

Country Report: Uganda¹



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I. Introduction

Country Overview

Uganda is a landlocked country in East Africa. Uganda shares borders to the north with South Sudan, to the east with Kenya, to the South with Tanzania, and to the southwest and west with Rwanda and the Democratic Republic of Congo.²

Uganda's terrain is mostly plateau rimmed by mountains. The climate is tropical. Aside from two dry seasons (December to February and June to August), it is typically rainy. The northeast of the country is considered semiarid.³

Until the late 1800s, Uganda was divided into tribal kingdoms.⁴ In 1888, the British government gave control of Uganda to the British East Africa Company.⁵ European powers at the time were dividing control over African territory among themselves. In 1894, the British government made Uganda a protectorate.⁶ Traditional tribal chiefs maintained their positions but without any real power.⁷

On October 9, 1962, Uganda gained independence from Britain.⁸ The decades that followed were marked by dictatorships and unrest. The dictator Idi Amin ruled from 1971 to 1979 and is recognized as one of the worst tyrants of the 20th century.⁹ Uganda's economy was devastated under the Amin regime, and war and unrest continued into the 1980s.

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 Uganda, CIA WORLD FACTBOOK, <https://www.cia.gov/library/publications/the-world-factbook/geos/ug.html> (last visited July 19, 2017) [hereinafter Uganda, CIA WORLD FACTBOOK].

³ *Id.*

⁴ See John A. Rowe, *Historical Legacies and Social Divisions*, in Uganda: a Country Study 2 (Rita M. Byrnes, ed., 1992), available at

http://memory.loc.gov/master/frd/frdcstdy/ug/ugandacountrystu00byrn_0/ugandacountrystu00byrn_0.pdf (last visited July 19, 2017).

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ See generally Michael T. Kaufman, *Idi Amin, Murderous and Erratic Ruler of Uganda in the 70's, Dies in Exile*, N.Y. TIMES, Aug. 17, 2003, available at <http://www.nytimes.com/2003/08/17/world/idi-amin-murderous-and-erratic-ruler-of-uganda-in-the-70-s-dies-in-exile.html> (last visited July 19, 2017) (“[t]he number of people he caused to be killed has been tabulated by exiles and international human rights groups as close to 300,000 out of a total population of 12 million.”).

Yoweri Museveni has been president since 1986, and there has been a return to relative political stability since then. However, the country has continued to experience unrest, including protracted involvement in the devastating Congo Wars, and a civil war against the notorious Lord's Resistance Army, a rebel group notorious for extreme violence and for forcing kidnapped children to serve as child soldiers.¹⁰

Uganda's current constitution was enacted in 1995. It is based on "democratic principles which empower and encourage the active participation of all citizens at all levels in their own governance."¹¹ The Constitution establishes Uganda as a sovereign state and a republic.¹² Although the Constitution purports to guarantee fundamental freedoms and human rights, many of those freedoms and protections are not enforced by the government. In a 2016 report, the U.S. State Department's Bureau of Democracy, Human Rights and Labor described allegations of extensive human rights issues including unlawful killings, torture, arbitrary detention, restrictions on civil liberties, and violence and discrimination against marginalized groups.¹³

In February 2016, President Museveni was elected to another five-year term. The U.S. State Department reports that the "elections fell short of international standards and were marred by allegations of disenfranchisement and voter intimidation, harassment of the opposition, closure of social media websites, and lack of transparency and independence in the Electoral Commission."¹⁴ The next election will be held in February 2021.

Trafficking in Persons ("TIP") Context

According to the U.S. Department of State's June 2016 Trafficking in Persons Report, Uganda has been classified as a Tier 2 country since 2009, meaning that its government "[does] not fully meet the TVPA's minimum standards, but [is] making significant efforts to meet those standards."¹⁵

Uganda is a source, transit, and destination country for men, women, and children subjected to forced labor and sex trafficking. Ugandan children as young as 7 years old are exploited in forced labor in the country in agriculture, fishing, forestry, cattle herding, mining, stone quarrying, brick making, car washing, scrap metal collection, street vending, bars, restaurants, and domestic service. Prisoners

¹⁰ See, e.g., Jocelyn T.D. Kelly, Lindsay Branham & Michele R. Decker, *Abducted Children and Youth in the Northeastern Democratic Republic of Congo: Mechanisms of Indoctrination and Control*, 10 CONFLICT & HEALTH, vol. 11 (2016), available at <https://conflictandhealth.biomedcentral.com/articles/10.1186/s13031-016-0078-5> (last visited July 19, 2017).

¹¹ UGANDA CONST., Objective II(i), available at https://www.constituteproject.org/constitution/Uganda_2005.pdf?lang=en Constitution (last visited July 19, 2017) [hereinafter UGANDA CONST.]

¹² *Id.* at art. 5(1).

¹³ U.S. DEP'T OF STATE, BUREAU OF DEMOCRACY, H.R. AND LAB., UGANDA HUMAN RIGHTS REPORT 1 (2016), available at <https://www.state.gov/documents/organization/265526.pdf> (last visited July 19, 2017) [hereinafter U.S. DEP'T OF STATE, UGANDA HUMAN RIGHTS REPORT].

¹⁴ *Id.*

¹⁵ U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016 378, available at <https://www.state.gov/documents/organization/258882.pdf> (last visited July 19, 2017) [hereinafter U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016].

in pre-trial detention engage in forced labor alongside convicts. Girls and boys are exploited in prostitution. Women and children from Uganda's remote and underdeveloped Karamoja region are particularly vulnerable to domestic servitude, commercial sexual exploitation, and forced begging. Children from the Democratic Republic of the Congo (DRC), Rwanda, Burundi, Kenya, Tanzania, and South Sudan are subjected to forced agricultural labor and prostitution in Uganda. Ugandan children are taken to other East African countries for similar purposes and forced to engage in criminal activities. Additionally, many Karamojong children in Eastern Uganda endure forced labor in grazing and domestic servitude or are taken to Kampala where they are exploited. South Sudanese children in refugee settlements in northern Uganda are vulnerable to trafficking, and UNHCR suspects instances of trafficking involving this population.¹⁶

In 2015, the Ugandan government investigated 108 trafficking cases, involving 347 victims.¹⁷ Uganda reported 15 prosecutions and three convictions in 2015.¹⁸ These figures appear to reflect a decrease in investigations, prosecutions, and convictions as compared to 2013's reported cases.¹⁹ Uganda's Coordination Office to Combat Trafficking in Persons (COCTIP) published a 2013 report that describes the prevalent *modus operandi* of traffickers in Uganda:

According to information revealed by the victims of both internal and transnational human trafficking, the most common means of recruitment was through deception with promises of employment, care and education. There were a few incidents where force was used and these were related to human sacrifice.

The most common control mechanisms used by the transnational exploiters were threats for refund of expenses incurred on air tickets and processing residence Permits/Passes, in case a victim attempted to terminate the job contract or demand to be let free from forced prostitution, which can be considered as indirect debt bondage); confinements and withdraws of Passports. Traffickers control child victims of internal trafficking by through [sic] provision of small financial benefits to their parents/guardians to achieve their consent and in some cases and in some instances by appealing to religious convictions.

Most of the transnational victims of trafficking were recruited by individuals and unlicensed companies in Kampala Metropolitan Area. The majority of the victims are made to leave the country in disguised ways, usually by road, through the neighboring countries of Kenya, Rwanda, South Sudan, and Tanzania, from where they proceeded to the various destination countries outside the region.²⁰

Some of the forms of exploitation recognized under Ugandan anti-TIP laws include: “[s]exual

¹⁶ *Id.* at 378–79.

¹⁷ *Id.* at 379.

¹⁸ *Id.*

¹⁹ See COORDINATION OFFICE TO COMBAT TRAFFICKING IN PERSONS (COCTIP), ANNUAL REPORT ON THE TREND OF TRAFFICKING IN PERSONS IN UGANDA: 2013 § 2 (2014), available at [http://www.upf.go.ug/download/publications\(2\)/tip_annual_report_final.pdf](http://www.upf.go.ug/download/publications(2)/tip_annual_report_final.pdf) (last visited July 19, 2017) [hereinafter COCTIP, ANNUAL REPORT: 2013].

²⁰ *Id.* at § 2(a).

exploitation; [l]abor exploitation; use of persons, including children, in illegal activities; human sacrifice; child marriage; removal of body parts for sale; harmful child labor and practices similar to slavery.”²¹

In January 2016, Uganda imposed a one-year ban on travel to the Middle East for employment as a domestic worker,²² in response to a spate of cases involving allegations of sexual molestation, torture, and denial of pay.²³

In April 2016, the coordinator of Uganda’s anti-trafficking task force called for the government to create a new national agency devoted entirely to addressing the trafficking problem.²⁴

In January 2017, Uganda’s Daily Monitor published an investigative account of how girls were being trafficked to the Middle East through Kenya.²⁵ In March 2017, the government issued a warning about the dangers of accepting domestic positions, particularly in Oman.²⁶

In June 2017, the Ugandan Judiciary convened a conference on the trafficking problem. High-ranking officials appear to have indicated that the government seemed “unable to stop the escalation of human trafficking.”²⁷

Uganda has recently reached bilateral labor agreements with Saudi Arabia and Jordan,²⁸ and is working on similar agreements with Kuwait and Qatar.²⁹

²¹ *Id.* at § 2(b).

²² John Masaba, *Don’t Go to Oman for Jobs, Warns Government*, NEW VISION (Mar. 11, 2017), http://www.newvision.co.ug/new_vision/news/1448303/-oman-jobs-warns-government (last visited July 19, 2017).

²³ *Id.*; see also U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 15, at 380 (“The government’s oversight of labor recruitment agencies remained inadequate.”).

²⁴ Vivian Agaba & Juliet Waiswa, *Human Trafficking: Binoga Wants a National Agency*, NEW VISION (Apr. 6, 2016), http://www.newvision.co.ug/new_vision/news/1421495/binoga-national-agency-deal-human-trafficking-challenges (last visited July 19, 2017).

²⁵ Stephen Kafeero, *How Girls Are Trafficked to Middle East Through Kenya*, DAILY MONITOR (Jan. 8, 2017), <http://www.monitor.co.ug/News/National/How-girls-are-trafficked-to-Middle-East-through-Kenya/688334-3509272-nd1yhr/index.html> (last visited July 19, 2017).

²⁶ Masaba, *supra* note 22.

²⁷ Jonathan Kamoga, *Uganda: Govt Lacks Capacity to Stop Human Trafficking, Top Officials Warn*, AFRIKA 54 NEWS (June 19, 2017) <http://afrika54news.com/2017/06/19/uganda-govt-lacks-capacity-to-stop-human-trafficking-top-officials-warn> (last visited July 19, 2017).

²⁸ *Uganda’s Position on Domestic Workers Export*, NEW VISION (May 27, 2017), http://www.newvision.co.ug/new_vision/news/1454108/government-status-domestic-workers-export (last visited July 19, 2017).

²⁹ U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 15, at 380.

II. Institution Mapping

Government Structure

The Government of the Republic of Uganda is a constitutional republic made up of three arms: (1) the Executive, composed of the President, the Vice President, the Prime Minister, and the Cabinet; (2) the Legislature, composed of the Parliament; and (3) the Judiciary, composed of Magistrates' Courts, the High Court, the Court of Appeals (Constitutional Court), and a Supreme Court.³⁰

Executive

The president of Uganda is the chief of state, head of government and Commander-in-Chief of the armed forces.³¹ The President is directly elected by an absolute majority popular vote for a five-year term.³² Uganda does not have presidential term limits.³³

The Vice-President is second in Uganda's command chain.³⁴ Below the Vice President is the Prime Minister, who is the "Co-Coordinator of Government and Head of Cabinet in Parliament." The Prime Minister serves as Uganda's Permanent Representative to the United Nations.³⁵ The President appoints a Cabinet from "among elected members of the National Assembly."³⁶

Legislative

The unicameral legislature is the National Assembly, which consists of 427 total seats: 290 members are directly elected by simple majority vote, 112 members are reserved for women directly elected by simple majority vote, and 25 seats are reserved for special interest groups including the representatives from the army, disabled citizens, youth, and labor.³⁷ The National Assembly also has 13 *ex officio* members who are appointed by the President.³⁸ All members serve five-year terms.³⁹

Judicial

The legal system in Uganda has been described as a "mixed legal system of English common law and

³⁰ See *Executive Arm of the Ugandan Government*, STATE HOUSE OF UGANDA, <http://www.statehouse.go.ug/government/executive> (last visited July 19, 2017) [hereinafter *Executive Arm of the Ugandan Government*]; see also Uganda, CIA WORLD FACTBOOK, <https://www.cia.gov/library/publications/the-world-factbook/geos/ug.html> (last visited July 19, 2017) [hereinafter Uganda, CIA WORLD FACTBOOK].

³¹ *Executive Arm of the Ugandan Government*, *supra* note 30.

³² Uganda, CIA WORLD FACTBOOK, *supra* note 30.

³³ *Id.*

³⁴ *Executive Arm of the Ugandan Government*, *supra* note 30.

³⁵ *Id.*

³⁶ *Id.*

³⁷ Uganda, CIA WORLD FACTBOOK, *supra* note 30.

³⁸ *Id.*

³⁹ *Id.*

customary law.”⁴⁰ The Constitution of 1995 is the highest law of the land. It contains detailed provisions regarding a wide variety of matters, including fundamental freedoms, governance of specific government commissions, local government structures and finances, police and prison service functions, land and environmental issues, defense and national security, and a Leadership Code of Ethics.⁴¹

The highest court is the Supreme Court of Uganda, which has a Chief Justice and 10 other justices.⁴² All are appointed by the President in consultation with the Judicial Service Commission, an independent advisory body.⁴³ The President’s choices are approved by the National Assembly.⁴⁴ Judges serve until retirement at age 70.⁴⁵

The subordinate courts include the Court of Appeal (which also sits as the Constitutional Court), the High Court (including numerous circuits and divisions), the Industrial Court (which handles labor-related cases), Chief Magistrate courts, *qadhis* courts (for Islamic marriage, divorce, and property disputes), family and children’s courts, and local council courts.⁴⁶

Both the Uganda Constitution and statutory law provide for an independent judiciary. However, the U.S. State Department reports that the government “[does] not always respect this,” and “[c]orruption, understaffing, inefficiency, and executive branch interference with judicial rulings often undermine the courts’ independence.”⁴⁷

Criminal Justice

The Uganda Police Force (“UPF”), which operates under the Ministry of Internal Affairs, has primary responsibility for internal law enforcement; the Ugandan People’s Defense Force (“UPDF”) is responsible for external security.⁴⁸

The government reports that security officials in various police and district administrations have received human rights training. However, media outlets and human rights organizations continue to report instances in which the UPF and UPDF are alleged to have been involved in torture and unlawful killings.⁴⁹

⁴⁰ *Id.*

⁴¹ See generally UGANDA CONST., available at https://www.constituteproject.org/constitution/Uganda_2005.pdf?lang=en Constitution (last visited July 19, 2017) [hereinafter UGANDA CONST.].

