



TANZANIA

Legal System	Constitution	Bill of Rights	Country Structure	Form of Government
Common Law Statutory Law	Written	Yes	Single State	Republic

1. INTRODUCTION

1.1. Tanzania and Modern Slavery (Human Trafficking)

The United Republic of Tanzania is one State consisting of mainland Tanzania and Tanzania Zanzibar. All state authority is exercised and controlled by two organs vested with executive power (the Government of the United Republic and the Revolutionary Government of Zanzibar), two organs vested with judicial powers (Judiciary of the United Republic and Judiciary of the Zanzibar government), and two organs vested with legislative and supervisory powers over public affairs (Parliament of the United Republic and the Zanzibar House of Representatives).¹ Twenty-two listed items known as Union matters are reserved to the Union Parliament. Those items include foreign affairs, defence and security, police, emergency powers, immigration, citizenship, higher education, civil aviation, income tax, customs and excise duty, currency, mineral oil resources, external borrowing, and trade.²

The Constitution of the United Republic of Tanzania as amended provides for fundamental human rights and freedoms that apply to both mainland Tanzania and Tanzania Zanzibar. Those rights and freedoms include that all persons are entitled to recognition and respect for their dignity, the right to freedom and to live as a free person, respect and protection of their person, the right to work, and just remuneration for their work.³ Tanzania passed legislation targeting human trafficking in 2008, the Anti-Trafficking in Persons Act, 2008 (ATPA).⁴ Tanzania is currently implementing its 2018–2021 National Anti-Trafficking In Persons Action Plan.⁵

Zanzibar has its own constitution. The most recent constitution, adopted in 1984, contains similar human rights and freedom provisions as set out in the United Republic Constitution.⁶

The U.S. Department of State ranks Tanzania as a Tier 2 Watch List country. This ranking means that Tanzania does not fully meet the minimum standards for the elimination of slavery and human trafficking but is making significant efforts to bring itself into compliance with those standards. It also signifies that (a) the estimated number of victims of severe forms of trafficking is very significant or is significantly increasing,

¹ Constitution of the United Republic of Tanzania, article 4(1), available at: <https://rsf.org/sites/default/files/constitution.pdf>.

² *Id.*, First Schedule.

³ *Id.*, Chapter One, Part III.

⁴ Anti-Trafficking in Persons Act (2008), available at: <https://www.refworld.org/pdfid/57c429004.pdf>.

⁵ 2018 - 2021 National Anti-Trafficking In Persons Action Plan, available at: https://www.unodc.org/documents/southernafrica/Publications/CriminalJusticeIntegrity/TraffickinginPersons/Tanzania_THE_NATIONAL_ACTION_PLAN_20182021.pdf.

⁶ Constitution of Zanzibar, Chapter 3, available at: <https://zaeca.go.tz/pdf/Zanzibar%20constitutional.pdf>.

and the country is not taking proportional concrete actions; and (b) there is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons.⁷

Traffickers exploit domestic and foreign victims in Tanzania, and traffickers exploit victims from Tanzania abroad.⁸

Traffickers subject boys and girls, especially impoverished and orphaned children from rural areas or nearby countries (such as Burundi and Rwanda), to forced labour in domestic service, on farms (including as cattle herders or hunters), in gold and gemstone mines and quarries, and on fishing vessels on the high seas. The traditional practice of child fostering is manipulated to achieve domestic servitude.⁹

Tanzania is a source, transit, and destination country for international trafficking. Men and women are recruited and sent to other African countries (such as Kenya and South Africa), the Middle East, Europe, Asia, and the United States for forced labour in domestic service and sex trafficking.¹⁰

Various government agencies within Tanzania deal with human trafficking, but they have little funding. These include the Commission for Human Rights and Good Governance, the Anti-Trafficking Committee, the Anti-Trafficking Secretariat, and the Ministry of Labor, Employment and Youth Development.¹¹

1.2. Tanzania’s Policy and Legal Position

Tanzania’s policy and legislative response to slavery and human trafficking has evolved. The 1984 amendments to the 1977 Constitution, which took effect in 1988, gave legal force for the first time to fundamental human rights and freedoms expressed in a supreme legal instrument.¹² Since then, the Government has passed the Anti-Trafficking In Persons Act, 2008, and adopted regulations. Various agencies have limited funding and resources to enforce these laws.

Tanzania has signed and ratified a number of international treaties relating to slavery, slavery-like conditions, and human trafficking.¹³ Tanzania has met its international obligations which require the enactment of domestic legislation that establishes criminal offenses for slavery, slavery-like conditions, and human trafficking. Refer to Section 3.

Tanzania has developed and adopted National Anti-Trafficking In Persons Action Plans to improve preventative measures and response services in combating trafficking in persons. The first plan ran from 2015 to 2018, and the second plan ran from July 2018 to June 2021. The strategic actions include policy, legislation, institutions, capacity building for skills enhancement, prevention and public awareness raising,

⁷ U.S. Dep’t of State, Trafficking in Persons Report 40, 479 (2020), available at: <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>. The U.S. Department of State rankings are based on the minimum standards specified in the U.S. Trafficking Victims Protection Act of 2000, “which are generally consistent with the [UN] Palermo Protocol.” *Id.* at 39.

⁸ *Id.* at 482.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*, pp. 479–80; CHRAGG/Home, COMMISSION FOR HUMAN RIGHTS AND GOOD GOVERNANCE, available at: <https://www.chragg.go.tz/>; PMO-LYED/Home, MINISTRY OF LABOR, EMPLOYMENT AND YOUTH DEVELOPMENT, available at: <https://www.kazi.go.tz/>.

¹² Constitution of the United Republic of Tanzania, Chapter One, Part III, available at: <https://rsf.org/sites/default/files/constitution.pdf>.

¹³ Ratification Status for United Republic of Tanzania, UN HUMAN RIGHTS TREATY BODIES, available at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=186&Lang=EN.

victim and witness support and protection, stakeholder and other country communications, coordination and co-operation, research and information sharing, monitoring and evaluation, and resource mobilization.¹⁴ However, more resources are needed to implement the plan fully.¹⁵

More generally, a Human Rights Action Plan (2013–2017) directed the Commission for Human Rights and Good Governance to develop a national baseline study on business and human rights.¹⁶ In 2017, that Commission, with technical support from the Danish Institute for Human Rights, produced a National Baseline Assessment (**NBA**). The NBA compared the United Nations Guiding Principles on Business and Human Rights to Tanzanian laws, policies, and practices, identified substantial gaps, and made recommendations.¹⁷ A National Action Plan on Business and Human Rights is to be developed.¹⁸

2. OVERVIEW OF TANZANIA’S LEGAL APPROACH TO COMBATING MODERN SLAVERY AND HUMAN TRAFFICKING

2.1. Tanzania’s Regional and International Law Obligations

2.1.1. Fundamental human rights

The 1977 United Republic Constitution, as amended in 1984, and the 1984 Zanzibar Constitution enshrine fundamental human rights. A draft constitution in circulation expands those rights.¹⁹

Tanzania has acceded to or ratified the International Covenant on Civil and Political Rights (1976), the International Covenant on Economic, Social and Cultural Rights (1976), the Convention on the Elimination of all Forms of Discrimination Against Women (1985), the Convention on the Rights of the Child (1991), Supplementary Convention on The Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1962), and the Worst Forms of Child Labour Convention (2001).²⁰ Tanzania also participates in human rights initiatives through a number of voluntary pledges and commitments, including

¹⁴ 2018–2021 National Anti-Trafficking In Persons Action Plan, available at: https://www.unodc.org/documents/southernafrica/Publications/CriminalJusticeIntegrity/TraffickinginPersons/Tanzania_THE_NATIONAL_ACTION_PLAN_20182021.pdf.

¹⁵ U.S. Dep’t of State, Trafficking in Persons Report 480 (2020), available at: <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>.

¹⁶ National Human Rights Action Plan (2013–2017), available at: https://www.ohchr.org/Documents/Issues/Education/Training/actions-plans/Excerpts/Tanzania_en%202013-2017.pdf.

¹⁷ Commission for Human Rights and Good Governance, *National Baseline Assessment* (Nov. 2017) (**NBA**), available at: https://globalnaps.org/wp-content/uploads/2017/11/tanzania-bhr-nba_final_nov2017.pdf.

