144.

¹⁹⁷ *Id.* at art. 145.

Applicability of Labor Laws to Migrant Workers

The Regulation to Issue Work Permit[s] to Non-Nationals sets forth the requirements for non-nationals to obtain work permits.¹⁹⁸ Non-nationals may only enter Eritrea by permission of the Ministry, and may not enter Eritrea unless there is confirmation that they will obtain a valid work permit.¹⁹⁹ Work permits are applicable to non-nationals who are engaged to work through a contract of employment or as a volunteer, and who are engaged in private undertakings.²⁰⁰ Work permits may only be issued if the Ministry first determines that an Eritrean citizen with the necessary skills to meet the requirement of the proposed employment is not available, and that programs will be undertaken to train citizens in the required skills.²⁰¹

The Labor Proclamation also provides certain limited protections to migrant and domestic workers. It is an unfair labor practice for an employer to discriminate based on nationality,²⁰² but the law does not set forth any other rights and responsibilities for migrant workers.

With respect to domestic workers, the Labor Proclamation defines a domestic employee as a person primarily hired for the performance of household duties and chores, the maintenance of the home and the care and comfort of the members of the household, and includes domestic gardeners, guards, and drivers.²⁰³ However, the Ministry may, by regulation, determine any provisions of the Labor Proclamation that will apply to all or a category of domestic employees.²⁰⁴

ABA ROLI has not identified any other laws applicable to domestic workers or seasonal workers. Eritrea also is not a party to any regional or international agreements relating to migrant workers.

Child Labor Laws

International Laws, Policies, and Agreements

Eritrea has ratified the CRC, which recognizes the rights of children to be protected from economic exploitation by requiring State Parties to prohibit children from performing any work that is likely to be hazardous or to interfere with their education, or to be harmful to their health or development.²⁰⁵ State Parties also undertake to provide minimum age requirements for employment, regulate work hours and employment conditions, and establish sanctions to ensure that child labor laws are effectively enforced.²⁰⁶

Eritrea has ratified the Optional Protocol on Armed Conflict and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography,²⁰⁷ although it has not ratified ILO Convention

¹⁹⁸ Regulations to Issue Work Permit to Non-Nationals, Legal Notice No. 80/2003, *available at* <http://www.refworld.org/docid/449fee674.html> (last visited July 22, 2017).

¹⁹⁹ *Id.* at art. 3(1).

²⁰⁰ *Id.* at art. 3(2).

²⁰¹ *Id.* at art. 5(1).

²⁰² Proclamation No. 118/2001, *supra* note 182, at art. 118.

²⁰³ *Id.* at art. 39.

²⁰⁴ *Id.* at art. 40.

²⁰⁵ United Nations Convention on the Rights of the Child, art. 32(1), Nov. 20, 1989, 1577 U.N.T.S. 3.

²⁰⁶ *Id.* at art. 32(2).

²⁰⁷ *Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed*

no. 182 (concerning the Worst Forms of Child Labor).²⁰⁸

Domestic Laws and Policies

The Labor Proclamation fixes the minimum working age as 14.²⁰⁹ Young employees, defined as persons above the age of 14 and below the age of 18, are prohibited from certain hazardous activities, such as work in sewers and digging tunnels.²¹⁰ However, the Labor Proclamation does not set forth penalties for employers of children in hazardous work, or employers of children under the minimum working age.²¹¹ Eritrea's laws also do not appear to prohibit the worst forms of child labor.²¹²

According to the U.S. Department of State's June 2016 Trafficking in Persons Report, "[t]he government continued Maetot, a national service program in which secondary-school children are assigned to work in public works projects, usually within the agricultural sector, during their summer holidays."²¹³ Children younger than 18 years of age at the Sawa school may also "participate in activities that amount to military service" and forced labor.²¹⁴ The Report further notes that "[s]ome Eritrean children are subjected to forced labor, including forced begging, and some women and girls are subjected to sex trafficking within the country."²¹⁵

Eritrea has a number of policies that may help to reduce the incidence of child labor, including the Comprehensive Child Policies developed in coordination with UNICEF to prevent and eliminate child labor, the UN Strategic Partnership Cooperation Framework, which aims to improve the quality of basic education and strengthen protections for vulnerable children, and the National Policy on Education, which mandates that children spend eight years in compulsory, free education.²¹⁶

