

Country Report: Zambia¹



I. Introduction

Country Overview

The Republic of Zambia is a large, tropical country that is landlocked by the Democratic Republic of the Congo, Tanzania, Malawi, Mozambique, Zimbabwe, Botswana, Namibia and Angola.² Its population is approximately 15.51 million. Zambia is home to numerous ethnicities, the largest of whom is the Bembe (33.4%).³ Zambia gained independence from the United Kingdom in 1964.⁴

Zambia had one of the world's fastest growing economies for the ten years up to 2014, with real GDP growth averaging roughly 6.7% per annum, though growth slowed in 2015 and 2016 to just under 3%.⁵ Zambia's lack of economic diversification and dependency on copper as its sole major export makes it vulnerable to fluctuations in the world commodities market and prices.⁶ Despite recent strong economic growth and its status as a lower middle-income country, widespread and extreme rural poverty and high unemployment levels remain significant problems, made worse by a high birth rate, a relatively high HIV/AIDS burden, and by market-distorting agricultural and energy policies. The country's HIV/AIDS adult prevalence rate of 12.91% is the seventh highest in the world.⁷

Trafficking in Persons ("TIP") Context

Zambia is a "source, transit and destination country for men, women and children subjected to forced labor and sex trafficking."⁸ It was identified as a Tier 2 Country in 2016 by the U.S. Department of State's Office to Monitor and Combat Trafficking in Persons (J/TIP).⁹ Despite not fully meeting the minimum standards for eliminating trafficking, the government is making significant efforts to do so.

Between April 1, 2015 and March 31, 2016, the government investigated 13 cases, nine of which

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 *Zambia*, CIA WORLD FACTBOOK, <https://www.cia.gov/library/publications/the-world-factbook/geos/za.html> (last visited Aug. 5, 2017).

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016 400, *available at* <https://www.state.gov/documents/organization/258882.pdf> (last visited July 17, 2017) [hereinafter U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016].

⁹ *Id.* at 401.

were prosecuted; five of these cases resulted in convictions. The government's minimal budget for anti-TIP efforts severely limited its capacity to provide services to victims. In addition, limited training for investigators, police, prosecutors, magistrates, and judges on human trafficking continued to hamper the government's anti-TIP law enforcement efforts.¹⁰

Zambia's Anti-Human Trafficking Act criminalizes some forms of trafficking; contrary to international law, however it requires the use of threat, force, intimidation, or other forms of coercion for a child to be considered a sex trafficking victim.¹¹ The act prescribes penalties ranging from 20 years' to life imprisonment, which are sufficiently stringent and commensurate with penalties prescribed for other serious crimes, such as rape.¹²

¹⁰ *Id.*

¹¹ Anti-Human Trafficking Act, No. 11 of 2008, art. 3, *available at* <http://ilo.org/dyn/natlex/docs/MONOGRAPH/79940/86184/F202769530/ZMB79940.pdf> (last visited Aug. 5, 2017).

¹² U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 8, at 400-01.

II. Institution Mapping

Government Structure

Executive

Zambia is a presidential republic.¹³ The country was ruled by one party until 1991, and subsequent elections have been publicly disputed.¹⁴ The government is led by a president, who is directly elected by absolute majority popular vote in two rounds if needed for a five-year term (and eligible for a second term).¹⁵ The President's Cabinet is appointed by the President from members of the National Assembly,¹⁶ and the Cabinet itself is answerable to the National Assembly.¹⁷

Legislative

The unicameral National Assembly consists of 164 seats, of which 156 members are directly elected in single-seat constituencies by simple majority vote and eight members are appointed by the president.¹⁸ All members serve five-year terms.¹⁹

Judicial

Zambia's highest courts are the Supreme Court, consisting of a chief justice, deputy chief justices, and at least 11 judges, and the Constitutional Court, consisting of the court president, vice-president, and 11 judges.²⁰ Judges are appointed by the president upon the advice of a nine-member Judicial Service Commission headed by the chief justice and ratified by the National Assembly.²¹ Lower courts include the Court of Appeal, High Court, Industrial Relations Court, as well as Small Claims Court and local courts. The legal system is a mix of English common law and customary law.²²

Criminal Justice

The Zambia Police Service ("ZPS") is responsible for internal security and order.²³ The army, air force, and national service are responsible for external security.²⁴ The Department of Immigration monitors international borders, and has trained its officers at ports of entry to identify and

¹³ *Zambia*, CIA WORLD FACTBOOK, <https://www.cia.gov/library/publications/the-world-factbook/geos/za.html> (last visited Aug. 5, 2017) [hereinafter *Zambia*, CIA WORLD FACTBOOK].

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Alfred S. Magagula, *The Law and Legal Research in Zambia* (Oct. 2009), GLOBALEX, available at <http://www.nyulawglobal.org/globalex/Zambia.html> (last visited Aug. 5, 2017).

¹⁸ *Zambia*, CIA WORLD FACTBOOK, *supra* note 13.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ U.S. DEP'T OF STATE, ZAMBIA 2015 HUMAN RIGHTS REPORT 6, available at <https://www.state.gov/documents/organization/252955.pdf> (last visited Aug. 5, 2017).

²⁴ *Id.*

interview potential victims of trafficking.²⁵

Zambia's Director of Public Prosecutions (DPP) is appointed by the president, and manages the country's prosecutorial services.²⁶

Anti-Corruption and Ethics

Zambia has an Anti-Corruption Commission (ACC), whose mandate to coordinate the country's anti-corruption and prevention initiatives is established under the Anti-Corruption Commission Act and the Anti-Corruption Act.²⁷ The Board of Commissioners of the ACC is appointed by the President, and has Standing Committees for strategy, corruption prevention, community education, adult and risk management, and corporate affairs.²⁸ The Commission additionally oversees the work of a number of other government oversight institutions, including the Judiciary's Office of the Auditor-General, the Directorate of Public Prosecutions, and the Office of the Ombudsman.²⁹

The Commission's Investigations Department is responsible for the investigation of corrupt practices, and its Legal and Prosecutions Directorate is responsible for prosecuting offenses under the Anti-Corruption Act.³⁰

Regulatory Bodies

Zambia has a number of growth industries in which TIP may be present or prevalent, including the agricultural sector, overseen by the Department of Agriculture, the copper mining industry, overseen by the Ministry of Mines and Mineral Development, and the tourism industry, which is overseen by those entities responsible for national parks and game management.³¹

²⁵ U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016 402, *available at* <https://www.state.gov/documents/organization/258882.pdf> (last visited July 17, 2017) [hereinafter U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016].

²⁶ Institute for Security Studies, *The Criminal Justice System in Zambia: Policy Brief No. 9*, July 2009, *available at* <https://www.files.ethz.ch/isn/112447/POLBRF6.pdf> (last visited Aug. 5, 2017).

²⁷ Anti-Corruption Commission Act, No. 42 of 1996, *available at* <http://www.track.unodc.org/LegalLibrary/LegalResources/Zambia/Laws/Zambia%20Anti-Corruption%20Commission%20Act%201996.pdf> (last visited Aug. 5, 2017); Anti-Corruption Act, No. 3 of 2012, *available at* <http://www.parliament.gov.zm/sites/default/files/documents/acts/Anti%20Corruption%20Act%2C%202012.PDF> (last visited Aug. 5, 2017); *About Us*, ANTI-CORRUPTION COMMISSION ZAMBIA, <http://www.acc.gov.zm/about/> (last visited Aug. 5, 2017)..

²⁸ *Structure*, ANTI-CORRUPTION COMMISSION ZAMBIA, <http://www.acc.gov.zm/structure/> (last visited Aug. 5, 2017).

²⁹ Kayobo Ng'Andu, *The National Corruption Prevention Policy and Strategy – Zambia's Panacea to Curb Corruption*, <http://www.icac.org.hk/news/issue26eng/button4.htm> (last visited Aug. 5, 2017).

³⁰ *Functions*, ANTI-CORRUPTION COMMISSION ZAMBIA, <http://www.acc.gov.zm/functions/> (last visited Aug. 5, 2017).

³¹ *See generally Zambia Country Commercial Guide: Zambia*, EXPORT.GOV (July 13, 2016), <https://www.export.gov/apex/article?id=Zambia-Market-Overview> (last visited Aug. 5, 2017).

Traditional Justice Systems

Zambia's local courts operate under the principles of customary law.³² These courts have jurisdiction over a wide variety of civil matters, including marriage, divorce, and inheritance, and a small number of criminal matters.³³ Judges in such courts are generally prominent local citizens, and lawyers are generally barred from appearing in their proceedings.³⁴ Judgments of the local courts are "often . . . not in accordance with the Penal Code. For example, they tend to discriminate against women in matters of inheritance."³⁵

Anti-Trafficking Institutions

Zambia has an anti-trafficking inter-ministerial committee;³⁶ however, this committee did not meet during the reporting period for the U.S. Department of State's 2016 Trafficking in Persons Report.³⁷

A number of other government entities play a role in Zambia's anti-TIP initiatives. For instance, the Ministry of Labor and Social Security (MLSS) has a specialized Child Labor Unit that assists in the handling of child labor cases.³⁸ The Ministry of Community Development, Mother and Child Health (MCDMCH) provides assistance and shelter services to victims.³⁹ However, there are few of these options available, and the NGOs running such shelters report a lack of resources and capacity.⁴⁰ The Ministry of Community Development and Social Services has launched several anti-trafficking awareness-raising campaigns,⁴¹ and the MLSS additionally takes responsibility for monitoring labor sites and regulating fees paid by workers to recruitment agencies.⁴² However, the MLSS during the most recent reporting period did not employ any labor inspectors.⁴³

Zambia also has a Ministry of Chiefs and Traditional Affairs and a Ministry of Gender and Child Development, which are involved in providing services for children and women.⁴⁴

³² Magagula, *supra* note 17.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 25, at 402.

