

ADDIS ABABA UNIVERSITY
COLLEGE OF LAW AND GOVERNANCE FACULTY OF LAW

**AN APPRAISAL OF THE PRACTICE OF ETHIOPIAN PROTECTION MECHANISMS
PERTAINING TO MIGRANT WORKERS: THE CASE OF ETHIOPIAN MIGRANT
WORKERS TO SAUDI ARABIA**

BY: YONAS ZEMENE

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**A THESIS SUBMITTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR
THE MASTERS OF LAWS -- LLM IN HUMAN RIGHTS LAW**

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APRIL 2015

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Declaration

I, Yonas Zemene, Zerihun hereby declare that this thesis is original and the result of my own work and has never been submitted to any other institutions. I also declare that any secondary sources or materials used in this thesis have been duly acknowledged.

Yonas Zemene

Date

Abstract

This case study aimed at examining the Ethiopian human rights protection systems pertaining to migrant workers to Saudi Arabia at the three phases of the migratory stages: before departure, at Saudi Arabia and during repatriation. For such ends, the study utilized qualitative research design. Both secondary and primary sources of data were employed in conducting this study. The primary data were gathered using in-depth interviews with concerned government officials and experts, representatives of non-governmental organizations and Private Employment Agencies, Saudi Returnees and appropriate key informants. Accordingly, in total 31 individuals were interviewed in Addis Ababa. Two focus group discussions were also conducted with Saudi returnees. Overall, the finding of the study shows, that the Ethiopian government has some efforts in the regulation of labor migration to Saudi and establish legislative and institutional frameworks to that effect. It was, however, revealed that the legal and policy frame works were incomprehensive and insufficient. It was also found that the government preventive interventions were inadequate to avert practices and gaps that give rise to human rights violations and abuses at all stages of the migratory processes. The government protection efforts by providing support and reliefs to victims and averting the risks of secondary victimizations were insufficient. The government rehabilitation and reintegration initiatives remain in vain to bring practical solutions. The involvement of International and Local NGOs were minimal and lack of coordination with governmental organizations in the prevention and protection efforts.

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List of Acronyms

CAT	Crime Against Torture
CEDAW	Convention on Elimination of All Forms of Discrimination Against Women
EEP	Employment Exchange Proclamation
FDRE	Federal Democratic Republic of Ethiopia
GCIM	Global Commission on International Migration
GSA	Good Samaritan Association
GCC	Gulf Cooperative Councils
HRW	Human Rights Watch
ICRMW	International Convention on Rights of Migrant Workers
ICCPR	International Convention on Civil and political Rights
ICESCR	International Convention on Economic Social and Cultural Rights
ILO	International Labor Organization
IOM	International Organization for Migration
MoFA	Ministry of Foreign Affairs
MoLSA	Ministry of Labor and Social Affairs
NGO	Non Governmental organization
PEA	Private Employment Agencies
RMM	Regional Mixed Migration
UN	United Nations
UAM	Unaccompanied Minors

1. Introduction

1.1. Back Ground of the Study

International migration is increasing as a matter of policy and a matter of fact in the 21st Century. According to the United Nations (UN) report on international migration estimation, there are over 214 million migrants globally, consisting of 3 percent of the world's total population including migrant workers, permanent immigrants, refugees and their dependents residing outside their country of birth.¹ Strikingly, the number of migrants globally could be expected to reach over 400 million by 2050.² This ever escalating number of migrants has been occurring as a result of various reasons which involve searching for work, better life, fear of persecution, the horrors of war and natural disasters as well as globalization.³ However; according to 2010 International Labor Organization (ILO) report on migration more than fifty percent of cross border migration consists of international labor or economic migration.⁴ Moreover; as the International Organization for Migration (IOM) estimates today's migration is mainly characterized by economic migration and there are over 105 million people who have been engaged in various types of works in countries other than their counties of birth -which is the subject matter of this paper.⁵ This movement of people in search of work from one country to another is called labor migration. The conceptual definition of Labor migration refers to movement of persons from their home state to another state for the purpose of employment.⁶ Those who migrate in looking for jobs abroad are called migrant workers. Migrant worker refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a state of which he or she is not a national.⁷

¹United Nations Report on International Migration Statics, (2010), See also, Human Rights Watch. (2010). Rights on the line Human Rights Watch work on abuses against migrants in 2010 which states there are over 215 million migrants all over the world.

² Ibid.

³Animaw Anteneh, (ed) 2011. *Trafficking in Persons Overseas for Labor Purposes: the Case of Ethiopian Domestic Workers* , p.7

⁴ Ibid. p.36.

⁵ International Organization for Migration (IOM), Labor Migration web page, available from <http://www.iom.int/cms/en/sites/iom/home/what-we-do/labour-migration.html>, (Last visited on 24July2014)

⁶International Organization for Migration's Glossary on Migration 2004:Full Glossary found at http://publications.iom.int/bookstore/free/IML_1_EN.pdf (last accessed on24 July 2014)

⁷UN (1990) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, adopted by General Assembly resolution 45/158 of 18 December 1990, Geneva .Art. 1

By the same token, cross border mobility has not been a recent phenomenon in Ethiopia. Migration in Ethiopia is and has historically been characterized by complex flows arising from a combination of root causes. These root causes have included poverty, drought, political subjugation, lack of sufficient job opportunities and peer and family influences.⁸ It is palpable that extreme poverty, draught and political repressions have been and continue to be key driving forces for Ethiopian migration.⁹ Without increased food security, infrastructure, and employment opportunities, it can be conventional that migration flows out of Ethiopia will continue to mount.

For Kuschminder and Melissa, no matter how the causes of Ethiopian migration are complex, however; the genesis of Ethiopian cross border migration has mainly been characterized by three historical episodes.¹⁰ The first stage of Ethiopian migration characterized as “elites migration” during Emperor Haile Sillassie. The out border migration of those few privileged groups of the period for the purpose of education abroad or for the sake of international diplomacy.¹¹ For example, Levine estimates only 35 Ethiopians went to live in the West (USA and Europe) between 1876 and 1922.¹² Between 1922 and 1935, the Ethiopian government attempted to modernize its administration and sent 144 individuals to study abroad in Western Universities.¹³ Upon their return, these individuals occupied positions of high responsibility in the government.¹⁴ Moreover, for Terrazas, migration trends accelerated between 1941 and 1974 when an estimated 20,000 Ethiopians from about a population of 22 million left to complete their higher education’s and fulfill diplomatic missions.¹⁵ The vast majority were returned not because the economic prospects in Ethiopia were so attractive, but because the Western educated were so few that they were guaranteed positions of power and authority.¹⁶

The second stage of Ethiopian migration was propelled by fear of persecution and Red Terror which is characterized as “Refugee” or fugitive migration during Derg Regime. During this stage

⁸Fransen, and Kuschminder(2009) *Migration in Ethiopia: History, Current Trends and Future Prospects*.,p.11.

⁹Ibid.

¹⁰ K. Kuschminder, M. Siegel,(2010) *Diaspora Engagement and Policy in Ethiopia*,(2010)p. 4

¹¹ Ibid.

¹² D. Levine. (1965)*Wax and Gold: Tradition and Innovation in Ethiopian Culture*. p.9.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Terrazas, (2007) *Beyond regional circularity: The Emergency of the Ethiopian Diaspora*. [http://migrationpolicy.org/article/beyond-regional-circularity-emergence-Ethiopian -diaspora.p.10](http://migrationpolicy.org/article/beyond-regional-circularity-emergence-Ethiopian-diaspora.p.10). (Accessed on 12 Oct 14 at 7pm), p.17.

¹⁶ Ibid.

mass influx of Ethiopian migration and refugees fled to escape from the oppressive and brutal regime of Mengistu Haile Mariam – fear of persecution notably Red –Terror.¹⁷

A latter (stage) that marked the history of the Ethiopian cross country movement can be traced to 1991 after the down fall of the Derg regime which is characterized mainly as “economic migration” in which the freedom of movement has become natural as well as constitutional entitlement for Ethiopian citizens which serve as the resultant effect of today’s mass volume migration.¹⁸ Therefore; these latter two historical episodes indicate the beginnings of the culture of mass migration from Ethiopia to overseas which is a paradigm shift from politically motivated (refugee) migration in the 1980’s in to the 1990’s economically motivated (employment migration) one.

Along with this politically motivated migration associated as push factor over the previous decades; the economic development of countries of employment that results in high demand of labor force especially in low skills jobs together with globalization appeared to emerge with in this global movement that created new opportunities and dynamics for Ethiopians. According to Amira Abdella report on Ethiopian out border migration:¹⁹

“The migration prospect in Contemporary Ethiopia is a highly diversified one in terms of its involved mobile subjects, deriving motivations, destination countries, duration of migration policies, and responses at both ends of migration and so forth. According to its prevalent destination areas one can understand that the current migration stream involve three major regions or continents of around the globe in which the vast majority of the Ethiopian on ward migration takes place. These three destination areas are the Arab Gulf and Middle East Countries, the neighboring African, countries of the global north including Europe and US. While the first and the second locations tend to be approached by temporary workers and transit migrants, the third destination is perceived to be a resettlement or a long term site of migration. Inspired on these facts it is believed that the nature of Ethiopian cross border migration including the motives and the status and situation of migrants differs depending on the conditions in the host states.”

¹⁷ Amira Abdella (2008) *Ethiopians without Borders: Situational Analysis on the Ethiopian outmigration, Patterns and Key Issu.* p.7, See also Art.32 of FDRE Constitution.

¹⁸ Melissa Siegel and Katie Kuschminder(2011). *Who is Who in Ethiopian Migration*, (2011),p.1, See also Art.32 of FDRE Constitution.

¹⁹ Amira, supra note 17, p.24.

To come to the point, Ethiopian migration to the Arab Gulf and Middle East countries has been an unprecedented emerging theme over the previous decades, with labor appears to be the main driving force. Major destinations are Lebanon, UAE, Saudi Arabia, Qatar, Kuwait, Bahrain and even Yemen. Due to the feminization of the sector of this Pattern of migration comprise large volume of migrant women purposely recruited as domestic workers for Arab employers and smaller number of men who are engaged in low skill jobs, construction, drivers and other kinds of temporary works not desired by local nationals.²⁰

The influx of Ethiopian women as migrant domestic workers to Middle East officially embarked in 1989 with large number to Lebanon.²¹ However; Since 2008 Saudi Arabia and Kuwait have emerged as the top destination countries of which Saudi has retained 61 percent of recorded Ethiopian migrant domestic workers in 2010 alone.²² Perusal of the data of MoLSA in the period of 2012 and 2013 revealed that the most common occupation for men in Saudi Arabia involve driver, some as factory workers, mechanics, laborers, guards, waiters and in very few cases engaged in professional posts such as drafting engineers and accountants whereas, women migrate as nannies and home maids and in rare cases as waitress.²³

Ethiopian migrant workers who are mainly women accompanied by few numbers of men with secondary education migrate to Saudi using three channels.²⁴ The first one is through public migration which occurs when individuals are officially registered as migrant workers within the Ministry of Labor and Social Affairs (MOLSA) but arrange their employment in private through a person with destination country-Saudi.²⁵ The second channel involves through one of the legally licensed private employment agencies which secure contracts with employers in the Middle East either directly or indirectly through recruiting agencies in the destination countries.²⁶ The third channel of migration is using the service of illegal brokers or individual

²⁰ Ibid.

²¹ B. Fernandez,(2010) *Cheap and disposable? The Impact of the Global Economic Crisis on the Migration of Ethiopian Women Domestic Workers to the Gulf*, Gender & Development. p.251.

²² Ibid.

²³ Ministry Of Labor and Social Affairs Report on the Status of Migrant Workers in the Gulf Countries (MOLSA) 2013.p.6

²⁴ The Letter of the Law (2014) *Regular and Irregular Migration in Saudi Arabia in a Context of Rapid Change* p.9.

²⁵ Ibid

²⁶ Id.p.12.

operators and human traffickers.²⁷ According to MoLSA estimations in 2010 research reveals that at least 300,000 migrants pass through the third channel.

MoLSA estimates on the number of irregular migrants going to Saudi in early 2013 amount to the range of 300,000 -350,000.²⁸ The total number of regular labor migrants including domestic workers from Ethiopia left for through private employment agencies is estimated to have been 200,000 in 2012.²⁹ ILO and MoLSA estimate that irregular Ethiopian migration to Saudi doubles that size of regular migrants.³⁰ The US department of states however; reports that MoLSA estimation of the number of regular migrants involving only 200,000 in 2012 represents only 30 to 40 percent of Ethiopians migrating to middle east implicating that the remaining 60 to 70 percent (between 300-350,000) are either trafficked or smuggled through the facilitation of illegal brokers.³¹

Moreover; a recent study by an organization called Regional Mixed Migration Secretariat (RMM) implicates that Ethiopian migrants found that 49 percent of potential migrants consider migrating irregularly compared to 36 percent who would not consider irregular migrants using the formal channel.³² Since, most of Ethiopian migrant workers employ the irregular channel the exact number of Ethiopian reside in Saudi is therefore unknown.³³ While, the number of regular labor migrants in 2011 and 2012 was 100,000 and 200,000 respectively.³⁴ This can be evidenced from the ever increasing recorded number of arrivals in Yemen to transit to Saudi; among migrants from horn Africa in the period of 2009 to 2012 which accounted (107,532) 78 percent are Ethiopians.³⁵

²⁷ Ibid.

²⁸ International Labor Organization (2011) *Trafficking in persons overseas for labor purposes: The case of Ethiopian domestic workers*, pp.34 - 38.

²⁹ The Letter of the Law, supra note 24. p.9.

³⁰ Id.p.17.

³¹ US Department of States, (2013) *Trafficking in Persons Report*, p.165.

³² Regional Mixed Migration Secretariat (2014) *Blinded By Hope: Knowledge, Attitudes and Practices of Ethiopian migrants. Findings from a survey of 148 potential migrants in Ethiopia, 100 current migrants in Yemen and 143 returnee migrants in Ethiopia*, Series Report No. 6.p46.

³³ Most of Ethiopian migrant workers to Saudi Arabia employ the irregular channel due to a number of reasons: sometimes it is because of lack of awareness about the official channels or it is because of the inducement of traffickers and brokers and some other times to escape the validity requirements for visa processes.

³⁴ Regional Mixed Migration Secretariat (2013) *Responses to Mixed Migration in the Horn of Africa & Yemen: Policies and Assistance Responses in a Fast- Changing Context*. (2013), p.60

³⁵ United Nations High Commissioner for Refugees. (2013) *Global Appeal 2014-2015*. Geneva: United Nations High Commissioner for Refugees.

Furthermore; most Ethiopian migration to Saudi through irregular channels has been revealed from the confusion of the Ethiopian government to expect the exact number of migrants who have been supposed to be deported during mass deportation campaign of Saudi government in late 2013. The Ethiopian government did not know what to expect in terms of the number of returnees deported from Saudi Arabia during a massive crackdown on irregular migration in Saudi Arabia in late 2013, early 2014. In spite of the fact that the government initially has been expecting approximately 26,000 Ethiopian returnees, this number rapidly exceeded 163,018.³⁶ These high numbers confirm that many Ethiopians, despite the increasing difficulties in crossing the border between Yemen and Saudi Arabia, eventually did it to Saudi Arabia.

