

The Trafficking in Persons Report: Recommendations for Uganda

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1. Introduction

In October 2018, President Donald Trump appointed—and the Senate unanimously confirmed—John Cotton Richmond to serve as the United States Ambassador-at-Large to Monitor and Combat Trafficking in Persons.¹ As Ambassador-at-Large, Richmond leads domestic anti-trafficking efforts and spearheads the U.S.’s efforts to combat human trafficking abroad.² The appointment and confirmation of Ambassador Richmond is a watershed moment for anti-trafficking efforts around the globe. Twenty years ago, it would have been extremely difficult to find someone to lead the U.S.’s anti-trafficking efforts like Richmond—a man with lifelong and diverse experiences combating human trafficking in the U.S. and foreign nations.³ Richmond fits that bill exactly, and he is not an anomaly. More and more individuals are becoming “experts” in combating human trafficking. NGOs, too, have taken up the mantle. Organizations like Shared Hope⁴ and Polaris Project⁵ are combating human trafficking right here in the United States—largely on the state level. International Justice Mission is working in nations all over the world to “end slavery in our lifetime.”⁶ The millennial generation is keenly aware of the subject and many of them are committed to doing something about it. Regent University School of Law, for example, started a human rights center dedicated in large part to equipping law students to combat human trafficking because more and more students—millennials—were coming to Regent Law every year with a single purpose—to get a law degree so they could end human trafficking.⁷ Now Regent Law graduates are working to combat trafficking on the India-Nepal border,⁸ prosecuting human trafficking cases in Pennsylvania and Florida, transforming child sex trafficking laws with Shared Hope,⁹ and starting non-profits that seek to combat human trafficking holistically.¹⁰ This is great news for trafficking victims and bad news for traffickers.

Thankfully, it isn’t just individuals and NGOs that are stepping up to the plate. Governments are doing so as well. Bahrain, for example, recently “opened an internationally renowned shelter for vulnerable workers and trafficking victims” and “launched a Trafficking Victim’s Assistance Fund to provide financial assistance to any individual declared as a trafficking victim by the Public Prosecutor’s Office.”¹¹ Uganda is also becoming a leader in anti-trafficking efforts. Recently, Uganda launched a strategic partnership between the Human Trafficking

¹ U.S. Dep’t of State, Biographies, John Cotton Richmond, <https://www.state.gov/biographies/john-cotton-richmond/>.

² *Id.*

³ Prior to his appointment, Richmond co-founded the Human Trafficking Institute, served as a federal prosecutor in the U.S. Department of Justice’s Human Trafficking Prosecution Unit, worked as an expert to the United Nations Working Group on Trafficking in Persons, and helped launch the International Justice Missions anti-trafficking efforts in India. *Id.*

⁴ Shared Hope, Protected Innocence Challenge, <https://sharedhope.org/what-we-do/bring-justice/reportcards/>.

⁵ Polaris Project, <https://polarisproject.org/criminal-record-relief-laws-survivors-human-trafficking>.

⁶ International Justice Mission, IJM.org.

⁷ Regent Law Center for Global Justice, <https://www.regent.edu/acad/schlaw/globaljustice/about.cfm>. The Center for Global Justice has helped Regent Law become ranked as a top 15 law school in the nation by preLaw Magazine.

⁸ End Slavery Now, <https://www.endslaverynow.org/about>.

⁹ Shared Hope, <https://sharedhope.org/legislative-technical-assistance/> (Sarah Breyer).

¹⁰ Alliance for Freedom, Restoration, and Justice, <https://engagetgether.com/profiles/ashleigh-chapman-2/>.

¹¹ Justin Siberell, U.S. Ambassador to the Kingdom of Bahrain, <https://bh.usembassy.gov/bahrain-leading-the-way-to-combat-human-trafficking/> (July 1, 2018).

Institute, which was founded by Ambassador Richmond, and the Office of the Director of Public Prosecutions (“DPP”).¹² According to Mike Chibita, director of the DPP and a man who is personally committed to fighting human trafficking, “[The partnership between the Human Trafficking Institute and the DPP’s office] is one of the best things that has happened to my office. It has helped us identify hiccups. It has helped us consolidate our work between the two departments. It has helped us set goals.” With this partnership, a well-functioning justice system, various other measures already implemented, and key personnel in various offices, Uganda is poised to be a leader in Africa for combating human trafficking.

The response of governments like Uganda isn’t purely morally motivated, although that is certainly part of it. For almost twenty years, the United States Department of State has been pressuring nations to ramp up their anti-trafficking efforts through the Trafficking in Persons (“TIP”) Report. In 2001, following the passage of The Trafficking Victims Protection Act of 2000 (TVPA),¹³ the United States launched the TIP report, “the U.S. Government’s principal diplomatic tool to engage foreign governments on human trafficking. It is also the world’s most comprehensive resource of governmental anti-trafficking efforts and reflects the U.S. Government’s commitment to global leadership on this key human rights and law enforcement issue.”¹⁴

Each year, through the TIP Report, the U.S. Department of State conducts a comprehensive review of governments’ efforts to combat human trafficking. The review is based on the TVPA’s “minimum standards”:

(1) The government of the country should prohibit severe forms of trafficking in persons and punish acts of such trafficking.

(2) For the knowing commission of any act of sex trafficking involving force, fraud, coercion, or in which the victim of sex trafficking is a child incapable of giving meaningful consent, or of trafficking which includes rape or kidnapping or which causes a death, the government of the country should prescribe punishment commensurate with that for grave crimes, such as forcible sexual assault.

