

# Thematic Report: Institutions<sup>1</sup>



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## I. Introduction

### *Overview*

Given that governments ultimately hold responsibility for preventing, prosecuting, and protecting against trafficking in persons (TIP), forced labor, and migrant smuggling, it is important to understand the structure in which such initiatives are created and enforced.

To that end, this Thematic Report addresses the structures of the executive, legislative, and judicial branches of government in a number of sub-Saharan African countries.

It further addresses the countries' criminal justice institutions—including police, immigration, and prosecutorial services. In particular, the Criminal Justice section of this Report provides an overview of any specialized agencies within such services that handle issues related to TIP, children's welfare, and/or gender-related matters.

In countries of supply and production, traffickers rely both directly and indirectly on the corruption of government officials to support not only TIP, but illicit enterprises that may create ripe conditions for TIP to occur. As such, it is important to understand the extent to which governments regulate accountability and transparency and engage in anti-corruption initiatives. To that end, Part IV of this Report (Anti-Corruption and Accountability) addresses the extent to which the countries have laws and institutions that deal with anti-corruption measures.

ABA ROLI has identified a number of countries in this Report that have institutions that govern growth industries, including, for example, mining, fishing, and textiles. These growth industries may form a part of complex global supply chains that may involve multiple contractors and subcontractors across many countries and even continents; thus, industry regulation can help to prevent TIP at any part of the product supply chain that passes through these countries. Part V (Regulatory Bodies) identifies some government institutions that may help to regulate industries in these supply chains.

Informal and traditional justice systems are specifically considered in Part VI of this report, because in many parts of sub-Saharan Africa—and certainly in the countries addressed here—such justice systems remain the most accessible and most prevalent form of dispute resolution, particularly in rural, poor, and/or marginalized communities.<sup>2</sup> Thus, for many individuals who either are victims or are at risk of becoming victims of TIP, such systems may be their only recourse to justice. An understanding of how traditional justice systems fit into the overall legal and institutional framework of a country is therefore important to comprehensively addressing TIP.

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<sup>1</sup> 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.

<sup>2</sup> UNDP, *DOING JUSTICE: HOW INFORMAL JUSTICE SYSTEMS CAN CONTRIBUTE* 11-19, <http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/EwaWojkowska.pdf> (last visited Aug. 12, 2017).

Finally, the importance of institutions specifically designed to address TIP, particularly inter-governmental institutions, cannot be overstated. Such institutions encourage national cooperation between state agencies, aid effective multi-sectoral collaboration that actively involves civil society, aids mutual legal assistance across national borders, and generally improves information exchange—all these are key to addressing TIP in global supply chains. To that end, Part VII (Anti-Trafficking Institutions) identifies the extent to which the countries in this Report have such institutions, and draws attention to any specific anti-TIP initiatives that state agencies are currently undertaking.

The statements and analysis contained herein are the work of the American Bar Association's Rule of Law Initiative (ABA ROLI). They address, by and large, the *de jure* legal framework in Eritrea, Ethiopia, Ghana, Lesotho, Malawi, Namibia, Uganda, and Zambia. This Report is based primarily on desk review of freely and publicly-available laws and reports, supplemented in portions by the knowledge of ABA ROLI's local affiliates. Please note that the materials discussed in this Report capture only the legislative and policy framework of the relevant countries; *de facto* implementation of these laws may be at issue in some, if not all, of these states.

## II. Government Structure

### *Executive*

#### Eritrea

The State of Eritrea is nominally a presidential republic.<sup>3</sup> The President is to be indirectly elected by the National Assembly by an absolute majority vote of all the legislative members, and candidates for the role must be nominated by at least 20% of that body.<sup>4</sup> The President, Isaias Aferki, is the chief of state, the head of government, the head of the State Council, and the head of the legislative National Assembly.<sup>5</sup> Although the Ratified Constitution as written provides that the President shall not serve for more than two five-year terms,<sup>6</sup> President Aferki has served in this role since the last election in 1993.<sup>7</sup>

As noted, the President presides over the Eritrean cabinet, known as the Council of State.<sup>8</sup> The current Constitution permits the president to select Council ministers from amongst members of the National Assembly, or from among any other group.<sup>9</sup> The President is responsible for issuing rules and regulations on the organization, functions, and roles of the Council ministers.<sup>10</sup> The Council takes on an advisory role, and is charged with directing, supervising, and coordinating government affairs; preparing the national budget; preparing draft laws to be submitted to the National Assembly; and otherwise drafting and preparing national action plans for the government.<sup>11</sup>

Eritrea is divided into six regional administrative divisions, known as *Zobas*.<sup>12</sup> Each *Zoba* is divided into three tiers of administration on the basis of size, each of which has its own legislative body and judiciary.<sup>13</sup>

#### Ethiopia

The Federal Democratic Republic of Ethiopia is a federal parliamentary republic whose President is indirectly elected by both chambers of Parliament and may serve for up to two six-year terms.<sup>14</sup> The Prime Minister is chosen by the majority party following legislative elections, but his or her

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<sup>3</sup> *Eritrea*, CIA WORLD FACTBOOK, <https://www.cia.gov/library/publications/the-world-factbook/geos/er.html> (last visited July 22, 2017) [hereinafter *Eritrea*, CIA WORLD FACTBOOK].

<sup>4</sup> Constitution of Eritrea (1997), art. 41(1), available at <http://confinder.richmond.edu/admin/docs/Eritrea1997English.pdf> (last visited July 22, 2017) [hereinafter ERITREA CONST.].

<sup>5</sup> *Eritrea*, CIA WORLD FACTBOOK, *supra* note 3.

<sup>6</sup> ERITREA CONST., *supra* note 4, at art. 41(2).

<sup>7</sup> *Eritrea*, CIA WORLD FACTBOOK, *supra* note 3.

<sup>8</sup> *Id.*

<sup>9</sup> ERITREA CONST., *supra* note 4, at art. 46(2).

<sup>10</sup> *Id.* at art. 46(4).

<sup>11</sup> *Id.* at art. 46(3).

<sup>12</sup> Luwam Dirar & Kibrom Tesfagabir, *UPDATE: Introduction to Eritrean Legal System and Research*, 2.2, GLOBALEX (Sep. 2015), available at <http://www.nyulawglobal.org/globalex/Eritrea1.html> (last visited July 22, 2017).

<sup>13</sup> *Id.*

<sup>14</sup> *Ethiopia*, CIA WORLD FACTBOOK, <https://www.cia.gov/library/publications/the-world-factbook/geos/et.html> (last visited July 20, 2017) [hereinafter *Ethiopia*, CIA WORLD FACTBOOK].

tenure is not term limited.<sup>15</sup> The President's cabinet is called the Council of Ministers, who are selected by the Prime Minister and approved by the House of People's Representatives.<sup>16</sup>

## Ghana

The Republic of Ghana is a constitutional republic in which the President acts as both the chief of state and head of government.<sup>17</sup> The President and Vice-President are elected on the same ballot by majority popular vote for a four-year term, and the President may hold up to two terms in office.<sup>18</sup> The President's cabinet, known as the Council of Ministers, is nominated by the President and approved by Parliament.<sup>19</sup> The Council of State, which also advises the President, is composed of four *ex officio* members, eleven presidential appointees and one representative from each of the country's ten regions.<sup>20</sup> The Council of State must include a former Chief Justice, a former Chief of the Defense (the professional head of the armed forces), a former Inspector General of Police, and the President of the National House of Chiefs.<sup>21</sup>

## Lesotho

Lesotho is a parliamentary constitutional monarchy.<sup>22</sup> The Office of the King of Lesotho is a "symbol of the unity of the Basotho nation," and as such is not involved with the politics of the country, with any political party, or political group.<sup>23</sup>

The government is led by a Prime Minister, who is the leader of the Parliament's majority party or coalition.<sup>24</sup> The Prime Minister is formally appointed by the King.<sup>25</sup>

Lesotho also has a Cabinet of Ministers, which consists of the Prime Ministers and a number of other ministers.<sup>26</sup> The Cabinet advises the King, and is generally responsible for any business of the Government of Lesotho that is assigned to its respective members.<sup>27</sup>

Finally, Lesotho's Constitution establishes the Council of State, which is comprised of the Prime Minister, the Speaker of the National Assembly, two judges or former judges of the High Court or Court of Appeal, the Attorney-General, the Defense Force Commander, the Commissioner of Police, a Principal Chief nominated by the College of Chiefs, two National Assembly members who are of

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<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Ghana*, CIA WORLD FACTBOOK, <https://www.cia.gov/library/publications/the-world-factbook/geos/gh.html> (last visited July 17, 2017) [hereinafter *Ghana*, CIA WORLD FACTBOOK].

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

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

<sup>23</sup> Lesotho, Constitution of 1993, Schedule 1, *available at* [https://www.constituteproject.org/constitution/Lesotho\\_1998.pdf?lang=en](https://www.constituteproject.org/constitution/Lesotho_1998.pdf?lang=en) (last visited Aug. 2, 2017) [hereinafter LESOTHO CONST.].

<sup>24</sup> *Id.* at § 87(2).

<sup>25</sup> *Id.*

<sup>26</sup> *Id.* at § 88.

<sup>27</sup> *Id.* at § 89.

the opposition party or coalition, three special members, and a member of Lesotho's private bar.<sup>28</sup> The Council of State is charged with "assist[ing] the King in the discharge of his functions and to exercise such other functions as are conferred by [the] Constitution."<sup>29</sup>

## Malawi

Until the 1990s, Malawi was ruled by an "entrenched Presidential dictatorship"<sup>30</sup> under the control of Hastings Kamuzu Banda.<sup>31</sup> By the mid-1990s, increasing pressure from the international community caused the government to hold a referendum, and ask the people to vote for the establishment of a multi-party democracy.<sup>32</sup> In 1994, a new Constitution was brought into place, which forms the basis for modern Malawian government.<sup>33</sup>

The Office of the Presidency comprises the office of the President, the Vice President, and—where relevant—the Second Vice President.<sup>34</sup> The President is the Head of State and the Head of Government, and the Commander-in-Chief of the Malawi Armed Forces.<sup>35</sup> The President and First Vice-President are elected together by simple majority popular vote for a 5-year term, and can serve up to two terms in office.<sup>36</sup> Where the President considers it desirable in the national interest, he or she may choose to appoint a second Vice-President from a different political party.<sup>37</sup>

The Cabinet is comprised of the President, both Vice-Presidents (if relevant), and "such Ministers and Deputy Ministers as may, from time to time, be appointed by the President."<sup>38</sup> The Cabinet' duties are to advise the President, direct, coordinate, and supervise the activities of government departments, and to draft bills for submission to the National Assembly.<sup>39</sup>

## Namibia

The Executive Branch is responsible for ensuring that the laws of the National Assembly and National Council are enforced. The Executive powers of Namibia vest with the President and the Cabinet.