Provisions Regarding the Worst Forms of Child Labor

Conflict, U.N. TREATY COLLECTION, https://treaties.un.org/pages/viewdetails.aspx?src=ind&mtdsg_no=iv-11-b&chapter=4&lang=en (last visited July 21, 2017); *Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography*, U.N. TREATY COLLECTION, https://treaties.un.org/pages/viewdetails.aspx?src=ind&mtdsg_no=iv-11-c&chapter=4&lang=en (last visited July 21, 2017).

²⁰⁸ ILO Convention No. 182 (concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour) (Jun 17, 1999), *available at* http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182 (last visited July 21, 2017).

²⁰⁹ Proclamation No. 118/2001, *supra* note 182, at arts. 68-69.

²¹⁰ *Id.*

²¹¹ *See Child Labor and Forced Labor Reports: Eritrea*, U.S. DEP'T OF LABOR, BUREAU OF INT'L LABOR AFF., <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/eritrea> (last visited July 22, 2017) [hereinafter *Child Labor and Forced Labor Reports: Eritrea*].

²¹² *Id.*

²¹³ U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016 165, *available at* <https://www.state.gov/documents/organization/258879.pdf> (last visited July 22, 2017) [hereinafter U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016].

²¹⁴ *Id.*

²¹⁵ *Id.*

²¹⁶ *Child Labor and Forced Labor Reports: Eritrea*, *supra* note [x].

The Penal Code does prohibit child trafficking and the commercial sexual exploitation of children.²¹⁷ However, the U.S. Department of Labor notes that the laws relating to the production and trafficking of drugs do not prohibit the use of children in such acts.²¹⁸

Although the government of Eritrea theoretically bans the conscription of persons under the age of 18, the government does reportedly “detains children younger than age 18 and sends them to Sawa,” where male and female recruits may be beaten, sexually abused, or raped.²¹⁹

²¹⁷ Penal Code of the State of Eritrea, arts. 594, 595, 604,605, 609, *available at* <http://www.refworld.org/pdfid/55a51ccc4.pdf> (last visited July 22, 2017).

²¹⁸ *Child Labor and Forced Labor Reports: Eritrea*, *supra* note 211.

²¹⁹ U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 213, at 165.

X. Rights of Communities and Indigenous People

Recognition of Customary and Communal Land Rights

Eritrea's laws do not explicitly protect the rights of indigenous or tribal peoples, including indigenous or tribal peoples who are stateless. ABA ROLI has been unable to identify any laws that explicitly protect the rights of communities.

Eritrea's laws do not recognize customary land rights. The Proclamation to Reform the System of Land Tenure in Eritrea (Land Proclamation) repealed all land tenure systems previously in application, such as *Diesa*, *Tslmi*, public domain land, *Quah Mahtze*, *Meret worki* and others together with their laws and customary procedures.²²⁰

Eritrea's laws also do not recognize group (communal) land rights, as the Land Reform Proclamation invalidated all village boundaries, which used to be the basis for community-owned land.²²¹

Governance of Land Without Formal Title

The Proclamation describes the formal process for land registration.²²² The Land Administrative Body maintains a land registry and submits a copy of the registry to the Land Commission. The registry includes information on the size and boundary of all arable and non-arable land, distributed and non-distributed land, residential areas, buildings, and sites required for conducting various social and development works, forest and pasture areas, sources of water, roads, and the name of every person to whom land has been distributed, the size and boundaries thereof, the date of distribution and change of distribution thereof, and other important information.²²³ To prove ownership of immovable property, the law requires a title deed issued by the administrative authority.²²⁴

The Land Reform Proclamation provides for State ownership of all Eritrean land; as a result, the state retains ownership over lands without a formal title holder. Because the land is owned by the State, communities and indigenous or tribal people cannot assert ownership over lands that do not have a formal title holder.²²⁵

Eritrea's laws do not appear to protect access to state-owned or untitled lands and resources on which communities or indigenous or tribal people depend for their physical, economic, social, cultural, or spiritual well-being. The Land Reform Proclamation states that, regarding land distribution, the Land Administrative Body shall adequately classify the nonarable land for housing and buildings and areas required for various social and development activities, such as a cemetery,

²²⁰ Land Reform Proclamation, Proclamation No. 58/1994, art. 39, *available at* <http://extwprlegs1.fao.org/docs/pdf/eri8227.pdf> (last visited July 22, 2017) [hereinafter Proclamation No. 58/1994].