Currently, migration and challenges related to migration continue to mount. Migrant workers in general, temporary, irregular, and domestic workers in particular face pervasive obstacles that are unique to their status as non-nationals, in some cases, trafficked and undocumented and temporary workers. As a result the full enjoyment of their labor and human rights are often at risk.³⁷ The problem is nastiest in Saudi Arabia, especially to temporary and domestic workers due to lack of effective system which afford protection to these categories and the problematic recruitment system of hiring a foreign worker (*kafala*) commonly practiced in the kingdom.

Hence, the Ethiopian migrants who employ the above three ways to Saudi are susceptible to gross human rights violations regardless to their status. This is due to the cumulative factors associated with both the government of Saudi and the government of Ethiopia. With regard to the government of Saudi, its ineffective protection system to protect the rights of temporary migrant workers and labor exclusion of domestic servants liaise with the prevailing “*kafala*” system of employment that ties workers in slavery like situation. whereas with regard to the government of Ethiopia its incapacity and reluctance to safeguard the interests of its citizens before as well as after they reach in Saudi beyond meager regulation of migration.³⁸

³⁶The Letter of the Law, supra note 24, p.18.

³⁷ Yeshiwas Degu(2014) ‘Migration and State Responsibility: Ethiopian Domestic workers in Lebanon’ *International Journal of Scientific and Research Publications*, Volume 4, May 2014. P.1

³⁸ Maastricht Graduate School of Governance Academy(2013)*Shattered Dreams and Return of Vulnerability: Challenges of Ethiopian Female Migration to the Middle East* ,p.2

The situations of both regular and irregular Ethiopian migrant workers vulnerability to violations in Saudi further strengthened by the research conducted by ILO (2011) which reflects as follows:³⁹

“The research findings conducted on female migrants to and from Ethiopia and concluded that women that migrate regularly do not have significantly different experiences than women who migrate irregularly. This is due to the fact that there are no options for protection provided by the Government of Ethiopia or Labor Brokers once women are in Saudi. The primary determinant of women’s experiences in the Saudi is the character of their employer. The vast majorities of women migrate through a broker and has no idea of the households that they are going to work for, meaning that they play a game of chance in hoping to receive a good employer.”

The author Sara Joseph, also shares the same assertion as ILO outcomes. Even those notably domestic and other temporary workers (drivers, gardeners, construction workers) who migrate through employment agents are victims of human rights violations since; they secure their visas by the means of sponsorship (‘*Kafala*’) system of employment.⁴⁰ In this system employers are responsible for their visas and legal status; workers are at employers’ mercy.⁴¹ Under this scheme employers confiscate all necessary documents including: passports, money, visas, and mobile phones: workers who need to change their jobs or leave the country need to secure employers’ consent that are universally known refuse to give.⁴² As a result, their right to movement and other human rights are frequently trampled and unable to find other jobs other than their sponsor.⁴³ Furthermore; the exclusions of Ethiopian domestic workers from enjoying labor laws protection by virtue of article 7(2) of the Royal Decree No. M/51/2006 make their situations most horrible.⁴⁴

Therefore, without the government of Ethiopia strong intervention to protect its citizens in Saudi, they remain vulnerable to multi-facets human as well as labor abuses and exploitations

³⁹ ILO (2011). Supra note 28, p.15.

⁴⁰ . Sarah Jessup,(2012) *Migrant Workers in Saudi Arabia* , Topical Review Digest: Human Rights in the Middle East and North Africa, p.46

⁴¹ Ibid.

⁴² Roojaa Bajracharya, (2012), ‘*Kafala*’ or ‘*Sponsorship System*’ Center for the Study of Labor and Mobility(CESLAM). [http:// www.Ceslam.org](http://www.Ceslam.org). p.11

⁴³ Ibid.

⁴⁴ Katherine Scully(2005)“*blocking exit, stopping voice: how exclusion from labor law protection puts domestic workers at risk in Saudi Arabia and around the world* Columbia Human Rights Law Review Vol. 41, pp825 .and 868. See also The Kingdom of Saudi Arabia Royal Decree No. M/51.Labor Law, Royal Decree No. M/51, Sept. 27, 2006, art. 7(2)

regardless to their status whether documented or undocumented migrants. The 2013 unprecedented mass deportation raid of Saudi government which results in gross human rights violations against Ethiopian migrant workers could be best scenarios that reveal the level of miss treatments and abuses that had been behind the scene. However, it is often alleged that there is no effective protection mechanisms at all stages of migration to provide practical response to labor and human rights violations that Ethiopian migrant workers are suffering from.

The present study therefore, intends to examine the adequacy of the available policy, legal and institutional frameworks aimed at safeguarding the human rights of migrant workers to Saudi; the rights that frequently trampled against Ethiopian migrant workers, the practical responses of the government and nongovernmental actors to prevent and protect the rights of migrant workers. Furthermore, the study tries to perusal the government backup plan to prevent the recurrence of future violation of the rights of Ethiopian migrant workers before, at destination state and during repatriation.

1.2. Statements of the Problems

The force of globalization has encouraged the free movement of goods, services and capital, but barriers to the cross-border movement, particularly of unskilled workers, remains defective version of it since globalization of markets has not been accompanied by globalization of the work force.⁴⁵ This has produced a discordance between the number of individuals who migrate and the legal opportunities for them to do so.⁴⁶ In many situations there is a gap between the rights which migrants, both regular and irregular enjoy under International law and International Human Rights Law, and the difficulties they experience in the countries where they live, work, and across which they travel.⁴⁷ This gap between the principles agreed by governments, and the reality of individual lives, underscores the vulnerability of migrants in terms of dignity and human rights.⁴⁸

The loophole is even to the most awful in Gulf Countries (GCC) notably in Saudi due to sponsorship (*kafala*) system of employment. The system subjects migrant workers similar to

⁴⁵ P. Stalker,(2000). *Workers without Frontiers: the Impact of Globalization on International Migration*. Geneva: ILO.p56.

⁴⁶ Tom Baum,(2012), *Migrant Workers in the International hotel Industry* , p.6.

⁴⁷ Ibid

⁴⁸ Ibid.

slavery like situations with no rights and freedom of movement.⁴⁹ In spite of the fact that Saudi banned slavery in 1964, the barbaric pursuits of owning a fellow human being still exist in the form of legally recognized “*kafala*” employment mechanisms in operation to give legal status and visas to hire migrant temporary workers including domestic workers, in Saudi.⁵⁰ The system grants employers an absolute control amounting to ownership.⁵¹

For the obvious reason that migrant workers in general and domestic and other temporary workers in particular are among the most vulnerable groups at different phases of the migration span, international instruments lay down various forms of rights’ protection needed to be bequeathed to migrant workers at different stages of the migration process both at UN and ILO levels.⁵²

Moreover; in order to vanquish the evil consequence of the afore mentioned practices and to provide adequate protection for vulnerable migrant workers, human rights advocates highly pressured out country of origins to afford legal protection at all stages of the labor migration process, from the decision to travel abroad and throughout the workers stay in the destination country along with repatriation and re-integration.⁵³ The protection should cover working conditions, hours and salary.⁵⁴

It is naked reality that the government of Ethiopia on the one hand constitutionally entitles its citizens to leave their country as per article 32 of it and facilitate labor migration for thousands of its citizens especially to the Gulf Countries as remittance represent a significant income source for the country as much as USD 359 million or 2.0 percent of GDP.⁵⁵ On the other spectrum Ethiopian authorities are worried about a number of labor abuses and human rights violations committed against Ethiopian laborers in Saudi.⁵⁶ According to the 2013 Global Slavery Index

⁴⁹ Gulnea Shana(2010)*Report of the Special Rapporteur on Contemporary form of Slavery, including its causes and consequences in the Gulf Countries*,p.6,Parag.28. Gulf Cooperative Countries Include, Saudi Arabia, Oman, Kuwait, United Arab Emirates and Bahrain.

⁵⁰ Ibid.

⁵¹ Rooja, Supra note,42,p.17.

⁵² Sarrah,Paoletlii et al (2013),*Migrant Workers Access to Justice: Nepal*. p.29.

⁵³ Paul H. Nitze(2013) *100 Best Practices in the Protection of Migrant Workers*; the Protection Project at The Johns Hopkins University School of Advanced International Studies , p.1. source www.kavloved.org.il/

⁵⁴ Ibid.

⁵⁵ United Nations Development Program, (2009) Human Development Report (2009), Overcoming barriers: human mobility and development. New York: United Nations Development Program p.94.

⁵⁶ Ibid.

there are currently 651,110 Ethiopian in modern Slavery which puts Ethiopia fifth in rank following India, China, Pakistan and Nigeria respectively.⁵⁷ Even so, until the 2014 of the Ethiopian government employment ban to Gulf countries, Ethiopia has only seen an influx of its citizens every year.

Nonetheless, the current employment ban does not pervert irregular flow of migration and it cannot pledge effective protection for citizens still residing in slavery like situations in Saudi. As previously mentioned these violations occur especially on domestic workers due to the fact that the Saudi Arabia government has not given protection to the home maids to enjoy the benefits of labor laws and they are far from the eyes of justice and any protection system; since they are under the yolk of ‘kafala’. They are unable to call for justice outside an employer’s home. According to International Labor Organization (ILO), the system is inherently defective as it creates an unequal power dynamic between the employer and the worker unless backed by sending government’s effective intervention.⁵⁸ It can therefore result in forcible servitude, unpaid wages, intimidation and other forms of exploitation. It has been argued that Articles 13, 23 and 24 of the 1948 Universal Declaration of Human Rights (UDHR) are being violated daily against foreign domestic workers in the GCC.⁵⁹

⁵⁷Walk Free Foundation (2013), *the Global Slavery Index 2013*. Dalkeith, Western Australia: Walk Free Foundation, p.62.

⁵⁸ ILO. (2013). *Trafficked and Trapped: Human Trafficking in the Middle East*. Beirut: International Labor Organization.p.12.

⁵⁹A. Vlioger (2011). *Domestic workers in Saudi Arabia and the Emirates: a socio-legal study on conflicts*, pp.146-147. These provisions state that; Article 13: Everyone has the right to freedom of movement and residence within the borders of each state: Everyone has the right to leave any country, including his own, and to return to his country. Article 23: Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment; Everyone, without any discrimination, has the right to equal pay for equal work; Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection; Everyone has the right to form and to join trade unions for the protection of his interests. Article 24: Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.”

Afar Ethiopia's moral obligations to protect its migrant workers, it faces international obligations as a member of UN as well.⁶⁰ It has the duty to take appropriate measures such as policy, legal, institutional and other appropriate steps emanated from its international commitments. Ethiopia also encounters an obligation at the national level. The constitution of the FDRE has incorporated international human rights laws which are ratified by Ethiopia are part and parcel of the legal system which makes the government a duty bearer for the protection of the rights of migrant workers.⁶¹ Therefore, the protection of the rights of migrant workers to Saudi is a moral obligation, a legal requirement as well as international responsibility for the state of Ethiopia.

However; critics say that the Ethiopian government is reluctant to protect the dignity, safety and interests of its citizens which is the very reason that for frequent complaints of human rights violations and abuses against its subjects in Saudi Arabia at the work place and during deportation raids.⁶²

In short, studying this case plays pivotal role to answer two interwoven key problems. First, there is indisputable fact that a considerable number of Ethiopian migrant workers migrate to Saudi in search for work through regular and irregular channels and at the same time; it is also true that their human as well as labor rights are frequently trampled by employment agents, security guards as well as employers and their families at home. Hence, the pre- departure protection mechanisms as well as the conditions of migrant workers during their stay and up on their repatriation from Saudi need to be assessed. Secondly, it is often alleged that there exists no comprehensive mechanisms devised to appropriately address the rights of migrant workers before, during or after repatriation to Ethiopia as compared to the experience of South Asian countries such as Philippines, Sirilanka and Indonesia. Thus, the practical record of responses to the quandary of migrant workers by State and non-state actors in the protection and assistance to migrant workers in the study area need to be empirically tested. Since, there is no similar

⁶⁰ Ethiopia has ratified most of the ILO convention and UN conventions relevant to migrant workers protections. So that these instruments impose obligations on Ethiopia to protect, respect and full fill the rights of migrant workers through adopting policy, legal and institutional frameworks throughout the whole employment stages.

⁶¹ Constitution of the Federal Democratic Republic of Ethiopia, 1995, Proclamation, ***Federal. Neg.Gaz.*** year 1 no.1 Art.9(4) with Art 9(2)

⁶² US Department supra note, 31, p.67.

research conducted so far on this specific issue, the present work may bridge gap as to whether the above said allegations are tenable or not.

1.3. Objectives of the Study

1.3.1.General Objectives

The general objective of this study is to examine the Ethiopian human rights protection system in relation to migrant workers to Saudi Arabia before departure, in Saudi and during repatriation.

1.3.2.Specific Objectives

- To describe the existing International and national legislative human rights protective mechanisms in practice which accord protection to the rights and dignity of Ethiopian migrant workers of Saudi Arabia.
- It tries to see the experience of Philippines, Sirilanka and Indonesia safe migration policy schemes, in order to enable the government to frame effective human rights protection mechanisms for migrant workers.
- The paper attempts to explore the strategic gaps of policy, legal and institutional frameworks and proposes potential areas of intervention for maximum protection of the human rights of migrant workers, before departure, in Saudi Arabia and up on repatriation.

1.4. Research Questions

Based on the afore said objectives, this study intends to answer the following research questions

- What are the available international as well as national legislative frameworks for the human rights protection of Ethiopian migrant workers to Saudi?
- What are the practical gaps of policy, legal and institutional frameworks in the effective protection of the human rights of migrant workers to Saudi Arabia?
- What are the practice of governmental and nongovernmental efforts in the prevention and protection of the human rights of Ethiopian migrant workers to Saudi Arabia at the three stages of the migratory processes?

1.5. Significance of the Study

Human rights violations and inhuman treatment against Ethiopian migrant workers is a long standing and frequent complaint in Saudi Arabia.⁶³ These gross human rights violations against Ethiopian migrant workers need the government strong intervention and commitment to stop or avert otherwise. Therefore; this study aims at contributing to identify the prevalent gaps in protecting and ensuring the human rights of migrant workers at all stages of labor migration process. It describes the preventive mechanisms to provide practical solutions to take decisive measures to better prevent human rights abuses, punish human rights perpetrators and protect vulnerable population liaise with the Saudi government. The research also shades a light for the government in road mapping safe migration policies, enacting comprehensive legislative frameworks, setting up sufficient institutional machineries which are relevant in addressing the dilemma of migrant workers. Furthermore; It may also serve the purpose of spurring further research on this particular issue and area which is unresearched so far.

1.6. Scope of the Study

The area of the research as can be understood easily from the nature of the problem and the issue it involves is very wide. However, the scope of this research limited in terms of place and subjects. Even though Ethiopian migrant workers reside in every corner of the world, this research only focused on examining the available human rights protection system regarding migrant workers in Saudi Arabia. The scope of this research was, therefore, again limited to addressing only temporary and domestic workers so that, permanent and professional workers were excluded from the ambit of this research. In addition while establishing effective human rights protection system for migrant workers is the responsibilities of both Ethiopia (country of origin) and Saudi Arabia (country of destination) this study delimited to Ethiopia's responsibility for protection of its migrant workers to Saudi.

