

Case Study: Ethiopian Textile Industry ¹



I. Case Study Overview

Research Question

Ethiopia is a sub-Saharan country with a population of 99.4 million, the second largest population in Africa². It is also one of the poorest countries in the world, with a per capita income of \$590.³ Ethiopia's economy is growing; however, unemployment rates are high,⁴ and human trafficking, migrant smuggling, and mixed migration are all prevalent problems.⁵

Ethiopia's Growth and Transformation Plan (GTP) addresses some of these challenges by attempting to improve employment opportunities for a growing population and diversifying its trade.⁶ This strategy has shifted the country's focus from agricultural sector growth to the manufacturing industry.⁷ This Report specifically addresses the apparel industry, one of the manufacturing sectors that is specifically targeted under the GTP.

Parameters

This case study is based primarily on desk research. It considers human rights reports issued by international non-governmental organizations (INGOs), United Nations (UN) publications, statements made to the U.S. Department of State, and news articles that otherwise touch upon the issues discussed here.

ABA ROLI has been unable to independently confirm the contents of these secondary documents by reference to primary sources within Ethiopia; however, the personal knowledge of the primary researchers has been brought to bear in some instances.

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

² *Ethiopia*, CIA WORLD FACTBOOK, <https://www.cia.gov/library/publications/the-world-factbook/geos/et.html> (last visited Aug. 14, 2017).

³ *Overview*, THE WORLD BANK IN ETHIOPIA, <http://www.worldbank.org/en/country/ethiopia/overview> (last visited Aug. 14, 2017).

⁴ *See, e.g., Ethiopia Unemployment Rate, 1999-2017*, TRADINGECONOMICS, <https://tradingeconomics.com/ethiopia/unemployment-rate> (last visited Aug. 14, 2017).

⁵ U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016 167 (2016), *available at* <https://www.state.gov/documents/organization/258879.pdf> (last visited July 21, 2017) [hereinafter U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016].

⁶ FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA, GROWTH AND TRANSFORMATION PLAN 2010/11-2014/15 (2010), *available at* <http://extwprlegs1.fao.org/docs/pdf/eth144893.pdf> (last visited Aug. 14, 2017).

⁷ *Id.* at 1.

Definition of Trafficking in Persons (TIP)

“Trafficking in persons” is defined in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol) as the recruitment, transportation, transfer, harboring, or receipt of persons (i.e., the act), by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person (i.e., the means), for the purpose of exploitation. Exploitation includes, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude, or the removal of organs.⁸

⁸ UN General Assembly, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crimes, 15 November 2000, Article 3.

II. Background and Context

Industry Background

Although Ethiopia's garments industry has been identified as a key growth industry since 1995,⁹ its performance was lackluster until the implementation of the GTP in 2015.¹⁰ Under the terms of this development policy, industrial zones have been constructed or are being constructed across areas surrounding the capital city of Addis Ababa,¹¹ and the government has drastically improved foreign investment incentives in the sector.¹² Today, Ethiopia's garments and textile industry ranks amongst countries like China and Bangladesh in terms of industry output.¹³

According to a 2015 McKinsey assessment, "Apparel buyers today are sourcing basic, large-volume items from Ethiopia . . . as much as 60 percent of exports are sent to Germany and 10 percent to the United States."¹⁴ However, these figures translate to a very small portion of total global apparel exports.¹⁵ However, as large firms increasingly move operations into East Africa—Primark, H&M, and Tesco being prime European examples¹⁶—it is likely that East Africa's market share will improve markedly over time.

One of the reasons why investors seem to be clamoring to move operations into Africa is the availability of cheap labor. By McKinsey's estimates, Ethiopian wages for garment workers rank amongst the lowest in the world and as such the government does not shy away from using this reality as an investment perk.¹⁷

Major Players in the Textile Industry

Ethiopia has over 115 garment factories.¹⁸ Approximately half of these firms are small and medium-

⁹ *Id.* at 11.

¹⁰ *See, e.g.*, INVESTING IN ETHIOPIA: TEXTILES, <http://www.ethiopianembassy.org/PDF/InvestingTextiles.pdf> (last visited Aug. 14, 2017).