¹⁸ *Tanzania*, NATIONAL ACTION PLANS ON BUSINESS AND HUMAN RIGHTS, available at: <https://globalnaps.org/country/tanzania/>.

¹⁹ Proposed Draft Constitution of Tanzania (Sept. 2014), available at: http://constitutionnet.org/sites/default/files/the_proposed_constitution_of_tanzania_sept_2014.pdf.

²⁰ Ratification Status for United Republic of Tanzania, UN HUMAN RIGHTS TREATY BODIES, available at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=186&Lang=EN; Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, UN TREATY COLLECTION, available at: https://treaties.un.org/pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XVIII-4&chapter=18&Temp=mtdsg3&clang=en; Ratifications of C182 - Worst Forms of Child Labour Convention, 1999 (No. 182), INTERNATIONAL LABOUR ORGANIZATION, available at: https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312327.

its participation in the African Peer Review Mechanism, the African Charter on Human and Peoples' Rights, and the African Charter on the Rights and Welfare of the Child.²¹

2.1.2. *Slavery and trafficking*

Tanzania has not ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the Convention against Transnational Organized Crime (2000), and the Protocol against the Smuggling of Migrants by Land, Sea and Air (2000).²² Several other international conventions also address various forms of modern slavery, including the Abolition of Forced Labour Convention (1962).²³ Tanzania has passed the ATPA which prohibits all forms of trade in humans.²⁴

2.1.3. *Effect under Tanzania's law*

Article 63(3)(e) of the Tanzanian United Republic Constitution authorizes the National Assembly to deliberate upon and ratify all treaties and agreements that require ratification.²⁵

Tanzania has ratified or acceded to the Convention on the Elimination of All Forms of Discrimination against Women (1985); Convention on the Rights of the Child (1991); United Nations Convention against Transnational Organized Crime (2000); International Covenant on Civil and Political Rights (1976); International Covenant on Economic, Social and Cultural Rights (1976); United Nations Supplemental Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1962), and Convention concerning Forced or Compulsory Labour (1962).²⁶

²¹ African Charter on Human and Peoples' Rights (1984), available at: <https://www.achpr.org/legalinstruments/detail?id=49>; African Charter on the Rights and Welfare of the Child (2003), available at: https://www.achpr.org/public/Document/file/English/achpr_instr_charterchild_eng.pdf; African Peer Review Mechanism (APRM), available at: <https://au.int/en/organs/aprm>.

²² Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, available at: https://www.unodc.org/documents/treaties/Special/2000_Protocol_to_Prevent_2C_Suppress_and_Punish_Trafficking_in_Persons.pdf; Protocol against the Smuggling of Migrants by Land, Sea and Air, available at: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-b&chapter=18.

²³ Abolition of Forced Labour Convention, 1957 (No. 105), available at: https://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C105.

²⁴ Anti-Trafficking in Persons Act (2008), available at: <https://www.refworld.org/pdfid/57c429004.pdf>.

²⁵ Constitution of the United Republic of Tanzania, article 63(3)(e), available at: <https://rsf.org/sites/default/files/constitution.pdf>.

²⁶ Ratification Status for United Republic of Tanzania, UN HUMAN RIGHTS TREATY BODIES, available at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=186&Lang=EN; Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, UN TREATY COLLECTION, available at: https://treaties.un.org/pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XVIII-4&chapter=18&Temp=mtdsg3&clang=en; Ratifications of C182 - Worst Forms of Child Labour Convention, 1999 (No. 182), INTERNATIONAL LABOUR ORGANIZATION, available at: https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312327; Ratifications of C029 - Forced Labour Convention, 1930 (No. 29), INTERNATIONAL LABOUR ORGANIZATION, available at: https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312174; United Nations Convention against Transnational Organized Crime, UN TREATY COLLECTION, available at: https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12&chapter=18&clang=en.

2.2. Human Rights Protections Under Tanzania’s Law

Chapter One, Part III of the Tanzania United Republic Constitution 1977 as amended and Chapter Three of the 1984 Zanzibar Constitution provide for fundamental human rights and freedoms. Those rights and freedoms include recognition and respect for dignity, respect and protection of person, privacy of one’s own person, right to work, and no forced labour (provided that no work shall be deemed to be forced, cruel, or humiliating labour if done according to law).²⁷

The Tanzanian legal framework with respect to human rights is thus derived from its constitutions and domestic legislation.

Article 9 of the Tanzania Constitution obligates the state authority and all of its agencies to direct their policies and programs towards ensuring human dignity and other human rights in accordance with the spirit of the Universal Declaration of Human Rights.²⁸

In November 2017, the NBA identified major gaps in laws, policies, and practices compared to the UN Guiding Principles on Business and Human Rights. Although a formal review has not been conducted, it appears as if the Government has not yet adopted the NBA’s recommendations. For example, Tanzania has not ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984).²⁹

2.3. Criminalization of Modern Slavery

Criminal laws against various forms of modern slavery are set out in the Anti-Trafficking in Persons Act, 2008, and in separate laws applicable to mainland Tanzania and Zanzibar:

Mainland Tanzania—the Penal Code, the Employment and Labour Relations Act 2004 (**Labour Act**), and the Law of the Child Act.³⁰

Zanzibar—Employment Act 2005, Labour Relations Act 2005, Penal Decree Act, and the Children’s Act.³¹

²⁷ Constitution of the United Republic of Tanzania, Chapter One, Part III, available at: <https://rsf.org/sites/default/files/constitution.pdf>; Constitution of Zanzibar, Chapter Three, available at: <https://zaeca.go.tz/pdf/Zanzibar%20Constitutional.pdf>.

²⁸ Constitution of the United Republic of Tanzania, article 9, available at: <https://rsf.org/sites/default/files/constitution.pdf>.

²⁹ *National Baseline Assessment (NBA)*, available at: https://globalnaps.org/wp-content/uploads/2017/11/tanzania-bhr-nba_final_nov2017.pdf; United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, UN TREATY COLLECTION, available at: https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-9&chapter=4&clang=en.

³⁰ Penal Code, available at: https://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/TZA_penal_code.pdf; Employment and Labour Relations Act (2004) (**Labour Act**), available at: https://www.tanzania.go.tz/egov_uploads/documents/Employment%20and%20Labour%20Relation%20Act.pdf; Law of the Child Act, available at: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/86527/97740/F1329827361/TZA86527.pdf>.

³¹ Zanzibar Employment Act (2005) (**ZEA**), available at: http://www.zanzibarassembly.go.tz/act_2005/act_11.pdf; Labour Relations Act (2005), available at: <http://www.rodra.co.za/images/countries/tanzania/legislation/Zanzibar%20Labour%20Relations%20ACT%20%20NO.1%20%202005.pdf>; Penal Decree Act, available at: http://www.zanzibarassembly.go.tz/act_2004/act_6.pdf; Children’s Act, available at: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/101043/121579/F1010129621/TZA101043.pdf>.

2.4. Supply Chain Reporting

Tanzania does not have any government policies or legislation on supply chain reporting regarding human trafficking.

2.5. Investigation, Prosecution, and Enforcement

2.5.1. Investigation and prosecution of criminal offenses

The Police Department, Immigration Department, and the National Prosecution Service headed by the Director of Public Prosecutions share responsibility for the investigation of trafficking in persons offences. The prosecutors within that Service decide whether to prosecute alleged offences.³²

2.5.2. Mutual assistance/international cooperation

Tanzania is a party to African conventions and treaties and United Nations conventions that promote international cooperation against trafficking in human beings, essentially through the exchange of information amongst countries. The African conventions and treaties include the African Charter on Human and Peoples' Rights (1984) and the African Charter on the Rights and Welfare of the Child (2003).³³

3. TANZANIA'S FEDERAL CRIMINAL OFFENSES RELATING TO SLAVERY, SLAVERY-LIKE CONDITIONS, AND HUMAN TRAFFICKING

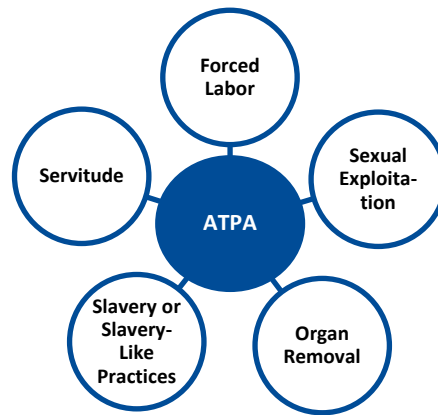
3.1. Overview of Criminal Offenses

Tanzania has several legal structures addressing offences and penalties relating to slavery, slavery-like conditions, and human trafficking, including The Anti-Trafficking in Persons Act, 2008 (ATPA), and the laws described in Section 2.3.³⁴ The country is implementing its 2018–2021 National Anti-Trafficking In Persons Action Plan. Tanzania is also a party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime. This Protocol seeks to make human trafficking a crime, including attempts to traffic or directing other persons to commit such an offence. The offences are punishable by reference to various penalties, depending on the nature of the offence committed.