1.7. Methodology of the Study

In its approach, the research employed qualitative research design. This approach is opted for the fact that the research conducted through observations of returnees from Saudi Arabia who experienced, human rights violations in Saudi and during the mass deportation campaign.

⁶³Selamawit Bekele (2013) *The Vulnerability of Ethiopian Rural Women and Girls: The Case of Domestic Workers in Saudi Arabia and Kuwait* , p.33.

Qualitative research methodology is appropriate for this case study as it satisfies at least three of the various areas qualitative research is suitable for. According to Creswell, qualitative research approach is important, among other things, to study about issues involving public responsibility, the role of institution, and episodes that take place relatively for a short period of time and in specific geographical areas. Hence, qualitative data gathered from those concerned as they interpret is an appropriate approach to this particular study. In addition, qualitative research became essential for this research which was carried out in situations where finding representative sample was difficult among the hard to reach dispersed Saudi returnees in different regions.

1.7.1.Methods of Data Collection

In-depth interview was the major means for collecting the necessary data in conducting this research using semi-structured interview guide. The justification for using this tool of data collection for the research is that interview is very useful to understand past events and experiences of those participated in the incidence in one way or another which otherwise would be inaccessible using other techniques.⁶⁴ This tool of data collection is relevant to secure complex and detailed information from target interviewees, government and non government actors and key informants. Accordingly, 31 individuals were interviewed for the purpose of this paper. Out of which 17 of them were Saudi returnees during the 2013/14 deportation who are engaged in small and micro enterprises in Addis Ababa. In addition 14 individuals representing governmental and nongovernmental organizations and Private employment agencies were also interviewed. Amongst whom 7 of them were government representatives, 2 of them were local NGO representatives, 1 from international NGO and the remaining 4 were belong to private employment Agencies and their representative.

The research also employed focus group discussion while conducting this research. Focus group discussion is found to be essential in conducting this research for two reasons:⁶⁵ first, it helps to generate new information that might be overlooked or unobserved by individual interviewees. The second and most important justification to use it here is that; there would be the possibility

⁶⁴A. Peräkylä , & Ruusuvuori , J., (2011) , “Analyzing Talk and Text” , in: N.Denzin&Yvonna Lincoln (eds) , *The Sage Handbook of Qualitative Research*,(Fourth Edition),London: Sage Publications, p.873.

⁶⁵George Kamberelis, and Greg Dimitriadis, (nd), “Focus Groups: Strategic Articulation of Pedagogy, Politics and Inquiry,” in: Denzin, Norman K and Yvonna Lincoln, (eds.), *The sage Handbook of Qualitative Research*, (Third Edition), Thousand Oaks: Sage Publications, Inc, pp. 887.

of forgetting relevant information by individual interviewees and to triangulate the information obtained from individual interviewees. Hence, focus group discussion could fill this gap by creating collective memory which is essential advantage of focus group discussion. Finally, personal observation of short period during data collection was also utilized, particularly in assessing the reintegration scheme of the government undertaken to economically reintegrate Saudi returnees in Yeka, Addis Ketema and Kirkos sub cities of Addis Ababa.

Moreover; to complement, the primary data collected secondary sources: literature review by way of referring books, articles in scholarly journals, legal as well as policy documents other documents unpublished as well as official reports employed and data were collected and analyzed. Moreover, online/Internet sources were also highly employed to gather recent information. These different sources were utilized to ensure validity of the research and served the purpose of triangulation.

1.7.2.Sampling Techniques

In identifying relevant sources of data, combinations of different sampling techniques were used. In order to identify concerned governmental, non governmental and private actors purposive sampling method was employed. The criteria for selection were on the basis of their involvement towards human rights protection of migrant workers to Saudi Arabia in general and their involvement in the welcoming, rehabilitation and reintegration activities of the recent Saudi repatriates. In addition to this, purposive sampling was also utilized in selection of returnees who survived the 2013 mass deportation of Saudi having recent recollection about the human rights and the whole out border migration climates. Furthermore; snowballing sampling technique was used to find individuals who were victims of human rights violations during the act of mass deportation by referring their whereabouts from other interviewees. Participants of the focus group discussions were identified taking into account their experience, sex, mode of traveling, their educational background and types of works they were engaged in Saudi.

1.7.3.Ethical Considerations

For Blaxter, ethical issues are the center piece of research designs that use qualitative methods of data collection.⁶⁶ This is because of the closer relationships between the researcher and

⁶⁶ Blaxter Loraine, et al, (2010) *How to Research*, (ed.4th) Open University Press, p.161.

researched which gives rise to a range of ethical issues around such as privacy, informed consent, anonymity, secrecy and so on.⁶⁷ The researcher owes a duty to the subjects to respect and protect research participants to exercise responsibility in the processes of data collection, analysis and dissemination.⁶⁸ For such end, hence the researcher in advance informed its subjects the very purpose of the researcher was academic with a need to culminate suspicion as well as the possibility of over or under statement about the facts of their testimonies. The other ethical consideration taken into account by the researcher was securing willingness of participants involved in the research. This principle is the foundation of any research involving “human sample subjects.”⁶⁹ Since the subject matter of the research alleged to involve some privacy issues which may cause psychological discomfort to participants, the researcher had first obtained informed Consent of the respondents to interview and record. The researcher also guaranteed anonymity for some returnees particularly who are victims of human rights violations.

1.8. Limitations of the Research

The research encountered financial and time limitations. First, due to financial and time hurdles the researcher was unable to go and observe the living and working conditions of Ethiopian migrant workers and the human rights protection systems in Saudi Arabia rather, the researcher predominantly communicated the 2013 Saudi returnees during interviews and focus group discussion in Addis Ababa. In order to fill this gap the researcher employed different electronic sources and current reports on the existing human rights situations of Ethiopian migrant workers and protection system in Saudi Arabia. Secondly, because of financial shortage the researcher could not take the sample of all those returned dispersedly in different regions of Ethiopia while assessing the effectiveness of the reintegration efforts of the government. To solve this loophole the researcher employed other researches and assessments conducted on the situations of these returnees after deportation by NGOs.

⁶⁷ Ibid.

⁶⁸ Ibid.

⁶⁹ Singh, Kumar Y., *Fundamental of Research Methodology and Statistics*, (2006), New Delhi: New Age International (P) Limited Publishers, p. 220.

1.9. Organization of the Paper

The paper has been organized in such a way it keeps logical nexus and convenient for ease understanding of the crux of its subject matters. In a view that, the paper has dissected in to five chapters and an introductory chapter. Under the introductory chapter, issues of the proposal such as back ground of the study, statement of the problems, the methods and methodologies, scope and limitations are presented. Afterwards, the first chapter looks at conceptual overview of migration and different factors for migration. It also deals with different factors for migrants' vulnerable situations to human and labor rights violations and exploitations along with the international normative frameworks avails to address migrants' precarious situations both at UN and ILO spheres of protection.

The second chapter discusses the policy, legal and institutional frameworks of Ethiopia relevant to address the demands of migrant workers of Saudi Arabia. With the third chapter, the paper goes to cover the overall migration policy and legal frameworks of Saudi Arabia having relevance to human rights protection of Ethiopian migrant workers in Saudi are examined .It also discusses the situations of Ethiopian migrant workers at work and during deportation raids and examines common human and labor rights violations and exploitations committed against thereof. Chapter four of the paper explores the practice of the prevention and protection effort of the government and different actors in the migratory processes based on the above tools of data collections. Finally the last chapter draws the conclusion and possible recommendations.

Chapter One

1. Conceptual Review and Theoretical Framework

1.1. Introduction

Human migration has been a natural phenomenon ever since the genesis of a human being on planet of Earth due to factors associated with political, economic and social factors. Previously the right to cross border movement was not a qualified entitlement and up to the ultimate jurisdiction of a sovereign states to determine the fate of migration as well as migrants status and their protections.⁷⁰ Following, the universal recognition of the freedom of movement of human beings and the force of globalization which opens the closed door of states consequently today the volume of mass migration has become escalated of which more than half of it involves labor migration and has become pressing international agenda beyond the scope of the sovereign mandate of a given state.⁷¹

Currently, it has been observed that migration plays an indispensable role to economic development of both country of origins and country of destinations.⁷² While for some migration is a positive and empowering experience, far too many migrants have to endure human rights violations, discrimination, and exploitation. Today's migration is highly associated with multi dimensional labor as well as human rights abuses and violations against migrant workers by the very reason that they are non-nationals, their clandestine status and job sectors migrant involved in host countries. Considering the possible unequal treatment and discrimination against migrant workers in destination countries; the international community has embarked to establish normative standards serving as protecting migrant workers ever since 1919 at ILO until the 1990 convention pertaining migrant workers at UN levels. The latest of these normative standards the United Nations Conventions on the Rights of Migrant Workers and their Families in 1990

⁷⁰ Maria-deanea.P. Santos,(2005) *Human Rights and Migrant Domestic Workers: A Comparative Analysis of the Socio-Legal Status of Filipino Migrant Workers in Canada and Hong Kong*, vol,24, p.2

⁷¹ Article 13 of the Universal Declaration on Human Rights (UDHR) states that: "1. Everyone has the right to freedom of movement and residence within the borders of each state. 2. Everyone has the right to leave any country, including his own and to return to his country." Similarly, Articles 12 and 13 of the International Covenant on Civil and Political Rights (ICCPR) allows freedom to leave any country including one's own and the "freedom of movement and residence" only to those who are lawfully within a state's territory. See also, Migrant workers in the international hotel industry / See also Tom Baum supra note 47, p.3.

⁷² ILO (2010), *International Labor Migration. A rights-based approach*, Geneva: p.36.

(CMW) is the land mark convention which accord comprehensive protection to migrant workers regardless to their employment status in destination countries.⁷³

1.2.Definition

The concept of migration refers to both intra and extra - territorial migration. Intra- territorial migration can easily be referred as the movement of people from one place to another within a given state for different purposes.⁷⁴ Whereas, cross border migration and its causes are a high complex concept accompanied by globalization, as well as a number of push and pull factors which reflects a wide range of global issues and challenges. However; no matter how it is complex the term cross border migration reflects the movement of people from one country (home state) to another, prompted by the need for work, a better life , fear of persecution, the horrors of war or disaster or just because people want to live somewhere else.⁷⁵ The statuses of some of these migrants are permanent migrants, some are temporary; irregular and undocumented ⁷⁶ These Migrants use a number of channels to migrate to oversee. Some make their arrangements themselves or with the assistance of others, including personal contacts, employment agencies, recruitment firms, state representatives such as embassies and consulates, or illegal human traffickers and smugglers.⁷⁷ They can across the borders through land, air or sea.

The new world order-globalization, growing disparities in wealth, human security, human rights and demographic trends across countries along with push and pull factors are all exerting upward pressures on today's international migration.⁷⁸ Even though the force of globalization has created opportunities for greater integration of labor markets and services, it has not accompanied by the qualified entitlement of freedom of movement of migrants, a complex web of national immigration laws and the "gate keeping attitude" of boarder surveillance result in various restrictions on human migration in contravening the universal entitlement of freedom of

⁷³ ICRMW. Supra note 7, Art.7

⁷⁴ Trafficking, supra note 3, p.7. See also ILO (211), supra note 72, p.76

⁷⁵ Ibid.

⁷⁶ S. Castles,(2000). *"International migration at the beginning of the twenty-first century: global trends and issues"*. UNESCO, 165/2000, pp.269-270

⁷⁷ ILO trafficking supra notes 28.p.7

⁷⁸ Tom Baum supra note 46, p.4

movement.⁷⁹ While, human migration motivated by a number of reasons as discussed here this paper looks at only international labor migration for the purpose of employment to Saudi Arabia.

For the purpose of this paper, however; labor migration has been defined by IOM as “the movement of people from home country to another for the purpose of employment and those who migrate in search of work are called migrant workers.”⁸⁰ Similarly, article 2 of the United Nations Convention on Migrant Workers defines migrant workers to mean that:⁸¹

“Migrant worker is referred to as a person who is to be engaged, is engaged, or has been engaged in a remunerated activity in a state of which he/she is not a national”

1.3. Major Factors of Labor Migration

There are two dynamic factors and the combinations of both that force human beings to out border migration these involve the push and pull factors. On the one hand, the unpleasant economic, political and social climates and situations of state of origin push forward people to look at the boarder of other countries.⁸² On the other spectrum; the social, human, economic development and labor opportunities and job offers of destination countries attract people to leave their countries.⁸³ These dynamic factors for human migration will be briefly discussed under this section.

1.3.1. Push Factors.

Economic Factors

Poverty is an important factor leading to migration. Poorer countries are suppliers of cheap labor due to high unemployment rate in country of origin.⁸⁴ Moreover; the inflow of remittance to the sending countries is the other economic factor that drives human migration.⁸⁵ The money sent by a migrants working abroad makes a significant contribution to the survival of migrants’ families

⁷⁹Marya Dinna Supranote, 70, p.2. Gate keeping’ is being used here to mean the attitude of immigration officers, as representatives of the state, to guard the territorial borders by imposing strict rules on who may be allowed to enter the country.

⁸⁰ IOM (2011), The Migration Blog, Geneva.p.1

⁸¹ICRMW, Supra note, 7 Art.2.

⁸²Reigland Appleyard, (2000), *The Human Rights of Migrants*: International Migration Vol.88(6), Special Issue 3/2000.

⁸³ Ibid.

⁸⁴Tom Baur Supra note 46,p.5

⁸⁵Selamawit Bekele Supra note 63, p. 14

and other dependants and to the existence of the national economy at large.⁸⁶ As the 2011 International Organization for Migration (IOM) report migrants contribute to the global economy, they earn US dollar 440 billion dollar and the World Bank estimates that more than 350 billion dollars of that total was transferred to developing countries in the form of remittance.⁸⁷

Social Factors

Vulnerable groups such as women and girls are marginalized groups who are unable to extricate themselves from coercive labor exploitation physically, legally and politically as a result of their social positions.⁸⁸ For Cameroon and Newman women and girls are highly vulnerable groups due to the socially constricted gender roles and marginalized position they are given in the society.⁸⁹ In the same vein, a report of human rights watch 2009 indicated that mainly women and girls of developing countries experience various forms of gender inequality such as marginalization from economic activities.⁹⁰ This according to the report extremely influences their access to education and employment and forces them to consider migration using any of the afore-mentioned channels as escaping goat strategy even in many instances they may easily prey -fall in the hands of abusive human trafficker for better dreams and empty ends.⁹¹

Political Factors

Political instability, political oppression, fear of persecution, lack of human rights protection, civil unrest and war, also play significant pushing factor for human migration abroad.⁹²

1.3.2. Pull Factors

As economic deprivation from the sending countries is served as a push factor; economic development in the receiving countries is also served as pull factors.⁹³ Pull factors attract

⁸⁶ International Organization for Migration Report (2011), Global Report on Development and Remittance, p.32

⁸⁷ World Bank Report on Human Development and Remittance flow, (2010) p.210

⁸⁸ S. Cameroon & E. Newman, (ed.) 2008. *Trafficking in Human: Social, Cultural and political Dimensions*, New York: United Nations University Press, p.17

⁸⁹ Ibid.

