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ADDIS ABABA UNIVERSITY

COLLEGE OF LAW AND GOVERNANCE STUDIES

SCHOOL OF LAW

REFUGEES' RIGHT TO WORK IN ETHIOPIA

BY

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May 2020

Addis Ababa, Ethiopia

Title: Refugees' right to work in Ethiopia

A Thesis Submitted to Addis Ababa University College of Law and
Governance Studies Presented in Partial Fulfillment of the Requirements
for Masters of Human rights law

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May 2020

Declaration

I, Ephrem Asnake, hereby declare that this dissertation is original and has never been presented in any other institution. To the best of my knowledge and belief, I also declare that any information used has been duly acknowledged.

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Approval page

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The thesis entitled "Refugees' right to work in Ethiopia" by Mr Ephrem Asnake is approved for the Degree of Master of Laws (LL.M) in Human Rights Law.

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Acknowledgements

Before all, I praise the almighty GOD and his mother ST. MARY for making everything the way it is. Next, I am so glad to express my warm gratitude to my advisor Abdi Jibril (Assistant Professor). He is honestly the GREATEST teacher and advisor I have ever known. Thank you so much for showing and guiding me to an interesting research direction and recognizing my potential in addition to the care, support and valuable comments you gave me. What you did is beyond acknowledgement.

I would like to offer special thanks to all my families, friends and classmates who encourage, love and support me with all you have, I have nothing except THANK YOU.

Many thanks to Mr. Yared Hailemariam (PhD candidate at AAU) for providing me with all the resources, the precious advice and supporting ideas.

Lastly, I am grateful to all persons who have been reacting for my interviews and for their valuable suggestions which made the paper more comprehensive.

Many Thanks for All Who Wished My Success!!!

Acronyms

ACHPR	African Charter of Human and Peoples Right
AALCO	Asian-African Legal Consultative Organization
ARRA	Administration for Refugee and Returnee Affairs
Art	Article
CRRF	Comprehensive Refugee Response Framework
CESCR	Committee on Economic, Social and Cultural Rights
EIC	Ethiopian Investment Commission
ESC	Economic Social and Cultural
EU	European Union
FDRE	Federal Democratic Republic of Ethiopia
ICESCR	International Covenant on Economic Social and Cultural Rights
ILO	International Labor Organization
IPDC	Industrial Parks Development Corporation
IRO	International Refugee Organization
No	Number
MoFEC	Ministry of Finance and Economic Cooperation
MoLSA	Ministry of Labour and Social Affair
OAU	Organization of African unity
TVE	Technical and Vocational Education
UDHR	Universal Declaration of Human Right
UNHCR	United Nations High Commissioner for Refugees
UK	United Kingdom
USA	United States of America
USD	United States Dollar
UN	United Nation
WWI	First World War

Abstract

The new Ethiopian Refugee Proclamation No. 1110/2019 reflects the overall development of refugee protection aiming at making refugees self-sufficient. The new Proclamation recognizes refugees' right to work which includes wage-earning employment, self-employment and the right to form and join a trade union in the same treatment accorded to foreigners. This has caused a tension on the host communities around refugee camps. This qualitative study reveals that recognition of refugees' right to work in Ethiopia is a promise which could not be implemented since most areas of employment or investment are designated only for nationals and other areas are unattainable due to high requirements. Thus, specific directive should be adopted for refugees concerning the right to work and conflicts arose thereof could be mitigated through implementing developmental projects which benefit both refugees and host communities.

Keywords: Refugee, Right to work, Wage Earning Employment, Self-employment, Liberal Profession

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CHAPTER ONE

INTRODUCTION

1.1. Background of the Study

The right to work is the right of everyone for an opportunity to gain his livings which he/she chooses or accepts.¹ The right to work is essential for the realization of other human rights and forms another inseparable and inherent human dignity.² Work is an intrinsic and fundamental part of our daily life activity, thus, this right is guaranteed by many international and regional human rights instruments for everyone including refugees. The right to work is also recognized by the FDRE constitution under article 41 only for Ethiopian citizens.³

Ethiopia has a long history of hosting too and opening doors for refugees. Ethiopia can be called the pioneer by giving protection to refugees long before the existence of international instruments going back to the 7th century hosting Muslim sought refugees fleeing their homeland fear of persecution on account of their religion.⁴

Since 2004, Ethiopia enacted legislation which protects refugees⁵ in line with the ratified international instruments and a party thereof, like the 1951 Convention relating to the Status of Refugees⁶ and the 1967 Refugee Protocol⁷ and the 1969 OAU Convention.⁸ Ethiopia maintained a reservation on the right to work under the 1951 Refugee Convention.⁹

¹ Jeff King, An activist's manual on the international covenant on economic, social and cultural rights, p 56, March 2003.

² UNCHR 'General comment 18' in 'right to work', (*hereinafter* 'General comment 18') E/C.12/GC/18 (6 February 2006).

³ Art 41 (1) "every Ethiopian has the right to engage freely in economic activity and to pursue a livelihood of his choice anywhere within the national territory" Proclamation No. 1/1995, Proclamation of the Constitution of Federal Democratic Republic of Ethiopia, (*hereinafter* 'the FDRE constitution') 1st Year No. 1, Addis Ababa, 21st August 1995, adopted on 8th of December 1994 and came into force on 21st August 1995.

⁴ Abdulmalik A. Ahmed, The 7th Century Unwritten Ethiopian Laws on the Protection of refugees, in Yonas birameta (ed), Refugee protection in Ethiopia, 2017. P 23.

⁵ Refugee Proclamation 409/2004, (*hereinafter* 'proclamation 409/2004') Federal Negarit Gazeta Federal Democratic Republic of Ethiopia, 10th Year, No.54 19th July 2004.

⁶ Convention relating to the Status of Refugees, (*hereinafter*, 'the 1951 Refugee Convention') 189 UNTS 2545, adopted July 28, 1951, entered into force Apr. 22, 1954 .

Proclamation No. 409/2004 had the purpose of effective implementation of the international instruments, protection, and promotion of refugees towards a durable solution.¹⁰ The three pillars of the durable solution are voluntary repatriation to the country of origin, local integration in the country of asylum or resettlement in a third country.¹¹ However, the proclamation contains only voluntary repatriation as a durable solution which becomes impossible as ongoing conflict and instability in several countries of origin.¹² Refugees' right to work is a key for becoming self-reliant, rebuilding their lives, securing dignity and allow them to contribute to their community.

Refugee Proclamation No. 409/2004 entitles refugees only wage-earning employment as the right to work and impose a restriction on the right to movement of refugees thus refugees could not exercise this right.¹³ Second lack of identification paper, one couldn't exercise the right to work without an identification card which shows his identity. Besides, it limits the right to work of refugees by applying the restrictions of rules and regulations which apply to foreigners like Minister of Labor and Social Affairs (MoLSA) grants work permit to foreigners or to refugees on a position which no qualified national available.

Currently, Ethiopia hosts more than 905,831 thousand refugees as of 2019 majorly from South Sudan, Sudan, Somalia, and Eritrea which makes it the second highest in Africa.¹⁴ To reflect the

⁷ Protocol Relating to the Status of Refugees, 606 UNTS 8791, adopted Jan. 31, 1967, entered into force Oct. 4, 1967, at art 1(*hereinafter* 'the Refugee Protocol').

⁸ Convention Governing the Specific Aspects of Refugee Problems in Africa, (*hereinafter* 'the OAU Refugee Convention') 10011 UNTS 14691, done Sept. 10, 1969, entered into force June 20, 1974,(Addis Ababa convention).

⁹ Art 22 of Vienna Convention on the Law of Treaties, opened for signature May 23, 1969, 1155 U.N.T.S.

¹⁰ Ibid, para 3.

¹¹ Zelalem Mogessie Tefera 'Delimiting the Normative Terrain of Refugee Protection: A Critical Appraisal of the Ethiopian Refugee Proclamation No. 409/2004' in Yonas birameta (ed), Refugee protection in Ethiopia, p 31-96.

¹² Roger Zetter and Héloïse Ruaudel' Refugees' Right to Work and Access to Labor Markets – An Assessment' KNOMAD study, part 1 September 2016 p 32.

¹³ Art 21(3) of Proclamation 409/2004.

¹⁴ UNHCR 'Ethiopia Country Refugee Response plan': the integrated response plan for refugees from Eritrea, Sudan, South Sudan, and Somalia, January 2019- December 2020 available <https://data2.unhcr.org/en/documents/details/67744> accessed July 22, 2019.

current overall development of refugee protection, at the begging of 2019, the Ethiopian parliament has replaced Proclamation No. 409/2004 with Proclamation No. 1110/2019.¹⁵

Proclamation No. 1110/2019 welcomes Ethiopia's historic new laws, reflects the major development and progresses especially concerning the durable solution and refugees' right to work.¹⁶ The study has evaluated refugees' right to work in the Ethiopian legal system and its implementation under the new refugee proclamation No. 1110/2019 and supplementary laws.

1.2. Statement of the Problem

Ethiopian refugee law, Proclamation No. 1110/2019 entitles refugees the right to work in general and wage-earning employment right, self-employment right and right to form and join a trade union right in particular with the same most favourable treatment accorded to foreign nationals under the relevant laws. The Labor Proclamation No.1156/2019 gives foreigners' employment right only if they have a work permit.¹⁷ Work permit for foreigners is given by the MoLSA through the 2019 revised Expatriate directive and the work permit is only given for the profession where no qualified nationals available and the work permit can only be applied by the employer rather than the foreign employee.¹⁸ Thus, these requirements of work permit are very restrictive and difficult for the realization and implementation of Refugees' right to wage-earning employment.

Proclamation No. 1110/2019, also recognizes Self-employment and liberal profession as rights of refugees which are regulated and implemented through relevant national laws, especially with investment proclamation¹⁹and investment regulation²⁰, thus most of the professional or

¹⁵ Refugee Proclamation, (*hereinafter* 'Proclamation 1110/2019') Federal Negarit Gazeta of the Federal Democratic Republic of Ethiopia, 25th Year, No.38, 27th February 2019.

¹⁶ Art 26 of Proclamation 1110/2019.

¹⁷ Art 176 (1) of Proclamation 1156/2019, Labor Proclamation of the Federal Negarit Gazeta of Federal Democratic Republic of Ethiopia, 25th Year, No.89, 5th September 2019 .

¹⁸ Expatriate work permit issuance directive, Ministry of Labour and Social Affair (MoLSA), 2019 para 6.

¹⁹ Proclamation No 1180/2020, Investment Proclamation of the Federal Negarit Gazeta of Federal Democratic Republic of Ethiopia, 26th Year, No.28, 2th April 2020.

²⁰ Regulation No 270/2012, investment incentives and investment areas reserved for domestic investors council of ministers regulation of the Federal Negarit Gazeta of Federal Democratic Republic of Ethiopia, 19th Year, No.4, 29th November 2012.

commercial opportunities and areas of investment are only designated for Ethiopian nationals, Besides the limited areas which are allowed for foreigner's or Refugees have a very high financial requirement which is difficult for refugees as they vulnerable groups, to this end refugees' right to work, is restricted.

Besides, Ethiopia has a limited economic capacity and excessive unemployment rate thus granting refugees the right to work have an impact and implication on the host community.

In general, the study assesses the legislative challenges and tries to address a possible way for the implementation of Refugees' right to work in Ethiopia.

1.3. Objective of the study

1.3.1. General objective

Given the above problems, the objective of the research is to be able to understand the actual contents of the Refugees' right to work in Ethiopia and examine the challenges of enforcing this right.

1.3.2. Specific objectives

- Analyzes the national laws and legislation for the implementation of refugees' right to work.
- Identifying the legal challenges for the implementation of Refugees' right to work.
- Assess to what extent refugees have the right to work under the national laws of Ethiopia.
- Assess the positive and negative implications Refugees' right to work in Ethiopia.

1.4. Research Questions

The research has attempted to answer the following questions:

- What is the right to work?
- What is the scope of refugees' right to work?
- What are the measures adopted to implement refugees' right to work in Ethiopia?

Sub questions:-

- What is the available national legislation for the implementation of the Refugees' right to work?
- What are the legislative challenges with implementing refugees' right to work?

- What is the positive and negative implication of refugees' right to work on the host community?

1.5. Literature Review

According to Roger Zetter and Héloïse Ruauudel²¹ Refugee Proclamation No. 409/2004 of Ethiopia allows refugees to be employed but restrict the formal sector through policy and regulations which results in dependency of refugees on UNHCR and refugees engagement in the informal sector which is impossible to get legal protection.

According to Tsion Tadesse,²² by rising the ongoing revision of the Proclamation No. 2004 and comprehensive refugee response plan in 2017, which aims at benefiting refugees and host communities to be self-reliant and to have their basic need, she suggests refugees self-reliant can only be achieved through the enactment of minimum wage policy and favourable working condition.

According to Moti and Tsion²³, Most refugees in Ethiopia have an ethnic based relationship with the hosting community and have a dual identity which brings socio-economic effect and refugees are sharing the scarce resources and limited employment opportunity with the host communities and it's becoming the ground of conflict in Gambella.

According to the study of Samuel Hall consultant²⁴, the conditions of Eritrean encamped refugees and the possible alternative, they marked that Out camp policy is very crucial for refugees to be self-reliant and open opportunities towards their livelihood however the policies restrict its very objective, as a result, they face difficulty to access employment by lack of work permit, and even if they get the chance of employment, they are restricted to the informal one which has no legal protection what so ever thus they suggest out camp policy.

²¹ Zetter and Ruauudel (n 12).

²² Tsion Tadesse, Promises and challenges of Ethiopia's refugee reform, 26 October 2018.

²³ Moti Mosisa Gutema, 'The Dynamics of Refugees' Dual-Identity along with Ethiopia - South Sudan Border: Challenges, Prospects, and Policy Implications', in Yonas birameta (ed), Refugee protection in Ethiopia, P. 99-123.

²⁴ Living out of Camp: Alternatives to Camp-based Assistance for Eritrean Refugees in Ethiopia, commissioned by the NRC (2014) <<http://samuelhall.org/site/living-out-of-camp-alternative-to-camp-based-assistance-for-eritrean-refugees-in-ethiopia/>> accessed July 23, 2019.

In general, the above literature and studies have clarified socio-economic integration of refugees to the host communities and the Refugees' right to work in Ethiopia, by analyzing the legal and practical challenges thereof, however, there is no study conducted on Refugees right to work under the revised Refugee Proclamation No. 1110/2019 which is believed to grant the wider right for refugees, thus it was important to research and study Refugees' right to work, relevant laws concerning the right to work, and the implementation thereof.

1.6. Research Methodology

The research emphasizes on refugees' right to work in Ethiopia by underlining and employing international and national instruments, like the 1951 Refugee Convention and the Refugee protocol, FDRE constitution, Proclamation No. 409/2004, the revised Proclamation No.1110/2019 and other national legislations which are directly and indirectly related to Refugees including books and journal articles, In addition, interviews have been conducted with refugee law expert and representatives of MoLSA for further explanation and its implementation ,thus the study has been conducted using a Mixed approach(both qualitative and quantitative).

By mixed, it is to mean that the research has employed both primary and secondary sources.