¹¹ *See, e.g.*, *Industry Zone Development*, ETHIOPIAN INVESTMENT COMMISSION, <http://www.investethiopia.gov.et/investment-opportunities/strategic-sectors/industry-zone-development> (last visited Aug. 14, 2017).

¹² *See, e.g.*, ETHIOPIAN INVESTMENT COMMISSION, INCENTIVES, *available at* <http://www.investethiopia.gov.et/images/pdf/incentives.pdf> (last visited Aug. 14, 2017).

¹³ Achim Berg, Saskia Hedric & Bill Russo, *East Africa: The next hub for apparel sourcing?* MCKINSEY (Aug. 2015), <http://www.mckinsey.com/industries/retail/our-insights/east-africa-the-next-hub-for-apparel-sourcing> (last visited Aug. 14, 2017).

¹⁴ *Id.*

¹⁵ *See, e.g.*, World Trade Organization, *World Statistical Trade Review 32* (2016), https://www.wto.org/english/res_e/statis_e/wts2016_e/wts2016_e.pdf (last visited Aug. 14, 2017).

¹⁶ *Textiles and Garments*, ETHIOPIAN INVESTMENT COMMISSION, <http://www.investethiopia.gov.et/investment-opportunities/strategic-sectors/textiles-and-garments> (last visited Aug. 14, 2017).

¹⁷ INVESTING IN ETHIOPIA: TEXTILES, *supra* note 10.

¹⁸ *Will Ethiopia Flourish or Suffer Under Fast Fashion?*, SOURCING JOURNAL (Oct. 2014), *available at* <https://sourcingjournalonline.com/will-ethiopia-flourish-suffer-fast-fashion-cline/> (last visited Aug. 14, 2017).

sized enterprises (SMEs) that employ between 500-1000 workers;¹⁹ the other half are foreign-owned and are largely controlled by Chinese, Indian and Turkish investors.²⁰ Prominent amongst these companies is Huajian, a Chinese company that ranks amongst the world's largest shoemakers; Huajian produces shoes for brands like Guess, Nine West, Naturalizer, Clerks and Tommy Hilfiger.²¹ The China-Africa Development Fund (CADFund) is Hujian's local partner.²²

Another large firm that runs substantial Ethiopian operations is Ayka Addis, the Ethiopian subsidiary of the Turkish textile giant Ayka Textiles.²³ Ayka made an investment of US\$140 million in an Ethiopian factory in 2014,²⁴ and is expected to create jobs for more than 10,000 people.²⁵ Bangladesh is also constructing a vertically integrated garment factory at a cost of US\$30 million.²⁶

These companies claim to provide better working conditions than local firms, and aim to prioritize a lasting and sustainable relationship with the country. Some players in the market have taken active efforts to promote positive environmental and labor conditions.²⁷ While accelerated industrialization will obviously contribute to economic growth, it is important to ensure that environmental and labor rights concerns are taken into consideration, particularly with regards to Ethiopian textile manufacturing.

Considerations for Investing in Ethiopia

Investors who choose to source or manufacture garments and apparel in Ethiopia are often motivated by low wage and production costs.²⁸ However, certain other factors also make the country an attractive market for foreign investors, not the least of which is duty-free access to EU and US markets.²⁹

¹⁹ NASH INT'L, BUSINESS OPPORTUNITY REPORT ETHIOPIA: TEXTILE & APPAREL INDUSTRY 3, *available at* https://www.rvo.nl/sites/default/files/2015/11/Rapport_Textile_Ethiopi%C3%AB.pdf (last visited Aug. 14, 2017).

²⁰ *Id.* at 8.

²¹ *See, e.g.,* Erika Kinetz, *Making Ivanka Trump Shoes: Long hours, low pay and abuse*, DENVER POST (June 28, 2017), *available at* <http://www.denverpost.com/2017/06/28/ivanka-trump-shoe-factory-low-pay-abuse/> (last visited Aug. 14, 2017).