⁹⁰ Ibid.

⁹¹ P. Taran, M. Chammartin. (2002.) Getting at the roots: Stopping exploitation of migrant workers by organized crime, (Geneva, ILO). See also UNDP. 2009. Human Development Report: Overcoming barriers: Human mobility and development (accessed December 2014 at <http://hdr.undp.org/en/statistics/data/mobility/people>), p.161.

⁹² Selamawit supra note 63, p.15

⁹³ Ibid.

migrants to move to new destination countries as a result of economic opportunity and development, skills and labor shortage; perceived welcoming social and political conditions, the attraction of cultural and national Diaspora in receiving countries.⁹⁴ The shifts in social and economic patterns in receiving countries have led to a shortage of and thus demand for cheap labor and low skilled labor in sectors, such as in agriculture, food processing, construction, manufacturing, domestic and sex works.⁹⁵ Various countries depend on migrant workers to fill labor jobs are often referred as the 3D jobs—meaning dirty, degrading and dangerous jobs.⁹⁶ Such demand is partially or entirely not desired by national workers and customarily known as (foreigners' jobs) because of minimal wage, degrading and dangerous conditions of works and/or low status of these jobs and sectors as well as access to social welfare for unemployed nationals.⁹⁷

In conclusion, the causes and motivation of international migration are quite complex and in reality these push and pull factors combine in different ways to influence the decision to migrate and different from country to country.⁹⁸ Since, globalization is an integral part of the world economy, just as international migration is an integral part of globalization therefore, the accelerating pace of globalization contributes to an increased pace in labor market mobility. This is further stressed by Stalker that the logic and phenomenon of globalization are clearly deriving force in migration today notwithstanding, the complexity of motivation that underpins migration international migration is mostly as the labor mobility of people moving in search for work and better opportunities.⁹⁹

1.4. Migrants' Vulnerability to Human Rights Violations

1.4.1. Migrants vulnerability in General

As it has been mentioned in the previous section in recent years there appears to be a considerable movement towards accepting the significance of labor migration to economic growth and development in both countries of origin and countries of destination that has been

⁹⁴ ILO, Trafficking, *supra* note, 28 p.21.

⁹⁵ Ibid.

⁹⁶ Ibid.

⁹⁷ Ryszard Cholewinski and A. Pecould et al (2009), *The United Nations Conventions on migrant workers Right*, p. 2. See also Antoine Pe'coud, (2009) 'The UN Convention on Migrant Workers' Rights and International Migration Management', *Global Society*, Vol.23, No.3, pp333-350 (Available at: <http://dx.doi.org/10.1080/13600820902958741>.) (Last accessed on 4 Nov 2014, 6:45p.m)

⁹⁸ ILO, *Supra* note, 72, p.210

⁹⁹ Stalker, *Supra* note 45 p.145

fuelled by the engine of globalization and a number of push and pull factors. However; it is not a flawless, today's migration is associated with substantial violations of migrants' labor rights, physical integrity, life and dignity.¹⁰⁰ For Harris, this wide spread violations highlights the inability of current policies to address migration in a way that ensures respect for fundamental labor and human rights.¹⁰¹ These dreadful outcomes of migration take place in the context that restrictive labor migration policies in destination countries since, they are pre-occupied with the surveillance of their borders and with the prevention of unauthorized migration and the weak commitment to the protection of migrants by governments in both country of origin and country of destinations held vulnerable groups pressing international concern in need of special attention to defend.¹⁰² These include but are not limited to irregular migrants, domestic and temporary workers and victims of trafficking.¹⁰³

It is the world's reality that, if properly managed human migration has been a feature of human development, economic growth and the creation of civilization since the earliest communities evolved on earth up until now for both countries of origin and countries of employment.¹⁰⁴

Among its six fundamental principles of Action the Global Commission on International Migration (GCIM) stated the following:¹⁰⁵

"The role that migrants play in promoting development and poverty reduction in countries of origin as well as the contribution they made towards the prosperity of destination countries should be recognized and reinforced."

Nonetheless, recent and contemporary migration both forced and economic characterized by brutal, pervasive labor as well as human rights violations due to factors associated with migration policy, labor climate and inadequate regulation of the destination countries as well as factors associated with country of origin as well as migrants themselves.¹⁰⁶ Migrants are at risk of exploitation in recruitment process and vulnerable to potential human rights violations and

¹⁰⁰ Ibid.

¹⁰¹ Harris and Ayuk-Taylor, et al. (2014) *Slaving Away: Migrant Labor Exploitation and Human Trafficking in the Gulf*, p.13.

¹⁰² Ibid.

¹⁰³ Ibid.

¹⁰⁴ Eisele, Katharina (2012) Reinforcing migrants' rights? The Eu's migration and development policy under review, *Global Justice: Theory Practice Rhetoric* (5), pp.31-45

¹⁰⁵ Global Commission on International Migration, 2005, p.4

¹⁰⁶ Cholewinski, *Supra* note, 97, p.334

degrading treatments at destination countries: as non-nationals they find themselves in a stranger situation that may increase their vulnerability.¹⁰⁷

As alien migrants may not master the language, or they may be eccentric with the legal system and administration of the host state; or they can be easily troubled by the exposure to alien cultural and social practices though this level of vulnerability may depend on the status of migrants in the host states.¹⁰⁸ Skilled and professional migrants are better off than their less-skilled counterparts; migrants belonging to a large and well-organized community are better supported than isolated migrants, permanent migrant workers are better off than temporary ones.¹⁰⁹ No matter how migrants status (whether professional or in the 3D work dimensions) in host states however both share fewer rights by the very reason that they are non- national beings.¹¹⁰

They have, for example, little input into policy-making processes that affect them directly.¹¹¹ Racism, prejudice and discrimination are also common features of migrants' day to day experiences that worsen their already fragile situations.¹¹² Furthermore; unemployment, labor market deregulation, decreasing resources for social security as well as fears surrounding terrorism in destination countries are all cumulatively contributing to mistrust between 'natives' and 'foreigners'.¹¹³ As a consequence, migrants' poor living and working conditions rarely inspire solidarity from nationals who rather express skepticism towards their presence and, disregarding their economic, social and cultural contributions scapegoat them for problems that have little to do with migration.¹¹⁴

Polarization of jobs also the other factor that disturb the shaky situations and wellbeing of migrant workers in host states.¹¹⁵ It sees that large numbers of jobs created at the lower end and characterized by conditions unattractive and national workers are refused to do. Developed nations are thus ready to look outside their borders for low- skilled workers to maximize their

¹⁰⁷ Ibid.

¹⁰⁸ Ibid.

¹⁰⁹ Reginald, supra note, 82,p.13.

¹¹⁰ Ibid.

¹¹¹ Maria-deanea. Supra note 70, p.57.

¹¹² Ibid.

¹¹³ Cholewinski, Supra note 97 p 3

¹¹⁴ De Varennes (2000), *Migrants vulnerability under international labor market*, p.215.

¹¹⁵ Cholewinski, supra note, 97, p.334

nationals comfort living and satisfaction.¹¹⁶ This is particularly visible GCC countries, sectors such as agriculture, construction, manufacturing, driving and low-wage services such as nannies and domestic helpers are entirely reserved for non national's customarily known as "foreigners' jobs".¹¹⁷ These all sectors are characterized by the under development of workers' protection.

In addition to this the reluctance of country of origin to protect and safeguard the rights, safety and dignity of their citizens beyond regulating and monitoring pre-departure employment processes fueled migrants' precarious situations from "*frying pan to the fire*." Finally, the situation of migrants vulnerability further worsened by migrants illiteracy to the skills required in the destination countries ; migrants' ignorance of their rights, the available trade unions, the institutions which may accord protections and civil society organizations.¹¹⁸ The failure on this regard makes easier for cost-targeted and competition-minded employers to provide only minimal protection to migrant workers and manipulate with their all efforts.¹¹⁹

1.4.2. Migrant Workers Highly vulnerable to Human Rights Violations

Nowhere, is descriptive than the fragile situations of irregular emigrants, temporary workers, trafficked persons and domestic helpers who face insidious abuses and exploitations as a result of their status, the manner they enter in to the destination countries as well as the employment sectors they are engaged in put them potentially vulnerable .

Irregular (Undocumented) Migrant Workers

Irregular migrant workers refers someone who, owing to illegal entry or the expiry of his or her visa, lacks legal status in a transit or host country.¹²⁰ Irregular migrant workers are "*easily fall prey*" - in the words of the ILO - to abuse and exploitation by employers, migration agents, and criminal gangs. Women in an irregular status are doubly vulnerable because of their status and the high risk of sexual exploitation.¹²¹ They face potential abuses and exploitations even before reaching destination states, they encounter situations of high vulnerability during the routes to destination countries, and they come across death, rape and other cruel and inhuman

¹¹⁶ Ibid.p.4

¹¹⁷ Bina Frandez, Supra note 21, p.251.

¹¹⁸ Miguel Martinez, et al (2007) *Migrant Workers in the Labor Market* Research paper 7, p.14.

¹¹⁹ Pecoud supra note, 97, p.4

¹²⁰ ICRMW. Supra note 7, art,5(a),(b)

¹²¹ Stefanie Grant (2015), *Migrants' Human Rights: from the Margins to the Mainstream*, p.5.

treatments.¹²² Irregular migrants are prone to accept extremely precarious living and working conditions that favor discrimination and exploitation at country of destination.¹²³

They constitute a reserve of very flexible and cheap labor, and their status makes it difficult for them to have minimum work standards such as health, safety, minimum wage and other standards respected; they often are employed in sectors where labor standards are non-existent, non- applicable or simply not respected or enforced.¹²⁴ While this would call for increased protection, in reality they encounter even more barriers to the realization of their rights.¹²⁵ The situation is aggravated by the unspoken tolerance of governments: despite their harsh discourses on the fight against unauthorized migration, they have limited funds (and political enthusiasm) for combating the employment of irregular migrants through measures such as workplace control.¹²⁶ This illustrates the ‘disjuncture’ between rights and their enjoyment in practice, which is particularly visible in the case of aliens.¹²⁷

Temporary Migrants

Temporary migrants are those migrants who have temporary work permits in countries of employment.¹²⁸ Along with irregular migrants temporary migrant workers are also highly prone to abuse and exploitations.¹²⁹ One of the main reasons for these encountered difficulties is that many of them hold temporary work permits.¹³⁰ As such they are most caught in Limbo-neither is they permanent residences to enjoy the protection of the host state nor are they completely unprotected.¹³¹ Yet the fact that they are entitled to receive from their country of origin or their country of employment consequently, temporary migrant workers are more often than not, faced with multiple barriers to achieving full recognition and equality with citizens of the country of employment.¹³²

¹²² E. Syczak.(2004), *Irregular Migration and Human Right*, p.72 see also Reginald, supra note, 82,p.7.

¹²³ G. Bittistella(2008), *Irregular Migration Sovereignty and Human Rights Protections*, GENEVA, pp.201-32.

¹²⁴ Ibid.

¹²⁵ L. Bosiniak .S.(2004), *Human Rights, State sovereignty and the protection of un documented Migrants* under the International Migrant Workers Convention,pp.311-44.

¹²⁶ Ibid

¹²⁷ Ibid.

¹²⁸ Yeshiwas, supra note 37, same page.

¹²⁹ ICRMW, supra note, 7, Preamble,.

¹³⁰ R. Cholewinski, (1997) *Migrant Workers in international Human Rights Law: their Protection in Countries of Employment*, p. 74.

¹³¹ J.Bustamante. A.(2002) ‘Immigrants Vulnerability as Subjects of Human Right:’ *International Migration Review*, Vol.36 No. 2 pp.334-44

¹³² Ibid.

Domestic Workers

Sadly, the problem is nastiest for domestic workers.¹³³ Traditionally, domestic work is perceived as not “real” work.¹³⁴ It was performed unpaid by women in their homes. As paid employment it is mainly women working in the homes of others.¹³⁵ The undervaluation of domestic work and discrimination on the basis of sex, race, ethnicity and social origin leave domestic workers more vulnerable accompanied by their isolation to work in households.¹³⁶ Migrant domestic workers are in an even more precarious position because of current recruitment processes, employment conditions, language, cultural barriers and isolation from their community and family support networks.¹³⁷ Domestic workers are loosely regulated global work force of some 43.6 million or 83 percent of the total domestic workers who are mainly female, largely from developing countries move to other foreign countries for better job opportunities.¹³⁸ According to the recent ILO report domestic work constitutes an important source of women’s wage employment and accounts for 7.5 percent of female employees worldwide.¹³⁹ However, in most countries domestic work is often excluded from legal protection offered to other workers and workplaces.¹⁴⁰

The precarious situation of domestic migrant workers is from “*frying pan to the fire*” in the Gulf countries (GCC). For Binna Fernandez, there are five important sources of MDWs’ vulnerability that are specific to their position as domestic workers and migrant workers and to their employment within the GCC.¹⁴¹

“First, their economic dependence on the source of income to their survival, support their families and to pay the high placement fees with exorbitant interest rates. These burdens make it difficult for them to leave their work and report exploitations and violations so that they will subject to various abuses and debt bondage (servitude). Second, the devaluation attitude of the domestic sector up on the society in the Arab

¹³³Yeshiwas Supra note 37, p.2

¹³⁴Gulnara Shahinian :Report of the Special Reporter on contemporary forms of slavery, including its causes and consequences, ,2010.p.11-15.A/HRC/15/20.

¹³⁵ Fernandez, Supra note,21 pp. 249 -262

¹³⁶ Ibid.

¹³⁷ILO (2013) Global and Regional Estimates on Domestic Workers, Geneva P.2.

¹³⁸ Ibid.

¹³⁹ Ibid.

¹⁴⁰ Ibid.

¹⁴¹ Bina Frandez,(2014) *Essential yet Invisible*; Migrant Domestic Workers in the GCC, p.5

culture (as paid domestic work) creates a serious obstacle to accord legal recognition and ensuring the rights of MDWs as workers with the same entitlements as other categories of workers. Third, due to the strong Arabian cultural value of the sacrosanct privacy of the home .Since it is culturally unacceptable for homes to be subject to official inspection as work places, domestic workers are typically excluded from labor law protections. Fourth, the “kafala” immigration system prevalent in the GCC grants absolute power to the sponsor including to confiscate MDWs identity documents by which MDWs and other migrant workers are controlled so that MDWs are unable to access the outside world without their identity documents and suffer from violations. Finally, The power asymmetry between the poor sending countries and the rich receiving countries further weakens sending countries’ ability to take action to protect their citizens (beyond ineffective bans on migration).

1.5. International Legal Framework for the Protection of Migrant Workers

As the international community has grown increasingly aware of the special vulnerabilities of migrant workers as noted above, it has both developed new instruments for protecting and promoting migrant worker rights, and emphasized that existing instruments shall also apply to migrant workers.¹⁴² For example, in 1990 states adopted the United Nations (UN) Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW), which in turn builds on the rights contained in existing UN and International Labor Organization (ILO) treaties.¹⁴³ It “reaffirms and establishes” the basic human rights norms that it considers necessary for migrant workers to have free and equal enjoyment of rights and dignity throughout all stages of labor migration.¹⁴⁴ Therefore; this section highlights these normative standards at the UN and ILO systems of protections.

