

Country Report: Ethiopia¹



Funding provided by
the United States Government

I. Introduction

Country Overview

The Federal Democratic Republic of Ethiopia (Ethiopia) is located in the Horn of Africa and shares borders with Eritrea, Djibouti, Somalia, Sudan, South Sudan, and Kenya.² With a population of more than 100 million individuals, Ethiopia is the second most populous country in Africa.³ Ethiopia is one of the founding members of the United Nations and its capital, Addis Ababa, is the headquarters of the African Union.⁴ In the 1970s and 1980s, Ethiopia struggled with civil wars and communist purges, which placed considerable strains on the economy.⁵ Ethiopia has begun to recover, however, and now has the largest economy in east and central Africa as well as the continent's third most powerful military.⁶

Trafficking in Persons (“TIP”) Context

Like many countries in Africa, Ethiopia is affected by human trafficking. Ethiopia continues to be a source, and “to a lesser extent, destination and transit country for men, women, and children subjected to forced labor and sex trafficking”.⁷ The U.S. State Department reports, for example, that girls in rural areas are exploited for the purposes of domestic service and prostitution, particularly in Addis Ababa's central market areas.⁸ Boys are subjected to forced labor in a number of industries, including the traditional weaving industry, construction, agriculture, and street vending.⁹ Child sex tourism “is a growing problem in major tourist hubs”¹⁰. Ethiopians are “aggressively recruited”, particularly from rural areas, for the purposes of supplying the demand for cheap construction and domestic labor in the Middle East.¹¹

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 *Ethiopia*, CIA WORLD FACTBOOK, <https://www.cia.gov/library/publications/the-world-factbook/geos/et.html> (last visited July 20, 2017).

³ *Id.*

⁴ *Growth in United Nations Membership*, United Nations, <http://www.un.org/en/sections/member-states/growth-united-nations-membership-1945-present/index.html> (last visited July 20, 2017).

⁵ *See generally* BENJAMIN A. VALENTINO, *FINAL SOLUTIONS: MASS KILLING AND GENOCIDE IN THE TWENTIETH CENTURY* (2004).

⁶ Abdur Rahman Alfa Shaban, *Ethiopia overtakes Kenya as Economic Giant of East Africa*, AfricaNews (May 29, 2017, 5:12 PM), <http://www.africanews.com/2017/05/29/ethiopia-overtakes-kenya-as-economic-giant-of-east-africa/> (last visited July 21, 2017).

⁷ U.S. DEP'T OF STATE, *TRAFFICKING IN PERSONS REPORT: JUNE 2016* 167 (2016), *available at* <https://www.state.gov/documents/organization/258879.pdf> (last visited July 21, 2017) [hereinafter U.S. DEP'T OF STATE, *TRAFFICKING IN PERSONS REPORT: JUNE 2016*].

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

However, Ethiopia has begun to take certain measures to attempt to address the problem of TIP, both within and outside its borders. The Constitution of Ethiopia also incorporates a number of treaties into domestic law, several of which specifically address TIP.¹² The Constitution also has anti-discrimination provisions, and provisions that prohibit child labor and other harmful labor practices.¹³ Additionally, various government institutions are charged with combatting the problem of human trafficking, which is classified as a criminal offense.¹⁴

Ethiopian immigration and border security laws provide for special immigration status for TIP victims within the country,¹⁵ and ban Ethiopians from being employed for domestic work in the Middle East.¹⁶ As noted, both human trafficking and migrant smuggling are criminal offenses; during the reporting period for the U.S. Department of State's 2016 Trafficking in Persons Report (TIP Report), more than 3,000 traffickers were identified, 294 were investigated, and 69 were convicted.¹⁷ Child protection units in urban areas have been trained to assist vulnerable children,¹⁸ and United Nations personnel within the country are required to adhere to Ethiopia's anti-TIP laws.¹⁹

¹² *Ratification Table: African Charter on the Rights and Welfare of the Child*, AFR. COMM'N ON HUM. & PEOPLES' RTS., <http://www.achpr.org/instruments/child/ratification/> (last visited July 21, 2017).

¹³ See generally Labour Proclamation No. 377 of 2003, available at http://www.ilo.org/dyn/travail/docs/327/Proclamation%20No%20377_2003%20-%20Labour%20Proclamation.pdf (last visited July 21, 2017) [hereinafter Proclamation No. 377/2003].

¹⁴ A Proclamation to Pronounce the Coming into Effect of the Constitution of the Federal Democratic Republic of Ethiopia, no. 1 of 1995, art. 18(2), available at

https://www.constituteproject.org/constitution/Ethiopia_1994.pdf?lang=en (last visited July 21, 2017) [hereinafter ETHIOPIA CONST.]; The Criminal Code of the Federal Democratic Republic of Ethiopia,

Proclamation No. 414 of 2004, §§ 597-98, available at

<http://www.wipo.int/edocs/lexdocs/laws/en/et/et011en.pdf> (last visited July 21, 2017) [hereinafter

Criminal Code]; Proclamation to Provide for the Prevention and Suppression of Trafficking in Person and Smuggling of Migrants, No. 909 of 2015, § 3, available at

<http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/101059/126622/F-402220324/ETH101059.pdf> (last visited July 21, 2017) [hereinafter Proclamation No. 909/2015].

¹⁵ Proclamation No. 909/2015, *supra* note 14, at § 28.

¹⁶ U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 7.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ See generally UNITED NATIONS, PEACE KEEPING OPERATIONS: PRINCIPLES AND GUIDELINES (2008), available at http://www.un.org/en/peacekeeping/documents/capstone_eng.pdf (last visited July 21, 2017).

II. Institution Mapping

Government Structure

Executive

The Federal Democratic Republic of Ethiopia is a federal parliamentary republic whose President is indirectly elected by both chambers of Parliament and may serve for up to two six-year terms.²⁰ The Prime Minister is chosen by the majority party following legislative elections, but his or her tenure is not term limited.²¹ The President's cabinet is called the Council of Ministers, who are selected by the Prime Minister and approved by the House of People's Representatives.²²

Legislative

The federal legislative body is a bicameral Parliament.²³ The House of Federation, which has 108 seats held by members indirectly elected by state assemblies, is responsible for interpreting the constitution and handling federal-regional issues.²⁴ The House of People's Representatives, which has 547 seats held by members directly elected by simple majority vote, is responsible for passing legislation.²⁵ Members of each group serve five-year terms.²⁶

Ethiopia has nine member states, each of which has the right, by federal Constitutional mandate, to enact and execute its own state Constitution.²⁷ Each member state has its own legislative body, known as the State Council.²⁸ With the exception of two states which have bicameral legislative bodies—the State of the Southern Nations, Nationalities, and Peoples' Region and the State of Harari People—State Councils are generally authorized to both enact laws and make decisions on state constitutional issues.²⁹ However, in the other two states, a second House of Nationalities is charged with specific constitutional decision-making.³⁰

Judicial

Ethiopia's highest court is the Federal Supreme Court.³¹ The President and Vice President of the

²⁰ *Ethiopia*, CIA WORLD FACTBOOK, <https://www.cia.gov/library/publications/the-world-factbook/geos/et.html> (last visited July 20, 2017) [hereinafter *Ethiopia*, CIA WORLD FACTBOOK].

²¹ *Id.*

²² *Id.*

²³ A Proclamation to Pronounce the Coming into Effect of the Constitution of the Federal Democratic Republic of Ethiopia, no. 1 of 1995, art. 53, *available at* https://www.constituteproject.org/constitution/Ethiopia_1994.pdf?lang=en (last visited July 21, 2017) [hereinafter *ETHIOPIA CONST.*].

²⁴ *Id.* at art. 62.

²⁵ *Ethiopia*, CIA WORLD FACTBOOK, *supra* note 20.

²⁶ *Id.*

²⁷ Girmachew Alemu Aneme, *Introduction to the Ethiopian Legal System and Legal Research*, GLOBALEX (Aug./Sep. 2010), at § 2.1.B, http://www.nyulawglobal.org/globalex/Ethiopia.html#_edn30 (last visited July 21, 2017).

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Ethiopia*, CIA WORLD FACTBOOK, *supra* note 20.

Court are nominated by the Prime Minister and appointed by the House of People's Representatives.³² The other nine judges are nominated by the Federal Judicial Administrative Council and appointed by the House of People's Representatives.³³ The federal courts generally exercise subject matter jurisdiction over cases and controversies arising out of the federal Constitution, federal laws, and international treaties, over parties specified in federal laws, and a number of other specific subject-matter areas, including:

- offenses relating to currency counterfeiting;
- offenses relating to forgery of federal government instruments;
- offenses relating to illicit trafficking of dangerous drugs;
- offenses committed by federal government officials and employees in connection with their duties; and
- offenses where concurrent jurisdiction may arise.³⁴

At the state level, the federal Constitution provides for the establishment of State Supreme Courts, High Courts, and First-Instance Courts.³⁵ Where cases implicate federal questions, it is possible to appeal State Supreme Court decisions to the federal Supreme Court.³⁶

The Constitution of Ethiopia provides for the establishment of religious courts to adjudicate "disputes relating to personal and family laws in accordance with religious and customary laws."³⁷ The only religious courts that have been established under this provision appear to be Shari'ah law courts that implement Islamic legal provisions relating to family and personal status matters; these courts have their own appellate structure.³⁸

Criminal Justice

Ethiopia has a Federal Police Commission (FPC), which enforces the federal criminal law, conducts criminal investigations, coordinates state police commissions, and promulgates national policing standards.³⁹ Ethiopia has passed a law to establish an Office of the Prosecutor-General.⁴⁰

Ethiopia has specialized units within its criminal investigations services that deal with transnational crime,⁴¹ financial crime,⁴² sexual or gender-based violence,⁴³ and crimes against

³² *Id.*

³³ *Id.*

³⁴ Aneme, *supra* note 27, at 2.2.1.

³⁵ *Id.*

³⁶ *Id.*

³⁷ ETHIOPIA CONST., *supra* note 23, at art. 34(5).

³⁸ Aneme, *supra* note 27, at 2.2.5.

³⁹ *Ethiopia Federal Police*, INTERPOL, <https://www.interpol.int/Member-countries/Africa/Ethiopia> (last visited July 21, 2017).

⁴⁰ Abbas Mohammed, *Law to Establish Prosecutor General's Office Enacted*, LAWETHIOPIA (Apr. 18, 2016), <http://www.lawethiopia.com/index.php/en/124-demo/slides/3258-proclamation-to-establish-prosecutor-general-s-office-enacted> (last visited July 21, 2017).

⁴¹ *Ethiopia Federal Police*, *supra* note 39.