³⁷ *Id.*

³⁸ *Id.* at 401.

³⁹ *Id.* at 401-02.

⁴⁰ *Id.* at 402.

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ U.S. DEP'T OF STATE, ZAMBIA 2016 HUMAN RIGHTS REPORT 11, *available at* <https://www.state.gov/documents/organization/265528.pdf> (last visited Aug. 5, 2017).

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

Anti-TIP Legal Framework

Domestic Statutory Authority

Trafficking in persons is prohibited by the Constitution of Zambia.⁴⁵

In terms of domestic statutory authority, Zambia's primary anti-TIP legislation is the Anti-Human Trafficking Act (AHTA), which effectively incorporates into domestic law the terms of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.⁴⁶ The TIP Act provides for the prohibition, prevention, and prosecution of human trafficking, establishes a Committee on Human Trafficking, and provides for its powers and functions; furthermore, it establishes centers for the victims of trafficking, and creates a Human Trafficking Fund which is financed through voluntary contributions, parliamentary appropriations, and grants from both national and international sources.⁴⁷ The TIP Act also creates a Human Trafficking Fund.

The AHTA defines human trafficking as the recruitment, transport, transfer, harbouring, receipt, or obtaining of a person for the purposes of exploitation, within or across Zambia's territorial boundaries, by means of threat or use of force or other forms of corruption, abduction, fraud or deception, false or illegal adoption of a child, fraud relating to travel documents, abuse of the law, or the giving or receipt of payments to obtain the victim's consent.⁴⁸ The penalties for trafficking range from 20 to 35 years generally, with aggravated offenses providing punishments ranging from a top end of 35 years to life imprisonment.⁴⁹

The AHTA additionally prohibits acts similar to slavery, including debt bondage, serfdom, practices relating to the forced marriage of women, and practices relating to the delivery of children away from their natural parents or guardians.⁵⁰

In imposing a "threat, force, or coercion" requirement upon the crime of trafficking of children, this definition of trafficking is not considered to be consistent with international law.⁵¹

Zambia's Penal Code additionally prohibits a number of acts related to TIP, including abduction, kidnapping with intent to subject an individual to slavery, the purchase or disposal of a person for

⁴⁵ Zambia Constitution of 1991, arts. 11, 24, *available at* https://www.constituteproject.org/constitution/Zambia_2009.pdf?lang=en (last visited Aug. 5, 2017) [hereinafter ZAMBIA CONST.].

⁴⁶ The Anti-Human Trafficking Act, No. 11 of 2008, *available at* <http://ilo.org/dyn/natlex/docs/MONOGRAPH/79940/86184/F202769530/ZMB79940.pdf> (last visited Aug. 5, 2017) [hereinafter AHTA].

⁴⁷ *Id.* at art. 102.

⁴⁸ *Id.* at art. 2.

⁴⁹ *Id.* at art. 3.

⁵⁰ *Id.* at art. 2.

⁵¹ U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016 401, *available at* <https://www.state.gov/documents/organization/258882.pdf> (last visited July 17, 2017) [hereinafter U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016].

slavery, the dealing in slavery, and unlawful compulsory labor.⁵²

Domestic Policies and Action Plans

Zambia had a national action plan to prevent human trafficking between 2012 and 2015; however, as of the end of the reporting period for the U.S. Department of State's 2016 Trafficking in Persons Report, the country had not reviewed or updated this document.⁵³ ABA ROLI has not located a publicly-available copy of this document online to review its terms.

However, Zambia does have a number of other policies and action plans in place which may cover aspects of or implicate TIP. For example, the National Child Labor Policy designates agencies to address child labor issues, and the National Action Plan for the Elimination of the Worst Forms of Child Labor prioritizes the improvement of child labor laws, protecting children from hazardous labor, strengthening institutional capacity to combat child labor, raising awareness on the issue, and establishing monitoring and evaluation systems.⁵⁴

International Agreements

Namibia has ratified or acceded to a number of international agreements relevant to addressing TIP, including:

- the UN Convention against Transnational Organized Crime (UNTOC);
- the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime;
- the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime;
- the Convention on the Rights of the Child and its Optional Protocol on the sale of Children, Child Prostitution and Child Pornography;⁵⁵ and
- International Labor Organization (ILO) Conventions:
 - No. 29 (concerning Forced or Compulsory Labor);
 - No. 105 (concerning the Abolition of Forced Labor);
 - No. 138 (concerning Minimum Age for Admission to Employment); and
 - No. 182 (concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor).⁵⁶

⁵² See, e.g., The Penal Code Act, No. 42 of 1930 (*as amended* 2005), arts. 251-63, available at <http://www.parliament.gov.zm/sites/default/files/documents/acts/Penal%20Code%20Act.pdf> (last visited Aug. 5, 2017).

⁵³ U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 51, at 402.

⁵⁴ See *Child Labor and Forced Labor Reports: Zambia*, U.S. DEP'T OF LAB., BUREAU OF INT'L LAB. AFF., <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/zambia> (last visited Aug. 5, 2017).

⁵⁵ See *Multilateral Treaties Deposited with the Secretary-General*, UNITED NATIONS TREATY COLLECTION, https://treaties.un.org/Pages/TreatyParticipantSearch.aspx?clang=_en (last visited Aug. 5, 2017) (select "Zambia" in the drop-down Participant list to access a full list of international treaties and agreements deposited with the U.N. Secretary-General that Zambia has ratified or acceded to).

⁵⁶ *Ratifications for Zambia*, INT'L LABOUR ORG., http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:103264 (last visited Aug. 5, 2017).

Anti-TIP Institutional Framework

The AHTA establishes the Committee on Human Trafficking, which “coordinates the activities of all the relevant institution on matters connected with trafficking.”⁵⁷ However, Zambia does not have a national trafficking-in-persons monitoring and reporting mechanism.

ABA ROLI was unable to identify whether any other government institutions have specific mandates to address TIP.

The AHTA addresses inter-agency, multi-sectoral, regional, and/or international cooperation to address trafficking-in-persons. Specifically, the Attorney General may, at the request of a competent authority of a foreign state, disclose to that authority any information in the Attorney-General’s possession relating to any of the following: (a) the actions or movements of persons suspected of involvement in an offence under the Act; (b) the use of forged or falsified travel papers by persons involved in an offence under the Act; (c) the use of communications technologies by persons suspected of involvement in an offence under this Act; or (d) the commission of offences by any person against the Act. The Attorney General may only make such disclosures if the disclosure is not prohibited by any provision of law and will not be prejudicial to national security or to public safety.⁵⁸

If a foreign state makes a request for assistance in the investigation or prosecution of an offence under the TIP Act, or for the tracking, attachment or forfeiture of property that is located in Zambia and has been used in the furtherance of an act which, if it had been committed in Zambia, would constitute an offence under the Act, the Attorney-General may execute the request, decline to execute the request, or delay its execution, and inform the foreign state making the request of the reasons therefor.⁵⁹

The President may, on such conditions as he or she may determine, enter into an agreement with a foreign state that is not a State Party to the Protocol in respect of any matter pertaining to TIP. The President may also enter into an agreement with a foreign state that is a state party to the Protocol in respect of any matter pertaining to trafficking in persons for the purposes of supplementing the provisions of the Protocol or to facilitate the application of the principles contained therein.⁶⁰

According to the U.S. Department of State, all law enforcement courses at the police academy include training covering the AHTA, as well as investigation techniques and procedures to identify and protect TIP victims.⁶¹ The Zambian government uses a database to track trafficking case data.

Zambia’s Minimum Standard Guidelines on Protection of Victims of Trafficking outline minimum requirements for victim care to include establishment and upgrade of existing shelters.⁶² While the government made vigorous efforts to increase the availability of shelter options in previous years,

⁵⁷ AHTA, *supra* note 46, at arts. 100-101.

⁵⁸ *Id.* at arts. 91-94.

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 51, at 401.

⁶² U.N JOINT PROGRAMME ON HUMAN TRAFFICKING ZAMBIA, MINIMUM STANDARD GUIDELINES ON PROTECTION OF VICTIMS OF HUMAN TRAFFICKING (Oct. 2012), *available at* <https://www.iom.int/files/live/sites/iom/files/Country/docs/Minimum-Standard-Guidelines.pdf> (last visited Aug. 5, 2017).

government agencies and NGOs reported a lack of resources to establish or upgrade additional shelters.⁶³

⁶³ U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 51, at 401.
ABA Rule of Law Initiative

IV. Justice System

Access to Justice

Equality and Non-Discrimination Provisions

Every person in Zambia is entitled to a number of fundamental rights, without regard to their race, place of origin, political opinion, color, creed, sex or marital status.⁶⁴ It does not appear that Zambia restricts legal standing or access to justice on any other basis.

Access to Legal Aid

Access to legal aid in Zambia is governed by the Legal Aid Act.⁶⁵ The Act establishes a legal aid board, and is mandated with providing both criminal and legal services to indigent persons.⁶⁶

Criminal Law and Procedure

Zambia has several criminal justice institutions that carry TIP-related mandates, including the police, the prosecutorial services, and the border control agency; however, ABA ROLI has not been able to locate standard operating procedures (SOPs) for these agencies and thus cannot confirm whether any of these documents contain anti-TIP provisions or guidelines.