1.5.1. Migrant Workers under the UN Human Rights Protection System

Under the auspices of UN the genesis of human rights protection has become an international agenda since the enactment of the Universal Declarations on Human Rights (UDHR) in 1948 to respond the atrocities and the scolds of the two world wars and to ensure the existence of human beings and dignity on Earth.¹⁴⁵ Since then numerous human rights instruments have been adopted grounded up on it. Today, most of the provisions of UDHR has become customary international law hereby even states which are not parties have a duty to be bound by the provisions to respect, protect and full fill basic rights and fundamental freedoms enshrined

¹⁴² ICRMW, supra note, 7

¹⁴³ Ibid.

¹⁴⁴ Ibid. Preamble

¹⁴⁵ UDHR, parg. 2 of the preamble

thereof.¹⁴⁶ Under UDHR human rights are **universal** (they apply everywhere without boarder restrictions) **indivisible** (no rights in a given convention is more important than catalogues of rights enshrined in other conventions) and **inalienable** (they cannot be denied to any human beings).¹⁴⁷ To come to the point currently, UDHR together with other six core conventions: ICCPR, ICESCR, CEDAW, ICERD, CAT and ICRMW form the normative framework with respect to migrant workers protections.¹⁴⁸ These core conventions serve as the imperative basis of human rights treaty bodies and contain most basic rights and freedoms of human beings. Grounded up on the idea that all individuals by virtue of being human have fundamental rights, it aims to promote and protect this inherent qualified entitlement.¹⁴⁹

It requires and aims to enforce the treatment of nationals and non nationals based on the principle of equality and non discrimination. These instruments offer many fundamental guarantees to all human beings in general and some ensure their extension to migrant workers, though they do not explicitly focus upon the situations faced by migrant workers.¹⁵⁰ However; the defacto extension of these international instruments to vulnerable groups has been a long and difficult process, by no means complete to accord prudent protection.¹⁵¹ Hence; the news report of death of migrants in trafficking and migrant workers treated brutally in fields and 3-D jobs was painful dimension of common place denial of human rights and dignity of migrants made visible.¹⁵² Therefore; cognizant of the fact that international migration has become a pressing human

¹⁴⁶ World Conference on Human Rights: Vienna Declaration and Programme of Action (25 June 1993) UN Doc. A/CONF.157/23, part I, para.5.

¹⁴⁷ Ibid.

¹⁴⁸ ¹⁴⁸ UN (1948) Universal Declaration of Human Rights adopted and proclaimed by the UN General Assembling resolution 7A (III) of 10 December 1948 at Paris. Available at: <http://www.un.org/en/documents/udhr/index.shtml>., UN (1965) International Convention on The Elimination of All Forms of Racial Discrimination, adopted by the UN General Assembly in resolution 2106 A (xx) of 21 December 1965 at New York ,[50], UN (1966) International Covenant On Civil and Political Rights, adopted by the UN General Assembly in resolution 2200 A (XXI) of 16 December 1966 at New York. Available at: <http://www.hrweb.org/legal/cpr.html> UN (1966) International Covenant on Economic, Social and Cultural Rights, adopted by the UN General Assembly in resolution 2200 A (XXI) of 16 December 1966 at New York, UN (1979)Convention On The Elimination Of All Forms Of Discrimination Against Women, adopted by the UN General Assembly in resolution 34/180 of December 1979 at New York , UN (1984) Convention against Torture and Other Cruel, Inhuman Or Degrading Treatment Or Punishment, adopted by the UN General Assembly in resolution 39/46 of 10 December 1984 at New York.' UN (1990) Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, adopted by General Assembly resolution 45/158 of 18 December 1990, Geneva .

¹⁴⁹: Ibid.

¹⁵⁰Pecaude Supra note 97.p.85.

¹⁵¹ Ibid.

¹⁵²Reigiland supranote,82,p.13

rights issue, the international community agreed to devise mechanisms to address the plight of migrant workers at the global level in an orderly and cohesive manner.¹⁵³

Despite the existence international human rights instruments to address the issue of migrant workers even during the earlier years, a formal and premeditated move, particularly, in the UN system the discourse of international human rights has finally extended to migrants and migration.¹⁵⁴ Finally, the latest of those conventions such as (ICRMW) was a major step forward in identifying and attempting to protect the human rights of migrants with their families.¹⁵⁵

The convention viewed migrants not simply as laborers or economic entities but as social entities with families. As non national beings migrants were not always protected by the national legislation of receiving countries; the convention emphasized that all migrant workers including undocumented have fundamental rights and called for an end to illegal and clandestine movements and the establishment of minimum standards of protection for migrant workers and members of their families.¹⁵⁶ It sets a standard in terms of migrants' fundamental rights which is a relevant objective at a time when the number of migrants is on rise, and evidence of migration related human rights abuses raises. Hence, fundamental human rights are extended to all migrant workers, both documented and undocumented, with additional rights being recognized for documented migrant workers and their families, notably equality of treatment with nationals of states of employment in a number of legal, political, economic, social and cultural areas.¹⁵⁷ Of course, it doesn't provide new catalogues of rights and freedoms, but instead reaffirms basic once in existing treaty bodies and customs.¹⁵⁸

In 1999 the UN appointed the Special Rapporteur of the Commission on Human Rights on the human rights of migrants. The Rapporteur uses on the Convention on the Protection of Migrant Workers and their Families, and makes request for information from states and non state actors; provide recommendations to preventions of human rights; and promote the universal application

¹⁵³ IOM supra note 80.p.1

¹⁵⁴ Ibid.

¹⁵⁵ ICRMW, Supra note, 7

¹⁵⁶ Ibid.

¹⁵⁷ Pe'coud, (2009) supra note 97, p.333, See also ICRMW (1990), Preambles.

¹⁵⁸ ICRMW, preambles

of international human rights principles.¹⁵⁹ Even though, states as ratifying parties to human rights instruments remain the main actors for the protection of the rights of every one residing in their jurisdictions, while the Special Rapporteur on the Human Rights of Migrants and the Committee on Migrant Workers have been clear in stating that:¹⁶⁰

“Although countries who are parties or non parties to the CMW convention have a sovereign right to determine conditions of entry and stay in their territories, they also have an obligation to respect, protect and fulfill the human rights of all individuals under their jurisdiction at all stages of migration regardless of their nationality or origin and regardless of their immigration status.”

1.5.2. Migrant Workers under the ILO Protection System

International Labor standards in general and ILO conventions and recommendations in particular play an important role in architecting labor laws for Migrant workers. These instruments also provide guidance to states policy on migrant workers and entail legal obligations.¹⁶¹ The conventions contain various provisions to ensure the protection of labor rights of all migrant workers regardless their status and entail legal obligations. The international labor conference adopted the prime instrument in 1919 (ILO Recommendation No.2,), concerning reciprocity treatment of foreign workers. This instrument called for equality of treatment of migrant workers vis-à-vis nationals regarding social protection and freedom of association and conditions for reciprocity. Consequently, various instruments were adopted up until convention No. 189 on migrant domestic workers protection in 2011.

In 1939 ILO convention No.66 and Recommendation No.61 concerning the recruitment, placing and conditions of labor migrants for employment.” Yet since convention No.66 never came in to force, the ILO adopted Convention no.97 and recommendation No. 86 concerning migration for employment.¹⁶² In 1955, ILO adopted recommendation No.100 relating to the protection of

¹⁵⁹UN Human Rights Council (2012) Report of the Special Rapporteur on Contemporary Forms of Slavery, Including Its Causes and Consequences, Addendum: Mission to Lebanon, 4 July 2012, A/HRC/21/41/Add.1, available at: <http://www.unhcr.org/refworld/docid/5051cd9d2.html>

¹⁶⁰International Organizations for Migrants Rights (2013), p.3.(accessed on 6Nov2014, at 2:12)

¹⁶¹ See ILO (2011) Global and regional estimates on domestic workers, Domestic Work Policy Brief No.4 (Geneva) Table 2, fig.1 p.7-8

¹⁶² [http:// www.ILO.com](http://www.ILO.com), click standards and instruments available at <http://www.ilo.org/global/standards/lang-en/index.htm> and instruments, available <http://www.ilo.org/dyn/normlex/en/f?p=1000:12000:0::NO:::> (accessed on 20Mar, 2015)

MWS. on Private Employment Agencies of 1957 in underdeveloped countries and territories” followed by the equality of treatment social security Convention No.118 in 1962.¹⁶³

In response to the problems of international trafficking in labor, clandestine migration and intensify discrimination against migrants in many corner of the world, in 1971 the international labor conference adopted a resolution to review the existing instruments and to cover the gaps concerning protection of migrant workers in social and labor affairs.¹⁶⁴ After further deliberation in 1975 the ILO adopted Convention No. 143 concerning migration in abusive condition and the promotion of equality of opportunity and treatment of migrant workers. Along with Recommendation No.151, Convention No.143 obligates states parties to respect the basic human rights of all migrant workers including those who are not legal migrants and to prosecute those engaged in the trafficking of labor.¹⁶⁵

Recommendation No.151 on the other hand provides for the protection of the health of migrants, their protection from exclusion upon loss of employment, social services as well as the facilitation of family reunifications. Conventions Nos. 87 and 98, protecting freedom of association and the right to organize; No. 111 prohibiting discrimination in employment and occupation; Nos.138 (Minimum Age Convention); and No. 182 (Worst Forms of Child Labor Convention). In 1997 ILO Convention No. 181 on Private Employment Agencies, has been adopted.

Finally, at the ILO level, the land mark convention ILO Convention 189 Decent work for Domestic Workers was adopted in 2011. For the first time, measures to ensure fair terms of employment and working conditions have been extended to domestic workers, a previously invisible, unregulated and vulnerable group of (primarily female) workers. The preamble to this convention recognizes that many domestic workers are migrants, and articles 8 and 15 explicitly extend protections to migrant domestic workers. Article 15 obliges member states to “effectively protect domestic workers, including migrant domestic workers, recruited or placed by private employment agencies, against abusive practices at all levels of the migration processes.”¹⁶⁶

¹⁶³ Ibid.

¹⁶⁴ Ibid.

¹⁶⁵ Ibid.

¹⁶⁶ ILO (2012) Effective Protection for Domestic Workers: A Guide To Designing Labor Laws, International Labor Office, Geneva .pp. 5-7, See also Art.18 and 15 of ILO convention on Decent Work for Domestic Workers C. No.189, (2011)

These normative frameworks impose obligations to all countries involved in the migration process as shared responsibility. These instruments impose responsibilities on both country of Origin and country of destination to protect in one or in other ways all migrant workers in general and clandestine temporary workers with great emphasis. With respect to country of origin, it has an important obligation at pre departure and pre employment phases: ¹⁶⁷provision of free migration service and information; effective regulation of recruitment, finding appropriate balance between promotion of employment of their nationals abroad and adequate protection at all phases of the migration scene. Whereas country of destinations have an important obligations to ensure that migrants can enjoy their human and labor rights and access to redressing mechanisms.¹⁶⁸ However; both sets of countries have obligations to collaborate to ensure that migration takes place in sound, equitable, humane and law full conditions. Moreover normative frameworks encourage bilateral agreements in between, for example, convention, C181 (97) obliges conclusion of agreements to regulate migration for employment in cases where numbers of migrants are sufficiently large and whenever necessary.¹⁶⁹

In spite of all these efforts both at UN and ILO level to accord effective protection to provide sound protection and maintain the interests and rights of migrant workers, effective protection has remained imaginary.¹⁷⁰ Today being a “migrant” is being an “alien” having insignificant entitlement to enjoy basic fundamental rights and freedoms and suffer bitter human rights violations and abuses. As the Author Cholewinski contends with the insufficiency of the international norms and standards to address the pressing needs of migrant workers that:¹⁷¹

“Although there are various normative frameworks and ILO standards for the protection of migrant workers, perusal of state practices reveal that they have been highly ignored in practice, they remain significant in theory and in many respects superior to the provisions of the migrant workers conventions. He adds that the tripartite interventions of government, employers and workers on the content of ILO standards not only make them worthy foundations on which to further safeguards but also a welcome reminder of our moral obligation to choose the dignity of human labor over the pursuit of a blind economy dependency.”

¹⁶⁷ R yszard Cholewinski, (2013) *International Standards on Migrant Workers: Issues and Protection Challenges* p.16

¹⁶⁸ Id.p.17

¹⁶⁹ Ibid.

¹⁷⁰ A thorough discussion of this matter can be found in R.Cholewinski, *Migrant Workers in International human Rights Law: Their Protection in Countries of Employment* (Clarendon Press, Oxford, 1997) pp. 137–204.

¹⁷¹ Ibid.

Chapter Two

2. An Overview of the Policy, Legal and Institutional Frameworks for the Protection of Migrant Workers of Ethiopia

Introduction

As noted in the introductory section of this paper, the visage of migration in and from Ethiopia has been changing, from large refugee flows in the 1980s and 1990s to different forms of labor or economic migration in the present decade as Ethiopian look for employment opportunities abroad. The large refugee flows from the 1980s and 1990s have led to the emergence of the Ethiopian Diaspora that now numbers more than 1.2 million people with large population in the Middle East, N. America and Europe.¹⁷² At present, highly skilled emigration remains a challenge as doctors increasingly migrate to better off African countries such as Botswana and South Africa, but the majority of flows are now characterized by low skilled migration to the Middle East.¹⁷³ The changing nature of migration in Ethiopia (especially in the 3D fields) has led to have policy, legislative as well as institutional frameworks mandatory to protect the human rights of immigrants' at every corner of migration.

Therefore, this chapter discusses and examines the existing policy, legislative and institutional frameworks having relevance for the protection of and assistance to migrant workers in general and temporary migrant workers to Saudi in particular. To comply with the purpose of the paper, this section emphasizes only on discussing laws and institutions having specific relevance for the protection of temporary migrant workers to Saudi Arabia. Thus, discussion on the domestic legislative and institutional frameworks dealing with all migrant workers across all over the world is excluded here.