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<sup>28</sup> *Id.* at § 95(2).

<sup>29</sup> *Id.* at § 95(1).

<sup>30</sup> Redson Edward Kapindu, *Malawi: Legal System and Research Resources*, GLOBALEX (Nov./Dec. 2014), available at <http://www.nyulawglobal.org/globalex/Malawi1.html> (last visited July 23, 2017).

<sup>31</sup> *Malawi Country Profile*, BBC NEWS (Apr. 11, 2017), <http://www.bbc.com/news/world-africa-13864367> (last visited July 23, 2017).

<sup>32</sup> *Malawi voters take part in the first multiparty election in three decades*, SOUTH AFRICAN HISTORY ONLINE (Mar. 16, 2011), <http://www.sahistory.org.za/dated-event/malawi-voters-take-part-first-multiparty-election-three-decades> (last visited July 23, 2017).

<sup>33</sup> Kapindu, *supra* note 30, at 1.

<sup>34</sup> Constitution of Malawi, 1994, arts. 78-79, available at [https://www.constituteproject.org/constitution/Malawi\\_1999.pdf](https://www.constituteproject.org/constitution/Malawi_1999.pdf) (last visited July 23, 2017) [hereinafter MALAWI CONST.].

<sup>35</sup> *Id.* at art. 78.

<sup>36</sup> Kapindu, *supra* note 30, at 2.3; *Malawi*, CIA WORLD FACTBOOK, <https://www.cia.gov/library/publications/the-world-factbook/geos/mi.html> (last visited July 23, 2017) [hereinafter *Malawi*, CIA WORLD FACTBOOK].

<sup>37</sup> MALAWI CONST., *supra* note 34, at art. 80(5).

<sup>38</sup> Kapindu, *supra* note 30, at 2.4.

<sup>39</sup> *Id.*

The President is the head of State and government, and is elected in a national election every five years by absolute majority popular vote.<sup>40</sup>

The Cabinet consists of the President, the Prime Minister, Deputy Prime Minister, and Ministers appointed by the President. The Prime Minister is the Chief Advisor to the President and the overall coordinator of the Government Offices, Ministries, and Agencies. The Cabinet is appointed by the President from among members of the National Assembly.<sup>41</sup>

### Uganda

The president of Uganda is the chief of state, head of government and Commander-in-Chief of the armed forces.<sup>42</sup> The President is directly elected by an absolute majority popular vote for a five-year term.<sup>43</sup> Uganda does not have presidential term limits.<sup>44</sup>

The Vice-President is second in Uganda's command chain.<sup>45</sup> 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.<sup>46</sup> The President appoints a Cabinet from "among elected members of the National Assembly."<sup>47</sup>

### Zambia

Zambia is a presidential republic.<sup>48</sup> The country was ruled by one party until 1991, and subsequent elections have been publicly disputed.<sup>49</sup> 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).<sup>50</sup> The President's Cabinet is appointed by the President from members of the National Assembly,<sup>51</sup> and the Cabinet itself is answerable to the National Assembly.<sup>52</sup>

### **Legislative**

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<sup>40</sup> *Namibia*, CIA WORLD FACTBOOK, <https://www.cia.gov/library/publications/the-world-factbook/geos/wa.html> (last visited July 22, 2017) [hereinafter *Namibia*, CIA WORLD FACTBOOK].

<sup>41</sup> See Hilya Nadago, *UPDATE: Researching Namibian Law and the Namibian Legal System*, GLOBALEX (Jan. 2013), available at <http://www.nyulawglobal.org/globalex/Namibia1.html> (last visited July 31, 2017).

<sup>42</sup> *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*].

<sup>43</sup> *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].

<sup>44</sup> *Id.*

<sup>45</sup> *Executive Arm of the Ugandan Government*, *supra* note 42.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *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].

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> 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).

## Eritrea

The National Assembly was established as a unicameral legislature, of which 50% of the 150 seats were reserved for members of the ruling People's Front for Democracy and Justice and the remainder were to be allocated to popularly-elected representatives.<sup>53</sup> The National Assembly was given the power to issue laws, prepare and approve of foreign policy, approve national budgets and development plans, and ratify international agreements.<sup>54</sup>

Following the enactment of the Constitution in 1997, a Transitional National Assembly was formed.<sup>55</sup> However, only 75 members were ever elected, and while National Assembly elections were to have been held in December 2001 these were "postponed indefinitely due to the war with Ethiopia."<sup>56</sup> As a result, the National Assembly has effectively disappeared from Eritrea's political landscape.<sup>57</sup>

At the regional level, Eritrean law following independence did authorize the creation of *Baito Zoba* to propose laws and regulations consistent with central government policies, and provided for the election of members.<sup>58</sup> These laws also provided for 30% of the seats on the *Baito Zoba* to be reserved for women;<sup>59</sup> however, ABA ROLI has been unable to determine whether the *Baito Zoba* have gone the way of their national counterpart.

## Ethiopia

The federal legislative body is a bicameral Parliament.<sup>60</sup> The House of Federation, which has 108 seats held by members indirectly elected by state assemblies, is responsible for interpreting the constitution and handling federal-regional issues.<sup>61</sup> The House of People's Representatives, which has 547 seats held by members directly elected by simple majority vote, is responsible for passing legislation.<sup>62</sup> Members of each group serve five-year terms.<sup>63</sup>

Ethiopia has nine member states, each of which has the right, by federal Constitutional mandate, to enact and execute its own state Constitution.<sup>64</sup> Each member state has its own legislative body, known as the State Council.<sup>65</sup> With the exception of two states which have bicameral legislative bodies—the State of the Southern Nations, Nationalities, and Peoples' Region and the State of

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<sup>53</sup> Dirar & Tesfagabir, *supra* note 12, at 2.1.

<sup>54</sup> *Id.*

<sup>55</sup> *Eritrea*, CIA WORLD FACTBOOK, *supra* note 3.

<sup>56</sup> *Id.*

<sup>57</sup> See Dirar & Tesfagabir, *supra* note 12, at 2.1.

<sup>58</sup> *Id.* at 2.2.

<sup>59</sup> *Id.*

<sup>60</sup> A Proclamation to Pronounce the Coming into Effect of the Constitution of the Federal Democratic Republic of Ethiopia, no. 1 of 1995, art. 53, available at [https://www.constituteproject.org/constitution/Ethiopia\\_1994.pdf?lang=en](https://www.constituteproject.org/constitution/Ethiopia_1994.pdf?lang=en) (last visited July 21, 2017) [hereinafter ETHIOPIA CONST.].

<sup>61</sup> *Id.* at art. 62.

<sup>62</sup> Ethiopia, CIA WORLD FACTBOOK, *supra* note 14.

<sup>63</sup> *Id.*

<sup>64</sup> Girmachew Alemu Aneme, *Introduction to the Ethiopian Legal System and Legal Research*, GLOBALEX (Aug./Sep. 2010), at § 2.1.B, [http://www.nyulawglobal.org/globalex/Ethiopia.html#\\_edn30](http://www.nyulawglobal.org/globalex/Ethiopia.html#_edn30) (last visited July 21, 2017).

<sup>65</sup> *Id.*

Harari People—State Councils are generally authorized to both enact laws and make decisions on state constitutional issues.<sup>66</sup> However, in the other two states, a second House of Nationalities is charged with specific constitutional decision-making.<sup>67</sup>

### Ghana

Ghana's Parliament is a unicameral legislature made up of 275 members, who are elected in single-seat constituencies by majority popular vote.<sup>68</sup> Members of Parliament serve four-year terms, without term limit restrictions.<sup>69</sup>

### Lesotho

Lesotho's bicameral Parliament consists of the Senate and the National Assembly.<sup>70</sup>

The Senate has 33 seats; 22 are reserved for principal chiefs, and the other 11 are appointed by the King upon the advice of the Council of State.<sup>71</sup> The National Assembly has 80 members elected by simple majority vote and 40 members elected by proportional representation vote.<sup>72</sup> All members serve five-year terms.<sup>73</sup> The President of the Senate is elected by the Senate body, but need not necessarily be a Senator themselves.<sup>74</sup> Senators serve five-year terms.<sup>75</sup>

The National Assembly has 120 seats; 80 members are directly elected in single-seat constituencies by simple majority vote, and 40 are elected through a proportional representation system.<sup>76</sup> As with the Senate, members of the National Assembly serve five-year terms.<sup>77</sup>

### Malawi

Although the 1994 Constitution envisioned the formation of a bicameral legislature, in 2001 the National Assembly "passed a constitutional amendment abolishing the Senate."<sup>78</sup> As a result, Malawi has a unicameral legislature consisting of 193 members elected by simple majority for five-year terms.<sup>79</sup>

### Namibia

Namibia has a bicameral Parliament that consists of the National Assembly and the National Council.

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<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> *Ghana*, CIA WORLD FACTBOOK, *supra* note 17.

<sup>69</sup> *Id.*

<sup>70</sup> *Lesotho*, CIA WORLD FACTBOOK, *supra* note 22.

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

<sup>74</sup> LESOTHO CONST., *supra* note 23, at § 61.

<sup>75</sup> *Lesotho*, CIA WORLD FACTBOOK, *supra* note 22.

<sup>76</sup> *Id.*

<sup>77</sup> *Id.*

<sup>78</sup> Kapindu, *supra* note 30, at 2.5.

<sup>79</sup> *Malawi*, CIA WORLD FACTBOOK, *supra* note 36.



The National Assembly has 96 members directly elected in multi-seat constituencies by proportional representation vote, and eight nonvoting members appointed by the President.<sup>80</sup> The National Council consists of 42 members indirectly elected by the regional councils.

The National Council primarily reviews legislation passed and referred by the National Assembly. Both groups serve five-year terms.<sup>81</sup>

### Uganda

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.<sup>82</sup> The National Assembly also has 13 *ex officio* members who are appointed by the President.<sup>83</sup> All members serve five-year terms.<sup>84</sup>

### Zambia

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.<sup>85</sup> All members serve five-year terms.<sup>86</sup>

## ***Judiciary***

### Eritrea

Eritrea's judiciary can be generally divided into civil, military, and special courts.<sup>87</sup>

The highest civil court in Eritrea is the Supreme Court, which carries *certiorari* power to review the constitutionality of laws, and the jurisdiction to confirm death sentences.<sup>88</sup> The High Court is a court of first instance for cases that involve movable and immovable property worth more than 1 million Nafka, as well as other civil matters.<sup>89</sup> The High Court has jurisdiction over class 1 - class 7 criminal cases, and appellate jurisdiction over cases that come from the *Zoba* courts.<sup>90</sup> The High Court consists of 20 judges appointed by the President.<sup>91</sup>

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<sup>80</sup> See Nadago, *supra* note 41.