The Zambia Police Force (ZPF) appears to have both a Gender unit and a Victim Support Unit, both of which may carry mandates to intervene in TIP-related matters.⁶⁷ The U.S. Department of State reports that the National Police Academy conducts trainings on the Anti-Human Trafficking Act (AHTA), which include both case investigation techniques and procedures for the identification and protection of victims.⁶⁸

Zambia's Directorate of Public Prosecutions (DPP) is responsible for making charging decisions and prosecuting TIP and TIP-related cases; this includes making decisions as to whether TIP victims should be prosecuted for offenses that directly result from their victimization.⁶⁹

At Zambian borders, officers of the ZPS, the Anti-Corruption Commission, the Drug Enforcement Commission, immigration officers, and Customs and Excise Officers are all authorized to question

⁶⁴ Zambia Constitution of 1991, art. 11, *available at* https://www.constituteproject.org/constitution/Zambia_2009.pdf?lang=en (last visited Aug. 5, 2017).

⁶⁵ Legal Aid Act, No. 30 of 1967 (*as amended, 1972*), *available at* <http://www.parliament.gov.zm/sites/default/files/documents/acts/Legal%20Aid%20Act.pdf> (last visited Aug. 5, 2017).

⁶⁶ *See About Us*, LEGAL AID BOARD, <http://www.legalaidboard.org.zm/> (last visited Aug. 5, 2017).

⁶⁷ *See Gender Unit*, ZAMBIA POLICE SERVICE, <http://www.zambiapolice.gov.zm/index.php/2012-11-23-08-17-17/directorates/administration/human-resource-management/registry> (last visited Aug. 5, 2017); *Zambia Police Victim Support Unit Responds*, ZAMBIA DAILY MAIL (Apr. 28, 2016), <https://www.daily-mail.co.zm/zambia-police-victim-support-unit-responds/> (last visited Aug. 5, 2017).

⁶⁸ U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016 401, *available at* <https://www.state.gov/documents/organization/258882.pdf> (last visited Aug. 5, 2017).

⁶⁹ The Anti-Human Trafficking Act, No. 11 of 2008, art. 24, *available at* <http://ilo.org/dyn/natlex/docs/MONOGRAPH/79940/86184/F202769530/ZMB79940.pdf> (last visited Aug. 5, 2017) [hereinafter AHTA].

individuals who they reasonably believe may be involved in TIP.⁷⁰ They may also search any relevant ships, aircrafts, or conveyances that they reasonably suspect may carry or harbor traffickers or TIP-related effects, and are authorized to board such conveyances in order to do so.⁷¹

Extradition

Zambia is not a party to any mutual legal assistance treaty; Zambia has negotiated but not yet signed a mutual legal assistance treaty with South Africa.⁷²

Under the terms of the Extradition Act, Zambia will grant extradition for offenses that are punishable both under Zambian and the requesting country's laws with imprisonment of at least one year.⁷³ The law does not make extradition conditional on the existence of a treaty.⁷⁴ The AHTA specifically provides that TIP and TIP-related offenses may give rise to extradition.⁷⁵

⁷⁰ *Id.* at arts. 70-71.

⁷¹ *Id.* at arts. 73, 76.

⁷² *Extradition and Mutual Legal Assistance in criminal matters treaties*, REPUBLIC OF SOUTH AFRICA DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT, <http://www.justice.gov.za/ilr/mla.html#sthash.2sL6RIP1.dpuf> (last visited Aug. 5, 2017).

⁷³ Extradition Act, No. 8 of 1983, art. 4, *available at* <http://www.parliament.gov.zm/sites/default/files/documents/acts/Extradition%20Act.pdf> (last visited Aug. 5, 2017).

⁷⁴ *Id.*

⁷⁵ AHTA, *supra* note 69, at art. 95.

V. Economic System

Economic and Financial Crimes

Money Laundering

Money laundering is defined under the Prohibition and Prevention of Money Laundering Act (Money Laundering Act) as:

- (a) engaging, directly indirectly, in a business transaction that involves property acquired with the proceeds of crime;
- (b) receiving, possessing, concealing, disguising, disposing of or bringing into Zambia, any property derived or realized directly or indirectly from illegal activity; or
- (c) the retention or acquisition of property knowing that the property is derived or realized, directly or indirectly, from illegal activity.⁷⁶

Money laundering committed by an individual is punishable by up to ten years' imprisonment, a fine not exceeding 170,000 penalty units, or both.⁷⁷ Juridical persons convicted of the crime may be subject to a fine not exceeding 400,000 penalty units; and persons acting on behalf of a juridical person (e.g., a director, manager, secretary, or other persons in a similar position) may be punished as if they were individuals.⁷⁸

The Money Laundering Act provides for the establishment of an Anti-Money Laundering Authority, comprised of the Attorney General of Zambia, the Inspector-General of the Zambia Police Force, the Commissioner under the Narcotic Drugs and Psychotropic Substances Act (the Commissioner), the Director-General of the Anti-Corruption Commission, the Governor of the Bank of Zambia, the Commissioner-General of the Zambia Revenue Authority, and two other persons (who are not defined by law).⁷⁹ The Authority advises the Commissioner on policy directives related to money laundering, and on measures that may help to prevent and detect the crime.⁸⁰

It further establishes an Anti-Money Laundering Investigation Unit, which is charged with collecting and evaluating financial information that may be related to money laundering; conducting investigations into the crime; liaising with other agencies with respect to money laundering; supervising reporting requirements upon regulated institutions under the Money Laundering Act; and prosecuting money laundering related crimes.⁸¹

The Financial Intelligence Centre (FIC), established under the terms of the Financial Intelligence Centre Act,⁸² also has responsibilities with respect to suspicious transaction reports and the

⁷⁶ The Prohibition and Prevention of Money Laundering Act, No. 14 of 2001, art. 2, *available at* http://www.dec Zambia.gov.zm/downloads/Act_14_of_2001.pdf (last visited Aug. 5, 2017).

⁷⁷ *Id.* at art. 7.

⁷⁸ *Id.* at art. 8.

⁷⁹ *Id.* at art. 3.

⁸⁰ *Id.* at art. 4.

⁸¹ *Id.* at art. 6.

⁸² Financial Intelligence Centre Act, No. 46 of 2010, *available at* <http://www.parliament.gov.zm/sites/default/files/documents/acts/The%20Financial%20Intelligence%20Centre%20Act%202010A.PDF> (last visited Aug. 5, 2017) [hereinafter Financial Intelligence Centre Act].

issuance of policy directives relating to the commission of proceeds of crime offenses.⁸³

Financial Fraud

Zambia does not appear to have laws that specifically criminalize financial fraud; however, a number of other criminal laws may punish financial crimes, including the obtaining of pecuniary advantage or credit by false pretenses,⁸⁴ and frauds by individuals in a position of trust.⁸⁵

Intent to defraud is presumed under Zambian law “if it appears that, at the time when [a] false document [is] made, there was in existence a specific person ascertained or unascertained capable of being defrauded thereby.”⁸⁶ It is not a defense to this presumption that an offender took or intended to take measures to shield that individual from in fact being defrauded; nor is it a defense that the offender has or thinks they have a right to be obtained under the terms of the false document.⁸⁷

Impersonation, or identity theft, is also a crime under Zambian law.⁸⁸

Forgery and Counterfeiting

The forgery of currency notes, coins, stamps, and trademarks is illegal under the Zambian penal code.⁸⁹

Terrorist Financing

Zambian law prohibits terrorist financing under the Anti-Terrorism Act.⁹⁰ The Act punishes those who “invite[] another to provide or make available money or other property; and intend[] that any money or other property should be used for the purposes of terrorism”, as well as those who in fact provide that property, with life imprisonment.⁹¹

Regulation and Monitoring of International Financial Transactions

Zambian law requires financial institutions to have appropriate risk management systems to identify those who pose high risks of terrorism and/or money laundering.⁹² Zambian law requires border officials to examine goods and identify whether the goods have been used in the “commission, preparation or instigation of acts of human trafficking.”⁹³

⁸³ *Id.* at arts. 5, 8.

⁸⁴ *See, e.g.*, The Penal Code Act, No. 42 of 1930 (*as amended* 2005), arts. 308, 312, *available at* <http://www.parliament.gov.zm/sites/default/files/documents/acts/Penal%20Code%20Act.pdf> (last visited Aug. 5, 2017) [hereinafter Penal Code].

⁸⁵ *Id.* at arts. 323-27.

⁸⁶ *Id.* at art. 345.

⁸⁷ *Id.*

⁸⁸ *See id.* at art. 378.

⁸⁹ *Id.* at arts. 342-377.

⁹⁰ The Anti-Terrorism Act, No. 21 of 2007, art. 20, *available at*

http://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/ZAM_anti_terrorism.pdf (last visited Aug. 5, 2017).

⁹¹ *Id.*

⁹² Financial Intelligence Centre Act, *supra* note 82, at arts. 20, 25.

⁹³ The Anti-Human Trafficking Act, No. 11 of 2008, art. 78, *available at*

Financial transactions are generally monitored by the Bank of Zambia.⁹⁴ However, ABA ROLI has not identified any laws or policies that would provide financial institutions with guidance on potential TIP indicators or red flags.