1.7. Scope of the study

Many refugee rights and protections have been recognized under proclamation No.1110/2019, one of which is the right to work. Refugees' right to work is composed of the right to engage in wage-earning employment and self-employment right like owning a micro-enterprise, another business or exercising one's profession and the right to form and join a trade union.

The study is scoped to Refugees' right to work and the implementation thereof.

1.8. Limitation of the study

The study was about Refugees' right to work in Ethiopia, thus, international, regional and national legal instruments and writhing of scholars have been assessed. Furthermore, interviews were conducted for further explanation of Refugees' right to work and the challenges for implementation thereof and the results were positive.

However, since Refugees' right to work in Ethiopia is recognized recently through Proclamation No. 1110/2019, there is limited documentation on the subject matter.

While the Refugee Proclamation No. 1110/2019 recognizes many rights like access to education, access to healthcare, the right to movement, right to association and other rights, this study is limited to Refugees' right to work.

Even though adequate information has been collected, it was difficult to conduct an interview with ARRA officials since they were not available because of the pandemic, COVID-19.

1.9. Thesis Organization

The study is composed of four chapters; the first chapter introduces the major issue of the study like the background of the study, the research objective, and statement of the problem, literature review, the scope of the study, research question, methods, and size. Chapter two of the study discusses the definition of the right to work, international legal framework, extent, and limitation of the right to work and state obligation towards the right to work. Chapter three discusses refugees' right to work, the legal framework and the importance thereof. Chapter four presents Refugees' right to work in Ethiopia by analyzing national legislations and policies for realization right to work and the role of concerned organs and conducting interviews Finally, chapter five of the paper provides conclusion and recommendations to help stakeholders to address the challenges and suggests possibilities for the implementation of Refugees' right to work in Ethiopia.

CHAPTER TWO

GENERAL OVERVIEW ON THE RIGHT TO WORK

2.1. Introduction

The right to work has occupied a central place in human rights discourses; however the majority of the world population survives without meaningful employment.²⁵ The right to work has fundamental importance for both intrinsic and instrumental reasons as it is a crucial part of our daily life activity, and it is the main way in which we are responsible for our substantial welfare.²⁶

Work is about getting an income but also individual fulfillment in components of one's self and communal presence.²⁷ Work provides individuals with an element of human dignity as a key contributor to civilization and while providing remuneration which might allow them to secure an adequate standard of living.²⁸

The right to work has been recognized and guaranteed by major international human rights treaties. In 1948 the Universal Declaration of Human Rights (UDHR) recognized right to work as one of the universally applicable human rights. Later, this right was transformed into an obligatory norm through Article 6(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which mandates every State Party to recognize everybody's/everyone's right to work.²⁹

Besides the right to work contributes to the survival of the individual and his/her family, as provided and recognized under major international instruments, work is preferred or believed at liberty to his/her growth and gratitude within the community.³⁰

²⁵ Saurabh Bhattacharjee, situating the right to work in international human rights law: an agenda for the protection of refugees and asylum-seekers (June 2013) p 42-43.

²⁶ K. Marx, Philosophical and Economic Manuscripts of 1844, in D. J. Struik, ed., (New York: International Publishers Co., 1964).

²⁷ Guy Mundalk, The right to work: linking human Rights and Employment Policy, p146, *inter labour Rev.* 189(2007) .

²⁸ Rhona K. M. Smith, a Textbook on International Human Rights Law, 2005 p 296.

²⁹ Bhattacharjee (n 25).

³⁰ The preamble to ILO Convention No. 168, 1988:

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT Accessed on September 12, 2019.

This chapter examines the right to work by beginning with the definition of the right to work through analyzing the writings of scholars, international laws and further discusses the recognition of the right to work under major international and regional human right instruments including the elements and scope thereof, and finally, the state duties toward the recognition of the right to work and as almost all rights have a certain limitation, I have discussed the limitations of the right to work.

2.2 Definition of the Right to Work

Most scholars writing about the right to work have similar understandings about the concept. According to Juan Sommovia, Director-General of the International Labor Organization, “Work is a defining feature of human existence and it’s the means of sustaining life and meeting basic needs but it is also the activity through which individuals affirm their own identity both to themselves and those around them”³¹

‘Work’ is a fundamental part of a daily life movement and communication of one’s spirit and the main way in which we provide for our material wellbeing as well as our families.³²

In addition, work is a way of creating a relationship with society through participation.

“Work is a human right because it is a means to an end- human survival”.³³

Therefore it is important to underline that work has been protected as a human right and it is not only limited to generation of income but also the constitution of one’s character and social inclusion.³⁴ Hence, work is a crucial and intrinsic element of a human being, establishing the essence of the right to work.

There are two major angles of perceiving, defining and understanding the right to work. According to Jon V. Spielmans, the right to work is a claim for continuous employments which

³¹ International Labor Organization [ILO], Report of the Director-General to the International Labour Conference, Reducing the Decent Work Deficit—A Global Challenge (June 2001).

³² King (n 1) 56.

³³ Udombana, N songurua J "Social Rights Are Human Rights: Actualizing the Rights to Work and Social Security in Africa," Cornell International Law Journal: Vol. 39: Iss. 2, Article 1. (2006) Available at <http://scholarship.law.cornell.edu/cilj/vol39/iss2/1> Accessed September 25, 2019.

³⁴ King (n 1).

workers have or are by some people supposed to have on the state or society, on the industry.³⁵ The very concept of his definition implies that access to work should be distributed in a way that allows for the participation of everyone who wants to work.

The right to work doesn't only mean just participating in economic activity but also comprises the right of everyone to participate and get a chance to gain a living that he/she preferred.³⁶ Thus any activity itself doesn't refer to the full sense of the right to work rather the work should be with the free and full consent.

The Committee on economic social and cultural rights under General comment 18 also defines the right to work as an individual right that belongs to each person, at the same time it is included and shares all forms of work, whether self-governing work or reliant on wage-paid work. The right to work should not be understood as an absolute and unconditional right to obtain employment.³⁷

This paper is concerned with the understanding that the right to work relates to equal access and opportunity in wage-earning employment and self-employment and the right to form and join a trade union. Thus the right to work should be understood in a way that everyone has an equal opportunity of work which allows one to have an adequate standard of living and making everyone part of the economic sphere.³⁸

2.3 Right to Work under International and Regional Human Right Instruments

The right to work is a fundamental right recognized in several international instruments. For this to happen, workers' struggle has been essential, resulting in the recognition of a range of ESC rights, particularly the right to work.³⁹

³⁵ John V. Spielmans, "Union Security and the Right to Work, *Journal of Political Economy*," No. 6 (Dec. 1949), P. 537-542 <https://www.jstor.org/stable/1826557> Accessed September 26, 2019.

³⁶ Art 6 of International Covenant on Economic, Social and Cultural Rights (*hereinafter 'ICESCR'*) (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171.

³⁷ General Comment 18 (n 2).

³⁸ Team H, "Circle of Rights : Economic, Social & Cultural Rights Activism : A Training Resource" Module 10, Section 5 (*HURIDOCS*, July 6, 2010) Available

http://hrlibrary.umm.edu/edumat/IHRIP/circle/modules/module10.htm#_edn3 accessed September 15, 2019.

³⁹ (n 31).

Since the adoption of the Universal Declaration of Human Rights,⁴⁰ numerous international and regional human rights instruments have recognized the right to work.⁴¹

Even before the United Nation existed or UDHR was drafted the International Labour Organization (ILO) has developed and enforced a broad range of labour-related standards and also the efforts made at the international and national level with organized community initiatives, right to work was advanced and established.⁴² This paper discusses the right to work under UDHR, ICESCR, and ACHPR as this instrument is the base and landmark for the binding recognition right to work.

2.3.1 Right to work under UDHR

The concept of the right to work is enshrined in the Universal Declaration of Human Rights, which was adopted by the United Nations General Assembly in 1948.⁴³

Article 23(1) of UDHR asserts that ‘everyone has the right to work, to free choice of employment, to just and favourable conditions of work, and to protection against unemployment.’

⁴⁰ Universal Declaration of Human Rights (*hereinafter* ‘UDHR’) (adopted 10 December 1948 UNGA Res 217 A(III)).

⁴¹, “Since the adoption of the UDHR, Several universal and regional human rights instruments have recognized the right to work at the universal level, International Covenant on Economic, Social and Cultural Rights(ICESCR), art. 6, Art 8, paragraph 3 (a), of the International Covenant on Civil and Political Civil Rights (ICCPR); in art 5, paragraph (e) (i), of the International Convention on the Elimination of All Forms of Racial Discrimination; in article 11, paragraph 1 (a), of the Convention on the Elimination of All Forms of Discrimination against Women; in article 32 of the Convention on the Rights of the Child; and art 11, 25, 26, 40, 52 and 54 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Several regional instruments recognize the right to work in its general dimension, including the European Social Charter of 1961 and the Revised European Social Charter of 1996 (Part II, art.1), the African Charter on Human and Peoples' Rights (art. 15) and the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (art. 6), and affirm the principle that respect for the right to work imposes on States parties an obligation to take measures aimed at the realization of full employment. Similarly, the right to work has been proclaimed by the United Nations General Assembly in the Declaration on Social Progress and Development, in its resolution 2542 (XXIV) of 11 December 1969 (art. 6)” see General Comment 18 para 3.

⁴² (n 30).

⁴³ Art 23 of UDHR.

In this regard the UDHR envisages core elements of the right to work like at liberty to choose an occupation, having encouraging work conditions and protection against unequal treatment in exercising such right.

In addition to the right to work, the UDHR under article 23(4) guarantees everyone to have a group right to form a trade union to protect their collective interest.⁴⁴

The phrase “protection from unemployment” implies that states have not only a duty to respect but also to compensate while unemployed.⁴⁵ The shortcoming of the right to work under Article 23 of UDHR is that it does not include an obligation for people to work. During the drafting process, there was a discussion to link the right to work with a duty for individuals to work and this content was expressed, discussed, and however excluded.⁴⁶

Even though UDHR implies the universal application of rights enshrined under it, it is a soft law. This makes it non-binding, however, through its acceptance and as it is a landmark of all instruments; it got the status of customary international law which makes it binding.⁴⁷ Later the right has been transformed into binding hard law under the ICESCR.

Generally, through reason not to exercise and obliged to respect, protect and promote the right to work, the UDHR has placed a significant role for the international community to be self-sufficient and to have an adequate standard of living by exercising their right to work without discrimination whatsoever.

2.3.2 Right to work under ICESCR

Article 6 (1) of ICESCR recognizes everyone the opportunity to work freely and obliges state the protection thereof.⁴⁸ when the Commission on Human Rights drafted Article 6(1) of ICESCR, they rejected using ‘guarantee the right’ instead they preferred ‘recognize the right’ and the same approach upheld by the CESCR for the reason that the word “recognize” viewed right to work as one that must be realized progressively rather than immediately. As such it is to be interpreted

⁴⁴ Art 23 of UDHR.

⁴⁵ Phillip Harvey, ‘Human Rights, and Economic Policy Discourse: Taking Social and Economic Rights seriously’, retrieved from Bhattacharjee S. (n 25).

⁴⁶ King (n 1) 56.

⁴⁷ Hurst Hannum, ‘The UDHR in National and International law’,(1995/96) p 319.

⁴⁸ Art 6 of ICESCR.

through article 2(1).⁴⁹ Like all other rights under ICESCR, the right to work under article 6 requires only ‘progressive realization’ rather than full and immediate implementation.⁵⁰

Article 6(1) of the ICESCR includes three elements of the right to work: the right of access to employment, the right to free choice of employment, and the guarantee against arbitrary dismissal.⁵¹ This right implies that not being forced in whatever way to implement or involve in employment promising each individual who requires work for equal opportunity.⁵² It also indicates the right not to be unlawfully deprived of his/her occupation.⁵³ It's important to note that equal access to employment which is a state obligation to eliminate discrimination is an immediate obligation, not a progressive realization.

Article 6(2) provides a state obligation towards the full realization of the right to work and further explains the conditions, circumstances and the element for full realization of the right to work in an illustrative manner. The obligation of states in technical and vocational training (education) stated under this article overlaps with article 12(2(b)) of ICESCR which recognizes the right to education.

Article 7(a) of ICESCR recognizes 'just and favourable condition of work' and obliges states to act accordingly.⁵⁴ This article mainly addresses the issue of a fair wage, equal remuneration, decent work including safe and healthy working condition and equal opportunity for promotion. This recognition is highly related to fair payment for a work done so that one can enjoy an adequate standard of living for himself and his family.⁵⁵

Again, article 7 underlines equal payment for equal work done between women and men to eliminate the historical discrimination faced by women's in the economic sphere. After getting an employment opportunity, everyone has a right to an equal opportunity based on their potential to

⁴⁹ M. Craven, 'The International Covenant on Economic, Social and Cultural Rights: A Perspective on its Development', 1995, p. 195-6.

⁵⁰ Art 22 of ICESCR.

⁵¹ Lester ' Work, the Right to Work, and Durable Solutions: A Study on Sierra Leonean Refugees in the Gambia,' 17 Int'l J. Refugee L. 331, 334 (2005).

⁵² General Comment 18 No (n 2).

⁵³ Ibid.

⁵⁴ Art 7 of ICESCR.

⁵⁵ H Team (n 38).

get a promotion as well as to rest.⁵⁶ Thus in recognizing the right to work and achieving minimum standards of living, article 7 of ICESCR recognizes right to safety at work.

Article 8 of ICESCR also guarantees the collective right of workers to choose and form a trade union.⁵⁷ Concerning the right of workers to form a trade union, workers also have the right to establish "...national federation or confederation and also to join and form international union organization"⁵⁸ which are the very components of the collective right of workers and one of the major rights of trade unions is to "strike out" in conformity with the legislation of that country⁵⁹.

Besides states are obliged to ensure this right regardless of lack of resources, thus states cannot raise this as an excuse for non-compliance and also the implementation of the right needs immediate action which has no room for progressive realization.⁶⁰

Even though this collective right is guaranteed and obliges state parties to ensure and not to limit such right it is important to note that it can be limited on those grounds "prescribed by law which is necessary to a democratic society in the interest of national security or public order or for the protection of the right and freedoms of others."⁶¹ Article 8 (2) acknowledge that state parties may limit or restrict the right to form a trade union for the member of the armed forces, the police and the administration of states.⁶²

In addition to article 8(2), it is important to note that the rights of non-nationals to take part in unions seem to be covered by the text of the Covenant, but Committee members have been hesitant to display more than 'concern' over denying non-nationals such rights.⁶³ Generally, articles 6, 7 & 8 are interdependent and closely linked as the characterization of decent work presupposes on respecting the fundamental rights of the worker.⁶⁴

⁵⁶ King (n 1) 68.

⁵⁷ Art 8(1(a)) of ICESCR.

⁵⁸ Art 8(1(b)) of ICESCR.

⁵⁹ Art 8(1(d)) of ICESCR.

⁶⁰ King (n 1) 69.

⁶¹ Art 8(1(c)) of ICESCR.

⁶² Art 8(2) of ICESCR.

⁶³ Craven (n 49) The author indicates that " there were restrictions for non-nationals in Costa Rica, Panama and Senegal," p 265-6.

⁶⁴ General Comment 18 (n 2).

2.3.3 Right to Work under ACHPR

In addition to international human rights instruments, regional instruments like ACHPR also recognized the right to work.