⁴² CIA WORLD FACTBOOK, *supra* note 30.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ U.S. DEP’T OF STATE, BUREAU OF DEMOCRACY, H.R. AND LAB., UGANDA HUMAN RIGHTS REPORT 9 (2016), available at <https://www.state.gov/documents/organization/265526.pdf> (last visited July 19, 2017) [hereinafter U.S. DEP’T OF STATE, UGANDA HUMAN RIGHTS REPORT].

⁴⁸ *Id.* at 6.

⁴⁹ *Id.* at 7. For example, between “60 and 250 persons, including unarmed civilians,” were reported to have been killed by government security forces in November 2016 during clashes with supporters of a tribal leader. *Id.* at 1–2.

Anti-Corruption and Ethics

Uganda's primary anti-corruption agency is the Inspectorate of Government ("IGG").⁵⁰ The IGG is a Constitutional body,⁵¹ and is charged with promoting adherence to the rule of law and good governance in public offices, elimination of government corruption and abuse of public offices, enforcement of the Constitution's Leadership Code of Conduct, and investigation of public officers.⁵² The IGG "carries a wide mandate in the fight against corruption as well as the Ombudsman function."⁵³ The IGG reports to the Parliament and is independent of the executive branch.⁵⁴ The IGG includes one Inspector General and two deputy Inspector Generals.⁵⁵ "Both the IGG and his deputies are appointed by the President subject to the approval of Parliament."⁵⁶

In addition to Constitutional authority, the IGG's functions are regulated by the Inspectorate of Government Act and the Leadership Act.⁵⁷ Other acts addressing anti-corruption include the Anti-Corruption Act and the Whistleblowers Protection Act of 2010.⁵⁸ A number of other government ministries and agencies play a part in anti-corruption efforts.

The Directorate of Ethics and Integrity, Office of the President

In 1996, the President assigned to the Vice President the responsibility of overseeing the fight against corruption; this led to the establishment of an Anti-Corruption Coordination Unit. In 1998, this Unit was re-designated the Directorate for Ethics & Integrity ("DEI"), and forms the policy arm in the fight against corruption. The DEI has a mandate to rebuild ethics and integrity in Ugandan society.⁵⁹

⁵⁰ AFRICA FREEDOM OF INFORMATION CENTRE, ENHANCING GOOD GOVERNMENT THROUGH CITIZEN ACCESS TO INFORMATION IN KENYA, MALAWI AND UGANDA: A STUDY ON ANTI-CORRUPTION AGENCIES 6–7 (2016), *available at* <http://www.africafoicentre.org/index.php/resources/reports-publications/210-study-on-anticorruption-agencies-in-kenya-malawi-and-uganda/file> (last visited July 19, 2017) [hereinafter AFRICA FREEDOM OF INFORMATION CENTRE, ANTI-CORRUPTION AGENCY STUDY].

⁵¹ UGANDA CONST., *supra* note 41, at ch. 13 (Inspectorate of Government).

⁵² *Id.* ch. 13, art. 225.

⁵³ Anti-Corruption Agency Study at 6.

⁵⁴ UGANDA CONST., *supra* note 41, at art. 227.

⁵⁵ *Id.* at art. 223; *see also* AFRICA FREEDOM OF INFORMATION CENTRE, ANTI-CORRUPTION AGENCY STUDY, *supra* note 50, at 6–7.

⁵⁶ *Id.* at 7.

⁵⁷ Inspectorate of Government Act of 2002, *available at* <https://www.ulii.org/ug/legislation/act/2002/2002/I.G.G%20Act%202002.pdf> (last visited July 19, 2017); Leadership Code Act of 2002, *available at* <http://www.igg.go.ug/static/files/publications/leadership-code-act.pdf> (last visited July 19, 2017).

⁵⁸ Anti-Corruption Act of 2009, *available at* http://www.laga-enforcement.org/Portals/0/Documents/Legal%20documents/Africa%20anti-corruption/uganda_Anti%20corruption%20act.pdf (last visited July 19, 2017); The Whistleblowers Protection Act of 2010, *available at* http://igg.go.ug/static/files/publications/Whistle_blowers_Act.pdf (last visited July 19, 2017).

⁵⁹ *See* OFFICE OF THE PRESIDENT: DIRECTORATE FOR ETHICS AND INTEGRITY, <http://www.dei.go.ug> (last visited July 19, 2017).

The Director of Public Prosecutions

This office is expressly addressed in section 120 of the Constitution.⁶⁰ The Director is appointed by the President with the approval of Parliament. The functions of the Office of Public Prosecutions include directing police to conduct investigations, instituting criminal proceedings, taking over criminal proceedings instituted by any person or authority, and deciding to discontinue criminal proceedings.⁶¹

The Auditor General

The Office of the Auditor General (“OAG”) is established under the provisions of section 163 of the Constitution, and its mandate, functions, and powers are enshrined in the National Audit Act.⁶² The main function of the OAG is to audit and report on the Public Accounts of Uganda, and on all public offices or bodies and/or organizations that have been established by an Act of Parliament.⁶³

The Uganda Police Force

The UPF is addressed in the Constitution at sections 211 through 214. The UPF is generally charged with protecting life and property, preserving law and order, and preventing and detecting crime. Within the police force, the Criminal Investigations Department investigates crimes. The Police Professional Standards Unit handles complaints from the public about alleged police misconduct. As noted above, the UPF has been the subject of many allegations of corruption and other misconduct.

Public Procurement and Disposal of Public Assets Authority

The Public Procurement and Disposal of Public Assets Act set up the Public Procurement and Disposal of Public Assets Authority (“PPDA”) as the principal regulatory body for public procurement and disposal of public assets in Uganda.⁶⁴

Traditional Justice Systems

The 1995 Constitution creates a place for tribal rules, customs, and traditions that are not inconsistent with the Constitution.⁶⁵ Customary law, which is often unwritten, may govern “a

⁶⁰ UGANDA CONST., *supra* note 41, at art. 120.

⁶¹ *About DPP*, UGANDA DIRECTOR OF PUBLIC PROSECUTIONS, <http://www.dpp.go.ug/index.php/about-dpp> (last visited June 29, 2017).

⁶² UGANDA CONST., *supra* note 41, at art. 163; National Audit Act of 2008, *available at* <https://www.ulii.org/ug/legislation/act/2015/7-0> (last visited July 19, 2017).

⁶³ *About OAG*, Office of the Auditor General, <http://www.oag.go.ug/about> (last visited July 19, 2017).

⁶⁴ *Role of PPDA*, Public Procurement and Disposal of Public Assets Authority, <https://www.ppda.go.ug/role-of-ppda> (last visited July 19, 2017).

⁶⁵ UNICEF, COLLECTION OF CHILDREN LAWS: UGANDA 6, *available at* https://www.unicef.org/uganda/collection_of_children_laws_finale_110711.pdf (last visited July 19, 2017).

particular tribe, clan or community”.⁶⁶ “Cultural and customary values which are consistent with fundamental rights and freedoms, human dignity, democracy and with the Constitution may be developed and incorporated in aspects of Ugandan life.”⁶⁷ The Constitution establishes land ownership rights in accordance with customary land tenure systems.⁶⁸ Traditional or cultural leaders are recognized under the Constitution;⁶⁹ however, any customs or official laws that are inconsistent with the Constitution are void.⁷⁰

Anti-Trafficking Institutions

A number of government institutions are charged with anti-TIP responsibilities in Uganda. These include the Coordination Office to Combat Trafficking in Persons (“COCTIP”), which is generally charged with formulating a national program and action plan to prevent, prosecute, and suppress TIP, and coordinating across government and non-governmental bodies to achieve its goals;⁷¹ the Counter-Trafficking in Persons Task Force (“CTIP”), which coordinates anti-trafficking efforts across government ministries;⁷² the Ministry of Internal Affairs, which enforces anti-TIP criminal laws;⁷³ and the Ministry of Gender, Labour, and Social Development (“MGLSD”), which deals with the labour law aspect of TIP and providing victims’ services.⁷⁴

⁶⁶ *Id.*

⁶⁷ UGANDA CONST., *supra* note 41, at Objective XXIV.

⁶⁸ *Id.* at art. 237.

⁶⁹ *Id.* at art. 246.

⁷⁰ *Id.* at art. 2.

⁷¹ The Prevention of Trafficking in Persons Act of 2009, §§ 21(2)(a)–(h), *available at* <https://www.ulii.org/ug/legislation/act/2015/7> (last visited July 19, 2017).

⁷² *Child Labor and Forced Labor Reports: Uganda*, U.S. DEP’T OF LABOR, BUREAU OF INT’L LABOR AFF., <https://www.dol.gov/agencies/ilab/explore-our-resources/reports/child-labor/uganda> (last visited July 19, 2017) [hereinafter *Child Labor and Forced Labor Reports: Uganda*].

⁷³ *Id.*

⁷⁴ *See* U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016 380, *available at* <https://www.state.gov/documents/organization/258882.pdf> (last visited July 19, 2017).

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

Anti-TIP Legal Framework

Domestic Statutory Authority

The Constitution of Uganda prohibits slavery and servitude,⁷⁵ and states that children under 16 years of age are entitled to be protected from social and economic exploitation.⁷⁶

The cornerstone of Uganda’s national anti-TIP legal framework is the Prevention of Trafficking in Persons Act (“PTIP Act”). The law establishes offenses of trafficking, aggravated trafficking, inchoate trafficking offenses (including attempt and conspiracy), as well as other trafficking-related offenses—including, for example, hiding another individual’s passport.

The PTIP Act defines “trafficking” as the recruitment, transport, transfer, hire, confinement, keeping, or receiving another person for the purposes of exploitation,⁷⁷ and provides for a penalty of 15 years’ imprisonment.⁷⁸ “Exploitation” is defined as sexual abuse, forced marriages, child marriages, forced labor, harmful child labor, use of children in armed conflict, use of people in illegal activities, debt bondage, slavery, human sacrifice, removal of organs and sex tourism.⁷⁹

Unlawful trafficking may be accomplished by threat, force, coercion, abduction, abuse of power.⁸⁰ However, these are not required elements, and it is not a defense to the crime to allege that it did not involve these elements.⁸¹ Where a child is involved, neither the alleged consent of the child nor the alleged consent of the child’s guardians is a defense.⁸²

Trafficking may be elevated to an aggravated offense if it involves: (1) a child; (2) adoption or fostering orders obtained for purposes of exploitation; (3) large-scale trafficking; (4) an organization involved with child protection; (5) the ringleader of an organized trafficking operation; (6) trafficking by a relative of a child; (7) the offender is a public officer; (8) the offender is military or law enforcement; (9) the trafficking offence is for the purpose of engaging in harmful rituals, human sacrifice or removal of organs or tissue; or (10) a victim who dies, becomes “of unsound mind,” is mutilated, or is infected by HIV/AIDS or another life-threatening illness.⁸³ A conviction for aggravated trafficking carries a sentence of life imprisonment.⁸⁴

⁷⁵ UGANDA CONST., art. 25, *available at* https://www.constituteproject.org/constitution/Uganda_2005.pdf?lang=en Constitution (last visited July 19, 2017) [hereinafter UGANDA CONST.].

⁷⁶ *Id.* at arts. 34(4)–(5).

⁷⁷ The Prevention of Trafficking in Persons Act of 2009, § 3, *available at* <https://www.ulii.org/ug/legislation/act/2015/7> (last visited July 19, 2017) [hereinafter PTIP Act].

⁷⁸ *Id.* at § 3(1).

⁷⁹ *Id.* at § 2.

⁸⁰ *Id.* at § 2.

⁸¹ *Id.* at § 3–4.

⁸² *Id.*

⁸³ *Id.* at § 4.

⁸⁴ *Id.*

The PTIP Act additionally criminalizes the “promotion” of trafficking, which may include knowingly renting out a building to be used for purposes of exploitation, producing information or forging immigration documents to be used for purposes involving trafficking, publishing (including via the Internet) pornographic materials related to trafficking, or recruiting persons in connection with trafficking.⁸⁵ Promotion of trafficking is punished on the first offense with a fine or five years in prison; second or subsequent offenses carry a seven-year prison sentence without the option of paying a fine.⁸⁶

The Act makes it a crime to attempt to traffic in persons.⁸⁷ It also criminalizes (among other things) conspiracy to traffic in persons, hiding another person’s passport, and recruiting a person below the age of 16 to any form of employment involving exploitation.⁸⁸

Finally, the PTIP Act imposes an affirmative obligation to report trafficking if one has knowledge that it is occurring or being planned. Failure to report known trafficking operations or plans can be punished by a fine or six months’ imprisonment.⁸⁹

Uganda’s criminal laws otherwise prohibit the commercial sexual exploitation of children and the use of children in illicit activities; however, these laws are not gender-neutral. The Penal Code criminalizes the sexual assault of a girl, or to procure or attempt to procure a girl or woman for sexual purposes, but it does not provide the same protections for boys.⁹⁰ In 2016, new legislation was proposed that would protect both boys and girls equally, but it appears that the Parliament has not acted on it.⁹¹ In 2014, Uganda passed the Anti-Pornography Act, which prohibits child pornography.⁹²

The Penal Code additionally prohibits kidnapping or abduction,⁹³ wrongful confinement,⁹⁴ slavery,⁹⁵ and unlawful compulsory labor.⁹⁶

⁸⁵ *Id.* at § 7.

⁸⁶ *Id.*

⁸⁷ *Id.* at § 8.

⁸⁸ *Id.*

⁸⁹ *Id.* at § 10.

⁹⁰ Uganda Penal Code Act of 1950, §§ 128-32, *available at* http://www.wipo.int/wipolex/en/text.jsp?file_id=170005 (last visited July 19, 2017) (prohibiting “indecent assault” on girls under 14, “defilement” of girls under 18, procuring or attempting to procure a woman under 21 for sexual intercourse).

⁹¹ See The Sexual Offences Bill of 2015, *available at* <http://parliamentwatch.ug/wp-content/uploads/2016/10/L-14-04-16-The-Sexual-Offences-Bill-2015.-1.pdf> (not enacted) (last visited July 19, 2017); see also Winnie Watera, *Marital rape controversy: Prejudices hinder progress on a law that could improve the lives of women*, YOUNG LEADERS THINK TANK FOR POLICY ALTERNATIVES (Jan. 30, 2017), <https://www.youth4policy.org/single-post/2017/01/30/Marital-rape-controversy-Prejudices-hinder-progress-on-a-law-that-could-improve-the-lives-of-women> (last visited July 19, 2017).