(3) For the knowing commission of any act of a severe form of trafficking in persons, the government of the country should prescribe punishment that is sufficiently stringent to deter and that adequately reflects the heinous nature of the offense.

(4) The government of the country should make serious and sustained efforts to eliminate severe forms of trafficking in persons.¹⁵

These findings are then placed into a report that summarizes the efforts taken by the government and provides specific recommendations for each nation. Based on the report, nations are given one of four rankings: tier 1; tier 2; tier 2 watch list; and tier 3. Tier 1 nations are defined as those “Countries whose governments fully meet the Trafficking Victims Protection Act’s (TVPA) minimum standards.”¹⁶ Tier 2 nations are “Countries whose

¹² The Human Trafficking Institute, Uganda, <https://www.traffickinginstitute.org/uganda/>.

¹³ Trafficking Victims Protection Act of 2000, Div. A of Pub. L. No. 106-386, § 108, as amended. The TVPA, as amended, defines “severe forms of trafficking in persons” as:

sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age; or the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

Human trafficking occurs in various forms, including sex trafficking, forced labor, and bonded labor/debt bondage, domestic servitude, forced child labor, and the recruitment and use of child soldiers.

¹⁴ U.S. Dep’t of State, 2018 Trafficking in Persons Report, Key Takeaways, <https://www.state.gov/j/tip/rls/tiprpt/>.

¹⁵ U.S. Dep’t of State, Bureau of Democracy, Human Rights and Labor, 2018 Trafficking in Persons at 44 [hereinafter 2018 TIP Report].

¹⁶ *Id.* at 40.

governments do not fully meet the TVPA's minimum standards, but are making significant efforts to bring themselves into compliance with those standards."¹⁷

Importantly, attaining tier 1 status is "based not on the size of the country's problems but on the extent of governments' efforts to meet the TVPA's minimum standards for the elimination of human trafficking."¹⁸ Efforts of NGOs, while extremely important, have no direct bearing on a country's ranking. Broadly, rankings reflect an assessment of how well a country's government accomplishes the "three Ps": **Prevention** of human trafficking, **Protection** of trafficking victims, and **Prosecution** of traffickers. Specifically, Tier rankings are based on review of various items, including

- Enactment of laws prohibiting severe forms of trafficking and imposition of sufficient criminal penalties
- Enforcement of trafficking laws through "vigorous prosecution"
- "proactive victim identification measures with systematic procedures" for law enforcement and first responders
- The provision of comprehensive services to victims, including counseling, health care, shelter (without detention), and legal services, along with protection of victims through repatriation and reintegration
- Governmental programs and laws to prevent human trafficking and reduce demand for commercial sex¹⁹

The TIP Report has brought about significant improvement in the quality and quantity of anti-trafficking laws and how governments identify and care for victims. For example, the report now assesses 192 countries compared to the original 82, and the rankings have improved dramatically.²⁰ In 2001, there were 12 Tier 1 countries, 47 Tier 2 countries, and 23 Tier 3 countries.²¹ Currently, there are 39 Tier 1 countries, 83 Tier 2 countries, 43 Tier 2 Watch List countries, 23 Tier 3 countries, and 4 "Special Case" countries.²²

Despite the vast improvement in anti-trafficking efforts worldwide, no African nation has reached Tier 1 status. Currently, 19 African countries are designated as Tier 2.²³ Uganda is one of those countries, and it has a real possibility of reaching Tier 1 status within the next few years. In the 2018 Report, Uganda was praised for 1)

¹⁷ *Id.* Tier 2 Watch List nations are defined as

"Countries whose governments do not fully meet the TVPA's minimum standards, but are making significant efforts to bring themselves into compliance with those standards AND:

- a) The absolute number of victims of severe forms of trafficking is very significant or is significantly increasing;
- b) There is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year; or
- c) The determination that a country is making significant efforts to bring itself into compliance with minimum standards was based on commitments by the country to take additional future steps over the next year."

Id. Tier 3 nations are "Countries whose governments do not fully meet the minimum standards and are not making significant efforts to do so." *Id.* at 41.

¹⁸ *Id.* at 39.

¹⁹ *Id.* at 39–40. For more detail, see *id.* at 44–45.

²⁰ *Id.* at 43.

²¹ U.S. Dep't of State, 2001 Trafficking in Persons Report.

²² 2018 TIP Report, *supra* note 15, at 39, 54.

²³ *Id.* at 55.

its efforts in investigations, prosecutions, and convictions of traffickers, 2) identification and repatriation of victims, 3) strengthening migrant protections abroad, 4) increased law enforcement training, and 5) launching an online External Management System.²⁴ Despite this praise, Uganda still has areas it needs to improve to attain Tier 1 status. The next Section takes the TIP Report's recommendations for Uganda, identifies those that, in the author's opinion, are the most important, and makes specific recommendations for Uganda.