Article 15 of the ACHPR states that:

Every individual shall have the right to work under equitable and satisfactory conditions, and shall receive equal pay for equal work.⁶⁵

Even though the charter does not provide the details of the right to work like ICESCR, it guarantees the condition of work and equal remuneration for equal work which are the major components of work.

The phrase "*equitable and satisfactory conditions*," as used in the African Charter, is "*highly subjective*" and lacks any precise definition.⁶⁶ It is equivalent provisions in the UDHR and ICESCR are not helpful either, as they simply refer to "just and favorable" conditions.⁶⁷

About the expression "equal pay for equal work", the pay requisite "worthy of human dignity,' or "suitable" and" in the amount to his capacity and ability," or "a decent living" like that of UDHR and ICESCR.⁶⁸

In the case of *Malawi African Association v. Mauritania*,⁶⁹ the African Commission believed that "unremunerated work is tantamount to a violation of the right to respect for the dignity inherent in the human being."⁷⁰

The African charter failed to state the right of workers to form or join a trade union, however as the charter made a promise to inspire rights from the UDHR and international covenants; ACHPR could be seen in line with the details and contents of the right to work from ICESCR.

In addition to the obligations of states parties to the ACHPR on respecting, protecting and promoting the right to work progressively, the African Charter is distinct in seeing work not only

⁶⁵ African Charter on Human and Peoples' Rights, (*hereinafter ACHPR*) adopted June 27, 1981, OAU Doc.CAB/LEG/67/3/rev.5, reprinted in 21I.L.M. 59 (1982), entered into force Oct. 21, 1986.

⁶⁶ Art 15 of ACHPR.

⁶⁷ *J songurua* (n 33).

⁶⁸ *Ibid.*

⁶⁹ *Malawi African Association and Others v Mauritania* (2000) AHRLR 149 (ACHPR 2000.)

⁷⁰ *Ibid.*

as a right but also as a duty of individual; it provides that every individual has a duty “to work to the best of his abilities and competence ...”⁷¹

In general, the African Charter on humans and peoples right recognized and guarantees the right to work for the realization of all other civil and political, economic social and cultural rights.

2.4 Element and Scope of the Right to Work

Many political scientists and social reformers have demanded recognition of "right to work" both on moral ground and as an inherent attribute of human personality, however they have not agreed on the scope. The debate was whether the scope of right to work is for individual who had some vested interest to his present job or should it mean that each person wanting to work and capable of work should be entitled equal opportunity.⁷²

The study believes the latter argument is the reflection of the scope of the right to work because it is concerned with equal opportunity of work for anyone who is ready and competent enough for that specific employment prospect.

Regarding the element of the right to work, the UN Committee on Economic Social and Cultural Rights has stated that the right to work encompasses the following elements under article 6 of ICESCR:

- **Availability:** States must have specialized services to assist and support individuals to enable them to identify and access available employment.⁷³ This should not be understood as if the state should give everyone a job rather it means providing any support for accessing a job.
- **Accessibility:** The labour market must be accessible and open for everyone under the territory of States parties.⁷⁴ In particular, there shall not be any discrimination regarding access to and preservation of employment on the grounds stated in article 2 of ICESCR, specifically race, colour, sex, language, religion, political or other views, national or social

⁷¹ J songurua (n 32), on explaining article 26 of ACHPR.

⁷² Frank, W. F. "The Right to Work." *Industrial Law Review*, vol. 6, no. 4, April 1958, p. 247-265. Cited at <https://heinOnline.org/HoL/license> Accessed Tue Oct 22 10:02:26 2019.

⁷³ General comment No 18 (n 2)12.

⁷⁴ General comment 18 (n 2)12.

basis or other grounds, which has the intent or influence of harming or abolishing implementation of the right to work.⁷⁵

- **Acceptability and quality:** The right to work should be protected by providing workers with just and favourable conditions of work, in particular to safe working conditions, workers ' collective right to form trade unions and to choose and accept work.⁷⁶

In general, the above elements of the right to work show the scope or how far and to what extent the right to work can be exercised as explained in General Comment 18.

2.5 State Obligation Corresponding to the Right to Work

Under international human rights laws, states are the primary duty bearer of any obligation. International human rights treaties and customary laws impose three obligations on states, the duty to respect, protect and fulfill.⁷⁷ Even though the scope and extent of these states obligations vary from rights to rights, they are applied to almost all civil, political, economic, social and cultural rights.⁷⁸

By recognizing the right to work as one of the major economic rights, states should respect, protect and fulfill each person's access to work, to earn one's living and obligation to guarantee that this work can be freely chosen and accepted.⁷⁹ To discharge their responsibility relating to the right to work, "states must not destroy a person's opportunity to earn his or her living (obligation to respect); states must avert and avoid circumstances which shattered the opportunity of the right to work by third parties (obligation to protect); states must provide the opportunity to participate in economic activity for those who do not have this chance (obligation to fulfill)".⁸⁰

Article 2(1) of ICESCR obliges states to "...to take step...to the maximum of its resource to achieve progressively for the full realization..." The concept of progressive realization has been

⁷⁵ Public sector guidance sheet; Right to work and right at work, Australian Government Attorney Generals department available at; <https://www.ag.gov.au/RightsAndProtections/HumanRights/Human-rights-scrutiny/PublicSectorGuidanceSheets/Pages/Righttoworkandrightsatwork.aspx#4what> Accessed Sat Dec 22, 2019

⁷⁶ General comment No 18 (n 2) [12].

⁷⁷ United nation human rights commission, human right Handbook for parliamentary, 2016 p. 31.

⁷⁸ John Ruggie, "State Responsibilities to Regulate and Adjudicate Corporate Activities under the United Nations' core Human Rights Treaties" Report No. III. (June 2007).

⁷⁹ Public sector guidance sheet (n 75).

⁸⁰ Public sector guidance sheet (n 75).

addressed by the Committee on Economic, Social and Cultural Rights (CESCR) under General Comment 3 as “recognition of the fact that full realization of all economic, social and cultural rights will generally not be achieved in a short period.”

However “this should not be misinterpreted as depriving the obligation of all meaningful content, rather it imposes to an obligation to move as expeditiously and effectively as possible towards the goal.”⁸¹The principle of progressive realization applies to the positive state obligation to fulfill and to protect human rights in particular economic, social and cultural rights.

With this regard, the CESCR under General Comment 18 notes that "the principal obligation of state parties is to ensure the progressive realization of the exercise of the right to work". Thus, states should establish policy, target, and benchmark to progressively reduce unemployment by increasing job opportunities and expanding accesses to attain the very goal expected.

One of the major obligations of states which does not depend on the ability and resource of a state is the principle of non-discrimination which is guaranteed under Article 2(2) of ICESCR. Hence, access to work shall be guaranteed for everyone regardless of their gender, race, colour, religion and another status. Non-discrimination is a core obligation of states,⁸² which is a minimum standard of one's rights.⁸³

The United Kingdom and France, for example, issued interpretative statements (*reservations* (UK) or *declarations* (France)) claiming that article 6 does not include people born outside of their territory.⁸⁴ It has been argued that the reservation on the Covenant normally protects foreigners’ rights to equal opportunity in employment. It should be noted that the obligation to eliminate discrimination in access to employment is immediate, not a progressive one.⁸⁵

However article 2(3) of ICESCR allows developing countries to determine the extent of socio-economic right for non-nationals by taking due regard to human rights, this allows states to limit the socio-economic right of non-nationals for the protection of national economy.

⁸¹ UNCHR General Comment No. 3: “The Nature of States Parties Obligations”, UNHCR [CESCR], Art. 2, Doc. E/1991/23 (December 14, 1990).

⁸² General comment No 3 (n 81)10.

⁸³ Ibid.

⁸⁴ Craven,(n 49).

⁸⁵ Ibid.

In addition, state obligation in the realization of the right to work also relates to vocational guidance, training, and employment services. Article 7 of ICESCR provides obligations on state parties to be fulfilled for full implementation of the right to work in particular as "technical vocational guidance and training programs" and "policies and techniques to achieve economic, social and cultural development and full and productive employment." This implies that the training and guidance must be promising for everyone regardless of whether such training is for free or not, it shall not limit the exercise of a person's right to technical and vocational education (TVE).

The other core obligation of the state is respecting the right of everyone's interest to free choice of employment. It is important to understand employment as both in the expression of wage employment and self-employment.⁸⁶ For several people, whether employed in the formal or informal sectors, work signifies the main source of revenue on which our maintenance, survival, and our life depends on.⁸⁷ Therefore, discharging this core obligation means that states must protect workers from forced labour and similar human right violation.

2.6 Limitation on the Right to Work

Almost all civil, political, economic, social and cultural rights can be lawfully limited for specific reasons. Regarding the right to work, as it is one of the major ESC rights, it can be limited 'to promote the general welfare' as stipulated stated under article 4 of ICESCR.

The UN Committee on ESCRs has stated that such limitations must be proportional, and must be the least restrictive alternative where several types of limitations are available and that even where such limitations are allowed, they should be of limited for a specific time and such limitation must be assessed and examined.⁸⁸

Regarding retrogressive measure, the Committee on Economic, Social and Cultural Rights frames distinctive methods which states may take when facing resource constrain under article 2(1) of ICESCR and again limitation for the protection of the general welfare (article 4 of ICESCR),⁸⁹ this

⁸⁶ H Team (n 38).

⁸⁷ The Committee on Economic, Social and Cultural Rights, Fact Sheet No.16 (Rev.1), Available <https://www.ohchr.org/Documents/Publications/FactSheet16rev.1en.pdf> accessed Dec 23, 2019.

⁸⁸ H Team (n 38).

⁸⁹ Amrei Müller, Limitations to and Derogations from Economic, Social and Cultural Rights, December 2009 p 3.

implies ESC rights can be limited on both grounds. The CESCR does not allow limitation on core human rights, and also found that any limitation on the ground of retrogressive measures which is incompatible with the core obligation constitutes a violation of the rights in the ICESCR.⁹⁰

From this assertion, we can conclude that the limitation of rights because of retrogressive measures cannot be a ground for non-compliance with core obligations relating to the right to work based on Article 2(1) of ICESCR.

There is also specific limitation under article 8 of ICESCR, which limits the right to form a trade union in an exceptional circumstance for the reasons "prescribed by law, which is necessary in a democratic society in the interest of national security or public order or for the protection of the right and freedom of other."⁹¹ In this regard, the workers' rights relating to trade union maybe will be limited for the grounds specified under article 8 of ICESCR.

Article 8 also stipulates the reasons for limiting the exercise of trade unions' right to freely function.⁹² These restrictions must be necessary to achieve the desired purpose and must be balanced.⁹³

For this paper, it is important to note that ESC rights especially article 6 of ICESCR recognizes equal access and opportunity to work, freedom to choose employment. Also, the committee on economic, social and cultural rights argues that the right to work is the core obligation of states thus these rights cannot be limited. However, for the case of non-nationals who resides in developing countries, the extent of the right to work might to limited by states for the protection of the national economy.

⁹⁰ CESCR General Comment 14: Right to the highest attainable standards of health (art. 12), 11 August 2000, E/C.12/2000/4; 8 IHRR 1 (2001) at para. 48, General Comment 15: Right to water (arts 11 and 12), 20 January 2003, E/C.12/2002/11; 10 IHRR 303 (2003) at para 64, General Comment 17: Right of everyone to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he or she is the author (art. 15 (1)(c)), 12 January 2006, E/C.12/GC/17; 13 IHRR 613 (2006) at para. 42.

⁹¹ Art 8(1(a)) of ICESCR.

⁹² Art 8(1(c)) of ICESCR.

⁹³ Art 8(1(c)) of ICESCR.

CHAPTER THREE

REFUGEES' RIGHT TO WORK

3.1 Introduction

Human rights are for everyone regardless of race, colour, gender, and other classifications. The right to work is one of the major human rights and everyone has the right to exercise it.⁹⁴ In case of refugees, the right to work has been a very sensitive issue for the host state; however refugees need to enhance financial and related economic independence including their dignity.⁹⁵

The 1951 Refugee Convention Relating to the Status of Refugees is the landmark instrument for the protection of refugees' rights, including the right to work.⁹⁶

The 1951 Refugee Convention has been required to be amended because of having a dateline, geographic limitation and to cope up with the emergence of new refugee situations. Thus these limitations have been amended by a supplementary instrument, the 1967 Protocol Relating to the Status of Refugees.⁹⁷

As one of the refugees' rights provided under the refugee convention, refugees' right to work is very important for refugees and the host community to bring a long-lasting solution for economic sustainability and the realization of other human rights.

The overall purpose of the 1951 Refugee Convention and the Refugee protocol is to protect persons who have been denied the protection of their human rights by their own country to get the protection of the international community.⁹⁸ The 1951 Refugee Convention and the Refugee

⁹⁴ Art 6 of International Covenant on Economic, Social and Cultural Rights (*hereinafter* 'ICESCR') (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171.

⁹⁵ Christopher Chope, Refugees and the right to work, Committee on Migration, Refugees and Displaced Persons. Rapporteur: United Kingdom, EDG, Reference to Committee: Doc. 12933, Reference 3878 of 25 June 2012 p 3.

⁹⁶ Convention relating to the Status of Refugees, (*hereinafter*, 'the 1951 Refugee Convention') 189 UNTS 2545, adopted July 28, 1951, entered into force Apr. 22, 1954.

⁹⁷ The Protocol Relating to the Status of Refugees, (*hereinafter*, re 606 UNTS 8791, done Jan. 31, 1967, entered into force Oct. 4, 1967 (Refugee Protocol).

⁹⁸ Comment by Per Lord Hope of Craighead, *Horvath v. Secretary of State for the Home Department*, All ER 577 (UK HL, July 6, 2000), cited at James C. Hathaway, 'The right of Refugees under international law,' 2005 p 4.

Protocol have inspired many regional instruments adopted for the protection of refugees, particularly in Africa, the Americas, and Europe.⁹⁹

This chapter assesses the legal protection of refugees' right to work under international and regional instruments. Thus, it begins by answering the following questions: Who are Refugees? What are the protected right of refugees under international and regional instruments? What are the legal restrictions on refugees' right to work? The chapter also deals with the importance of refugees' right to work and lastly discusses the role of the UNHCR.

3.2 Definition of Refugee

Who is Refugee?

The term "refugee" can be defined unpredictably because each state having different geographical location, inner administrative structure, and national biases and grounds they believe one can flee his/her country, hence will respond the term refugee in their own way.¹⁰⁰

The Refugee Convention defines a refugee as:

“...owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.”

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In defining “refugee”, the drafting committee deliberately tried to create, address and likely to be accepted by numerous Governments.¹⁰²

After the coming of the 1951 Refugee Convention, it has also been recommended that the definition of refugee be expanded and to include persons fleeing their country for the reason of

⁹⁹ Handbook and guideline on procedures and criteria for determining refugee status under the 1951 convention and the 1967 protocol relating to the status of refugees, Reissued Geneva, December 2011 p 5.

¹⁰⁰ Austin T. Fragomen Jr., *The Refugee: A Problem of Definition*, 3 Case W. Res. J. Int'l L. 45 (1970) p 46.

¹⁰¹ Art 1 of the 1951 Refugee Convention and the Refugee protocol.