⁹² Anti-Pornography Act of 2014, § 14, *available at* <http://www.ug-cert.ug/files/downloads/The-Anti-pornography-act-2014> (last visited July 19, 2017).

⁹³ Penal Code Act, *supra* note 90, at §§ 239–45.

⁹⁴ *Id.* at § 248.

⁹⁵ *Id.* at §§ 245, 249–51.

⁹⁶ *Id.* at § 252.

The Children’s Act of 2000 prohibits the employment of children “in any activity that may be harmful to his or her health, education or mental, physical or moral development.”⁹⁷

Domestic Policies and Action Plans

The government of Uganda began to draft a National Action Plan to combat human trafficking in early 2012,⁹⁸ and as of the writing of the 2016 TIP Report, had successfully launched it.⁹⁹ However, the U.S. State Department notes that insufficient funds were allocated for the Plan to be fully implemented.¹⁰⁰ ABA ROLI has not been able to locate a publicly-available draft of the National Action Plan for review.

Uganda has drafted and begun to implement a National Action Plan for the Elimination of the Worst Forms of Child Labor.¹⁰¹ The Plan aims to reduce the incidences of the worst forms of child labor by 2017, in part by attaining the following goals: (i) to increase enrolment in and completion of primary education; (ii) to increase access to social protection and assistance services for families affected by and at risk of suffering from the worst forms of child labor; (iii) to conduct awareness-raising campaigns; (iv) to strengthen legal, policy, and institutional frameworks in a manner that prevents children from falling into the worst forms of child labor; (v) to provide rehabilitation and integration services for victims; and (vi) to build the capacity of government, employers, and labor unions to handle the problem.¹⁰²

International Agreements

In addition to domestic legislation and policies, Uganda has ratified or acceded to a number of international instruments relevant to addressing TIP, including:

- the UN Convention against Transnational Organized Crime (UNTOC);¹⁰³
- the Protocol against the Illicit Manufacturing and Trafficking in Firearms, their Parts and Components and Ammunition;¹⁰⁴
- International Labor Organization (ILO) Conventions:
 - No. 29 (concerning Forced or Compulsory Labor);¹⁰⁵

⁹⁷ The Children Act of 1997, § 8, *available at* <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/75311/100641/F535098928/UGA75311.pdf> (last visited July 19, 2017); *see also infra* Part IX (discussing labor laws).

⁹⁸ U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2013, *available at* <https://www.state.gov/j/tip/rls/tiprpt/countries/2013/215641.htm> (last visited July 19, 2017).

⁹⁹ U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016 378, *available at* <https://www.state.gov/documents/organization/258882.pdf> (last visited July 19, 2017) [hereinafter U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016].

¹⁰⁰ *Id.*

¹⁰¹ MINISTRY OF GENDER, LABOUR, AND SOCIAL DEVELOPMENT, NATIONAL ACTION PLAN ON ELIMINATION OF THE WORST FORMS OF CHILD LABOR IN UGANDA: 2012/13 – 2016-17, *available at* https://www.unicef.org/uganda/NAP_Uganda_June_2012.pdf (last visited July 19, 2017).

¹⁰² *Id.* at 4.2.

¹⁰³ United Nations Convention against Transnational Organized Crime, Nov. 15, 2000, 40 I.L.M. 335.

¹⁰⁴ Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime, May 31, 2001, 2326 U.N.T.S. 208.

- 105 (concerning the Abolition of Forced Labor);¹⁰⁶
- No. 138 (concerning Minimum Age for Admission to Employment);¹⁰⁷ and
- 182 (concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor);¹⁰⁸
- the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;¹⁰⁹ and
- the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict.¹¹⁰

While Uganda has signed the Protocol against the Smuggling of Migrants by Land, Sea, and Air, and the Protocol to Prevent and Punish Trafficking in Persons, it has not ratified either of them.¹¹¹

Anti-TIP Institutional Framework

A number of government institutions are charged with executing Uganda’s anti-TIP programs and policies.

The Coordination Office to Counter Trafficking in Persons

The PTIP Act directs that the Minister of Internal Affairs shall designate a Prevention of Trafficking in Persons Office, responsible for “coordinat[ing], monitoring and overseeing the implementation” of the Act.¹¹² This office is known as the Coordination Office to Combat Trafficking in Persons (“COCTIP”).¹¹³ Pursuant to the Act, COCTIP is charged with:

- Formulating a comprehensive and integrated program to prevent and suppress trafficking;

¹⁰⁵ International Labor Organization [ILO] Convention No. 29 (concerning Forced or Compulsory Labor) (June 28, 1930).

¹⁰⁶ ILO Convention No. 105 (concerning the Abolition of Forced Labor) (June 25, 1957).

¹⁰⁷ ILO Convention No. 138 (concerning Minimum Age for Admission to Employment) (June 26, 1973).

¹⁰⁸ ILO Convention No. 182 (concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour) (Jun 17, 1999).

¹⁰⁹ International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, Dec. 18, 1990, 2220 U.N.T.S. 3.

¹¹⁰ Optional Protocol to the Convention on the Rights of the Child on the involvement of Children in Armed Conflict, May 25, 2000, 2173 U.N.T.S. 222.

¹¹¹ See Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, U.N. TREATY COLLECTION, https://treaties.un.org/pages/viewdetails.aspx?src=ind&mtdsg_no=xviii-12-b&chapter=18&lang=en (last visited July 19, 2017); Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, U.N. TREATY COLLECTION, https://treaties.un.org/pages/viewdetails.aspx?src=ind&mtdsg_no=xviii-12-a&chapter=18 (last visited July 19, 2017).

¹¹² PTIP Act, *supra* note 77, at § 21.

¹¹³ U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 99, at 379; see also BAGUMA BENDA, CHALLENGES AND DILEMMAS ENCOUNTERED BY THE NATIONAL RAPORTEURS ON TRAFFICKING IN PERSONS AND EQUIVALENT MECHANISMS IN THE COURSE OF THEIR WORK, THE UGANDA EXPERIENCE 1–2 (Bangkok, Thailand, May 21, 2014), available at www.ohchr.org/Documents/Issues/Trafficking/Consultation/2014/6%20Uganda.doc (last visited July 19, 2017) [hereinafter BAGUMA REPORT].

- Preparing an annual National Action Plan on Prohibition of Trafficking in Persons, taking into account activities on prevention, prosecution, and protection;
- Developing measures and policies to protect, assist and support victims of trafficking, taking particular consideration of age, gender and victims' special needs;
- Establishing a data bank on trafficking cases, and conducting research on trafficking patterns and schemes in order to support policy formulation;
- Consulting and coordinating with government and non-governmental organizations to advance the objectives of the Act;
- Training government officials, law enforcement, and the public on the dangers of trafficking and the protections available for victims;
- Proposing rules and regulations to implement the Act; and
- Conducting other activities necessary to carry out the functions designated under the Act.¹¹⁴

As part of a United Nations (U.N.) consultative meeting convened in 2014, a member of Uganda's National Anti-Trafficking Task Force submitted a report that addresses the "successes" and "challenges" of Uganda's anti-trafficking initiative.¹¹⁵ The report explains that COCTIP is composed of "an Inter-Ministerial Task Force, with membership from 15 Ministries, Departments and Agencies . . . including representatives of the Coalition of Civil Societies against Trafficking in persons."¹¹⁶ As of 2014, COCTIP had reportedly developed "a draft five years' [sic] National Action Plan (NAP) to combat TIP in Uganda;^[117] a Standard Operating Procedure (SOP) for stakeholder members; a National Awareness Strategy on prevention of TIP; [and] several joint training programs and [o]perations."¹¹⁸

The challenges experienced by COCTIP, according to the 2014 report, have included slow implementation and limited resources.¹¹⁹ Representatives of the various ministries, departments, and agencies participating in COCTIP each have their own core functions, which may end up being prioritized over the goals and objectives of COCTIP.¹²⁰ Other issues include a lack of "command and control" over ministry and department staff level employees participating in anti-TIP activities, as well as insufficient victim assistance. Further, the report notes an absence of official diplomatic arrangements with transit and destination countries; this ultimately impedes the exchange of information and compounds a general lack of public understanding about the trafficking problem.¹²¹ The 2016 TIP Report notes that while "[t]he government allocated funding to COCTIP

¹¹⁴ PTIP Act, *supra* note 77, at §§ 21(2)(a)-(h).

¹¹⁵ BAGUMA REPORT, *supra* note 113.

¹¹⁶ *Id.* at § 1.

¹¹⁷ *Child Labor and Forced Labor Reports: Uganda*, U.S. DEP'T OF LABOR, BUREAU OF INT'L LABOR AFF., <https://www.dol.gov/agencies/ilab/explore-our-resources/reports/child-labor/uganda> (last visited July 19, 2017) [hereinafter *Child Labor and Forced Labor Reports: Uganda*].

¹¹⁸ BAGUMA REPORT, *supra* note 113, at § 2. Researchers have been unable to locate online copies of the NAP, SOP or the National Awareness Strategy. However, in 2014, COCTIP published an "annual report" on trafficking in Uganda. See COORDINATION OFFICE TO COMBAT TRAFFICKING IN PERSONS (COCTIP), ANNUAL REPORT ON THE TREND OF TRAFFICKING IN PERSONS IN UGANDA: 2013 § 2 (2014), *available at* [http://www.upf.go.ug/download/publications\(2\)/tip_annual_report_final.pdf](http://www.upf.go.ug/download/publications(2)/tip_annual_report_final.pdf) (last visited July 19, 2017).

¹¹⁹ BAGUMA REPORT, *supra* note 113, at § 3.

¹²⁰ *Id.*

¹²¹ *Id.*

for the first time” in 2015,¹²² staffing “remained low.”¹²³

Counter Trafficking in Persons Task Force (“CTIP”)

The CTIP Task Force is an inter-ministerial group charged with coordinating anti-trafficking efforts among government ministries.¹²⁴

Ministry of Internal Affairs (“MIA”)

This Ministry enforces criminal laws against forced labor, trafficking, commercial exploitation, and the use of children for illicit activities.¹²⁵ Within the MIA, the Uganda Police Force’s Special Investigation Unit manages trafficking cases, and the Sexual Offenses Department manages cases of commercial sexual exploitation. MIA’s Immigration Department assists in identifying potential trafficking victims.¹²⁶

Ministry of Gender, Labour, and Social Development (“MGLSD”)

The MGLSD carries a mandate to “empower communities to harness their potential through skills development, [l]abour productivity and cultural growth.”¹²⁷ The MGLSD is sometimes called the Ministry of Gender, but its role extends beyond gender issues. It is charged with enforcing labor laws throughout Uganda,¹²⁸ and includes a Social Development Sector “that promotes issues of social protection, gender equality, equity, human rights, culture, decent work conditions and empowerment for different groups such as women, children, the unemployed youth, internally displaced persons, the older persons and persons with disabilities.”¹²⁹

The MGLSD plays a number of roles in Uganda’s anti-TIP program. It oversees labor recruitment agencies,¹³⁰ reviews labor export regulations to address any loopholes used by such recruitment agencies,¹³¹ and is involved in the provision of assistance to trafficking victims.¹³² However, on all of these fronts, the U.S. State Department has characterized the MGLSD’s efforts as “inadequate.”¹³³ It notes that “[o]fficial complicity hinder[s] government oversight of labor recruitment agencies,”¹³⁴

¹²² U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 99, at 379.

¹²³ *Id.* at 380.

¹²⁴ *Child Labor and Forced Labor Reports: Uganda*, *supra* note 117.

¹²⁵ *Id.*

¹²⁶ *Id.*

¹²⁷ MINISTRY OF GENDER LABOUR AND SOCIAL DEVELOPMENT, <http://www.gou.go.ug/ministry/ministry-gender-labour-and-social-development> (last visited July 19, 2017).

¹²⁸ *Child Labor and Forced Labor Reports: Uganda*, *supra* note 117.

¹²⁹ *Id.*

¹³⁰ U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 99, at 379.

¹³¹ *Id.* at 380.

¹³² *Id.*

¹³³ *Id.*

¹³⁴ *Id.* at 379.

and that “[l]imited funding . . . result[s] in restricted services”¹³⁵ to victims. Additionally, in spite of the MGLSD’s regulatory review, a number of existing—and apparently flawed—regulatory schemes remained in place. These include the Employment (Recruitment of Ugandan Migrant Workers Abroad) Regulations, 2005 and the Guidelines on the Recruitment and Placement of Ugandan Migrant Workers Abroad, 2015.¹³⁶

IV. Justice System

Uganda’s justice system includes institutions and procedures geared toward preventing trafficking, prosecuting offenders, and protecting victims. In broad strokes, the Ministry of Gender, Labor and Social Development enforces labor laws, and the Ministry of Internal Affairs enforces criminal laws. The Directorate of Public Prosecutions (DPP) in the Ministry of Justice and Constitutional Affairs is responsible for prosecuting criminal cases referred to them by the Uganda Police Force.¹³⁷

Access to Justice

Equality and Non-Discrimination Provisions

The Constitution guarantees equal protection to all persons regardless of gender or minority status;¹³⁸ there appears to be no express bar on access to the courts.¹³⁹

In particular, the Constitution expressly recognizes that “[w]omen shall be accorded full and equal dignity of the person with men,” and “women shall have the right to affirmative action for the purpose of redressing the imbalances created by history, tradition or custom.”¹⁴⁰ Similarly, the Constitution provides that “[n]o child shall be deprived by any person of medical treatment, education or any other social or economic benefit by reason of religious or other beliefs.”¹⁴¹

The existence of criminal proceedings does not undermine a victim’s right to pursue civil cases against their abusers; if victims do choose to pursue such claims, the Prevention of Trafficking in Persons Act (PTIP Act) permits the waiver of civil filing fees.¹⁴²

Access to Legal Aid

¹³⁵ *Id.*

¹³⁶ *Id.*

¹³⁷ U.S. DEP’T OF LABOR, BUREAU OF INT’L LABOR AFF., 2015 FINDINGS OF THE WORST FORMS OF CHILD LABOR: UGANDA 1052, *available at* <https://www.dol.gov/sites/default/files/documents/ilab/reports/child-labor/findings/2015TDA.pdf> (last visited July 19, 2017).

¹³⁸ UGANDA CONST., art. 21(1), *available at* https://www.constituteproject.org/constitution/Uganda_2005.pdf?lang=en Constitution (last visited July 19, 2017) [hereinafter UGANDA CONST.] (“All persons are equal before and under the law in all spheres of political, economic, social and cultural life and in every other respect and shall enjoy equal protection of the law.”).

¹³⁹ *Id.* at art. 127.

¹⁴⁰ *Id.* at arts. 33(1), (5).

¹⁴¹ *Id.* at art. 34(3).