<sup>81</sup> Namibia, CIA WORLD FACTBOOK, *supra* note 40.

<sup>82</sup> Uganda, CIA WORLD FACTBOOK, *supra* note 43.

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> Zambia, CIA WORLD FACTBOOK, *supra* note 48.

<sup>86</sup> *Id.*

<sup>87</sup> Dirar & Tesfagabir, *supra* note 12, at 3.

<sup>88</sup> *Id.* at 3.1.1.

<sup>89</sup> *Id.* at 3.1.2.

<sup>90</sup> *Id.*

<sup>91</sup> Eritrea, CIA WORLD FACTBOOK, *supra* note 3.

Although it is unclear whether the *Baito Zoba* have any real power, the *Zoba* level courts do appear to exist. They are cases of first instance over low-level criminal offenses, and lower-level property offenses; they also have appellate jurisdiction over cases that rise up from the community courts.<sup>92</sup>

The military courts exercise personal jurisdiction over members of the Eritrean Defense Forces, the Police Force, militia units, the national reserve army, prison wardens, and national service members.<sup>93</sup> Owing to Eritrea's national service policies,<sup>94</sup> this theoretically allows the Military Courts to exercise jurisdiction over vast swathes of the population. However, there is a possibility that the Criminal Procedure Code does away with the military court system; ABA ROLI has been unable to confirm whether this is the case.<sup>95</sup>

The Special Courts of Eritrea have specific jurisdiction over corruption-related measures, including "theft, embezzlement, corruption, [and] abuse of power."<sup>96</sup> They also retain jurisdiction over national security cases;<sup>97</sup> Special Court trials are not open to the public, and tribunal decisions are not appealable.<sup>98</sup>

Finally, Eritrea does have a number of administrative tribunals, including the First Instance Labor Court, the Labor Relations Board, and the Tax Appeal Commission.<sup>99</sup> The First Instance Labor Court has jurisdiction over employment contract cases, and its decisions are appealable to the *Zoba* courts.<sup>100</sup> The Labor Relations Board deals with unfair labor practices cases, and the Tax Appeal Commission deals with tax assessments. Tax Commission decisions are directly appealable to the High Courts.<sup>101</sup>

## Ethiopia

Ethiopia's highest court is the Federal Supreme Court.<sup>102</sup> The President and Vice President of the Court are nominated by the Prime Minister and appointed by the House of People's Representatives.<sup>103</sup> The other nine judges are nominated by the Federal Judicial Administrative Council and appointed by the House of People's Representatives.<sup>104</sup> The federal courts generally exercise subject matter jurisdiction over cases and controversies arising out of the federal Constitution, federal laws, and international treaties, over parties specified in federal laws, and a number of other specific subject-matter areas, including:

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<sup>92</sup> See Dirar & Tesfagabir, *supra* note 12, at 3.1.3.

<sup>93</sup> *Id.* at 3.2.4.

<sup>94</sup> See U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016 165, available at <https://www.state.gov/documents/organization/258879.pdf> (last visited July 22, 2017) [hereinafter U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016].

<sup>95</sup> See Dirar & Tesfagabir, *supra* note 12, at 3.2.4.

<sup>96</sup> *Id.* at 3.2.1.

<sup>97</sup> U.S. DEP'T OF STATE, BUREAU OF DEMOCRACY, HUM. RTS. & LABOR, COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 2016: ERITREA 7, available at <https://www.state.gov/documents/organization/265464.pdf> (last visited July 22, 2017) [hereinafter U.S. DEP'T OF STATE, ERITREA HUMAN RIGHTS REPORT].

<sup>98</sup> *Id.*

<sup>99</sup> Dirar & Tesfagabir, *supra* note 12, at 3.2.5.

<sup>100</sup> *Id.*

<sup>101</sup> *Id.*

<sup>102</sup> Ethiopia, CIA WORLD FACTBOOK, *supra* note 14.

<sup>103</sup> *Id.*

<sup>104</sup> *Id.*

- offenses relating to currency counterfeiting;
- offenses relating to forgery of federal government instruments;
- offenses relating to illicit trafficking of dangerous drugs;
- offenses committed by federal government officials and employees in connection with their duties; and
- offenses where concurrent jurisdiction may arise.<sup>105</sup>

At the state level, the federal Constitution provides for the establishment of State Supreme Courts, High Courts, and First-Instance Courts.<sup>106</sup> Where cases implicate federal questions, it is possible to appeal State Supreme Court decisions to the federal Supreme Court.<sup>107</sup>

The Constitution of Ethiopia provides for the establishment of religious courts to adjudicate “disputes relating to personal and family laws in accordance with religious and customary laws.”<sup>108</sup> The only religious courts that have been established under this provision appear to be Shari’ah law courts that implement Islamic legal provisions relating to family and personal status matters; these courts have their own appellate structure.<sup>109</sup>

## Ghana

The Supreme Court of Ghana consists of 13 members. The Chief Justice is appointed by the President in consultation with the Council of State, and with Parliamentary approval.<sup>110</sup> The Chief Justice also serves as head of the Judicial Council, which proposes judicial reforms to the government.<sup>111</sup> The Judicial Council and the Council of State advise the President on the appointment of the other 12 justices.

Ghana’s Constitution also provides for a Court of Appeal and a High Court, in descending hierarchical order, and empowers the Chief Justice to create divisions of the High Court.<sup>112</sup> These include the Commercial Court, the Lands Division, the Economic Crimes (Financial) Division, the Human Rights Division and the Industrial (Labor) Division.<sup>113</sup> Ghana also has Regional Tribunals in certain areas, and

there are Lower courts comprising Circuit Courts, District Courts and the judicial committees of the National House of Chiefs, the Regional Houses of Chiefs and the Traditional Councils. The Circuit Court has both civil and criminal jurisdiction . . . The Circuit Court has original jurisdiction in all criminal matters other than treason and offences punishable by death.<sup>114</sup>

The District Courts, lowest on the non-traditional judicial hierarchy, have both civil and criminal

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<sup>105</sup> Aneme, *supra* note 64, at 2.2.1.

<sup>106</sup> *Id.*

<sup>107</sup> *Id.*

<sup>108</sup> ETHIOPIA CONST., *supra* note 60, at art. 34(5).

<sup>109</sup> Aneme, *supra* note 64, at 2.2.5.

<sup>110</sup> *Ghana*, CIA WORLD FACTBOOK, *supra* note 17.

<sup>111</sup> *Id.*

<sup>112</sup> GHANA CONST. art. 39(3), *available at*

[https://www.constituteproject.org/constitution/Ghana\\_1996.pdf?lang=en](https://www.constituteproject.org/constitution/Ghana_1996.pdf?lang=en) (last visited July 17, 2017).

<sup>113</sup> Victor Essien, *Update: Researching Ghanaian Law*, GLOBALEX,

<http://www.nyulawglobal.org/globalex/Ghana1.html> (last visited July 17, 2017).

<sup>114</sup> *Id.*

jurisdiction.<sup>115</sup>

## Lesotho

The Court of Appeal is the highest court in Lesotho's judicial system, and consists of the President, and a number of justices as set by Parliament.<sup>116</sup> The President of the Court of Appeal is appointed by the King, on the advice by the Prime Minister;<sup>117</sup> justices of the Court of Appeal are appointed by the King, upon the advice of the Judicial Service Commission.<sup>118</sup> The Court of Appeal is the country's highest appellate body, and has supervisory jurisdiction over all of Lesotho's other courts.<sup>119</sup>

The High Court of Lesotho is comprised of the Chief Justice and any other judges (known as puisne judges) as the Parliament prescribes.<sup>120</sup> As with the President and justices of the Court of Appeal, the Chief Justice and puisne judges of the High Court are appointed by the King, acting upon the advice of the Prime Minister and the Judicial Service Commission, respectively.<sup>121</sup> The High Court exercises unlimited original jurisdiction to hear any civil and criminal proceedings; it also hears appeals from courts-martial and any other body that exercises judicial, quasi-judicial, or administrative decision-making power.<sup>122</sup> The High Court also has jurisdiction to hear cases that involve violations of fundamental human rights and freedoms, and proceedings relating to land.<sup>123</sup>

Lesotho has a number of specialist courts. For example, the Labor Court, established under the Lesotho Labour Code, "has jurisdiction over matters that touch on industrial relations, i.e. the employer-employee relationship."<sup>124</sup> The Labor Court has appellate jurisdiction over cases from the Directorate of Dispute Prevention and Resolution, and its decisions are appealable to the Labour Appeal Court.<sup>125</sup>

Lesotho finally has a number of subordinate courts, including the Magistrate Courts, the Local Courts, and the Customary Courts.<sup>126</sup> These courts are creature of statute, established under the Subordinate Courts Order (as amended) and the Local Courts Proclamation.<sup>127</sup> ABA ROLI has been located publicly-available copies of these laws in order to review their terms.

## Malawi

Malawi has an independent judiciary.<sup>128</sup> The highest court of Malawi is the Supreme Court of Appeal, which is comprised of a Chief Justice and three other judges.<sup>129</sup> The Chief Justice is

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<sup>115</sup> *Id.*

<sup>116</sup> *Lesotho*, CIA WORLD FACTBOOK, *supra* note 22.

<sup>117</sup> LESOTHO CONST., *supra* note 23, at § 124.

<sup>118</sup> *Id.* at § 124(2).

<sup>119</sup> Itumeleng Shale, *UPDATE: The Law and Legal Research in Lesotho*, § 28, GlobaLex (Nov./Dec. 2014), <http://www.nyulawglobal.org/globalex/Lesotho1.html> (last visited Aug. 2, 2017).

<sup>120</sup> LESOTHO CONST., *supra* note 23, at § 119(2).

<sup>121</sup> *Id.* at §§ 120(1)-(2).

<sup>122</sup> Shale, *supra* note 119, at § 29.

<sup>123</sup> *Id.*

<sup>124</sup> *Id.*

<sup>125</sup> *Id.*

<sup>126</sup> *Id.*

<sup>127</sup> *See, e.g.*, Subordinate Courts (Amendment) Act, No. 6 of 1998 (Lesotho), *available at* [http://www.commonlii.org/ls/legis/num\\_act/sca308.pdf](http://www.commonlii.org/ls/legis/num_act/sca308.pdf) (last visited Aug. 2, 2017).