²² Kevin Hamlin, Ilya Drigneff & William Davison, *Ethiopia becomes China's China in search for cheap labor*, BLOOMBERG, *available at* <http://www.tadias.com/07/22/2014/ethiopia-becomes-chinas-china-in-search-for-cheap-labor/> (last visited Aug. 14, 2017).

²³ *Profile*, AYKA TEXTILE, <http://aykatextile.com/profile.htm> (last visited Aug. 14, 2017).

²⁴ *Ayka Addis*, ETHIOPIAN INVESTMENT COMMISSION, <http://www.investethiopia.gov.et/stories/success-stories/213-ayka-addis> (last visited Aug. 14, 2017).

²⁵ *Id.*

²⁶ NASH INT'L, *supra* note 19.

²⁷ *See, e.g.,* Simona Foltyn, *Ethiopia: Booming Business, Underpaid Workers*, Al-Jazeera English (Dec. 29, 2014), <http://www.aljazeera.com/indepth/features/2014/12/ethiopia-booming-business-underpaid-workers-20141228732485264.html> (last visited Aug. 14, 2017).

²⁸ *When it Comes to Low-Cost Labor, is Ethiopia the New China?* (Apr. 22, 2016), <http://knowledge.wharton.upenn.edu/article/when-it-comes-to-low-cost-labor-is-ethiopia-the-new-china/> (last visited Aug. 14, 2017).

²⁹ *Textiles and Garments*, *supra* note 16.

Moreover, as part of the GTP, the government provides a number of investment initiatives to foreign investors. These include a number of customs duty exemptions for imports of capital goods (including plant, machinery, equipment, and construction materials) at 100% rate; corporate income tax exemptions for 1-9 years; income tax exemptions from 2 to 4 years for manufacturing investments for investments made within industrial zones; and favorable lease terms in those same industrial zones.³⁰ In spite of these incentives, a general lack of pre-existing infrastructure still means that firms face relatively high production costs associated with opening Ethiopian operations.³¹

Despite these many incentives, low production cost efficiency still poses investment risks.³²

Legal Context

The Constitution of the Federal Democratic Republic of Ethiopia is the supreme law of the land. Apart from encompassing individual, social and political rights, it provides that international instruments signed and ratified by the country constitute part and parcel of the law.³³ *Technically* this means international agreements like the Protocol to Prevent, Suppress and Punish Trafficking in Persons are as enforceable in court as the labor proclamation or the criminal code of the country. However, emphasis is placed on the term ‘technically’ because in practice international agreements are not relied upon to vindicate rights in courts.³⁴ Therefore, this assessment will dwell on national legal instruments that govern the relationship between employees and employers in Ethiopia. These laws, some of which will be referred to as ‘Proclamations,’ are enacted by the House of People’s Representatives (HPR), the federal legislature. They are binding at the Federal level, with State’s maintaining the jurisdiction to proclaim further legislations based upon and not derogating from these Federal laws.

³⁰ See, e.g., Proclamation No. 4 of 2012, Schedule: Investment Areas and Income Tax Exemptions, http://www.2merkato.com/images/downloads/investment_schedule_english.pdf (last visited Aug. 14, 2017); ETHIOPIAN INVESTMENT COMMISSION, INCENTIVES, *supra* note 16; Council of Ministers Regulation, No. 270/2012, available at <https://chilot.files.wordpress.com/2013/01/investment-regulation-no-270-2012.pdf> (last visited Aug. 14, 2017).

³¹ *Guidance: Doing Business in Ethiopia: Ethiopia Trade and Export Guide*, U.K. Dep’t for Int’l Trade (May 13, 2015), <https://www.gov.uk/government/publications/exporting-to-ethiopia/doing-business-in-ethiopia-ethiopia-trade-and-export-guide> (last visited Aug. 14, 2017).

³² NASH INT’L, *supra* note 19, at 17.

³³ A Proclamation to Pronounce the Coming into Effect of the Constitution of the Federal Democratic Republic of Ethiopia, no. 1 of 1995, art. 9(4), 13, available at https://www.constituteproject.org/constitution/Ethiopia_1994.pdf?lang=en (last visited July 21, 2017) [hereinafter ETHIOPIA CONST.]