¹⁴² The Prevention of Trafficking in Persons Act of 2009, §§ 12(4)-(5), *available at* <https://www.ulii.org/ug/legislation/act/2015/7> (last visited July 19, 2017) [hereinafter PTIP Act].

The Constitution only guarantees state-provided legal counsel where a person is charged with a death penalty-eligible offense.¹⁴³ The state has no other legal aid laws or policies, and there is “no national legal aid body to manage legal aid service provision.”¹⁴⁴ Access to justice is further limited by a lack of access to lawyers, particularly in rural areas of the country.¹⁴⁵

With limited state-provided services, the majority of legal aid is provided and funded by non-state organizations,¹⁴⁶ including the Legal Aid Project, which was established in 1992 by the Uganda Law Society.¹⁴⁷

Criminal Law and Procedure

Although COCTIP has been charged with developing standard operating procedures (SOPs) for various entities, and while it is reported that a reference guide has been created,¹⁴⁸ ABA ROLI has been unable to locate a publicly-available copy of this document. As such, it is unable to confirm whether the general SOPs for the Counter Human Trafficking National Task Force provide direction and guidance to the Ugandan judiciary, prosecutorial services, police, armed/security forces, intelligence agencies, or border control agencies.

As noted, the Ministry of Internal Affairs and the Ministry of Justice and Constitutional Affairs are generally charged with the enforcement of Ugandan criminal law.¹⁴⁹ However, it does not appear that either of these institutions, or the Ugandan Police Force (UPF), contain divisions that are specifically designed to address TIP-related matters. As of 2013, the Ugandan government stated that “The Crime Investigations & Intelligence Directorate (CIID) [was] the lead agency in the management of [c]riminal reports related to TIP, backed up by other relevant Agencies including the National Security Agencies and the office of the DPP [Directorate of Public Prosecutions].”¹⁵⁰

The Uganda Criminal Procedure Code Act lays out the rules and standards that govern complaint, arrest, trial, and appeal procedures.¹⁵¹ This law does not appear to have any TIP-specific references, and the PTIP Act does not expand upon the Criminal Procedure Code Act to create any special arrest or detention procedures in TIP cases. The PTIP Act does provide that trafficking victims are entitled to remain informed about and present their views during trafficking proceedings, and also mandates that in-court TIP proceedings in cases involving children, sexual exploitation, and “other cases where the court considers this appropriate” proceed *in camera*.¹⁵²

¹⁴³ UGANDA CONST., *supra* note 138, at art. 28(3)(e).

¹⁴⁴ National Legal Aid Policy Draft 6 (Final) – 4 (June 2012), <http://www.laspnet.org> (follow “Resources” hyperlink; then follow “Policy Documents” hyperlink; then follow “National Policies” hyperlink; then follow “Draft national legal aid policy draft 6” hyperlink).

¹⁴⁵ *Id.*

¹⁴⁶ LEGAL AID PROJECT OF THE UGANDA LAW SOCIETY, ANNUAL REPORT 35 (2016), https://www.uls.or.ug/site/assets/files/1205/lap_annual_report-2016.pdf (last visited July 19, 2017).

¹⁴⁷ *Id.* at 8.

¹⁴⁸ COORDINATION OFFICE TO COMBAT TRAFFICKING IN PERSONS (COCTIP), ANNUAL REPORT ON THE TREND OF TRAFFICKING IN PERSONS IN UGANDA: 2013 § 6 (2014), *available at* [http://www.upf.go.ug/download/publications\(2\)/tip_annual_report_final.pdf](http://www.upf.go.ug/download/publications(2)/tip_annual_report_final.pdf) (last visited July 19, 2017) [hereinafter COCTIP, ANNUAL REPORT: 2013].

¹⁴⁹ *See supra* note 137.

¹⁵⁰ [http://www.upf.go.ug/download/publications\(2\)/tip_annual_report_final.pdf](http://www.upf.go.ug/download/publications(2)/tip_annual_report_final.pdf) 11.

¹⁵¹ COCTIP, ANNUAL REPORT: 2013, *supra* note 148, at § 11.

¹⁵² PTIP Act, *supra* note 142, at §§ 12(2)-(3), 13(1)-(2).

Both the Prevention of Trafficking in Persons Act (PTIP Act) and the Children (Amendment) Act impose duties towards victims on officials who encounter TIP and TIP-related offenses. Under the PTIP Act, individuals who apply victim protection measures in unequal or nondiscriminatory ways may be punished by a fine of five hundred currency points or six months' imprisonment.¹⁵³ ABA ROLI has been unable to confirm whether Ugandan security forces or employees of the DPP are protected by qualified immunity laws; in the absence of such provisions, it would appear that the discriminatory application of victim protection measures would subject such law enforcement agents, in theory, to the penalties provided in the PTIP Act.

The PTIP Act further provides that "public officers and any other person involved in the detection, investigation, prosecution or trial of offences under this Act shall[,] whenever necessary, refer victims to appropriate organizations and institutions for assistance and support," and that trafficking victims are to be provided with information about support services.¹⁵⁴ Similarly, the Children (Amendment) Act requires that a police officer, or any other person who receives a report about child trafficking, must at minimum: (i) pursue measures to ensure the child's safety and well-being; (ii) assess the report; (iii) conduct an investigation, unless the report is "frivolous or obviously unfounded," and (iv) initiate child protection proceedings under the authority of the Children's Act.¹⁵⁵

Extradition and Mutual Legal Assistance

Extradition

Uganda does have an Extradition Act, which governs the general procedures surrounding extradition.¹⁵⁶ The PTIP Act also provides that TIP offenders may be subject to extradition.¹⁵⁷

Uganda has entered into a tripartite extradition treaty with Rwanda and the Democratic Republic of the Congo (DRC). While this extradition treaty primarily concerns "militia leaders [and] terrorists", it may also cover the extradition of human traffickers.¹⁵⁸ Furthermore, to the extent that children are trafficked across borders between the three countries for the purposes of engaging in armed conflict, anti-TIP and laws against child labor may nonetheless be implicated by the treaty.

Mutual Legal Assistance

Uganda has no mutual legal assistance (MLA) law; however, as a member of the Commonwealth of Nations, it generally uses the Scheme Relating to Mutual Assistance in Criminal Matters Within the

¹⁵³ *Id.* at § 8.

¹⁵⁴ *Id.* at §§ 12(8), (10).

¹⁵⁵ The Children's (Amendment) Act of 2016, § 42A(4), available at <https://www.ulii.org/ug/legislation/act/2016/2016/Children%20%28Amendment%29%20Act%202016.pdf> (last visited July 19, 2017).

¹⁵⁶ Extradition Act of 1964, available at <http://www.refworld.org/docid/3ae6b4d238.html> (last visited July 19, 2017).

¹⁵⁷ PTIP Act, *supra* note 142, at § 20.

¹⁵⁸ *Uganda, Rwanda, Congo Agree on Extradition Treaty*, RELIEFWEB (Aug. 26, 2005), <http://reliefweb.int/report/uganda/uganda-rwanda-congo-agree-extradition-treaty> (last visited July 19, 2017).

Commonwealth (the Harare Scheme).¹⁵⁹ ABA ROLI has not been able to confirm whether Uganda has used or relied on MLA to investigate, prosecute, or convict any TIP perpetrators.

V. Economic System

Economic and Financial Crimes

Money Laundering

The Anti-Money Laundering Act criminalizes money laundering in various forms. In general, the Act criminalizes the use, transfer, or transport of property when a legal or natural person knows or has reason to know that such property is the proceeds of a crime.¹⁶⁰ Aiding and abetting money laundering, including by tampering with or destroying records or documents that may be relevant to money laundering investigations, is an offense under the Act,¹⁶¹ as is the failure to report actions that are or may be related to money laundering offenses.¹⁶² Penalties for such offenses include up to years in prison or a fine of up to 33,000 currency points, if committed by a natural person, or a fine of up to 70,000 currency points, if committed by a legal person.¹⁶³

The Anti-Money Laundering Act establishes a Financial Intelligence Authority (FIA) and charges it with combating money laundering, enhancing public awareness on the subject, and coordinating with other states on anti-money laundering initiatives.¹⁶⁴

Financial Fraud

Uganda criminalizes various types of financial fraud, including, for example, the obtaining of credit by false pretenses, fraudulent accounting, and the issuing of false checks.¹⁶⁵ A number of crimes require the intent to defraud, which is presumed under Ugandan law “if it appears that at the time the false document was made there was in existence a specific person, ascertained or unascertained, capable of being defrauded by it.”¹⁶⁶

¹⁵⁹ Charles Richard Kaamuli, Head, Int’l Crimes Dep’t, Uganda Directorate of Public Prosecutions, Presentation on Strengthening Judicial Cooperation in the Great Lakes Region: National Frameworks in Light of ICGLR Protocol: ‘Uganda’s Procedure on Extradition and Mutual Legal Assistance’ (Apr. 19-20, 2016), *available at* <https://ungreatlakes.unmissions.org/sites/default/files/uganda.pdf> (last visited July 19, 2017); Scheme Relating to Mutual Assistance in Criminal Matters (1999), *available at* <http://ondcp.gov.ag/wp-content/uploads/2014/05/Harare-Scheme.pdf> (last visited July 19, 2017).

¹⁶⁰ Anti-Money Laundering Act of 2013, § 116, *available at* https://www.bou.or.ug/bou/bou-downloads/acts/supervision_acts_regulations/FI_Act/The-Anti-money-Laundering-Act-2013.pdf (last visited July 19, 2017).

¹⁶¹ *Id.* at §§ 118, 120, 122.

¹⁶² *Id.* at §§ 124, 125, 126, 127.

¹⁶³ *Id.* at § 136(2)(a)-(b).

¹⁶⁴ *Id.* at §§ 18-19.

¹⁶⁵ Uganda Penal Code Act of 1950, §§ 308, 325, 385, *available at* http://www.wipo.int/wipolex/en/text.jsp?file_id=170005 (last visited July 19, 2017).

¹⁶⁶ *Id.* at § 346.

Forgery & Counterfeiting

Forgery and counterfeiting are offenses under the Penal Code Act. Forgery is defined as “the making of a false document with intent to defraud or to deceive,” and in general may be punished by three years’ imprisonment.¹⁶⁷ However, certain types of forgeries—including the forgery of official documents—may carry higher penalties.¹⁶⁸ The forgery and knowing purchase of forced currency notes carry sentences of life imprisonment and seven years’ imprisonment, respectively.¹⁶⁹

Uganda criminalizes the counterfeiting of coin, possessing equipment for currency forgery or counterfeiting, and coin clipping.¹⁷⁰ In addition to any prison time imposed for conviction of such offenses, the law mandates that forged or counterfeited banknotes or coins must be forfeited to the government.¹⁷¹

Uganda also criminalizes the counterfeiting of stamps and trademarks.¹⁷²

Terrorist Financing

Uganda has signed and ratified the International Convention for the Suppression of the Financing of Terrorism.¹⁷³ It effectuates this Convention in domestic law via the Anti-Terrorism (Amendment) Bill,¹⁷⁴ which specifically “harmonise[s] the definition of ‘funds’ with that contained in the [Convention].”¹⁷⁵ Thus, Ugandan law criminalizes the provision of:

assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in such assets, including, but not limited to, bank credits, travelers Cheques, bank Cheques, money orders, shares, securities, bonds, drafts, and letters of credit . . . [and] financial services.¹⁷⁶

Conviction of the intentional and unlawful provision or collection of funds is a death penalty-eligible offense under the terms of the original Anti-Terrorism Act.¹⁷⁷ The Anti-Terrorism

¹⁶⁷ *Id.* at §§ 342, 347.

¹⁶⁸ *See, e.g., id.* at § 349.

¹⁶⁹ *See, e.g., id.* at §§ 348, 357.

¹⁷⁰ *Id.* at §§ 363, 365, 366.

¹⁷¹ *Id.* at § 374.

¹⁷² *Id.* at §§ 375, 377-80.

¹⁷³ International Convention for the Suppression of the Financing of Terrorism, U.N. TREATY COLLECTION, https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-11&chapter=18&clang=_en (last visited July 19, 2017).

¹⁷⁴ Anti-Terrorism (Amendment) Bill of 2015, *available at* <http://chapterfouruganda.com/sites/default/files/downloads/The-Anti-Terrorism-Amendment-Bill-20151.pdf> (last visited July 19, 2017).

¹⁷⁵ *Id.* at § 1.

¹⁷⁶ *Id.* at § 1(a).

¹⁷⁷ Anti-Terrorism Act of 2002, § 7(1), *available at* I

http://www.vertic.org/media/National%20Legislation/Uganda/UG_Anti-Terrorism_Act_2002.pdf (last

(Amendment) Bill adds a further offense of ‘terrorism financing’, defined as the “willing[] collect[ion] or provi[sion of] funds, directly or indirectly, by any means, with the intention . . . or in the knowledge that such funds are to be used, in full or in part, by a person or a terrorist organization, to carry out a terrorist act.”¹⁷⁸ Terrorism financing is an offense regardless of whether the funds are in fact used, and attempting to or conspiring to engage in the offense is also criminal.¹⁷⁹ The new crime of terrorism financing carries penalties of up to 20 years’ imprisonment a fine not exceeding 500,000 currency points, or both.¹⁸⁰

Regulation and Monitoring of International Financial Transactions

Many Ugandan financial transactions take place outside the scope of the formal, regulated financial system;¹⁸¹ the reach of the law in the informal cash-based sector is limited, and the risk of financial crime is commensurately high.¹⁸² For example, many people rely heavily on mobile money transfer systems to process funds, especially where they cannot afford the higher fees associated with the formal banking sector;¹⁸³ a lack of regulation in this rapidly-growing area could be easily exploited by traffickers seeking to transfer funds outside the eye of the law.

In light of this, Uganda has taken steps towards more careful regulation and monitoring of international financial transactions. A number of laws, including the Financial Institutions (Foreign Exchange Business) Rules,¹⁸⁴ the Financial Institutions (Amendment) Act,¹⁸⁵ and the Anti-Money Laundering Act,¹⁸⁶ create restrictions upon “remittances or other money transfers that are linked to money laundering or terrorist financing”.¹⁸⁷ They further impose ‘know-your-customer’ restrictions upon entities involved in Ugandan money transfers; for example, the Bank of Uganda’s Mobile Money Guidelines require mobile money service providers to identify customers’ identities, set limits for transaction frequency, volume, and value, and report suspicious transactions, including large cash transactions.¹⁸⁸ The Ugandan Central Bank and the FIA are charged with imposing these

visited July 19, 2017); Anti-Terrorism (Amendment) Bill of 2015, *supra* note 174, § 2(b).

¹⁷⁸ *Id.* at § 9A.