Foreign investors must submit investment requests and/or proposals to the Zambia Development Agency Board; if granted, foreign investors will be granted business licenses and permits to form a business enterprise.⁹⁵

Asset Freezing and Forfeiture

Funds used in furtherance of an offense under the TIP act may be subject to seizure and detention;⁹⁶ furthermore, items used in counterfeiting and forgery may be subject to seizure under the Zambian Penal Code.⁹⁷

Remittances

The U.S. Department of State reports that there are no restrictions in Zambia on the “inflow or outflow of funds for remittances of profits or revenue.”⁹⁸ ABA ROLI has not been able to determine whether Zambia has any other laws or policies that would encourage or discourage the use of remittances.

<http://ilo.org/dyn/natlex/docs/MONOGRAPH/79940/86184/F202769530/ZMB79940.pdf> (last visited Aug. 5, 2017) [hereinafter AHTA].

⁹⁴ The Bank of Zambia (Balance of Payments Monitoring) Regulations of 2013, Instruemnt No. 55 of 2013, *available at*

https://www.fnbzambia.co.zm/downloads/zambia/regulations/Monitoring_of_Balance_of_Payments-Export_Receipt_Monitoring_Form.pdf (last visited Aug. 5, 2017); Bank of Zambia, Balance of Payments Monitoring Guide (2013), *available at*

<http://pic.bankofchina.com/bocappd/zambia/201312/P020131224529854803511.pdf> (last visited Aug. 5, 2017); Zambia Development Agency Act, No. 11 of 2006, *available at*

<http://ilo.org/dyn/natlex/docs/ELECTRONIC/90114/103666/F-1295800516/ZMB90114.pdf> (last visited Aug. 5, 2017) [hereinafter Zambia Development Agency Act]; Zambia Development Agency (Amendment) Act, No. 15 of 2012, *available at*

http://www.parliament.gov.zm/sites/default/files/documents/amendment_act/ZDA%20%28Amendment%29.PDF (last visited Aug. 5, 2017); Zambia Development Agency (Amendment) Act, No. 17 of 2013, *available at* <http://extwprlegs1.fao.org/docs/pdf/zam133273.pdf> (last visited Aug. 5, 2017).

⁹⁵ Zambia Development Agency Act, *supra* note 94, at art. 68.

⁹⁶ AHTA, *supra* note 93, at art. 51.

⁹⁷ *See, e.g.*, Penal Code, *supra* note 84, at arts. 347, 373.

⁹⁸ U.S. DEPARTMENT OF STATE, 2015 INVESTMENT CLIMATE STATEMENT 8 (June 2015), *available at* <https://www.state.gov/documents/organization/242010.pdf> (last visited Aug. 5, 2017).

VI. Corporations

Liability of Legal Persons for Violations of Law

The Anti-Human Trafficking Act (AHTA), does not hold non-natural persons criminally liable for offenses under the act.⁹⁹ The AHTA also does not create a civil cause of action against non-natural persons.¹⁰⁰

The Prohibition and Prevention of Money Laundering Act (Money Laundering Act) provides that non-natural persons may be held liable and fined for violations of its provisions.¹⁰¹

Under the AHTA, shareholders may be held liable to the extent that they are involved in the commission of any crime under the Act, or know that the money they make available is being used for the furtherance of the crime.¹⁰² Directors and officers of an entity may be held liable for a corporate act where it is proved that the act was committed either with the consent of the director or officer, or due to the negligence of the director or officer.¹⁰³

Compliance with Laws on Incorporation

Zambian law provides that corporations may have articles of incorporation that lay out restrictions on company business and regulate company conduct.¹⁰⁴ Where companies do not write their own articles of incorporation, the Companies Act provides that public or private share-limited companies will be deemed to have adopted Zambia's Standard Articles if they do not otherwise exclude or modify them;¹⁰⁵ however, these Standard Articles make no mention of TIP or any TIP-related practices.¹⁰⁶

ABA ROLI has not identified whether Zambian law imposes any specific oversight mechanisms to ensure corporate compliance with incorporation requirements; however, to the extent that penalties are provided for false statements relating to the Companies Act, companies may incur liability for violations of the laws on incorporation.¹⁰⁷

⁹⁹ The Penal Code Act, No. 42 of 1930 (*as amended* 2005), art. 2, *available at* <http://www.parliament.gov.zm/sites/default/files/documents/acts/Penal%20Code%20Act.pdf> (last visited Aug. 5, 2017); *see generally* The Anti-Human Trafficking Act, No. 11 of 2008, *available at* <http://ilo.org/dyn/natlex/docs/MONOGRAPH/79940/86184/F202769530/ZMB79940.pdf> (last visited Aug. 5, 2017) [hereinafter AHTA].

¹⁰⁰ *See generally* AHTA, *supra* note 99; Companies Act, No. 26 of 1994, arts. 7(1)-(2), *available at* <http://www.parliament.gov.zm/sites/default/files/documents/acts/Companies%20Act.pdf> (last visited Aug. 5, 2017) [hereinafter Companies Act].

¹⁰¹ The Prohibition and Prevention of Money Laundering Act, No. 14 of 2001, art. 3, *available at* http://www.dec Zambia.gov.zm/downloads/Act_14_of_2001.pdf (last visited Aug. 5, 2017).

¹⁰² AHTA, *supra* note 99, at arts. 13-15.

¹⁰³ *Id.* at art. 13.

¹⁰⁴ Companies Act, *supra* note 100.

¹⁰⁵ *Id.* at art. 7.

¹⁰⁶ *Id.* at Schedule I.

¹⁰⁷ *Id.* at art. 381.

Corporate Social Responsibility Initiatives

Zambia has a Citizens Economic Empowerment Act that addresses a number of corporate social responsibility obligations.¹⁰⁸ For instance, the Act obliges private and public entities to identify and eliminate barriers in their employment policies and practices, implement measures designed to further workplace diversity and inclusiveness, and make reasonable accommodations where necessary for employees.¹⁰⁹ The Act also establishes a Commission for Citizens' Economic Empowerment to ensure that companies make mandatory contributions to national pension schemes, that foreign investors engage in joint ventures with citizen-owned firms, and that firms have codes of good practice that are consistent with the objectives of the Act.¹¹⁰

Supply Chain Transparency and Accountability

The Common Market for Eastern and Southern Africa (COMESA), of which Zambia is a member, provides that Zambian exporters may receive preferential trade treatments as long as they remain in compliance with COMESA's Rule of Origin procedures.¹¹¹

ABA ROLI has been unable to identify any other laws or procedures in Zambia that would require companies to engage in supply chain analysis to identify TIP or TIP-related practices; nor has it identified any rules or regulations that would prohibit government entities from engaging in contracts with firms that employ TIP or TIP-related practices in their supply chains.

Contract Law

ABA ROLI has not identified any publicly-available provisions of statutory law that address when contracts may be rendered void or voidable. However, in the Zambian High Court case of *Joan v Hodgson*, the Court makes multiple references to the principles of English contract law;¹¹² as a result, it is possible that those principles generally apply in Zambian law and jurisprudence.

¹⁰⁸ Citizens Economic Empowerment Act, No. 9 of 2006, *available at* <http://www.zambialii.org/zm/legislation/act/2006/9/cea2006284.pdf> (last visited Aug. 5, 2017).

¹⁰⁹ *Id.* at art. 13(1).

¹¹⁰ *See generally id.*

¹¹¹ Common Market for Eastern and Southern Africa Treaty art. 48, Nov. 5, 1993, *available at* www.wipo.int/wipolex/en/other_treaties/text.jsp?file_id=173329 (last visited Aug. 5, 2017); Protocol on the Rules of Origin for Products to be Traded between the Member States of the Common Market for Eastern and Southern Africa, *available at* http://etradeportal.go.ke/media/comesa_rules.pdf (last visited Aug. 5, 2017).

¹¹² *Joan v Hodgson*, 2007/HK/433, High Court of Zambia, at J15-22, *available at* <https://www.zambialii.org/zm/judgment/high-court/2011/38/45.%20Hudgson%20-%20Judgment.pdf> (last visited Aug. 5, 2017) (note that ABA ROLI has been unable to confirm whether this case has been overturned or otherwise voided).

VII. Natural Resources, Environment, and Property

Natural Resource Extraction Laws

Logging

Zambia's logging industry is regulated by the Director of Forestry under the terms of the Forests Act.¹¹³ The Act provides for the creation of national, local, and private forests, and charges the Directorate of Forestry, in consultation with rights-holders in forest areas (including local communities and joint forest management committees) with managing these lands.¹¹⁴

The Directorate is permitted to offer forest products for sale via auction, tender, or estimate;¹¹⁵ furthermore, it is authorized to issue sawmill and concession licenses, which allow sawmill owners or citizens to process timber or cut, fell, or process timber from specified forest areas. Both kinds of licenses can only be granted for a period not to exceed five years.¹¹⁶ Other licenses that may be issued include conveyance permits, merchants' permits, export and import permits, domestic user permits, cord-wood permits (which allow holders to harvest or use wood for the purposes of firework or charcoal production), fire permits (which allow holders to set fires for the purpose of forest management), and tree-felling permits.¹¹⁷

The terms and conditions of licenses must specify the circumstances under which the licenses may be suspended, cancelled, or renewed, in addition to provisions relating to fees, conditions for wood-cutting (including quantities of forest produce that may be harvested), requirements for reforestation, and the payment of compensation for damages.¹¹⁸ However, ABA ROLI has been unable to review any publicly-available samples of forest licenses to determine whether they contain provisions relating to TIP or TIP-related practices.