²²¹ *Id.* at art. 40.

²²² *Id.* at art. 17.

²²³ *Id.*

²²⁴ Civil Code of the State of Eritrea, art. 1069.

²²⁵ Proclamation No. 58/1994, *supra* note 220, at art. 3.

mosque, church, school, village assembly hall, road, forestry, pasture, and sites required by the government for governmental works.²²⁶

Community Rights in Land-Based Development

Eritrea's laws generally do not provide protections for community rights in connection with land-based investment or development projects. Other than compensation, no legal remedies are available for violations of such rights.²²⁷ The government has the absolute right to allocate any land for development without input from communities.²²⁸

Eritrean law does not require community development agreements before land is developed; nor does it appear to require public consultations regarding environmental impact or any other kind of assessment.²²⁹

²²⁶ *Id.* at art. 9.

²²⁷ *Id.* at arts. 50-52.

²²⁸ *Id.* at art. 50.

²²⁹ *Id.*

XI. Immigration and Border Security

Immigration Law Prohibitions against TIP and Migrant Smuggling

While Eritrean law explicitly prohibits TIP, ABA ROLI has been unable to identify whether any relevant border control measures contain anti-TIP provisions, or other provisions to prevent or detect TIP or migrant smuggling.

The U.S. Department of State's 2016 Trafficking in Persons Report notes that the government of Eritrea has "failed to investigate or prosecute any trafficking offenses or identify or protect any victims," and that "[a]lthough the government continued to warn its citizens of the dangers of trafficking, authorities lacked understanding of the crime, conflating it with transnational migration or smuggling."²³⁰

ABA ROLI has not been able to determine whether border control measures contain provisions to prevent or detect migrant smuggling.

Protections for TIP Victims in Immigration Law

Eritrea's laws do not appear to provide immigration protections for TIP victims. The laws do not provide for special immigration status for TIP victims, such as asylum, visas, or residence permits.²³¹ The laws also do not prohibit sanctioning or holding liable TIP victims for violating immigration laws as a direct consequence of being trafficked, and it appears that the State is not required to obtain informed consent from TIP victims for their repatriation.²³² ABA ROLI has not identified any laws that specify the conditions under which repatriation of TIP victims can occur.

Denial of Entry or Visa Revocation for TIP Offenders

ABA ROLI has not identified whether Eritrea's laws require commercial carriers to ensure that all passengers possess the required travel documents for entry into the country, or whether the laws permit the State to deny entry or revoke visas of TIP perpetrators.

It is also unclear whether Eritrea's laws encourage transnational cooperation among border control agencies to detect or prevent TIP.

²³⁰ U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016 165, *available at* <https://www.state.gov/documents/organization/258879.pdf> (last visited July 22, 2017).

²³¹ U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2015 152, *available at* <https://www.state.gov.documents/organization/245365.pdf> (last visited July 22, 2017).

²³² *Id.*

XII. National Security and Humanitarian Emergencies

National Security Laws and Strategies

ABA ROLI has not identified whether Eritrea has a national security strategy.

However, the Constitution of 1997 (Ratified Constitution) specifies that the fundamental rights and freedoms may be limited in the interests of national security, public safety, or the economic well-being of the country, health or morals, for the prevention of public disorder or crime, or for the protection of the rights and freedoms of others.²³³ Furthermore, although individuals charged with offenses are entitled to fair, speedy, and public hearings, courts may exclude the press and the public from any part of the trial for reasons of morals or national security.²³⁴

However, the Ratified Constitution nonetheless specifies that certain rights and freedoms cannot be limited even under emergency conditions, such as the right to equality before the law, the right to non-discrimination, the right to life, the right to human dignity, the non-retroactivity of the criminal law, the right of habeas corpus, the right to the presumption of innocence, the right to appeal, and the right to freedom of thought, belief, and conscience.²³⁵

Firearm Import/Export Regulations

Eritrea's Penal Code explicitly prohibits trafficking in certain firearms or explosives, which is considered a Class 6 serious offense and punishable with imprisonment of seven to 10 years.²³⁶ Firearms or explosives trafficking may also be an aggravated offense when it involves gang members or the business of trafficking,²³⁷ and incurs penalties of up to 13 years in prison.²³⁸

ABA ROLI has not identified whether border control measures contain provisions to prevent or detect trafficking in arms.