2. Recommendations for Uganda

Uganda has been ranked Tier 2 since the TIP Report's inception in 2001.²⁵ The 2018 TIP Report notes that Uganda continued to make "significant efforts" to fully meet the minimum standards, and even though it demonstrated "increasing efforts" compared to the previous year, the report concluded that Uganda still did not meet the minimum standards.²⁶ The Report noted several key deficiencies:

- Insufficient funding for Victim Protection
- Did not employ systematic procedures to refer or assist victims
- Availability of victim services was inconsistent
- Failure to "institutionalize" training among law enforcement and other officials
- Misclassification of cases and poor investigations
- Failure to report "investigating allegations of corruption impeding government oversight of labor recruitment agencies"²⁷

Following these deficiencies, the report provided several recommendations.²⁸

a. Prosecution Recommendations

Prosecution Recommendation 1: "increase efforts to investigate allegations of official complicity in trafficking crimes and prosecute and convict complicit officials"²⁹

The Report noted that the government did not "report any prosecutions, or convictions of government employees complicit in human trafficking," despite significant concerns of continued corruption.³⁰ The Report cited various examples of official corruption, including "complicity of police officers in child sex trafficking of refugees and coercion of refugee women to perform sexual acts in exchange for various forms of migration documentation."³¹ The Report also noted that "[t]he government suspended four high-level officials in the office of the prime minister based on allegations of their involvement in illegal activities in the refugee settlements" and that the "government is investigating the allegations."³²

The Uganda Directorate of Public Prosecutions should set a priority of investigating and prosecuting government officials for complicity in human trafficking. Investigations should focus on police officers, immigration officials, and other high-level officials alleged to be involved in human trafficking. For Bahrain, the

²⁴ *Id.* at 86.

²⁵ 2001 TIP Report, *supra* note 21, available at <https://2009-2017.state.gov/j/tip/rls/tiprpt/2001/3928.htm>.

²⁶ 2018 TIP Report, *supra* note 15, at 431.

²⁷ *Id.*

²⁸ Recommendations not addressed in this report include the following: fully implement the protection and prevention provisions of the 2009 anti-trafficking act; increase resources dedicated to anti-trafficking efforts; and establish a unified system of documenting and collecting data on human trafficking cases. *Id.*

²⁹ *Id.*

³⁰ *Id.* at 432.

³¹ *Id.*

³² *Id.* at 434.

2018 Report noted that government achieved its “first conviction of a complicit government official.”³³ This conviction was vital to Bahrain being upgraded from Tier 2 to Tier 1.³⁴ To become a tier 1 nation, the U.S. Department of State must be convinced that the Ugandan government takes seriously all allegations of corruption that relate to human trafficking and investigates them fully. Even one prosecution of a government official in the following year could go a long way to demonstrating to the State Department that Uganda is serious about vigorously prosecuting government officials who are involved in trafficking.

Prosecution Recommendation 2: “use existing laws to proactively investigate and punish labor recruiters who fraudulently recruit Ugandans”

According to the Report, Uganda is not taking a strong enough stance on prosecuting labor trafficking cases. Indeed, as the Report noted, “the media continued to report that some of the labor recruitment companies suspected of involvement in trafficking were associated with, or partially owned by, high-level officials, which impeded law enforcement agencies’ ability to investigate their operations.”³⁵ Labor trafficking is a substantial problem in Uganda—both domestically and abroad. “Ugandan children as young as seven are exploited in forced labor in agriculture, fishing, forestry, cattle herding, mining, stone quarrying, brick making, carpentry, steel manufacturing, street vending, bars, restaurants, and domestic service.”³⁶ Across borders, “Ugandan migrant workers are subjected to forced labor and sex trafficking in United Arab Emirates, Saudi Arabia, Oman, Qatar, Kuwait, Iraq, Iran, Egypt, Turkey, Algeria, and China.”³⁷

The Uganda DPP should set a priority to prosecute a labor trafficking case under its Trafficking Act—and particularly one that involves trafficking in which government officials are complicit (which reinforces the first recommendation). Prosecuting a labor trafficking case was key to Bahrain becoming a tier 1 nation. As the Report notes, “For the first time, officials convicted a Bahraini national of forced labor involving a Filipina domestic worker, from a case initially investigated during the previous reporting period.”³⁸

In Uganda, although a variety of existing laws could be used to prosecute a labor trafficking case, the Prevention of Trafficking In Persons Act, 2009 (“PTPA”) directly addresses this crime and should be prominently featured in the prosecution. Under this Act, the offence of “trafficking in persons” occurs when a person “recruits, transports, transfers, harbours or receives a person by means . . . of fraud [or] deception . . . for the purpose of exploitation.”³⁹ “Exploitation” is explicitly defined to include “forced labor.”⁴⁰ While the Ugandan Ministry of Internal Affairs has reported prosecutions for labor trafficking,⁴¹ it appears that none of them involved the PTPA. Indeed, after a review of Ugandan case law, no cases were found that involved a prosecution of labor trafficking

³³ *Id.* at 86. Specifically, “the High Criminal Court sentenced, under the anti-trafficking law, a police officer to five years in prison and a fine of 2,000 Bahraini dinar (\$5,310), for accepting bribes from traffickers and using his position of authority to preclude any investigations of the sex trafficking ring.” *Id.* In 2018, Bahrain became a tier 1 nation after having been tier 2 and tier 2 watchlist in the recent past. *Id.*

³⁴ *Id.*

³⁵ *Id.* at 432.

³⁶ *Id.* at 434.

³⁷ *Id.*

³⁸ *Id.* at 86.

³⁹ Uganda Prevention of Trafficking in Persons Act, 2009, § 3(a).

⁴⁰ *Id.* § 2(d). “Forced Labor means all work or service which is exacted from any person under the threat of any penalty and for which the said person has not offered him/herself voluntarily.” *Id.* § 2(e).