¹⁷⁹ *Id.*

¹⁸⁰ *Id.*

¹⁸¹ U.S. Dep’t of Justice, Bureau of Int’l Narcotics and Law Enforcement Aff., 2014 Int’l Narcotics Control Strategy Report, Countries/Jurisdictions of Primary Concern – Uganda, <https://www.state.gov/j/inl/rls/nrcrpt/2014/supplemental/227883.htm> (last visited July 19, 2017) [hereinafter DoJ, Int’l Narcotics Control Strategy Report].

¹⁸² *Id.*

¹⁸³ *Id.*

¹⁸⁴ The Financial Institutions (Foreign Exchange Business) Rules of 2010, *available at* https://www.bou.or.ug/bou/bou-downloads/acts/supervision_acts_regulations/FI_Regulations/FI_Foreignexchange_2010.pdf (last visited July 19, 2017).

¹⁸⁵ The Financial Institutions (Amendment) Act of 2016, *available at* https://www.bou.or.ug/bou/bou-downloads/acts/supervision_acts_regulations/FI_Act/Fin-Amendment-Act-2016.pdf (last visited July 19, 2017).

¹⁸⁶ *See supra* note 160.

¹⁸⁷ *Uganda – Conversion and Transfer Policies*, EXPORT.GOV (June 14, 2016), <https://www.export.gov/article?id=Uganda-Conversion-and-Transfer-Policies> (last visited July 19, 2017) [hereinafter *Uganda – Conversion and Transfer Policies*].

¹⁸⁸ Mobile Money Guidelines of 2013, Guideline 11, *available at* <http://ucc.co.ug/files/downloads/Mobile-Money-Guidelines-2013.pdf> (last visited July 19, 2017).

restrictions and monitoring legal compliance.¹⁸⁹

Asset Freezing and Forfeiture

The PTIP Act requires courts to order the forfeiture of “all established proceeds and properties derived from the commission of the crime.”¹⁹⁰ It furthermore requires that where such property has been made unavailable for seizure or forfeiture by virtue of an offender’s acts or omissions, the court must order the offender to pay an amount equal to the value of that property.¹⁹¹

Other provisions of Ugandan law also contain asset forfeiture provisions. As noted above, forged or counterfeited banknotes and coins must be forfeited to the Ugandan government under the Penal Code,¹⁹² and the Anti-Money Laundering Act “provides for the seizure, freezing, and forfeiture of assets linked to money laundering and terrorism financing”.¹⁹³

Remittances

The World Bank reports that private capital remittances, especially from North America, Europe, and the Middle East to Uganda may have exceeded US\$1.07 billion in 2016, a marginal increase from the previous year.¹⁹⁴ Ugandan law generally facilitates this remittance economy; the Bank of Uganda does not appear to require investors to seek approval from the Bank of Uganda in order to repatriate business profits and dividends.¹⁹⁵ Other laws that deal with remittances include the Foreign Exchange Act, the Foreign Exchange (Forex Bureaus and Money Remittance) Regulations, and the Mobile Money Guidelines.¹⁹⁶

¹⁸⁹ *Supervision Overview*, Bank of Uganda, <https://www.bou.or.ug/bou/supervision/overview.html> (last visited July 19, 2017); *About Us*, Financial Intelligence Authority, <http://fia.go.ug/nita/about-us> (last visited July 19, 2017).

¹⁹⁰ The Prevention of Trafficking in Persons Act of 2009, § 22(1), available at <https://www.ulii.org/ug/legislation/act/2015/7> (last visited July 19, 2017).

¹⁹¹ *Id.* at 22(2).

¹⁹² Penal Code Act, *supra* note **Error! Bookmark not defined.**, at § 374.

¹⁹³ DoJ, Int’l Narcotics Control Strategy Report, *supra* note 181.

¹⁹⁴ Andualm Sisay, *Private Capital Remittances to Uganda Reach \$1 Billion – World Bank*, ASOKOINSIGHT (8 May, 2017), <https://asokoinsight.com/news/1-billion-in-2016-world-bank-uganda> (last visited July 19, 2017).

¹⁹⁵ *Uganda – Conversion and Transfer Policies*, *supra* note 187.

¹⁹⁶ *Id.*

VI. Corporations

Liability of Legal Persons for Violations of Law

Although the PTIP Act does not expressly address corporate liability with respect to trafficking violations, the Penal Code permits corporations to be held liable for violations of the criminal law. Specifically, the definitions section of the Penal Code states that “‘person’ and ‘owner’ and other like terms when used with reference to property include corporations of all kinds and any other association of persons capable of owning property, and also when so used include the Government.”¹⁹⁷

Compliance with Laws on Incorporation

The Uganda Companies Act generally provides that a corporation may not be formed without the existence of a Memorandum of Association that states the company’s name, its objects, the liability of its members (if any), and the amount of share capital involved in the incorporation (if any).¹⁹⁸ Companies may not alter the conditions of a Memorandum of Association except as provided in the Companies Act, which lays out the following requirements for alterations to a company’s object:¹⁹⁹ (i) the application must be made pursuant to a special resolution; (ii) within twenty-one days of the passage of the resolution; (iii) with confirmation by a court.²⁰⁰ It is not clear that any penalties attach to a failure to meet the requirements of these provisions; however, civil and criminal penalties may arise in cases where misstatements are made in a prospectus inviting the public to subscribe to a company’s shares or debentures.²⁰¹

The regulations governing agencies that recruit workers for employment outside Uganda give notice that a recruitment agency’s license may be revoked if they engage in “the recruitment or placement of workers in jobs harmful to public health or morality or to the dignity of the Republic of Uganda.”²⁰² These regulations also state that other conduct related to trafficking is grounds for the revocation of business licenses.²⁰³ According to the U.S. State Department, Uganda has not attempted to prosecute any agencies for their role in the fraudulent recruitment of Ugandan workers.²⁰⁴

¹⁹⁷ Uganda Penal Code Act of 1950, § 2(t), *available at* http://www.wipo.int/wipolex/en/text.jsp?file_id=170005 (last visited July 19, 2017).

¹⁹⁸ Companies Act of 2012, §§ 3, 4(1), *available at* <https://www.ebiz.go.ug/wp-content/uploads/2016/01/Companies-Act-2012.pdf> (last visited July 19, 2017).

¹⁹⁹ *Id.* at § 6.

²⁰⁰ *See id.* at §§ 7(1), (2).

²⁰¹ *Id.* at §§ 45-46.

²⁰² *See* Employment (Recruitment of Ugandan Migrant Workers Abroad) Regulations of 2005, reg. 19(x) (Grounds for suspension or revocation of license), *available at* <https://www.ulii.org/node/23682> (last visited July 19, 2017).

²⁰³ *See generally id.* at reg. 19 (grounds for license revocation include withholding a passport, wrongfully withholding pay, recruitment through fraud or coercion, etc.).

²⁰⁴ U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016 380, *available at* <https://www.state.gov/documents/organization/258882.pdf> (last visited July 19, 2017).

Corporate Social Responsibility Initiatives

The Prevention of Trafficking in Persons Act (PTIP Act) expressly requires that “[e]very member of the community” must report instances of human trafficking.²⁰⁵ However, it does not expressly impose obligations on corporations to do the same.²⁰⁶ Researchers did not identify any legal obligations for business entities to verify that their employees have not been trafficked; nor did researchers identify legal requirements for businesses to conduct anti-TIP training.

Supply Chain Transparency and Accountability

ABA ROLI was unable to locate Ugandan national legislation requiring companies to report or disclose any efforts they take to prevent, identify, and/or address TIP in their supply chains, or to conduct verification of product supply chains to evaluate TIP risks.

Contract Law

To the extent that a corporation (or a natural person) might seek to enforce some aspect of a trafficking arrangement by contract, Uganda law recognizes various defenses that might apply. For example, if a party entered into a contract as a result of undue influence, fraud or misrepresentation, the contract is voidable at the option of the party whose consent was improperly obtained.²⁰⁷ In addition, in order for a contract to be valid under Ugandan law, parties to the contract must have legal capacity, which includes being at least 18 years old.²⁰⁸

²⁰⁵ The Prevention of Trafficking in Persons Act of 2009, § 10, *available at* <https://www.ulii.org/ug/legislation/act/2015/7> (last visited July 19, 2017).

²⁰⁶ The PTIP Act refers to the liability of a “person” under the Act, but does not define “person.”

²⁰⁷ Contracts Act of 2010, §§ 13–15, *available at* <https://www.ulii.org/ug/legislation/act/2015/7-4> (last visited July 19, 2017).

²⁰⁸ *Id.* at § 11.

VII. Natural Resources, Environment, and Property

Natural Resource Extraction Laws

The following industries are subject to regulation with respect to natural resources. Reports indicate that human trafficking—particularly the trafficking of children—occurs or has occurred in all of these industries.²⁰⁹

Fishing

The Fish Act, modified by the Fish Rules of 2010, governs Ugandan fishing activities.²¹⁰ These laws regulate the licensing and regulation of fishing vessels, catch restrictions, and fishing seasons.²¹¹ The Fish Act also envisions the establishment of ‘fisheries officers’, who are charged with policing and prosecutorial powers with respect to any offenses listed under the Act.²¹²

Logging

The harvesting and trade of timber is regulated generally by the Forestry Act, the 2004 Ministerial Notice issued by the Ministry of Water, Lands and Environment, and the Statutory Instrument No. 16 of 2000.²¹³ These laws lay out the general provisions for timber harvest, regulations for sustainable forest management, and procedures for licensing, sales, and fees.²¹⁴ The agencies charged with monitoring and implementing the timber industry include the District Forest Services, which is responsible for regulating timber harvesting on private lands, and the Forest Sector Support Department, which regulates the forestry sector overall.²¹⁵

In spite of the existence of a regulatory framework for the timber industry, “the trade is poorly regulated and much of the trade is undocumented”;²¹⁶ indeed, it is estimated that at least 80% of the

²⁰⁹ See U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016 380, *available at* <https://www.state.gov/documents/organization/258882.pdf> (last visited July 19, 2017) [hereinafter U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016 U.S. DEP’T OF LABOR, BUREAU OF INT’L LABOR AFF., 2015 FINDINGS OF THE WORST FORMS OF CHILD LABOR: UGANDA 1050, *available at* <https://www.dol.gov/sites/default/files/documents/ilab/reports/child-labor/findings/2015TDA.pdf> (last visited July 19, 2017)].

²¹⁰ See *generally* Fish Act of 1970, *available at* <https://www.ulii.org/ug/legislation/consolidated-act/197> (last visited July 19, 2017).

²¹¹ *Id.*

²¹² *Id.* at §§ 23-26.

²¹³ See, e.g., National Forestry and Tree Planting Act of 2003, *available at* <https://www.ulii.org/ug/legislation/act/2003/2003/national%20forestry%20and%20tree%20planting%20Act%202003.pdf> (last visited July 19, 2017); MINISTRY OF WATER, LANDS, AND ENVIRONMENT, THE UGANDA FORESTRY POLICY (2001), *available at* <https://library.health.go.ug/download/file/fid/782> (last visited July 19, 2017); WWF UGANDA, A REPORT ON NATIONAL TIMBER TRADE AND FLEGT SOLUTIONS FOR UGANDA (2012), *available at* http://awsassets.wwfdk.panda.org/downloads/national_timber_study_final_report.pdf (last visited July 19, 2017) [hereinafter WWF UGANDA, NATIONAL TIMBER STUDY].

²¹⁴ WWF UGANDA, NATIONAL TIMBER STUDY, *supra* note 213, at 8.

²¹⁵ *Id.* at 20.

²¹⁶ *Id.* at 2.

timber in the Ugandan market was illegal as of 2012.²¹⁷

Mining

Mining in Uganda is governed by the Mining Act, the Mining Regulations, and their associated Schedules.²¹⁸ Provisions of the National Environment Act, the Petroleum Exploration, Development and Production Act, Water Act, Land Act, and Companies Act may also be relevant to the framework of laws that govern Uganda's mining industries.²¹⁹ These laws govern the issuance of prospecting and exploration licenses and leases, inspections regulations, the minerals trade, and rights to minerals and surface rights.²²⁰

The Mining Act appoints the Commissioner for the Geological Survey and Mines Department to inspect mining operations, and authorizes the office of the Commissioner to order remedies for dangerous or defective operations.²²¹ The Commissioner may also authorize medical officer or other public officers to make inquiries into the "health and welfare of persons employed in or connected with prospecting, exploration or mining operations";²²² if defects are found during this process, these officers are charged with informing the holder of the right of such defects, and requiring that such defects be remedied.²²³ It is possible for the holder of a mineral right to appeal to the Commissioner under such circumstances; however, the Commissioner does not have the power to exempt a mineral rights holder from complying with the general requirements of the Mining Act, and rights holders may not contract their way out of liability for damages arising out of a failure to comply.²²⁴

Petroleum

The Petroleum (Exploration, Development and Production) Act was passed in 2013, pursuant to the country's National Oil and Gas Policy of 2008.²²⁵ The Act establishes a Petroleum Authority of Uganda to ensure that all aspects of oil and gas exploration are in compliance with environmental principles, and otherwise administering the terms and conditions of the Act.²²⁶ Specifically, the Petroleum Authority of Uganda deals with the issuances of petroleum exploration and production

²¹⁷ *Id.* at 3.

²¹⁸ See generally Mining Act of 2003, available at <https://www.ulii.org/ug/legislation/act/2003/2003/mining%20Act%202003.pdf> (last visited July 19, 2017); Mining Regulations of 2004, available at http://archive.resourcegovernance.org/sites/default/files/mining_regulations_of_uganda_2004.pdf (last visited July 19, 2017).

²¹⁹ *Summary: Uganda*, AFRICAN MINING LEGISLATION ATLAS, <https://www.a-mla.org/countries/52?name=Uganda> (last visited July 19, 2017).

²²⁰ See Mining Act, *supra* note 218.

²²¹ *Id.* at §§ 64-65.

²²² *Id.* at §§ 66(1).

²²³ *Id.*

²²⁴ *Id.* at §§ 66(5).

²²⁵ Petroleum (Exploration, Development and Production) Act of 2013, § 1(a), available at http://pau.go.ug/uploads/Petroleum_EDP_Act_2013.pdf (last visited July 19, 2017).