⁴² A Proclamation on Prevention and Suppression of Money Laundering and Financial Terrorism, Proclamation No. 780 of 2013, *available at*

<http://www.ethcriminalawnetwork.com/system/files/Prevention%20and%20suppression%20of%20Money%20Laundering%20and%20Financing%20of%20Terrorism%20Proclamation-%202013.pdf> (last visited July

children and other special victims.⁴⁴ Ethiopia also allows for private prosecution, in certain circumstances, if the responsible government institution declines to prosecute a crime.⁴⁵

Anti-Corruption and Ethics

Ethiopia has a Federal Ethics and Anti-Corruption Commission (FEACC),⁴⁶ which is charged with combatting corruption and promoting ethics within the public services industry.⁴⁷ It does so by raising public awareness about corruption, studying practices and working procedures of public offices, and putting forward “corrective measures and recommendations” to ensure that such offices are complying with anti-corruption requirements.⁴⁸ To this end, FEACC has the power and authority to register the financial assets and interests of public employees, protect witnesses and whistle-blowers, and preparing codes of ethics for public offices and enterprises (excluding legislative and judicial agencies).⁴⁹ Finally, FEACC engages in inter-governmental and transnational cooperation and information exchange with regional and international anti-corruption bodies.⁵⁰

Regulatory Bodies

The Ministry of Women, Children, and Youth Affairs provides relevant police training.⁵¹ The Ministry of Labour and Social Affairs handles workplace standards and social issues within Ethiopia.⁵²

Ethiopia has several governmental entities that are involved in the regulation of industry, trade, and commerce. The Ministry of Trade is responsible for the promotion and expansion of domestic trade and helps take appropriate measures to maintain lawful trade practices.⁵³ The Ministry of Industry promotes the expansion of industry and investment and strives to create conditions that are conducive to the acceleration of industrial development.⁵⁴ The Ethiopian Investment Agency helps supervise wholly foreign-owned investment and joint investment by domestic and foreign

21, 2017).

⁴³ *Women and Children Coordination Office*, FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA, MINISTRY OF JUSTICE, <http://www.moj.gov.et/MinistryOfJustice/CommonPage.aspx?Id=24> (last visited July 21, 2017).

⁴⁴ *Id.*

⁴⁵ The Criminal Procedure Code Proclamation, Proclamation No. 185 of 1961, § 44, *available at* <http://ilo.org/dyn/natlex/docs/ELECTRONIC/82480/90332/F700418419/ETH82480.pdf> (last visited July 21, 2017).

⁴⁶ *Home*, THE FEDERAL ETHICS AND ANTI-CORRUPTION COMMISSION OF ETHIOPIA, <http://www.feac.gov.et/index.php> (last visited July 21, 2017).

⁴⁷ *About Us*, THE FEDERAL ETHICS AND ANTI-CORRUPTION COMMISSION OF ETHIOPIA, <http://www.feac.gov.et/index.php/about-us-en/powers-and-duties-en> (last visited July 21, 2017).

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ U.S. DEP’T OF STATE, BUREAU OF DEMOCRACY, H.R. AND LAB., ETHIOPIA HUMAN RIGHTS REPORT 27 (2015), <https://www.state.gov/documents/organization/252893.pdf> (last visited July 21, 2017).

⁵² *Id.* at 40.

⁵³ FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA, MINISTRY OF TRADE, <http://www.mot.gov.et/home> (last visited July 21, 2017).

⁵⁴ A Proclamation to Provide for the Definition of Powers and Duties of the Executive Organs of the Federal Democratic Republic of Ethiopia, Proclamation No. 691 of 2010, <https://chilot.files.wordpress.com/2011/01/691-ae1.pdf> (last visited July 21, 2017) [hereinafter Proclamation No. 691/2010].

investors.⁵⁵ The Ethiopian Revenue and Customs Authority is responsible for collecting revenue from customs duties and domestic taxes, and protecting Ethiopian society from the adverse effects of smuggling, including TIP and migrant smuggling.⁵⁶ Lastly, the Ministry of Finance and Economic Development is responsible for initiating policies that ensure sustainable and equitable economic development.⁵⁷

Traditional Justice Systems

Customary courts are recognized in the federal Constitution; however, no law specifically provides for their establishment. The decisions of customary courts do not carry legal authority, and appear to be seen as a form of alternate dispute resolution.⁵⁸ Parties may mutually decide to take disputes to these customary tribunals.⁵⁹

Anti-Trafficking Institutions

In 2015, Ethiopia passed the Proclamation to Provide for the Prevention and Suppression of Trafficking in Person[s] and Smuggling of Migrants (the TIP Proclamation).⁶⁰ This Proclamation does establish a National Committee in order to better coordinate prosecution, prevention, and victim protection activities.⁶¹ The Committee is to be chaired by the Deputy Prime Minister, and reports directly to the Prime Minister. It is unclear whether, as of the reporting period for the Department of State's 2016 TIP Report, this Committee met or engaged in any anti-TIP activities.

⁵⁵ *Ethiopian Horticulture Producer Exporters Ass'n, Relevant FDRE Offices' Mandates and Services*, ETHIOPIAN INV. AGENCY, <http://www.ehpea.org/ResourceCenter/FDREOfficeMandates.aspx> (last visited July 21, 2017).

⁵⁶ *Id.*

⁵⁷ Proclamation No. 691/2010, *supra* note 54, at § 18.

⁵⁸ Aneme, *supra* note 27, at 2.2.6.

⁵⁹ *Id.*

⁶⁰ Proclamation to Provide for the Prevention and Suppression of Trafficking in Person and Smuggling of Migrants, No. 909 of 2015, *available at* <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/101059/126622/F-402220324/ETH101059.pdf> (last visited July 21, 2017).

⁶¹ *Id.* at § 39.

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

Anti-TIP Legal Framework

Domestic Statutory Authority

The Ethiopian Constitution prohibits trafficking in persons, slavery, and forced labor, and states that “[n]o one shall be held in slavery or servitude. Trafficking in human beings for whatever purpose is prohibited.”⁶²

Under the Proclamation to Provide for the Prevention and Suppression of Trafficking in Person[s] and Smuggling of Migrants (the TIP Proclamation),⁶³ migrant smuggling is defined as “acts of immigrating or emigrating individuals by land, sea, and air to countries [in] which the person does not have nationality, work, or a permit for residence, with direct or indirect intention to derive material or financial benefit from that person”.⁶⁴

TIP is a discrete criminal offense under the TIP Proclamation.⁶⁵ There are also ancillary trafficking-related offenses, including assisting and facilitating of trafficking.⁶⁶ Furthermore, the law also recognizes certain aggravating circumstances that can impact the applicable punishment. Such circumstances include when trafficking results in severe bodily injury or death of the victim or where the trafficker committed the crime as a member or leader of an organized group, where such crime is committed on a large scale.⁶⁷ Although Ethiopia’s TIP Proclamation does not specifically provide for the possibility of a civil suit against the traffickers, a variety of legal theories may apply, including torts and contracts. Furthermore, the court allows for certain civil remedies for TIP victims, including Article 31 of the Proclamation, which provides that such compensation could include set-offs for medical, transports, moral damages, or any other costs or losses occurred.

Domestic Policies and Action Plans

The government of Ethiopia has instituted a National Action Plan for Reducing, Managing and Controlling Human Trafficking (September 2014 - August 2017).⁶⁸ Other reports indicate that this Action Plan is intended to prioritize: (1) prevention and awareness-raising with respect to the risks of illegal migration; (2) the development of government procedures to address trafficking; (3) the provision of direct support for Ethiopian TIP victims who are repatriated, and non-citizen survivors

⁶² A Proclamation to Pronounce the Coming into Effect of the Constitution of the Federal Democratic Republic of Ethiopia, no. 1 of 1995, art. 18(2), *available at* https://www.constituteproject.org/constitution/Ethiopia_1994.pdf?lang=en (last visited July 21, 2017) [hereinafter ETHIOPIA CONST.].

⁶³ Proclamation to Provide for the Prevention and Suppression of Trafficking in Person and Smuggling of Migrants, No. 909 of 2015, *available at* <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/101059/126622/F-402220324/ETH101059.pdf> (last visited July 21, 2017) [hereinafter Proclamation No. 909/2015].

⁶⁴ *Id.* at § 5.

⁶⁵ *Id.* at § 3.

⁶⁶ *Id.* at § 4.

⁶⁷ *Id.* at § 6.

⁶⁸ UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, UNHCR NATIONAL STRATEGY TO ADDRESS TRAFFICKING AND SMUGGLING OF REFUGEES AND ASYLUM-SEEKERS IN ETHIOPIA 3 (Dec. 2014), *available at* http://www.regionalmms.org/policy/UNHCR_Ethiopia_Trafficking_Strategy.pdf (last visited July 21, 2017).

of TIP in Ethiopia; (4) the improvement of legal measures that help to prosecute traffickers and provide victim assistance; (5) capacity building for government officials; and (6) TIP-related data management.⁶⁹ However, ABA ROLI has not been able to obtain a publicly-available copy of this Action Plan for more detailed review.

The United Nations High Commissioner for Refugees (UNHCR) has, in conjunction with the government, developed a National Strategy to Address Trafficking and Smuggling of Refugees and Asylum-Seekers in Ethiopia (UNHCR National Strategy).⁷⁰ The UNHCR National Strategy lays out seven key goals, which include:

- Improving the collection and analysis of data regarding the movement of refugees and asylum-seekers and refugees in Ethiopia, and improving UNHCR record-keeping with respect to TIP victims who are also refugees or asylum-seekers;⁷¹
- Improving accountability mechanisms by providing law enforcement support for trafficking responses, and establishing referral mechanisms with regional UNHCR offices;⁷²
- Mitigating the TIP risks faced by refugees and asylum-seekers, by improving access to livelihood programs and educational opportunities for at-risk youth and TIP survivors;⁷³
- Promoting awareness-raising schemes regarding the risks associated with illegal or informal migration and smuggling;⁷⁴
- Increasing the provision of direct assistance to TIP victims;⁷⁵
- Providing technical support, training, and education for immigration and security personnel, judges, prosecutors, and lawyers on the subject of TIP and migrant smuggling;⁷⁶ and
- Enhancing local, national, and regional-level cooperation in East Africa with respect to issues relating to informal, illegal, and mixed migration.⁷⁷

International Agreements

In addition to domestic legislation and policies, Ethiopia has ratified or acceded to a number of international instruments relevant to addressing TIP, including the UN Convention against Transnational Organized Crime (UNTOC), the Optional Protocol against the Smuggling of Migrants by Land, Sea, and Air, the Optional Protocol to Prevent, Suppress, and Punish Trafficking in Persons, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, the Convention on the Rights of the Child, Child Prostitution, and Child Pornography, and International Labor Organization (ILO) Conventions No. 29 (concerning Forced or Compulsory Labor), 100 (concerning Equal Remuneration), 105 (concerning the Abolition of Forced Labor), 111 (concerning Discrimination in Employment and Occupation), 138 (concerning Minimum Age for Admission to Employment) and 182 (concerning the Prohibition and Immediate

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.* at 6.

⁷² *Id.* at 7.

⁷³ *Id.* at 8.

⁷⁴ *Id.* at 9.

⁷⁵ *Id.*

⁷⁶ *Id.* at 10.

⁷⁷ *Id.* at 11.

Action for the Elimination of the Worst Forms of Child Labor).⁷⁸

Anti-TIP Institutional Framework

Although Ethiopia has a national anti-trafficking task force that was convened by the country's Ministry of Labour and Social Affairs,⁷⁹ it lacks dedicated TIP courts, TIP investigative units, or TIP prosecutorial units.

Ethiopia's Ministry of Labour, Regional Ministry of Education, Ministry of Foreign Affairs, Regional Ministry of Health, Regional Ministry of Justice, and Ministry of Women and Children Affairs all have mandates that permit them to intervene to some degree in TIP and migrant smuggling-related matters; however, most of these lack a mandate to detect, investigate, prosecute, or adjudicate trafficking cases. However, the Regional Ministry of Justice has an indirect mandate to investigate trafficking-related crimes.⁸⁰ The Ministry of Labour and Ministry of Foreign Affairs each have mandates that allow them to assist trafficking victims and the law compels each to cooperate with other actors to address trafficking issues.