Fishing

Fishing licenses in Zambia are issued by the Director of Fisheries under the terms laid out in the Fisheries Act.¹¹⁹ The Act lays out restrictions on fishing methods, introduction of non-native fish, and the import and export of fish and fish product.¹²⁰ It provides that no person may engage in fishing or aquaculture without the relevant licenses,¹²¹ and notes that environmental impact assessments must be conducted before persons engage in aquaculture.¹²²

¹¹³ The Forest Act, No. 4 of 2015, *available at* <http://www.parliament.gov.zm/sites/default/files/documents/acts/The%20Forest%20Act%202015.pdf> (last visited Aug. 5, 2017) [hereinafter Forest Act].

¹¹⁴ *Id.* at arts. 10-28, 31-32, 37, 42.

¹¹⁵ *Id.* at art. 51.

¹¹⁶ *Id.* at art. 52.

¹¹⁷ *Id.* at art. 53.

¹¹⁸ *Id.* at art. 55(2).

¹¹⁹ The Fisheries Act, No. 22 of 2011, *available at* <http://www.parliament.gov.zm/sites/default/files/documents/acts/The%20Fisheries%20%20Act%2C%20%202011.pdf> (last visited Aug. 5, 2017).

¹²⁰ *Id.* at arts. 15, 19, 23, 25.

¹²¹ *Id.* at arts. 35, 43.

¹²² *Id.* at art. 45.

ABA ROLI has not been able to determine whether Zambia's fishing and aquaculture laws require firms or individuals to follow any guidelines on TIP or TIP-related practices prior to engaging in commercial fishing activities.

Mining

Zambia's Mines and Minerals Development Act provides that all rights of ownership in, and rights to mine or dispose of, minerals in the Republic of Zambia vest in the President on behalf of the country.¹²³ The Directorates of Mines, Mines Safety, Geological Survey, and Mining Cadastre are in charge of implementing the terms of the Act.¹²⁴ To this end, they supervise and regulate mine development and mining operations, with a view towards ensuring the protection of the environment as well as public health and safety.¹²⁵

Nobody may explore for minerals or carry on mining, mineral processing, or gold panning operations without possessing a right, license, or certificate, granted under the terms of the Act, or without obtaining the permission of the Zambia Environmental Management Agency.¹²⁶ Mineral rights (read broadly) may only be granted to firms that have incorporated under the Companies Act, or have established a registered office in Zambia.¹²⁷

Licenses are generally granted on the basis of whether an applicant has the financial resources and technical resources necessary to conduct the proposed activity, whether the proposed expenditure is compatible with the program of work, and whether the program of work makes proper provisions for environmental protection.¹²⁸ Additionally, with respect to mining operations, the Act provides that applicants must establish that they meet standards for good mining practices; for large-scale mining operations specifically, applicants must undertake to employ and train Zambian citizens with a view towards promoting the development of local businesses.¹²⁹

Violations of environmental terms in mining and mineral licenses may result in the firm having to pay damages to redress the harm.¹³⁰ However, it is not clear that mining and mineral licenses may be revoked for failure to comply with environmental regulations; nor is it clear whether licenses may be revoked for violations of labor laws.

Oil and Gas

Oil and gas extraction is governed by the Zambian Petroleum Committee pursuant to the terms of

¹²³The Mines and Minerals Development Act, No. 11 of 2015, art. 3, *available at* <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/101344/122055/F-1171521983/ZWE101344.pdf> (last visited Aug. 5, 2017) [hereinafter Mines and Minerals Development Act].

¹²⁴*Id.* at art. 5.

¹²⁵*Id.* at arts. 5(2)-(3).

¹²⁶*Id.* at art. 12; *see also* Environmental Management Act, No. 12 of 2011, art. 29, *available at* <http://extwprlegs1.fao.org/docs/pdf/zam117523a.pdf> (last visited Aug. 5, 2017) [hereinafter EMA].

¹²⁷ Mines and Minerals Development Act, *supra* note 123, at art. 14(2).

¹²⁸ *See, e.g., id.* at art. 22(1).

¹²⁹ *Id.* at arts. 31(1)(e)-(f)(ii).

¹³⁰ *Id.* at art. 87.

the Petroleum (Exploration and Production) Act.¹³¹ No person may enter into any petroleum-related operations without first entering into a contract with the Republic of Zambia, in accordance with the terms of the Act.¹³² Contracts may not be entered into without the firm first showing that they can contribute the necessary funds, assets, machinery, equipment, tools and technical expertise necessary for successful performance of their contractual obligations.¹³³

Companies that obtain petroleum contracts under the terms of the Act are obliged to undertake, amongst other things, that they will employ and train Zambian nationals, with a view to replacing all foreign personnel over time, and that they will purchase Zambian goods and services, to the extent that they are priced within competitive margins.¹³⁴ They further undertake to maintain environmental safety, to carry out their operations in a workmanlike manner, and to take all necessary steps to ensure the safety, health, and welfare of employees.¹³⁵

It appears that failure to comply with the provisions of the Act could result in revocation of a contract; such failure to comply appears to encompass failure to maintain the labor and employment provisions laid out above.¹³⁶ Violations of the Act may also constitute a criminal offense, punishable upon conviction to a fine not exceeding 25,000 penalty units, a term of imprisonment not exceeding three years, or both.¹³⁷

Environmental Regulation

Zambian law regulates air quality and emissions,¹³⁸ drinking water quality,¹³⁹ hazardous waste management,¹⁴⁰ forest conservation,¹⁴¹ and wildlife conservation and poaching.¹⁴²

¹³¹ Petroleum (Exploration and Production) Act, No. 10 of 2008, *available at* <http://www.zamlii.org/zm/legislation/act/2008/10/peapa2008416.pdf> (last visited Aug. 5, 2017).

¹³² *Id.* at art. 17(2).

¹³³ *Id.* at art. 20(1).

¹³⁴ *Id.* at art. 26.

¹³⁵ *Id.* at art. 32.

¹³⁶ *Id.* at art. 47.

¹³⁷ *Id.* at art. 49.

¹³⁸ EMA, *supra* note 126; Air Pollution Control (Licensing and Emission Standards) Regulations, Instrument No. 141 of 1996, *available at* <http://extwprlegs1.fao.org/docs/pdf/zam48235.pdf> (last visited Aug. 5, 2017); The Environmental Protection and Pollution Control (Environmental Impact Assessment) Regulations, Instrument No. 28 of 1997, *available at* <http://faolex.fao.org/docs/pdf/zam10326.pdf> (last visited Aug. 5, 2017).

¹³⁹ EMA, *supra* note 126; The Water Act, No. 34 of 1948, *available at* <http://faolex.fao.org/docs/pdf/zam1678.pdf> (last visited Aug. 5, 2017); The Water Resources Management Act, No. 21 of 2011, *available at* <http://faolex.fao.org/docs/pdf/zam117433.pdf> (last visited Aug. 5, 2017) [hereinafter Water Resources Management Act].

¹⁴⁰ Water Resources Management Act, *supra* note **Error! Bookmark not defined.**; The Hazardous Waste Management Regulations, Instrument No. 125 of 2001, *available at* <http://extwprlegs1.fao.org/docs/pdf/zam63977.pdf> (last visited Aug. 5, 2017).

¹⁴¹ Forest Act, *supra* note 113, at Preamble.

¹⁴² *Id.*; *see also* Zambia Wildlife Act, No. 12 of 1998, *available at* http://theredddesk.org/sites/default/files/wildlife_act_12_1998_1.pdf (last visited Aug. 5, 2017).

Land Ownership and Eminent Domain

The Lands Act of 1995 vests ownership of all land in the President, on behalf of the people of Zambia.¹⁴³ Land administration may occur under both statutory and customary tenure systems, by government officials and traditional authorities, respectively.¹⁴⁴

ABA ROLI was unable to identify information regarding whether Zambian law restricts land ownership, e.g., with respect to whether non-citizens or foreign corporation may own land.

The Constitution of Zambia places restrictions on the government's ability to expropriate land. The government is generally prohibited from compulsorily taking possession of or acquiring an interest or a right over property unless the Parliament passes an Act, which provides for the payment of adequate compensation before the acquisition occurs.¹⁴⁵ However, the Lands Acquisition Act generally provides that the President may engage in a compulsory acquisition "whenever he is of the opinion that it is desirable in the interests of the Republic to do so."¹⁴⁶ The government must provide adequate compensation in such circumstances, and the courts have jurisdiction to hear disputes over the amount.¹⁴⁷ It does not appear that those whose property is subject to an expropriation may, under the terms of the Land Acquisition Act, challenge the expropriation itself.

Zambia does not appear to have any other laws that specifically prohibit land-grabbing.

¹⁴³ Lands (Amendment) Act, No. 20 of 1995, *available at* https://www.zambialii.org/zm/legislation/consolidated_act/184 (last visited Aug. 5, 2017).

¹⁴⁴ *Land Rights and Governance*, ZAMBIA LAND ALLIANCE, <http://www.zla.org.zm/2014/06/land-resources-management/> (last visited Aug. 5, 2017).

¹⁴⁵ Zambia Constitution of 1991, art. 16(1), *available at* https://www.constituteproject.org/constitution/Zambia_2009.pdf?lang=en (last visited Aug. 5, 2017).

¹⁴⁶ Land Acquisition Act, No. 2 of 1970, art. 3, *available at* <http://faolex.fao.org/docs/pdf/zam36114.pdf> (last visited Aug. 5, 2017).

¹⁴⁷ *Id.* at art. 11(2).