²²⁶ *Id.* at §§ 9, 3.

licenses, permits, and approvals.²²⁷ The Act additionally creates a National Oil Company and charges it with handling the state's commercial interests and participation in the petroleum industry.²²⁸

Petroleum licensees are “liable for pollution damage without regard to fault”, although *force majeure* events may help to reduce this liability.²²⁹ Licensees are further responsible for ensuring the health and safety of their employees, and the Act mandates that operators follow the provisions of, at minimum, the Occupational Health and Safety Act in establishing safety precautions.²³⁰ These health and safety provisions do not make specific reference to TIP, and while the Act does envision a number of criminal offences, none of them explicitly reference the usage of forced or trafficked labor in petroleum-related operations.²³¹

Environmental Regulation

The National Environment Management Authority (NEMA) is responsible for coordinating, monitoring, regulating, and supervising Uganda's environmental management laws,²³² which are laid out in the National Environment Act.²³³ NEMA is responsible for setting a number of environmental standards, including those for air quality, water quality, and soil quality.²³⁴ NEMA's mandate also includes, under the aegis of the Technical Committee on the Licensing of Pollution,²³⁵ the issuance of pollution licenses. In situations where responsibility for environmental regulation may be vested in another ministry, department, state agency, local government body, or public officer (lead agency),²³⁶ the necessity for an environmental impact assessment is determined by that body.²³⁷ However, assessments themselves are to be conducted by NEMA-approved experts, and it appears that NEMA must always be consulted to determine whether further environmental impact review is needed before a project is ultimately approved.²³⁸ NEMA decisions are generally appealable within the administrative system, although the High Court may exercise “supervisory jurisdiction” over NEMA decisions.²³⁹

NEMA works alongside lead agencies in specific areas to issue regulations and guidelines for the management of hazardous waste.²⁴⁰

²²⁷ *About Us*, NATIONAL PETROLEUM AUTHORITY, <http://www.npa.gov.gh/about-npa> (last visited July 19, 2017).

²²⁸ Petroleum (Exploration, Development and Production) Act, *supra* note 225, at §§ 42-46.

²²⁹ *Id.* at § 130.

²³⁰ *Id.* at § 141(a)(i).

²³¹ *Id.* at §§ 160-166.

²³² *Home*, NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY, <http://www.nema.go.ug> (last visited July 19, 2017).

²³³ National Environment Act of 1995, § (4), *available at* <http://www.wipo.int/edocs/lexdocs/laws/en/ug/ug019en.pdf> (last visited July 19, 2017).

²³⁴ *Id.* at §§ 24-30.

²³⁵ *Id.* at § 58(1).

²³⁶ *Id.* at § 1(gg).

²³⁷ *Id.* at § 19(3).

²³⁸ *Id.* at §§ 19 (6)-(7).

²³⁹ *Id.* at § 104.

²⁴⁰ *Id.* at §§ 53-56.

Forestry management is administered primarily by local and district environmental committees,²⁴¹ although to the extent that forestry and timber policies intersect NEMA may also be involved in decision-making. To the extent that reforestation or afforestation policies are to be implemented, local environmental committees are required by law to “encourage voluntary self-help in the community”.²⁴² Those who hold customary and non-customary interests in land are also required to plant trees and vegetation pursuant to the orders of a district environmental action plan, and if they do not do so local environmental committees are empowered to “mobilise the community to ensure compliance”.²⁴³

Wildlife conservation is governed by the Uganda Wildlife Act, and administered by the Uganda Wildlife Authority.²⁴⁴ The Wildlife Authority is charged with developing wildlife management policy, controlling and monitoring industrial and mining developments in wildlife protected areas, managing the trade in wildlife specimens, both internally and externally, and promoting scientific research on wildlife and wildlife conservation areas.²⁴⁵ The Wildlife Act criminalizes a number of acts, including unauthorized hunting or killing in wildlife conservation areas, and preparing land in these areas for cultivation or mineral prospecting.²⁴⁶ The Act further criminalizes the destruction, import, export, and re-export of protected species, and establishes asset forfeiture as a punishment for these offenses, in addition to any fines and/or imprisonment that may be imposed.²⁴⁷

Land Ownership and Eminent Domain

The Constitution recognizes four historic forms of land tenure: customary, freehold, *mailo*, and leasehold.²⁴⁸ National and local governments alike have the power to acquire land in the public interest;²⁴⁹ however, such acquisitions must be deemed “necessary for public use”, and the government is obliged to provide fair compensations for takings.²⁵⁰

The only substantial restriction that Ugandan law seems to impose on land ownership is that noncitizens are only entitled to acquire leasehold land interests.²⁵¹

ABA ROLI was unable to identify any other express legal provisions that protect individuals or communities against “land grabbing.”

²⁴¹ *Id.* at § 39.

²⁴² *Id.* at § 39(2).

²⁴³ *Id.* at § 39(4).

²⁴⁴ Uganda Wildlife Act of 1996, § 4, *available at* <https://www.ulii.org/ug/legislation/consolidated-act/200> (last visited July 19, 2017).

²⁴⁵ *Id.* at § 5.

²⁴⁶ *Id.* at § 21(a)-(c).

²⁴⁷ *Id.* at §§ 78-79.

²⁴⁸ UGANDA CONST., art. 237(3), *available at* https://www.constituteproject.org/constitution/Uganda_2005.pdf?lang=en Constitution (last visited July 19, 2017).

²⁴⁹ *Id.* at art. 237(2)(a).

²⁵⁰ *Id.* at art. 26(2).

²⁵¹ *Id.* at art. 237(2)(c).

VIII. Individual Rights

Ratification of and Accession to International and Regional Human Rights Treaties

Uganda has ratified or acceded to a number of international human rights treaties. These include:

- the International Covenant on Civil and Political Rights (ICCPR) and its first Optional Protocol;
- the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD);
- 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 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICMW); and
- the Convention and Protocol Relating to the Status of Refugees (Refugee Convention).²⁵²

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

- the African Charter on Human and Peoples' Rights (Banjul Charter);²⁵³
- the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol);²⁵⁴
- the African Charter on the Rights and Welfare of the Child;²⁵⁵ and
- the Organization for African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa.²⁵⁶

In general, Uganda is a dualist state; as a result, treaties must be specifically incorporated into national law in order to have national effect.²⁵⁷ The Ugandan constitution is silent on the subject of ratification,²⁵⁸ but the Ratification of Treaties Act generally lays out the procedure by which Ugandan treaty ratification occurs.²⁵⁹ ABA ROLI researchers have been unable to determine whether all of the treaties listed above have gone through this secondary ratification procedure.

²⁵² Multilateral Treaties Deposited with the Secretary-General, United Nations Treaty Collection, https://treaties.un.org/Pages/TreatyParticipantSearch.aspx?clang=_en (last visited July 19, 2017) (select "Uganda" in the drop-down Participant list to access a full list of international treaties and agreements deposited with the U.N. Secretary-General that Uganda has ratified or acceded to).

²⁵³ African Charter on Human and Peoples' Rights, June 27, 1981, 21 I.L.M. 58.

²⁵⁴ 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.

²⁵⁵ African Charter on the Rights and Welfare of the Child, July 11, 1990, OAU Doc. CAB/LEG/24.9/49.

²⁵⁶ Convention Governing the Specific Aspects of Refugee Problems in Africa, Sep. 10, 1969, 1001 U.N.T.S. 45.

²⁵⁷ Judy Obitre-Gama, *The Application of International Law into National Law, Policy and Practice* (2000) at 8, available at <http://www.who.int/tobacco/media/en/JUDY2000X.pdf?ua=1> (last visited July 19, 2017).

²⁵⁸ *Id.* at 9.

²⁵⁹ Ratification of Treaties Act of 1998, available at <https://www.ulii.org/ug/legislation/consolidated-act/204> (last visited July 19, 2017).

Legal Guarantees of Equality and Non-Discrimination

The Constitution of Uganda establishes that all persons are equal before the law, and prohibits discrimination on the basis of “sex, race, color, ethnic origin, tribe, birth, creed or religion, social or economic standing, political opinion or disability,”²⁶⁰ where discrimination is defined only as “different treatment to different persons” on the basis of one of these enumerated characteristics.²⁶¹ Notably, Ugandan law not only fails to establish sexual orientation as a protected class, legislators have made repeated attempts to strengthen anti-homosexuality provisions in the law.²⁶²

The Constitution additionally obliges the state to “ensure gender balance and fair representation of marginali[z]ed groups on all constitutional and other bodies,”²⁶³ and explicitly provides for welfare for the elderly.²⁶⁴

All Constitutional provisions are to be read consistently with the provision on equality and non-discrimination.²⁶⁵

Rights of Foreigners and Stateless Individuals

An individual who is granted refugee status in Uganda is entitled to all the rights, and subject to all the duties, of any other noncitizen “in similar circumstances”.²⁶⁶ Refugees are to be issued identity cards and travel documents,²⁶⁷ and generally have the right to freely move within Uganda.²⁶⁸

Refugees are entitled to be treated in a non-discriminatory way,²⁶⁹ and there are no restrictions on their access to the Ugandan court system.²⁷⁰ Refugees must be given the same treatment as Ugandan citizens with respect to access to primary education.²⁷¹

²⁶⁰ UGANDA CONST., art. 21(1)-(2), *available at* https://www.constituteproject.org/constitution/Uganda_2005.pdf?lang=en Constitution (last visited July 19, 2017) [hereinafter UGANDA CONST.].

²⁶¹ *Id.* at art. 3.

²⁶² *See, e.g.*, Chris Johnston, *Uganda Drafts New Anti-Gay Laws*, THE GUARDIAN (Nov. 8, 2014), <https://www.theguardian.com/world/2014/nov/08/uganda-drafts-anti-gay-laws-prison-promotion-homosexuality> (last visited July 19, 2017).

²⁶³ UGANDA CONST., *supra* note 260, at Objective VI.

²⁶⁴ *Id.* at Objective VII.

²⁶⁵ *Id.* at art. 5.

²⁶⁶ The Refugees Act of 2006, § 29, *available at* <http://www.judiciary.go.ug/files/downloads/Act%20No.%2021of%202006%20Refugees%20Act2006.pdf> (last visited July 19, 2017).

²⁶⁷ *Id.* at §§ 31(1), 29(1)(a).

²⁶⁸ *Id.* at § 30.

²⁶⁹ *Id.* at §§ 29(1)(c).

²⁷⁰ *Id.* at §§ 29(1)(h).

²⁷¹ *Id.* at §§ 29(e)(iii).

State Human Rights Guarantees

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

- The right to life;²⁷²
- The right to personal liberty;²⁷³
- The right to be protected against torture and/or cruel and inhuman treatment;²⁷⁴
- The right to be protected from slavery, servitude and forced labor;²⁷⁵
- The right to privacy;²⁷⁶
- Rights in the criminal justice system;²⁷⁷
- The right to free expression, religion, and association;²⁷⁸
- The right to freedom of movement;²⁷⁹
- The right to education, specifically primary education;²⁸⁰
- The right to marry and start a family;²⁸¹
- The right to participate in affairs of government;²⁸²
- The right to work, practice a profession, carry on a lawful business, and join a union;²⁸³
- The right of access to information, except where such a right would infringe upon national security or the privacy of another individual;²⁸⁴ and
- The right to vote for those over 18 years of age.²⁸⁵

The Constitution specifically provides that the state must take affirmative action in favor of groups that have been marginalized on the basis of gender, age, disability, or for “reasons of history”.²⁸⁶ Women, children, persons with disabilities, and minorities are also specifically protected under the Constitution.²⁸⁷

Notwithstanding these protections, the Constitution permits measures “reasonably justifiable for dealing with a state of emergency.”²⁸⁸ Certain fundamental human rights and freedoms—specifically, the rights to be free from torture and slavery, and justice rights including the right to a fair hearing and the right to an order of habeas corpus—are exempt from these provisions. In spite of Constitutional guarantees, however, many of these enumerated rights are not uniformly enforced

²⁷² UGANDA CONST., *supra* note 260, at art. 22.

²⁷³ *Id.* at art. 23.

²⁷⁴ *Id.* at art. 24.

²⁷⁵ *Id.* at art. 25.

²⁷⁶ *Id.* at art. 27.

²⁷⁷ *Id.* at art. 28.

²⁷⁸ *Id.* at art. 29.

²⁷⁹ *Id.*

²⁸⁰ *Id.* at art. 30.

²⁸¹ *Id.* at art. 31.

²⁸² *Id.* at art. 38.

²⁸³ *Id.* at art. 40.

²⁸⁴ *Id.* at art. 41.

²⁸⁵ *Id.* at art. 59.

²⁸⁶ *Id.* at art. 32.

²⁸⁷ *Id.* at arts. 33-36.

²⁸⁸ *Id.* at art. 46.

or protected in practice.²⁸⁹

State Human Rights Bodies

Uganda has a Human Rights Commission, established under the aegis of the Constitution.²⁹⁰ The Commission is charged with investigating human rights violations and monitoring the government's compliance with the country's international human rights obligations.²⁹¹ To this end, the Commission is required to publish and submit annual human rights reports to Parliament.²⁹² It also has the same power as a court of Uganda to order persons to appear, produce documents or records relevant to the Commission's investigations, and issue contempt citations.²⁹³ Furthermore, the Commission has the authority to order a number of remedies for human rights violations, although persons retain the right to appeal the Commission's decisions to the High Court of Uganda.²⁹⁴

²⁸⁹ See generally U.S. DEP'T OF STATE, BUREAU OF DEMOCRACY, H.R. AND LAB., UGANDA HUMAN RIGHTS REPORT 1 (2016), available at <https://www.state.gov/documents/organization/265526.pdf> (last visited July 19, 2017).

²⁹⁰ UGANDA CONST., *supra* note 260, at art. 52(1).

²⁹¹ *Id.*

²⁹² *Id.* at art. 52(2).

²⁹³ *Id.* at art. 53(1).

²⁹⁴ *Id.* at art. 53(3).

IX. Labor Rights

Work Protections Established by Law

Applicable International Instruments

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

- ILO Convention no. 29 (concerning Forced or Compulsory Labor);²⁹⁵
- ILO Convention no. 100 (concerning Equal Remuneration);²⁹⁶
- ILO Convention no. 105 (concerning the Abolition of Forced Labor);²⁹⁷
- ILO Convention no. 138 (concerning Minimum Age for Admission to Employment);²⁹⁸ and
- ILO Convention no. 182 (concerning the Worst Forms of Child Labor).²⁹⁹

Domestic Legal Protections

The Constitution of Uganda requires the Parliament to enact laws that permit persons to:

- work in satisfactory, safe, and healthy environments;³⁰⁰
- be accorded rest and reasonable working hours, including paid holiday time;³⁰¹
- access equal payment for equal work, without discrimination;³⁰²
- form or join trade unions of their choice, and access collective bargaining and representation;³⁰³ and
- withdraw their labour.³⁰⁴

²⁹⁵ 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 19, 2017).

²⁹⁶ 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 19, 2017).

²⁹⁷ 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 19, 2017).

²⁹⁸ 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 19, 2017).

²⁹⁹ 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).

³⁰⁰ UGANDA CONST., art. 40(1)(a), *available at* https://www.constituteproject.org/constitution/Uganda_2005.pdf?lang=en Constitution (last visited July 19, 2017) [hereinafter UGANDA CONST.].