¹⁰² Report of the Ad Hoc Committee on Refugees and Stateless Persons, U.N. Doc.E/1618 at 38 (1951).

‘natural disaster’ and ‘military operation’.¹⁰³ However, that's still not possible at the international level.

The regional instruments like the OAU Refugee Convention also define refugees by referring to the 1951 Refugee Convention.¹⁰⁴ But the OAU Refugee Convention also includes unique features and widens the scope of the definition of refugees:

“Every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence to seek refuge in another place outside his country of origin or nationality.”¹⁰⁵

This shows that the OAU Refugee Convention has the same definition of refugees as the 1951 Refugee Convention but it also adds and widens the scope by including refugee as someone who is compelled to leave his place of habitual residence from the reasons stated above.

Hence, the OAU Refugee Convention adds and expands the definition by including the spirit of the Charter of the Organization of African Unity and events which are major reasons for someone to flee their residence in the African context.¹⁰⁶

In addition to the OAU Refugee Convention, other regional instrument like the 1984 Cartagena Declaration also includes and encompasses a broader group of persons in need of international protection that is not covered by the 1951 Refugee Convention by including, “... generalized violence, foreign aggression, internal conflict, massive violation of human right or other circumstance which have seriously disturbed public order.”¹⁰⁷

¹⁰³ Fragomen (n 100).

¹⁰⁴ Art 1 (1,2) of OAU Refugee Convention.

¹⁰⁵ Ibid.

¹⁰⁶ Art 2 of the OAU Refugee Convention expands the definition of refugees as “every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence to seek refuge in another place outside his country of origin or nationality.”

¹⁰⁷ *Cartagena Declaration on Refugees*, (hereinafter ‘the 1984 Cartagena declaration’) Colloquium on the International Protection of Refugees in Central America, Mexico and Panama, 22 November 1984, available <http://www.refworld.org/docid/3ae6b36ec.html>. Accessed Jan 7, 2020.

The very objective of this expansion of the term 'refugee' under the 1984 Cartagena declaration is to provide a solution for situations on group-based dangers and respond to humanitarian crises.¹⁰⁸

Even if the 1984 Cartagena Declaration is a non-binding instrument, many states and organizations adopted and use the definition including, the United nation General assembly and UNHCR's executive committee and Organization of American States.¹⁰⁹

As one of the subsidiary organ of UN for the protection of refugees, the UNHCR¹¹⁰ also uses the same definition as that of the 1951 Refugee Convention.¹¹¹

In general, it is important to realize that broadening the definition of refugee will protect persons from any victimization and violation of human right, so expanding and merging the definition under international and regional refugee conventions is critical.

3.3 Refugee Protection under International and Regional Instruments

The international refugee law has evolved in a significant way over the last fifty years, and it has been required to adopt the new changing refugee situations and challenges.¹¹²

International human right laws together with customary international laws, general principles and regional instruments brought international protection for refugees and they are the sources of Refugee rights.¹¹³

¹⁰⁸ UNHCR, Summary Conclusions on the interpretation of the extended refugee definition in the 1984 Cartagena Declaration; roundtable 15 and 16 October 2013, Montevideo, Uruguay, 7 July 2014, para 8.

¹⁰⁹ Frances Nicholson and Judith Kumin, 'A guide to international refugee protection and building state asylum systems' Handbook for Parliamentarians N° 27, 2017 p 21.

¹¹⁰ UN High Commissioner for Refugees (UNHCR), Note on the Mandate of the High Commissioner for Refugees and his Office, October 2013, available at <https://www.refworld.org/docid/5268c9474> accessed at Jan 2020.

¹¹¹ <https://www.unrefugees.org/refugee-facts/what-is-a-refugee/> accessed Jan 16, 2020.

¹¹² R. Haines on gender-related persecution in Part 5.1 of this book. For the 1951 Convention Relating to the Status of Refugees, see 189 UNTS 150 and for the 1967 Protocol thereto, see 606 UNTS 267. cited in ERIKA FELLER, VOLKER TURK, and FRANCES NICHOLSON, Refugee Protection in International Law: UNHCR's Global Consultations on International Protection (2003) p 46.

¹¹³ UN General Assembly, Statute of the Office of the United Nations High Commissioner for Refugees, 14 December 1950, A/RES/428(V), <http://www.refworld.org/docid/3ae6b3628.html>.

As stated above the 1951 Refugee Convention and The Refugee Protocol laid¹¹⁴ the foundation for many regional instruments including the 1969 OAU Refugee Convention¹¹⁵, the 1984 Cartagena declaration¹¹⁶, the relevant instruments of EU¹¹⁷, and also the 1966 Bangkok Principles¹¹⁸.

3.3.1 Refugees' right under the 1951 Refugee Convention and the Refugee Protocol

The 1951 Refugee Convention and the Refugee Protocol guarantee refugees the widest rights for the first time.¹¹⁹ The objective of the 1951 Refugee Convention is assuring refugees the widest fundamental rights and freedom enshrined in the chapters of the United Nations and Universal Declaration of Human Rights.¹²⁰

The substantive part of the 1951 Refugee Convention deals with how to acquire legal status of refugees', the rights and obligation of refugees including state parties, and with the role of supervisory organs in assisting refugees.¹²¹

The 1951 Refugee Convention guarantees several rights in parallel with the obligation of refugees towards the host state, for such arrangement to be in effect, the very core principle which is guaranteed and underlined under the convention is the principle of *non-refoulement* contained in Article 33.¹²² The principle of *non-refoulement* means that a refugee should not be forced to return to his home country where he faces prosecutions stated under the convention; however, in exceptional circumstances, if a refugee is a threat to national security and considered

¹¹⁴ The 1951 Refugee convention and Refugee Protocol.

¹¹⁵ OAU Refugee Convention.

¹¹⁶ The 1984 Cartagena declaration.

¹¹⁷ Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or persons eligible for subsidiary protection, and the content of the protection granted.

¹¹⁸ Asian-African Legal Consultative Organization (AALCO), Bangkok Principles on the Status and Treatment of Refugees, 31 December 1966 (final text adopted 24 June 2001).

¹¹⁹ Nicholson and Kumin (n 109) 6.

¹²⁰ UDHR (n 40).

¹²¹ UNHCR 'Refugee Protection in International Law' UNHCR's Global Consultations on International Protection, Cambridge university press,2003 P 3.

¹²² Art 1 of the 1951 Refugee convention and the Refugee Protocol.

a danger to the host community, this very principle will be denied.¹²³ The principle of non-refoulment of refugees has been considered part of customary international law; thus, regardless of whether a state is a party to the refugee convention or not, a refugee must be protected from refoulment.¹²⁴

Many civil, economic, social and cultural rights have been recognized under the 1951 Refugee Convention,¹²⁵ and even if the Refugee Protocol¹²⁶ does not provide rights, it broadens the applicability of the 1951 Refugee Convention by removing the geographical limitation and restriction on the timeline.¹²⁶

In general, right of refugees recognized under the 1951 Refugee Convention apply to everyone regardless of their race, colour, nationality, sex and other grounds that limit the universality of human rights. One of the major rights guaranteed under the 1951 Refugee Convention is the refugees' right to work.

3.3.2 Refugees' Right under the 1969 OAU Convention

Large scale movement of refugees in Africa occurred because of the struggle and conflict to be free from colonization; thus, such refugee movement and displacement urges the drafting and adoption of the 1969 Convention Governing the Specific Aspects of Refugee Problems in Africa.¹²⁷ The OAU Refugee Convention calls the then Organization of African Unity (now African Union) to "use their best endeavors consistent with their respective legislation to receive refugees and to secure their settlement" until and unless voluntary repatriation is possible.¹²⁸

¹²³ Art 33 of the 1951 Refugee Convention.

¹²⁴ Cathryn Costello and Michelle Foster, Non-refoulement as Custom and Jus Cogens? [2003](#), at 178–179.

¹²⁵ Refugees right have been recognized under 1951 Refugee Convention, like the right to work, (Articles 17 to 19), the right to housing (Article 21), the right to [education](#) (Article 22), the right to public relief and assistance (Article 23), the right to freedom of religion (Article 4), the right to access the courts (Article 16), the right to freedom of movement within the territory (Article 26), the right to be issued identity and travel documents (Articles 27 and 28), the right not to be punished for illegal entry into the territory of a contracting State (Article 31), the right not to be expelled, except under certain, strictly defined conditions (Article 32).

¹²⁶ Art 1 of Refugee protocol.

¹²⁷ Nicholson and Kumin, (n 109) 19.

¹²⁸ Hathaway, (n 98) 118.

The OAU Refugee Convention recognizes that the 1951 Refugee Convention is “the basic and universal instrument relating to the status of refugees”.¹²⁹ Beside the duty of non-refoulement as customary international law and the human right principle has been recognized under the OAU Refugee Convention.¹³⁰ It is important to understand that the OAU Refugee Convention requires state parties to accept, assist and protect refugees through the traditional hospitality trend of Africans, in doing so the OAU convention assures state parties to get the help from the international community.¹³¹

Besides having the status of refugee and right not to be exposed to refoulement and other basic right of refugees were not enshrined under the OAU Refugee Convention, however, rights provided under the 1951 refugee convention and many international human rights instruments including ACHPR can be exercised by refugees.¹³²

Hence, as one of the rights guaranteed by the 1951 Refugee Convention and the ACHPR, the right of refugees to work and to be self -sufficient can be considered as one of the economic right guaranteed by OAU Refugee Convention and legally possible in African.

3.4 Refugees’ Right to work under 1951 Refugees Convention

The 1951 Refugee Convention contains international human rights, including civil, economic, social and cultural rights. One of the economic rights guaranteed under this convention is Refugees’ right to work which is stated under article 17-19 of the 1951 Refugee Convention.

Article 17(1) provides for wage-earning employment:¹³³

The Contracting State shall accord to refugees lawfully staying in their territory the most favorable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage-earning employment.

Article 17(1) of the 1951 Refugee convention guarantees refugees the most favourable treatment accorded to foreign nationals to engage in wage-earning employment.

¹²⁹ Paragraph 8 and 9 of Preamble to the OAU Refugee Convention.

¹³⁰ Hathaway (n 98)119.

¹³¹ Nicholson and Kumin, (n 109)19.

¹³² Bonaventure Rutinwa, The end of asylum? The changing nature of refugee policies in Africa, May 1999,p 7.

¹³³ Art 17(1) of the 1951 Refugee Convention.

In drafting the 1951 Refugee Convention, the committee defines 'most favorable treatment accorded to foreigner nationals':¹³⁴ thus 'non-political and non-profit-making associations, trade unions and Contracting States shall accord to refugees lawfully staying in their territory the most favorable treatment accorded to nationals of a foreign country, in the same circumstances'.¹³⁵ Again the IRO representative¹³⁶ made an important suggestion that the content, extent, and scope of the word 'most favorable treatment given to foreigner' should be specified in detail in the treaty so that there will not be a conflict with legislation on restriction and regulates the labour market.¹³⁷

Finally, the committee came in an agreement that States may have a contractual agreement with another state on 'most-favoured nation' treaties which allow nationals of a those contracting States a more favorable treatment, thus concerning refugees, they should be treated in the same circumstance with nationals of those most favoured nations regardless of their agreement with the host state.¹³⁸ This is to accord refugees the highest advantage of employment opportunity as they are vulnerable and could not get any protection from their government.

Yet, to protect the national labour market, the employment of aliens may be restricted through the application of laws and regulations; however, such kind of restriction shall not be applied against refugees whom Contemporary stayed for 3 Years or to those who have a spouse or a child who is a national of the host country as per article 17(2) of the 1951 Refugee Convention provides.¹³⁹

¹³⁴ Dr Paul Weis, Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Draft Convention Relating to the Status of Refugees. Report of the Style Committee by General Assembly 24 July 1951, article 15 of the draft refugee convention.

¹³⁵ Report of the Style Committee by General Assembly, Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Draft Convention Relating to the Status of Refugees. 24 July 1951.

¹³⁶ The International Refugee Organization (IRO) was created in July 1947. It was a non-permanent Specialized Agency of the United Nations. When UNHCR succeeded the IRO in 1951 the new organization adopted the same filing system. Available <https://www.unhcr.org/afr/research/archives/43fdd85a11/international-standard-archival-description-fonds-unhcr-39-offices-belgium.html?query=IRO> accessed February 2020.

¹³⁷ Weis (n 134).

¹³⁸ Samuel K. N. Blay & B. Martin Tsamenyi, Reservations and Declarations under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees, 2 Int'l J. Refugee L. 527 (1990),p 555.

¹³⁹ Art 17(2) of the 1951 Refugee Convention.

Therefore restriction and limitation to protect the national labour market shall not be applied to a refugee who fulfills the above requirement.

Article 17 (3) of the 1951 Refugee Convention recommends host states to consider refugees on wage-earning employment opportunity especially those who entered in the host state looking forward "labour recruitment" programs or "immigration schemes".¹⁴⁰

In general, it is important to note that Article 17 is not intended to be a duty to progressively realize rather once the requirements are fulfilled, refugees should be allowed to work immediately and also this article also obliges all states regardless of their economic status.¹⁴¹

Refugees also have the right to self-employment, Article 18 provides and recognize self-employment for refugees staying in the country in activities such as agriculture, industry, handicrafts, and to establish commercial and industrial companies which they are capable of.¹⁴²

In addition to the wage-earning employment and the self-employment rights of refugees, they also have the right to work through their liberal profession under article 19 of the refugee convention.¹⁴³

The term 'liberal professions' includes many careers such as engineers, lawyers, medical personals, doctors, dentists, accountants, artists, and other professions.¹⁴⁴ The term 'liberal' means having some type of education, training, experience which is certified with a license.¹⁴⁵ Besides, having a certificate for a profession and being certified to exercise such a profession constitutes the word 'diploma'.¹⁴⁶

Article 19(2) suggests that state parties to legally acknowledge the settlement of refugees other than the capital city so that they can have the relationship needed with the international community.¹⁴⁷ The words 'consistent with their laws and constitution' under article 19(2) of the

¹⁴⁰ Art 17 (3) of the 1951 Refugee Convention.

¹⁴¹ Hathaway, (n 98)742.

¹⁴² Art 18 of the 1951 Refugee Convention.

¹⁴³ Art 19 of the 1951 Refugee Convention.

¹⁴⁴ Ibid.

¹⁴⁵ Ibid.

¹⁴⁶ Ibid.

¹⁴⁷ Art 19 (2) of the 1951 Refugee Convention.

refugee convention allow the national organs of the state to regulate the national economic sphere.¹⁴⁸ In general, the 1951 Refugee Conventions guarantee refugees the widest right available to engage in employment, to be self-employed or practice one's profession which is important for the realization of all other human rights.