VIII. Individual Rights

Ratification of and Accession to International and Regional Human Rights Treaties

Zambia 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 Economic, Social, and Cultural Rights (ICESCR);
- 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 Convention relating to the Status of Stateless Persons; and
- the Convention and Protocol Relating to the Status of Refugees (Refugee Convention).¹⁴⁸

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

- the African Charter on Human and Peoples' Rights (Banjul Charter);¹⁴⁹
- the African Charter on the Rights and Welfare of the Child;¹⁵⁰ and
- the Organization for African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa.¹⁵¹

Zambia is a dualist state, and thus treaties do not automatically take the effect of domestic law once signed. However, as of 2013, no Zambian law provided guidelines on how international instruments may be effectively incorporated, and as a result there did not at that time appear to be a “clear legal obligation” to do so.¹⁵² ABA ROLI has not determined whether this state of affairs has changed since 2013.

Legal Guarantees of Equality and Non-Discrimination

The Zambian Constitution provides that, subject to exceptions discussed below, no law shall make any provision that is discriminatory either of itself or in its effect.¹⁵³ “Discrimination” is defined in

¹⁴⁸ 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 “Zambia” in the drop-down Participant list to access a full list of international treaties and agreements deposited with the U.N. Secretary-General that Zambia has ratified or acceded to).

¹⁴⁹ African Charter on Human and Peoples' Rights, June 27, 1981, 21 I.L.M. 58.

¹⁵⁰ African Charter on the Rights and Welfare of the Child, July 11, 1990, OAU Doc. CAB/LEG/24.9/49.

¹⁵¹ Convention Governing the Specific Aspects of Refugee Problems in Africa, Sep. 10, 1969, 1001 U.N.T.S. 45.

¹⁵² JOYCE SHEZONGO-MACMILLAN, ZAMBIA: JUSTICE SECTOR AND THE RULE OF LAW 4 (Mar. 2013), available at http://www.osisa.org/sites/default/files/afriamap_zambia_justice_main_report_web_5july.pdf (last visited Aug. 5, 2017).

¹⁵³ Zambia Constitution of 1991, art. 23, available at

the Constitution as affording different and inferior treatment to different persons attributable, wholly or mainly, to their respective descriptions by race, tribe, sex, place of origin, marital status, political opinions, colour, or creed.¹⁵⁴

However, persons who are not citizens of Zambia are not necessarily guaranteed equal treatment with respect to “adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law”.¹⁵⁵ Furthermore, while the Constitution will void laws that discriminate on the basis of gender, this does not apply when customary law governs personal matters such as marriage, children, divorce, or inheritance; thus, with respect to such personal matters, the rights of women may be abridged in practice.¹⁵⁶

Rights of Foreigners and Stateless Individuals

The Constitution of Zambia does not appear to reserve fundamental rights to the citizens of the country.¹⁵⁷

With respect to the rights of refugees and stateless individuals, Zambia has recently passed a new Refugees Act, which incorporates into domestic law the terms of the Refugee Convention.¹⁵⁸ The law lays out a number of rights for refugees, including the right to own Zambian property, the right to access the court system upon the same terms as a citizen, and the right to primary education.¹⁵⁹ Refugees must be issued with identity cards, and it appears that they must also be issued with travel documentation.¹⁶⁰

ABA-ROLI researchers were unable to identify information regarding whether Zambian law explicitly protect the rights and freedoms of foreign citizens and stateless people.

State Human Rights Guarantees

The Constitution of Zambia guarantees a number of fundamental civil and political rights, including:

- the right to life;¹⁶¹

https://www.constituteproject.org/constitution/Zambia_2009.pdf?lang=en (last visited Aug. 5, 2017) [hereinafter ZAMBIA CONST.].

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

¹⁵⁶ USAID COUNTRY PROFILE: PROPERTY RIGHTS AND RESOURCE GOVERNANCE: ZAMBIA 5 (2016), *available at* https://www.land-links.org/wp-content/uploads/2016/09/USAID_Land_Tenure_Zambia_Profile.pdf (last visited Aug. 5, 2017).

¹⁵⁷ ZAMBIA CONST., *supra* note 153, at art. 11.

¹⁵⁸ *President Lungu approves Progressive New Law on Refugees Living in Zambia*, LUSAKATIMES.COM (June 22, 2017), <https://www.lusakatimes.com/2017/06/22/president-lungu-approves-progressive-new-law-refugees-living-zambia/> (last visited Aug. 5, 2017).

¹⁵⁹ Refugees Act No. 1 of 2017, art. 41(3), *available at*

<http://www.parliament.gov.zm/sites/default/files/documents/acts/The%20Refugees%20Act%20No.%201%20of%202017.pdf> (last visited Aug. 5, 2017).

¹⁶⁰ *Id.* at arts. 47, 50.

¹⁶¹ ZAMBIA CONST., *supra* note 153, at arts. 11-12.

- the rights to liberty and security of person;¹⁶²
- the right to fair trial;¹⁶³
- freedom from torture;¹⁶⁴
- freedom of movement;¹⁶⁵
- the right to free expression, thought, conscience and religion;¹⁶⁶
- the right to be protected from slavery and forced labor,¹⁶⁷ including the rights of young people to be free from exploitation;¹⁶⁸
- criminal justice rights, including the right to know the charges against one in a language one understands, the right to a fair trial, and the right to legal counsel;¹⁶⁹
- freedom of peaceful assembly and association;¹⁷⁰ and
- freedom from arbitrary or unlawful interference with one's privacy or property.¹⁷¹

State Human Rights Bodies

The Constitution of Zambia envisions the creation of a national Human Rights Commission.¹⁷² The Commission is established under the terms of the Human Rights Commission Act,¹⁷³ and charges it with investigating human rights violations, “maladministration of justice”, and proposing effective measures to limit and prevent human rights abuses.¹⁷⁴ The Commission is further specifically charged with inspecting conditions in detention facilities, and rehabilitating victims of human rights abuses.¹⁷⁵

The Commission has broad investigatory powers, including the power to subpoena persons and records, question any person on any matter under investigation, and compel the disclosure of information.¹⁷⁶ While the Commission is authorized to recommend punishments for officers found to have perpetrated human rights abuses, the release of individuals from detention, and the payment of compensation to victims of rights abuses or their families,¹⁷⁷ it is not clear whether it has prosecutorial powers or the powers of a court of law to actively hand down legally-binding sentences.

¹⁶² *Id.* at art. 11.

¹⁶³ *Id.* at art. 18.

¹⁶⁴ *Id.* at art. 15.

¹⁶⁵ *Id.* at art. 22.

¹⁶⁶ *Id.* at arts. 19-20.

¹⁶⁷ *Id.* at art. 14.

¹⁶⁸ *Id.* at art. 24.

¹⁶⁹ *Id.* at art. 26.

¹⁷⁰ *Id.* at art. 21.

¹⁷¹ *Id.* at art. 17.

¹⁷² *Id.* at art. 125.

¹⁷³ Human Rights Commission Act, No. 39 of 1996, *available at* <http://www.parliament.gov.zm/sites/default/files/documents/acts/Human%20Rights%20Commission%20Act.pdf> (last visited Aug. 5, 2017).

¹⁷⁴ *Id.* at arts. 9(a)-(c).

¹⁷⁵ *Id.* at arts. 9(d)-(e).

¹⁷⁶ *Id.* at art. 10(2)(a)-(c).

¹⁷⁷ *Id.* at arts. 10(2)(d), 10(4).

IX. Labor Rights

Work Protections Established by Law

Applicable International Instruments

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

- ILO Convention No. 29 (concerning Forced or Compulsory Labor);
- ILO Convention No. 105 (concerning the Abolition of Forced Labor);
- ILO Convention No. 138 (concerning Minimum Age for Admission to Employment); and
- ILO Convention No. 182 (concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor).¹⁷⁸

Domestic Legal Protections

The Constitution of Zambia recognizes the right of every person to “fair labour practices and safe and healthy working conditions.”¹⁷⁹ However, this right is conferred not as an affirmative fundamental right, but rather as a non-judiciable Directive Principle of State Policy;¹⁸⁰ to that end, it is only protected to the extent that Zambia’s laws must comport with that general principle, “in so far as State resources are able to sustain [its] application, or if the general welfare of the public so unavoidably demands, as may be determined by Cabinet.”¹⁸¹

Other Constitutional provisions that relate to work and labor practices include the general right to be free from slavery and forced labor, as well as the right of young persons to be free from exploitation in an occupation or employment that might prejudice their health or education or interfere with their physical, mental, or moral development.¹⁸²

Zambia’s employment rules are otherwise governed by a number of other laws, including the Employment Act, the Minimum Wages and Conditions of Employment Act (Conditions of Employment Act), and the Public Interest Disclosure (Protection of Whistleblowers) Act.¹⁸³

¹⁷⁸ *Ratifications for Zambia*, INT’L LABOUR ORG., http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:103264 (last visited Aug. 5, 2017).

¹⁷⁹ Zambia Constitution of 1991, art. 112(j), *available at* https://www.constituteproject.org/constitution/Zambia_2009.pdf?lang=en (last visited Aug. 5, 2017) [hereinafter ZAMBIA CONST.].

¹⁸⁰ *Id.* at art. 111.

¹⁸¹ *Id.* at art. 110.

¹⁸² ZAMBIA CONST., *supra* note 179, at arts. 14, 24.