⁴¹ EXPERTISE FRANCE, UGANDA COUNTRY STATEMENT: ADDRESSING MIGRANT SMUGGLING AND HUMAN TRAFFICKING IN EAST AFRICA, at 15 (2017), available at <https://www.expertisefrance.fr/documents/20182/234347/AMMi+-+Country+Report+-+Uganda.pdf/9447f64a-236f-45cc-b2fb-f35891cccf1>.

under Uganda's trafficking act, let alone of a conviction for labor trafficking under the PTPA.⁴² As the TIP Report notes, many of the trafficking cases reported by the Ugandan government likely "included cases of child sacrifice and illegal adoption."⁴³ Moreover, "there is still a limited understanding among law enforcement practitioners, the judiciary, Ugandan civil society and the Ugandan population at large about legislation on human trafficking."⁴⁴ Uganda must prioritize prosecuting a labor trafficking case, and it should do so using PTPA as the basis for the case.

b. Protection Recommendations:

According to the 2018 Report, "[v]ictim care remained inadequate."⁴⁵ If Uganda is going to become a tier 1 nation, this must be remedied immediately. The Report provided a number of key recommendations regarding the protection of victims.

Protection Recommendation 1: "Develop a formal mechanism to systematically refer trafficking victims to appropriate care and expand protective services for victims through partnerships with NGOs, including by allocating resources"

This recommendation has two different components: (1) developing a systematic process to refer trafficking victims to receive care and (2) expanding services for victims, namely through funding. With respect to the first recommendation, the Report specifically noted that while the Ugandan government did "employ victim identification and assistance guidelines" for trafficking victims, there was no "formal mechanism to systematically refer trafficking victims to appropriate care."⁴⁶ For example, the Report indicates that "[t]he government reported removing nearly all internal child trafficking victims from situations of exploitation, but did not report providing the children with assistance afterward."⁴⁷ As soon as the government comes into contact with a trafficking victim, there must be specific procedures in place to identify the person as a trafficking victim and, once that identification takes place, provide a mandatory referral for services, whether through the government or a NGO.

The United Kingdom's National Referral Mechanism (NRM) serves as a great template for what this might look like in Uganda.⁴⁸ The NRM "is a framework for identifying victims of human trafficking or modern slavery and

⁴² In fact, only one labor trafficking case mentioning the Trafficking Act was found, and it involved a civil suit. In 2017, a Lebanese national was declared to be a victim of labor trafficking in *El Termewy v Awdi & 3 Ors* (Civ. Suit No. 95 OF 2012) [2015] UGHCCD 4 (30 January 2015), <https://ulii.org/ug/judgment/high-court-civil-division/2015/4>.

⁴³ *Id.* at 432. For example, in *Uganda v Orwothwun* (Crim. Sess. Case No. 0052 OF 2017) [2017] UGHCCRD 16 (7 August 2017), <https://ulii.org/ug/judgment/hc-criminal-division-uganda/2017/16>, the defendant was charged with aggravated trafficking in children under the Trafficking Act but found not guilty based on allegations of child sacrifice and witchcraft.

⁴⁴ EXPERTISE FRANCE, *supra* note 41, at 16.

⁴⁵ 2018 TIP Report, *supra* note 15, at 432

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.* at 440–41. "The NRM was introduced in 2009 to meet the UK's obligations under the Council of European Convention on Action against Trafficking in Human Beings." *Id.* The Council of European Convention on Action against Trafficking in Human Beings obligates parties to "provide its competent authorities with persons who are trained and qualified in preventing and combating trafficking in human being [and] identifying and helping victims." Council of European Convention on Action against Trafficking in Human Beings, C.E.T.S. No. 197, art. 10(1) (2005). Further, each Party must "adopt such legislative or other measures as may be necessary to identify victims as appropriate in collaboration with other Parties and relevant support organisations." *Id.* art. 10(2). If there are "reasonable grounds" to believe that a person is a trafficking victim, Parties are obligated to ensure that the person is not "removed from its territory until the identification process as victim of an offence provided for in Article 18 of this Convention has been completed by the competent authorities and shall likewise ensure that that person receives the assistance provided for in Article 12, paragraphs 1 and 2." *Id.*

ensuring they receive the appropriate support.”⁴⁹ For a victim to be referred to the NRM, they must be referred to one of two of the UK’s “competent authorities” (CAs): The National Crime Agency’s Modern Slavery Human Trafficking Unit and the Home Office Visas and Immigration division.⁵⁰ The referral to one of the competent authorities comes from various, well-trained first-responders, including police forces and the United Kingdom Border Force. After a first responder refers a victim to one of the CAs, the “NRM team” is given approximately five days to determine “whether there are reasonable grounds to believe the individual is a potential victim of human trafficking or modern slavery.”⁵¹ “Reasonable grounds” means that the trained team believes, “‘from the information available so far I believe but cannot prove’ that the individual is a potential victim of trafficking or modern slavery.”⁵² If the NRM team finds in the affirmative then the victim is given 45 days of funded housing and time to reflect on what they want to do next, including cooperating with police, returning home, etc.⁵³ During the 45-day reflection period, the CA must gather information. Following its investigation, the CA must make a “conclusive decision” on whether the individual is a victim of human trafficking.⁵⁴