<sup>128</sup> MALAWI CONST., *supra* note 34, at art. 103.

appointed by the President upon the recommendation of the Judicial Service Commission.<sup>130</sup> The Supreme Court of Appeal has jurisdiction to hear appeals from the High Court, “and such other courts and tribunals as an Act of Parliament may prescribe”.<sup>131</sup>

Under the terms of the Constitution, the High Court has unlimited jurisdiction over all other civil and criminal proceedings;<sup>132</sup> however, pursuant to the cases of *Mungomo v. Mungomo & Others* and *Air Malawi v. Ombudsman*, the Malawian judiciary appears to have limited original High Court jurisdiction to those cases in which no other subordinate court has original jurisdiction.<sup>133</sup>

The High Court has jurisdiction to hear Constitutional questions sitting in panels of no less than three judges.<sup>134</sup> Furthermore, the High Court has a Commercial Division, created under the High Court (Commercial Division) Rules.<sup>135</sup>

Other statutory courts include the Magistrate Courts system,<sup>136</sup> which are courts of first instance and thus lack appellate jurisdiction;<sup>137</sup> the Industrial Relations Court, which has original jurisdiction over labor disputes;<sup>138</sup> and traditional or local courts, whose jurisdiction is limited to customary civil cases.<sup>139</sup>

## Namibia

The Namibian judiciary is comprised of the Supreme Court, the High Court, and the Lower Courts.<sup>140</sup>

The Supreme Court consists of the chief justice and at least three judges in quorum sessions. It is The Supreme Court is Namibia’s highest court, and has jurisdiction to hear Constitutional appeals, other appeals from the High Court, and any other matters that have been referred to it by the Attorney General or authorized by a parliamentary act.<sup>141</sup> Because Namibia’s justice system follows the principle of *stare decisis*, Supreme Court decisions are binding unless overruled by a subsequent decision or an act of parliament.<sup>142</sup>

The High Court exercises original jurisdiction over civil and criminal prosecutions, as well as Constitutional cases. The High Court may also hear appeals from the lower courts of the country.<sup>143</sup>

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<sup>129</sup> *Id.*

<sup>130</sup> *Id.*

<sup>131</sup> MALAWI CONST., *supra* note 34, at 104(2).

<sup>132</sup> *Id.* at art. 108.

<sup>133</sup> Kapindu, *supra* note 30, at 2.6.1.

<sup>134</sup> *See id.*, citing Malawi Courts Act of 1958, Ch. 3:02, arts. 9(2)-(3), available at [https://www.malawilii.org/mw/consolidatedlegislation/302/courts\\_act\\_pdf\\_20355.pdf](https://www.malawilii.org/mw/consolidatedlegislation/302/courts_act_pdf_20355.pdf) (last visited July 23, 2017).

<sup>135</sup> *Id.*

<sup>136</sup> MALAWI CONST., *supra* note 34, at art. 110(1).

<sup>137</sup> Kapindu, *supra* note 30, at 2.6.1.

<sup>138</sup> MALAWI CONST., *supra* note 34, at art. 110(2).

<sup>139</sup> Kapindu, *supra* note 30, at 2.6.1.

<sup>140</sup> Namibia, Constitution of 1990, art. 78, available at [https://www.constituteproject.org/constitution/Namibia\\_2010.pdf?lang=en](https://www.constituteproject.org/constitution/Namibia_2010.pdf?lang=en) (last visited July 31, 2017) [hereinafter NAMIBIA CONST.].

<sup>141</sup> *See* Nadago, *supra* note 41.

<sup>142</sup> *Id.*

<sup>143</sup> *Id.*

That Lower Courts should exist is established by the Constitution, but these courts themselves are creatures of statute—which is to say that the legislature provides for their establishment.<sup>144</sup> The Lower Courts include magistrate courts, which hear the bulk of Namibia’s court cases; the Labour Courts, which generally deal with violations of the 1992 Labor Act; and the Community Courts, which apply customary law.<sup>145</sup> It should be noted that in 2007, Namibia promulgated a new Labor Act which did away with district-level labor courts, effectively turning the Labor Courts into courts of appeal.<sup>146</sup>

## Uganda

The legal system in Uganda has been described as a “mixed legal system of English common law and customary law.”<sup>147</sup> 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.<sup>148</sup>

The highest court is the Supreme Court of Uganda, which has a Chief Justice and 10 other justices.<sup>149</sup> All are appointed by the President in consultation with the Judicial Service Commission, an independent advisory body.<sup>150</sup> The President’s choices are approved by the National Assembly.<sup>151</sup> Judges serve until retirement at age 70.<sup>152</sup>

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.<sup>153</sup>

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.”<sup>154</sup>

## Zambia

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<sup>144</sup> *Id.*

<sup>145</sup> *Id.*

<sup>146</sup> *Id.*

<sup>147</sup> *Id.*

<sup>148</sup> See generally UGANDA CONST., available at

[https://www.constituteproject.org/constitution/Uganda\\_2005.pdf?lang=en](https://www.constituteproject.org/constitution/Uganda_2005.pdf?lang=en) Constitution (last visited July 19, 2017) [hereinafter UGANDA CONST.].

<sup>149</sup> *Uganda*, CIA WORLD FACTBOOK, *supra* note 43.

<sup>150</sup> *Id.*

<sup>151</sup> *Id.*

<sup>152</sup> *Id.*

<sup>153</sup> *Id.*

<sup>154</sup> 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].

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.<sup>155</sup> 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.<sup>156</sup> 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.<sup>157</sup>

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<sup>155</sup> *Zambia*, CIA WORLD FACTBOOK, *supra* note 48.

<sup>156</sup> *Id.*

<sup>157</sup> *Id.*

### III. Criminal Justice

#### Eritrea

Eritrea's main law enforcement agency is the Eritrean Police Force (EPF), which is part of the Eritrean Police and Security Command.<sup>158</sup> ABA ROLI has been unable to determine what form, if any, the country's prosecutorial services take.

#### Ethiopia

Ethiopia has a Federal Police Commission (FPC), which enforces the federal criminal law, conducts criminal investigations, coordinates state police commissions, and promulgates national policing standards.<sup>159</sup> Ethiopia has passed a law to establish an Office of the Prosecutor-General.<sup>160</sup>

Ethiopia has specialized units within its criminal investigations services that deal with transnational crime,<sup>161</sup> financial crime,<sup>162</sup> sexual or gender-based violence,<sup>163</sup> and crimes against children and other special victims.<sup>164</sup> Ethiopia also allows for private prosecution, in certain circumstances, if the responsible government institution declines to prosecute a crime.<sup>165</sup>

#### Ghana

Ghana does not appear to have courts and prosecutorial units specifically designed to combat trafficking, though units of the Ghana Police Service (GPS) and the Ghana Immigration Service (GIS) work to combat TIP.

The Ghana Police Service's Anti-Human Trafficking Unit (AHTU) was established in 2008, and has an express mandate to: (i) proactively prevent TIP; (ii) investigate, arrest and prosecute trafficking offenses; (iii) work to protect victims' identities, (iii) assist victims in obtaining necessary care (e.g., physical and psychological treatment); (iv) inform victims of their rights and any material support that they may be able to obtain, including options for socio-economic recovery; and (v) and

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<sup>158</sup> *Eritrea*, INTERPOL, <https://www.interpol.int/Member-countries/Africa/Eritrea> (last visited July 22, 2017).

<sup>159</sup> *Ethiopia Federal Police*, INTERPOL, <https://www.interpol.int/Member-countries/Africa/Ethiopia> (last visited July 21, 2017).

<sup>160</sup> Abbas Mohammed, *Law to Establish Prosecutor General's Office Enacted*, LAWETHIOPIA (Apr. 18, 2016), <http://www.lawethiopia.com/index.php/en/124-demo/slides/3258-proclamation-to-establish-prosecutor-general-s-office-enacted> (last visited July 21, 2017).

<sup>161</sup> *Ethiopia Federal Police*, *supra* note 159.

<sup>162</sup> A Proclamation on Prevention and Suppression of Money Laundering and Financial Terrorism, Proclamation No. 780 of 2013 (Ethiopia), *available at* <http://www.ethcriminalawnetwork.com/system/files/Prevention%20and%20suppression%20of%20Money%20Laundering%20and%20Financing%20of%20Terrorism%20Proclamation-%202013.pdf> (last visited July 21, 2017).

<sup>163</sup> *Women and Children Coordination Office*, FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA, MINISTRY OF JUSTICE, <http://www.moj.gov.et/MinistryOfJustice/CommonPage.aspx?Id=24> (last visited July 21, 2017).

<sup>164</sup> *Id.*

<sup>165</sup> The Criminal Procedure Code Proclamation, Proclamation No. 185 of 1961, § 44 (Ethiopia), *available at* <http://ilo.org/dyn/natlex/docs/ELECTRONIC/82480/90332/F700418419/ETH82480.pdf> (last visited July 21, 2017).



cooperate with other bodies to combat TIP.<sup>166</sup> The HTA additionally provides that police officers who fail to respond to victim assistance requests must undergo disciplinary procedures.<sup>167</sup>

Though the GIS lacks a specific mandate to prevent trafficking, assist victims, cooperate with other institutions to combat trafficking, or require employees to undergo anti-TIP training, its Border Patrol Unit collaborates with other security agencies at the borders to check for drug trafficking, human trafficking and smuggling.<sup>168</sup> While the HTA does not immunize trafficking victims from prosecution, victims who are illegal immigrants may be permitted to stay in Ghana after the completion of a TIP investigation with the approval of the Minister of Interior.<sup>169</sup>

The principal institution that deals with organized, transnational and financial crimes is the Economic and Organized Crime Office (EOCO).<sup>170</sup> The EOCO has jurisdiction to investigate and, on the authority of the Attorney General, prosecute serious offenses that involve financial or economic loss to the country; these include TIP and money laundering, among other offenses.<sup>171</sup> The Financial Intelligence Center, established to combat money laundering and terrorist financing, also has the authority to deal with crimes that could be by-products of or relate to TIP.<sup>172</sup>

### Lesotho

Lesotho's main security services are the Lesotho Defence Force (LDF), the National Security Service (NSS), and the Lesotho Mounted Police Service (LMPS).<sup>173</sup> The LDF is generally Lesotho's military and paramilitary wing, the NSS is the national security wing, and the LMPS is Lesotho's primary policing service. All three bodies are established under the Constitution.<sup>174</sup>

The LMPS is assisted in its numerous public functions by the Police Complaints Authority, the Police Directorate and Inspectorate, and a number of civil society organizations.<sup>175</sup> The LMPS' Child and Gender Protection Unit (CGPU) is charged with actively combatting child abuse and domestic violence; it has branches in each of Lesotho's 10 districts, and deals with cases of sexual and physical abuse and neglected and abandoned children.<sup>176</sup> It appears that the CGPU is Lesotho's primary anti-TIP law enforcement body; in the reporting period for the U.S. Department of State's 2016 Trafficking in Person's Report (TIP Report), it had identified 18 potential trafficking victims,

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<sup>166</sup> Human Trafficking Act 694 of 2005 (as amended 2009), § 11 (Ghana), *available at* <https://s3.amazonaws.com/ndpc-static/CACHES/PUBLICATIONS/2016/04/16/human+trafficking+act.pdf> (last visited July 17, 2017) [hereinafter HTA (Ghana)].