2.1. Ethiopian Labor Migration Policy

Adopting labor migration policy is one of the basic tasks of labor sending countries to manage labor migration and to adopt comprehensive legislative as well as adequate institutional frameworks for better protections. It also helps to carry out well deliberate preventive and protective interventions at all stages of labor migration and to maximize countries' benefits from remittance in the due course. However; legally speaking Ethiopia has no migration policy frameworks that serve as a guide line to adopt comprehensive legislative and institutional set ups

¹⁷² Melissa (2011)Supra note, 18 p,2

¹⁷³ Ibid.

to establish prudent protection systems to its nationals. Even so, practically speaking overseas labor migration has been encouraged and facilitated for thousands of its citizens, especially into the Gulf States, as remittances represent a significant income source for the country: as much as USD 359 million in 2009, or 2.0% of GDP and it also strives to attract development investments from the Diaspora.¹⁷⁴ This implied policy has also been reflected from article 175 of the 377/2003 of the labor proclamation as well as the Employment Exchange Services Proclamation No. 632/2009.¹⁷⁵ The former allows for an Ethiopian national to be employed outside the country provided that the Ministry of Labor and Social Affairs (MOLSA) has secured a satisfactory guarantee that the rights and dignity will be protected.¹⁷⁶ While, the latter governs the work of approximately 406 licensed labor recruitment agencies which have been temporarily suspended following the 2014 employment ban to the Gulf States.¹⁷⁷ As clearly mentioned from the preamble of the employment exchange proclamation the government has enacted the same with a motive of protecting the rights, safety and dignity of Ethiopian going abroad for employment as well as strengthening the mechanism for monitoring and regulating overseas employment services and to maximize the development of the country at large through remittance ultimately.¹⁷⁸

2.2. Legislative Frameworks Relevant to Foreign Employment

2.2.1. National Legislations Pertaining Migrant Workers

The principal law pertaining to migrant workers is the Employment Exchange Proclamation No.632/2009(EEP).¹⁷⁹ It replaced the Private Employment Agency Proclamation No.104/ 1998. It is supplemented by the directive issued by Ministry of Labor and Social Affairs (MoLSA) in

¹⁷⁴P. Taran and G. M. Chammartin. (2002) *getting at the roots: Stopping exploitation of migrant workers by organized crime*, (Geneva, ILO). See also, UNDP Human Development Report 2009. Overcoming barriers: Human mobility and development, p.161,(accessed 15 December 2014), at <http://hdr.undp.org/en/statistics/data/mobility/people>.

¹⁷⁵ Labor Law Proclamation 2003, Art. 175, Proclamation No. 377, **Federal. Neg.Gaz.**, year 10, no.12. On the title of Employment of Ethiopian Nationals Abroad, an Ethiopian national maybe employed outside of Ethiopia where the Ministry has obtained adequate assurances that his rights and dignity shall be respected in the country of employment.

¹⁷⁶ The Employment Exchange Services Proclamation 2009, No.632, Proclamation No.632, **Federal Neg.Gaz**, year 15, no.54, see the preamble, parag. I&II

¹⁷⁷ Ibid.

¹⁷⁸ Ibid.

¹⁷⁹ See EEP supra note 176, as pursuant to Art. 3 of thereof its scope covers only Ethiopian going abroad for employment through private employment agency as well as public employment service and private efforts; it also applies to an Ethiopian going abroad for employment to work for personal services of non- profit making purposes.

2013(Directive).¹⁸⁰ According to its preamble, the proclamation is intended to “make foreign employment safe, by protecting the rights, safety and dignity of Ethiopian going abroad for employment in pursuance to their qualification and ability as well as strengthening the mechanism for monitoring and regulating oversea employment services.”¹⁸¹ The law creates a new framework for regulating labor migration; it identifies the functions and responsibilities of various government agencies¹⁸² and set forth administrative requirements for recruitment agencies;¹⁸³ and creates an oversight and monitoring system.¹⁸⁴ Although much of the act is directed at regulation of the foreign employment business it does include a number of provisions that specifically address protection of migrant workers from abuse and exploitation.

The proclamation has six parts and 45 provisions. Of which 10 provisions that, had effectively implemented and enforced, could provide workers with significant protections within the migration process:

- Prohibition against recruiting a minor (defined as any person under the age of 18) abroad for employment) (Art.16 (2)(a)).¹⁸⁵
- Protection from charge fees— the proclamation obliges private employment agencies to provide payment free employment service from the workers as pursuant to article 34 (3) of thereof.¹⁸⁶
- Right to an employment contract and a recruitment contract in Amharic- before departure, the worker must sign a contract between the worker and the employer or its agent, setting forth the terms and conditions of employment authenticated by MoLSA and the Ethiopian mission and the worker get one copy. And the minimum wage for domestic workers shall be 250 US dollar, without prejudice to the minimum salary that may be set in bilateral agreements as pursuant to Art.16 of the directive. (Art 24).¹⁸⁷

¹⁸⁰ MoLSA has issued directive in 2013 in order to supplement the enforcement of the proclamation as per article 41 of thereof.

¹⁸¹ EEP, supra note 177, see the preamble, Parag. II.

¹⁸² Id. See art.31, 36, 37,39 of EEP which defines functions and responsibilities of government institutions

¹⁸³ Id. See Art.5-16 of EEP.

¹⁸⁴ Id. See Art. 35 of EEP. Accordingly, MOLSA is mandated to inspect and monitor the works of the private employment agencies,

¹⁸⁵ Id. Art 16(2)(a)

¹⁸⁶ Id, Art,34(3)

¹⁸⁷ MOLSA has also set minimum wage to Domestic Workers to be 250 Dollar, without prejudice to the minimum salary that may be set in bilateral agreements as pursuant to Art.16 of the directive.

- Orientation Training Requirement- before departure, all prospective migrant workers must acquire the necessary skill and attend an orientation training (16(2(1)).¹⁸⁸
- Insurance- before departure, the recruitment agency must purchase insurance for the worker covering life and disability insurance nationally or abroad by the employers. (Art 33).¹⁸⁹
- Protection against abuses at the hands of an unlicensed agent or agency - if any person who, without having obtained a license a) engages in providing employment exchange service in Ethiopia, shall be punishable with imprisonment for a term of not less than three "years and not exceeding five years and with a fine of Birr10,000 (ten thousand Birr); b) sends any Ethiopian abroad for work shall be punishable in accordance with Article 598 of the 2004 Criminal Code of the Federal Democratic Republic of Ethiopia(Art 40).¹⁹⁰
- Protection through bilateral agreement- with this regard the national Committee charged with conducting of studies with a view to concluding bilateral agreements with receiving countries on issues relating to employment and thereby establish Conducive situation (Art.39 (2(c)).¹⁹¹
- Protection through deploying labor attaché abroad — MOLSA is under obligation to assign labor attaches as may be required, to ensure the protection of the rights, safety and dignity of workers employed abroad in consultation with the Ministry of Foreign Affairs and after acquiring the permission of the higher authority.(Art 36).¹⁹²
- Protection through reintegration scheme- MoLSA is under obligation to facilitate the resettlement and economic reintegration of citizens after deployment abroad ,Art.31(5).¹⁹³

2.2.2. Legal Frameworks Pertaining Trafficking

Ethiopia does not have a comprehensive legal framework that defines human trafficking, to provide adequate protection to victims, and enables to effectively combat and prevent trafficking in persons. However, key provisions under the FDRE Constitution, Criminal

¹⁸⁸EEP. Supra, 177, (16(2 (1)

¹⁸⁹ Id. Art 33

¹⁹⁰ Id. Art 40

¹⁹¹ Id.Art.39(2(c)

¹⁹² Id. Art.36

¹⁹³ Id.Art31 (5).

Code and Employment Exchange Services Proclamation No.632/2009, as well as in international instruments ratified by Ethiopia prohibit and criminalize trafficking in persons for labor purpose dealing with various aspects of trafficking in fragmented legal frameworks.

2.2.2.1. The FDRE Constitution

The Federal Democratic Republic of Ethiopia Constitution prohibits trafficking in persons for whatever purpose (article 18 (2)).¹⁹⁴ It declares prohibition against inhuman treatment and makes it clear that everyone has the right to protection against cruel, inhuman or degrading treatment or punishment. Sub article 2 of this article prohibits trafficking in human beings for any purpose and states that no one shall be held in slavery or servitude.

2.2.2.2. The Criminal Code of the Federal Democratic Republic of Ethiopia 2005

The criminal Code of Ethiopia also the other legal document governing trafficking in persons. In Articles (596-599, 635 and 637) of the Criminal Code of the Federal Democratic Republic of Ethiopia deal with the issues of enslavement and the trafficking of women and children though which is not compatible with the comprehensive definition of the Palermo Protocol, (Art. 3a UN, 2000).¹⁹⁵ Article 597 under the title trafficking in Women and Children underlines;¹⁹⁶

“Whoever by violence, threat, deceit, fraud, kidnapping or by the giving of money or other advantage to the person having control over a woman or a child, recruits, receives, hides, transports, exports or imports a woman or a minor for the purpose of forced labor, is punishable with rigorous imprisonment from five years to twenty years, and fine not exceeding fifty thousand Birr.”.

The Revised Criminal Code further criminalizes attempts to commit an offence (article 27), participation as an accomplice in an offence (article 37), and organizing others to commit trafficking (article 599). Article 599 (2) criminalizes the participation of juridical person in human trafficking.¹⁹⁷ However; the code does not give clear demarcation between smuggling of

¹⁹⁴ Constitution of the Federal Democratic Republic of Ethiopia, 1995, proclamation No.1, **Federal Neg.Gaz.** year 1 no.1 Art.18(2), which provides, “No one shall be held in slavery or servitude. Trafficking in human beings for whatever purpose is prohibited.”

¹⁹⁵ Criminal Code of Ethiopia, (2005), Art.596-599, Art.635, Art.637.

¹⁹⁶ UN. 2000, General Provision: Article 3, Use of Terms, UN. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

¹⁹⁷ Cri. Code Articles, 27 and 37.

migrants (Where the migration is irregular and a smuggler,) who will facilitate illegal entry into a country for a fee, may assist the migrant and trafficking, it has a broader conceptualization of trafficking in women and minors for labor purpose and prostitution as compared to even the Palermo Protocol. Nonetheless; none of the aforementioned provisions provide a clear definition of human trafficking except for the Constitution, each article rather deals with trafficking of persons for specific purpose, such as enslavement (article 596), forced labor (article 597) and prostitution (article 635). This is contrary to the Palermo Protocol that outlaws the act of trafficking if it is committed for, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.

2.2.2.3. Employment Exchange Services Proclamation (EEP)

Moreover; EEP outlaws under Article 40 and held punishable act to be found involving in unlawful activities like trafficking either by obtaining a working license for employment exchange service provision or brokering without a license.¹⁹⁸ The kind of punishment provided in this proclamation has more or less similar nature with the punishment defined in the Criminal Code. As similar fashion to article 598 of the criminal code, article 40 of there to deals with unlawful sending of Ethiopian's for work abroad as punishable act.¹⁹⁹ Nonetheless, both articles do not use the terms 'trafficking', or 'recruitment', 'transport' and 'exploitation'. They criminalize the mere act of sending Ethiopians for work without having obtained a license from the relevant authority. However, considering that "it has particularly become necessary to further protect the rights, safety and dignity of Ethiopians going abroad for employment in pursuance to their qualification and ability", these two articles criminalize the sending of an Ethiopian for work abroad without securing the necessary license.²⁰⁰ Nevertheless, these articles are not applicable to PEAs that are trafficking migrant workers but only to person or institution sending Ethiopians for work without the relevant license.

EEP further defines 'employment exchange' to mean all activities of hiring a job seeker and to include advertisement made verbally or in writing, enlistment, recruitment and placement. The aim of these articles is thus to prohibit the act of recruiting and transporting Ethiopians

¹⁹⁸ EEP Art.40

¹⁹⁹ See art 40 of EEP in line with Art.598 of the Criminal Code.

²⁰⁰ Animaw, Supra note, 3, p. 63.

abroad without the proper license even if the purpose of such acts is not exploitation. These articles assume that the purpose of persons or entities that send Ethiopians abroad for work without securing the relevant license is exploitation not in such a manner as trafficking. Therefore, Article 40 of the proclamation has created practical perplexity whether it is a punishable act under the criminal code as the crime of trafficking or under the act of mere exploitation.

2.2.3. Gaps and Limitations of the Domestic Legal Frameworks

In spite of the fact that the domestic legal frameworks play an indispensable role to govern oversea migration and to protect with that respect, it is not comprehensive enough to accord effective and prudent protection that cover the whole oversea deployment processes to Ethiopians going abroad for labor purposes. Though it deals with very important points of the foreign employment processes, the domestic legal frame work suffers limitations on other several crucial respects, discussed here in under. They are also not effectively implemented and enforced, as discussed under chapter four of this paper.

- **Limited Scope of Application.**

The proclamation under article 3 puts its scope of application. Accordingly, the law only covers Ethiopian citizens who meet the requirement to work overseas for remuneration for a certain period of time through a private employment agency or a public employment service as well as it is applicable to an Ethiopian going abroad for employment to work for personal services of non-profit making purposes. Whereas, irregular labor migrants are not covered by this law and will not receive protection under this law irrespective of whether they intentionally or unintentionally used unofficial channels to migrate.

- **Absence of a Rights-Based Approach**

An overarching limitation of the proclamation and the directive is the failure to recognize migrant workers, or intending migrants, as rights holders. The word “rights” is not mentioned in detail with correlative obligations of other concerned responsible organs in either the proclamation or directive except in the brief preamble and few provisions echoing the mere word of “right”. Although obligations on various parties are clear, they are not expressly linked to rights of Ethiopians in the labor migration process. The tone of the proclamation and the directive is one of regulatory efficiency, rather than of rights and protections for a relatively

vulnerable population. For example, the proclamation or directive does not mention the “right” of an individual to safe labor migration, or to make an informed choice regarding foreign employment.

Furthermore, while the proclamation or directive provide for redress and compensation, these provisions are drafted as penalties and fines as applied to the wrongdoer, and not as the right of the individual worker to a remedy or other form of justice. Consistent with this, most functions of the various government agencies are expressed in discretionary (rather than mandatory) language, and with limited guidance as to their implementation. In respect to a number of government obligations, the lack of corresponding rights held by workers means the worker does not have a cause of action if an obligation is not fulfilled, making enforcement and accountability difficult to achieve.

- **Inadequate Attention to Vulnerable Groups**

Neither the proclamation nor the directive gives adequate consideration to the needs of particularly vulnerable categories of workers, such as women and workers who are either trafficked or in an irregular status. Individuals who either migrate through informal channels, or who ultimately find themselves in an irregular status, regardless of whether they are at fault, are particularly vulnerable to exploitation and abuse. Though they are not excluded from protection under either the proclamation or the directive, they are not provided with explicit and tailored protections or redress mechanisms. For example, there are no provisions that account for the evidentiary challenges associated with bringing a claim on behalf of a worker in an irregular status, or for assisting irregular migrants to obtain replacement documents if their position was terminated abroad, or to clearly hold agents and recruitment agencies accountable for sending migrant workers irregularly and for assisting workers to regularize their status if still abroad.

While it looks prima facie non-discriminatory, the failure of the proclamation or directive to address the specific needs of female migrants, the unique harms they suffer, or the unique challenges they may face in enjoyment of their rights and seeking to access justice has a discriminatory impact. Special measures to account for women’s lower literacy rates and levels of education, fewer financial resources, traditional discrimination against women, gender-specific health needs and concerns, concerns for children, pregnancy-related needs, and the stigmatization of women migrants have needed to ensure a system of labor migration that fully

protects the rights of female migrant workers, and ensures accountability and redress when those rights are violated.

- **Lack of NGO Participation Schemes.**

Neither the proclamation, nor the directive incorporates even a single provision that recognize the key roles of NGO participations towards the promotion and protection of migrant workers rights, safety and dignity throughout the labor migration processes.

- **Lack of Safe Migration Policy**

The proclamation does not reflect the government national policy to allow the deployment of Ethiopian to work only in countries where the rights of Ethiopian migrant workers are protected . They never stipulate that whether the receiving country must be a signatory to international conventions on labor rights and have decent national labor and social laws that protect migrant workers or whether the country has concluded a bilateral agreement or memorandum of understanding with the government of Ethiopia. It also does not imply its' policy should labor laws are inadequate and discriminatory or no bilateral agreement, the Ethiopian state will not allow migrant workers to be deployed there. It never inculcates whether the state uses the instrument of a “ban” to protect its migrant workers against states that violate internationally accepted rules on the treatment of migrant workers.