³² The National Prosecutions Service Act 2008, section 9, available at: <http://extwprlegs1.fao.org/docs/pdf/tan155106.pdf>.

³³ African Charter on Human and Peoples' Rights (1984), available at: <https://www.achpr.org/legalinstruments/detail?id=49>; African Charter on the Rights and Welfare of the Child (2003), available at: https://www.achpr.org/public/Document/file/English/achpr_instr_charterchild_eng.pdf.

³⁴ In Tanzania, laws are made at the federal level for Union matters and by mainland Tanzania and Zanzibar separately. Offences relating to slavery and sexual servitude are contained in all of those laws.



3.2. Slavery Offenses Under the Criminal Code

3.2.1. General

The ATPA, adopted in 2008, targets human trafficking. In 2015, the Government issued Regulations for establishing Centers for Protection and Assistance to Victims of Trafficking in Persons No. 27,2015 and Regulations for Prevention, Protection and Treatment No. 28,2015.³⁵ The Penal Code provides a criminal offence for slavery-related activity.³⁶ Zanzibar also has a trafficking of persons provision in its Penal Decree Act (s.172).³⁷

Section 4 of the ATPA provides:

- (1) A person commits an offence of trafficking in person if that person –
 - (a) recruits, transports, transfers, harbours, provides, or receives a person by any means, including those done under the pretext of domestic or overseas employment, training, or apprenticeship, for the purpose of prostitution, pornography, sexual exploitation, forced labour, slavery, involuntary servitude or debt bondage;
 - (b) introduces or matches a person to a foreign national for marriage for the purpose of acquiring, buying, offering, selling or trading the person in order that person be engaged in prostitution, pornography, sexual exploitation, forced labour or slavery, involuntary servitude or debt bondage;
 - (c) offers or contracts marriage, real or simulated, for the purpose of acquiring, buying, offering, selling, or trading a person in order that person be engaged in prostitution, pornography, sexual exploitation, forced labour or slavery, involuntary servitude or debt bondage;

³⁵ 2018–2021 National Anti-Trafficking In Persons Action Plan, p. 7, available at: https://www.unodc.org/documents/southernafrica/Publications/CriminalJusticeIntegrity/TraffickinginPersons/Tanzania_THE_NATIONAL_ACTION_PLAN_20182021.pdf.

³⁶ Penal Code, article 250, available at: https://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/TZA_penal_code.pdf.

³⁷ Penal Decree Act, section 172, available at: http://www.zanzibarassembly.go.tz/act_2004/act_6.pdf.

- (d) undertakes or organizes sex tourism or sexual exploitation;
 - (e) maintains or hires a person to engage in prostitution or pornography;
 - (f) adopts or facilitates the adoption of persons for the purpose of prostitution, pornography, sexual exploitation, forced-labour and slavery, involuntary servitude or debt bondage; or
 - (g) recruits, hires, adopts, transports or abducts:
 - (i) a person, by means of threat or use of force, fraud, deceit, violence, coercion or intimidation for the purpose of removal or sale of organs of the person; or
 - (ii) a child or disabled person for the purposes of engaging the child or disabled person in armed activities.
- (2) Trafficking in persons shall also be constituted upon placement for sale, bonded placement, temporary placement or placement as service where exploitation by some other person is the motive.
- (3) Where a victim of trafficking in persons is a child, consent of the child, parent or guardian of the child shall not be used as a defence in prosecution under this Act regardless of whether there is evidence of abuse of power, fraud, deception or that the vulnerability of the child was taken advantage of.
- (4) A consent of a victim of trafficking in persons shall be immaterial where any of the means referred to under subsection (1) has been used against the victim.
- (5) A person who commits any of the offences or acts specified under this section shall, on conviction, be liable to a fine of not less than five million shillings [TZS 5 million] but not more than one hundred million shillings [TZS 100 million] or to imprisonment for a term of not less than two years and not more than ten years or to both.³⁸

Section 5 of the ATPA provides:

- (1) A person who promotes, procures or facilitates the commission of trafficking in persons commits an offence.
- (2) A person promotes, procures or facilitates the commission of trafficking in persons if that person –
 - (a) knowingly leases or subleases, uses or allows to be used any house, building or establishment for the purposes of trafficking in persons;
 - (b) produces, prints, issues or distributes unissued, tampered, or fake certificates, registration or stickers of any government agency which issues the certificates, registration or stickers as proof of compliance with government requirements for promoting trafficking in persons;

³⁸ ATPA, section 4, available at: <https://www.refworld.org/pdfid/57c429004.pdf>.

- (c) advertises, publishes, prints, broadcasts or distributes, or causes the advertisement, publication, printing, broadcasting or distribution by any means, including the use of information technology or any brochure, flyer or any propaganda material that promotes trafficking in persons;
 - (d) assists in the conduct of misrepresentation or fraud for purposes of procuring or facilitating the acquisition of clearances and necessary exit documents from government agencies for the purpose of trafficking in persons;
 - (e) facilitates or assists in the exit and entry from or to the United Republic a person who is in possession of unissued, tampered or fraudulent travelling documents for the purpose of trafficking in persons;
 - (f) confiscates, conceals or destroys the passport, travelling documents or personal documents which belongs [sic] to a trafficked person in furtherance of trafficking in persons;
 - (g) prevents a trafficking (sic) person from leaving the United Republic or seeking redress from the Government or appropriate authorities; or
 - (h) knowingly benefits from, financial or otherwise, or makes use of, the labour or services of a person held under a condition of involuntary servitude, forced labour, or slavery.
- (3) A person who commits an offence under this section shall, on conviction, be liable to a fine of not less than two million shillings [TZS 2 million] but not more than fifty million shillings [TZS 50 million] or to imprisonment for a term of not less than one year but not more than seven years or to both.³⁹

Section 6 of the ATPA provides:

- (1) Subject to the provisions of this Act, certain acts or circumstances shall be considered as severe trafficking in persons.
- (2) Severe trafficking in persons shall be considered to exist if –
 - (a) the trafficked person is a child or disabled person;
 - (b) the adoption is effected for the purpose of prostitution, pornography, sexual exploitation, forced labour and slavery, involuntary servitude or debt bondage;
 - (c) the crime is committed by a syndicate or in large scale;
 - (d) the offender is an ascendant, parent, sibling, guardian or a person who exercises authority over the trafficked person;
 - (e) the offence is committed by a public officer, an employee or a religious leader;

³⁹ *Id.*, section 5.

- (f) the trafficked person is recruited to engage in prostitution with any member of the military or law enforcement agencies;
 - (g) the offender is a member of the military or law enforcement agencies; and
 - (h) by reason or on occasion of the act of trafficking in persons, the trafficked person dies, becomes insane, suffers mutilation or is infected with Human Immunodeficiency Virus (HIV), the Acquired Immune Deficiency Syndrome (AIDS), Sexual Transmitted Diseases (STDs), communicable disease, or other diseases.
- (3) For the purposes of subsection (2)(c), trafficking in persons is deemed to be committed by a syndicate if it is –
- (a) carried out by a group of two or more persons; or
 - (b) committed against two or more persons, individually or as a group.
- (4) A person who commits an offence under this section shall, on conviction, be liable to a fine of not less than five million shillings [TZS 5 million] but not more than one hundred and fifty million shillings [TZS 150 million] or to imprisonment for a term of not less than ten years but not more than twenty years or to both.⁴⁰

Section 7 of the ATPA provides:

- (1) A person who acts as an intermediary for the purpose of trafficking in persons commits an offence.
- (2) For the purpose of this section:
 - (a) “an intermediary” means a person who knowingly participates in or is concerned with any aspect of trafficking in persons under this Act; and
 - (b) “to be concerned with” means to –
 - (i) submit or to take a person to a process of trafficking in persons;
 - (ii) give a consent for a person to be trafficked;
 - (iii) receive at any place a person for the purpose of making that person be a subject of trafficking in persons; or
 - (iv) enter into agreement, whether oral or written for the purpose of trafficking in persons or to subject a person into trafficking in persons.
- (3) A person who commits an offence under this section shall, on conviction, be liable to a fine of not less than four million shillings [TZS 4 million] but not more than one hundred and fifty million shillings [TZS 150 million] or to imprisonment for a term of not less than seven years but not more than fifteen years or to both.⁴¹

⁴⁰ *Id.*, section 6.