3.5 Understanding the Importance of Refugees' right to work

For refugees, the right to work and access to the labour market are prerequisites for allowing them to secure sustainable livelihoods thereby reducing liability, enhancing their financial stability and enabling a dignified life and allowing them to contribute to themselves and the communities.¹⁴⁹

The right to work is important for refugees for several reasons. Many studies have shown that being in employment enhances their self-respect and self-worth.¹⁵⁰

In addition to themselves, refugees can also be much help for the host community as they usually bring knowledge, talents, and training with them, and can help fill gaps in the labour market and through this process, they are paying taxes and purchasing goods and services and transacts which will be a very source to increase the revenue of host country through taxation.¹⁵¹

Future, Self-employed refugees subsidize a range of economic advantages, from self-dependence to job creation to the host community and Refugees brings new demands on the local market that the host communities pursue to supply and make a profit out of it and also Host community Suppliers satisfy refugees' demands by bringing foreign goods.¹⁵²

Self-employment of refugees is also important for the host community as it allows Entrepreneurs to contribute their talent to create job opportunities, increasing productivity.¹⁵³

¹⁴⁸ Ibid.

¹⁴⁹ Zetter and Ruauadel (n 12) 32.

¹⁵⁰ UNHCR, 2001. *Reception of Asylum Seekers* and Frykman, 2012. Cited from Chope (n 98).

¹⁵¹ Chope (n 95).

¹⁵² Asylum Access, Global Refugee Work Rights Report, September 2014, available at <https://www.refworld.org/docid/542903a64>, accessed May 1 2020.

¹⁵³ Hathaway, (n 101)724.

Host communities will also be beneficial from the development aid given to refugees as the purpose is to mitigate the pressure which refugees put on the natural resource and the public service including employment opportunities, therefore this aid helps for promoting the economic development of the host state.¹⁵⁴ The importance of refugees' right to work to the host community will also continue to help the home country once refugees are voluntarily repatriated by bringing resources and skills with themselves.¹⁵⁵

3.6 Reservations on Refugees' right to work

The 1951 Refugee Convention and the Refugee Protocol allow reservations for specific articles under it. This reservation is one of the major legal reasons for limiting refugees' right to work.

Article 42(1) of the 1951 Refugee Convention stipulates and allows reservation: "At the time of signature, ratification or accession, any State may make reservations to articles of the 1951 Refugee Convention other than to articles 1, 3, 4, 16 (1), 33, 36 to 46 inclusive."

This implies that state parties to the 1951 Refugee Convention may make a reservation to any of the provisions except article those specified under article 42 because reservations may not be made to essential and fundamental provisions as they are the very object and purpose of the 1951 Refugee convention.¹⁵⁶

Article 41 (2) provides that, even if state parties to the refugee Convention make a reservation, they can withdraw the reservation at any time.¹⁵⁷ This allows state parties to accept the obligation once they are ready enough to implement the rights reserved, like refugees right to work.

The Refugee Protocol allows state parties to make reservation except for the provisions which are prohibited under the 1951 Refugee Convention.¹⁵⁸ However, state parties may make an "interpretative declaration" which will not affect the full realization of the convention.¹⁵⁹

¹⁵⁴"UNDP Response to the Syria Crisis"; Available at <http://www.undp.org/content/dam/undp/library/corporate/fast-facts/english/> accessed May 1 2020.

¹⁵⁵ Chope (n 95)23.

¹⁵⁶ Convention Relating to the Status of Refugees, *Geneva, 28 July 1951*, United Nations, *Treaty Series*, vol. 189, p.137.

¹⁵⁷ Art 41(2) of the 1951 Refugee Convention.

¹⁵⁸ Art VII of the Refugee protocol.

Even if the 1951 Refugee Convention recognizes refugees' right to work, many host states are hesitant to allow the enjoyment of this right by making a reservation.¹⁶⁰ Article 17 has the utmost number of reservations out of any provisions of the 1951 Refugee Convention. In contrast, Article 6 of the ICESCR has involved a lower number of the reservation although it guarantees the same right as Article 17 of the 1951 Refugee Convention.¹⁶¹

The unwillingness of host states to allow the exercise of the refugees' right to work is because of the concern about the limited capacity of employment opportunities, limited capacity on creating new employments, limited accessibility of employment for nationals, failure to assure minimum wage capacity to meet basic needs and inability to create good working environments.¹⁶²

Besides, some host states also limit the right to work to safeguard equality of treatment and fairness with other aliens.¹⁶³ However, this reasoning cannot be justified as the case of refugees is completely different from aliens.

Even if host states limit and make a reservation to the refugees' right to work, international human rights law guarantee the enjoyment of the right to work without discrimination. This implies that asylum seekers and refugees must not be discriminated against the enjoyment of any component of the right to work including recruitment, remuneration, and equal opportunity.¹⁶⁴

Almost 85% of state parties to the 1951 Refugee Convention are dedicated to implementing refugees right to work without any reservation.¹⁶⁵ Ethiopia is one of the state parties to the 1951 Refugee Convention relating to the status of refugees and the Refugee Protocol.¹⁶⁶

¹⁵⁹ Ibid.

¹⁶⁰ Zetter and Ruaudel (n 12).

¹⁶¹ Human Rights and Refugee Protection Self-study Module 5, Vol. II, UNHCR, 15 December 2006.

¹⁶² Zetter and Ruaudel (n 12)34.

¹⁶³ Human Rights and Refugee Protection (n 161).

¹⁶⁴ Ibid.

¹⁶⁵ https://treaties.un.org/pages/ViewD-etailsII.aspx?&src=TREATY&mtdsg_no=V-2&chapter=5&Temp=mtds-g2&lang=en accessed Feb 2020.

¹⁶⁶ Ethiopia signed and ratified the 1951 convention relating to the status of refugees and its 1967 protocol on 10 Nov 1969, the 1951 Refugee Convention and the Refugee Protocol.

Ethiopia has made a reservation to articles 8, 9, 17(2) and 22(1) of the 1951 Refugee Convention.¹⁶⁷ This implies that Ethiopia recognizes these rights only as recommendations, not a legally binding obligation. Thus, Ethiopia is not legally obliged to guarantee those rights stated above including article 17(2) of the 1951 Refugee Convention.

¹⁶⁷ Ibid.

CHAPTER FOUR

REFUGEES RIGHT TO WORK IN ETHIOPIA

4.1 Introduction

Ethiopia has been known for sheltering and protecting Refugees long before the coming of international instruments which recognize refugee protection. Ethiopian Islamic studies state that in the early years of Islam,¹⁶⁸ Muslims were under the tears of deep tyranny from the ruling tribe (Quraysh) of Mecca and around 615 AD Prophet Mohammed, to protect his followers from prosecution, sent more than eighty people including his daughter, cousins and other followers to Negus Al-Asham (also known as Armha), to the then Abyssinia (Ethiopia) for them to seek refuge.¹⁶⁹

Ethiopia's hospitality to Refugees continued during and after WWI where many asylum-seekers and migrants from Europe including the Greek, Armenians, Russians, and Turkish were granted refuge.¹⁷⁰

Currently, Ethiopia hosts over 905,831 registered Refugees with the majority originating from neighboring South Sudan, Somalia, Eritrea, and Sudan which makes Ethiopia the second largest refugee-hosting country in Africa.¹⁷¹

Ethiopia is a party to the 1951 Refugee Convention and the Refugee Protocol and the OAU Refugee Convention; however, Ethiopia has made qualified reservations to some of the articles of the 1951 Convention, which limit the right of Refugees to education and access to wage-earning employment.

¹⁶⁸ The earliest existing literature providing a full account of the story is commonly referred to as the 'Sira of Ibn Ishaq's'. See *W. Montgomery Watt, Muhammad at Mecca (Oxford University Press, 1980), pp. 110–111.cited at Mogessie T(n 11) 32.*

¹⁶⁹ Haggai Erlich, 'Islam, Christianity, Judaism, and Ethiopia: The Messages of Religions' The Fifth Annual Levtzion Lecture (The Hebrew University of Jerusalem, 2013) p 4-5.

¹⁷⁰ Raymond Silverman and Neal Sobania, "Mining a Mother Lode: Early European Travel Literature and the History of Precious Metalworking in Highland Ethiopia", *History in Africa*, 31 (2004), p. 348; George A. Bournoutian, *A concise history of the Armenian people: (from ancient times to the present)*, (5th ed., Mazda Publishers, Inc. Costa Mesa California 2006), Mogessie T (n 4)33.

¹⁷¹ Ethiopia: United Nations High Commissioner for Refugees (UNHCR) "*Fact Sheet*" (2019) available <https://reliefweb.int/report/ethiopia/unhcr-ethiopia-fact-sheet-september-2019> accessed March 2020.

On February 2019, Ethiopia's parliament replaced proclamation No. 409/2004¹⁷² with Proclamation No. 1110/2019,¹⁷³ making it one of the most progressive refugee laws in Africa. This proclamation provides Refugees with the right to work and the right to reside out of camps, access to social and financial services, and register life events, including births and marriages. Hence Refugee protection in Ethiopia has been provided within the framework of the international and national refugee laws as well as the core international human rights treaties that have been ratified by the country.¹⁷⁴

This chapter examines Refugees' right to work in Ethiopia, beginning with normative protection of Refugees' right to work in Ethiopia. The chapter analyzes supplementary legislations, regulations, and policies for the implementation of Refugees' right to work, and examine the challenges faced. Lastly, it discusses the implication of Refugees' right to work to the host community.

4.2 Normative Protection of Refugees' right to work in Ethiopia

Ethiopia recognizes and protects the right of Refugees in line with international as well as national instruments, customary international laws and instruments ratified by Ethiopia.¹⁷⁵. Refugee protection under national legislation includes the Constitution, Proclamations, Regulations, directives, policies, and other guiding rules.

4.2.1 Refugees' right to work under the FDRE Constitution

The 1995 Constitution of Federal Democratic Republic of Ethiopia (FDRE Constitution) under article 9(4) stipulates that "*all international agreements ratified by Ethiopia are an integral part of the law of the land.*".¹⁷⁶ This article implies that international treaties ratified by Ethiopia such

¹⁷² Refugee Proclamation No. 409/2004.

¹⁷³ Refugee Proclamation, (*hereinafter* 'Proclamation 1110/2019')Federal Negarit Gazeta of the Federal Democratic Republic of Ethiopia, 25th Year, No.38, 27th February 2019

¹⁷³ Art 21(3) of Proclamation No. 409/2004.

¹⁷⁴ Ethiopia country refugee response plan, January 2019 – December 2020, p 5

¹⁷⁵ Art 9 and 13 FDRE Constitution.

¹⁷⁶ *Ibid.*

as the 1951 Refugee Convention, the Refugee Protocol and the OAU Refugee Convention are part and parcel of the laws of the land.¹⁷⁷

Besides, the FDRE Constitution acknowledges and assures that any interpretation of fundamental rights and freedoms to be interpreted in line with international human rights covenants and other instruments adopted by Ethiopia.¹⁷⁸ In addition, it obliges all levels of the government to respect and implements fundamental rights and freedoms provided under that chapter.¹⁷⁹

The FDRE Constitution guarantees the rights of everyone regardless of any distinctions. However, when it came to the right to work, the FDRE Constitution considers the right to work a democratic right and only guarantees the right to work, the right to engage in economic activity and related rights only for Ethiopian nationals,¹⁸⁰ and obliged the government to take all actions essential for finding and facilitating productive occupation only for nationals.¹⁸¹

The recognition of the right to work under ICESCR¹⁸² is for everyone whether nationals, Refugees or asylum seekers. But developing countries may limit the extent of the ESC rights including the right to work to non-nationals.¹⁸³ The FDRE Constitution assures the rights and freedoms to be interpreted in line with international instruments like ICESCR; however, the right to work is only recognized for nationals.

Even if nationality is not explicitly provided as a ground of discrimination under article 2(2) of ICESCR, disregarding non-nationals to exercise the right to work can be considered as discrimination as per article 2(2) of ICESCR. This is because the committee on economic social

¹⁷⁷ Ethiopia signed and ratified the 1951 Convention relating to the Status of Refugees and its 1967 protocol on 10 Nov 1969 and OAU Refugee Convention.

¹⁷⁸ Art 13(2) FDRE Constitution.

¹⁷⁹ Art 13(1) FDRE Constitution.

¹⁸⁰ Art 41(1) of the FDRE Constitution reads as follows “ *every Ethiopian has the right to engage freely in economic activity and to pursue a livelihood of his choice anywhere within the national territory* “.

¹⁸¹ Art 13(1) and art 41(7) FDRE Constitution .

¹⁸² Art 6 of ICESCR.

¹⁸³ Art 2(3) of ICESCR.

and cultural right interprets the clause ‘other status’ under article 2(2) by including distinction on nationality as other ground of discrimination under this article.¹⁸⁴

However, exceptionally article 2(3) of ICESCR allows developing countries to limit the extent of ESC rights on non-nationals for the protection of the national economy. Thus even if the FDRE constitution does not include and recognize the right to work for non-nationals including refugees, other national legislations have taken into consideration the right to work for non-nationals and refugees with restrictions like Proclamation No. 1110/2019.

4.2.2 Refugees right to Work under Proclamation No. 1110/2019

The Refugee Proclamation No. 1110/2019 is considered a milestone, historic and model law on guaranteeing refugee protection and reflecting the latest developments; hence it is called ‘*one of most progressive*’ refugee law in Africa.¹⁸⁵

The reason behind the adoption of Proclamation No. 1110/2019 was to replace the first Refugee Proclamation No. 409/2004 and to redeem its failure to incorporate local integration and resettlement as part of a durable solution, lack of exhaustiveness on the right of refugees, failure to incorporate refugees right to movement and right to work, to include the developments of Refugees right and protection and majorly it is because of the need to implement the nine pledges Ethiopia made at the summit held in New York to improve the protection of Refugees through Comprehensive Refugee Response Framework (CRRF).¹⁸⁶

Refugee Proclamation No 1110/2019 has five parts: the first part deals with the definition of the terms and the scope of application of the law; the second part deals with the general principles

¹⁸⁴ CESCR, Report on the Twenty-fifth, Twenty-sixth and Twenty-seventh Sessions (23 April-11 May 2001, 13-31 August 2001, 12-30 November 2001), E/2002/22; E/C.12/2001/17 (June 6, 2002).

¹⁸⁵ UN agency chief calls Ethiopian revised refugee law ‘*one of most progressive*’ one in Africa <http://news.un.org/en/story/2019/01/1030812> .

¹⁸⁶ UN, Summary Overview Document: Leaders’ Summit on Refugees, November 2016 was the first time which the concept of CCRF was initiated in New York to increase global responsibility-sharing for Refugees worldwide and thereby strengthen the international community’s capacity to address mass displacement thus the CCRF is made for the implementation of the nine pledges stated under 2016 New York declaration. The nine pledges can be grouped into six thematic areas: education, social and basic services, out of camp policy, documentation, work and livelihoods, and local integration. Cited at Abebe T.T (n 22).

and the criteria for identifying a person as a refugee; the third part deals with procedure and steps which should be taken for the determination of refugee status; the fourth part deals with rights and duties of asylum seekers and Refugees in detail; and the last part, the fifth part, is about miscellaneous provisions.

Refugee Proclamation No. 1110/2019 defines refugee¹⁸⁷ in the same way as the 1951 Refugee Convention and the Refugee Protocol¹⁸⁸ and also includes the unique features of the OAU Refugee Convention.¹⁸⁹

Anyone who is forced to flee from his habitual residence because of “external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality” can be considered a ‘refugee’ in Ethiopia.¹⁹⁰

One of the reservations of Ethiopia while ratifying the 1951 Refugee Convention was the right to engage in gainful employment; however, under Proclamation No. 1110/2019, the major revision made is the protection and entitlement of recognized Refugees to work both in wage-earning employment or self-employment and also to exercise any related rights of the right to work.¹⁹¹

To see the extent and implementation of the right to work (wage-earning employment, self-employment and a collective right of workers) which is recognized under Proclamation No. 1110/2019, it is important to answer the questions such as, who is foreigner, what kind of occupation are foreigners allowed to work, what are the requirements to get such occupation, which institutions have authority for the implementation of such rights and other legal guidelines based on relevant national legislations.