Conflict Resources Regulations

ABA ROLI was unable to identify any Eritrean laws that specifically regulate the trade of conflict resources. Resource extraction laws do not appear to list categories of persons who are ineligible to obtain mining or logging rights, such as members of the armed forces, the police, or security services.

Emergency Management Laws and Strategies

²³³ Constitution of Eritrea (1997), art. 26, *available at* <http://confinder.richmond.edu/admin/docs/Eritrea1997English.pdf> (last visited July 22, 2017) [hereinafter ERITREA CONST.].

²³⁴ *Id.* at art. 17.

²³⁵ *Id.* at arts. 14-17, 19.

²³⁶ Penal Code of the State of Eritrea, arts. 235-36, *available at* <http://www.refworld.org/pdfid/55a51ccc4.pdf> (last visited July 22, 2017) [hereinafter Penal Code].

²³⁷ *Id.* at 236.

²³⁸ *Id.*

With respect to post-crisis reconstruction, Eritrea's Commission for Demobilization and Reintegration Proclamation addresses demobilization, disarmament, and reintegration, including the demobilization of the national service recruits from the army.²³⁹

Eritrea does not have laws addressing truth, justice, and reconciliation for crimes related to crisis.

ABA ROLI has not identified whether international peacekeeping forces are legally obligated to comply with national anti-TIP laws.

²³⁹ Proclamation to Establish a National Commission for the Demobilization and Reintegration Programme - DRP, Proclamation No. 113/2001.

XIII. Conclusion

Eritrea has been classified as a Tier 3 country by the U.S. Department of State's Office to Monitor and Combat Trafficking in Persons (J/TIP) for the eighth consecutive year. Its leaders continue to not "fully meet the minimum standards and are not making significant efforts to do so."²⁴⁰

The Department of State also notes that Eritrea "is a source country for men, women, and children subjected to forced labor," and "[t]o a lesser extent, Eritrean adults and children are subjected to sex and labor trafficking abroad."²⁴¹

Although the country's legal system addresses certain TIP-related issues, it does so through individual and indirect provisions, and without a comprehensive anti-TIP plan. Problematically, Eritrea has not ratified or incorporated the ILO Convention No. 182 (concerning the Worst Forms of Child Labor),²⁴² and in spite of the fact that it has ratified the Optional Protocol on Armed Conflict and the Optional Protocol on the Sale of Children,²⁴³ it lacks both a legal and a regulatory framework to combat the worst forms of child labor.

Even where anti-TIP laws exist, they are combined with significant enforcement gaps. Indeed, the State Department notes that Eritrea's "government did not investigate, prosecute, or convict trafficking offenders during the reporting year."²⁴⁴ Before it can make any progress combating trafficking, Eritrea must "[d]evelop, enact, and enforce an anti-trafficking statute that criminalizes all forms of trafficking, including sex trafficking and forced labor, differentiating between emigration, smuggling, and human trafficking."²⁴⁵

²⁴⁰ U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016 164-65, *available at* <https://www.state.gov/documents/organization/258879.pdf> (last visited July 22, 2017) hereinafter U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016].

²⁴¹ *Id.* at 164.

²⁴² ILO Convention No. 182 (concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour) (Jun 17, 1999), *available at* http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182 (last visited July 21, 2017).

²⁴³ *Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict*, U.N. TREATY COLLECTION, https://treaties.un.org/pages/viewdetails.aspx?src=ind&mtdsg_no=iv-11-b&chapter=4&lang=en (last visited July 21, 2017).

²⁴⁴ U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 240, at 165.

²⁴⁵ *Id.*