⁴¹ *Id.*, section 7.

Section 8 of the ATPA provides that a “person who buys or engages the services of trafficked persons for prostitution commits an offence and shall on conviction be liable to a fine of not less than one million shillings [TZS 1 million] but not more than thirty million shillings [TZS 30 million] or to imprisonment for a term of not less than twelve months but not more than seven years or to both.”⁴²

In addition to the ATPA, the Tanzania Penal Code and the Zanzibar Penal Decree Act⁴³ also address some aspects of slavery-related conduct. Sections 254 and 255 of Penal Code provide:

254. “Any person who imports, exports, removes, buys, sells or disposes of any person as a slave, or accepts, receives or detains against his will any person as a slave, is guilty of a felony, and is liable to imprisonment for seven years.”⁴⁴

255. “Any person who habitually imports, exports, (sic) removes, buys, sells, traffics, or deals in slaves is guilty of a felony, and is liable to imprisonment for 10 years.”⁴⁵

3.2.2. *Extraterritorial application*

Tanzania has no applicable laws.

3.3. Slavery-Like Offenses in Tanzania’s Legal Order

3.3.1. *Servitude*

The ATPA includes involuntary servitude within the offence of trafficking in persons, punishable by imprisonment for between two and 10 years or, if there is severe trafficking, between 10 and 20 years.⁴⁶

3.3.2. *Forced labor*

Article 25(2) of the Tanzania Constitution provides that there shall be no forced labour in the United Republic.⁴⁷ Article 25(3) provides that no work shall be deemed forced if it is done according to law, including: (a) work pursuant to a judgment or order of a court; (b) work by members of any of the armed forces in the discharge of their duties; (c) work due to a state of emergency or calamity which threatens the life or well-being of the society; and (d) work or service which forms part of (i) routine services for the well-being of society, (ii) compulsory national service, or (iii) a national endeavor for the mobilization of human resources for the enhancement of society and the national economy and to ensure development and national productivity.⁴⁸

⁴² *Id.*, section 8.

⁴³ Sections 263 and 264 of the Zanzibar Penal Decree Act also prohibit slave dealing.

⁴⁴ Penal Code, section 254, available at: https://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/TZA_penal_code.pdf.

⁴⁵ Penal Code, section 254, available at: https://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/TZA_penal_code.pdf.

⁴⁶ ATPA, sections 4(1) and 4(5), available at: <https://www.refworld.org/pdfid/57c429004.pdf>.

⁴⁷ Constitution of the United Republic of Tanzania, article 25(2), available at: <https://rsf.org/sites/default/files/constitution.pdf>.

⁴⁸ *Id.*, article 25(3).

The ATPA includes forced labour and slavery within the offence of trafficking in persons, punishable under that framework.⁴⁹

The ATPA defines forced labour and slavery as the extraction of work or services from any person by means of enticement, violence, intimidation, threat, use of force, or coercion, including deprivation of freedom, abuse of authority or moral ascendancy, debt bondage, or deception.⁵⁰

Section 256 of the Penal Code also provides that any person who unlawfully compels any person to labour against the will of that person is guilty of a misdemeanor.⁵¹ The Zanzibar Penal Decree Act (s.265) has a similar provision.⁵²

In addition, section 6 of the Labour Act provides that any person who provides, demands, or imposes forced labour commits an offence. For purposes of section 6, forced labour includes bonded labour or any work exacted from a person under the threat of a penalty to which that person has not consented, but it does not include:

- (a) any work exacted under the National Defence Act, 1966, for work of a purely military character;
- (b) any work that forms part of the normal civic obligations of a citizen of the United Republic of Tanzania;
- (c) any work exacted from any person as a consequence of a conviction in a court of law, provided that the work is carried out under the supervision and control of a public authority and that the person is not hired to, or placed at, the disposal of private persons;
- (d) any work exacted in cases of an emergency or a circumstance that would endanger the existence or the well-being of the whole or part of the population;
- (e) minor communal services performed by the members of a community in the direct interest of that community after consultation with them or their direct representatives on the need for the services.⁵³

Section 5 of the Zanzibar Employment Act 2005 (**ZEA**) has a similar provision on forced labour.⁵⁴

A child is defined as a person below the age of 18 years, except that the ZEA defines a child as a person under the age of 17 years, provided that a child is a person under the age of 18 years for the purpose of employment in hazardous sectors.⁵⁵

⁴⁹ ATPA, section 4(1), available at: <https://www.refworld.org/pdfid/57c429004.pdf>.

⁵⁰ *Id.*, section 3.

⁵¹ Penal Code, section 256, available at: https://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/TZA_penal_code.pdf.

⁵² Zanzibar Penal Decree Act, section 265, available at: http://www.zanzibarassembly.go.tz/act_2004/act_6.pdf.

⁵³ Labour Act, section 6, available at: https://www.tanzania.go.tz/egov_uploads/documents/Employment%20and%20Labour%20Relation%20Act.pdf.

⁵⁴ ZEA, section 5, available at: http://www.zanzibarassembly.go.tz/act_2005/act_11.pdf.

⁵⁵ *Id.*, section 3(1).

The Labour Act also prohibits child labour. Section 5 of that Act provides that:

- (1) No person shall employ a child under the age of 14 years.
- (2) A child of 14 years of age may only be employed to do light work, which is not likely to be harmful to the child’s health and development; and does not prejudice the child’s attendance at school, participation in vocational orientation or training programmes approved by the competent authority, or the child’s capacity to benefit from the instruction received.
- (3) A child under 18 years of age shall not be employed in a mine, factory, or as crew on a ship or in any other worksite, including non-formal settings and agriculture, where work conditions may be considered hazardous by the Minister. For the purposes of this subsection, a “ship” includes a vessel of any description used for navigation.
- (4) No person shall employ a child in employment:
 - (a) That is inappropriate for a person of that age; or
 - (b) That places at risk the child’s well-being, education, physical or mental health, or spiritual, moral, or social development.
- (5) Notwithstanding the provisions of subsection (3), any written law regulating the provisions of training may permit a child under the age of 18 to work:
 - (a) On board a training ship as part of the child’s training;
 - (b) In a factory or a mine if that work is part of the child’s training; or
 - (c) On any other worksites on conditions that the health, safety, and morals of the child are fully protected and that the child has received or is receiving adequate specific instruction or vocational training in the relevant work or activity.
- (6) It is an offence for any person:
 - (a) To employ a child in contravention of this section; or
 - (b) To procure a child for employment in contravention of this section.⁵⁶

The Law of the Child Act, 2009, also prohibits exploitative labour, night work, and forced labour. Section 78 of that Act provides that a person shall not employ or engage a child in any kind of exploitative labour. Labour is exploitative if it deprives the child of health or development, it exceeds six hours a day, it is inappropriate for the child’s age, or the child receives inadequate remuneration. Section 79 provides that a child shall not be employed or engaged in a contract requiring a child to work at night, defined as 8 pm to 6 am. Convictions for violating these provisions carry a fine of not less than one hundred thousand shillings [TZS 100,000], imprisonment for a term of three months, or both.⁵⁷

Section 80 of that Act provides that a person who induces, procures, demands, or imposes forced labour on a child commits an offence. Forced labour includes bonded labour or any other work exacted from a person under the threat of a penalty, but it shall not include work that is part of normal civic obligations or

⁵⁶ Labour Act, section 5, available at:

https://www.tanzania.go.tz/egov_uploads/documents/Employment%20and%20Labour%20Relation%20Act.pdf.

⁵⁷ Law of the Child Act (2009), sections 78 and 79, available at:

<https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/86527/97740/F1329827361/TZA86527.pdf>.

minor communal services performed by the community members in the direct interest of the community. Convictions for violating this provision carry a fine of not less than two hundred thousand shillings [TZS 200,000], imprisonment for a term of six months, or both.⁵⁸

The Law of the Child (**Child Employment**) Regulations 2012 also prohibit engaging a child in exploitative labour, defined to include the worst forms of child labour, hazardous work, forced labour, and sexual exploitation (Reg. 5).⁵⁹

The Zanzibar Children’s Act and the ZEA have similar provisions, but have higher penalties.