¹⁸⁷ Art 5 Proclamation No. 1110/2019.

¹⁸⁸ Art 1 of the 1951 Refugee Convention and the Refugee Protocol.

¹⁸⁹ Art 1 (1,2) OAU Refugee Convention.

¹⁹⁰ Art 4(3) Proclamations No. 409/2004.

¹⁹¹ Art 26 Proclamation No. 1110/2019.

4.2.2.1 Wage earning Employment right of Refugees' in Ethiopia

Article 26(1) of the revised refugee Proclamation No. 1110/2019 guarantees that Refugees and asylum seekers have the right to engage in wage-earning employment in the same standard, condition as "most favourable treatment" accorded to foreign nationals.¹⁹²

The phrase 'most favourable treatment accorded to foreigners' has been a vague issue in the adoption process of the 1951 Refugee Convention. Concerning article 26(1) of Proclamation 1110/2019, this term is referring to the interpretation of the 1951 Refugee Convention.

According to one of the participants on the drafting of Proclamation 1110/2019, Dr Tadesse Kassa, any interpretative clauses and understanding of the terms under the 1951 Refugee Convention are part of Proclamation 1110/2019, including the term 'most favourable treatment'; thus, this term means that the highest favourable treatment accorded to any alien should be given to refugees.¹⁹³

Proclamation No.270/2002 accord most favorable treatment for those foreign nationals of Ethiopia origin so as to be able to exercise all forms of the right to work equally with nationals of Ethiopia.¹⁹⁴

However most favorable treatment of refugees should not be seen in line with the right of foreigners of Ethiopian origin as the very purpose and object of this proclamation is to benefit these individuals and the country as they have intrinsic nature with their country.¹⁹⁵

In this regard, it is important to analyze the relevant laws which clarify who is a foreigner in Ethiopia and what kind of employment opportunities is allowed to a foreigner in Ethiopia. Hence, the Ethiopian Nationality Proclamation No 378/2003 stipulates that "a foreigner is a person who

¹⁹² Art 26(1) Proclamation No. 1110/2019.

¹⁹³ Interview with Dr Tadesse Kassa, Associate professor at Addis Ababa University College of Law and governance (Addis Ababa, April 28, 2020).

¹⁹⁴ Proclamation No. 270/2002 Providing Foreign Nationals of Ethiopian Origin with certain Rights to be Exercised in their 'Country of Origin Federal Negarit Gazeta., 8th Year No. 17, 5th September 2002

¹⁹⁵ Preamble of Proclamation No. 270/2002

is not an Ethiopian national."¹⁹⁶ Thus, we can consider that Refugees and asylum seekers are foreigners based on Ethiopian Nationality Proclamation.

Regarding the employment opportunities for foreigners, the Ethiopian labour Proclamation 1156/2019 states that foreigners must get a work permit to engage in wage-earning employment from the Ministry of labour and social affair (MoLSA).¹⁹⁷ This work permit should be renewed every three years or can be cancelled if the MoLSA believes it is no longer necessary.¹⁹⁸

The MoLSA has the power to issue directives for the implementation of the labour Proclamation;¹⁹⁹ to this end, the MoLSA issued a revised Expatriate directive in 2019 to regulate the permission of work for foreigners thus the directive only gives work permit for foreigners if the profession or occupation cannot be covered or exercised by nationals or when there are no qualified nationals available.²⁰⁰

In addition, the directive has further requirements which say work permit can only be given for foreigners if only the application is made by the employer and specifying the position of the work.²⁰¹ In this regard, Refugees should have a unique and specialized skill, which is not possessed by nationals, to get a work permit and to engage in wage-earning employment; however, this is almost unattainable and most Refugees in Ethiopia do not even have the proper education.

The right to engage in wage-earning employment is all about the opportunity to get a job, however, the directive advocates that only the employer can initiate, apply and specify the position of the work by choosing the non-national. Thus, Refugees cannot pursue work rather only the employer is capable of doing so.

¹⁹⁶ Art 2 Proclamation No 378/2003, Ethiopian Nationality Proclamation, Federal Negarit Gazeta., 10th Year No. 13, vol. 23 (2003).

¹⁹⁷ Art 176 sub-article 1 of Proclamation 1156/2019, Labor Proclamation of the Federal Negarit Gazeta, 25th Year, No.89, 5th September 2019.

¹⁹⁸ Art 176 (2,3) of Proclamation No. 1156/2019.

¹⁹⁹ Art 171 Proclamation No. 1156/2019

²⁰⁰ Expatriate work permit issuance directive,(*hereinafter the* 'Expatriate directive') Ministry of Labour and Social Affair, 2019 para 6.

²⁰¹ Para 6(2,3) of the Expatriate directive.

Mr Tamerat worku, Expatriates employment promotion team leader at MoLSA, said that anyone who needs to get work permit whether a refugee or a foreigner should fulfill the requirements stated under the Expatriate directive, even concerning refugees. He believes that the MoLSA is willing to implement Refugees' right to work; however, the directive limits the enjoyment of this right; thus, it is difficult for Refugees to fulfill such requirement; as a result, no refugee has got a work permit.²⁰²

Furthermore, Mr Tamerat said this barrier can only be solved through the preparation of less restrictive new directive to implement refugees' right to get a work permit in collaboration with ARRA, EIC, and Other concerned organs.²⁰³

Generally, the wage-earning employment of Refugees in Ethiopia cannot be exercised because of legal complications. Thus, the 2019 Expatriate directive should not be the procedural requirement for the implementation of Refugees' right to work and the directive should only be applied to foreigners other than refugees.

Refugees and foreigners should not be regulated in a single directive because Refugees are vulnerable groups who flee their country from prosecutions for the ground stated under the Proclamation; they do not flee their country for economic purpose.

4.2.2.2 Self-employment right of Refugees' in Ethiopia

Article 26(2) of Proclamation No. 1110/2019 guarantees refugees' right to participate in self-employment opportunities "individually or in a group, in agriculture, industry, small and micro-enterprise, handicrafts and commerce on the same circumstance as the most favourable treatment" given to foreign nationals based on the relevant national law.²⁰⁴

Even if Proclamation No. 1110/2019 provides for the Refugees' the right to self-employment, the relevant national legislation can be a limitation to the exercise such right, including the 1960

²⁰² Interview with Ato Tamerat worku, Expatriates employment promotion team leader at MoLSA, (Addis Ababa MoLSA April 11, 2020).

²⁰³ Ibid.

²⁰⁴ Art 26 (2) Proclamation No. 1110/2019.

Ethiopia Civil Code, which restricts the ownership of immovable properties by foreigners,²⁰⁵ and makes it impossible for Refugees to exercise agricultural activity.

On the other hand, the Investment Proclamation No. 1118/2020 of Ethiopia allows foreign investors to own immovable property like dwelling house,²⁰⁶ however, a foreigner to be considered as an investor he/she should fulfill the minimum capital requirement which is USD 200,000 if fully owned by foreigners and USD 150,000 if it is a joined investment.²⁰⁷

This requirement under the Investment Proclamation No. 1180/2020 affects Refugees directly or indirectly as they are vulnerable groups that cannot even support themselves; thus, they are unable to fulfill such requirements.

In addition to the restriction imposed on Refugees to own immovable property, Refugees are also unable to engage in industrial activities as they are unable to fulfill the minimum capital requirements under the investment Proclamation.

Under Proclamation No. 1110/2019, refugees have the right to exercise their ‘liberal profession’ as long as they are certified and authenticated by concerned authorities in the same manner as to foreign nationals.²⁰⁸ A liberal profession can also be considered as another self-employment right of refugees to be exercised individually or in a group under professional and certified fields such as law, medicine and engineering.

The Investment Regulation classifies professional and commercial activities into ‘areas of investment for domestic investors’ and ‘area of investment for foreign investors’.²⁰⁹ In this regard, most of the liberal profession and commercial activities can only be exercised by nationals of Ethiopia, and foreigners or Refugees are not allowed in such professions. However, for those professions which do not have nationality requirements and are areas of investment for

²⁰⁵ Art 390-393 of the Civil Code of the Empire of Ethiopia, Proclamation No. 165, Neg. Gaz. Year 19th No. 2, 1960.

²⁰⁶ Article 18 of Proclamation No 1180/2020, investment Proclamation of the Federal Negarit Gazeta of Federal Democratic Republic of Ethiopia, 26th Year, No.28, 2th April 2020.

²⁰⁷ Art 9 Proclamation No 1118/2020.

²⁰⁸ Art 26(3) Proclamation No 1110/2019.

²⁰⁹ Article 3 of Regulation No 270/2012, investment incentives and investment areas reserved for domestic investors council of ministers regulation of the Federal Negarit Gazeta of Federal Democratic Republic of Ethiopia, 19th Year, No.4, 29th November 2012.

refugees/foreigners such as engineering, it is difficult for Refugees to fulfill the capital and other requirements stated under the Investment Proclamation.

According to Dr Tadesse Kassa, in principle Refugees are granted to exercise their liberal profession under Proclamation No. 1110/2019; however, regulations and other licensing requirements make this right unattainable.²¹⁰

4.2.2.3 Refugees' right to Form and Join a Trade union

Article 27 of the Refugee Proclamation No. 1110/2019 recognizes Refugees' right to exercise their freedom of association by forming trade unions and other non-political associations.²¹¹

The establishment of a trade union is exercised by refugee workers that are employed in any sector, however, as discussed above its impossible to implement refugees' right to wage-earning employment because they are unable to get a work permit through the strict regulation set by the MoLSA.

Even if the right to engage in wage-earning employment is recognized under the Proclamation No.1110/2019, Refugees need the operation of having a work permit and engage in wage-earning employment to exercise the right to form or join a trade union.

In addition to the Refugees' right to work, the Proclamation No. 1110/2019 covers other rights, obligations, and restriction on refugees. The Proclamation No. 1110/2019 assures Refugees who already engage in employment opportunities to be treated equally with national, to be entitled to the right and obligation stipulated under the national law.²¹²

For instance, an employed refugee shall have the rights guaranteed in the labour Proclamation No. 1156/2019 and also the obligation thereof. Thus, the Refugee Proclamation No. 1110/2019 recognizes the principle of non-discrimination.

Article 26(9) of Proclamation No. 1110/2019 states that any restriction made against foreign national for the protection of the national labour market whether to engage in wage-earning employment or self-employment shall not be applied to Refugees who married to Ethiopian

²¹⁰ Interview with Dr Tadesse Kassa (n 193).

²¹¹ Art 27 of Proclamation 1110/2019.

²¹² Art 26 (7,8) Proclamation No. 1110/2019.

national or have a child who has Ethiopian nationality.²¹³ Thus, this restriction refers to the restrictions on a work permit, on the area of investment and other restrictions made against foreigners.

In this regard, the Ethiopian nationality Proclamation No. 378/2003²¹⁴ provides that any foreign national who attained majority, who lawfully married to Ethiopian nationals and been married for two years and who lives in Ethiopia for 1 year and following other procedures can get Ethiopian nationality.²¹⁵

According to Dr Tadesse Kassa, the right of Refugees specified under article 26(9) do not have a relation with nationality requirements rather just a proven fact of being married to Ethiopian national or having a child of Ethiopian nationality allows Refugees to be equally treated with nationals concerning the right to work; thus, this right is a special regime only governing Refugees so we should not relate this right with a foreigner's right under nationality Proclamation.²¹⁶ He also adds that the intention of the lawmakers in this article is a refugee who fulfills the requirements under this article is passing through one level of integration by building a family thus they are entitled to work and to be treated equally with nationals.²¹⁷

Therefore article 26(9) of Proclamation No. 1110/2019 is not referring to the nationality Proclamation and procedure. It implies that Refugees should be treated as nationals regarding only on the enjoyment right to work without having any restriction which is intended for the protection of the national labour market.

Because Ethiopian nationality can only be acquired through the Ethiopian nationality Proclamation, the Proclamation No. 1110/2019 acknowledges this under article 42, requiring Refugees to apply to acquire Ethiopian nationality according to Ethiopian nationality law. Therefore, the Proclamation provides that Refugees should be treated like Ethiopian nationals concerning the right to work if they are married to or have a child of Ethiopian nationality.

²¹³ Art 26(9) of Proclamation No. 1110/2019.

²¹⁴, Proclamation No 378/2003, A Proclamation on Ethiopian Nationality, Fed. Neg. Gaz., 10th Year No. 13, vol. 23 (2003), pp. 2505-2511.

²¹⁵ Art 6 of proclamation No 378/2003.

²¹⁶ Interview with Dr Tadesse Kassa(n 193).

²¹⁷ Ibid.

Finally, the Proclamation restricts Refugees from employment opportunities on positions such as "National defense, Security, Foreign Affairs, and other similar establishments" for the protection of national interest and national security.²¹⁸

Even if Proclamation No. 1110/2019 is expected to be implemented by a further set of regulations and directives, existing legislation is still barriers to operationalize Refugees' right to be work in general.

Overall since the contents of Refugees' right to work under Proclamation No. 111/2019 adopted directly from the 1951 Refugee Convention, the standard and the condition thereof may be relevant and works in 1951 and the following years; however, in current times and refuge situations, treating Refugees equally with aliens can be difficult.

4.3 Freedom of Movement in relation to Refugees' right to work

The FDRE Constitution recognizes the freedom of movement of both for national and foreigners in the national territory.²¹⁹ Contrary to the FDRE Constitution, the replaced refugee Proclamation No. 409/2004 prohibits any movement of Refugees within the national territory for many years until it was repealed in 2019.

One of the major revisions of the Ethiopian refugee law is to enable Refugees to move freely within the national territory; ARRA has the power to arrange or facilitate enabling conditions for the exercise of the right to freedom of movement.²²⁰

The right to freedom of movement is essential for the realization of the Refugees' right to work because Refugees cannot exercise their right to work within the camp. The recent revised Proclamation No. 1110/2019 is expected to achieve Refugees' freedom of movement and to alienate the historical gap which separates Refugees from the socio-economic life outside the camp. The right to work can only be implemented through the full realization of Refugees' rights to the freedom of movement; however, the Proclamation regulates such movement only through the willingness of ARRA.²²¹

²¹⁸ Art 26(10) of Proclamation 1110/2019.

²¹⁹ Art 32 of FDRE Constitution.

²²⁰ Art 28 of Proclamation No. 1110/2019.

²²¹ Art 28 (2,3) of Proclamation No. 1110/2019.

Before the adoption of Proclamation No. 1110/2019, Refugees are not allowed to live outside the camp, and freedom of movement is not granted for Refugees and asylum seekers. Even Ethiopia's government made a reservation under the 1951 Refugee Convention regarding Refugees' rights to freedom of movement.²²²

Until recently 'camp-based' assistance was the basis of Ethiopia's refugee policy and Refugees have no right to move outside the camp.²²³ However, in 2010 the government changes the 'camp-based' policy into 'out camp policy' only for Eritrean Refugees if they can support themselves.²²⁴

This step was positive at that time but refugee has no right to work in any kind of sector. The very purpose of seeking out camp policy is to be self-sufficient and lead a better life than the camp life.