<sup>167</sup> *Id.* at § 10 (2).

<sup>168</sup> *Introduction*, GHANA IMMIGRATION SERVICE, [www.ghanaimmigration.org/bpu.html](http://www.ghanaimmigration.org/bpu.html) (last visited July 17, 2017).

<sup>169</sup> HTA (Ghana), *supra* note 166, § 34.

<sup>170</sup> *See* Economic and Organized Crime Office Act 804 of 2010 (Ghana), *available at* [https://www.unodc.org/res/cld/document/gha/2008/economic-and-organized-crime-act\\_html/Economic\\_and\\_Organized\\_Crime\\_Act\\_804.pdf](https://www.unodc.org/res/cld/document/gha/2008/economic-and-organized-crime-act_html/Economic_and_Organized_Crime_Act_804.pdf) (last visited July 17, 2017).

<sup>171</sup> *Id.* at § 3.

<sup>172</sup> Anti-Money Laundering Act 749 of 2008, § 4 (Ghana), *available at* <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/92293/107406/F-308019291/GHA92293.pdf> (last visited July 17, 2017).

<sup>173</sup> MAMOSEBI PHOLO, LESOTHO: JUSTICE SECTOR AND THE RULE OF LAW 93 (Mar. 2013), *available at* [http://www.osisa.org/sites/default/files/afri-map\\_lesotho\\_justice.pdf](http://www.osisa.org/sites/default/files/afri-map_lesotho_justice.pdf) (last visited Aug. 2, 2017).

<sup>174</sup> *Id.*

<sup>175</sup> *Id.*

<sup>176</sup> *Id.* at 95.

referred six to an NGO that provided relevant counseling and assistance, and referred once child victim to a charity that specialized in rehabilitation for abused and/or traumatized children.<sup>177</sup>

### Malawi

The Malawi Police Service (MPS), operating under the Ministry of Home Affairs, has responsibility for law enforcement and order maintenance.<sup>178</sup> The Malawi Defense Force (MDF) supports the MPS and handles external security.<sup>179</sup> The Ministry of Home Affairs includes immigration officials, and has primary responsibility for the enforcement and prosecution of trafficking.<sup>180</sup>

### Namibia

Under the Criminal Procedure Act of 2004, the authority to institute and conduct a criminal prosecution for any offence vests in the State.<sup>181</sup> Criminal actions must be commenced by the Prosecutor General in the name of the Republic of Namibia, although the right of private prosecution still exists where the Prosecutor General declines to prosecute.<sup>182</sup>

The Namibian Police Force (NamPol), which operates under the authority of the Ministry of Safety and Security is responsible for internal security.<sup>183</sup> The Criminal Investigations Directorate is responsible for conducting criminal investigations; it is comprised of various sub-divisions, including the Serious Crime Investigations Unit and the Women and Child Protection Unit.<sup>184</sup>

The Namibian Defense Force, which operates under the Ministry of Defense, provides supplemental assistance to NamPol in response to some natural disasters.<sup>185</sup>

### Uganda

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.<sup>186</sup>

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

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<sup>177</sup> U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 94, at 244.

<sup>178</sup> U.S. DEP’T OF STATE, BUREAU OF DEMOCRACY, HUM. RTS. & LABOR, COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 2016: MALAWI 5 (2016), *available at* <https://www.state.gov/documents/organization/252913.pdf> (last visited July 23, 2017) [hereinafter U.S. DEP’T OF STATE, MALAWI HUMAN RIGHTS REPORT 2016].

<sup>179</sup> *Id.*

<sup>180</sup> *Id.*

<sup>181</sup> Criminal Procedure Act, No. 25 of 2004, §§ 5-6 (Namibia), *available at* [https://www.unodc.org/res/cld/document/nam/2004/criminal\\_procedure\\_act\\_2004\\_html/225\\_act\\_25\\_of\\_2004.pdf](https://www.unodc.org/res/cld/document/nam/2004/criminal_procedure_act_2004_html/225_act_25_of_2004.pdf) (last visited July 31, 2017).

<sup>182</sup> *Id.*

<sup>183</sup> U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 94, at 256.

<sup>184</sup> *Namibian Police Force*, THE REPUBLIC OF NAMIBIA, <http://www.nampol.gov.na/crime-investigations> (last visited July 31, 2017).

<sup>185</sup> U.S. DEP’T OF STATE, NAMIBIA 2016 HUMAN RIGHTS REPORT 11, <https://www.state.gov/documents/organization/265496.pdf> (last visited July 31, 2017) [hereinafter U.S. DEP’T OF STATE, NAMIBIA 2016 HUMAN RIGHTS REPORT].

<sup>186</sup> *Id.* at 6.

to report instances in which the UPF and UPDF are alleged to have been involved in torture and unlawful killings.<sup>187</sup>

The Directorate of Public Prosecutions is expressly addressed in section 120 of the Constitution.<sup>188</sup> 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.<sup>189</sup>

## Zambia

The Zambia Police Service (“ZPS”) is responsible for internal security and order.<sup>190</sup> The army, air force, and national service are responsible for external security.<sup>191</sup> The Department of Immigration monitors international borders, and has trained its officers at ports of entry to identify and interview potential victims of trafficking.<sup>192</sup>

Zambia’s Director of Public Prosecutions (DPP) is appointed by the president, and manages the country’s prosecutorial services.<sup>193</sup>

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<sup>187</sup> *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.

<sup>188</sup> UGANDA CONST., *supra* note 148, at art. 120.

<sup>189</sup> *About DPP*, UGANDA DIRECTOR OF PUBLIC PROSECUTIONS, <http://www.dpp.go.ug/index.php/about-dpp> (last visited June 29, 2017).

<sup>190</sup> 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).

<sup>191</sup> *Id.*

<sup>192</sup> U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 94, at 402.

<sup>193</sup> 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).

## IV. Anti-Corruption and Ethics

### Eritrea

As noted, Eritrea's Special Courts have jurisdiction to hear cases that relate to corruption.<sup>194</sup> However, as with the Military Courts, it is unclear whether the Criminal Procedure Code does away with the Special Court system,<sup>195</sup> or—if it does—what body, if any, would replace it.

### Ethiopia

Ethiopia has a Federal Ethics and Anti-Corruption Commission (FEACC),<sup>196</sup> which is charged with combatting corruption and promoting ethics within the public services industry.<sup>197</sup> It does so by raising public awareness about corruption, studying practices and working procedures of public offices, and putting forward “corrective measures and recommendations” to ensure that such offices are complying with anti-corruption requirements.<sup>198</sup> To this end, FEACC has the power and authority to register the financial assets and interests of public employees, protect witnesses and whistle-blowers, and preparing codes of ethics for public offices and enterprises (excluding legislative and judicial agencies).<sup>199</sup> Finally, FEACC engages in inter-governmental and transnational cooperation and information exchange with regional and international anti-corruption bodies.<sup>200</sup>

### Ghana

The Commission on Human Rights and Administrative Justice (CHRAJ) functions as a national human rights institution, an Ombudsman's office and an anti-corruption agency.<sup>201</sup> It is Ghana's principal human rights body, and is tasked with investigating complaints of human rights violations, denials of enjoyment of rights, inappropriate administrative actions and decisions of public institutions and public officials, and corruption in public institutions or by public officials.<sup>202</sup>

### Lesotho

Lesotho's Directorate on Corruption and Economic Offences (DCEO), established under the Prevention of Corruption and Economic Offences Act,<sup>203</sup> works in coordination with the Directorate of Public Prosecutions (DPP) to investigate complaints and prosecute corruption in public

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<sup>194</sup> See *supra* notes 96-98 and accompanying text.

<sup>195</sup> See *supra* note 95.

<sup>196</sup> *Home*, THE FEDERAL ETHICS AND ANTI-CORRUPTION COMMISSION OF ETHIOPIA, <http://www.feac.gov.et/index.php> (last visited July 21, 2017).

<sup>197</sup> *About Us*, THE FEDERAL ETHICS AND ANTI-CORRUPTION COMMISSION OF ETHIOPIA, <http://www.feac.gov.et/index.php/about-us-en/powers-and-duties-en> (last visited July 21, 2017).

<sup>198</sup> *Id.*

<sup>199</sup> *Id.*

<sup>200</sup> *Id.*

<sup>201</sup> See *generally Home*, COMMISSION ON HUMAN RIGHTS & ADMINISTRATIVE JUSTICE GHANA, <http://www.chrajghana.com/> (last visited July 17, 2017).

<sup>202</sup> *Id.*

<sup>203</sup> Prevention of Corruption and Economic Offences Act, No. 5 of 1999 (*as amended*, Prevention of Corruption and Economic Offences (Amendment) Act, No. 8 of 2006) (Lesotho), *available at* <https://www.lesotholii.org/ls/legislation/act/1999/5> (last visited Aug. 3, 2017) [hereinafter PCEO Act (Lesotho)].

bodies.<sup>204</sup> The DCEO additionally is charged with examining the practices and procedures of public bodies in order to discover corrupt practices, and to help revise procedures that may create or increase corruption risks;<sup>205</sup> advising the heads of public bodies on procedures relating to reducing the likelihood of corrupt practices occurring;<sup>206</sup> and engaging in public information campaigns regarding corruption.<sup>207</sup>

## Malawi

Some anti-corruption mechanisms are build into the Malawian Constitution. For instance, the Constitution mandates that the state must “introduce measures which will guarantee accountability[,] transparency, personal integrity and financial probity and which by virtue of their effectiveness and transparency will strengthen confidence in public institutions.”<sup>208</sup>

To that end, Malawi has passed a Corrupt Practices Act, which defines a number of corruption-related crimes.<sup>209</sup> The Act also establishes an Anti-Corruption Bureau, and charges it with examining the practices and procedures of public bodies in order to discover the existence of corrupt practices, and adjust to eradicate them; advising on the means by which corrupt practices may be eradicated; engaging in information and awareness-raising campaigns; receiving complaints about corruption, and offenses under the Corrupt Practices Act; and finally report its findings to the relevant authorities.<sup>210</sup> In order to effectuate these responsibilities, the Anti-Corruption Bureau is empowered to demand the production of all relevant books, records, and reports, provided it obtains search warrants from a magistrate’s court; compel answers to questions about the duties of public officers; and “do or perform other such acts or things as are reasonably necessary or required for the exercise of [its] functions.”<sup>211</sup>

Prosecutions under the Corrupt Practices Act may not be instituted without the written consent of the Director of Public Prosecutions.<sup>212</sup>

Malawi’s Financial Intelligence Unit is authorized by law to take necessary measures for the prevention of corruption in public private bodies, including but not limited to: (i) examining the practices and procedures of public bodies and private bodies in order to facilitate the discovery of corrupt practices and secure the revision of methods of work or procedures which may be prone or conducive to corrupt practices; (ii) advising public bodies and private bodies on ways and means of preventing corrupt practices, and on changes in methods of work or procedures of such public bodies and private bodies compatible with the effective performance of their duties; and (iv) investigating corrupt practices and assisting in the prosecution of such practices.<sup>213</sup> ABA ROLI was

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<sup>204</sup> PHOLO, *supra* note 173, at 99.