¹⁸³ Employment Act, No. 57 of 1965, *available at* <http://www.parliament.gov.zm/sites/default/files/documents/acts/Employment%20Act.pdf> (last visited Aug. 5, 2017) [hereinafter Employment Act]; Minimum Wages and Conditions of Employment Act, No. 25 of 1982, *available at* <http://www.parliament.gov.zm/sites/default/files/documents/acts/Minimum%20Wages%20and%20Conditions%20of%20Employment%20Act.pdf> (last visited Aug. 5, 2017) [hereinafter Conditions of Employment Act]; Public Interest Disclosure (Protection of Whistleblowers) Act, No. 4 of 2010, *available at* <http://www.parliament.gov.zm/sites/default/files/documents/acts/Public%20Interest%20Disclosure%20%28Protection%20of%20Whistleblowers%29%20Act%202010.PDF> (last visited Aug. 5, 2017).

Generally-speaking, Zambian law prohibits misleading or fraudulent labor recruitment practices, regulates the charging of workers' fees, and guarantees the right to collective bargaining.¹⁸⁴

Minimum Wage Requirements

Minimum wages in Zambia are governed by the Conditions of Employment Act and the Minimum Wages and Conditions of Employment (General) Order (Minimum Wages Order).¹⁸⁵ The Act authorizes the government to set minimum wages and/or conditions of employment by way of a statutory order, and the Minimum Wages Order effectuates this provision.¹⁸⁶

The Minimum Wages Order does not apply to employees of the Government of Zambia, of local authorities, workers engaged in domestic service, workers in occupations that are regulated by collective bargaining, or in sectors for which the Minister has otherwise prescribed a minimum wage.¹⁸⁷ The Minimum Wages Order contains a schedule that lays out the minimum wages for various areas of employment, excluding the listed categories.¹⁸⁸

The Minimum Wages and Conditions of Employment (Domestic Workers) Order (Domestic Workers Order) specifically provides that the minimum wage for domestic workers shall be K250,000 monthly;¹⁸⁹ this minimum wage applies to persons who take care of children, aged or sick persons, frail persons or persons with disabilities, within a household, as well as gardeners.¹⁹⁰

Working Hours Requirements

The Minimum Wages Order and the Domestic Workers Order both provide that employees may not work for more than 48 hours weekly, on Sundays, or on public holidays—provided that their terms of employment do not generally envision work on a Sunday.¹⁹¹

Overtime Remuneration

Employees and domestic workers who work for more than 48 hours weekly shall be paid at 1.5 times their hourly rate; those who work on paid public holidays or Sundays that do not generally form part of their working week must be compensated at twice their hourly rate.¹⁹²

Leave Requirements

¹⁸⁴ Employment Act, *supra* note 183, at arts. 15, 4, 56.

¹⁸⁵ Conditions of Employment Act, *supra* note 183; Minimum Wages and Conditions of Employment (General) Order, Instrument No. 2 of 2011, *available at* <http://www.ilo.org/dyn/travail/docs/2274/MWCE%20-%20General%20Order%202011.pdf> (last visited Aug. 5, 2017) [hereinafter Minimum Wages Order].

¹⁸⁶ Conditions of Employment Act, *supra* note 183, at art. 3.

¹⁸⁷ Minimum Wages Order, *supra* note 185, at art. 2.

¹⁸⁸ *Id.* at Schedule I, art. 1.

¹⁸⁹ Minimum Wages and Conditions of Employment (Domestic Workers) Order, No. 3 of 2011, *available at* <http://www.zambialaws.com/Subsidiary-Legislation/chapter-276-minimum-wages-and-conditions-of-employment-act-subsidiary-legislation.html> (last visited Aug. 5, 2017) [hereinafter Domestic Workers Order].

¹⁹⁰ *Id.* at art. 3.

¹⁹¹ Minimum Wages Order, *supra* note 185, at Schedule I, art. 3; Domestic Workers Order, *supra* note 189, at art. 6.

¹⁹² Minimum Wages Order, *supra* note 185, at Schedule I, art. 4; Domestic Workers Order, *supra* note 189, at art. 7.

Employees and domestic workers are entitled to two days' leave per month. Ordinary employees are only entitled to leave once they have completed six months' continuous service, and employers must agree in advance to the dates on which ordinary employees intend to take their leave.¹⁹³ Employees are entitled to three months' fully-paid sick leave, and an additional three months' sick leave at half-pay. If the employee has not recovered from their illness after that period of time, employers are permitted to discharge them from service.¹⁹⁴

Ordinary female employees are entitled to 90 days' maternity leave, after they have been in continuous service for a period of two years; any additional leave is subject to the general sick leave provisions.¹⁹⁵ However, employers are not permitted to terminate a woman's employment contract or impose any additional disadvantages on a female worker within six months of her confinement.¹⁹⁶

Provisions regarding annual leave for domestic workers generally match the annual leave requirements for ordinary workers.¹⁹⁷ However, domestic workers are only entitled to one month of sick leave, provided that the illness or accident necessitating leave cannot be attributed to the worker.¹⁹⁸ Domestic workers are entitled to 120 days' maternity leave, and any additional leave is calculated on the basis of the Domestic Workers Order's sick leave requirements.¹⁹⁹

Both the Minimum Wages Order and the Domestic Workers Order entitle female workers to additional sick leave in order to take care of their sick and hospitalized children.²⁰⁰

Labor Inspection and Oversight Systems

Zambia's Ministry of Labor and Social Security (MOLSS) oversees labor inspection through its Labour Inspection Unit and its Department of Occupational Safety and Health.²⁰¹ MOLSS collaborates with the Ministry of Health, the Department of Mines, and the Environmental Council of Zambia in conducting its inspections.²⁰²

Labor inspectors are charged with examining wages, the extent to which young people are employed in compliance with Zambia's provisions on child labor, compliance with the laws on leave and working hours, occupational safety and health standards, and social security provisions.²⁰³ Labor inspectors are further charged with dispute resolution, processing workers' compensation claims, and issuing permits for foreign workers.²⁰⁴

The Employment Act provides that employers who delay or obstruct labor inspectors during their

¹⁹³ Minimum Wages Order, *supra* note 185, at Schedule I, art. 5.

¹⁹⁴ *Id.* at Schedule I, art. 6.

¹⁹⁵ *Id.* at Schedule I, art. 7.

¹⁹⁶ *Id.*

¹⁹⁷ Domestic Workers Order, *supra* note 189, at art. 8.

¹⁹⁸ *Id.* at art. 9(1).

¹⁹⁹ *Id.* at art. 10.

²⁰⁰ Minimum Wages Order, *supra* note 185, at Schedule I, art. 6(2)(c); Domestic Workers Order, *supra* note 189, at art. 9(3).

²⁰¹ *Labour Inspection Structure and Organization: Zambia (July 2009)*, Int'l Labor Org., http://www.ilo.org/labadmin/info/WCMS_112936/lang--en/index.htm (last visited Aug. 5, 2017).

²⁰² *Id.*

²⁰³ *Id.*

²⁰⁴ *Id.*

work may be liable upon conviction to a fine not exceeding 2000 penalty units, or six months' imprisonment.²⁰⁵ Similarly, under the Factories Act, the obstruction of an inspector could result in a fine not exceeding 300 penalty units or imprisonment of up to one month.²⁰⁶

Applicability of Labor Laws to Migrant Workers

It appears that the labor laws of Zambia apply equally to citizens and non-citizens. However, to the extent that casual employees (defined as employees “whose employment provides for [their] payment at the end of each day and who is engaged for a period of not more than six months”)²⁰⁷ are excluded from the scope of the Employment Law and its associated Orders, it may be the case that migrant workers who are casual employees are not protected by the same provisions of Zambian labor law.

Zambia does have a process by which migrant workers may obtain work permits.²⁰⁸

Child Labor Laws

International Laws, Policies, and Agreements

Zambia has ratified the CRC, which recognizes the rights of children to be protected from economic exploitation by requiring State Parties to prohibit children from performing any work that is likely to be hazardous or to interfere with their education, or to be harmful to their health or development.²⁰⁹ 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.²¹⁰

Zambia has not ratified either of the Optional Protocols to the CRC.²¹¹ However, it has ratified ILO Convention no. 182 (concerning the Worst Forms of Child Labor).²¹²

Domestic Laws and Policies

Zambia has a number of domestic laws and policies that address child labor, including its worst forms.

²⁰⁵ *Id.*

²⁰⁶ *Id.*

²⁰⁷ Employment Act, *supra* note 183, at art. 3.

²⁰⁸ Zambia Work Permit, Intergate Immigration, www.workvisazambia.com/zambia-work-permit/ (last visited Aug. 5, 2017).

²⁰⁹ United Nations Convention on the Rights of the Child, art. 32(1), Nov. 20, 1989, 1577 U.N.T.S. 3.

²¹⁰ *Id.* at art. 32(2).

²¹¹ *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).

²¹² *Ratifications for Zambia*, INT'L LABOUR ORG., http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:103264 (last visited Aug. 5, 2017).

The minimum age for work in Zambia is 15; for hazardous work, defined under the Prohibition of Employment of Young Persons and Children (Hazardous Labour) Order, the minimum age is 18.²¹³

Under the Education Act, the government is obliged to provide free and compulsory elementary education up to the seventh grade.²¹⁴

Other laws that govern the employment of children include the Employment Amendment Act, which “aims to reduce child labor by addressing exploitation in casual labor”; the Gender Equality and Equity Act, “which seeks to reduce school dropout rates among girls.”²¹⁵

Policies that address child labor, including its worst forms, include the National Child Labor Policy, the National Action Plan for the Elimination of the Worst Forms of Child Labor (2010-2015), and the National Employment and Labor Market Policy.²¹⁶ A number of other policies otherwise govern youth education and aim to reduce school dropout rates; these include the National Youth Policy, the Education Policy and Education Act, and the Revised Sixth National Development Plan.²¹⁷

Provisions Regarding the Worst Forms of Child Labor

Zambian law generally outlaws the use of the worst forms of child labor.