Once the referral mechanism is in place, the Ugandan government must demonstrate that it is fulfilling the second part of the recommendation: providing resources to care for victims. The primary concern in the TIP Report seems to be that the Ugandan government is not allocating funding to care for trafficking victims. As the Report notes, the government “continued to rely on NGOs and international organizations to provide the vast majority of victim services via referrals to NGO operated shelters, which provided psychological counseling, medical treatment, family tracing, resettlement support, and vocational education without contributing in-kind or financial support.”⁵⁵ Similarly, “[t]he government did not enact the implementing regulations for the 2009 anti-trafficking act or allocate funding for the implementation of its victim protection provisions”⁵⁶

Uganda must allocate funds to care for trafficking victims. Even if the amount is modest, the State Department must see the Ugandan government’s commitment to caring for victims. This proof comes in dollars and government services. Take, for example, the United States. In the 2018 Report for the United States, the State Department noted that

The U.S. government maintained protection efforts and continued to fund victim assistance for trafficking victims. . . . The government . . . funded task forces and NGOs that provided trafficking-specific victim services. Comprehensive victim assistance funded by the federal government includes case management and referrals for medical and dental care, mental health and substance use disorder treatment, sustenance and shelter, translation and interpretation services, immigration and legal assistance, employment and training, transportation assistance, and other services.⁵⁷

Specifically, the report discussed grants provided by the United States Department of Health and Human Services and the Department of Justice to various NGOs that provide care for victims. The DOJ, for example, provided

⁴⁹ United Kingdom, National Crime Agency, National Referral Mechanism, <http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/specialist-capabilities/uk-human-trafficking-centre/national-referral-mechanism>.

⁵⁰ *Id.* All referrals must be initially sent to the MSHTU, which has jurisdiction regarding cases involving a UK national or a European Economic Area (EEA) national. *Id.* “When MSHTU receives a referral relating to an EEA or non-EEA national who is subject to immigration control, they will refer the case to the Home Office Competent Authority.” *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.* The standard for the “conclusive decision” is whether, “on the balance of probability, ‘it is more likely than not’ that the individual is a victim of human trafficking or modern slavery.” *Id.*

⁵⁵ 2018 TIP Report, *supra* note 15, at 432.

⁵⁶ *Id.*

⁵⁷ *Id.* at 444.

grants to “18 victim service providers offering comprehensive and specialized services across the United States and \$5 million to one organization to increase access to legal services for survivors through funding attorney fellowships across the country.”⁵⁸ The DOJ also transferred a significant amount of funding to the Department of Housing and Urban Development to fund housing for trafficking victims.⁵⁹

Lest Uganda dismiss this idea as only one for more wealthy nations, it needs to think again. In 2017, Bahrain’s National Committee to Combat Trafficking in Persons “allocated 200,000 Bahraini dinar (\$530,500) for the establishment of a victim assistance fund from which trafficking victims are entitled to a small grant to help them reestablish themselves either in Bahrain or in their home country, as well as monthly compensation in the event their presence in Bahrain was court-mandated to conclude a criminal trial.”⁶⁰

Whether Uganda must implement all of these victim-assistance programs is not the question. But Uganda must do more in terms of victim care to become a tier 1 nation. To start, Uganda should have one or two government departments, like the Department of Public Prosecutions and the Ministry of Health, provide grants to certain NGOs that are providing care to victims. The Uganda Ministry of Health could allocate funding to specific NGOs providing services to victims. When making the allocation, the Ministry should cite the Preventions of Trafficking in Persons (PTIP) Act, Section 12, which states, “A victim of trafficking in persons will be accorded the available health and social services, medical care, counseling and psychological assistance, on a confidential basis and with full respect of his/her privacy, in a language she/he understands.”⁶¹

Protection Recommendation 2: “increase training for Ugandan embassies’ staff on assisting trafficking victims abroad, including victim identification, providing temporary shelter, and facilitating the repatriation of victims”

The State Department noted deficiencies regarding Ugandan embassies’ lack of care for victims who were trafficked abroad. For example, the Report notes that although Uganda embassies “generally provided replacement travel documents to facilitate the repatriation of its citizens,” NGOs provided funding for repatriation.⁶² Perhaps more significantly, Ugandan embassies “did not provide shelter for Ugandan nationals abroad or upon their repatriation.”

First, Uganda should immediately increase training of all Ugandan Embassy Staff regarding identifying victims. Training should be provided for all current staff—which at a minimum could include emailing all foreign embassy staff a fact sheet about human trafficking—and also become part of the permanent training program for all new embassy staff. To begin, Uganda could develop a form check-list to help embassy staff identify victims. For example, Indonesia just launched “a screening form for staff at Indonesian embassies overseas to identify trafficking victims and as a reference in trafficking-related investigations.”⁶³

Beyond training, Uganda must commit to housing trafficking victims in Ugandan embassies until victims are repatriated to Uganda *and* must fund their repatriation back to Uganda. Once the victims return home, Uganda must provide victims with shelter for at least a few days until they are able to decide their next steps. The Philippines, a tier 1 nation, has made concerted efforts to care for Philippine nationals who are trafficked abroad. In 2017 alone, the Philippine Department of Foreign Affairs “assisted 1,476 potential Filipino trafficking victims in the Middle East, Asia, and Europe,” including providing a temporary shelter for male victims in Saudi Arabia,

⁵⁸ *Id.* at 445.

⁵⁹ *Id.*

⁶⁰ *Id.* at 87.