Section 102 of the Children’s Act provides a fine not exceeding ten million shillings [TZS 10 million], imprisonment for a term not exceeding three years, or both for a person convicted of procuring, demanding, or imposing forced labour in relation to a child.⁶⁰

Section 106 of the Children’s Act provides a fine of no less than five hundred thousand shillings [TZS 500,000] and not exceeding two million shillings [TZS 2 million], imprisonment for a term of not less than 12 months and not exceeding two years, or both for a person employing or engaging a child in any kind of exploitative labour or unlawfully employing or engaging a child in any hazardous work.⁶¹

Section 6 of the ZEA provides that child labour carries a fine of not less than five hundred thousand shillings [TZS 500,000] or, in default of a fine, to imprisonment for a term of not less than six months.⁶²

Section 7 of the ZEA provides a fine of not less than three million shillings [TZS 3 million], imprisonment of not less than one year, or both for engaging or employing any child in any worst form of child labour, which is defined to include slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage, using a child for pornography or illicit activities, in particular the production and trafficking of drugs, and work that is likely to harm the health, safety, or morals of children.⁶³

3.3.3. *Deceptive recruiting for labor or services*

The ATPA includes recruitment within the offence of trafficking in persons, punishable by imprisonment of between two and 10 years or, if severe trafficking is involved, between 10 and 20 years.⁶⁴

3.3.4. *Early and forced marriage*

Section 16 of the Law of Marriage Act 1971 provides that no marriage shall be contracted except with each party’s free and voluntary consent.⁶⁵

⁵⁸ *Id.*, section 80.

⁵⁹ Law of the Child (Child Employment) Regulations (2012), section 5, available at: <https://www.ilo.org/dyn/natlex/docs/SERIAL/96139/113528/F1782966342/TZA96139.pdf>.

⁶⁰ Zanzibar Children’s Act, section 102, available at: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/101043/121579/F1010129621/TZA101043.pdf>.

⁶¹ *Id.*, section 106.

⁶² ZEA, section 6, available at: http://www.zanzibarassembly.go.tz/act_2005/act_11.pdf.

⁶³ *Id.*, section 7.

⁶⁴ ATPA, sections 4(1) and 4(5), available at: <https://www.refworld.org/pdfid/57c429004.pdf>.

⁶⁵ Law of Marriage Act (1971), section 16, available at: [https://rita.go.tz/eng/laws/History%20Laws/Marriage%20Ordinance,%20\(cap%2029\).pdf](https://rita.go.tz/eng/laws/History%20Laws/Marriage%20Ordinance,%20(cap%2029).pdf).

Under the Law of Marriage Act, the minimum age for marriage is 18 years for a male and 15 years for a female.⁶⁶ However, the High Court ruled that the 15 years minimum for females was unconstitutional and should be 18 years.⁶⁷ (The Act has not been formally amended as of 1 December 2020.)

3.3.5. Debt bondage

The ATPA includes debt bondage within the offence of trafficking in persons.

Debt bondage is defined as the pledging by the debtor of the debtor's personal services or labour or those of a person under the debtor's control as security or payment for a debt, where the length and nature of the services is not clearly defined or the value of the services as reasonably assessed is not applied toward the liquidation of the debt.⁶⁸

3.3.6. Any other relevant offenses

Tanzania has no other relevant slavery-like offences.

3.3.7. Extraterritorial application of the offenses

Tanzania has no applicable laws.

3.4. Human Trafficking/Smuggling-Related Criminal Offenses

3.4.1. International and domestic trafficking/smuggling of people

The ATPA defines the offence of trafficking in persons to include the transportation, transfer, harbouring, providing, or receipt of persons.⁶⁹

The Penal legislation also prohibits slave dealing. Refer to Section 3.2.1.

3.4.2. International and domestic trafficking in children

The ATPA's offence of trafficking in persons applies to all persons, including children. Under the ATPA, where children are trafficked, the consent of the child or the child's parents or guardians is not a defence, regardless of whether there is evidence of the trafficker's abuse of power, fraud, or deception or the child's vulnerability.⁷⁰

The ZEA also prohibits trafficking in children under section 7.⁷¹ Refer to Section 3.3.2.

⁶⁶ *Id.*, section 13.

⁶⁷ *Tanzanian court upholds a law banning child marriage*, CNN (Oct. 23, 2019), available at: <https://www.cnn.com/2019/10/23/africa/tanzania-court-child-marriage-ban-intl/index.html>.

⁶⁸ ATPA, sections 3 and 4(1), available at: <https://www.refworld.org/pdfid/57c429004.pdf>.

⁶⁹ *Id.*, section 3.

⁷⁰ *Id.*, section 4(3).

⁷¹ ZEA, section 7, available at: http://www.zanzibarassembly.go.tz/act_2005/act_11.pdf.

3.4.3. *Victim harboring*

The ATPA's offence of trafficking in persons includes the harbouring of trafficked persons.⁷²

3.4.4. *Extraterritorial application of human trafficking and smuggling offenses*

The ATPA has no express extraterritorial provision.

3.4.5. *International and domestic organ trafficking*

The ATPA's offence of trafficking in persons prohibits the exploitative use of trafficked persons for the removal of their organs (section 4(1)(g)(i)).⁷³

3.5. Online Exploitation of Children Offenses

No specific law prohibits online exploitation of children. However, the general offence that prohibits exploitative child labour could apply. Refer to Section 3.3.2.

3.6. Child Sex Tourism Offenses

Child sex tourism is a form of "sexual exploitation," which is part of the ATPA's offence of trafficking in persons.⁷⁴

The Law of the Child Act also provides that a child shall not be engaged in any work or trade that exposes the child to activities of a sexual nature, whether paid for or not (s.83). It also is unlawful for any person to: (a) induce or coerce a child to engage in any sexual activity; (b) use children in prostitution or other unlawful sexual practices; and (c) use children in pornographic performances or materials. Convictions for violating these provisions carry a fine of no less than one million shillings [TZS 1 million] and not more than five hundred million shillings [TZS 500 million], imprisonment for a term of one to 20 years, or both.⁷⁵

The Zanzibar Children's Act has a similar provision (s.110).⁷⁶

4. TANZANIA'S SUPPLY CHAIN REPORTING LEGISLATION

No supply chain reporting legislation obligates private businesses to control their supply chains to hinder trafficking in persons. Nonetheless, some initiatives may have a positive impact on the way companies manage their supply chains to protect human rights.

⁷² ATPA, section 4(1), available at: <https://www.refworld.org/pdfid/57c429004.pdf>.

⁷³ ATPA, section 4(1)(g)(i), available at: <https://www.refworld.org/pdfid/57c429004.pdf>.

⁷⁴ *Id.*

⁷⁵ Law of the Child Act (2009), section 83, available at: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/86527/97740/F1329827361/TZA86527.pdf>.

⁷⁶ Zanzibar Children's Act, section 110, available at: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/101043/121579/F1010129621/TZA101043.pdf>.

The National Anti-Trafficking in Persons Action Plan (2018–2021) sets out as action items conducting public awareness campaigns, producing and disseminating awareness raising materials, and disrupting human trafficking routes.⁷⁷

5. FORCED LABOR: OVERVIEW OF TANZANIA’S APPLICABLE EMPLOYMENT AND MIGRATION LAWS

5.1. Employment Law Rights for Victims of Human Trafficking and Forced Labor

The Labour Commissioner appointed under the Labour Institutions Act 2004 of Tanzania or the Commission’s labour officers have the power to investigate complaints about forced labour by an employer and issue a compliance order on an employer to pay proper remuneration to a victim of forced labour.⁷⁸

The Labour Commission under the Zanzibar Labour Relations Act 2005 has a similar power.⁷⁹

5.2. Applicability of Employment Legislation in the Context of Forced Labor or Trafficking

Section 6 of the Labour Act provides that any person who provides, demands, or imposes forced labour commits an offence. For purposes of section 6, forced labour includes bonded labour or any work exacted from a person under the threat of a penalty to which that person has not consented, but it does not include:

- (a) any work exacted under the National Defence Act, 1966, for work of a purely military character;
- (b) work that is part of the normal civic obligations of a citizen of the United Republic of Tanzania;
- (c) work exacted from any person as a consequence of a conviction in a court of law, provided that the work is carried out under the supervision and control of a public authority and that the person is not hired to, or placed at, the disposal of private persons;
- (d) work exacted in cases of an emergency or a circumstance that would endanger the existence or the well-being of the whole or part of the population; or
- (e) communal services performed by community members in the direct interest of that community after consultation with them or their direct representatives on the need for the services.⁸⁰

Section 5 of the ZEA has a similar provision.⁸¹

⁷⁷ 2018–2021 National Anti-Trafficking in Persons Action Plan, available at: https://www.unodc.org/documents/southernafrica/Publications/CriminalJusticeIntegrity/TraffickinginPersons/Tanzania_THE_NATIONAL_ACTION_PLAN_20182021.pdf.