³⁴ Sisay Alemahu Yeshanew, *Justiciability of Human Rights in the Federal Democratic of Ethiopia*, 2 Afr. Hum. Rts. L.J. 273 (2008), available at <http://www.ahrlj.up.ac.za/yeshanew-sa> (last visited Aug. 14, 2017).

III. Analysis

International Laws on TIP and Ethiopia

Landscape

In addition to domestic legislation and policies, Ethiopia has ratified or acceded to a number of international instruments relevant to addressing TIP, including the UN Convention against Transnational Organized Crime (UNTOC), the Optional Protocol against the Smuggling of Migrants by Land, Sea, and Air, the Optional Protocol to Prevent, Suppress, and Punish Trafficking in Persons, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, the Convention on the Rights of the Child, Child Prostitution, and Child Pornography, and International Labor Organization (ILO) Conventions No. 29 (concerning Forced or Compulsory Labor), 100 (concerning Equal Remuneration), 105 (concerning the Abolition of Forced Labor), 111 (concerning Discrimination in Employment and Occupation), 138 (concerning Minimum Age for Admission to Employment) and 182 (concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor).³⁵

Ethiopia is additionally party to many multi- and bilateral trade agreements. Though not all of these contain specific requirements with respect to labor laws and anti-trafficking, certain preferential agreements—such as the African Growth and Opportunity Act (AGOA) and the EU’s Everything But Arms (EBA)—do require beneficiaries to comply with labor rights laws and to guarantee other human rights.³⁶

African Growth and Opportunity Act (AGOA)

The US African Growth and Opportunity Act generally offers tangible incentives to African countries to continue or improve their efforts to “open their economies and build free markets.”³⁷ AGOA’s terms of eligibility require that states

- (1) . . . establish[], or . . . mak[e] continual progress towards establishing—
 - (A) a market-based economy that protects private property rights, incorporates an open rules-based trading system, and minimizes government interference in the economy through measures such as price controls, subsidies, and government ownership of economic assets;
 - (B) the rule of law, political pluralism, and the right to due

³⁵ See UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, UNHCR NATIONAL STRATEGY TO ADDRESS TRAFFICKING AND SMUGGLING OF REFUGEES AND ASYLUM-SEEKERS IN ETHIOPIA 14 (Dec. 2014), *available at* http://www.regionalmms.org/policy/UNHCR_Ethiopia_Trafficking_Strategy.pdf (last visited Aug. 14, 2017); *Ratifications for Ethiopia*, INT’L LABOUR ORG. (July 21, 2017), http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:102950 (last visited Aug. 14, 2017).

³⁶ *Textiles and Garments*, *supra* note 16.

³⁷ *African Growth and Opportunity Act*, INT’L TRADE ADMIN., <http://trade.gov/agoa/> (last visited Aug. 14, 2017).
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process, a fair trial, and equal protection under the law . . .
[and]
(F) protection of internationally recognized worker rights,
including the right of association, the right to organize and
bargain collectively, a prohibition on the use of any form of
forced or compulsory labor, a minimum age for the
employment of children, and acceptable conditions of work
with respect to minimum wages, hours of work, and
occupational safety and health.³⁸

Although Ethiopia does not have a law on minimum wage, it is said to be making progress towards meeting the minimum labor law requirements,³⁹ and thus remains a beneficiary of AGOA.⁴⁰

The European Union and the Generalized System of Preference — Everything But Arms

The generalized system of preference (GSP) is an exception to the ‘Most Favored Nation’ principle of international trade law.⁴¹ GSP aims to support developing countries by providing them with preferential treatment *vis à vis* their trade relations with other countries.⁴²

The EU’s ‘Everything But Arms’ (EBA) system is part of this scheme, and targets the least developed countries (LDCs).⁴³ The EBA scheme allows for the tariff-free export of all goods from such countries, save for arms and ammunitions.⁴⁴ In order to benefit from this scheme, a country must at the outset fall under at least one of the following two categories:

- Be a low-income country as classified by the World Bank; or
- Be a high income country whose:
 - Economy is insufficiently diversified, *and*
 - Does not currently have a free trade agreement with the EU that provides similar preferential market access to the GSP.⁴⁵

The EBA Commission is further required to “monitor the status of ratification of international conventions on human and labor rights . . . and every two years present to the European Parliament and the Council a report on the status of ratification . . . the compliance of the beneficiary country with any reporting obligation . . . and the status of the implementation of the conventions in

³⁸ African Growth and Opportunity Act, § 104, 19 U.S.C. 3703 (2000).