⁶¹ Uganda Preventions of Trafficking in Persons Act 2009, §12(6).

⁶² 2018 TIP Report, *supra* note 15, at 433.

⁶³ *Id.* at 227.

migrant resource centers in three other nations, and over \$455,000 in funding for airfare, meal allowance, medical care, and other needs.⁶⁴

Protection Recommendation 3: “authorize an official entity to lead and coordinate national anti-trafficking efforts between ministries and oversee services for trafficking victims to ensure appropriate services are rendered”

Beyond creating a formal mechanism to refer victims for appropriate services and providing funding to care for victims, the Report recommends that the Ugandan government “authorize an official entity to lead and coordinate national anti-trafficking efforts between ministries and oversee services for trafficking victims to ensure appropriate services are rendered.”⁶⁵ Currently, Ugandan anti-trafficking efforts are led by “the National Task Force,” which is composed of 15 officials from various ministries and is led by the Ministry of Internal Affairs and the Coordination Office to Combat Trafficking in Persons.⁶⁶ The Task Force “implement[s] the national action plan and coordinate[s] all anti-trafficking efforts.”⁶⁷ While the existence and work of the Task Force is certainly a positive, the Report notes that it “remained without a strategic mandate to drive national anti-trafficking efforts or the authority to fund and propose improvements and activities for participating agencies—which limited its effectiveness.” Moreover, the National Task Force apparently received no or very limited funding for its work.⁶⁸ The problem is therefore twofold: Uganda has no single governmental agency with specific and designated authority to combat human trafficking and care for victims, nor does an authorized entity have a budget to carry out this work.

As an example, consider Bahrain. In 2015, Bahrain “reformed” its existing National Committee to Combat Trafficking in Persons that was created some years earlier: “leadership of the committee transferred to the [Labor Market Regulatory Agency], the level of participation was raised to the undersecretary level for each ministry, and representatives from the Bahrain News Agency and three human rights-focused NGOs joined.”⁶⁹ Over the next few years, the Committee launched a hotline for reporting abuse of migrant workers;⁷⁰ provided significant care for victims, including creating shelters; and offered training to government personnel, among many other things.⁷¹ Critically, by 2017-18, the Committee’s budget was “500,000 Bahraini dinar (\$1.3 million) for operations and 376,000 Bahraini dinar (\$997,350) for awareness and outreach programs.”⁷²

Uganda should either create a separate agency with authority to coordinate and implement anti-trafficking efforts or, at a minimum, provide significant and designated funding to the National Task Force so it can carry out its work, particularly providing services to victims.

c. Prevention:

Prevention Recommendation 1: “institutionalize anti-trafficking training, including victim identification techniques, for all front-line officials, including police, immigration officers, prosecutors, and judges”⁷³

⁶⁴ *Id.* at 351.

⁶⁵ *Id.* at 431.

⁶⁶ *Id.* at 433; see also Ministry of Internal Affairs, Republic of Uganda, <https://www.mia.go.ug/content/trafficking-persons>.

⁶⁷ 2018 TIP Report, *supra* note 15, at 433.

⁶⁸ *Id.*

⁶⁹ U.S. Dep’t of State, 2015 Trafficking in Persons Report, at 83. <https://www.state.gov/documents/organization/243558.pdf>.

⁷⁰ U.S. Dep’t of State, 2016 Trafficking in Persons Report, at 88, <https://www.state.gov/documents/organization/258878.pdf>.

⁷¹ U.S. Dep’t of State, 2017 Trafficking in Persons Report, at 79, <https://www.state.gov/documents/organization/271341.pdf>.

⁷² 2018 TIP Report, *supra* note 15, at 88.

⁷³ *Id.*

The Report outlined various training efforts that the Ugandan government undertook in the reporting year, including training “judges, magistrates, prosecutors, law enforcement officials, and civil society” on the Uganda anti-trafficking law and case management.⁷⁴ The training, however, only involved 150 individuals.⁷⁵ Another training, conducted by the Ministry of Internal Affairs, involved 63 police officers.⁷⁶ While these efforts are commendable, they are not extensive enough to meet tier 1 status. As the Report notes, many police officers are not adequately trained: “some police and immigration officers continued to lack an understanding of the anti-trafficking law, and may have misclassified cases or encouraged victims to accept financial compensation from traffickers in exchange for dropping their cases.”⁷⁷ Moreover, even where police officers referred cases to the DPP, the investigations were incomplete and often lacked admissible evidence.⁷⁸

Uganda should make anti-trafficking training, both identifying victims and investigating cases, mandatory and part of the core curriculum for all front-line officials. As the recommendation makes clear, the training must be comprehensive, involving all “front-line officials,” i.e., those that are most likely to come into contact with human trafficking victims and cases. Even if Uganda cannot systematically train all officials, any increase in training and awareness will help prevent trafficking and contribute to Uganda’s effort to become a tier 1 nation. For example, the 2018 Report commended Guyana, a tier 1 nation, for the government’s efforts to raise awareness and train a number of officials: “The Guyanese Ministerial Task Force on human trafficking held sensitization campaigns monthly throughout the summer of 2017, along with training workshops to frontline officers from the Guyana Police Force and social workers, medical personnel, and more recently, members of the media, on how to treat trafficking cases.”⁷⁹ In the Philippines, training of front-line officials takes place “through 238 programs that included a focus on the investigation and prosecution of cases involving forced labor, child soldiers, child victims of online sexual exploitation, as well as the provision of trauma-informed care in residential facilities.”⁸⁰ The Department of Justice leads the Philippine Inter-Agency Council Against Trafficking and conducts training and workshops for Foreign Service Officers, prosecutors—in coordination with the United States and Australian governments, and various other front-line officials.⁸¹ Uganda must continue to increase training for all front-line officials.