⁷⁸ Labour Institutions Act (2004), section 46, available at: <https://www.ilo.org/dyn/travail/docs/2211/Labour%20Institutions%20Act%202004.pdf>.

⁷⁹ Zanzibar Labour Relations Act (2005), Part IX, available at: <http://www.rodra.co.za/images/countries/tanzania/legislation/Zanzibar%20Labour%20Relations%20ACT%20%20NO.1%20%202005.pdf>.

⁸⁰ Labour Act, section 6, available at: https://www.tanzania.go.tz/egov_uploads/documents/Employment%20and%20Labour%20Relation%20Act.pdf.

⁸¹ ZEA, section 5, available at: http://www.zanzibarassembly.go.tz/act_2005/act_11.pdf.

5.3. Statutory Rights

Employees have statutory rights to work. Articles 22 and 23 of the Tanzania Constitution provide that all persons have the rights to work and to receive just remuneration without discrimination commensurate with the work and all persons working according to their ability shall be remunerated according to the measure and qualification for the work.⁸² The Labour Act and the ZEA supplement those rights.

5.3.1. *Rights to minimum wages, entitlements, and other applicable minimum standards*

Under Section 7 of the Labour Act, every employer shall provide an equal opportunity in employment, eliminate discrimination in any employment policy or practice, and take positive steps to guarantee equal remuneration for men and women for work of equal value.⁸³

Section 10 of the ZEA has a similar provision.⁸⁴

5.3.2. *Claims available in relation to misrepresentations and “sham” arrangements*

Tanzanian employment laws do not contain provisions tackling misrepresentations and “sham” arrangements.

5.3.3. *Claims available in relation to unlawful deductions, loans, and debt bondage*

Section 28 of the Labour Act and section 103 of the ZEA contain similar provisions for permitted deductions.

Section 28(1) of the Labour Act provides that an employer shall not make any deduction from an employee’s remuneration unless: (a) the deduction is required or permitted under a written law, collective agreement, wage determination, court order, or arbitration award; or (b) subject to subsection (2), the employee in writing agrees to the deduction in respect of a debt.⁸⁵

Section 28(2) provides that a deduction for a debt may be made to reimburse an employer for loss or damage only if: (a) the loss or damage occurred in the course of employment and was due to the employee’s fault, (b) the employer has submitted to the employee in writing the cause, the amount, and calculation of the debt, (c) the employer has given the employee a reasonable opportunity to challenge the cause, amount, or calculation, (d) the total amount of the debt does not exceed the actual amount of the loss or damage, and (e) the total deductions do not exceed one quarter of the employee’s remuneration in money.⁸⁶

Section 28(3) provides that any agreement to make a deduction for a debt in respect of goods or services purchased by the employee shall specify the cause, amount, and calculation of the debt.⁸⁷

⁸² Constitution of the United Republic of Tanzania, articles 22 and 23, available at: <https://rsf.org/sites/default/files/constitution.pdf>.

⁸³ Labour Act, section 7, available at: https://www.tanzania.go.tz/egov_uploads/documents/Employment%20and%20Labour%20Relation%20Act.pdf.

⁸⁴ ZEA, section 10, available at: http://www.zanzibarassembly.go.tz/act_2005/act_11.pdf.

⁸⁵ Labour Act, section 28(1), available at: https://www.tanzania.go.tz/egov_uploads/documents/Employment%20and%20Labour%20Relation%20Act.pdf.

⁸⁶ *Id.*, section 28(2).

⁸⁷ *Id.*, section 28(3).

Section 28(5) provides that an employer shall not require or permit an employee to: (a) repay any remuneration, except for overpayments resulting from calculation errors; or (b) acknowledge receipt of an amount greater than the remuneration actually received.⁸⁸

A person who contravenes section 28 commits an offence and on conviction shall be sentenced to a fine not exceeding one million shillings [TZS 1 million] (s.102(4) Labour Act).⁸⁹

A breach of section 103 of the ZEA carries a fine of not less than four hundred thousand shillings [TZS 400,000], imprisonment for not less than three months, or both (s.106 ZEA).⁹⁰

Labour officers appointed by the Labour Commissioner can investigate non-compliances under the Labour Act and issue compliance orders under the Labour Institutions Act 2004. An employer can object to such an order and appeal to the Labour Court.⁹¹

The Labour Commission under the Zanzibar Labour Relations Act 2005 has a similar power. The Zanzibar Industrial Court deals with labour disputes.⁹²

5.3.4. Remedies

Victims of trafficking who have not been paid minimum wages may seek payment of their outstanding wages owed through the dispute resolution procedures in the Labour Act or the Zanzibar Labour Relations Act, which include mediation and arbitration.⁹³

5.3.5. The well-being of workers: Preventing work-related psychosocial risks

The Occupational Health and Safety Act 2003 of Tanzania requires an employer/occupier of premises to provide and maintain plant and systems and procedures of work that are safe and without risk to workers' health.⁹⁴

⁸⁸ *Id.*, section 28(5).

⁸⁹ *Id.*, section 102(4).

⁹⁰ ZEA, sections 103 and 106, available at: http://www.zanzibarassembly.go.tz/act_2005/act_11.pdf.

⁹¹ Labour Act, section 102, available at: https://www.tanzania.go.tz/egov_uploads/documents/Employment%20and%20Labour%20Relation%20Act.pdf; Labour Institutions Act (2004), section 46, available at: <https://www.ilo.org/dyn/travail/docs/2211/Labour%20Institutions%20Act%202004.pdf>.

⁹² Zanzibar Labour Relations Act (2005), section 84, available at: <http://www.rodra.co.za/images/countries/tanzania/legislation/Zanzibar%20Labour%20Relations%20ACT%20%20NO.1%20%202005.pdf>.

⁹³ Labour Act, Part VIII, available at: https://www.tanzania.go.tz/egov_uploads/documents/Employment%20and%20Labour%20Relation%20Act.pdf; Zanzibar Labour Relations Act (2005), Part IX, available at: <http://www.rodra.co.za/images/countries/tanzania/legislation/Zanzibar%20Labour%20Relations%20ACT%20%20NO.1%20%202005.pdf>.

⁹⁴ Occupational Health and Safety Act (2003), section 95(2)(a), available at: https://www.osh.go.tz/storage/publications/LawsRegulations/The%20Occupational%20Health%20and%20Safety%20Act,%202003_1.pdf.

The Zanzibar Occupational Safety and Health Act 2005 requires an employer/controller of premises to take such measures as are reasonable to ensure, so far as is reasonably practicable, that the premises remain safe and without risk to workers' health.⁹⁵

Victims of human trafficking and smuggling can benefit from this legislation, as it applies to all employers in Tanzania.

5.3.6. The well-being of workers: Promotion of workers' health

Refer to Section 5.3.5.

5.3.7. The well-being of workers: Rest time

Several Labour Act provisions apply for mainland Tanzania:

Section 19 provides that an employer shall not require or permit an employee to work more than 12 hours in any day. The maximum number of ordinary days and hours that an employee may be permitted or required to work are six days in any week, 45 hours in any week, and nine hours in any day. Overtime is permitted under an agreement, but it shall be no more than 50 overtime hours in any four-week cycle.⁹⁶

Section 23(1) provides that an employer shall give an employee who works continuously for more than five hours a break of at least 60 minutes, though an employer may require an employee to work during a break only if the work cannot be left unattended or cannot be performed by another employee.⁹⁷

Section 24 provides that an employer shall allow an employee a daily rest period of at least 12 consecutive hours between ending and recommencing work and a weekly rest period of at least 24 hours between the last ordinary working day in a week and the first ordinary working day of the next week. However, a written agreement may reduce the daily rest period to eight hours if the ordinary working hours are interrupted by an interval of at least three hours or the employee lives on the premises of the workplace. A weekly rest period may, by written agreement, provide for a rest period of at least 60 consecutive hours every two weeks or a reduced weekly rest period by eight hours if the rest period in the following week is extended equivalently.⁹⁸

Employees are entitled to at least 28 consecutive days of leave per year (s.31).