<sup>205</sup> PCEO Act (Lesotho), *supra* note 203, at art. 6(g).

<sup>206</sup> *Id.* at art. 6(i).

<sup>207</sup> *Id.* at arts. 6(j)-(k).

<sup>208</sup> MALAWI CONST., *supra* note 34, at art. 13(o).

<sup>209</sup> Corrupt Practices Act of 1996, Ch. 7:04, arts. 24-41 (Malawi), *available at* [https://www.malawilii.org/mw/consolidatedlegislation/704/corrupt\\_practices\\_act\\_pdf\\_90548.pdf](https://www.malawilii.org/mw/consolidatedlegislation/704/corrupt_practices_act_pdf_90548.pdf) (last visited July 23, 2017).

<sup>210</sup> *Id.* at art. 10.

<sup>211</sup> *Id.* at art. 11.

<sup>212</sup> *Id.* at art. 42.

<sup>213</sup> Corrupt Practices Act No. 17 of 2004, Chapter 7:04, art. 10 (Malawi), *available at* [http://www.malawilii.org/mw/consolidated\\_legislation/704](http://www.malawilii.org/mw/consolidated_legislation/704) (last visited July 23, 2017) [hereinafter Corrupt Practices Act (Malawi)].

unable to identify any manner in law or practice by which the Financial Intelligence Unit addresses TIP-related issues.

## Namibia

Namibian law provides criminal penalties for official corruption. According to the U.S. Department of State's 2016 Human Rights Report:

The [Anti-Corruption Commission (ACC)], Prosecutor General's Office, NamPol, Auditor General's Office, Financial Investigative Center at the Bank of Namibia, Public Service Commission, and Ombudsman's Office are responsible for combating corruption. The ACC receives and investigates corruption complaints, often from the public. The Financial Investigative Center investigates and reports suspicious money transfers. The Public Service Commission investigates corruption complaints in the civil service hiring process. The Auditor General's Office also investigates corruption and refers cases to the Prosecutor General's Office and NamPol for further investigation and criminal prosecution where appropriate. These organizations actively collaborated with civil society, conducted thorough investigations, and operated both effectively and independently.<sup>214</sup>

## Uganda

Uganda's primary anti-corruption agency is the Inspectorate of Government ("IGG").<sup>215</sup> The IGG is a Constitutional body,<sup>216</sup> 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.<sup>217</sup> The IGG "carries a wide mandate in the fight against corruption as well as the Ombudsman function."<sup>218</sup> The IGG reports to the Parliament and is independent of the executive branch.<sup>219</sup> The IGG includes one Inspector General and two deputy Inspector Generals.<sup>220</sup> "Both the IGG and his deputies are appointed by the President subject to the approval of Parliament."<sup>221</sup>

In addition to Constitutional authority, the IGG's functions are regulated by the Inspectorate of Government Act and the Leadership Act.<sup>222</sup> Other acts addressing anti-corruption include the Anti-

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<sup>214</sup> U.S. DEP'T OF STATE, NAMIBIA 2016 HUMAN RIGHTS REPORT, *supra* note 185, at 11.

<sup>215</sup> 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].

<sup>216</sup> UGANDA CONST., *supra* note 148, at ch. 13 (Inspectorate of Government).

<sup>217</sup> *Id.* ch. 13, art. 225.

<sup>218</sup> Anti-Corruption Agency Study at 6.

<sup>219</sup> UGANDA CONST., *supra* note 148, at art. 227.

<sup>220</sup> *Id.* at art. 223; *see also* AFRICA FREEDOM OF INFORMATION CENTRE, ANTI-CORRUPTION AGENCY STUDY, *supra* note 215, at 6-7.

<sup>221</sup> *Id.* at 7.

<sup>222</sup> 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).

Corruption Act and the Whistleblowers Protection Act of 2010.<sup>223</sup> A number of other government ministries and agencies play a part in anti-corruption efforts.

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.<sup>224</sup>

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.<sup>225</sup> 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.<sup>226</sup>

## Zambia

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.<sup>227</sup> 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.<sup>228</sup> 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.<sup>229</sup>

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.<sup>230</sup>

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<sup>223</sup> 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](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](http://igg.go.ug/static/files/publications/Whistle_blowers_Act.pdf) (last visited July 19, 2017).

<sup>224</sup> See OFFICE OF THE PRESIDENT: DIRECTORATE FOR ETHICS AND INTEGRITY, <http://www.dei.go.ug> (last visited July 19, 2017).

<sup>225</sup> UGANDA CONST., *supra* note 148, 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).

<sup>226</sup> *About OAG*, Office of the Auditor General, <http://www.oag.go.ug/about> (last visited July 19, 2017).

<sup>227</sup> Anti-Corruption Commission Act, No. 42 of 1996 (Zambia), 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 (Zambia), 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).

<sup>228</sup> *Structure*, ANTI-CORRUPTION COMMISSION ZAMBIA, <http://www.acc.gov.zm/structure/> (last visited Aug. 5, 2017).

<sup>229</sup> 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).

<sup>230</sup> *Functions*, ANTI-CORRUPTION COMMISSION ZAMBIA, <http://www.acc.gov.zm/functions/> (last visited Aug. 5, 2017).





## V. Regulatory Bodies

### Eritrea

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

### Ethiopia

The Ministry of Women, Children, and Youth Affairs provides relevant police training.<sup>231</sup> The Ministry of Labour and Social Affairs handles workplace standards and social issues within Ethiopia.<sup>232</sup>

Ethiopia has several governmental entities that are involved in the regulation of industry, trade, and commerce. The Ministry of Trade is responsible for the promotion and expansion of domestic trade and helps take appropriate measures to maintain lawful trade practices.<sup>233</sup> The Ministry of Industry promotes the expansion of industry and investment and strives to create conditions that are conducive to the acceleration of industrial development.<sup>234</sup> The Ethiopian Investment Agency helps supervise wholly foreign-owned investment and joint investment by domestic and foreign investors.<sup>235</sup> The Ethiopian Revenue and Customs Authority is responsible for collecting revenue from customs duties and domestic taxes, and protecting Ethiopian society from the adverse effects of smuggling, including TIP and migrant smuggling.<sup>236</sup> Lastly, the Ministry of Finance and Economic Development is responsible for initiating policies that ensure sustainable and equitable economic development.<sup>237</sup>

### Lesotho

Lesotho has a number of growth industries that may pose specific TIP risks. These include the trout fishing industry in the Katse Dam area,<sup>238</sup> which is regulated by the Ministry of Agriculture and Food Security;<sup>239</sup> the tourism industry, which is regulated by the Lesotho Tourism Development

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<sup>231</sup> U.S. DEP'T OF STATE, BUREAU OF DEMOCRACY, H.R. AND LAB., ETHIOPIA HUMAN RIGHTS REPORT 27 (2015), <https://www.state.gov/documents/organization/252893.pdf> (last visited July 21, 2017).

<sup>232</sup> *Id.* at 40.

<sup>233</sup> FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA, MINISTRY OF TRADE, <http://www.mot.gov.et/home> (last visited July 21, 2017).

<sup>234</sup> A Proclamation to Provide for the Definition of Powers and Duties of the Executive Organs of the Federal Democratic Republic of Ethiopia, Proclamation No. 691 of 2010, <https://chilot.files.wordpress.com/2011/01/691-ae1.pdf> (last visited July 21, 2017) [hereinafter Proclamation No. 691/2010 (Ethiopia)].

<sup>235</sup> *Ethiopian Horticulture Producer Exporters Ass'n, Relevant FDRE Offices' Mandates and Services*, ETHIOPIAN INV. AGENCY, <http://www.ehpea.org/ResourceCenter/FDREOfficeMandates.aspx> (last visited July 21, 2017).

<sup>236</sup> *Id.*

<sup>237</sup> Proclamation No. 691/2010 (Ethiopia), *supra* note 234, at § 18.

<sup>238</sup> *Lesotho Country Commercial Guide: Lesotho - Agricultural Sectors*, EXPORT.GOV (Jan. 11, 2016), <https://www.export.gov/article?id=Lesotho-Agricultural-Sectors> (last visited Aug. 3, 2017).

<sup>239</sup> Protection of Fresh Water Fish Proclamation, No. 45 of 1951 (Lesotho), *available at* <http://extwprlegs1.fao.org/docs/pdf/les128714.pdf> (last visited Aug. 3, 2017).

Corporation;<sup>240</sup> and the manufacturing industry, which has expanded from primarily textiles manufacturing to more industrial applications, such as electronics and automotive component manufacturing.<sup>241</sup> These industries are regulated by the Ministry of Trade and Industry.<sup>242</sup>

## Malawi

The Ministry of Labor is responsible for workplace standards compliance,<sup>243</sup> but a number of other institutions also regulate industry, trade, and commerce.