Prevention Recommendation 2: “replace the partial suspension of recruitment agencies sending migrant workers abroad for domestic work with consistently enforced regulations and oversight of recruitment companies, including by adopting proposed amendments to the anti-trafficking act that would increase oversight of employment contracts and extend criminal liability for trafficking offenses to labor recruiters”⁸²

⁷⁴ *Id.* at 432.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.* at 10. The State Department also noted Guyana’s efforts in its country report: “The government conducted a variety of awareness-raising activities, including producing pamphlets in English, Portuguese, and Spanish, television ads, and flash mobs. Authorities facilitated several awareness sessions focused on the mining and logging sectors outside the capital. The ATU executed numerous sensitization campaigns at schools, NGOs, prisons, and public spaces across Guyana.” *Id.* at 210.

⁸⁰ *Id.* at 351.

⁸¹ Aileen Marie S. Gutierrez, Preventing Human Trafficking in the Philippines: Overview and Current Activities *in* United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders, Work Product of the 150th International Senior Seminar, at 161–162, https://www.unafei.or.jp/publications/pdf/RS_No87/No87_00All.pdf.

⁸² *Id.* at 431.

Many Ugandans, referred to as migrant workers, use recruitment agencies to help find work abroad.⁸³ However, many of these recruitment agencies are unregulated and often complicit in trafficking.⁸⁴ The Report noted that over 80 illegal recruitment agencies were investigated and closed during the reporting period.⁸⁵ The report also highlighted the government's creation in 2018 of the External Employment Management System, which was created as an Internet portal where Ugandans could search and apply for all pre-vetted overseas employment opportunities through licensed recruitment companies.⁸⁶ Additionally, the 2005 Employment Regulations require labor recruitment companies to register with the government, undergo a thorough vetting process, and maintain certain financial standards, like minimum credit lines and bank deposits.⁸⁷ Despite these efforts, the Ugandan government still struggles to properly regulate recruitment agencies. According to the Report, corruption and loopholes in the law are the major factors inhibiting oversight of labor recruitment firms.⁸⁸

Uganda should comprehensively review the laws and regulations surrounding licensing of recruitment agencies and identify loopholes. For example, the report notes that Middle East-based agencies often take advantage of loopholes by obtaining an internal license, rather than an external license, and recruit workers directly from Uganda and illegally ship them abroad.⁸⁹ Adopting new laws to account for these loopholes would significantly aid in regulation and oversight and prohibit recruitment agencies from circumventing regulatory procedures already in place.

Additionally, there is no central agency in charge of monitoring and supervising recruitment agencies in Uganda. Creating an agency that is specially designated for this sole purpose would be a significant step in cutting down on the corruption that hinders regulation and oversight of recruitment agencies. The Philippines, a Tier 1 nation, provides a great example. The Philippines Overseas Employment Administration (POEA) was created to monitor the overseas employment of Filipino workers. The POEA has aided the Philippines in cutting down illegal recruitment through measures like developing a database of known traffickers and illegal recruitment agencies, investigating hundreds of cases of alleged illegal recruitment, and filing administrative charges against licensed agencies for fraudulent employment.⁹⁰ In 2017, the "National Bureau of Investigation and POEA officials investigated 309 cases of alleged illegal recruitment [], and eight cases resulted in a conviction."⁹¹ Uganda should consider creating something akin to the POEA in the Philippines.

Prevention Recommendation 3: Accede to the 2000 UN TIP Protocol

To attain Tier 1 status, Uganda must become a party to the 2000 UN TIP Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Protocol).⁹² Every Tier 1 nation has taken this step, and it is critical that Uganda do so.⁹³ To the extent that Uganda has objections to certain articles in the Protocol, it can ratify the Protocol and also submit "Declarations and Reservations," ensuring that Uganda is only bound by the provisions

⁸³ For example, the Report lists "United Arab Emirates, Saudi Arabia, Oman, Qatar, Kuwait, Iraq, Iran, Egypt, Turkey, Algeria, and China" as nations where migrant workers are often subjected to forced labor and sex trafficking. *Id.* at 434.

⁸⁴ *Id.* at 431–34.

⁸⁵ *Id.* at 433.

⁸⁶ *Id.* at 432.

⁸⁷ *Id.*

⁸⁸ *Id.* at 433.

⁸⁹ *Id.*

⁹⁰ *Id.* at 352.

⁹¹ *Id.*

⁹² Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2237 U.N.T.S. Vol. 319, Doc. A/55/383 (entered into force Dec. 25, 2003), available at https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-12-a&chapter=18&lang=en.