The Federal and Regional Micro and Small Enterprise Development Agencies, National Security and Intelligence Service, Federal Police Commission, and the Charities and Societies Agency have mandates to help prevent human trafficking, although only the Federal Police Commission may engage in the detection, investigation, prosecution, and/or adjudication of TIP cases.⁸¹

The TIP Proclamation seeks to protect the privacy and identity of TIP victims, and furthermore ensures that—at least in terms of the law as it is written—victims are not criminalized, punished, or otherwise held liable for offenses under Ethiopian law.⁸²

⁷⁸ See *id.* at 14; *Ratifications for Ethiopia*, INT'L LABOUR ORG. (July 21, 2017), http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:102950 (last visited July 21, 2017).

⁷⁹ *National Anti-Trafficking and Smuggling Taskforce steps up Coordination Efforts in Managing Migration in Ethiopia*, INT'L ORG. FOR MIGRATION, SPECIAL LIAISON OFFICE IN ADDIS ABABA, ETHIOPIA (Apr. 6, 2016), <https://ethiopia.iom.int/national-anti-trafficking-and-smuggling-taskforce-steps-coordination-efforts-managing-migration> (last visited July 21, 2017).

⁸⁰ Proclamation No. 909/2015, *supra* note 63, at § 18(2).

⁸¹ *Id.* at § 43.

⁸² *Id.* at §§ 29-30.

IV. Justice System

Access to Justice

Equality and Non-Discrimination Provisions

The Constitution of Ethiopia guarantees that all individuals shall be equal before the law, and that all are entitled to the equal protection of the law.⁸³ Discrimination may not occur on the basis of “race, nation, nationality, or other social origin, colour, sex, language, religion, political or other opinion, property, birth, or other status.”⁸⁴

Access to Legal Aid

Ethiopia does not restrict legal standing or access to justice institutions for women, minority groups, foreign citizens, or stateless persons. Additionally, the law in Ethiopia provides subsidies for persons who do not possess sufficient means to pay all or part of a prescribed court fee.⁸⁵ Such assistance can be obtained in both criminal and civil cases.

Criminal Law and Procedure

Ethiopia has several criminal justice institutions with procedures designed to assist TIP victims. The Federal Ethics and Anti-Corruption Commission (FEACC) delegates to federal and regional investigatory bodies, prosecution offices, and regional anti-corruption institutions the authority to investigate, prosecute, and punish corruption-related crimes.⁸⁶ The police, the public prosecutor, and specialized agencies like FEACC have investigatory powers in these areas.⁸⁷

Ethiopia also has specialized units within its criminal justice system that deal with transnational crime,⁸⁸ financial crime,⁸⁹ sexual or gender-based violence,⁹⁰ and crimes against children and other

⁸³ A Proclamation to Pronounce the Coming into Effect of the Constitution of the Federal Democratic Republic of Ethiopia, no. 1 of 1995, art. 25, *available at* https://www.constituteproject.org/constitution/Ethiopia_1994.pdf?lang=en (last visited July 21, 2017) [hereinafter ETHIOPIA CONST.].

⁸⁴ *Id.*

⁸⁵ The Criminal Procedure Code Proclamation, Proclamation No. 185 of 1961, § 467, *available at* <http://ilo.org/dyn/natlex/docs/ELECTRONIC/82480/90332/F700418419/ETH82480.pdf> (last visited July 21, 2017) [hereinafter Criminal Procedure Code].

⁸⁶ *See generally* THE FEDERAL ETHICS AND ANTI-CORRUPTION COMMISSION OF ETHIOPIA, <http://www.feac.gov.et/index.php> (last visited July 21, 2017).

⁸⁷ *Id.*; *see also* Revised Proclamation for the Establishment of the Federal Ethics and Anti-Corruption, Proclamation No. 433 of 2005, *available at* <https://acaauthorities.org/sites/aca/files/countrydoc/Proclamation%20No%20433-2005.pdf> (last visited July 21, 2017).

⁸⁸ *Ethiopia Federal Police*, INTERPOL, <https://www.interpol.int/Member-countries/Africa/Ethiopia> (last visited July 21, 2017).

⁸⁹ A Proclamation on Prevention and Suppression of Money Laundering and Financing of Terrorism, Proclamation No. 780 of 2013, *available at* <http://www.ethcriminalawnetwork.com/system/files/Prevention%20and%20supression%20of%20Money%20Laundering%20and%20Financing%20of%20Terrorism%20Proclmation-%202013.pdf> (last visited July 21, 2017).

special victims.⁹¹ Ethiopia also allows for private prosecution, in certain circumstances, if the responsible government institution declines to prosecute a crime.⁹²

Criminal and civil cases are heard, in the first instance, by federal or regional courts and subsequently by the High Court and Supreme Court.⁹³ Administrative cases are heard by administrative tribunals.⁹⁴ The law in Ethiopia does not provide for trial by jury in criminal cases, but criminal defendants and the prosecutors each have the right to an appeal.⁹⁵

With respect to criminal jurisdiction, in accordance with Article 19(1), the Criminal Code applies where: (1) the complaint is a condition for prosecution under the law of the place of commission of the crime or under Ethiopian law; (2) the criminal is within the territory of Ethiopia and has not been extradited; or (3) extradition to Ethiopia was obtained by reason of the crime committed or the crime was not legally pardoned in the country of commission and that prosecution is not barred either under the law of the country where the crime was committed or under Ethiopian law.⁹⁶

Furthermore, trafficking in arms is illegal, with violators facing fines and imprisonment for up to ten years.⁹⁷ The cross-border transportation of poisonous, narcotic, or psychotropic drugs or plants is also criminalized in Ethiopia.⁹⁸ Drug traffickers face imprisonment for at least five years and fines of up to 100,000 Ethiopian birr.⁹⁹

Extradition

Ethiopia has laws to facilitate the extradition of criminals between Ethiopia and various other countries, although the laws do not specifically reference TIP.¹⁰⁰ Ethiopia may extradite individuals upon the request of another state, on the basis of either treaties or customary practices.¹⁰¹

⁹⁰ *Women and Children Coordination Office*, FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA, MINISTRY OF JUSTICE, <http://www.moj.gov.et/MinistryOfJustice/CommonPage.aspx?Id=24> (last visited July 21, 2017).

⁹¹ *Id.*

⁹² Criminal Procedure Code, *supra* note 85, at § 44.

⁹³ Federal Courts Proclamation, Proclamation No. 25 of 1996, *available at* <http://www.asu.edu.et/negarit/Gazeta-1988/Proclamation%20No.%2025-1996.pdf> (ast visited July 21, 2017).

⁹⁴ Abate Ayana, *The Law and Practice of Administrative Courts in Ethiopia: The Case of Addis Ababa City Administrative Tribunal*, OALIB (2011), *available at* <http://www.jourlib.org/paper/2569828#.V6TlxvmA0ko> (last visited July 21, 2017).

⁹⁵ ETHIOPIA CONST., *supra* note 83, at art. 20(6).

⁹⁶ The Criminal Code of the Federal Democratic Republic of Ethiopia, Proclamation No. 414 of 2004, § 19(1), *available at* <http://www.wipo.int/edocs/lexdocs/laws/en/et/et011en.pdf> (last visited July 21, 2017) [hereinafter Criminal Code].

⁹⁷ *Id.* at § 481.

⁹⁸ *Id.* at § 525.

⁹⁹ *Id.* at § 525.

¹⁰⁰ *Id.* at §§ 11-12, 16, 18-19, 21.

¹⁰¹ *Id.* at § 21.

V. Economic System

Economic and Financial Crimes

Ethiopian law requires financial institutions to assess money laundering and terrorist financing risks, requires them to conduct customer due diligence, and improve regulation of financial transactions.¹⁰² as well as requiring them to conduct due diligence on customers. Financial institutions are required to identify deposit accounts that contain precious minerals.¹⁰³¹⁰⁴ The law does not, however, require the government to give financial institutions guidance on potential TIP indicators or red flags, nor does it prohibit the government from procuring goods and services from suppliers, contractors, or subcontractors that engage in TIP-related practices.¹⁰⁵

Money Laundering

The Proclamation on the Prevention and Suppression of Money Laundering and Financing of Terrorism generally prohibits money laundering.¹⁰⁶ Under this Proclamation, money laundering is defined as the “conver[sion] or transfer[of] property for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of the predicate offence to evade the legal consequences of his actions,”¹⁰⁷ conceals or disguises the nature, source, location, disposition, movement, or rights with respect to such property, or otherwise commits an inchoate offence related to these acts.¹⁰⁸ This offense carries a penalty of 10-15 years’ imprisonment and a fine not to exceed 100,000 birr.¹⁰⁹

Money laundering may incur aggravated punishments based on the severity of the predicate offense, if it is perpetrated “in the pursuit of a trade or occupation, as part of the activities of an organized criminal group, if the amount . . . laundered [exceeds] 10 million birr, for the purposes of profit, or if the purpose is promoting the carrying on of further criminal activity.”¹¹⁰ In these cases, the range of punishment is 15 to 25 years, and any fines imposed may not exceed 150,000 birr.¹¹¹

The Proclamation additionally states that “any person who intentionally or by gross negligence” commits a number of actions, including failing to declare currency or negotiable instruments at

¹⁰² See generally A Proclamation on Prevention and Suppression of Money Laundering and Financing of Terrorism, Proclamation No. 780 of 2013, *available at* <http://www.ethcriminalawnetwork.com/system/files/Prevention%20and%20supression%20of%20Money%20Laundering%20and%20Financing%20of%20Terrorism%20Proclmation-%202013.pdf> (last visited July 21, 2017) [hereinafter Proclamation No. 780/2013].

¹⁰³ *Id.* at §§ 6-7, 11.

¹⁰⁴ *Id.* at § 11(2).

¹⁰⁵ The Ethiopian Federal Government Procurement and Property Administration Proclamation, Proclamation No. 649 of 2009, *available at* <http://www.haramaya.edu.et/wp-content/downloads/Finance/The%20Ethiopian%20Federal%20Government%20Procurement%20and%20.pdf> (last visited July 21, 2017); Federal Government and Property Administration Regulation, Regulation No. 184 of 2014.

¹⁰⁶ Proclamation No. 780/2013, *supra* note 102.

¹⁰⁷ *Id.* at § 29(1)(a).

¹⁰⁸ *Id.* at §§ 29(1)(b), (d).

¹⁰⁹ *Id.* at § 29(1).

¹¹⁰ *Id.* at § 29(2).