Recently under the Ethiopian Comprehensive Refugee Response Plan adopted to implement the 9 pledges, 'out camp policy' is one of the strategies to make Refugees self-sufficient; however, this is only limited to 10% of Refugees out of the entire refugee community.²²⁵

It is important to note that 'out camp policy' is applied when Refugees register a place in the city as their residence and any movement out of the territory requires explicit approval from ARRA.

The right to freedom of movement recognized under Proclamation No. 11110/2019 is facilitated and supervised by ARRA, yet regulation must be adopted in detail on how the right to freedom of movement is implemented. In general, the right to freedom of movement is an essential element for the implementation of Refugees' right to work.

²²² Ethiopia signed and ratified the 1951 Convention relating to the Status of Refugees and its 1967 protocol on 10 Nov 1969.

²²³ Living out of Camp (n 24).

²²⁴ Ibid.

²²⁵ Briefing note on Applying the Comprehensive Refugee Response Framework (CRRF), CRRF Ethiopia, July 2018.

4.4 Ethiopian Comprehensive Refugees' Response Framework and Refugees' right to work

Out of the 9 pledges Ethiopia made in the New York summit under CRRF, the two pledges in relation to the right to work, provides work permit for Refugees in the area permitted to foreign workers and to employ Refugees in industrial parks through the help of developmental actors.²²⁶ Proclamation No. 1110/2019 incorporates the rights and freedoms for Refugees associated with the pledges and it established the legal foundation thereof.²²⁷

Article 26(4) of Proclamation No. 1110/2019 recognizes Refugees to engage in projects designed by the Ethiopian government and the international community to support both nationals and Refugees and also guarantees equality of treatment with nationals.²²⁸ In this regard, Ethiopia made a promise to make '10,000 hectares of irrigable land available which enable 20,000 Refugees and host community households (100,000 people) to grow crops and also to work with industrial partners to build industrial parks to employ up to 100,000 individuals, with 30% of the jobs reserved for refugees.'²²⁹

The pledges related to economic opportunities will be implemented by ARRA in consultation and collaboration with the CRRF. This pledge can be an ideal example to implement Refugees' right to engage in wage-earning employment and self-employment and designed to

²²⁶ CRRF Ethiopia in July 2018 promise to expand the "out-of-camp" policy to benefit 10% of the current total refugee population, To provide work permits to Refugees and those with permanent residence ID, to provide work permits to Refugees in the areas permitted for foreign workers to increase enrolment of refugee children in preschool, primary, secondary and tertiary education, without discrimination and within available resources, to make 10,000 hectares of irrigable land available, to enable 20,000 Refugees and host community households (100,000 people) to grow crops, to allow local integration for Refugees who have lived in Ethiopia for over 20 years, to work with industrial partners to build industrial parks to employ up to 100,000 individuals, with 30% of the jobs reserved for refugees, to expand and enhance basic and essential social services for refugees, to provide other benefits, such as issuance of birth certificates to refugee children born in Ethiopia, and the possibility of opening bank accounts and obtaining driving licenses. (n 171).

²²⁷ Ibid.

²²⁸ Art 26(4) of Proclamation No.1110/2019.

²²⁹ Briefing note of CRRF Ethiopia (n 225).

support the host community too. Besides, article 26(5) of Proclamation 1110/2019 provides that, for Refugees selected to engage in such projects, the Agency for Refugees and Returnees Affairs (ARRA) may issue residence permit which will be renewed every five years.²³⁰

According to Mr Tamerat Worku, developmental programs in industrial parks (CRRF), Refugees need to have a work permit so that Refugees where about is known because the projects have no restricted area. Refugees also need a guarantor for their liability; thus, a work permit is necessary; however, there is no regulation or directive on how to implement the issue of work permit to implement CRRF other than Expatriate directive. Besides, Mr Tamerat said that MoLSA is working on how to solve the legal barrier with concerned organs such as ARRA, EIC, and UNHCR through the program called the Job compact.²³¹

The Jobs Compact is a new and evolving program in Ethiopia, which brings together different institutions to create economic opportunities for the host community and refugees.²³²

The Jobs Compact Technical Committee is managed by MoFEC and includes the Ethiopian Investment Commission (EIC), Industrial Parks Development Corporation (IPDC), ARRA, UNHCR, International Labour Organization (ILO), and the Jobs Compact development partners (World Bank, European Union).

Thus, the committee is highly empathized on implementing the CRRF and the 9 pledges made by Ethiopia through financial and technical support on Refugee-related employment and protection activities, improving the broader investment climate, improving labour productivity and quality of jobs and Construction of industrial parks are among many others which are beneficial for both Refugees and host communities.²³³

Even if the Proclamation provides that ARRA may issue a resident permit for projects such as environmental protection and industries, article 26(1) obliges Refugees to pass through the relevant laws which requires the need for a residence permit from ARRA and the procedures of

²³⁰ Ibid. art 26(5).

²³¹ Interview with Ato Tamerat worku (n 202).

²³² International development association program appraisal document, program for result/investment project financing economic opportunities program June 4, 2018 p 22.

²³³ Ibid.

the Expatriate directive 2019 by MoLSA to work permit, thus this brings difficulty for the implementation of such projects under CRRF.

4.5 Implication of Refugees' right to work for the Host community

The implementation of Refugees' right to work and their engagement in the local economy may have positive and negative implications for the host community. Refugees may contribute to the economic growth of the host community or their engagement in the economy may lead to insecurity, intra-ethnic conflict, unemployment, and competition over the resource.²³⁴

Ethiopia hosts almost one million refugees from South Sudan, Sudan, Somalia and Eritrea hence the majority of the Refugees are located in Tigray Regional State and the Afar Regional State, Benishangul-Gumuz Regional State, Gambella Regional State, and the Somali Regional State.²³⁵

One of the major locations in Ethiopia which signify the tension and conflict between Refugees and host communities has been the Gambella regional state. In this area, Anuak and Nuwer ethnic groups, highlanders and lowlanders, have been in conflict and tension due to the scares resources such as land, water, housing, and informal labour market and employment opportunity.²³⁶ In Gambella the tension escalated more between the host community and Refugees because Nuwer ethnic Refugees who came from South Sudan have a dual identity with Nuwer ethnic groups in Gambella due to this they will not be registered as a refugee thus they engage in both informal and formal sector of employment opportunities.²³⁷

The presence of Refugees in Gambella also has a positive impact on Refugees and host communities. The UNHCR and different Non-Governmental Organizations provided support for the host community by constructing different social services such as school, health and also created many temporary jobs for host communities.²³⁸

²³⁴ UNHCR "Economic and Social Impact of Massive Refugee Populations on Host Developing Countries, as well as Other Countries.", 2004.

²³⁵ Briefing note on (CRRF) (n 225).

²³⁶ Tadesse T (n 22).

²³⁷ Mosisa (n 23).

²³⁸ Endalkachew Girma, Thesis on Assessing the impact of south Sudanese Refugees on the host communities of Itang Woreda: a case study of Tierkidi refugee camp in Gambella regional state, July 2016 p 54.

Recently the adoption of Proclamation No. 1110/2019 which gives work right to Refugees brought tension in the host communities, especially those who live around refugee camps in Ethiopia due to the fear that it would affect the opportunities of the host community whether in the employment opportunity and labour market.

literatures on refugee-host conflict recommends three main programs that have been designed to tackle tensions and conflicts between refugees and host communities; ‘Integrated development programs’, ‘Conflict resolution programs’, and ‘Environmental management programs.’²³⁹

Article 26(4) Proclamation No. 1110/2019 encourages and recognizes joint or integrated development programs and environmental programs which allow both Refugees and host communities to benefit and to be self-reliant by engaging in these projects. This recognition reflects the current inclusive development of refugee protection and self-reliance which is beneficial to the national labour market.

In this regard, the Ethiopian national compressive response framework to implement the 9 pledges can be considered as most important integrated and environmental development mechanism to avoid the negative implication towards the implementation of Refugees’ right to work as it stands to implement projects which are beneficiary for both host communities and refugees.

In addition, facilitating a platform by participating both Refugees and host communities to work together and to discuss mitigating circumstances will help to avoid the tension, conflict and negative implication which caused by the presence of Refugees in general.

²³⁹ Oliver Walton, Help desk Research Report on preventing conflict between Refugees and host communities, The report explains by these three mechanisms by taking practical analysis and reads as 1st “Integrated development programs are facilitating integrated humanitarian and development programs that seek to balance assistance to both refugee and host communities, or integrate services provided to them.” 2nd “Conflict resolutions are programs that encourage workshops, discussions, or regular meetings between both communities. These may involve training in conflict resolution skills or peace education.” 3rd “Environmental management programs that seek to improve the management of environmental resources to promote co-operation and reduce tensions.” 19 Oct 2012, p 1.

CHAPTER FIVE

CONCLUSION AND RECOMMENDATION

5.1 Conclusion

The right to work entails an equal chance and opportunity to engage in the economic sphere and to gain a living. The right to work is composed of the right to engage in wage-earning employment, self-employment, and the right to form and join a trade union; however, this right is not absolute. The right to work has been recognized under major international human right instruments such as the ICESCR.

Long before the adoption of the ICESCR, the 1951 Refugee Convention has recognized the right to work of Refugees though it permits a reservation. Most state parties promise to protect Refugees but refrain from obliging themselves in recognizing Refugees' right to work; thus, they made a reservation. Ethiopia is a state party to the 1951 Refugee Convention with some reservations and adopted national refugee law for the first time in 2004 (Proclamation No. 409/2004). Recently, to incorporate the overall developments of refugee protection and to promote durable solution, the government replaced Proclamation No. 409/2004 with Proclamation No. 1110/2019.

This study was carried out with the objective of identifying the actual contents of the right to work and examine the challenges in enforcing Refugees' right to work in Ethiopia. The content of Refugees' the right to work under Proclamation No. 1110/2019 mainly includes wage-earning employment, self-employment right and the right to form and join a trade union.

Although Proclamation No. 1110/2019 recognizes the right of Refugees to engage in wage-earning employment, the Expatriate directive of 2019 adopted by MoLSA, only gives work permits for foreigners/Refugees who have special skill or expertise which no other national available of such expertise. This restriction makes Refugees unable to get work permits since they do not have a special skill and also this restriction does not consider the overall refugee situations and their vulnerabilities. Besides, the application for such a work permit can only be applied by employers; this is another unattainable requirement for Refugees to get a work permit.

Even if Article 26 of Proclamation No 1110/2012 recognize Refugees to engage in self-employment or to exercise their liberal profession, the majority of the professions or investment

opportunities are reserved only for nationals of Ethiopia. Furthermore, the Investment Proclamation No. 1118/2020, the Investment Regulation No 270/2012 and other national legislation only allow self-employment right of foreigners/Refugees to a limited number of professions and require a very high financial capacity which is impossible for refugees as they are vulnerable groups.

Freedom of movement and out camp policy should be addressed to enforce and implement Refugees' right to work. The recognition of Refugees' right to work in Ethiopia has both negative and positive implications on the host communities. The Negative implications like conflict and tension between the refugees and host communities can be mitigated through integrated developmental and environmental projects which benefit both communities. With this regard Proclamation No. 1110/2019 recognizes and encourages integrated developmental projects like CRRF to benefit both host communities and refugees. Still, the issue of work permit, the investment law, and equal treatment of refugees with foreigners make it challenging to implement such projects.

5.2 Recommendation

To fully realize and implement Refugees' right to work in Ethiopia, the researcher offers the following recommendation:

- Treating foreigners and refugees in the same way concerning the right to work is the major problem in implementing article 26 of Proclamation No. 1110/2019. Thus, this article should be amended.
- MoLSA should adopt a specific directive on granting work permit for refugees, so as to implement Article 26(1) of the Proclamation;
- MoLSA should stop treating refugees in the same standard as foreigners concerning wage-earning employment and on granting work permit by the Expatriate directive. Refugees' work permit right should be subject to lesser restriction than those applicable to foreigners. In particular, the MoLSA should not require Refugees to have special skills for the purpose of obtaining a work permit. Unlike other foreigners, Refugees should be able to apply for the work permit without requesting the permission of their employers.
- The study recommends that self-employment and engagement in the liberal profession by refugees should be treated differently from other foreigners and should be separately

regulated. Refugees should be subject to lesser restrictions on areas of employment and profession than foreigners by taking into consideration the interest of the national labour market. Therefore, ARRA, EIC and other institutions should adopt regulation and policy which helps implement self-employment and liberal profession right of refugees for durable economic solution.

- The ARRA should closely work with MoLSA, EIC and other relevant organs to avoid the legal barriers such as the problem with obtaining a work permit to engage in self-employment and liberal profession, because eliminating the legal barriers is important for the implementation of integrated development projects which are guaranteed under Article 26(4) of Proclamation No. 1110/2019. The implementation of the integrated development projects also helps to mitigate the tension and conflict between Refugees and host communities and economically benefits both.
- The implementation of the nine pledges of CRRF made by Ethiopian government is still facing challenges due to policy and regulatory limitations, including restriction of movement on refugees. Thus, organizations involved in programs which bring economic opportunities and working towards the implementation of CRRF like the job compact project should be acknowledged, encouraged and supported.
- Conflict and tensions raised due to competition of labour market between Refugees and host communities in Ethiopia, especially in Gambella can be mitigated through the implementation of developmental and environmental projects which creates employment opportunities for both communities, facilitating regular discussion and dialogue between the communities and encouraging local dispute resolution methods.