³⁹ U.S. DEP’T OF STATE, BUREAU OF DEMOCRACY, H.R. AND LAB., ETHIOPIA HUMAN RIGHTS REPORT (2016), *available at* <https://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper> (last visited Aug. 14, 2017).

⁴⁰ U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 5, at 167.

⁴¹ *See, e.g., Generalised System of Preferences*, European Commission, <http://ec.europa.eu/trade/policy/countries-and-regions/development/generalised-scheme-of-preferences/> (last visited Aug. 14, 2017).

⁴² *Id.*

⁴³ European Commission, *Everything But Arms — Who Benefits?*, *available at* http://trade.ec.europa.eu/doclib/docs/2013/april/tradoc_150983.pdf (last visited Aug. 14, 2017).

⁴⁴ *Id.*

⁴⁵ *Id.*

practice.”⁴⁶ As a result, it can be inferred that countries benefitting from the EBA scheme must not only have a human rights scheme embedded in their law, but must also make some effort towards ensuring that those laws are given practical effect. Indeed, the EU’s GSP regulations provide that systematic violations of the principles laid down in certain international conventions concerning core human and labor rights will be grounds for temporary withdrawal from the scheme.⁴⁷

To date, Ethiopia has not received any warnings from the EU under this provision, and it remains a beneficiary of the EBA.⁴⁸

Domestic Laws and Policies on Trafficking in Persons

The Constitution

The Ethiopian Constitution prohibits trafficking in persons, slavery, and forced labor, and states that “[n]o one shall be held in slavery or servitude. Trafficking in human beings for whatever purpose is prohibited.”⁴⁹ It additionally guarantees equality between men and women with respect to pay and employment.⁵⁰

The Constitution mandates that the state pursue “policies which aim to expand job opportunities for the unemployed . . . and undertake programmes and public projects.”⁵¹ Furthermore, it requires that the state take “all measures necessary to increase opportunities for citizens to find gainful employment.”⁵²

The Constitution enshrines a number of labor rights, including the right to freedom of association, including the right to form or join labor unions.⁵³

Labor Proclamation of Ethiopia

The Labor Proclamation of Ethiopia lays out requirements for workers’ rights and compensation, noting specifically that employers are obliged to respect a worker’s human dignity, to take occupational safety and health measures, and to defray medical costs whenever required by law.⁵⁴ It

⁴⁶ Council Regulation 978/2012, Applying a Scheme of Generalised Tariff Preferences and Repealing Council Regulation No 732/2008, 14, *available at* http://trade.ec.europa.eu/doclib/docs/2012/october/tradoc_150025.pdf (last visited Aug. 14, 2017).

⁴⁷ *Id.* at art. 5(2)(a).

⁴⁸ European Commission, *Everything But Arms — Who Benefits?*, *supra* note 43.

⁴⁹ A Proclamation to Pronounce the Coming into Effect of the Constitution of the Federal Democratic Republic of Ethiopia, no. 1 of 1995, art. 18(2), *available at* https://www.constituteproject.org/constitution/Ethiopia_1994.pdf?lang=en (last visited July 21, 2017) [hereinafter ETHIOPIA CONST.].

⁵⁰ *Id.* at art. 35(8).

⁵¹ *Id.* at art. 41(6).

⁵² *Id.* at art. 41(7).

⁵³ *Id.* at arts. 31, 38(2).