¹¹¹ *Id.*

international borders, failing to undertake risk management and monitoring measures under the Proclamation, and failing to implement internal control mechanisms for preventing money laundering and terrorist financing, commits a criminal act.¹¹²

Financial Fraud

The Criminal Code of Ethiopia prohibits a number of acts that are seen to constitute financial fraud,¹¹³ including the drawing of a check without cover,¹¹⁴ engaging in insurance fraud,¹¹⁵ and misuse of property held or placed in trust.¹¹⁶ When such crimes are committed against public administrations or services, or where the offender is in a position of trust with respect to the underlying property, crimes of financial fraud will incur aggravated punishments.¹¹⁷

Forgery & Counterfeiting

Currency forgery is defined in the Criminal Code as the forgery “by alteration, overprinting, dyeing or any other means, currencies used as legal tender, bonds or security documents with intent to utter them at a value greater than their current value.”¹¹⁸ Currency forgery is punishable by a term of imprisonment not to exceed 15 years.¹¹⁹

Terrorist Financing

The financing of terrorism is defined as “directly or indirectly, willfully, provid[ing] or collect[ing] funds . . . with the intention that they should be used or with the knowledge that they are to be used in full or in part: (1) to carry out a terrorist act; or (2) by a terrorist; or (3) by a terrorist organization.”¹²⁰ Directly engaging in such behavior, or engaging in it as an inchoate offense, carries penalties between 10-15 years’ imprisonment and fines not exceeding 100,000 birr.¹²¹ As with money laundering, perpetrating the offense in the regular course of business or as part of an organized criminal enterprise will result in aggravated penalties.¹²²

Regulation and Monitoring of International Financial Transactions

Any person who intends to enter into a financial transaction in Ethiopia must obtain a business license. Foreigners must fulfill the minimum capital investment requirement, as well as certain other procedural preconditions. Furthermore, certain areas are reserved for domestic or government investment, while other areas can only be operated under government joint venture

¹¹² *Id.* at art. 30.

¹¹³ The Criminal Code of the Federal Democratic Republic of Ethiopia, Proclamation No. 414 of 2004, §§ 692-704, available at <http://www.wipo.int/edocs/lexdocs/laws/en/et/et011en.pdf> (last visited July 21, 2017) [hereinafter Criminal Code].

¹¹⁴ *Id.* at § 693.

¹¹⁵ *Id.* at § 698.

¹¹⁶ *Id.* at § 702(1).

¹¹⁷ *Id.* at § 696.

¹¹⁸ *Id.* at § 357.

¹¹⁹ *Id.*

¹²⁰ Proclamation No. 780/2013, *supra* note 102, at § 31.

¹²¹ *Id.* at § 31(2).

¹²² *Id.*

agreements.¹²³

Asset Freezing and Forfeiture

Ethiopian law provides for the confiscation of property of juridical persons involved in TIP and migrant smuggling.¹²⁴ However, the law does not provide for the freezing of assets during criminal, civil, or administrative proceedings.¹²⁵

Remittances

The Consolidated Foreign Exchange Directives regulate financial flows from remittances.¹²⁶ The law allows for both inward and outward remittances by foreign employees and investors, subject to certain limitations.¹²⁷ Ethiopia does not have in place laws that encourage inward remittance economies, but the remittance policy is considered to be a foreign investment incentive.¹²⁸

¹²³ Proclamation on Investment, Proclamation No. 769 of 2012, *available at* <http://mau.addischamber.com/sites/default/files/proclamation-no-769-2012-investment-proclamation.pdf> (last visited July 21, 2017) [hereinafter Proclamation No. 769/2012]; Commercial Registration and Business Licensing Proclamation, Proclamation No. 686 of 2010, *available at* <http://www.wipo.int/edocs/lexdocs/laws/en/et/et015en.pdf> (last visited July 21, 2017).

¹²⁴ Criminal Code, *supra* note 113, at § 98.

¹²⁵ *Id.*

¹²⁶ Consolidated Foreign Exchange Directives, <http://www.nbe.gov.et/pdf/Consolidated%20Forex.pdf> (last visited July 21, 2017).

¹²⁷ *Id.*

¹²⁸ *Id.*; see also Proclamation No. 769/2012, *supra* note 123.

VI. Corporations

Liability of Legal Persons for Violations of Law

In Ethiopia, juridical persons can be held liable for criminal acts.¹²⁹ The Trafficking in Persons Proclamation (TIP Proclamation), for example, criminalizes trafficking, assisting in trafficking, migrant smuggling, and assisting or facilitating migrant smuggling for all persons, natural and juridical.¹³⁰ Many other laws—including, for example, the tax laws—also create liability for legal persons.¹³¹ Although corporations themselves may be held criminally liable in Ethiopia, directors and officers may not be held personally liable. Furthermore, although the law does not require a corporation's officers or directors to comply with any particular standard of human rights or ethics, business licenses may be suspended for failure to meet, for example, any sanitary conditions, environmental protection measures, safety measures, and quality control measures that are otherwise specified in the business license.¹³²

Compliance with Laws on Incorporation

For corporations other than a share company, the law requires the submission of Articles of Association and a Memorandum of Association.¹³³ Where a foreigner is involved, that foreigner must submit an investment permit for foreign nationals.¹³⁴ If one of the corporation's shareholders is a juridical person, then the certificate of incorporation, the articles of association, and the memorandum of association must also be submitted.¹³⁵ Ethiopia does not place restrictions on who may form a corporation within the country, although minors may not engage in trading activities without family council authorization.¹³⁶ The law does, however, restrict foreigners from investing in certain areas.¹³⁷

The law in Ethiopia also requires persons who engage in businesses more to obtain business licenses; these are only issues where registration preconditions are met.¹³⁸ Authorities may close businesses that operate without a license.¹³⁹ Furthermore, the law prohibits corporations from engaging in activities other than those declared in their business license, and the law provides for

¹²⁹ The Criminal Code of the Federal Democratic Republic of Ethiopia, Proclamation No. 414 of 2004, § 34, *available at* <http://www.wipo.int/edocs/lexdocs/laws/en/et/et011en.pdf> (last visited July 21, 2017) [hereinafter Criminal Code].

¹³⁰ Proclamation to Provide for the Prevention and Suppression of Trafficking in Person and Smuggling of Migrants, No. 909 of 2015, *available at* <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/101059/126622/F-402220324/ETH101059.pdf> (last visited July 21, 2017) [hereinafter Proclamation No. 909/2015].

¹³¹ Criminal Code, *supra* note 129, at §§ 34, 599.

¹³² Commercial Registration and Business Licensing Proclamation, Proclamation No. 686 of 2010, § 37(1), *available at* <https://chilot.files.wordpress.com/2011/01/686-commercial-registration-and-business-licensing-ae.pdf> (last visited July 21, 2017) [hereinafter Proclamation No. 686/2010].

¹³³ *Id.* at § 6(7).

¹³⁴ *Id.* at § 10(4).

¹³⁵ *Id.* at § 11(1)(d).

¹³⁶ Commercial Code of the Empire of Ethiopia, Proclamation No. 166 of 1960, § 13, *available at* <http://www.wipo.int/edocs/lexdocs/laws/en/et/et014en.pdf> (last visited July 21, 2017).

¹³⁷ *Id.* at § 100.

¹³⁸ Proclamation No. 686/2010, *supra* note 132, at § 31.

¹³⁹ *Id.*

inspection in areas where directives require certain professional competencies.¹⁴⁰

Corporate Social Responsibility Initiatives

Ethiopia does not require businesses to undertake any corporate social responsibility initiatives, and it does not provide businesses with particular investment incentives related to corporate social responsibility.

Supply Chain Transparency and Accountability

Ethiopia'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

Contracts entered into under duress or undue influence are voidable.¹⁴¹ Duress is said to exist when the person who entered into the contract under the assumption that the person, or the persons next of kin, were threatened with a serious or imminent danger to life, person, honor, or property.¹⁴² Such duress must be such that it would impress a reasonable person, taking into account the age, sex, and position of the contracting parties.¹⁴³ A contract is signed under undue influence when it was signed under a threat to exercise a right, or a "reverential fear".¹⁴⁴

Contracts may also be invalidated on grounds of fraud, where a party resorts to deceitful practices so that the other party would not have entered into the contract, had that other party not been deceived.¹⁴⁵ Lastly, contracts entered into by those without legal capacity, such as contracts with minors, are considered void.¹⁴⁶

Ethiopia does not place any restrictions on the ability of women, minority groups, stateless people, or foreigners to contract freely.

¹⁴⁰ *Id.* at §§ 34, 39, 44.

¹⁴¹ Civil Code of the Empire of Ethiopia, Proclamation No. 165 of 1960, § 1696, *available at* <http://www.wipo.int/edocs/lexdocs/laws/en/et/et020en.pdf> (last visited July 21, 2017)

¹⁴² *Id.* at § 1706.

¹⁴³ *Id.*

¹⁴⁴ *Id.* at §§ 1708-09.

¹⁴⁵ *Id.* at § 1704.

¹⁴⁶ *Id.* at § 313.

VII. Natural Resources, Environment, and Property

Natural Resource Extraction Laws

Agriculture

The Ministry of Agriculture and Natural Resources oversees the agricultural, fishing, and logging industries. Although there is not a comprehensive regulatory scheme related to agriculture, there are proclamations on the establishment of Ethiopian agricultural research organizations.¹⁴⁷

Fishing

The Ethiopian fishing industry is regulated by the Fisheries Development and Utilization Proclamation.¹⁴⁸ This law lays out requirements for obtaining commercial, subsistence, and recreational fishing licenses,¹⁴⁹ and demands that fish and fish product handling occur pursuant to relevant trade standards.¹⁵⁰ ABA ROLI has been unable to review these trade standards to determine whether they address the use of TIP, forced labor, or migrant smuggling in the fishing industry.

Fisheries Inspectors are empowered to investigate offenses and violations under the Fisheries Development and Utilization Proclamation, and seize any products, gear, or proceeds that are involved in the violation.¹⁵¹

Logging

The logging industry is generally regulated by the Proclamation to Provide for the Development, Conservation, and Utilization of Forests.¹⁵² This law charges the Ministers for Agriculture and Rural Development with the care of Ethiopia's forests,¹⁵³ and lays out the procedures by which trade licenses for forest products may be issued.¹⁵⁴ The law permits the harvest of forest products from state-owned forests, provided harvesters have obtained permits from the appropriate federal or regional state authority;¹⁵⁵ however, even with a permit they may not cut or use endangered indigenous natural trees, remove natural resources beyond the scope of their permits, or otherwise

¹⁴⁷ A Proclamation to Provide for the Establishment of the Ethiopian Agricultural Research Organization, Proclamation No. 79/1997, *available at* <http://extwprlegs1.fao.org/docs/pdf/eth11145.pdf> (last visited July 21, 2017); *see also* MINISTRY OF AGRICULTURE AND NATURAL RESOURCES, <http://www.moa.gov.et/home> (last visited July 21, 2017).

¹⁴⁸ Fisheries Development and Utilization Proclamation, Proclamation No. 315 of 2003, *available at* https://www.unodc.org/res/cld/document/proclamation-no--315-2003_html/Proclamation_No_315-2003.pdf (last visited July 21, 2017).

¹⁴⁹ *Id.* at § 5.

¹⁵⁰ *Id.* at § 10.

¹⁵¹ *Id.* at §§ 13-15.

¹⁵² Forest Development, Conservation and Utilization Proclamation No. 542 of 2007, *available at* https://www.unodc.org/res/cld/document/proclamation-no--542-2007_html/Proclamation_No_542-2007.pdf (last visited July 21, 2017).

¹⁵³ *Id.* at § 2(1).

¹⁵⁴ *Id.* at § 6.