There is a sick leave entitlement to at least 126 days in a three-year leave cycle. The first 63 days are with full wages, while the second 63 days are paid at half wages.⁹⁹

Several ZEA provisions apply for Zanzibar.

⁹⁵ Zanzibar Occupational Safety and Health Act (2005), section 40(1), available at: <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/77451/110273/F1837446524/TZA77451.pdf>.

⁹⁶ Labour Act, section 19, available at: https://www.tanzania.go.tz/egov_uploads/documents/Employment%20and%20Labour%20Relation%20Act.pdf.

⁹⁷ *Id.*, section 23(1).

⁹⁸ *Id.*, section 24.

⁹⁹ *Id.*, section 31.

Section 62 provides that in all establishments, the normal working hours shall not exceed eight hours per day or 42 hours per week, provided that a collective agreement may permit hours of work to be averaged over a period of up to four months. In that situation, an employee may not be required to work more than the average of 45 ordinary hours of work in a week or 10 hours in any one day. Where normal working hours are at least eight hours or more per day, the employee shall have a one-hour break each day.¹⁰⁰

Section 63 provides that an employer may not require or permit an employee to work overtime more than 10 hours a week or, if permitted by a collective agreement, up to 15 hours per week. An employee may not be required or permitted to work more than 12 hours on any day. A collective agreement may permit overtime to be averaged over a period of up to four months with no more than an average of five hours overtime in a week.¹⁰¹

The limits on hours of work may be exceeded in case of accident, urgent maintenance work, or force majeure as may be necessary to avoid serious interference with the ordinary working of the employer.¹⁰²

Section 65 provides that an employee shall not be required to work for more than six consecutive days without a day's rest of 24 consecutive hours.¹⁰³

Section 67 provides that an employee is entitled to annual leave of seven days for each period of a continuous four months of service, provided that the entitlement only arises for employees who have performed continuous service for a minimum period of six months. Any agreement to relinquish minimum annual leave entitlements is null and void.¹⁰⁴

Section 68 provides for temporary emergency leave with full pay on the death of a:

- a) father, mother, son, daughter, or spouse – three days;
- b) sister, brother, half-brother, half-sister, father-in-law, or mother-in-law – one day.

An employee is entitled to sick leave if a medical board certifies that an employee is sick, has suffered an accident, or has contracted a disease arising out of and in the course of employment or otherwise and is therefore incapable of work. The leave may be up to six months, dependent on medical board certifications.¹⁰⁵

5.3.8. The well-being of workers: Freedom to change jobs and right to leave

Section 41 of the Labour Act allows employees to terminate their employment by providing the required written notice. For an employment period which is daily or weekly, the notice period is four days. For a monthly contract, the notice period is 28 days. Employees may terminate the contract for cause without

¹⁰⁰ ZEA, section 62, available at: http://www.zanzibarassembly.go.tz/act_2005/act_11.pdf.

¹⁰¹ *Id.*, section 63.

¹⁰² *Id.*, section 63(7).

¹⁰³ *Id.*, section 65.

¹⁰⁴ *Id.*, section 67.

¹⁰⁵ *Id.*, section 68.

those notice periods. The written notice shall state the reason for termination and the date on which notice is given. Such notice shall not be given during any period of leave.¹⁰⁶

Section 54 of the ZEA allows employees to terminate their employment by providing the required written notice. The notice periods are: (a) not less than two weeks where the employee has been employed for a period of six to 12 months; (b) not less than one month where the employee has been employed for one to five years; and (c) not less than three months where the employee has been employed for five years or more. Notice is not required where a fixed term contract comes to an end.¹⁰⁷

5.4. Rights to a Safe Workplace and Compensation Associated With Injuries or Illness

The Occupational Health and Safety Act 2003 of Tanzania requires an employer to provide for worker health and safety. The employer/occupier must provide and maintain plant and systems and procedures of work that are safe and without risk to workers' health.¹⁰⁸

The Zanzibar Occupational Safety and Health Act 2005 requires an employer/controller of premises to take such measures as are reasonable to ensure, so far as is reasonably practicable, that the premises remain safe and without risk to workers' health.¹⁰⁹

The Workers' Compensation Act 2008 of Tanzania provides compensation from the Workers Compensation Fund to employees or their dependents when employees have an accident resulting in their disablement or death. The Fund also provides compensation to employees who contract a specified disease that has arisen out of and in the course of the employee's employment. The specified diseases are the occupational diseases prescribed by the International Labour Organization R194 and include diseases caused by chemical agents, respiratory diseases, cancer, and skin diseases.¹¹⁰

The Zanzibar Workmen's Compensation Act 1986 as amended requires the employer to compensate employees or their dependents for any employee's personal injury or death by accident arising out of and in the course of employment, subject to certain limitations and exceptions.¹¹¹

¹⁰⁶ Labour Act, section 41, available at:

https://www.tanzania.go.tz/egov_uploads/documents/Employment%20and%20Labour%20Relation%20Act.pdf.

¹⁰⁷ ZEA, section 54, available at: http://www.zanzibarassembly.go.tz/act_2005/act_11.pdf.

¹⁰⁸ Occupational Health and Safety Act (2003), section 95(2)(a), available at:

https://www.osh.go.tz/storage/publications/LawsRegulations/The%20Occupational%20Health%20and%20Safety%20Act,%202003_1.pdf.

¹⁰⁹ Zanzibar Occupational Safety and Health Act (2005), section 40(1), available at:

<http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/77451/110273/F1837446524/TZA77451.pdf>.

¹¹⁰ Workers' Compensation Act (2008, amended 2015), section 5 and Third Schedule, available at:

<https://tanzania.eregulations.org/media/The%20Workers%20Compensation%20Act%20-%20Revision%20of%202015.pdf>.

¹¹¹ Zanzibar Workmen's Compensation Act (1986, amended 2005), section 19, available at:

<https://tanzania.eregulations.org/media/The%20Workers%20Compensation%20Act%20-%20Revision%20of%202015.pdf>.

5.5. Access to Justice and Practical Issues Associated With Enforcing Social Legislation

Access to justice is difficult for victims due to the barriers below. Enforcing legislation through prosecutions has progressed slowly. The Government has not provided sufficient resources or funding for the enforcement effort.¹¹²

The barriers relate to victims not being aware of their rights, remedies, and protection available and, where they are aware, the lack of funding and assistance for the victims to make claims and seek protection.¹¹³

As to whether prosecutions deter perpetrators, there have not been many prosecutions. At this point in time, prosecution is not seen as a major deterrent.¹¹⁴

Actors that assist victims with respect to access to justice include various NGOs and the Ministry of Health, Community Development, Gender, Elderly and Children.¹¹⁵

5.6. Interaction Between Employment Law and Migration

5.6.1. *Employment rights affected where employment is unlawful under migration law*

When the victims of forced labour are undocumented migrants, there is *per se* a breach of the Immigration Act 1995. That Act does not permit migrants to work without a permit. Migrants convicted for breach of the Immigration Act may be required to pay a fine not to exceed one hundred thousand shillings [TZS 100,000], imprisonment for up to three years, or both.¹¹⁶

5.6.2. *Rights/remedies available under applicable migration law and regulations*

Section 34 of the ATPA allows a victim who is unlawfully staying in Tanzania to remain in the country throughout the legal investigation and prosecution of the trafficker. Upon completion of the legal process, the government will arrange for the victim's repatriation. However, this section also allows victims to remain in Tanzania after the conclusion of the legal process if it is in the victim's best interests. If a victim is approved by the Minister responsible for home affairs to remain in Tanzania, the victim shall stay in a reception centre provided by the government, where the person shall receive basic material assistance until settled in the country. If the victim must return to the victim's country of origin, the victim will stay in a reception centre and receive basic material assistance until repatriation.¹¹⁷

5.7. Employment Laws and Child Labor

Refer to Section 3.3.2.