The Defence Act establishes 18 as the minimum age for voluntary military service.²¹⁸

Additionally, the Penal Code, the Anti-Human Trafficking Act, and the Employment of Young Persons and Children Act all prohibit the use of children in forced labor, child trafficking, commercial sexual exploitation, and other illicit activities.²¹⁹

²¹³ See Prohibition of Employment of Young Persons and Children (Hazardous Labor) Order, Instrument No. 121 of 2013, art. 3, available at <http://www.ilo.org/dyn/natlex/docs/SERIAL/95833/113000/F-1150065941/ZMB95833.pdf> (last visited Aug. 5, 2017).

²¹⁴ *Child Labor and Forced Labor Reports: Zambia*, U.S. DEP'T OF LAB., BUREAU OF INT'L LAB. AFF., <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/zambia> (last visited Aug. 5, 2017).

²¹⁵ *Id.*

²¹⁶ *Id.*

²¹⁷ *Id.*

²¹⁸ Defence Act, No. 45 of 1964 (as amended 1994), art. 12, available at <http://www.parliament.gov.zm/sites/default/files/documents/acts/Defence%20Act.pdf> (last visited Aug. 5, 2017).

²¹⁹ *Child Labor and Forced Labor Reports*, *supra* note x.

X. Rights of Communities and Indigenous People

Recognition of Customary and Communal Land Rights

The Lands Act vests ownership of all land in the President, on behalf of the people of Zambia.²²⁰ Land administration may occur under both statutory and customary tenure systems, by government officials and traditional authorities, respectively.²²¹

The Lands Act allows for the conversion of customary land to statutory leasehold land,²²² provided that a customary chief provides written consent to the investor.²²³ USAID reports that since the passage of the Land Act in 1995, approximately 10% of land that had previously been held under customary tenure has been privatized through leasehold conversion; while this has reportedly resulted in much-needed rural infrastructure development, it has also “caused local people to lose access to water sources, grazing land, and forest products.”²²⁴

Governance of Land Without Formal Title

It does not appear that the Lands Act requires that formal title exist in order for customary and communal landholders to exercise their right to land.

Community Rights in Land-Based Development

As noted, community leaders have the right to alienate customary land in favor of third parties, including private investors. However, despite the fact that customary laws require traditional leaders to consult with their communities before engaging in such practices,²²⁵ a lack of transparency and accountability on the part of such leaders undermines communities’ rights in such practices.²²⁶

²²⁰ Lands (Amendment) Act, No. 20 of 1995, *available at* https://www.zambialii.org/zm/legislation/consolidated_act/184 (last visited Aug. 5, 2017).

²²¹ *Land Rights and Governance*, ZAMBIA LAND ALLIANCE, <http://www.zla.org.zm/2014/06/land-resources-management/> (last visited Aug. 5, 2017).

²²² USAID COUNTRY PROFILE: PROPERTY RIGHTS AND RESOURCE GOVERNANCE: ZAMBIA 1 (2016), *available at* https://www.land-links.org/wp-content/uploads/2016/09/USAID_Land_Tenure_Zambia_Profile.pdf (last visited Aug. 5, 2017) [hereinafter USAID, PROPERTY RIGHTS AND RESOURCE GOVERNANCE: ZAMBIA].

²²³ *Zambia Country Commercial Guide – Right to Private Ownership and Establishment*, EXPORT.GOV, <https://www.export.gov/article?id=Zambia-Right-to-Private-Ownership-and-Establishment> (last visited Aug. 5, 2017).

²²⁴ USAID, PROPERTY RIGHTS AND RESOURCE GOVERNANCE: ZAMBIA, *supra* note 222, at 1.

²²⁵ *Land Rights and Governance*, *supra* note 221.

²²⁶ *Id.*

Zambia requires community consultations during the process of developing environmental impact statements;²²⁷ however, the public is not considered to be a primary stakeholder in the environmental impact assessment process,²²⁸ and as such it is unclear whether communities are able to take an active voice in such proceedings.

²²⁷ Environmental Council of Zambia, *Environmental Impact Assessment Process in Zambia 7-9*, available at <http://apps.unep.org/redirect.php?file=/publications/pmtdocuments/-Environmental%20Impact%20Assessment%20Process%20in%20ZambiaEIA-Process%20Zambia.pdf> (last visited Aug. 5, 2017).

²²⁸ *Id.*

XI. Immigration and Border Security

Immigration Law Prohibitions against TIP and Migrant Smuggling

It does not appear that Zambia's Immigration and Deportation Act specifically prohibits or criminalizes migrant smuggling.²²⁹ However, the Anti-Human Trafficking Act (AHTA) does prohibit migrant smuggling, which is defined as "smuggli[ing] another person into or out of Zambia, participates in smuggling or who consents to be smuggled."²³⁰ The crime of migrant smuggling carries penalties of 300,000 penalty units, up to three years' imprisonment, or both.²³¹ Additionally, the production, provision, procurement, or possession of fraudulent travel or identity documents in furtherance of the smuggling of people is also criminal, and may result upon conviction in 10-15 years' imprisonment.²³²

Protections for TIP Victims in Immigration Law

Zambian immigration law provides special immigration status for TIP victims.²³³

While the AHTA does not explicitly prohibit TIP victims from being sanctioned or held liable for immigration violations that result from their being trafficked or smuggled, the Director of Public Prosecutions (DPP) has the ultimate authority to decide whether a prosecution will move forward.²³⁴

The Ministry responsible for Social Welfare shall not return a foreign child who is a victim to the child's country of origin or the country from where the child has been trafficked without giving due consideration to (a) the safety of the child during the repatriation process; (b) the availability and suitability of care arrangements in the country to which the child is to be returned; (c) the safety of the child in the country to which the child is to be returned; and (d) the possibility that the child might be harmed, killed or trafficked again.²³⁵

Denial of Entry or Visa Revocation for TIP Offenders

Under the AHTA, non-citizens who are or have been involved in the commission, preparation, or instigation of a TIP or TIP-related offense, or attempts to enter Zambia intending to engage in such a violation of the AHTA, may be deportable.²³⁶ Individuals subject to deportation under the provisions of the AHTA may appeal to the High Court for relief.²³⁷

²²⁹ Immigration and Deportation Act, No. 18 of 2010, *available at* http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_186144 (last visited Aug. 5, 2017).

²³⁰ The Anti-Human Trafficking Act, No. 11 of 2008, art. 9, *available at* <http://ilo.org/dyn/natlex/docs/MONOGRAPH/79940/86184/F202769530/ZMB79940.pdf> (last visited Aug. 5, 2017).

²³¹ *Id.*

²³² *Id.*

²³³ *Id.* at art. 34.

²³⁴ *Id.* at art. 24.

²³⁵ *Id.* at art. 36.

²³⁶ *Id.* at art. 84.

²³⁷ *Id.* at art. 84(5).

XII. National Security and Humanitarian Emergencies

National Security Laws and Strategies

ABA ROLI has been unable to identify any publicly-available laws or strategies of Zambia that relate specifically to national security.

However, the Constitution of Zambia provides that, in cases of war or other public emergencies, the President may declare a state of emergency, and thus suspend certain fundamental rights.²³⁸

Firearm Import/Export Regulations

Zambian law regulates the manufacture, sale, import, and export of firearms.²³⁹

Conflict Resources Regulations

While Ghana is a Candidate to participate in the Kimberly Process,²⁴⁰ ABA ROLI was unable to find any legislation specifically prohibiting the import and export of conflict resources.

Emergency Management Laws and Strategies

Zambia does have an emergency management law, which provides for the maintenance and operation of a system for the anticipation, preparedness, prevention, coordination, mitigation and management of disaster situations and the organization of relief and recovery from disasters.²⁴¹ The law does not address TIP or TIP-related practices.

²³⁸ Zambia Constitution of 1991, arts. 25, 30, *available at* https://www.constituteproject.org/constitution/Zambia_2009.pdf?lang=en (last visited Aug. 5, 2017).

²³⁹ *See* Firearms Act, No. 45 of 1969, *available at* <http://www.parliament.gov.zm/sites/default/files/documents/acts/Firearms%20Act.pdf> (last visited Aug. 5, 2017).

²⁴⁰ *Candidates*, KIMBERLEY PROCESS, <https://www.kimberleyprocess.com/en/candidates> (last visited Aug. 5, 2017).

²⁴¹ The Disaster Management Act, No. 13 of 2010, *available at* <http://www.parliament.gov.zm/sites/default/files/documents/acts/Disaster%20Management%20Act%202010.PDF> (last visited Aug. 5, 2017).

XIII. Conclusion

Although Zambia's economy has been growing, the country still faces significant challenges, including high unemployment levels, a high birth rate, an extremely high HIV/AIDS adult prevalence rate, and one of the highest death rates in the world.

As a result, while the Zambian government is making efforts to eliminate TIP, its efforts are limited due to a lack of sufficient resources. For example, the government includes training on TIP in all law enforcement courses at the police academy, and the government has been investigating and prosecuting some TIP cases. However, there is a lack of resources to provide services and shelters to victims of TIP.

Zambia does have a legal framework in place to address TIP; however, the Anti-Human Trafficking Act does not include a national TIP monitoring and reporting mechanism.

In addition, while some forms of TIP have been criminalized, contrary to international law, the TIP Act requires the use of threat, force, intimidation, or other forms of coercion for a child to be considered a sex trafficking victim.