¹⁵⁵ *Id.* at § 13(3).

undertake large-scale farming, mining, or construction beyond the scope of their permits.¹⁵⁶

The Forestry Proclamation is enforced by Forest Guards and Inspectors of Forest Products, who have the authority to inspect transports of forest products, demand certificates of origin or other legal documents, and seize any products that are being transported, processed, or stored in violation of the law.¹⁵⁷ Penalties for violations of the law generally include fines, and imprisonment ranging between 1-5 years.¹⁵⁸ However, causing damage to a forest by way of setting fires carries a penalty of up to 15 years' imprisonment.¹⁵⁹

Mining

Natural mineral resources that exist on, in, and under the territory of the state of Ethiopia are held in trust for the people by the government,¹⁶⁰ and in general, any land may be made available by the government for the purposes of mining operations.¹⁶¹

Mining operations are regulated under Ethiopia's Proclamation to Promote Sustainable Development of Mineral Resources and its 2013 Amendment.¹⁶² Together, these laws govern the issuance of reconnaissance, exploration, and retention licenses for artisanal, small-scale, and large-scale mining operations.¹⁶³ Licenses may not be granted in areas that are otherwise reserved for religious sites, physical infrastructure, natural habitats or national parks, or by any other national law for other purposes; land containing archeological remains, or land located within 500 metres of water reservoirs, also may not be subject to the issuance of a license.¹⁶⁴ However, in the latter case, local bodies may otherwise consent to the issuance of a license.¹⁶⁵ Artisanal mining licenses may be issued under the 2010 Proclamation without the provision by the licensee of evidence of financial resources or technical and professional competency.¹⁶⁶

The Ministry of Mines and Energy is the appropriate licensing authority for mining rights; regional offices have jurisdiction over smaller mining projects.¹⁶⁷

Oil and Gas

The Ministry of Mines and Energy oversees the oil and gas industry, governed by the Petroleum Operations Proclamation.¹⁶⁸ As with mineral products, ownership of petroleum in its natural state

¹⁵⁶ *Id.* at § 14.

¹⁵⁷ *Id.* at §§ 15(1)-(2).

¹⁵⁸ *Id.* at § 20.

¹⁵⁹ *Id.* at § 20(3).

¹⁶⁰ Mining Operations Proclamation, Proclamation No. 678 of 2010, § 5, *available at* <https://www.a-mla.org/masteract/50> (last visited July 21, 2017) [hereinafter Proclamation No. 678/2010].

¹⁶¹ *Id.* at § 6(1).

¹⁶² Mining Operations Proclamation, *supra* note [x]; Mining Operations (Amendment) Proclamation, Proclamation No. 816 of 2013, *available at* <https://www.a-mla.org/masteract/809> (last visited July 21, 2017).

¹⁶³ Proclamation 678/2010, *supra* note 160, at § 9.

¹⁶⁴ *Id.* at § 6(3).

¹⁶⁵ *Id.* at § 6(3)(e).

¹⁶⁶ *Id.* at § 11(2).

¹⁶⁷ *Id.* at 2(16).

¹⁶⁸ Petroleum Operations Proclamation No. 295 of 1986, *available at*

is vested in the Ethiopian federal government;¹⁶⁹ ownership over refined petroleum may be vested in accordance with contracts signed between governments and the relevant contractors.¹⁷⁰

The Ministry is authorized to issue petroleum licenses, which may not be obtained without evidence that contractors possess the necessary financial resources, technical competency, and professional skills necessary to fulfill their obligations under petroleum agreements with the state.¹⁷¹ Exploration licenses may be issued either for two- or four-year periods, depending on whether the respective agreements are exclusive or non-exclusive;¹⁷² development and production licenses may be issued for a duration not exceeding 25 years.¹⁷³

All petroleum agreements must explicitly lay out, in addition to general contractual provisions (such as payments of royalties, assignment or transfer of rights, accounting procedures, and general rights and obligations), provisions regarding safety requirements and employee working conditions;¹⁷⁴ however, it is not clear what violations of such provisions would constitute grounds for revocation or termination of these contracts. ABA ROLI has not been able to locate boilerplate petroleum agreement language to review whether it addresses the usage of TIP, forced labor, or migrant smuggling in oil and gas-related operations.

Environmental Regulation

The Ethiopian Environmental Protection Agency (EPA)'s air quality standards specify the ambient air quality, and provide allowable emission amounts for both stationary and mobile air pollution sources.¹⁷⁵

With respect to drinking water, Ethiopia aims to build the capacity of water supply service providers by allowing the Ministry of Health to investigate and promote remedial actions to improve the country's water supplies.¹⁷⁶ Such actions include periodic preventative maintenance of drinking water delivery systems, and the establishment of a water safety plan to prevent contamination of drinking water using a multi-barrier system from source to point-of-use.¹⁷⁷

Ethiopia also regulates the collection, recycling, transportation, treatment, or disposal of any hazardous waste.¹⁷⁸ Entities involved in hazardous waste management are required to take appropriate precautions to prevent any damage to the environment or to human life, on penalty of

<http://extwprlegs1.fao.org/docs/pdf/eth85045.pdf> (last visited July 21, 2017).

¹⁶⁹ *Id.* at § 4(1).

¹⁷⁰ *Id.* at § 4(2).

¹⁷¹ *Id.* at § 7(2).

¹⁷² *Id.* at §§ 11(1)(a)-(b).

¹⁷³ *Id.* at § 11(1)(c).

¹⁷⁴ *Id.* at § 9(2); *see generally id.* at § 9.

¹⁷⁵ Environmental Pollution Control Proclamation No. 300 of 2002, *available at*

<http://extwprlegs1.fao.org/docs/pdf/eth44282.pdf> (last visited July 21, 2017) [hereinafter Proclamation No. 300/2002].

¹⁷⁶ MINISTRY OF HEALTH, NATIONAL DRINKING WATER QUALITY MONITORING AND SURVEILLANCE STRATEGY (2011), *available at*

<http://www.cmpethiopia.org/content/download/384/2301/file/National%20drinking%20water%20quality%20monitoring%20and%20surveillance%20strategy.pdf> (last visited July 21, 2017).

¹⁷⁷ *Id.*

¹⁷⁸ Proclamation No. 300/2002, *supra* note 175, at § 4.

finer and imprisonment.¹⁷⁹ Environmental inspectors are authorized to investigate possible violations of the environmental pollution law.¹⁸⁰

Land Ownership and Eminent Domain

The Ethiopian constitution vests ownership of all rural and urban land, and natural resources, in the State, to be held for the benefit of the people of Ethiopia.¹⁸¹ Accordingly, Ethiopia has a general prohibition on private land ownership; however, there are no further restrictions on the rights of women, minorities, stateless people, or foreigners to own land.¹⁸² Women are specifically guaranteed the right to acquire, administer, control, use and transfer property and in particular, have equal rights with men with respect to use, transfer, administration, and control of land and inheritance of property.¹⁸³

In order to lease land, one must sign a lease contract before the Document Authentication and Registration Authority. Applicants then return to regional land administration offices, which are responsible for issuing lease certificates.¹⁸⁴ The government agency responsible for urban land leases is the Ministry of Urban Development and Construction.¹⁸⁵

Based in part upon the fact that all land in Ethiopia is owned by the State and its people, there is no legislation that specifically prohibits land grabbing. If an individual feels that he or she has been illegally evicted, they may pursue a case under civil property law.¹⁸⁶ Although land cannot be inherited, Ethiopia places no restrictions on the ability of people to inherit personal property.¹⁸⁷

In spite of the lack of ownership rights in real property, Ethiopia does have an eminent domain system that deals specifically with expropriations. In general, at least 90 days' notice must be provided before a government project is to commence on leased land,¹⁸⁸ and land may not be taken but for the existence of a "a valid public purpose".¹⁸⁹ Compensation is generally provided on the basis of the property's replacement cost,¹⁹⁰ although rural landholders may be paid additional compensation "equivalent to ten times the average annual income he secured during the five years

¹⁷⁹ *Id.* at § 12.

¹⁸⁰ *Id.* at § 11.

¹⁸¹ A Proclamation to Pronounce the Coming into Effect of the Constitution of the Federal Democratic Republic of Ethiopia, no. 1 of 1995, art. 40, *available at* https://www.constituteproject.org/constitution/Ethiopia_1994.pdf?lang=en (last visited July 21, 2017).

¹⁸² *Id.*

¹⁸³ *Id.* at art. 35.

¹⁸⁴ Urban Lands Lease Holding Proclamation No. 721/2011, §§ 16-17, *available at* <http://www.ethiopianembassy.org/pdf/new-land-lease-proclamation-no-721-20111.pdf>. (last visited July 21, 2017).

¹⁸⁵ *Id.* at § 2(22).

¹⁸⁶ *See generally id.* at § 28.

¹⁸⁷ Civil Code Proclamation No. 165/1960, §§ 826-1013, *available at* <http://www.wipo.int/edocs/lexdocs/laws/en/et/et020en.pdf> (last visited July 21, 2017).

¹⁸⁸ Proclamation to Provide for the Expropriation of Land Holdings for Public Purposes and Payment of Compensation, Proclamation No. 455 of 2005, § 4(2), *available at* <http://www.moa.gov.et/documents/93087/512013/Federal+Gov+Proclamation+No.+455--2005.pdf/f0fa6ee6-fa1b-4b46-8045-9178dd52f638> (last visited July 21, 2017).

¹⁸⁹ *Id.* at § 2(5).

¹⁹⁰ *Id.* at § 7(2).

preceding the expropriation”.¹⁹¹ Property holders do have a right to appeal compensation decisions.¹⁹²

Expropriation proceedings may be used to give project management over to public entities, private investors, cooperative societies, and other entities.¹⁹³ Eminent domain is appropriate when the government decides that a lessee has failed to honor obligations assumed under a lease agreement, or when the lessee has failed to comply with applicable regulations, or when the land is required for development works undertaken by government.¹⁹⁴

¹⁹¹ *Id.* at § 8(1).

¹⁹² *Id.* at § 11.

¹⁹³ *Id.* at § 3(1).

¹⁹⁴ *Id.* at § 3(2).

VIII. Individual Rights

Ratification of and Accession to International and Regional Human Rights Treaties

Ethiopia has ratified or acceded to a number of international human rights treaties, 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 Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT);
- the Convention on the Rights of the Child (CRC);
- the Convention on the Rights of Persons with Disabilities (CRPD); and
- the Convention and Protocol Relating to the Status of Refugees (Refugee Convention).¹⁹⁵

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

- the African Charter on Human and Peoples' Rights (Banjul Charter);¹⁹⁶
- the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol);¹⁹⁷ and
- the African Charter on the Rights and Welfare of the Child.¹⁹⁸

Once ratified by the state under the procedure laid out in the Constitution, international and regional treaties and binding legal instruments become laws of the land.

Legal Guarantees of Equality and Non-Discrimination

The Ethiopian Constitution guarantees the right to equality before the law, and equal protection by the law without discrimination on grounds of race, nation, nationality, or other social origin, color, sex, language, religion, political or other opinion, property, birth, or other status.¹⁹⁹ The constitution further addresses the responsibility of the government to support, on the basis of equality, the growth, and enrichment of cultures and traditions that are compatible with fundamental rights, human dignity, democratic norms and ideals, and the provisions of the Ethiopian constitution.²⁰⁰

Though Article 25 explicitly prohibits sex-based discrimination, it does not do so on the basis of

¹⁹⁵ 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 "Ethiopia" in the drop-down Participant list to access a full list of international treaties and agreements deposited with the U.N. Secretary-General that Ethiopia has ratified or acceded to).

¹⁹⁶ African Charter on Human and Peoples' Rights, June 27, 1981, 21 I.L.M. 58.

¹⁹⁷ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, Sep. 13, 2000, 1 Afr. Hum. Rts. L.J. 40.