BIBLIOGRAPHY

Books

- Berlanga Vasile I, “SMITH, K. M. Rhona, Textbook on International Human Rights” Anuario Mexicano de Derecho Internacional (2005)
- Craven M, ‘the International Covenant on Economic, Social and Cultural Rights’, in (Raija Hanski and Markku Suksi (eds.)), An Introduction to the International Protection of Human Rights, Text Book, (2nd rev. ed), Institution for Human Rights, Finland: Turku/Abo, Abo Academic University, (2002)
- Handbook and guideline on procedures and criteria for determining refugee status under the 1951 convention and the 1967 protocol relating to the status of refugees, Reissued Geneva, December (2011)
- King Jeff, “an activist’s manual on the international covenant on economic, social and cultural rights Jeff law and Society trust” (2003)
- Hathaway James C, “The right of refugees under international law”, Published in the United States of America by Cambridge University Press, New York (2005)
- Muller A, “Limitations to and Derogations from Economic, Social and Cultural Rights” (2009) 9 Human Rights Law Review 557
- Mundlak G, “The Right to Work: Linking Human Rights and Employment Policy” (2007) 146 International Labour Review 189
- Mullerson R, “The International Covenant on Economic, Social and Cultural Rights” A Perspective on Its Development, by Matthew Craven. Oxford: Clarendon Press, 1995.413 Pp. 50” (1998) 68 British Yearbook of International Law 274
- Ruggie J, “ State Responsibilities to Regulate and Adjudicate Corporate Activities under the United Nations’ Core Human Rights Treaties - Individual Report on the International Covenant on Civil and Political Rights | Business & Human Rights Resource Centre” (2020)
- Smith R K.M “Text book on international human rights: text book on series” oxford university press (2016)
- Samuel K. N. Blay & B. Martin Tsamenyi, Reservations and Declarations under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees, 2 Int'l Refugee L. 527 (1990)
- SANYAL R, “Refugees: The Work of Exile: Protracted Refugee Situations and the New Palestinian Normal” (Daniel Bertrand Monk and Jacob Mundy eds, 2014) 135
- UNHCR “Human right a handbook for parliamentary” Inter-Parliamentary Union and the United Nations (Office of the High Commissioner for Human Right) (2016)

Journals and Conference Papers

- Ahmed A A “The 7th Century Unwritten Ethiopian Laws on the Protection of refugees”, in Yonas Birmeta (ed), *Refugee Protection in Ethiopia* (Addis Ababa University 2017) International law series Vol. 1 p. 7-30
- Abebe TT, “Promises and Challenges of Ethiopia’s Refugee Policy Reform” (*Africa Portal*, October 26, 2018)
- Bailliet CM, “Erika Feller, Volker Turk and Frances Nicholson. (Eds), *Refugee Protection in International Law: UNHCR’s Global Consultations on International Protection*, Cambridge University Press, Cambridge, 2003, L” (2005) 17 *International Journal of Refugee Law*
- Bhattacharjee S, “Situating the Right to Work in International Human Rights Law: An Agenda for the Protection of Refugees and Asylum-Seekers” (2013) 6 *SSRN Electronic Journal*
- Costello C and Foster M, “Non-Refoulement as Custom and Jus Cogens? Putting the Prohibition to the Test” (2016) 46 273
- Erlich Haggai, “Islam, Christianity, Judaism, and Ethiopia: The Messages of Religions”: The Fifth Annual Levtzion Lecture (The Hebrew University of Jerusalem, 2013)
- Fragomen A, “The Refugee: A Problem of Definition, 3 Case W. Res” (1970) 3 *Case Western Reserve Journal of International Law*
- Frank, W. F. "The Right to Work." *Industrial Law Review*, vol. 6, no. 4, April 1958, p. 247-265.
- Fragomen Austin T. Jr., *The Refugee: A Problem of Definition*, 3 *Case W. Res. J. Int'l L.* 45 (1970)
- Gutema MM, “The Dynamics of Refugees’ Dual-Identity along Ethiopia - South Sudan Border: Challenges, Prospects and Policy Implications” in Yonas Birmeta (ed), *Refugee Protection in Ethiopia*, (Addis Ababa University 2017) International law series Vol. 1 p. 99-122
- Garner, Bryan A., and Henry Campbell Black. *Black's Law Dictionary*. 9th ed. St. Paul, MN: West, 2009.
- Haines RPG, “Gender-Based Persecution: New Zealand Jurisprudence” (1996) 9 *International Journal of Refugee Law* 129
- Hannum H, “The UDHR in National and International Law” (1998) 3 *Health and Human Rights* 144
- Kutombana, NA songurua J "Social Rights Are Human Rights: Actualizing the Rights to Work and Social Security in Africa," *Cornell International Law Journal*: Vol. 39: Iss. 2, (2006)
- Lester E, “Work, the Right to Work, and Durable Solutions: A Study on Sierra Leonean Refugees in the Gambia” (2005) 17 *International Journal of Refugee Law* 331
- Marx K, “Economic and Philosophic Manuscripts of 1844.” (1959) 26 *Economic* 379
- Rutinwa B, “Document The End of Asylum? The Changing Nature of Refugee Policies in

- Africa” (2002) 21 Refugee Survey Quarterly 12
- Sarkin J and Koenig M, “Developing the Right to Work: Intersecting and Dialoguing Human Rights and Economic Policy” (2011) 33 Human Rights Quarterly 1
- Spielmans JV, “Union Security and the Right to Work” (1949) 57 Journal of Political Economy 537
- Tefera Z M, “Delimiting the Normative Terrain of Refugee Protection: A Critical Appraisal of the Ethiopian Refugee Proclamation No. 409/2004” in Yonas Birmeta (ed), *Refugee Protection in Ethiopia* (Addis Ababa University 2017) International law series Vol. 1 p. 31-98
- Weis P, “The Convention Relating to the Status of Stateless Persons” (1961) 10 International and Comparative Law Quarterly 255
- Witney F, “The Indiana Right-to-Work Law” (1958) 11 Industrial and Labor Relations Review 506

International and Regional instruments Including Documents

- African Charter on Human and Peoples' Rights, adopted June 27, 1981, OAU Doc.CAB/LEG/67/3/rev.5, reprinted in 21I.L.M. 59 (1982), entered into force Oct. 21, 1986
- Asian-African Legal Consultative Organization (AALCO), Bangkok Principles on the Status and Treatment of Refugees, 31 December 1966 (final text adopted 24 June 2001)
- Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama, 22 November 1984
- Convention C168 - Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168)”
- Convention relating to the Status of Refugees, 189 UNTS 2545, adopted July 28, 1951, entered into force Apr. 22, 1954
- Convention governing the Specific Aspects of Refugee Problems in Africa, 10011 UNTS 14691, done Sept. 10, 1969, entered into force June 20, 1974
- Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011
- “Fact Sheet No.16 (Rev.1)The Committee on Economic, Social and Cultural Rights”
- “ILC 89 - Report 1(A) - Decent Work Deficit: A Global Challenge”
- International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICESCR)
- Protocol Relating to the Status of Refugees, 606 UNTS 8791, adopted Jan. 31, 1967, entered into force Oct. 4, 1967
- Refugees UNHC for, “Summary Conclusions on the Interpretation of the Extended Refugee Definition in the 1984 Cartagena Declaration; Roundtable 15 and 16 October 2013, Montevideo, Uruguay” (July 7, 2014)
- Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III) (UDHR)

- United Nations General Assembly. 1966. “International Covenant on Economic, Social, and Cultural Rights.” Treaty Series 999 (December): 171.
- United Nations High Commissioner for Refugees, “Note on the Mandate of the High Commissioner for Refugees and His Office” (September 2013)
- UNCHR **General Comment No. 3: “The Nature of States Parties Obligations”**, Doc. E/1991/23 (December 14, 1990)
- UNCHR ‘General comment 13 ‘right to education’ E/C.12/1999/10 (December 1999)
- UNCHR 'General comment 18' in 'right to work', E/C.12/GC/18 (6 February 2006)
- UN High Commissioner for Refugees (UNHCR), Summary Conclusions on the interpretation of the extended refugee definition in the 1984 Cartagena Declaration; roundtable 15 and 16 October 2013, Montevideo, Uruguay, 7 July 2014,
- Vienna Convention on the Law of Treaties, opened for signature May 23, 1969, 1155 U.N.T.S.

National laws, policies and plans

- Briefing note on Applying the Comprehensive Refugee Response Framework (CRRF), CRRF Ethiopia, July 2018
- Ethiopia country refugee response plan, January 2019 – December 2020,
- Ethiopia: United Nations High Commissioner for Refugees (UNHCR) “*Fact Sheet*” (2019)
- “Ethiopia Country Refugee Response Plan: The Integrated Response Plan for Refugees from Eritrea, Sudan, South Sudan and Somalia (January 2019 - December 2020) - Ethiopia”
- Expatriate Work permits issuance directive, Ministry of Labour and Social Affairs, 2019
- Proclamation No. 1/1995, Proclamation of the Constitution of Federal Democratic Republic of Ethiopia, **Federal Negarit Gazeta**, 1st Year No. 1, Addis Ababa, 21st August, 1995
- Proclamation No 409/2004, Refugee Proclamation, Federal Negarit Gazeta , Federal Democratic Republic of Ethiopia, 10th Year, No.54, Addis Ababa 19th July 2004
- Proclamation 1110/2019, Refugee Proclamation, Federal Negarit Gazeta of the Federal Democratic Republic of Ethiopia, 25th Year, No.38, 27th February 2019
- Proclamation 1156/2019, Labor Proclamation of the Federal Negarit Gazeta of the Federal Democratic Republic of Ethiopia, 25th Year, No.89, 5th September 2019
- Proclamation No 378/2003, Ethiopian Nationality Proclamation, Fed. Neg.Gaz., 10th Year No. 13, vol. 23 (2003)
- Proclamation No 1180/2020, Investment Proclamation of the Federal Negarit Gazeta of Federal Democratic Republic of Ethiopia, 26th Year, No.28, 2th April 2020
- Regulation No 270/2012, investment incentives and investment areas reserved for domestic investors council of ministers regulation of the Federal Negarit Gazeta of Federal Democratic Republic of Ethiopia, 19th Year, No.4, 29th November 2012
- Proclamation No. 270/2002 Providing Foreign Nationals of Ethiopian Origin with certain

Rights to be Exercised in their 'Country of Origin Federal Negarit Gazeta., 8th Year No. 17, 5th September 2002

- The Civil Code of the Empire of Ethiopia, Proclamation No. 165, Neg. Gaz. Year 19th No. 2, 1960

Thesis

- Endalkachew Girma, Thesis on assessing the impact of south Sudanese Refugees on the host communities of Itang Woreda: a case study of Tierkidi refugee camp in Gambella regional state, July 2016

Interview

- Interview with Dr. Tadesse Kassa, Associate professor at Addis Ababa University College of Law and governance (Addis Ababa, April 28, 2020)
- Interview with Ato Tamerat worku, Expatriates employment promotion team leader at MoLSA, (Addis Ababa MoLSA April 11, 2020)

Report, training document and press

- Human Rights and Refugee Protection Self-study Module 5, Vol. II, UNHCR, 15 December 2006
- International Labor Organization [ILO], Report of the Director-General to the International Labour Conference, Reducing the Decent Work Deficit—A Global Challenge (June 2001).
- International development association program appraisal document, program for result/investment project financing economic opportunities program June 4, 2018
- UNHCR “Economic and Social Impact of Massive Refugee Populations on Host Developing Countries, as well as Other Countries.”, 2004
- Oliver Walton, Help desk Research Report on preventing conflict between Refugees and host communities, 19 Oct 2012,
- Report of the Style Committee by General Assembly, Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Draft Convention Relating to the Status of Refugees. 24 July 1951
- Report of the Ad Hoc Committee on Refugees and Stateless Persons, U.N. Doc.E/1618 at 38 (1951)
- Refugee Protection in International Law UNHCR’s Global Consultations on International Protection, Cambridge University press (2003)
- Christopher Chope, Refugees and the right to work, Committee on Migration, Refugees and Displaced Persons. Rapporteur: United Kingdom, EDG, Reference to Committee: Doc. 12933, Reference 3878 of 25 June 2012
- The Implementation of UNHCR’s Policy on Refugee Protection and Solutions in Urban Areas, Global Survey – 2012,

- Team H, “Circle of Rights : Economic, Social & Cultural Rights Activism : A Training Resource” (*HURIDOCS*, July 6, 2010)
- United Nations Committee on Economic, Social and Cultural Rights [CESCR], Report on the Twenty-fifth, Twenty-sixth and Twenty-seventh Sessions (23 April-11 May 2001, 13-31 August 2001, 12-30 November 2001), E/2002/22; E/C.12/2001/17 (June 6, 2002)
- Zetter R and Ruaudel H, “Refugees’ Right to Work and Access to Labor Markets – An Assessment - Country Case Studies (Part 2) | KNOMAD”
- Zetter R and Ruaudel RH, “Refugees’ Right to Work and Access to Labor Markets – An Assessment (Part 1) | KNOMAD”

Case

- *Malawi African Association and Others v Mauritania (2000) AHRLR 149 (ACHPR 2000)*

Web Cites

- Living out of Camp: Alternatives to Camp-based Assistance for Eritrean Refugees in Ethiopia, commissioned by the NRC (2014) <<http://samuelhall.org/site/living-out-of-camp-alternative-to-camp-based-assistance-for-eritrean-refugees-in-ethiopia/>>
- “Public Sector Guidance Sheets | Attorney-General’s Department” (*Ag.gov.au*, 2020) <https://www.ag.gov.au/RightsAndProtections/HumanRights/Human-rights-scrutiny/PublicSecorGuidanceSheets/Pages/default.aspx>
- The Committee on Economic, Social and Cultural Rights, Fact Sheet No.16 (Rev.1) <https://www.ohchr.org/Documents/Publications/FactSheet16rev.1en.pdf>
- The preamble to ILO Convention No. 168, 1988: http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT
- UNDP Response to the Syria Crisis” <http://www.undp.org/content/dam/undp/library/corporate/fast-facts/english/>
- UN agency chief calls Ethiopian revised refugee law ‘one of most progressive’ one in Africa <http://news.un.org/en/story/2019/01/1030812>
- “What Is a Refugee? Definition and Meaning | USA for UNHCR” (*Unrefugees.org*, 2017) <https://www.unrefugees.org/refugee-facts/what-is-a-refugee/>
- http://hrlibrary.umm.edu/edumat/IHRIP/circle/modules/module10.htm#_edn3
- <http://scholarship.law.cornell.edu/cilj/vol39/iss2/1>

- <https://www.jstor.org/stable/1826557>
- <https://heinOnline.org/HoL/license>
- <https://www.refworld.org/docid/5268c9474>
- <https://www.unrefugees.org/refugee-facts/what-is-a-refugee/>
- <https://www.unhcr.org/5aa290937.pdf>
- <https://www.ilo.org/dyn/normlex/en/f>
- <https://www.ilo.org/public/english/standards/relm/ilc/ilc89/rep-i-a.htm>

ANNEX

Interview Guide Questions to MoLSA

I Ephrem Asnake , an LLM student in Addis Ababa University, kindly requeststo prepare or inscribe your answer for the following interview questions. This interview guide is prepared for the purpose of gathering information for my Master's thesis that I am pursuing in AAU Collage of law and Governance studies. I am grateful for your kind cooperation investing your precious time to respond for my interview.

You can refrain from writing your name

Interview questions

1. How do you implement the refugee proclamation 1110/2019 in relation to the right to work and work permit?
2. Is that possible to implement Refugees' right to get work permit with the 2019 Expatriate directive?
3. Have you given work permit for a refugee by referring the 2019 Expatriate directive, if not what are the factors?
4. What are the legal barriers for the implementation of Refugees' right to work?
5. What do you suggest for the Implementation of Refugees' right to work?

Interview Guide to the participant on the adoption of Proclamation No 1110/2019

I Ephrem Asnake, an LLM student in Addis Ababa University, kindly requests.....to prepare or inscribe your answer for the following interview questions. This interview guide is prepared for the purpose of gathering information for my Master's thesis that I am pursuing in AAU Collage of law and Governance studies. I am grateful for your kind cooperation investing your precious time to respond for my interview.

You can refrain from writing your name.

Interview questions

1. What are the intention and understanding of the law makers on the phrase 'most favorable treatment accorded to foreign nationals'?
2. Proclamation 1110/2019 allows refugees equal treatment if they are married or has a child of Ethiopian nationals; do the law makers intent to refer the nationality proclamation? If

not, how is that possible to implement it without referring in to Ethiopian nationality proclamation?

3. What is the legal means to implement Refugees right to exercise their liberal profession?
4. What are the legal barriers to implement refugees' right to work?
5. What should be done to implement Refugees' right to work in Ethiopia?