⁵⁴ *See generally* Labour Proclamation No. 377 of 2003, § 12, *available at* http://www.ilo.org/dyn/travail/docs/327/Proclamation%20No%20377_2003%20-%20Labour%20Proclamation.pdf (last visited July 21, 2017) [hereinafter Proclamation No. 377/2003].

additionally addresses collective bargaining and labor dispute resolution mechanisms,⁵⁵ and has provisions that address working hours, overtime remuneration, and leave requirements.⁵⁶

While the minimum wage for public sector employees is set at approximately 420 birr monthly (equivalent to US\$19),⁵⁷ the country does not set a private-sector national minimum wage.⁵⁸

The lack of minimum wage regulation poses specific issues with respect to the garment industry; high unemployment and the underdeveloped culture of wage bargaining, particularly amongst female employees, may contribute to wages in the textiles industry being driven downwards. Furthermore, the government's fear of disincentivizing textile investors has led to its discouragement of national minimum wage policies.⁵⁹

Proclamation for the Prevention and Suppression of Trafficking in Persons and Smuggling of Migrants

Under the Proclamation to Provide for the Prevention and Suppression of Trafficking in Person[s] and Smuggling of Migrants (the TIP Proclamation),⁶⁰ migrant smuggling is defined as “acts of immigrating or emigrating individuals by land, sea, and air to countries [in] which the person does not have nationality, work, or a permit for residence, with direct or indirect intention to derive material or financial benefit from that person”.⁶¹

TIP is a discrete criminal offense under the TIP Proclamation.⁶² Under this law, ‘exploitation’ includes “labor exploitation, forced labor, or servitude,”⁶³ and trafficking itself is defined as exploitation that takes place “within and outside the country . . . under the pretext of domestic or overseas employment . . . using threat, force or other means of coercion . . . abuse of power or by using the vulnerabilities of a person.”⁶⁴

There are also ancillary trafficking-related offenses, including assisting and facilitating of trafficking.⁶⁵ Furthermore, the law also recognizes certain aggravating circumstances that can impact

⁵⁵ JEFF WHEELER & KEITH GODDARD, ASSESSMENT OF ETHIOPIA'S LABOR INSPECTION SYSTEM (March 2013) 10, *available at* <https://www.dol.gov/ilab/reports/pdf/2013AssessmentEthiopiaLaborInspection.pdf> (last visited July 21, 2017).

⁵⁶ Proclamation No. 377/2003, *supra* note 54, at §§ 61, 67, 77, 81, 82, 85.

⁵⁷ U.S. DEP'T OF STATE, BUREAU OF DEMOCRACY, H.R. AND LAB., ETHIOPIA HUMAN RIGHTS REPORT (2016), *available at* <https://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper> (last visited July 21, 2017) [hereinafter U.S. DEP'T OF STATE, ETHIOPIA HUMAN RIGHTS REPORT].

⁵⁸ *Id.*

⁵⁹ Foltyn, *supra* note 27.

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

⁶¹ *Id.* at § 5.

⁶² *Id.* at § 3.

⁶³ *Id.* at § 2(4).

⁶⁴ *Id.* at § 3(1).

⁶⁵ *Id.* at § 4.

applicable punishments. Such circumstances include when trafficking results in severe bodily injury or death of the victim, or where the trafficking occurs in the context of organized criminal activity.⁶⁶ Although Ethiopia's TIP Proclamation does not specifically provide for the possibility of civil suits against traffickers, torts and contracts theories may be brought to bear in the court system.

The TIP Proclamation defines a 'person' as any natural or juridical person, and states that the victim consent will not relieve the trafficker of criminal liability where such consent was acquired through any form of "coercion....or [by using] vulnerability."⁶⁷ Furthermore, the law provides for harsh punishments commensurate with punishment for other serious crimes; ranges include 20-25 years' imprisonment, and a fine of between 50,000 and 300,000 Birr.⁶⁸

Criminal Laws and Procedures

Although provisions of the criminal code dealing with trafficking in persons have been overhauled by the TIP Proclamation, other criminal laws may be brought to bear on the issue of TIP and forced labor. For instance, the Criminal Code illegalizes the restraint of the free exercise of civil rights, and provides in relevant part that:

whoever by intimidation, violence, fraud or any other unlawful means:

- a) Prevents a person from exercising his civil rights granted by the Constitution or *other laws*, especially his right as a parent or a guardian, his right to bring a legal action or to appear before the Courts; or
- b) Compels him to exercise such rights in a particular way, is punishable with simple imprisonment not exceeding three years, or fine.⁶⁹

One of the major concerns for apparel industry workers is the country's direct or indirect prohibition on unionization.⁷⁰ This not only hinders their ability to negotiate terms of employment, but also constitutes a violation of their civil and constitutional rights.⁷¹ Although workers seldom raise the spectre of criminal law in labor disputes, the criminal code could be used to attack relevant labor violations.⁷²

⁶⁶ *Id.* at § 6.

⁶⁷ *Id.* at § 14.

⁶⁸ The Criminal Code of the Federal Democratic Republic of Ethiopia, Proclamation No. 414 of 2004, § 597, available at <http://www.wipo.int/edocs/lexdocs/laws/en/et/et011en.pdf> (last visited July 21, 2017) [hereinafter Criminal Code]; Proclamation No. 909/2015, *supra* note 60, at § 3.

⁶⁹ Criminal Code, *supra* note 68.

⁷⁰ See, e.g., U.S. DEP'T OF STATE, ETHIOPIA HUMAN RIGHTS REPORT, *supra* note 57, at 40.

⁷¹ See *supra* note 53 and accompanying text.

⁷² See Andrea Dijkstra, *Low Wages Draw International Textile Companies to Ethiopia*, DW.COM, <http://www.dw.com/en/low-wages-draw-international-textile-companies-to-ethiopia/a-18877027> (last visited Aug. 14, 2017).

Domestic Anti-TIP Institutions

Ministry of Labor and Social Affairs and Bureau of Regional Labor and Social Affairs

The Labor Proclamation entrusts the Ministry of Labor and Social Affairs with the power to issue directives on matters relating to working conditions.⁷³ Furthermore, this Ministry also carries a mandate “organize, coordinate, follow-up, and execute the labor administration system by establishing an employment service, a labor inspection service and also a permanent advisory board which consists of members from the government, employers association and trade unions.”⁷⁴

The Ministry also works on social welfare development, based on a principle that advocates for balancing government intervention with not discouraging labor demand. Some of the strategies suggested by the Ministry and which will hopefully upkeep this balance include: instituting a system of periodic review of minimum wage rates and upgrading those rates in line with inflation and market wage rates; developing institutional arrangements that will ensure wider coverage and better implementation and compliance with minimum wage laws; and building labor inspection capacity.⁷⁵

Despite the existence of these provisions, it is unlikely that they will be feasible given Ethiopia’s lack of a minimum wage law. Furthermore, it is evident from working conditions in both local and foreign textile firms that the balance has tilted in favor of attracting investment at any cost, which includes labor law violations.

Labor Bench and Labor Relations Board

The Labor Proclamation creates labor benches within each court and charges these benches with adjudicating labor disputes.⁷⁶ The Labor Relations Board hears and decides disputes relating to “essential public service undertakings,”⁷⁷ as well as those that relate to wage and other benefits.⁷⁸

Human Rights Commission of Ethiopia

The Ethiopian Human Rights Commission (EHRC) investigates human rights violations and produces thematic reports.⁷⁹ The EHRC reported to Parliament that in 2014-2015, it had accepted 1,254 human rights grievances and investigated 259 cases.⁸⁰ Furthermore, the EHRC provides counseling and negotiation services, and refers grievances for handling by relevant government offices.⁸¹ The EHRC has a specific Commissioner for the affairs of women and children.⁸²

⁷³ Proclamation No. 377/2003, *supra* note 54, at § 170.

⁷⁴ *Id.* at § 170(2).

⁷⁵ *See generally* WHEELER & GODDARD, *supra* note 55.

⁷⁶ Proclamation No. 377/2003, *supra* note 54, at §§ 137-40.

⁷⁷ *Id.* at § 136(2).