- **Insufficient Re-integration program**

The socio-economic re-integration process is an important part of the protection of labor migrants and the effort to improve the welfare of labor migrants and their families. Although article 31(5) of the proclamation mandates MoLSA to facilitate the resettlement of citizens when return to their home country after deployment abroad it does not encompass comprehensive integrative program to provide returning migrant workers a mechanism for reintegrating into Ethiopian society.

It does not have the mandate to motivate migrant workers to plan for their eventual return to the country and to train them for the prospect. It does not indicate how it could be done and failed to illustrate the concerned government as well as non government organs empowered to undertake the resettlement program.

More over neither of the laws recognizes the available welfare programs once they return to Ethiopia from working abroad. In reality many labor migrants experience social and Economic problems at the time of re-integration and the benefits of their overseas experience and the ages they earned could be enhanced if placement services for employment in Ethiopia were available along with basic financial education to manage their overseas earnings. In addition, there are many returned labor migrants who are unable to report any problems they have experienced. For example, many labor migrants only become aware of unpaid salaries from their employers after they have returned home. As the Institute for ECOSOC rights stressed that the government of labor sending countries should furnish adequate services for returnees: (1) training and assistance in managing a business; (2) support in establishing cooperatives; (3) assistance handling insurance and wage claims resulting from their overseas work; and (4) support in resolving conflicts in the family.²⁰¹

- **Absence of Over Sea Welfare Scheme.**

Protecting overseas workers will gain more attention as temporary migration continues to grow worldwide. Countries of origin can play a major role in protecting their migrant workers abroad by introducing and implementing membership driven welfare fund in its over sea migrant workers schemes. So that a government operated welfare fund that migrants and/or their employers finance offers a potentially efficient and feasible solution to sharing the cost of protection. An analysis of the world's largest migrant welfare fund, the Philippines' Overseas Workers Welfare Administration (OWWA), shows that protection of migrant workers can be institutionalized through three elements:²⁰² (1) a mechanism for repatriation, (2) provision of insurance and loans, and (3) education and training by tailoring services to the immediate or core needs of overseas workers without over extending the government's capacity, as well as of creating meaningful partnerships with members of the civil society and the private sector.²⁰³ Nonetheless the proclamation lacks a provision that reflects the government policy to recognize this overseas workers welfare program having a valuable impact in the protection of its migrant workers abroad.

²⁰¹ Institute of ECOSOC (2007), *The Situation of migrant workers after repatriation*. p.43

²⁰² G. Neil Ruiz (2007) *Protecting Overseas Workers: Lessons and Cautions from the Philippines*, pp1-2.

²⁰³ Ibid.

2.2.4. Role of International Law Vis-à-vis Ethiopia Obligations

The Ethiopia legal framework also encompasses international instruments ratified by Ethiopia.

According to Article 9 of the constitution all international instruments ratified by Ethiopia are an integral part of the law of the land.²⁰⁴ Moreover, article 13 further stipulates that the fundamental rights enshrined in the Constitution shall be interpreted in a manner conforming to the principles of the Universal Declaration of Human Rights, international covenants on human rights and international instruments adopted by Ethiopia respectively.²⁰⁵ Ethiopia has ratified most of the core UN international human rights treaties, noted under chapter one- Section 1.5 of this paper).²⁰⁶ It has also ratified 3 core ILO conventions relevant to the protection of migrant workers.²⁰⁷

Moreover, it has also ratified the Vienna Convention on Consular Relations, which governs the conduct of its consulates in destination countries, with respect to protection of Ethiopian migrants.²⁰⁸ Moreover; it has ratified a number of instruments pertaining trafficking. Ethiopia is

²⁰⁴ FDRE Constitution supra notes 61, Art.9 (4) and Art.13. Articles 9(4) reads as all international agreements ratified by Ethiopia are an integral part of the law of the land. Art. 13(2) further stipulate that the fundamental rights enshrined in the Constitution shall be interpreted in a manner conforming to the principles of the Universal Declaration of Human Rights, international covenants on human rights and international instruments adopted by Ethiopia.

²⁰⁵ Id. Art.13(2)

²⁰⁶ <http://treaty.un.org>, UN treaty Collection, database, [Ratifications by country](#), Ethiopia. Ethiopia is a party to International Covenant on Economic, Social and Cultural Rights, (ratified on 23/Jun.1976), International Covenant on Civil and Political Rights, 1966 (Ethiopia, Acceded on 11Jun, 1993.), Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), 1979. (Ratified on 10Sep.1981), Convention Against Torture (CAT) (Acceded 14 Mar.1994) UN Convention on the Rights of the Child (CRC), 1989;(Accepted11May1990)Convention on Elimination Racial Discrimination (CERD) (Ratified on 23June1976).

²⁰⁷ ILO Ratification, Ratification by country Ethiopia is a party to and ratified ILO conventions: The Private Employment Agencies Convention 1997,(No.181),(Ratified24 March 1999) The Abolition of Forced Labor Convention, 1957 (No. 105), (ratified on 02 Sep.2003) The Discrimination (Employment and Occupation) Convention,1958(No.111).(Ratified on 11 Jun 1966) available at http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312283:NO(accessed on 20Mar. 2015, 10 pm.)

²⁰⁸ Ethiopia is also a party (through accession) on 21 Oct 1991 to the Vienna Convention on Consular Relations, as are the GCC and Saudi Arabia states to which its migrants travel. The Vienna Convention establishes functions of consular posts, including: “protecting in the receiving State, the interests of the sending State and of its nationals, both individuals and bodies corporate, within the limits permitted by international law.” (Article 5(a)). Additional functions include: “5 (i) subject to the practices and procedures obtaining in the receiving State, representing or arranging appropriate representation for nationals of the sending State before the tribunals and other authorities of the receiving State, for the purpose of obtaining, in accordance with the law and regulations of the receiving State, provisional measures for the preservation of the rights and interests of these nationals, where, because of absence or any other reason, such nationals are unable at the proper time to assume the defense of their rights and interests; (j) transmitting judicial and extra-judicial documents or executing letters derogatory or commissions to take evidence for the courts of the sending State in accordance with international agreements in force or, in the absence of such

not, however, a party to several core international treaties that specifically address the human rights of migrant workers, namely the UN Convention on the Rights of All Migrant Workers and Members of their Families (1990), ILO Domestic Workers Convention 2011 (C. 189), ILO Migration for Employment Convention (Revised) 1949 (C. 97), and ILO Migrant Workers (Supplementary Provisions) Convention 1975 (C. 143).²⁰⁹ Nor is it a party to the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. Nonetheless, the treaties it has ratified directly govern several key rights and obligations applicable to Ethiopian nationals engaged in labor migration and provide a legal basis for challenging the role of the state in ensuring the protection, promotion and fulfillment of those rights, even where the rights violators are private actors. However, as far as the enforcement of these international instruments is concerned the main problem is the lack of publication through “*Negarit Gazzet*” as well as lack of clear procedures to apply international conventions domestically, especially in the courts, as well as a lack of awareness among the law enforcement bodies, the general public and the migrant workers themselves impede the full realization of the covenant obligations on the part of Ethiopia.

2.2.5. Institutional Frameworks Pertaining Migrant Workers

There are several institutions dealing with the issues of migrant workers this section however; briefly highlights those governmental institutions, International as well as National NGO’s, civil societies and private actors directly relevant with temporary migrant workers to GCC countries in general and to the kingdom of Saudi Arabia in particular.

international agreements, in any other manner compatible with the laws and regulations of the receiving State.” Article 36 further provides for free communication between the consular officers and their nationals in the receiving State, including those nationals in prison or subject to the custody of the receiving state, and places on the receiving state the obligation of notifying the consular officer, if requested, of the arrest or commitment to prison or custody of any national of the sending state. Of particular relevance to Ethiopian migrant workers, Article 37 provides: “If the relevant information is available to the competent authorities of the receiving State, such authorities shall have the duty: (a) in the case of the death of a national of the sending State, to inform without delay the consular post in whose district the death occurred.

²⁰⁹ Ethiopia is not a party to the UN Convention on the Rights of All Migrant Workers and Members of their Families (1990), ILO Domestic Workers Convention 2011 (C. 189), ILO Migration for Employment Convention (Revised) 1949 (C. 97), and ILO Migrant Workers (Supplementary Provisions) Convention 1975 (C.43) available at http://www.ilo.org/dyn/normlex/en/f?p=1000:11210:0::NO:11210:P11210_COUNTRY_ID:102950 (accessed on 20/Mar./2015, at 8 AM.)

2.2.5.1. Government Institutions Pertaining Migrant Workers

2.2.5.1.1. Ministry of Foreign Affairs

The Ministry of Foreign Affairs (MoFA) is one of the government organs charged with the protection of Ethiopian migrant workers abroad among other things. It has a duty to ensure that the interests and the rights of Ethiopians residing abroad are protected; encourage and support associations formed by Ethiopian communities and friends of Ethiopia.²¹⁰ MoFA is also responsible for the embassies and consulates that serve migrants abroad.²¹¹ According to the website of MoFA it has the objective to:²¹² (1) serve as a liaison between the different Ministries and Ethiopians abroad, (2) encourage the active involvement of Ethiopian expatriates in socio-economic activities of Ethiopia, (3) safeguard the rights and privileges of Ethiopians abroad and (4) mobilize the Ethiopian community abroad for sustained and organized image building.²¹³ In addition, MoFA conducts research to identify the challenges of the Diaspora abroad so as to improve legislation that can allow them increased participation in nation building as well as ensuring the well being, safety, security, rights and privileges of the Diaspora.²¹⁴

2.2.5.1.2. Ministry of Labor and Social Affairs

The Ministry of Labor and Social Affairs (MoLSA) is working on current labor migration, particularly to the Middle East. It is responsible for monitoring and regulating agencies. It is also responsible for checking on the labor condition and ensuring fair employment contract conditions when a person wants to work abroad and in some cases to provide assistance to emigrants.²¹⁵ The Ministry deals mainly with domestic workers to the Middle East. Most working contracts to the Middle East prepared and approved by it regardless of the way the job was found.²¹⁶ Another way the Ministry assists emigrants is with pre-departure orientations and trainings.²¹⁷ MoLSA has also been empowered to assign labor attaché to ensure the rights, safety, and dignity of workers employed abroad in consultation with Ministry of Foreign Affairs

²¹⁰The “Definition of Powers and Duties of the Executive Organs of the Federal Democratic Republic of Ethiopia 2010 Proclamation No. 691/2010, **Fed. Neg. Gaz.** year 17. No. 1, Art.15/13

²¹¹ Ibid.

²¹² Ministry of Foreign Affairs website www.mfa.gov.et/Ethiopians_Origin_Abroad (accessed on 13 Aug 2014 at 5:PM

²¹³ Ibid

²¹⁴ Ibid.

²¹⁵ EEP, Art. 31

²¹⁶ Employment Service Promotion Directorate Ministry of Labor and Social Affairs <http://www.molsa.gov.et/> (last accessed on 13Aug2014)

²¹⁷ Ibid.

as pursuant to article 36 of EEP.²¹⁸ It is mandated to assign inspectors and monitor the operations of PEA's to suspend, revoke their licensees and held PEAs responsible should they found in illegal activities.²¹⁹

2.2.5.1.3. Ministry of Justice

The Ministry of Justice has recently become involved in the area of migration in relation to human trafficking. The first objective of the Ministry is to understand the current gaps in legislation with regards to migrant issues. Currently, one area where the Ministry is active is in dealing with the prosecution of illegal employment brokers (or traffickers).²²⁰ The ministry of justice has involved in migrant issues in relation to trafficking through the federal high court. The federal high court's 11th bench hears all cases of both internal and external trafficking.²²¹

2.2.5.1.4. The Ethiopia Federal Police

The Ethiopia Federal Police (EFP) enters in to the picture when there is a crime committed or an investigation into a crime, particularly with regards to human trafficking. Article 7(3) of the establishment proclamation No. 313/2003 clearly mandates the Federal police to prevent and investigate trafficking.²²² Lately, after six years from its establishment the Federal Police established a human trafficking and Narcotic sections under its organized Crime investigation unit in 2009.²²³ According to the 2013 Trafficking in Persons Report of the US department of states the Ethiopian Federal Police (EFP) continued to make progress in investigating human trafficking cases, as well as cooperating with the Federal Prosecutor's Office to bring an increased number of cases to trial and conclusion.²²⁴ The EFP's Human Trafficking and Narcotics Section investigated 166 trafficking offenders (representing 133 cases) in 2012, of which 158 were prosecuted in the court.²²⁵ The Federal High Court's 11th Criminal Bench secured 100 convictions (compared to 77 in 2011) and ordered punishments ranging from 2 to 16

²¹⁸ EEP, Art.36

²¹⁹ EEP Art.35 and Article, 23 of MoLSA Directive

²²⁰ US Department of State, *supra* note, 31, p.246.

²²¹ *Ibid.*

²²² The Ethiopian Federal Police Commission, 2003, Establishment Proc. No.313, **Fed. Neg.Gaz.** Year 9, no. 30. Art.7(3)

²²³ US Department of State *Supra* note 31, p.113

²²⁴ *Ibid.*

²²⁵ *Ibid.*

years of imprisonment without parole.²²⁶ Furthermore; 91 traffickers were prosecuted and Sentenced to imprisonment, ranging from 6 months to 11 years in 2014 by the Federal High Court.

2.2.5.2. Private Actors

2.2.5.2.1. Private Employment Agencies

The Employment Exchange Proclamation imposes different obligations and responsibilities on the PEAs.²²⁷ They are mainly responsible for the protection of the rights of citizens they recruit and send abroad. The obligation of the PEAs ranges from recruiting job seeker without receiving any payment to returning the worker to homeland covering all the expenses in times of difficulty a worker faces.²²⁸ The obligations provided in articles 16a; to not recruiting a job seeker below the age of eighteen years and articles 18-25 to ensure the rights, safety and dignity of a worker is protected during the employment period and to provide a worker who has sustained an employment injury with the necessary medical aid on return.²²⁹

The proclamation also puts an obligation on the PEAs to deposit a money guarantee for the purpose of protecting the rights of workers in accordance with the number of workers a particular PEA deployed abroad.²³⁰ Among other things PEA are obliged for pre departure trainings for migrants.²³¹ They are also charged with ensuring whether prospective migrant workers have acquired the necessary skills for the intended employment abroad and to produce evidence to prove with that effect. They are also under an obligation to report to MOLSA as soon as possible when complaints of abuses against Ethiopian migrant workers abroad reported to it.²³²

2.2.5.3. International and Local Non Governmental Organizations and Associations

2.2.5.3.1. International Organizations

Several International Organizations(NGOs) are active in the field of migration in Ethiopia while this paper briefly discuss the activities and initiatives of IOM along with the government of

²²⁶ Ibid.

²²⁷ Article 16 and its subsequent sub articles of EEP

²²⁸ Id. Articles, 16-25

²²⁹ Ibid.