³⁰¹ *Id.* at art. 40(1)(c).

³⁰² *Id.* at art. 40(1)(b).

³⁰³ *Id.* at art. 40(3)(a).

³⁰⁴ *Id.* at art. 40(3)(c).

The Constitution also recognizes the need to protect women workers during pregnancy and after childbirth.³⁰⁵

The Parliament of Uganda effectuates these constitutional provisions through a number of laws, including the Employment Act and its associated Regulations,³⁰⁶ the Occupational Safety and Health Act and the Workers Compensation Act,³⁰⁷ and the Employment (Recruitment of Ugandan Migrant Workers Abroad) Regulations.³⁰⁸

Minimum Wage Requirements

Although Uganda has attempted to pass a minimum wage law, it is not clear that the proposed minimum wage bill of 2015—which would have proposed sector-based minimum wages—has been successfully passed.³⁰⁹ As such, as far as ABA ROLI has been able to determine, the only laws currently governing minimum wage in Uganda are the Minimum Wages Board and Wages Council Act and the General Notice No. 176/1995, which establishes a Minimum Wages Advisory Council.³¹⁰

Uganda's minimum wage was set in 1984 at 6,000 Ugandan shillings per month.³¹¹ While it appears that the Minimum Wages Advisory board has recommended that this national minimum wage be raised to 130,000 shillings (US\$36) monthly, it is not clear whether this proposal has been implemented.³¹²

Working Hours Requirements

³⁰⁵ *Id.* at art. 40(4).

³⁰⁶ Employment Act of 2006, *available at* <http://www.mglsd.go.ug/laws/employment%20Act%202006.pdf> (last visited July 19, 2017); Employment Regulations of 2011, *available at* <http://www.oit.org/dyn/natlex/docs/MONOGRAPH/86721/98315/F615034846/UGA86721.pdf> (last visited July 19, 2017); Employment (Employment of Children) Regulations of 2012, *available at* <http://www.ilo.org/dyn/natlex/docs/SERIAL/88352/108266/F-470420301/UGA88352.pdf> (last visited July 19, 2017).

³⁰⁷ Occupational Safety and Health Act of 2006, *available at* <http://www.mglsd.go.ug/laws/occupational%20saftey%20and%20Health%20Act%202006.pdf> (last visited July 19, 2017); Workers Compensation Act of 2000, *available at* <https://www.ulii.org/ug/legislation/consolidated-act/225> (last visited July 19, 2017).

³⁰⁸ Employment (Recruitment of Ugandan Migrant Workers Abroad) Regulations, *available at* <https://www.ulii.org/node/23682> (last visited July 19, 2017).

³⁰⁹ See the Minimum Wages Bill of 2015, *available at* <http://parliamentwatch.ug/wp-content/uploads/2016/10/The-Minimum-Wages-Bill-2015.pdf> (last visited July 19, 2017); *The Minimum Wage in Uganda: An Urgent Call*, DRT Policy Brief No. 4 (Oct. 2013), *available at* http://www.fes-uganda.org/media/documents/Final_Policy_Brief_Minimum_Wage_An_urgent_call.pdf (last visited July 19, 2017) [hereinafter *The Minimum Wage in Uganda*].

³¹⁰ Minimum Wages Advisory Boards and Wages Councils Act of 1957, *available at* http://www.mglsd.go.ug/laws/minimum%20wages%20advisory%20bards%20and%20wages%20council%20act%20Chapter_221.pdf (last visited July 19, 2017); *The Minimum Wage in Uganda*, *supra* note 309.

³¹¹ *The Minimum Wage in Uganda*, *supra* note 309.

³¹² Stephen Kafeero, *Uganda Gov't Sets Minimum Wage at USD \$36 per Month*, DAILY MONITOR (June 3, 2017), *available at* <http://perilofafrica.com/uganda-govt-sets-minimum-wage-usd-36-per-month/> (last visited July 19, 2017).

Under the terms of the Employment Act, working hours are capped at 48 hours weekly and 10 hours daily, although workers and their employers are free to contract for longer hours than that.³¹³ Where maximum working hours are at least eight hours daily, workers are entitled to 30 minutes' break.³¹⁴

Overtime Remuneration

In general, if workers have not specifically contracted to work beyond the maximum requirements provided by law, they must be remunerated at a rate of 1.5 times their normal hourly rate on normal working days, or 2 times this rate on gazetted public holidays.³¹⁵

Leave Requirements

Ugandan law requires that employees receive seven days' paid leave for every four-month employment period, and paid leave on public holidays.³¹⁶ Where employees elect to work on public holidays, they are entitled to either accept double their standard rate of pay or a different day off in lieu of that payment.³¹⁷

These leave requirements only apply to employees who have been working continuously for an employer for at least six months, or who perform contract work for over 16 hours a week.³¹⁸

Women are entitled to 60 days of fully-paid maternity leave; however, where women elect to take this leave, four weeks of it must immediately follow childbirth or miscarriage.³¹⁹ Furthermore, women are granted the right to return either to the job that they had held prior to obtaining leave, or to a "reasonably suitable alternative job on terms and conditions not less favourable than those which would have applied had she not been absent on maternity leave."³²⁰

Men are entitled to four days' fully-paid paternity leave immediately following childbirth or miscarriage, provided that they are married to the mother of the child.³²¹

Ugandan law contains detailed sick leave provisions.³²²

Labor Inspection and Oversight Systems

The Ministry of Gender, Labour and Social Development (MGLSD) is responsible for administering

³¹³ Employment Act, *supra* note 306, at § 53(1),(3).

³¹⁴ *Id.* at § 51(6).

³¹⁵ *Id.* at § 53(8).

³¹⁶ *Id.* at § 54(1).

³¹⁷ *Id.*

³¹⁸ *Id.* at § 54(4).

³¹⁹ *Id.* at §56(1).

³²⁰ *Id.* at § (2).

³²¹ *Id.* at §57(1).

³²² *Id.* at § 55.

labor laws and policies throughout the country.³²³ The Directorate of Labour, Employment and Occupational Safety and Health within the MGLSD includes two departments charged with key responsibilities on labor laws and policies.³²⁴

The Department of Labour, Industrial Relations and Productivity is “responsible for formulating, implementing and enforcing labour policies and laws related to working conditions.”³²⁵ The Department of Occupational Health and Safety is responsible for inspection health and safety issues.³²⁶

In addition, the MGLSD has an External Employment Unit that is responsible for regulating agencies that recruit Ugandan migrant workers for employment abroad.³²⁷

Applicability of Labor Laws to Migrant Workers

Uganda is generally recognized as having generous policies with respect to refugees and asylum seekers, including issuance of civil documents and permission to move freely as long as refugees “can support themselves.”³²⁸ However, Ugandan law prohibits the employment of a person who is known to be unlawfully in the country.³²⁹ The law also prohibits organizing “the illicit or clandestine movement of migrants for employment purposes of departing from, passing through or arriving in Uganda,” or giving any organization assistance in such an effort.³³⁰ An employee cannot be required to accompany an employer outside of Uganda without the employee’s consent.³³¹ Employees recruited for employment are in some cases legally entitled to repatriation.³³² Uganda also has enacted regulations that address the recruitment of Ugandan migrant workers abroad.³³³

Child Labor Laws

International Laws, Policies, and Agreements

Uganda 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

³²³ *Id.* at §§ 2, 8 (The “Minister” is responsible for labour and administration of Act is responsibility of Directorate of Labour acting under authority of the Minister).

³²⁴ See INTERNATIONAL LABOUR ORGANIZATION, UGANDA: LABOUR INSPECTION STRUCTURE AND ORGANIZATION, http://www.ilo.org/labadmin/info/WCMS_209370/lang--en/index.htm (last visited July 19, 2017).

³²⁵ *Id.*

³²⁶ *Id.*

³²⁷ See Employment (Recruitment of Ugandan Migrant Workers Abroad) Regulations of 2005, *available at* <https://www.ulii.org/ug/legislation/statutory-instrument/2005/200562> (last visited July 19, 2017); *see also* U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016 378, *available at* <https://www.state.gov/documents/organization/258882.pdf> (last visited July 19, 2017).

³²⁸ UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, GLOBAL APPEAL 2014–2015: UGANDA 1, *available at* <http://www.unhcr.org/528a0a268.html> (last visited July 19, 2017).

³²⁹ Employment Act, *supra* note 306, at § 37.

³³⁰ *Id.* at § 37(1).

³³¹ *Id.* at § 36.

³³² *Id.* at § 39.

³³³ See *supra* note 327.

to be hazardous or to interfere with their education, or to be harmful to their health or development.³³⁴ 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.³³⁵

Uganda has ratified both the Optional Protocol on Armed Conflict and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography.³³⁶

It has also ratified the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, which prohibits armed groups from recruiting children and bans the participation of children in conflict in any way.³³⁷

Domestic Laws and Policies

Uganda has passed a number of laws and designed and implemented a number of policies to combat child labor.

The Employment Act and the Employment (Employment of Children) Regulations establish 14 as the minimum age for “light work” that “does not affect [their] education”,³³⁸ and 18 as the minimum age for hazardous work.³³⁹ The First Schedule of the Employment (Employment of Children) Regulations lay out a number of sectors, and types of employment in those sectors, in which children may not engage, including:

- Planting, harvesting, and marketing of tobacco, tea, rice, sugarcane, and maize;
- Herding and fishing;
- Construction and mining;
- The “informal urban sector”, including market work, street activities such as hawking and scavenging, and working in carpentry and metal work; and
- The entertainment industry.³⁴⁰

The Education Act establishes free primary public education for children between the ages of six

³³⁴ United Nations Convention on the Rights of the Child, art. 32(1), Nov. 20, 1989, 1577 U.N.T.S. 3.

³³⁵ *Id.* at art. 32(2).

³³⁶ *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 19, 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 19, 2017).

³³⁷ STATUS LIST: AFRICAN UNION CONVENTION FOR THE PROTECTION AND ASSISTANCE OF INTERNALLY DISPLACED PERSONS IN AFRICA, *available at* https://au.int/sites/default/files/treaties/7796-sl-african_union_convention_for_the_protection_and_assistance_of_internally.pdf (last visited July 19, 2017).

³³⁸ Employment Act, *supra* note 306, at § 32(2); Employment (Employment of Children) Regulations, *supra* note 306, at regs. 2-3.

³³⁹ Employment Act, *supra* note 306, at §§ 32(2)- (4); Employment Act, Employment (Employment of Children) Regulations, *supra* note 306, at regs. 3 & 5.

³⁴⁰ Employment (Employment of Children) Regulations, *supra* note 306, at Schedule I.

and 13; however, the U.S. Department of Labor has noted that this system “leaves children age 13 particularly vulnerable to the worst forms of child labor, as children are not required to be in school nor are they legally permitted to work in areas other than light work.”³⁴¹

Policies for the eradication of child labor include the National Strategy for Girls’ Education in Uganda, which explicitly identifies domestic work as a barrier to girls’ access to education;³⁴² the National Action Plan to Combat Human Trafficking; the National Development Plan, which “aims to eradicate all forms of child labor by 2025”;³⁴³ and the Skilling Uganda Strategic Plan, which lays out a framework for improving business, technical, and vocational training, particularly for young people who drop out of school.³⁴⁴ Finally, the National Strategic Program Plan of Interventions for Orphans and Other Vulnerable Children aims to protect such children from being caught up in child labor.³⁴⁵

Provisions Regarding the Worst Forms of Child Labor

Ugandan 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).³⁴⁶ The Defence Forces Act establishes 18 as the minimum age for voluntary military service,³⁴⁷ and the law prohibits children from engaging in night work.³⁴⁸

While commercial sexual exploitation of children is prohibited against the Prevention of Trafficking in Persons Act (PTIP),³⁴⁹ the offering of a child for prostitution, and the use, offering, or benefitting from a transaction involving the sexual exploitation of a child for pornography and in pornographic performances is not a violation of the criminal law.³⁵⁰

³⁴¹ *Child Labor and Forced Labor Reports: Uganda*, U.S. DEP’T OF LABOR, BUREAU OF INT’L LABOR AFF., <https://www.dol.gov/agencies/ilab/explore-our-resources/reports/child-labor/uganda> (last visited July 19, 2017) [hereinafter *Child Labor and Forced Labor Reports: Uganda*].

³⁴² Ministry of Education and Sports, National Strategy for Girls’ Education (NSGE) in Uganda (2015 – 2019) 18, available at http://www.ungei.org/srgbv/files/Resource_Uganda_NSGE.pdf (last visited July 19, 2017).

³⁴³ *Child Labor and Forced Labor Reports: Uganda*, *supra* note 341.

³⁴⁴ *Id.*

³⁴⁵ *Id.*

³⁴⁶ 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).

³⁴⁷ Defence Forces Act of 1992, § 52(2)(c), available at <https://www.ulii.org/ug/legislation/consolidated-act/307> (last visited July 19, 2017).

³⁴⁸ Employment (Employment of Children) Regulations, *supra* note 306, at reg. 6 & First Schedule.

³⁴⁹ *Child Labor and Forced Labor Reports: Uganda*, *supra* note 341.

³⁵⁰ *Id.*

X. Rights of Communities and Indigenous People

Recognition of Customary and Communal Land Rights

The Constitution recognizes and protects the rights of communities and indigenous people to carry on and promote their customs and traditions, as long as those customs and traditions do not violate the Constitution.³⁵¹

The Constitution and the Land Act recognize four basic land tenure systems. These are freehold, leasehold, customary, and *mailo* rights.³⁵² *Mailo* landholding is a holdover from the 1900 Uganda Agreement, which converted some property held under traditional landholding systems to private property. Among other provisions, the Uganda Agreement recognized “*mailo*” estates, which were large extensions of land that the colonial government conferred to chiefs as personal property. Tenants could be permitted to live on and utilize the *mailo* owner’s estate.³⁵³

Customary tenure systems in Uganda generally permit clan heads or chiefs to allow individuals to access as much land as was needed for subsistence; in communities that subsisted on moving livestock across grazing areas, land rights were based on agreements between clans that permitted movement of households and cattle along traditional cattle corridors. However, there is no uniform set of customary tenure systems in Uganda; these “vary across ethnic groups and even clans within one group, and can change to accommodate new challenges and opportunities.”³⁵⁴

With regard to customary tenure, the Land Act specifies that any person, family, or community holding land under customary tenure on former public land may acquire a certificate of customary ownership for that land. These certificates may be leased, mortgaged, and pledged in those communities that permit these practices. In addition, holders of customary ownership who want to use their land as a group can establish a common land association to manage and protect their interests in the communal land. In this way, communities that wish to continue to practice customary tenure, including pastoralist communities, are given legal recognition and are provided with the legal mechanism to do so.³⁵⁵

While there has been some modernization of the legal system regarding land rights, and despite constitutional provisions purporting to ensure equality and non-discrimination for women, men

³⁵¹ UGANDA CONST., arts. 37 & 246, available at https://www.constituteproject.org/constitution/Uganda_2005.pdf?lang=en (last visited July 19, 2017) [hereinafter UGANDA CONST.].