¹⁹⁸ African Charter on the Rights and Welfare of the Child, July 11, 1990, OAU Doc. CAB/LEG/24.9/49.

¹⁹⁹ A Proclamation to Pronounce the Coming into Effect of the Constitution of the Federal Democratic Republic of Ethiopia, no. 1 of 1995, art. 9(4), *available at* https://www.constituteproject.org/constitution/Ethiopia_1994.pdf?lang=en (last visited July 21, 2017) [hereinafter ETHIOPIA CONST.].

²⁰⁰ *Id.* at art. 25.

gender, gender identity, or gender expression.²⁰¹ However, Ethiopia does specifically enshrine women's rights in the Constitution by specifically providing for the equality of men and women in the enjoyment of constitutional rights, and by entitling women to affirmative measures to remedy the legacy of inequality and discrimination.²⁰² In particular, Article 35 grants women the right to full consultation in the formulation of national development policies, the designing and execution of projects, particularly in the case of projects affecting the interests of women.²⁰³

Rights of Foreigners and Stateless Individuals

Individuals who are recognized as refugees under the terms of the Refugee Proclamation have a number of rights, including: (1) the right to remain within Ethiopia; (2) the right to be issued with identity and travel documents; (3) the right to obtain employment, wages, and education commensurate with the rights of other non-citizens.²⁰⁴ The refugee law permits asylum-seekers' families to enter and remain in the country until such time as the primary asylum-seeker's status is decided;²⁰⁵ however, ABA ROLI has been unable to determine whether Ethiopian law otherwise specifically lays out the rights and duties of non-citizens.

State Human Rights Guarantees

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

- the right to life;²⁰⁶
- the right to security of person and liberty;²⁰⁷
- the right to privacy, including the right “not to be subjected to searches of [one’s] home, person or property, or the seizure of any property under [one’s] personal possession.”;²⁰⁸
- the right to freedom of expression and/or speech;²⁰⁹
- the right to freedom of assembly, “to demonstrate together with others peaceably and unarmed, and to petition”;²¹⁰
- the right to freedom of association;²¹¹
- the right to freedom of movement;²¹²
- the right to marry;²¹³
- the right to self-determination up to secession;²¹⁴ and

²⁰¹ *Id.* at art. 25.

²⁰² *Id.* at art. 35.

²⁰³ *Id.*

²⁰⁴ Refugee Proclamation No. 409 of 2004, § 21, *available at* <https://chilot.files.wordpress.com/2012/10/proc-no-409-2004-refugee.pdf> (last visited July 21, 2017).

²⁰⁵ *Id.* at § 12(1).

²⁰⁶ ETHIOPIA CONST., *supra* note 199, at art. 25.

²⁰⁷ *Id.* at art. 15.

²⁰⁸ *Id.* at art. 26.

²⁰⁹ *Id.* at art. 29(2).

²¹⁰ *Id.* at art. 30.

²¹¹ *Id.* at art. 31.

²¹² *Id.* at art. 32.

²¹³ *Id.* at art. 34.

²¹⁴ *Id.* at art. 39.

- the right to access to justice,²¹⁵ including the right of an accused to a public trial by an ordinary court of law within a reasonable time after having been charged.²¹⁶

While the constitution does not specifically provide for the right to fair trial, the risk of unfair trial is one of the grounds for requesting change of venue under the Criminal Procedure Code.²¹⁷

Other laws also guarantee certain civil and political rights. For instance, the Family Code provides that “[a] valid marriage shall take place only when the spouses have given their free and full consent.”²¹⁸ Freedom from torture is guaranteed by the Convention Against Torture, which is considered as an integral part of the law of the land by virtue of Article 9(4) of the Ethiopian constitution.

The constitution does not guarantee the right to freedom from imprisonment for inability to fulfill contractual obligation, nor does it provide for a right to legal identity.

The Ethiopian constitution does not explicitly prohibit discrimination in the area of health services, but the country has specific policies and strategies in place to address the needs of persons with disabilities. These strategies include the Proclamation Concerning the Rights of Persons with Disabilities in Employment,²¹⁹ which guarantees the rights of persons with disabilities. The Ethiopian National Plan of Action of Persons with Disabilities (2012-2020) addresses these individuals’ needs for comprehensive rehabilitation services, equal opportunities for education, skills training and work, and full participation in the lives of their families, communities, and nation.²²⁰ In addition, the national health care policy provides a fee waiver scheme and a standardized package of exempt services.²²¹

Ethiopia provides access to free primary education.²²² Ethiopia also has a strategy to address illiteracy and adult education, vocational training, and skills acquisition.²²³ Still, the Ethiopian

²¹⁵ *Id.* at art. 37.

²¹⁶ *Id.* at art. 20.

²¹⁷ The Criminal Procedure Code Proclamation, Proclamation No. 185 of 1961, § 106, *available at* <http://ilo.org/dyn/natlex/docs/ELECTRONIC/82480/90332/F700418419/ETH82480.pdf> (last visited July 21, 2017) [hereinafter Criminal Procedure Code].

²¹⁸ The Revised Family Code, Proclamation No. 213 of 2000, *available at* <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/70033/102961/F-660764117/ETH70033%202.pdf> (last visited July 21, 2017).

²¹⁹ Right to Employment of Persons with Disability Proclamation No. 548 of 2008, *available at* <http://www.refworld.org/docid/4ba79d7b2.html> (last visited July 21, 2017).

²²⁰ MINISTRY OF LABOUR AND SOCIAL AFFAIRS, NATIONAL PLAN OF ACTION OF PERSONS WITH DISABILITIES (2012-2021) (2012), *available at* <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/94528/110953/F-1258023553/ETH94528.pdf> (last visited July 21, 2017).

²²¹ U.S. AGENCY FOR INT’L DEV., AFRICAN STRATEGIES FOR HEALTH, HEALTH FINANCING PROFILE: ETHIOPIA (2016), http://www.africanstrategies4health.org/uploads/1/3/5/3/13538666/country_profile-_ethiopia_us_letter.pdf (last visited July 21, 2017).

²²² THE WORLD BANK & UNICEF, ABOLISHING SCHOOL FEES IN AFRICA: LESSONS FROM ETHIOPIA, GHANA, KENYA, MALAWI, AND MOZAMBIQUE (2009), *available at* http://www.unicef.org/publications/files/Aboloshing_School_Fees_in_Africa.pdf (last visited July 21, 2017).

²²³ *See, e.g.*, MINISTRY OF EDUCATION, THE NATIONAL ADULT EDUCATION STRATEGY, *available at* http://www.moe.gov.et/policies-and-strategies/-/asset_publisher/jjLkqMz1P19T/document/id/50418?inheritRedirect=false&redirect=http%3A%2F%2Fwww.moe.gov.et%2Fpolicies-and-

constitution does not explicitly prohibit discrimination in education.

Regarding health care benefits, Social Health Insurance Proclamation No. 690/2010 sets forth the benefits guaranteed to both private and public sector employees. To be eligible for disability benefits, Ethiopian citizens must be assessed with an incapacity for normal gainful employment, provided they have at least 10 years of service.²²⁴

State Human Rights Bodies

The Ethiopian Human Rights Commission (EHRC) investigates human rights violations and produces thematic reports.²²⁵ The EHRC reported to Parliament that in 2014-2015, it had accepted 1,254 human rights grievances and investigated 259 cases.²²⁶ Furthermore, the EHRC provides counseling and negotiation services, and refers grievances for handling by relevant government offices.²²⁷ The EHRC has a specific Commissioner for the affairs of women and children.²²⁸

strategies%3Fp_p_id%3D101_INSTANCE_jjLkqMz1P19T%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-1%26p_p_col_pos%3D1%26p_p_col_count%3D2 (last visited July 21, 2017).

²²⁴ U.S. SOCIAL SECURITY ADMINISTRATION, SOCIAL SECURITY OFFICE OF RETIREMENT AND DISABILITY POLICY, SOCIAL SECURITY PROGRAMS THROUGHOUT THE WORLD: AFRICA, 2013, <https://www.ssa.gov/policy/docs/progdesc/ssptw/2012-2013/africa/ethiopia.html> (last visited July 21, 2017).

²²⁵ See, e.g., Ethiopia Human Rights Commission (EHRC), <http://www.nanhri.org/wp-content/uploads/2016/04/ETHIOPIA-1.pdf> (last visited July 21, 2017).

²²⁶ *Id.*

²²⁷ *Id.*

²²⁸ *Id.*

IX. Labor Rights

Work Protections Established by Law

Applicable International Instruments

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

- ILO Convention no. 29 (concerning Forced or Compulsory Labor);²²⁹
- ILO Convention no. 100 (concerning Equal Remuneration);²³⁰
- ILO Convention no. 105 (concerning the Abolition of Forced Labor);²³¹
- ILO Convention no. 111 (concerning Discrimination in Employment and Occupation);²³²
- ILO Convention no. 138 (concerning Minimum Age for Admission to Employment);²³³ and
- ILO Convention no. 182 (concerning the Worst Forms of Child Labor).²³⁴

Domestic Legal Protections

The Labor Proclamation of Ethiopia lays out requirements for workers' rights and compensation, noting specifically that employers are obliged to respect a worker's human dignity, to take occupational safety and health measures, and to defray medical costs whenever required by law.²³⁵ However, this law has a major deficiency in that it is specifically understood to exclude domestic workers from its scope of coverage,²³⁶ which may place women and girls who often engage in this type of labour at risk.

²²⁹ ILO Convention No. 29 (concerning Forced or Compulsory Labor) (June 28, 1930), *available at* http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C029 (last visited July 21, 2017).

²³⁰ ILO Convention no. 100 (concerning Equal Remuneration) (June 29, 1951), *available at* http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C100 (last visited July 21, 2017).

²³¹ ILO Convention No. 105 (concerning the Abolition of Forced Labor) (June 25, 1957), *available at* http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C105 (last visited July 21, 2017).

²³² ILO Convention No. 111 (concerning Discrimination in Employment and Occupation) (June 11, 1966), *available at* http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312256:NO (last visited July 21, 2017).

²³³ ILO Convention No. 138 (concerning Minimum Age for Admission to Employment) (June 26, 1973), *available at* http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C138 (last visited July 21, 2017).

²³⁴ 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).

²³⁵ See generally Labour Proclamation No. 377 of 2003, § 12, *available at* http://www.ilo.org/dyn/travail/docs/327/Proclamation%20No%20377_2003%20-%20Labour%20Proclamation.pdf (last visited July 21, 2017) [hereinafter Proclamation No. 377/2003].

²³⁶ Kidus Meskele Ashine, *Migrant Workers Rights under the Ethiopian Legal System*, 29 Int'l J. of Afr. & Asian Studies 28, 30 (2017), *available at* <http://iiste.org/Journals/index.php/JAAS/article/viewFile/34958/35960> (last visited July 21, 2017).