The Competition and Fair Trading Commission regulates, monitors, controls and prevents acts or behaviors which are likely to adversely affect competition and fair trading in Malawi.<sup>244</sup> The Ministry of Industry and Trade is responsible for promoting, supporting, and facilitating the development of industry in both existing and potential growth sectors in order to increase the supply of value-added goods and services for domestic and international markets.<sup>245</sup> The Malawi Investment and Trade Centre is a trade and inward investment promotion agency, established to promote Malawi as an ideal destination for trade and investment in Africa.<sup>246</sup> Additionally, it operates as a 'One-Stop Service Centre' for business start-ups, as mandated by the Investment and Export Promotion Act of 2012.<sup>247</sup> The Malawi Confederation of Chambers of Commerce and Industry has the power to regulate, co-ordinate and monitor activities of members who carry out Chamber business within the country.<sup>248</sup> The Malawi Public-Private Partnership Commission facilitates the implementation of public-private partnership arrangements, and is the sole authority on implementing the divestiture of direct and indirect interests in state-owned enterprises.<sup>249</sup>

The Malawi Revenue Authority is responsible for the assessment, collection and receipt of specified taxes.<sup>250</sup>

ABA ROLI was not able to identify any laws or practices by which these institutions address TIP and TIP-related issues.

## Zambia

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<sup>240</sup> *Lesotho Country Commercial Guide: Lesotho - Tourism*, EXPORT.GOV (Feb. 22, 2017), <https://www.export.gov/article?id=Lesotho-Tourism> (last visited Aug. 3, 2017).

<sup>241</sup> *Lesotho Country Commercial Guide: Lesotho - Manufacturing*, EXPORT.GOV (Feb. 22, 2017), <https://www.export.gov/article?id=Lesotho-Manufacturing> (last visited Aug. 3, 2017).

<sup>242</sup> See *Ministry of Trade and Industry*, GOV'T OF LESOTHO, [http://www.gov.ls/gov\\_webportal/ministries/trade%20&%20industry/trade.html](http://www.gov.ls/gov_webportal/ministries/trade%20&%20industry/trade.html) (last visited Aug. 3, 2017).

<sup>243</sup> *Id.*

<sup>244</sup> Competition and Fair Trading Act of 1998 (Malawi), *available at* <http://www.itu.int/ITU-D/treg/Legislation/Malawi/act43.pdf> (last visited July 23, 2017).

<sup>245</sup> *Overview of the Industry Department*, MINISTRY OF INDUSTRY & TRADE, REPUBLIC OF MALAWI, <http://www.moit.gov.mw/index.php/home/departments/industry> (last visited July 23, 2017).

<sup>246</sup> MALAWI INVESTMENT AND TRADE CENTER, <http://www.mitc.mw/> (last visited July 23, 2017).

<sup>247</sup> *Id.*

<sup>248</sup> MALAWI CONFEDERATION OF CHAMBERS OF COMMERCE & INDUSTRY, <http://www.mccci.org> (last visited July 23, 2017).

<sup>249</sup> MALAWI PUBLIC PRIVATE PARTNERSHIP COMMISSION, <http://www.pppc.mw> (last visited July 23, 2017).

<sup>250</sup> MALAWI REVENUE AUTHORITY, <http://www.mra.mw/> (last visited July 23, 2017).

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.<sup>251</sup>

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<sup>251</sup> See generally *Zambia Country Commercial Guide: Zambia*, EXPORT.GOV (July 13, 2016), <https://www.export.gov/apex/article2?id=Zambia-Market-Overview> (last visited Aug. 5, 2017).

## VI. Traditional Justice Systems

### Eritrea

Traditional justice systems are recognized through the community courts and the Shari'ah courts.<sup>252</sup> Community courts use local norms and customs to resolve disputes, and do not apply statutory laws in their decisions.<sup>253</sup> Community court judges are elected by their communities, and do not require knowledge of law or a legal background to run for election.<sup>254</sup> However, the Ministry of Justice does operate capacity-building programs for community court judges.<sup>255</sup> Decisions of the community courts are appealable to the *Zoba* courts, which do apply statutory law in reviewing community court decisions.<sup>256</sup>

Shari'ah courts have jurisdiction over personal matters such as family, marriage, and inheritance.<sup>257</sup> ABA ROLI has not been able to determine whether Shari'ah courts have a separate appellate structure.

### Ethiopia

Customary courts are recognized in the federal Constitution; however, no law specifically provides for their establishment. The decisions of customary courts do not carry legal authority, and appear to be seen as a form of alternate dispute resolution.<sup>258</sup> Parties may mutually decide to take disputes to these customary tribunals.<sup>259</sup>

### Ghana

Ghana's Constitution formally recognizes customary laws as part of the common law of the land, and defines it as "the rules of law which by custom are applicable to particular communities in Ghana."<sup>260</sup> Customary law may be applied by state courts to the extent that they comply with the statutory and Constitutional law.<sup>261</sup> Furthermore, the National House of Chiefs is authorized to "undertake the progressive study, interpretation and codification of customary law, declare any customary law relating to any subject in any region, and to alter customary law."<sup>262</sup>

In the Ashanti community specifically, the Asanteman Council exercises jurisdiction over all the Ashanti people in the country, and hears customary law matters ranging from chieftaincy issues, witchcraft accusations, land use disputes, and family law matters including marriage, succession, and custody.<sup>263</sup>

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<sup>252</sup> Dirar & Tesfagabir, *supra* note 12, at 3.2.2-3.2.3.

<sup>253</sup> *Id.* at 3.2.2.

<sup>254</sup> *Id.*

<sup>255</sup> *Id.*

<sup>256</sup> *Id.*

<sup>257</sup> *Id.* at 3.2.3.

<sup>258</sup> Aneme, *supra* note 64, at 2.2.6.

<sup>259</sup> *Id.*

<sup>260</sup> GHANA CONST., *supra* note 112, at art. 11(3).

<sup>261</sup> Jeanmarie Fenrich & Mary McEvoy, *Promoting Rule of Law in Customary Tribunals in Ghana*, 29 HARV. HUM. RTS. J. 1, 3, <http://harvardhrj.com/2014/11/promoting-rule-of-law-in-customary-tribunals-in-ghana/> (internal citations omitted) (last visited July 17, 2017).

<sup>262</sup> *Id.*

<sup>263</sup> *Id.* at 4.

## Lesotho

Lesotho's Local and Central Courts are "primarily customary courts," which are exclusively authorized to handle customary law matters involving members of the Basotho nation.<sup>264</sup> The jurisdiction of the Local and Central Courts is limited to cases that have certain maximum penalties or amounts in controversy.<sup>265</sup>

## Malawi

The Parliament of Malawi is constitutionally authorized to "make provision for traditional or local courts presided over by lay persons or chiefs."<sup>266</sup> These courts apply the "customary law of the geographical area where the court is located" for civil matters.<sup>267</sup> A report by the Danish Institute for Human Rights describes how this type of legal pluralism operates in the country:

Broadly speaking, there are three types of legal pluralism. The first is where legal orders exist in parallel to the state system and are not formally recognized or state-sanctioned. Such non-state legal orders exist in every country, including Malawi. The second kind of legal pluralism is where the state legal order is plural such as when family and some property matters are governed by different laws for different religious or ethnic communities. The third kind of legal pluralism is where quasi-state legal orders are established or the State incorporates non-state legal orders, for example, through decentralization. The third type is the route taken by Malawi's new Local Courts Act. The Act has been adopted by the State to provide a means of resolving legal disputes and grievances without recourse to the formal court system.<sup>268</sup>

Decisions of the local courts applying customary law are part of Malawi's formal justice system, and may be appealed to higher courts.<sup>269</sup>

## Namibia

The Community Courts Act provides, pursuant to Constitutional mandate, for the establishment of community courts that apply customary law.<sup>270</sup> Community courts do not hand down written decisions.<sup>271</sup>

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<sup>264</sup> Shale, *supra* note 119, at § 33.

<sup>265</sup> U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 94, at 244.

<sup>266</sup> MALAWI CONST., *supra* note 34, at art. 110(3).

<sup>267</sup> Local Courts Act 2011; DESMOND MUNDALA KAUNDA, EXPANDING ACCESS TO JUSTICE FOR THE POOR MALAWI'S SEARCH FOR SOLUTIONS 41 (Dec. 2011), [www.humanrights.dk/files/media/billeder/udgivelser/desmond\\_report\\_ok.pdf](http://www.humanrights.dk/files/media/billeder/udgivelser/desmond_report_ok.pdf) (last visited July 23, 2017); OSISA, MALAWI: JUSTICE SECTOR AND RULE OF LAW (2006), [https://www.opensocietyfoundations.org/sites/default/files/malawi\\_20060912.pdf](https://www.opensocietyfoundations.org/sites/default/files/malawi_20060912.pdf) (last visited July 23, 2017).

<sup>268</sup> MUNDALA KAUNDA, *supra* note 267, at 41.

<sup>269</sup> *Id.*

<sup>270</sup> See NAMIBIA CONST., *supra* note 140, at art. 66; Community Courts Act, Act No. 10 of 2003 (Namibia), available at [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=223544](http://www.wipo.int/wipolex/en/text.jsp?file_id=223544) (last visited July 31, 2017).

<sup>271</sup> Nadago, *supra* note **Error! Bookmark not defined.**

## Uganda

The 1995 Constitution creates a place for tribal rules, customs, and traditions that are not inconsistent with the Constitution.<sup>272</sup> Customary law, which is often unwritten, may govern “a particular tribe, clan or community”.<sup>273</sup> “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.”<sup>274</sup> The Constitution establishes land ownership rights in accordance with customary land tenure systems.<sup>275</sup> Traditional or cultural leaders are recognized under the Constitution;<sup>276</sup> however, any customs or official laws that are inconsistent with the Constitution are void.<sup>277</sup>

## Zambia

Zambia’s local courts operate under the principles of customary law.<sup>278</sup> These courts have jurisdiction over a wide variety of civil matters, including marriage, divorce, and inheritance, and a small number of criminal matters.<sup>279</sup> Judges in such courts are generally prominent local citizens, and lawyers are generally barred from appearing in their proceedings.<sup>280</sup> 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.”<sup>281</sup>

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<sup>272</sup> UNICEF, COLLECTION OF CHILDREN LAWS: UGANDA 6, *available at* [https://www.unicef.org/uganda/collection\\_of\\_children\\_laws\\_finale\\_110711.pdf](https://www.unicef.org/uganda/collection_of_children_laws_finale_110711.pdf) (last visited July 19, 2017).

<sup>273</sup> *Id.*

<sup>274</sup> UGANDA CONST., *supra* note 148, at Objective XXIV.

<sup>275</sup> *Id.* at art. 237.

<sup>276</sup> *Id.* at art. 246.

<sup>277</sup> *Id.* at art. 2.

<sup>278</sup> Magagula, *supra* note 52.