⁹³ *Id.*

of the Protocol to which it explicitly agrees. Approximately 38 nations have issued declarations and/or reservations to various articles in the treaty.⁹⁴

Prevention Recommendation 4: “increase bilateral negotiations with destination country governments on migrant worker rights, including the release and repatriation of Ugandan migrant workers exploited by employers abroad”

As discussed, exploitation of Uganda citizens traveling abroad for work is a significant problem. To regulate this practice and ensure protection of their citizens, nations often enter into bilateral labor agreements. The Report noted that Uganda entered into bilateral agreements with only two countries with respect to migrant worker rights, Saudi Arabia and Jordan, in 2015 and 2016, respectively.⁹⁵ Uganda should increase its use of bilateral agreements with other destination countries, including United Arab Emirates, Oman, Qatar, Kuwait, Iraq, Iran, Egypt, Turkey, Algeria, and China.⁹⁶ Currently, NGOs are carrying the primary burden when it comes to repatriating exploited migrant workers. Uganda needs to implement agreements to establish clear procedures for what happens when a Uganda citizen is identified abroad as a trafficking victim.

As an example, the TIP Report noted that the Philippines, a Tier 1 nation, reviewed 30 bilateral agreements and signed 5 agreements aimed at reducing vulnerability of Filipino migrant workers in 2017.⁹⁷ The Report also praised the United Kingdom, another Tier 1 nation, for leading efforts in the context of bilateral negotiations. The UK government increased funds for anti-trafficking foreign assistance efforts and focused on source and transit countries of victims entering the UK.⁹⁸

3. Conclusion

Becoming a Tier 1 nation is certainly difficult, but it is not beyond reach. Uganda is already a solid, tier 2 nation and making excellent headway in combating trafficking. Thankfully, Uganda is not satisfied with just being “good” at combatting human trafficking. Now amount of trafficking is acceptable, and Uganda knows this. By taking many of the steps outlined above, Uganda can put itself in a great place to be identified as the next Tier 1 Nation and the only Africa nation to be recognized for that honor. As inspiration, Uganda should consider Bahrain, which just became a Tier 1 nation in 2018. Bahrain has made incredible strides in the past few years, and the State Department recognized Bahrain’s outstanding achievements by making it the only Arab nation to achieve Tier 1 status in the 2018 Report. However, this has not always been the case. As recently as 2012, Bahrain was downgraded to a Tier 2 Watch List nation and remained as such until 2015, whereupon Bahrain was reclassified as a Tier 2 nation.⁹⁹

Beginning in 2015, Bahrain made intentional and strategic efforts to comply with the minimum standards for the elimination of trafficking. After just three years, Bahrain incredibly became a Tier 1 nation. While various steps contributed to this remarkable achievement, a few were critically important. First, Bahrain increased prosecution

⁹⁴ *Id.* For example, a number of States made reservations with respect to Article 15(2), which permits one state party to refer a dispute with another state party to the International Court of Justice if the states cannot resolve the dispute through negotiation or arbitration. *Id.* art. 15(2).

⁹⁵ 2018 TIP Report, *supra* note 15, at 432.

⁹⁶ *Id.* at 434.

⁹⁷ *Id.* at 350.

⁹⁸ *Id.* at 442.

⁹⁹ U.S. Dep’t of State, Bureau of Democracy, Human Rights and Labor, 2015 Trafficking in Persons at 54. Under the TIP guidelines, “any country that has been ranked Tier 2 Watch List for two consecutive years and that would otherwise be ranked Tier 2 Watch List for the next year will instead be ranked Tier 3 in that third year.” 2018 TIP Report, *supra* note 15, at 41. In 2014, Bahrain was granted a waiver to remain on the Watch List due to 1) having a written plan that would bring compliance with the minimum and standards and 2) committing resources to implement that plan. U.S. Dep’t of State, Bureau of Democracy, Human Rights and Labor, 2014 Trafficking in Persons Report at 89.

efforts, initiating prosecutions against three government employees who were allegedly complicit in human trafficking,¹⁰⁰ investigating twenty-nine potential trafficking cases,¹⁰¹ and achieving its first successful conviction of a Bahraini national for forced labor and its first conviction of a complicit government official.¹⁰² Second, Bahrain implemented a nationwide referral mechanism that identified and provided care for more victims.¹⁰³ Third, Bahrain developed and facilitated anti-trafficking training and awareness campaigns nationwide.¹⁰⁴

With strategic moves like these, Uganda too can become a tier 1 nation. Remember, ranking “is based not on the size of the country’s problem but on the extent of governments’ efforts.”¹⁰⁵ So, press on, Uganda. Your citizens need you. Africa needs you. And trafficking victims around the world need you.

¹⁰⁰ 2017 TIP Report, at 78.

¹⁰¹ *Id.* at 78.

¹⁰² 2018 TIP Report, *supra* note 15, at 87.

¹⁰³ In 2017, Bahrain, through the National Committee to Combat Trafficking in Persons (NCCTIP), officially launched a government-wide national referral system to streamline the identification of victims, proper documentation of cases, referral of cases, and protection provisions for victims. *Id.* at 87. The NCCTIP also allocated roughly \$530,500 for the establishment of a Trafficking Victim’s Assistance Fund “to provide financial assistance to any individual declared as a trafficking victim by the Public Prosecutor’s Office.” *Id.*

¹⁰⁴ In 2015, the Ministry of Interior began funding annual anti-trafficking training sessions for fifty officials at the Royal Police Academy. TIP Report 2015, at 83. In 2016, six prosecutorial officials also received anti-trafficking training. TIP Report 2016, at 87. In 2017, the MOI continued to fund periodic training for all 59 members of the MOI Anti-Trafficking Division and six prosecutorial personnel received anti-trafficking training via the Judicial and Legal Studies Institute. TIP Report 2017, at 79.

¹⁰⁵ 2018 TIP Report, *supra* note 15, at 39.