The Federal Civil Servants Proclamation provides for the right to equality of treatment in the workplace on the basis of nationality, sex, religion, political outlook or any other conditions or on the basis of payment and other benefits.²³⁷

Minimum Wage Requirements

As of the reporting period for the U.S. Department of Labor's 2016 Human Rights Report, Ethiopia did not have a set national minimum wage.²³⁸ However, minimum wages may be set by specific government institutions, and the minimum wage for public sector employees is fixed at approximately 420 birr monthly (equivalent to US\$19).²³⁹

Working Hours Requirements

The Labor Proclamation fixes normal work hours at eight hours a day, and 48 hours per week.²⁴⁰ Workers are entitled to one weekly day of rest per week, and the law provides that this day of rest should be fixed on a Sunday whenever possible.²⁴¹ Workers may not be asked to work on weekly rest days except in the case of actual or threatened accident, an act of *force majeure*, or in the event of urgent work that must be completed.²⁴² Employees are entitled to their normal wages on public holidays.²⁴³

Overtime Remuneration

Generally, employers may not require workers to work overtime.²⁴⁴ However, in the case of actual or threatened accident, a *force majeure* event, urgent work, or cases where absent workers must be substituted for,²⁴⁵ overtime is authorized by law. Where overtime is authorized for the purposes of completing urgent work, it may not exceed two hours per day, 20 hours per month, or 100 hours per year.²⁴⁶

Overtime remuneration requirements are fixed on the basis of whether work is done outside of normal working hours (i.e., early morning or night work), on a weekly rest day, or on a public holiday.²⁴⁷

The Federal Civil Service Proclamation sets out overtime remuneration requirements for civil

²³⁷ The Federal Civil Servants Proclamation No. 515 of 2007, *available at* <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/85152/95169/F208555744/ETH85152.pdf> (last visited July 21, 2017) [hereinafter Proclamation No. 515/2007].

²³⁸ U.S. DEP'T OF STATE, BUREAU OF DEMOCRACY, H.R. AND LAB., ETHIOPIA HUMAN RIGHTS REPORT (2016), *available at* <https://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper> (last visited July 21, 2017).

²³⁹ *Id.*

²⁴⁰ Proclamation No. 377/2003, *supra* note 235, at § 61.

²⁴¹ *Id.* at § 69.

²⁴² *Id.* at § 71(2).

²⁴³ *Id.* at § 73.

²⁴⁴ *Id.* at § 67.

²⁴⁵ *Id.* at § 67(1).

²⁴⁶ *Id.* at § 67(2).

²⁴⁷ *Id.* at § 68.

servants²⁴⁸

Leave Requirements

Ethiopian law guarantees the provision of annual leave, special leave for family events, special leave for union leaders involved in the work of a union, and sick leave.²⁴⁹ Workers who are recalled from leave are entitled to payment; however, they do not appear to be entitled to overtime payment.²⁵⁰ The Labor Proclamation states that contracts between workers and employers in which workers agree to waive their right to annual leave in any manner shall be null and void, and generally-speaking the law does not authorize employers to provide remuneration in lieu of annual leave.²⁵¹

Women are entitled to up to 30 consecutive days' paid maternity leave, with another 60 days' leave after confinement.²⁵² While the law does not provide for paid paternity leave, one may take five days of leave without pay under serious or exceptional circumstances.²⁵³

Labor Inspection and Oversight Systems

As of 2013, the Ministry of Labor and Social Affairs (MOLSA) is charged with overseeing labor inspections, under the direction of the regional governments.²⁵⁴ Regional governments provide accreditation to labor inspectors, who are authorized with inspecting employers of all sizes.²⁵⁵ Labor inspectors are obliged to litigate cases where employers do not comply with the terms that they may or may not impose; however, reports indicate that labor inspectors lack legal training, and judges are reported to lack awareness and understanding of Ethiopia's labor laws.²⁵⁶

Labor inspectorates submit annual reports to city, regional, and federal governments, quarterly reports to MOLSA, and workplace injuries report forms.²⁵⁷

Applicability of Labor Laws to Migrant Workers

A number of domestic laws apply to migrant workers. The Constitution guarantees freedom of movement,²⁵⁸ and the Labor Proclamation appears to generally apply to Ethiopian workers regardless of their citizenship status.²⁵⁹ The Employment Exchange Services Proclamation "defines

²⁴⁸ Proclamation No. 515/2007, *supra* note 237, at § 34.

²⁴⁹ Proclamation No. 377/2003, *supra* note 235, at §§ 77, 81, 82, 85.

²⁵⁰ *Id.* at § 80.

²⁵¹ *Id.* at § 76.

²⁵² *Id.* at §§ 81, 88(4).

²⁵³ *Id.*

²⁵⁴ JEFF WHEELER & KEITH GODDARD, ASSESSMENT OF ETHIOPIA'S LABOR INSPECTION SYSTEM (March 2013) 10, available at <https://www.dol.gov/ilab/reports/pdf/2013AssessmentEthiopiaLaborInspection.pdf> (last visited July 21, 2017).

²⁵⁵ *Id.* at 11.

²⁵⁶ *Id.* at 11-12.

²⁵⁷ *Id.* at 12.

²⁵⁸ A Proclamation to Pronounce the Coming into Effect of the Constitution of the Federal Democratic Republic of Ethiopia, no. 1 of 1995, art. 32, available at https://www.constituteproject.org/constitution/Ethiopia_1994.pdf?lang=en (last visited July 21, 2017) [hereinafter ETHIOPIA CONST.].

²⁵⁹ Proclamation No. 377/2003, *supra* note 235, at § 2(3).

the role of public and private employment agencies in employment exchange,"²⁶⁰ thus protecting the rights and safety of Ethiopians who work abroad. Finally, the Proclamation for the Prevention and Suppression of Trafficking in Persons and Smuggling of Migrants (TIP Proclamation) generally criminalizes these acts, regardless of whether they occur inside or outside Ethiopia.²⁶¹

However, observers note that the Ethiopian legal system fails to specifically consider the rights and needs of internal migrants, which may subject such workers to abuse.²⁶²

Child Labor Laws

International Laws, Policies, and Agreements

Ethiopia 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.²⁶³ 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.²⁶⁴

Ethiopia has also ratified the Optional Protocol on Armed Conflict and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography.²⁶⁵

Domestic Laws and Policies

Ethiopia has passed a number of laws and policies that deal with child labor, including its worst forms.

The Labor Proclamation establishes 14 as the minimum age for work, and 18 as the minimum age for hazardous work, which is defined as "work in the transport of passengers and goods by road, railway, air and internal waterway, docksides and warehouses involving heavy weight liftings, pushing or pulling or any other related type of labour work connected with electric power generation . . . underground work . . . [and] work in sewers in digging tunnels."²⁶⁶ Additional prohibited occupations are laid out in the Directive on Prohibited Occupations for Young

²⁶⁰ Ashine, *supra* note 236, at 30.

²⁶¹ Proclamation to Provide for the Prevention and Suppression of Trafficking in Person and Smuggling of Migrants, No. 909 of 2015, *available at* <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/101059/126622/F-402220324/ETH101059.pdf> (last visited July 21, 2017) [hereinafter Proclamation No. 909/2015].

²⁶² Ashine, *supra* note 236, at 30.

²⁶³ United Nations Convention on the Rights of the Child, art. 32(1), Nov. 20, 1989, 1577 U.N.T.S. 3.

²⁶⁴ *Id.* at art. 32(2).

²⁶⁵ *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); *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).

²⁶⁶ Proclamation No. 377/2003, *supra* note 235, at § 89(4).

Workers.²⁶⁷ However, this does not constitute an absolute bar on young people being employed in hazardous occupations; the law provides that if hazardous work is being performed pursuant to an approved vocational training course, or outside of a contractual employment relationship, it is not unlawful under the provisions of the Labor Proclamation.²⁶⁸ Finally, workers between the ages of 14 and 18 may not work for more than seven hours a day, and may not engage in night work, or overtime work, including on weekly rest days or public holidays.²⁶⁹

Policies for the eradication of child labor include the National Occupational Safety and Health Policy and Strategy, which seeks to abolish child labor and improve working conditions; the Social Protection Policy, which seeks to improve access to and quality of basic education; the National Employment Policy and Strategy of Ethiopia, which contains a list of interventions to combat child labor; the National Technical Vocational Education and Training Strategy, which aims to increase employment opportunities for youth who drop out of school; and the Growth and Transformation Plan 2, which seeks to address youth unemployment by improving access to livelihood programs.²⁷⁰

Provisions Regarding the Worst Forms of Child Labor

Ethiopian law generally outlaws the use of the worst forms of child labor, as defined in ILO Convention No. 182 (concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor).²⁷¹ The recruitment of children under the age of 18 to participate in armed conflict is a criminal offense,²⁷² and as noted, children are barred from engaging in night work.²⁷³

The trafficking of children, the commercial sexual exploitation of children, and the use of children in illicit activities is prohibited under various laws, including the TIP Proclamation and the Criminal Code.²⁷⁴

²⁶⁷ *Child Labor and Forced Labor Reports: Ethiopia*, U.S. DEP'T OF LABOR, BUREAU OF INT'L LABOR AFF., <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/ethiopia> (last visited July 21, 2017) [hereinafter *Child Labor and Forced Labor Reports: Ethiopia*].

²⁶⁸ *Id.*

²⁶⁹ Proclamation No. 377/2003, *supra* note 235, at §§ 90-91.

²⁷⁰ *Child Labor and Forced Labor Reports: Ethiopia*, *supra* note 267.

²⁷¹ 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 19, 2017).

²⁷² The Criminal Code of the Federal Democratic Republic of Ethiopia, Proclamation No. 414 of 2004, §§ 270(m), *available at* <http://www.wipo.int/edocs/lexdocs/laws/en/et/et011en.pdf> (last visited July 21, 2017) [hereinafter *Criminal Code*].

²⁷³ *See supra* note 269.

²⁷⁴ *See, e.g.*, Proclamation No. 909/2015, *supra* note 261, at §§ 2(4), 3, 3(2), 4; *Criminal Code*, *supra* note 272, at §§ 525, 597, 634-36.

X. Rights of Communities and Indigenous People

Recognition of Customary and Communal Land Rights

Ethiopia does not recognize customary principles of land ownership.²⁷⁵ However, Ethiopia does recognize the right of communal land holding, defining communal holdings as “rural land which is given by the government to local residents for common grazing, forestry, and other social services.”²⁷⁶ The ownership of land is “vested in the State and in the peoples of Ethiopia. Land is a common property of the Nations, Nationalities, and Peoples of Ethiopia and shall not be subject to sale or to other means of exchange.”²⁷⁷

Governance of Land Without Formal Title

Although the law is unclear as to whether the State would hold land as trustee without a formal title holder, the requirement to register land, once acquired from the government, leads to this interpretation.²⁷⁸ Although indigenous communities are not permitted to assert ownership of rural land, the Proclamation on Rural Land Administration and Land use does allow peasant farmers, pastorals, or any citizen above the age of 18, the right to use rural land for agricultural purposes.²⁷⁹

Community Rights in Land-Based Development

In Ethiopia, the Environmental Impact Assessment Proclamation provides for the requirement to undertake an environmental impact assessment for projects, which are listed in a subsequent directive.²⁸⁰ The Environmental Impact Assessments Proclamation provides that required environmental impact assessments are to be undertaken by the proponent of a particular project. The Environmental Protection Authority or the relevant regional authority is responsible for making environmental impact assessments accessible to the public and for soliciting comments.²⁸¹ The Environmental Impact Assessment Proclamation provides those with grievances with the opportunity to submit their complaints to the federal government or to the relevant regional environmental agency, as appropriate.²⁸² Furthermore, the proclamation provides penalties for

²⁷⁵ A Proclamation to Pronounce the Coming into Effect of the Constitution of the Federal Democratic Republic of Ethiopia, no. 1 of 1995, art. 40, *available at* https://www.constituteproject.org/constitution/Ethiopia_1994.pdf?lang=en (last visited July 21, 2017) [hereinafter ETHIOPIA CONST.]; Urban Lands Lease Holding Proclamation No. 721/2011, §§ 16-17, *available at* <http://www.ethiopianembassy.org/pdf/new-land-lease-proclamation-no-721-20111.pdf>. (last visited July 21, 2017).