³⁵² Peter Veit, *Brief: Women and Customary Land Rights in Uganda*, FOCUS ON LAND IN AFRICA, <http://www.focusonland.com/foia/en/countries/brief-women-and-customary-land-rights-in-uganda/> (last visited July 19, 2017).

³⁵³ SUSANA LASTARRIA-CORNHIEL, UGANDA COUNTRY BRIEF: PROPERTY RIGHTS AND LAND MARKETS (March 2003), available at <https://minds.wisconsin.edu/bitstream/handle/1793/23090/ugandabrief.pdf.txt;jsessionid=6410C55F9FD57B93623F21BA183226BC?sequence=2> (last visited July 19, 2017).

³⁵⁴ *Id.*

³⁵⁵ *Id.*

and women are not on equal footing with respect to land ownership.³⁵⁶

Governance of Land Without Formal Title

The Land Act provides that if customary law recognizes an individual's ownership over land, they do not need to possess formal documentation of title to assert their ownership interests.³⁵⁷ However, the Land Act does provide that under such circumstances, a landholder must obtain a certificate of customary ownership, issued by Constitutional District Land Boards.³⁵⁸

Additionally, it is reported that in practice, statutory rules and evidence forms overrule similar customary rules; as a result, where there are disputes over non-titled land, rights to such land are weakened.³⁵⁹

Community Rights in Land-Based Development

Uganda does not appear to have particularly strong protections for community land rights. While customary land tenure is recognized, as noted above, these customary systems appear to privilege individual ownership over community ownership of land. As noted above, *mailo* systems vest estate ownership in clan chiefs and community leaders, and although the law recognizes the existence of 'family land rights', these tend to be represented by heads of family.³⁶⁰ As such, the extent to which communities can exercise a legitimate voice in land-based development decisions is unclear.

Nonetheless, certain provisions of law do require community engagement in land-based development. For instance, it is possible for communities to assert customary ownership rights over forests and woodlands, rangelands, marshlands, bodies of water, mineral rights, farmlands, and settlements;³⁶¹ communities are required by law to take an active interest particularly with respect to particularly with respect to forestry and the timber industry.³⁶² Nonetheless, in circumstances where local leaders do not engage in consultative processes and advance their personal interests over the interests of the communities that they govern, the alienation of land may contribute to the overall vulnerability and insecurity of communities.³⁶³

³⁵⁶ Joyce Nangobi & Pamela Ransom, *The Role of Gender In Securing Land Rights For Equity, Sustainability, and Resilience: In Jinja District, Uganda, in* RESPONSIBLE LAND GOVERNANCE: TOWARDS AN EVIDENCE BASED APPROACH (2017 World Bank Conference on Land and Poverty), *available at* https://www.confod.com/03-12-Joyce_RoseMary-492_paper.pdf (last visited July 19, 2017).

³⁵⁷ Land Act of 1998, § 3(4)(c), *available at* <https://www.ulii.org/ug/legislation/consolidated-act/227> (last visited July 19, 2017).

³⁵⁸ *Id.* at § 4.

³⁵⁹ Veit, *supra* note 352.

³⁶⁰ TÉODYL NKUINTCHUA, THE STATE OF COMMUNITY LAND RIGHTS IN AFRICA (Dec. 2016) 11, *available at* http://rightsandresources.org/wp-content/uploads/2017/02/The-State-of-Community-Land-Rights-in-Africa_English_Africa-Community-Rights-Network_Dec-2016.pdf (last visited July 19, 2017).

³⁶¹ *Id.* at 35-36.

³⁶² National Environment Act of 1995, § 39, *available at* <http://www.wipo.int/edocs/lexdocs/laws/en/ug/ug019en.pdf> (last visited July 19, 2017).

³⁶³ Veit, *supra* note 352.

XI. Immigration and Border Security

Immigration Law Prohibitions against TIP and Migrant Smuggling

The Uganda Citizenship and Immigration Control Act, which is the primary legislative act that governs immigration control,³⁶⁴ does not itself contain prohibitions against TIP and migrant smuggling. TIP is generally prohibited under the Prevention of Trafficking in Persons Act (PTIP Act).³⁶⁵ However, despite the fact that Uganda's Border and Immigration Procedure Manual reportedly contains information on the detection of cross-border migrant smuggling, it is not specifically regarded as a criminal act.³⁶⁶ This is not to say that no aspect of migrant smuggling is criminalized: perpetrators of TIP who produce, tamper with, falsify, utter, or aid another in uttering false immigration documents "for the purpose of facilitating . . . entry or stay in Uganda, or exit from the country"³⁶⁷ may be punished to a fine not exceeding 120 currency points, up to five years' imprisonment, or both, with the possibility of up to seven years' imprisonment for a recidivist offense. Nonetheless, this does not rise to the level of a specific prohibition against migrant smuggling.

It is reported that Immigration officers are empowered to deal with trafficking incidents; however, whether through the operation of law or practice, trafficking cases tend to be referred out of the Directorate of Citizenship and Immigration Control to the Coordination Office to Combat Trafficking in Persons.³⁶⁸

Protections for TIP Victims in Immigration Law

Ugandan immigration law does not provide protections for TIP victims; however, the PTIP Act does appear to envision a degree of immigration relief for non-citizen TIP victims who may or may not otherwise be in violation of the immigration laws.

The PTIP Act establishes generally that non-citizen TIP victims should be repatriated to their home countries.³⁶⁹ However, where repatriation "is likely to expose the victim to greater risks, to compromise his or her safety, or [is] necessary for court proceedings",³⁷⁰ the Minister for Internal Affairs is authorized to offer the victim residency permits, work permits, and as much maintenance as is necessary to protect, assist, and support them.³⁷¹ TIP victims who otherwise qualify for Ugandan refugee status should otherwise be eligible for all the protections established under the

³⁶⁴ Uganda Citizenship and Immigration Control Act of 2009, *available at* <https://www.ulii.org/ug/legislation/consolidated-act/66> (last visited July 19, 2017).

³⁶⁵ The Prevention of Trafficking in Persons Act of 2009, *available at* <https://www.ulii.org/ug/legislation/act/2015/7> (last visited July 19, 2017) [hereinafter PTIP Act].

³⁶⁶ International Organisation for Migration, Republic of Uganda Border and Migration Management Assessment 34 (2016), *available at* https://publications.iom.int/system/files/uganda_border_report_web.pdf (last visited July 19, 2017).

³⁶⁷ PTIP Act, *supra* note 365, at § 7.

³⁶⁸ *Id.* at § 46.

³⁶⁹ *Id.* at § 14(1).

³⁷⁰ *Id.* at § 14(3).

³⁷¹ *Id.*

Refugee Act.³⁷²

Finally, regardless of repatriation, the PTIP Law gives victims the right to receive restitution or compensation from the TIP offender.³⁷³

Denial of Entry or Visa Revocation for TIP Offenders

It is not clear from the statutory language of the Citizenship and Immigration Control Act that a TIP offense would specifically render an individual inadmissible to Uganda. To the extent that TIP offenders would be considered “undesirable immigrants”³⁷⁴ for the purposes of the Act, they would certainly be inadmissible. This is also true of individuals who commit a variety of immigration frauds,³⁷⁵ or who have engaged in drug trafficking.³⁷⁶ ABA ROLI is unable to determine whether being a TIP offender would satisfy the requirements of Section 52(d) of the Citizenship and Immigration Control Act, which provides that “any person whose presence in or entry into Uganda is, or at the time of his or her entry was, unlawful under this Act *or any other law for the time being in force*”³⁷⁷.

Similarly, it does not appear that TIP offenses specifically constitute grounds for deportability, although the PTIP Act specifically provides that an individual who has been *charged* with an offense under the act may be liable to extradition, under the terms and conditions of the Extradition Act.³⁷⁸

³⁷² Refugees Act of 2006, *available at* <http://www.refworld.org/docid/4b7baba52.html> (last visited July 19, 2017).

³⁷³ PTIP Act, *supra* note 365, at § 17.

³⁷⁴ Citizenship and Immigration Control Act, *supra* note 364, at § 52(g).

³⁷⁵ *Id.* at § 66(1).

³⁷⁶ *Id.* at § 52(f).

³⁷⁷ *Id.* at § 52(d) (emphasis added).

³⁷⁸ Extradition Act of 1964, *available at* <http://www.refworld.org/docid/3ae6b4d238.html> (last visited July 19, 2017).

XII. National Security and Humanitarian Emergencies

National Security Laws and Strategies

Chapter 12 of the Ugandan Constitution addresses national security. It provides that the Uganda Peoples' Defence Forces (UPDF) shall, among other things, "preserve and defend the sovereignty and territorial integrity of Uganda," and "cooperate with the civilian authority in emergency situations and in cases of natural disasters."³⁷⁹ The Constitution charges the Uganda Police Force (UPF) with maintaining internal security, including protecting life and property, preserving law and order, and preventing and detecting crime.³⁸⁰

A National Security Council advises the President on matters relating to national security.³⁸¹

Firearm Import/Export Regulations

The Firearms Act of 1970 regulates the importation and exportation of firearms, and the issuance of firearms licenses.³⁸²

Conflict Resources Regulations

Uganda is signatory to the Lusaka Declaration of the International Conference of the Great Lakes Region (ICGLR) Special Summit to Fight Illegal Exploitation of Natural Resources in the Great Lakes Region (Lusaka Declaration).³⁸³ Pursuant to the Lusaka Declaration, the state has committed to: (1) establishing a regional certification mechanism for conflict-related minerals; (2) harmonizing national legislation across the Great Lakes countries; (3) establishing a regional database on mineral flows; (4) formalizing the regional artisanal mining sector; (5) promoting the Extractive Industry Transparency Initiative; and (6) implementing whistle blowing mechanisms.³⁸⁴

The Lusaka Declaration's provisions focus on regulating the trade of tin, coltan, wolframite, and gold, and the Certification Scheme is intended to encourage more rigorous mine site inspection, more careful chain of custody tracking, and the use of rigorous and independent third-party audits.³⁸⁵

³⁷⁹ UGANDA CONST., arts. 208-09, *available at* https://www.constituteproject.org/constitution/Uganda_2005.pdf?lang=en Constitution (last visited July 19, 2017) [hereinafter UGANDA CONST.].

³⁸⁰ *Id.* at art. 212.

³⁸¹ *Id.* at art. 219; National Security Council Act of 2000, *available at* <https://www.ulii.org/ug/legislation/consolidated-act/301> (last visited July 19, 2017).

³⁸² Firearms Act of 1970, *available at* <https://www.ulii.org/ug/legislation/consolidated-act/299> (last visited July 19, 2017).

³⁸³ ICGLR Special Summit to Fight Illegal Exploitation of Natural Resources in the Great Lakes Region (Lusaka Declaration), *available at* <https://www.oecd.org/corporate/mne/47143500.pdf> (last visited July 19, 2017).

³⁸⁴ *Id.* at art. 2.

³⁸⁵ INTERNATIONAL CONFERENCE OF THE GREAT LAKES REGION (ICGLR) & PARTNERSHIP AFRICA CANADA, BRIEFING NOTE ON THE ICGLR REGIONAL CERTIFICATION MECHANISM 1-2, *available at* http://www.pacweb.org/Documents/icglr/PAC_Briefing_Note_on_the_ICGLR_Regional_Certification_Mechanism
ABA Rule of Law Initiative

Despite the fact that Uganda has signed the Lusaka Declaration, ABA ROLI cannot confirm whether it has implemented any of the Declaration's tools to curb the illegal exploitation of mineral resources.

Emergency Management Laws and Strategies

The Constitution empowers the President of Uganda to declare states of emergency;³⁸⁶ however, when emergencies are declared, the government is otherwise empowered to suspend a number of human rights.

Uganda also has in place a National Policy for Disaster Preparedness and Management,³⁸⁷ which lays out the responsibilities of a number of government ministries in the case of national disasters and human emergencies.³⁸⁸ Although this Policy does not explicitly address the fact that humanitarian emergencies render affected populations more vulnerable to TIP, it does acknowledge that women, children, the elderly, and persons with disabilities face specific disaster-related vulnerabilities.³⁸⁹ As such, the Policy calls for gender mainstreaming in disaster preparedness initiatives,³⁹⁰ which may ultimately enable the Ugandan government to more specifically address TIP in the event of natural or human disasters.

sm_June_2012.pdf (last visited July 19, 2017).

³⁸⁶ UGANDA CONST., *supra* art. 110.

³⁸⁷ OFFICE OF THE PRIME MINISTER, DEPARTMENT OF DISASTER PREPAREDNESS AND MANAGEMENT, THE NATIONAL POLICY FOR DISASTER PREPAREDNESS AND MANAGEMENT (Apr. 2011), *available at* http://www.ug.undp.org/content/dam/uganda/docs/UNDPUG2014-National%20Disaster%20Policy%20Nov%202013_FINAL.pdf (last visited July 19, 2017).

³⁸⁸ *Id.*

³⁸⁹ *Id.* at § 4.14.

³⁹⁰ *Id.* at § 4.14.2.

XIII. Conclusion

Uganda has an anti-TIP legislative framework and a number of institutions that exist specifically to combat TIP. However, absent the provision of more funds to entities that are charged with improving services to victims, the state's ability to adequately rehabilitate trafficking victims will continue to be limited.

With respect to investigation and prosecution efforts, Ugandan law does sufficiently criminalize a number of TIP offenses, and by attempting to extend criminal liability for TIP offenses to labor recruiters the state has shown its commitment towards challenging TIP in forced labor industries.³⁹¹ However, as of 2016 these amendments had remained pending for the fourth consecutive year.³⁹² Furthermore, the fact that migrant smuggling is not itself a criminal offense weakens the overall anti-TIP legal framework, and inhibits Uganda's immigration services particularly from being able to challenge certain TIP-related offenses at the borders where they may occur.

Although the Ugandan government has conducted a number of national awareness initiatives, the status of the labor laws, and the lack of regulation in high-risk industries, continues to pose significant trafficking risks. The establishment of sufficient minimum wage regulations, particularly sector-based minimum wage regulations, could help to create and/or improve oversight in a number of industries; furthermore, implementation of the Lusaka Declaration's certification mechanisms would help to provide significant oversight in the Ugandan minerals sector, and thus limit the use of child labor in these sectors.³⁹³

³⁹¹ S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016 378, *available at* <https://www.state.gov/documents/organization/258882.pdf> (last visited July 19, 2017).

³⁹² *Id.*

³⁹³ *Id.*