<sup>279</sup> *Id.*

<sup>280</sup> *Id.*

<sup>281</sup> *Id.*

## VII. Anti-Trafficking Institutions

### Eritrea

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

The International Ministry of the Red Cross has a presence in Eritrea and has been permitted to operate in a limited capacity.<sup>282</sup> The government has not freely allowed international non-governmental bodies to monitor conditions in the country. International organizations have only been granted access to implement assistance projects that provide services to vulnerable sectors of the population.<sup>283</sup>

### Ethiopia

In 2015, Ethiopia passed the Proclamation to Provide for the Prevention and Suppression of Trafficking in Person[s] and Smuggling of Migrants (the TIP Proclamation).<sup>284</sup> This Proclamation does establish a National Committee in order to better coordinate prosecution, prevention, and victim protection activities.<sup>285</sup> The Committee is to be chaired by the Deputy Prime Minister, and reports directly to the Prime Minister. It is unclear whether, as of the reporting period for the Department of State's 2016 TIP Report, this Committee met or engaged in any anti-TIP activities.

### Ghana

Ghana's anti-trafficking institutions include the Human Trafficking Management Board (HTMB) and the Anti-Human Trafficking Unit (AHTU) of the Ghana Police Service (GPS). International and domestic civil society actors also play an important role in addressing human trafficking in Ghana, including the International Organization for Migration (IOM), the Association of People for Practical Life Education (APPLE), and the Regional Advisory Information and Network Systems (RAINS).<sup>286</sup> IOM and APPLE have helped to rescue children who were trafficked in the fishing industry, and RAINS works to prevent child labor and trafficking in northern Ghana.<sup>287</sup>

Additionally, the Commission of Human Rights and Administrative Justice (CHRAJ) investigates and aims to prevent corruption, combining "the work of the Anti-Corruption Agency, the Ombudsman and the human rights commission under one umbrella."<sup>288</sup>

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<sup>282</sup> U.S. DEP'T OF STATE, ERITREA HUMAN RIGHTS REPORT, *supra* note 97, at 7–8.

<sup>283</sup> *Id.*

<sup>284</sup> Proclamation to Provide for the Prevention and Suppression of Trafficking in Person and Smuggling of Migrants, No. 909 of 2015, *available at* <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/101059/126622/F-402220324/ETH101059.pdf> (last visited July 21, 2017).

<sup>285</sup> *Id.* at § 39.

<sup>286</sup> *Support Trafficked Children in Ghana*, INTERNATIONAL ORGANIZATION FOR MIGRATION, <https://www.iom.int/support-trafficked-children-ghana> (last visited July 17, 2017); Family Alwekey Okertchiri, *Apple Assists 100 Trafficked Children*, MODERNGHANA.COM (Dec. 9, 2014), <https://www.modernghana.com/news/585513/apple-assists-100-trafficked-children.html> (last visited July 17, 2017); *Child Rights Promotion and Protection*, REGIONAL ADVISORY INFORMATION AND NETWORK SYSTEMS (RAINS), <http://www.rainsgha.org/Crpp.htm> (last visited July 17, 2017).

<sup>287</sup> Okertchiri, *supra* note 286; *Child Rights Promotion and Protection*, *supra* note 286.

<sup>288</sup> *Profiles: Ghana*, ANTI-CORRUPTION AUTHORITIES, <https://www.acauthorities.org/country/ghana> (last visited

## Lesotho

In addition to the Lesotho Police's CGPU, the Ministry of Gender, Youth and Sports operates a "One Stop Centre" that provides a temporary place of safety to women, children survivors of sexual and gender based violence, where they receive psycho-social support, mediation, economic empowerment, referral, and health and legal services.<sup>289</sup>

The Ministry of Labour and Employment is charged with monitoring compliance with the Core International Labour Organization ("ILO") conventions, and (b) develop policies and strategies to safeguard the welfare of migrant workers and their dependents.<sup>290</sup>

## Malawi

As of the reporting period for the U.S. Department of State's 2016 Trafficking in Persons Report (2016 TIP Report), Malawi lacked a national action plan to combat human trafficking.<sup>291</sup>

Nonetheless, a number of agencies play a role in anti-TIP initiatives. For instance, The Ministry of Gender, Children, Social Welfare, and Disabilities prioritizes the protection of marginalized groups within Malawi, including the operation of shelters for children,<sup>292</sup> and the Malawi Network Against Child Trafficking consisting of government officials, NGOs, and religious leaders, provides national-level guidance on trafficking issues.<sup>293</sup>

Additionally, the Trafficking in Persons Act (TIP Act) envisions the creation of a National Coordinating Committee against Trafficking in Persons, which is to be established under the authority of the Ministry of Home Affairs, or any other Ministry as directed by the President.<sup>294</sup> The Committee is to be comprised of the Secretary for Home Affairs, the Secretary of Justice, the Police Inspector-General, the Chief Immigration Officer, the Executive Director of the Human Rights Commission, in addition to a representative from the faith-based and NGO communities each.<sup>295</sup> The Committee's functions include overseeing TIP investigations, implementing guidelines for the respectful treatment of TIP victims, formulating education and awareness programs on TIP, in addition to other national policies and strategies to suppress TIP, collecting TIP-related data, and

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July 17, 2017).

<sup>289</sup> See U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 94, at 244; see also *Ministry of Gender, Youth and Sports*, GOV'T OF LESOTHO, [http://www.gov.ls/gov\\_webportal/ministries/gender,%20youth,%20and%20sports/gender.html](http://www.gov.ls/gov_webportal/ministries/gender,%20youth,%20and%20sports/gender.html) (last visited Aug. 3, 2017).

<sup>290</sup> See *Ministry of Labour and Employment*, GOV'T OF LESOTHO, [http://www.gov.ls/gov\\_webportal/ministries/labour%20and%20employment/labour.html](http://www.gov.ls/gov_webportal/ministries/labour%20and%20employment/labour.html) (last visited Aug. 3, 2017).

<sup>291</sup> U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 94, at 254.

<sup>292</sup> U.S. DEP'T OF STATE, MALAWI HUMAN RIGHTS REPORT 2016, *supra* note 178, at 19.

<sup>293</sup> *Id.*

<sup>294</sup> Trafficking in Persons Act no. 3 of 2015, arts. 4-5 (Malawi), *available at* <http://www.warnathgroup.com/wp-content/uploads/2015/03/Malawi-2015-TIP-Act.pdf> (last visited July 23, 2017).

<sup>295</sup> *Id.* at art. 5(1).



managing the Anti-Trafficking Fund.<sup>296</sup> Although the Committee is statutorily required to meet four times a year, as of the writing of the 2016 TIP Report it had not yet convened.<sup>297</sup>

## Namibia

The government of Namibia has established a national committee to combat human trafficking, which is chaired by the Deputy Prime Minister.<sup>298</sup> The Permanent Secretary for International Relations and Cooperation (MIRCO) chairs the technical (sub)-committee of this body, which held its first meeting with representatives from the police, the Office of the Prosecutor General, the Ministry of Labor, the Ministry of Health and Social Services, MIRCO, the Ministry of Gender Equality and Child Welfare, and the Ministry of Home Affairs and Immigration.<sup>299</sup> This technical committee successfully drafted a new national action plan to combat TIP during the reporting year; however, ABA ROLI has been unable to locate a copy of this document for review.<sup>300</sup>

The Ministry of Labor and Social Welfare's labor and occupational health and safety inspectors are responsible for enforcing anti-child labor laws.<sup>301</sup>

The Ministry of Gender Equality and Child Welfare (MGECW) is responsible for ensuring gender equality and equitable socio-economic development of women and men alike, as well as children's wellbeing.<sup>302</sup> It runs a number of programs and services to facilitate these goals, but with respect to TIP in particular MGECW has created and disseminated gender-based violence curricula for police and other government officials, which include TIP-related training.<sup>303</sup>

NamPol's specialized GBVPU's have a social worker attached to them, and are mandated to provide multi-sectoral responses to sexual abuse, gender-based violence, and other forms of exploitation.<sup>304</sup> These units refer victims of all crimes to temporary shelter facilities, where they can receive medical assistance; these facilities offer psycho-social, legal, and medical care to crime victims.<sup>305</sup> While their mandate does not necessarily specifically include TIP, the GBVPU's are likely well-placed to provide much-needed assistance to victims of TIP.

## Uganda

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;<sup>306</sup> the

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<sup>296</sup> *Id.* at art. 8(2).

<sup>297</sup> U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 94, at 254.

<sup>298</sup> *Id.* at 279.

<sup>299</sup> *Id.*

<sup>300</sup> *Id.*

<sup>301</sup> *Id.* at 281.

<sup>302</sup> *About Us*, Ministry of Gender Equality and Child Welfare, <http://www.mgecw.gov.na/about-us> (last visited July 31, 2017).

<sup>303</sup> U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 94, at 280.

<sup>304</sup> UNICEF Annual Report: Namibia (2016) 50, *available at* [https://www.unicef.org/about/annualreport/files/Namibia\\_2016\\_COAR.pdf](https://www.unicef.org/about/annualreport/files/Namibia_2016_COAR.pdf) (last visited July 31, 2017).

<sup>305</sup> U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 94, at 280.

<sup>306</sup> 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).

Counter-Trafficking in Persons Task Force (“CTIP”), which coordinates anti-trafficking efforts across government ministries;<sup>307</sup> the Ministry of Internal Affairs, which enforces anti-TIP criminal laws;<sup>308</sup> and the Ministry of Gender, Labour, and Social Development (“MGLSD”), which deals with the labour law aspect of TIP and providing victims’ services.<sup>309</sup>

## Zambia

Zambia has an anti-trafficking inter-ministerial committee;<sup>310</sup> however, this committee did not meet during the reporting period for the U.S. Department of State’s 2016 Trafficking in Persons Report.<sup>311</sup>

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.<sup>312</sup> The Ministry of Community Development, Mother and Child Health (MCDMCH) provides assistance and shelter services to victims.<sup>313</sup> However, there are few of these options available, and the NGOs running such shelters report a lack of resources and capacity.<sup>314</sup> The Ministry of Community Development and Social Services has launched several anti-trafficking awareness-raising campaigns,<sup>315</sup> and the MLSS additionally takes responsibility for monitoring labor sites and regulating fees paid by workers to recruitment agencies.<sup>316</sup> However, the MLSS during the most recent reporting period did not employ any labor inspectors.<sup>317</sup>

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.<sup>318</sup>

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<sup>307</sup> *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*].

<sup>308</sup> *Id.*

<sup>309</sup> U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 94, at 380.

<sup>310</sup> *Id.* at 402.

<sup>311</sup> *Id.*

<sup>312</sup> *Id.* at 401.

<sup>313</sup> *Id.* at 401-02.

<sup>314</sup> *Id.* at 402.

<sup>315</sup> *Id.*

<sup>316</sup> *Id.*

<sup>317</sup> *Id.*

<sup>318</sup> 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).