²⁷⁶ Rural Land Administration and Use Proclamation No. 456 of 2005, *available at* <http://extwprlegs1.fao.org/docs/pdf/eth95459.pdf> ((last visited July 21, 2017) [hereinafter Proclamation No. 456/2005].

²⁷⁷ DANIEL WELDEGEBRIEL AMBAYE, LAND RIGHTS IN ETHIOPIA: OWNERSHIP, EQUITY, AND LIBERTY IN LAND USE RIGHTS (2012), *available at* https://www.fig.net/resources/proceedings/fig_proceedings/fig2012/papers/ts0supra2d/TS02D_ambaye_5521.pdf; ETHIOPIA CONST., *supra* note 275, at art. 40; Proclamation No. 456/2005, *supra* note 276.

²⁷⁸ AMBAYE, *supra* note 277.

²⁷⁹ Proclamation No. 456/2005, *supra* note 276, at § 5.

²⁸⁰ Environmental Impact Assessment Proclamation No. 299 of 2002, § 7, *available at* <http://extwprlegs1.fao.org/docs/pdf/eth44281.pdf> (last visited July 21, 2017).

²⁸¹ *Id.* at § 15.

²⁸² *Id.*

those who falsely present their impact assessment study reports. Persons charged with this crime may be liable for payment of 50,000 to 100,000 Ethiopian birr.²⁸³

²⁸³ *Id.*

XI. Immigration and Border Security

Immigration Law Prohibitions against TIP and Migrant Smuggling

Ethiopia has a number of laws that restrict cross-border transportation. The Constitution strictly prohibits TIP for any purpose.²⁸⁴ Human trafficking and the smuggling of migrants is criminalized, with violators facing imprisonment of between 15 and 25 years, and fines ranging from 150,000 to 300,000 Ethiopian birr.²⁸⁵

Protections for TIP Victims in Immigration Law

Ethiopian law creates a special immigration status for victims of human trafficking.²⁸⁶ Non-citizen victims who are discovered in Ethiopia will be provided with temporary resident permits, although the law does not specify conditions under which such permits may be issued.²⁸⁷ Furthermore, the law prohibits TIP victims from being sanctioned for violations of the immigration laws.²⁸⁸ Nonetheless, the state does not need to obtain the informed consent of TIP victims before instituting repatriation proceedings, and the law does not specify the conditions under which repatriation of trafficking victims would occur.²⁸⁹

Denial of Entry or Visa Revocation for TIP Offenders

Ethiopia requires commercial carriers with foreign passengers entering Ethiopia to ensure that each foreign passenger has fulfilled the requirements provided in the Immigration Proclamation and to disembark at a designated port of entry.²⁹⁰ Carriers who fail to satisfy this obligation are required to return the foreigner at the carrier's expense.²⁹¹ Although the law in Ethiopia does not directly permit the State to deny entry to or revoke the visas of human trafficking perpetrators, the State is allowed to deny entry to "notorious criminals".²⁹²

²⁸⁴ A Proclamation to Pronounce the Coming into Effect of the Constitution of the Federal Democratic Republic of Ethiopia, no. 1 of 1995, art. 18(2), *available at* https://www.constituteproject.org/constitution/Ethiopia_1994.pdf?lang=en (last visited July 21, 2017).

²⁸⁵ Proclamation to Provide for the Prevention and Suppression of Trafficking in Person and Smuggling of Migrants, No. 909 of 2015, *available at* <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/101059/126622/F-402220324/ETH101059.pdf> (last visited July 21, 2017).

²⁸⁶ *Id.* at § 28.

²⁸⁷ *Id.*

²⁸⁸ *Id.* at § 28(2).

²⁸⁹ *Id.* at § 28.

²⁹⁰ *Id.* at § 17.

²⁹¹ *Id.*

²⁹² Immigration Proclamation No. 354/2003, *available at* <http://www.refworld.org/docid/505c72002.html> (last visited July 21, 2017).

XII. National Security and Humanitarian Emergencies

National Security Laws and Strategies

Like most countries, Ethiopia adheres to certain national security strategies, and has implemented policies in support of those strategies. The Foreign Affairs and National Security Policy and Strategy is the principal security strategy of the country;²⁹³ it focuses on “securing the national existence”, and treats this as a primary national security consideration.²⁹⁴ However, although the strategy focuses on internal challenges and national vulnerability to external threats, it does not list TIP as a strategy that would implicate these issues. The stated strategy does not mention human trafficking.²⁹⁵

Ethiopia’s Anti-Terrorism Proclamation does not specifically address human trafficking, but does charge the police and the public prosecutor with responsibility for terrorism-related cases. The National Intelligence and Security Agency is authorized with investigating terrorism.²⁹⁶

Firearm Import/Export Regulations

Article 481 of the Criminal Code of Ethiopia governs the manufacture and sale of firearms on the civilian market.²⁹⁷ The sanctions for violating Article 481 include fines and imprisonment not exceeding five years, or, in serious cases, a maximum of 10 years’ imprisonment.²⁹⁸ The manufacture or assembly of firearms with illicitly-trafficked components or ammunition is punishable with imprisonment between 5 and twelve years; when the crime is committed for monetary gain, or the offender regularly engages in this type of illicit trade, the maximum penalty is 15 years’ imprisonment.²⁹⁹

Conflict Resources Regulations

ABA ROLI was unable to identify any Ethiopian laws that specifically regulate the trade of conflict resources.

Emergency Management Laws and Strategies

Under the Ethiopian constitution, compulsory labor undertaken in times of emergency or calamity that threatens the life or well-being of the community will not be considered illegal, but rather a special measure.³⁰⁰ Furthermore, the Constitution allows the Council of Ministers to issue decrees

²⁹³ MINISTRY OF INFO., PRESS & AUDIOVISUAL DEP’T, FOREIGN AFFAIRS AND NATIONAL SECURITY POLICY AND STRATEGY (2002), http://www.ethiopiaembassy.ru/pages/docs/Foreign_Police_English.pdf (last visited July 21, 2017).

²⁹⁴ *Id.*

²⁹⁵ *Id.*

²⁹⁶ A Proclamation on Anti-Terrorism, Proclamation No. 652 of 2009, § 28-29, *available at* <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/85140/95140/F260526391/ETH85140.pdf> (last visited July 21, 2017).

²⁹⁷ *Id.* at § 481.

²⁹⁸ *Id.*

²⁹⁹ *Id.*

³⁰⁰ A Proclamation to Pronounce the Coming into Effect of the Constitution of the Federal Democratic Republic of Ethiopia, no. 1 of 1995, art. 77, *available at*

with respect to such special measures.³⁰¹ However, certain rights that cannot be limited, even when special measures are in place, such as the rights to life, personal security, and liberty.³⁰²

Ethiopia has a National Policy and Strategy on Disaster Risk Management,³⁰³ and a number of directives exist to implement this policy.³⁰⁴ However, neither the Policy nor its implementing directives specifically mention TIP or sexual and gender-based violence committed during a humanitarian emergency.³⁰⁵

No legal restrictions are placed on the provision of emergency relief by foreign governments or organizations, except when the relief has to do with human rights advocacy, the promotion of equality of nations, nationalities and peoples, gender and religion, the promotion of the rights of the disabled and children's rights, the promotion of conflict resolution or reconciliation, or the promotion of the efficiency of the justice and law enforcement services.³⁰⁶

https://www.constituteproject.org/constitution/Ethiopia_1994.pdf?lang=en (last visited July 21, 2017) [hereinafter ETHIOPIA CONST.].

³⁰¹ *Id.*

³⁰² *Id.* at arts. 14-17.

³⁰³ FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA, NATIONAL POLICY AND STRATEGY ON DISASTER RISK MANAGEMENT (2013), available at <http://www.preventionweb.net/english/professional/policies/v.php?id=42435> (last visited July 21, 2017).

³⁰⁴ *Id.*

³⁰⁵ *Id.*

³⁰⁶ Proclamation to Provide for the Registration and Regulation of Charities and Societies, Proclamation No. 621 of 2009, available at <https://chilot.files.wordpress.com/2011/02/charities20and20societies20proclamation.pdf> (last visited July 21, 2017).

XIII. Conclusion

Ethiopia, like many sub-Saharan African countries, is a source, destination, and transit country for victims of human trafficking. However, the country has begun to implement measures designed to limit TIP and migrant smuggling. Government institutions, such as the Ethiopian Human Rights Commission, are tasked with investigating and combatting human rights violations.³⁰⁷ The Constitution explicitly prohibits TIP, slavery, and servitude, and TIP and migrant smuggling are both criminal offenses.³⁰⁸ Ethiopia also has several criminal justice institutions with procedures designed to assist TIP victims.

Like most countries, Ethiopia has a developed set of laws that address immigration and border security, including laws that provide for a special immigration status for victims of human trafficking and laws that criminalize human trafficking and the smuggling of migrants.³⁰⁹ Ethiopia employs a Foreign Affairs and National Security Policy and Strategy, which provides the framework for its strategic defense.³¹⁰ Ethiopia also prohibits the recruitment of child soldiers and a variety of “war crimes,” including genocide, as well as the compulsory movement of the population, systematic deportation, and forced prostitution.³¹¹ Ethiopia also has laws forbidding workplace discrimination, limiting hours worked, and child labor.³¹²

These and other measures pursued by Ethiopia are helping to address the problem of human trafficking within the country. Although incremental progress is being made, more can be done to address the problem, and Ethiopia continues to strive for improvement in its legal framework and its implementation of that framework.

³⁰⁷U.S. DEP’T OF STATE, BUREAU OF DEMOCRACY, H.R. AND LAB., ETHIOPIA HUMAN RIGHTS REPORT 27 (2015), <https://www.state.gov/documents/organization/252893.pdf> (last visited July 21, 2017).

³⁰⁸ A Proclamation to Pronounce the Coming into Effect of the Constitution of the Federal Democratic Republic of Ethiopia, no. 1 of 1995, art. 77, *available at* https://www.constituteproject.org/constitution/Ethiopia_1994.pdf?lang=en (last visited July 21, 2017).

³⁰⁹ Proclamation to Provide for the Prevention and Suppression of Trafficking in Person and Smuggling of Migrants, No. 909 of 2015, art. 28, *available at* <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/101059/126622/F-402220324/ETH101059.pdf> (last visited July 21, 2017)

³¹⁰ FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA, NATIONAL POLICY AND STRATEGY ON DISASTER RISK MANAGEMENT (2013), *available at* <http://www.preventionweb.net/english/professional/policies/v.php?id=42435> (last visited July 21, 2017).

³¹¹ The Criminal Code of the Federal Democratic Republic of Ethiopia, Proclamation No. 414 of 2004, §§ 269-70, *available at* <http://www.wipo.int/edocs/lexdocs/laws/en/et/et011en.pdf> (last visited July 21, 2017).

³¹² *See generally* Labour Proclamation No. 377 of 2003, *available at* http://www.ilo.org/dyn/travail/docs/327/Proclamation%20No%20377_2003%20-%20Labour%20Proclamation.pdf (last visited July 21, 2017).