⁷⁸ *Id.* at § 144.

⁷⁹ *See, e.g.*, Ethiopia Human Rights Commission (EHRC), <http://www.nanhri.org/wp-content/uploads/2016/04/ETHIOPIA-1.pdf> (last visited Aug. 14, 2017).

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

International Organizations

International organizations in Ethiopia are not allowed to engage in human rights promotion activities; such works are reserved for domestic non-governmental organizations or other actors.⁸³ The Charities and Societies Proclamation, which governs the operation of non-governmental organizations in Ethiopia, considers only those organizations which receive less than 10% of their funding from outside sources to be national or domestic organizations.⁸⁴

Given Ethiopia's economic conditions, requiring organizations to mobilize 90% or more of their earnings from domestic sources is tantamount to forcing these groups to close their doors; thus, most NGOs choose to focus on humanitarian aid work and avoid human rights advocacy. This in effect means that there are almost no Ethiopian organizations working on labor rights issues, which limits the extent to which pressure can be imposed on the government to improve working conditions in the textile sector.

⁸³ See, e.g., U.S. DEP'T OF STATE, ETHIOPIA HUMAN RIGHTS REPORT, *supra* note 57, at 30.

⁸⁴ Charities and Societies Proclamation, No. 621 of 2009, *available at* <http://www.refworld.org/docid/4ba7a0cb2.html> (last visited Aug. 14, 2017).

IV. Conclusions

The issue of exploitation in Ethiopia's domestic labor sector has been overshadowed by concerns related to illegal migration and human smuggling. These transnational problems have defined the scope of trafficking concerns for Ethiopian policy-makers, and has resulted in a lack of oversight with respect to firms that use forced labor domestically. International and national organizations working on trafficking in Ethiopia have also turned a blind eye to domestic labor exploitation concerns, save for limited discussions about child rights abuses in the context of forced labor.⁸⁵

In the apparel industry, which is labor-intensive by nature, companies maximize profits by sourcing products and raw materials from countries where labor is cheap. Ethiopia, as noted, has transformed itself into an ideal candidate country for the apparel industry; labor is abundant and cheap on account of the lack of minimum wage, and regulatory schemes are stronger in law than in practice. Furthermore, the country's national development policy prioritizes economic growth over rights-based development, and as a result its focus on attracting FDI comes with high human costs—as demonstrated in other countries' textile sectors.⁸⁶

Measures can be taken, however, to mitigate the TIP risks in Ethiopia's textile industry. Government efforts to set private-sector minimum wage standards could reduce labor exploitation risks, and improving the environment to better accommodate unionization could provide textile workers with comparative power by giving them collective bargaining rights. Additionally, imposing corporate social responsibility standards on firms operating in Ethiopia could go a long way towards ensuring that human rights are not violated during textile production.

For their part, textile firms, both foreign and domestic, could also exercise a greater degree of responsibility and supply chain analysis to attempt to reduce the use of TIP and forced labor in their product supply chains. Firms are also well-placed to ensure that *they* are paying workers adequate wages, regardless of whether a legal framework in Ethiopia obliges them to do so.

Finally, foreign governments also have a role to play in ensuring the mitigation of TIP risks in the Ethiopian textile sector. Countries that have extra-territorial CSR provisions could better enforce them in order to ensure that their domestically-incorporated companies are compliant with such laws, and both the US and the EU could more carefully consider whether Ethiopia should continue to benefit from favorable trading agreements without substantial improvements in their labor rights framework.

⁸⁵ See, e.g., *Child Labor and Forced Labor Reports: Ethiopia*, U.S. DEP'T OF LABOR, BUREAU OF INT'L LABOR AFF., <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/ethiopia> (last visited Aug. 14, 2017).

⁸⁶ See, e.g., Julfikar Ali Manik & Jim Yardley, *Building Collapse in Bangladesh Leaves Scores Dead*, N.Y. Times (Apr. 24, 2013), <http://www.nytimes.com/2013/04/25/world/asia/bangladesh-building-collapse.html> (last visited Aug. 14, 2017).