¹¹² U.S. Dep't of State, Trafficking in Persons Report 480 (2020), available at: <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>.

¹¹³ *Id.*, pp. 481–82.

¹¹⁴ *Id.*, p. 480.

¹¹⁵ *Id.*, pp. 480–81.

¹¹⁶ Immigration Act (1995), sections 16(1) and 31(2), available at: https://www.tanzania.go.tz/egov_uploads/documents/Immigration%20Acts%201995.pdf.

¹¹⁷ ATPA, section 34, available at: <https://www.refworld.org/pdfid/57c429004.pdf>.

6. GOVERNMENT PROCUREMENT RULES

The Public Procurement Act 2011 as amended regulates public procurement of goods, works, and services.¹¹⁸

That Act establishes general procurement rules and practices. The Public Procurement Regulatory Authority established by that Act is required to ensure the application of fair, competitive, transparent, non-discriminatory, and value-for-money procurement standards and practices for government and statutory bodies. That Authority has published standards and guidelines.¹¹⁹

The NBA has recommended that the standards and guidelines be amended to satisfy the principles set out in the UN Guiding Principles on Business and Human Rights.¹²⁰

7. RESTITUTION AND VICTIM COMPENSATION

7.1. Judicial Process

Section 15 of the ATPA provides that the court shall order a person convicted of trafficking in persons to compensate the victim and order any person who causes injury to a person in connection with trafficking to compensate the injured person. This compensation is in addition to any other punishment.¹²¹

Section 14 of the ATPA (as amended) provides that the court may, on its own motion or on application by the Attorney General, order the confiscation and forfeiture to the government of all proceeds and properties derived from the offence of trafficking in persons or anything used for purposes of committing or facilitating the commission of the offence.¹²²

All awards for damages shall be taken from the personal and separate properties of the convicted offender. Where those properties are insufficient, the balance shall come from the proceeds of the confiscated and forfeited properties.¹²³

Section 27 of the ATPA provides that the Anti-Trafficking Fund shall be used to support the basic material needs of victims of trafficking in persons, for the training of victims, for tracing the families of victims, and for any matter connected with the rehabilitation and reintegration of victims to countries of origin to their best interest.¹²⁴

7.2. The Fund for Financial Aid for Victims

The ATPA established the Anti-Trafficking Fund.

¹¹⁸ Public Procurement Act (2011), available at: <https://www.ppra.go.tz/index.php/95-legislation/140-public-procurement-act-2011>.

¹¹⁹ *Id.*, Part III.

¹²⁰ NBA, pp. 43–45, available at: https://globalnaps.org/wp-content/uploads/2017/11/tanzania-bhr-nba_final_nov2017.pdf.

¹²¹ ATPA, section 15, available at: <https://www.refworld.org/pdfid/57c429004.pdf>.

¹²² *Id.*, section 14.

¹²³ *Id.*, section 14(2).

¹²⁴ *Id.*, section 27.

Moneys for the Fund include voluntary contributions, Parliament-approved funds, grants, and donations.

The Anti-Trafficking Secretariat manages the Fund and provides support to the Anti-Trafficking Committee.¹²⁵

8. TANZANIA'S MULTIDISCIPLINARY/INTERAGENCY COOPERATION APPROACH

8.1. Overview

Various government agencies within Tanzania deal with human trafficking. These include the Commission for Human Rights and Good Governance; Anti-Trafficking Committee; Anti-Trafficking Secretariat; Ministry of Home Affairs; Ministry of Labour, Employment and Youth Development; Director of Public Prosecutions; and Ministry of Health, Community Development, Gender, Elderly and Children.¹²⁶

8.2. Responsible Agencies

8.2.1. Commission for Human Rights and Good Governance

This Commission was established pursuant to Article 129 of the Constitution of the United Republic of Tanzania.¹²⁷ It is an autonomous department. It is the national focal point for the promotion and protection of human rights in Tanzania. Other functions include receiving and investigating complaints relating to the infringement of human rights; conducting research, such as the NBA; educating the public on human rights; instituting court proceedings to prevent the violation of human rights or to restore human rights infringed; and advising the Government and others in respect of human rights and good governance.¹²⁸

8.2.2. Anti-Trafficking Committee

This Committee, which the ATPA established, is responsible for defining, promoting, and coordinating the Government's policy to prevent and control trafficking in persons. Its functions include making recommendations for a national plan of action against trafficking in persons, advising the Minister on policy matters, providing advice on the investigation and prosecution of offences on trafficking in persons, serving as a liaison with other government agencies, and assisting with research and strategies to prevent and combat trafficking in persons.¹²⁹

¹²⁵ *Id.*, Part V.

¹²⁶ U.S. Dep't of State, Trafficking in Persons Report 479-80 (2020), available at: <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>; CHRAGG | Home, COMMISSION FOR HUMAN RIGHTS AND GOOD GOVERNANCE, available at: <https://www.chragg.go.tz/>; PMO-LYED | Home, MINISTRY OF LABOR, EMPLOYMENT AND YOUTH DEVELOPMENT, available at: <https://www.kazi.go.tz/>; Ministry of Home Affairs | The United Republic of Tanzania, MINISTRY OF HOME AFFAIRS, available at: <https://www.moha.go.tz/en/>; Ministry of Health, Community Development, Gender, Elderly and Children, available at: <https://www.moh.go.tz/en/>.

¹²⁷ Constitution of the United Republic of Tanzania, article 129, available at: <https://rsf.org/sites/default/files/constitution.pdf>.

¹²⁸ *Id.*

¹²⁹ ATPA, section 32, available at: <https://www.refworld.org/pdfid/57c429004.pdf>.

8.2.3. *Anti-Trafficking Secretariat*

The Secretariat functions pursuant to the ATPA and supports the Anti-Trafficking Committee on matters related to the general administration of the ATPA and any matter referred by the Minister. It manages the Anti-Trafficking Fund under the ATPA. It is the lead institution for the 2018–2021 National Anti-Trafficking In Persons Action Plan. It works in collaboration with other government agencies, NGOs, and civil society organisations.¹³⁰

8.2.4. *Ministry of Home Affairs*

This Ministry is responsible for the Police Force and the Immigration Services Department.¹³¹

Police officers have various functions and duties under the ATPA. The police are required to investigate any reports about trafficking in persons. They have a general duty to assist trafficked victims to obtain medical and psychological treatment where necessary, assist the victim to a place of safety, and inform the victim of legal rights and any available basic support. The police may arrest a person for an offence under the ATPA only with a warrant.¹³²

The Immigration Department is responsible for the administration of the Immigration Act and relevant provisions of the ATPA.¹³³

8.2.5. *Ministry of Labour, Employment and Youth Development*

This Ministry is responsible for the administration of the Labour Act and seeks to create an environment for better implementation of labour standards.¹³⁴

8.2.6. *Director of Public Prosecutions*

The Tanzania Constitution (Article 59B) establishes the position of Director of Public Prosecutions. The Director has the power to institute, prosecute, and supervise all criminal prosecutions, including trafficking in persons offences under the ATPA and related legislation.¹³⁵

8.2.7. *Ministry of Health, Community Development, Gender, Elderly and Children*

This Ministry is responsible for enforcing the children legislation and social welfare laws.¹³⁶

¹³⁰ ATPA, sections 28 to 30, available at: <https://www.refworld.org/pdfid/57c429004.pdf>.

¹³¹ *Who Are We?*, MINISTRY OF HOME AFFAIRS, available at: <https://www.moha.go.tz/sw/site-page/sisi-ni-nani>.

¹³² ATPA, sections 11 and 12, available at: <https://www.refworld.org/pdfid/57c429004.pdf>.

¹³³ *Id.*, section 31(f); Immigration Act (1995), Part II, available at: https://www.tanzania.go.tz/egov_uploads/documents/Immigration%20Acts%201995.pdf.

¹³⁴ *PMO-LYED | Home*, MINISTRY OF LABOR, EMPLOYMENT AND YOUTH DEVELOPMENT, available at: <https://www.kazi.go.tz/>.

¹³⁵ Constitution of the United Republic of Tanzania, article 59B, available at: <https://rsf.org/sites/default/files/constitution.pdf>.

¹³⁶ *Mission and Vision*, MINISTRY OF HEALTH, COMMUNITY DEVELOPMENT, GENDER, ELDERLY AND CHILDREN, available at: <https://www.moh.go.tz/en/about-ministry/mission-and-vision>.

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