²³⁰ See Art. 25 of the EEP and art.15 of the MoLSA Directive

²³¹ Id. EEA, Art. 16(2(l)

²³² Id. EEA Article 19(m).

Ethiopia provided that its meaningful contributions in assisting and protecting Ethiopian migrant workers to the Middle East and Saudi Arabia.

International Organization for Migration (IOM)

IOM carries on missions to help ensure the orderly and humane management of migration, to promote international cooperation on migration issues, to assist in the search for practical solutions to migration problems and to provide humanitarian assistance to migrants in need, be refugees, displaced persons or other uprooted people.²³³ Moreover, IOM is involved in enhancing the capacities of governments in countries of origin, transit and destination in better managing labor migration and thereby improving the protection of rights of migrant workers.²³⁴ Carrying out the same mission IOM Addis Ababa- Ethiopia office has also played tremendous roles on issues of cross boarder migration hand in hand with the government of Ethiopia. IOM has been supplementing Ethiopia government efforts in the provision of pre-departure orientation to migrant workers in creating more awareness on the implications of irregular migration among the source communities from which the migrant workers originate to help them make informed decisions.

IOM has also been assisting migrant workers who traveled to the Middle East but ended up being victims of human trafficking.²³⁵ It does so by identifying these victims and providing with voluntary return and reintegration assistance. IOM's Assisted Voluntary Return and Reintegration (AVRR) programs benefit victimized and stranded migrants including labor migrant workers find themselves in different countries under difficult conditions. In addition, IOM's direct assistance programs provide support to victimized and stranded migrant workers.²³⁶

2.2.5.3.2. Local Non Governmental Organizations

Along with the aforementioned governmental and inter governmental Institutions and organizations, there are two local NGO's who take part in the protection of migrant workers especially trafficked and victimized women. These local NGOs are named: The Good Samaritan Association and Agar Ethiopia Charitable Associations. They mainly focus on rehabilitation and reunifications of trafficking and victimized women.

²³³ Interview with Abraham Tamirat IOM Program Assistant, 6 Jan 2015

²³⁴ Ibid.

²³⁵ The Migrant IOM Special Liaison Office, Addis Ababa News Letter Volume 2 Issue 3 December 2011

²³⁶ Interview with Abraham Supra note 233

The Good Samaritan Association (GSA)

The Good Samaritan Association (GSA) is a local non-governmental organization which has been involved in migrants issue in rendering rehabilitation and reunification Services for trafficking victims and abused returnees from Middle East. Up until now GSA has rendered rehabilitation and reunification services for more than 500 returnees from Arab countries and all have got shelter services which includes; Food, bed, clothing, and Counseling service by psychiatrics, healing treatments, referrals with government hospitals.²³⁷ Of which over 95% returnees receives medical care at the Shelter and also referred to Emmanuel Hospital for Psychiatric problem and Petro's Paulo's Hospital for Medical problems.²³⁸

Its rehabilitation scheme mainly concentrates on Psychological as well as medical treatments. After the victims are rehabilitated GSA searches their address and reunifies them with their families and guardians of the returnees.²³⁹ Among those, Above 100 were supported with startup capital; GSA buys calves, sheep or supports them with the amount of the money if they have a desire to work by opening kiosk or small shop or engage in any other sectors based on their interest.²⁴⁰ And finally integrate them with different institutions like Women Children and Youth Association Office, Micro credit Institutions, Micro and Small Scale Enterprises for future follow ups.²⁴¹

Agar Ethiopia Charitable Society

The other local nongovernmental and non profitable organization which engages in relation to trafficked victim women and women victim returnees is Agar Ethiopia Charitable Society. It provides support for women victims of trafficking in Ethiopia.²⁴² Through its rehabilitation and reintegration programs it mainly provides physiological support, Psychological counseling, life skill, medical and psychiatric treatment, and then integrate them to community through family reunification.²⁴³ Its' life and vocational skills training program involves enabling victims to be assertive and self supportive as well as assisting them with job placement and organize them in

²³⁷ Interview with Michel Hareg, Project Coordinator at GSA, on 26Jan2015

²³⁸ Ibid.

²³⁹ Activity Report of GSA(2015) , p.3.

²⁴⁰ Ibid.

²⁴¹ Ibid.

²⁴² Ibid.

²⁴³ Interview with Nigussie Ketema Agar Ethiopia Fund raising and Promotion Director on 02Feb 2015

cooperatives to work on income generating activities to be economically self sufficient.²⁴⁴ The other program with regard to trafficked women victims is awareness creation program to combat human trafficking.²⁴⁵ This program engages the larger community on awareness creation on human trafficking through different media such as outreach workshops, trainings, and community conversations, electronic and print materials.²⁴⁶

²⁴⁴ Ibid.

²⁴⁵ Agar Ethiopia Braucher (2015)

²⁴⁶ Ibid.

Chapter Three

3. An Overview of Labor migration, Policies and the Situation of Ethiopian Migrant Workers in Saudi Arabia

Introduction

Ever since the commencement of the culture of mass migration to the Middle East in 1989 Saudi has recorded comparatively large volume of both documented and undocumented temporary Ethiopian migrant workers in its territory.²⁴⁷ Although the major objective of this study is to study the effectiveness of the human rights protection system pertaining Ethiopian migrant workers with particular emphasis to Saudi Arabia, such analysis would not be complete without a discussion of the overview of the Saudi Arabian migration, and protective environments and the situations of Ethiopian migrant workers within the destination country-Saudi.

Therefore; in order to address the objectives of this paper discussing the policies, legislative and institutional frameworks of Saudi Arabia pertaining migrant workers of Saudi serve to address four core important issues among other things. First, it helps to examine and identify the pitfalls of the available recruitment practices, migration policies and human rights protection mechanisms governing migrant workers including Ethiopians in Saudi. Second, it helps to understand the working and living conditions in Saudi and the situations of Ethiopian Migrant workers notably their labor as well as human rights situations and the prevalent human as well as labor violations frequently complained by Ethiopian migrant workers.

Third, it has a valuable role to the government of Ethiopia to take appropriate safe migration policy, legislative and institutional interventions to effectively promote, prevent, protect, its prospective migrant workers as well as migrant workers working in Saudi. Fourth, it has an indispensable role to establish effective mechanisms and co- operations whereby perpetrators of labor and human rights violations against Ethiopian migrant workers would be held responsible in Saudi as well as at international redressing machineries.

²⁴⁷Franssen Supra note, 8, p.11 See also Human Rights Watch. (2013). Saudi Arabia: New Law to Criminalize Domestic Abuse. Available: <http://www.hrw.org/news/2013/09/03/saudi-arabia-new-law-criminalize-domestic-abuse>. Accessed 11 September 2013

Therefore, with these purposes, the first section of this chapter looks at an overview of labor migration to Saudi which involves the migrant piles in the kingdom and their status in the employment sectors. Section two deals with the Saudi Arabia recruitment practices to employ migrant workers are looked in to. Section three is all about the inhuman and exploitive living and working conditions of migrant workers in Saudi. Section four deals with the Saudi migration policies as well as its protective and restrictive policies pertaining migrant workers and their drawbacks in lights of the international human rights standards are outlined. The practice of Ethiopian migration to Saudi; their situations and experiences while doing in Saudi and their human rights situations during mass deportation and the alleged human rights violations are briefly depicted under section five of thereof .

3.1. An Overview of Labor Migration to Saudi

The mass volume of foreign labor migration to the kingdom of Saudi Arabia has initially been commenced early in 1930's following the discovery of colossal oil reserve and ranked the world's second largest crude oil production state.²⁴⁸ Migrant workers have targeted their influx to meet the growing needs of its economy to fill labor and skill shortages mainly in the lowest "blue collar" categories- in 3D jobs.²⁴⁹ Consequently, large volume of men, women, and children who willfully migrate to the kingdom as well as those who faced the yolk of trafficking and forced labor constitute the migrants pile in the kingdom.²⁵⁰

Along with regular migration to the kingdom irregular migration and trafficking processes are rampant in Saudi due to the mischievous conduct of recruiters and traffickers who mislead to secure the consent of prospective migrant workers who otherwise use the formal channel for migration as well as loose boarder control in between the boarders of Yemen and Saudi for decades.²⁵¹ Traffickers and illegal brokers oftentimes betrayed the actual working conditions or issue fake passports to smuggle workers into the country mainly women, and children from South East Asia, North Africa, and other Gulf countries to be employed as domestic servants or

²⁴⁸Human Rights Watch (2014) "*World Report: Saudi Arabia*," p. 2.

²⁴⁹ Scully Supra note, 44 p. 869

²⁵⁰Vlieger Supra note 59, p. 122.

²⁵¹ Ibid

other low-skilled workers but find themselves under the yolk of kafala and end up with involuntary servitudes having no freedom of movement or a chance to change their employers.²⁵²

Currently, regular migrant workers composed of low skilled workers, professionals and domestic workers make up the migrant pile over 9 million without including anonymous large number of irregular as well as trafficked migrant population which mount the migrants pile to sky-scraping.²⁵³ In average non-nationals comprised 32% of the Kingdom's population, 57% of the employed population, and 89% of the private sector work force in 2013.²⁵⁴ Moreover, 49% of migrant workers are employed in construction and retail sectors of the economy and the remaining portion are engaged in the private and the health and education sectors.²⁵⁵ Thousands of men and women whose age between 20-40 from poor countries such as Bangladesh, India, Sri Lanka, Nepal, Pakistan, Philippines, Indonesia, Sudan, Ethiopia, and Kenya voluntarily travel each year to Saudi Arabia for work.²⁵⁶ In recent years, Saudi shifts importing large influx of workers from the Horn of Africa, reflecting a shift to cheaper sources of labor in lieu of previously labor sourcing countries of Asia.²⁵⁷

With respect to migrants' occupational distributions, most foreign migrant workers from Bangladesh, Nepal, Pakistan, Sri Lanka, Vietnam, China, Egypt, Morocco and Ethiopia are confined to the lowest "blue collar" categories.²⁵⁸ Whereas; migrant workers belong to India, Lebanon, Egypt, and Europe usually fill the highest "white collar" categories such as managerial and specialist positions representing 52% of the labor force in Saudi Arabia.²⁵⁹ As far as the proportion of domestic workers is concerned, they consisted of approximately (22%) out of the total 9 million (regular) of the work force in the kingdom.²⁶⁰ On average, there is one domestic worker for each household in Saudi Arabia. For the author, Bina Fernandez, (2010):²⁶¹

²⁵² Ibid

²⁵³ Ibid

²⁵⁴ Françoise De Bel-Air, (2013) "*Demography, Migration and Labour Market in Saudi Arabia.*" p.17

²⁵⁵ Vlieger, A.R. (2013). *Domestic Workers in Saudi Arabia and the Emirates: Trafficking Victims?* Research Paper No. 2011-05, p.23.

²⁵⁶ Human Rights Watch, (2010) "*Slow Reform: Protection of Migrant Domestic Workers in Asia and the Middle East,*", p.7.

²⁵⁷ Human Rights Watch, (2012), *Bad Dreams: Exploitation and Abuse of Migrant Workers in Saudi Arabia*, P.8.

²⁵⁸ Françoise, supranote, 254, p.6.

²⁵⁹ Vlieger, supranote, 255, p.48.

²⁶⁰ RMM, supra note 34, p.47

²⁶¹ Binna Fernandez, Supra note, 21, p.245.

“Migrant domestic workers are described as being part of an ‘unspoken bargain’ between the state and the society’, by which the state provides a leisured life, funded by enormous oil revenues, in exchange for complete political control. Foreign domestic workers are a status symbol of a luxurious life, and are ordered in a hierarchy, with Filipina women at the top, followed by Indonesian and Sri Lankan women and African women including Ethiopia at the lowest stratum.”

Depending on nationality and experience the aforementioned hierarchy of domestic migrants can easily be inferred from the fees to be paid to mediating agencies which is ranging from a one-time fee of USD 340 for an inexperienced Ethiopian and 1,370 USD for an experienced Indonesian and Pakistani domestic migrant workers respectively.²⁶²

More over; in 2013, Saudi Arabia offered in need of another 0.75 – 1.5 million domestic workers mainly from Ethiopia, Eretria, Sudan and Egypt which reflects its dramatic shift to cheaper source of labor in lieu of previous labor sending Asian countries who relatively offer large amount of salary as well as demands stringent and prudent protection to their citizens.²⁶³ Even so, by the end of 2013 and early 2014, Saudi Arabia carried out massive deportations which accounts over 1 million of irregular migrants, including some 163,018 Ethiopians migrant workers.²⁶⁴

3.2. The Recruitment Practice

Migrant workers are not allowed to enter in to Saudi Arabia without a legally permitted sponsor which can be an individual, a government agency, or a private institution.²⁶⁵ As soon as the migrant workers arrive into Saudi Arabia, most migrant workers are immediately fall under the tie of the kafala (sponsorship) system notably those workers engage in the lowest blue collar job sectors.²⁶⁶ They enter in to the labor sectors using recruitment agencies who charge every recruitment fee on the sponsor or employer.²⁶⁷ Under this scheme the sponsor generally bears full responsibility for the worker’s recruitment fees, completion of medical exams, and legal

²⁶² The Letter of the Law supra notes 24, p.57.

²⁶³ Ibid.

²⁶⁴ Ibid.

²⁶⁵ Vilger supra note 255.p.119.

²⁶⁶ Nisha Varia, “‘As If I Am Not Human:’ Abuses against Asian Domestic Workers in Saudi Arabia.” Human Rights Watch, <http://www.hrw.org/reports/2008/07/07/if-i-am-not-human> (accessed on 14July2014)

²⁶⁷ Vilger, supra note 255, p. 117.

documentation and legal status.²⁶⁸ They usually pay large recruitment fees (approximately \$1,000 to \$2,500 US dollars) to agencies, governmental institutions as well as other parties in order to hire a migrant worker.²⁶⁹ For these reasons, Saudi employers often resist the abolition of the sponsorship system which vests them absolute power to control and retain the workers in their households.²⁷⁰

The kafala system ties migrant workers' residency permits to "*sponsoring*" employers, whose written consent is required for workers to change employers or exit the country. The sponsoring employer guarantees the validity of the worker's residency permit, (*Iqama*). The sponsoring employer also has the power to prevent the worker from legally changing employer; to cancel her/his residency visa at will; and to report her/him as illegal resident should she/he abscond.²⁷¹ Once the employer notifies the police that a worker has absconded, the police cancel the worker's residency permit, and arrest and detain her/him whenever she/he is found and eventually to deport.²⁷²

A non-Saudi cannot change his or her sponsor or job unless a release from the sponsor is issued, along with a new sponsorship from a new employer and an approval of the Passport from labor authorities with that respect.²⁷³ Moreover; the system grants for employers unlimited rights over a migrant worker. A sponsor may choose to refuse to give a release or may recommend that the worker is deported, or may request that the authorities ban the worker from re-entering the country again for two years.²⁷⁴ The sponsor has impliedly granted the rights to confiscate migrant workers' passports, mobile phones and travel documents to prevent run away of the workers, refuse to pay their wages, and force them to work without rest days under the kafala system; if migrant workers attempt to protest, they are often subjected to cruel and harsh treatments, including physical abuse, food deprivation, and forced confinement and inhuman deportation.²⁷⁵ If domestic workers wish to end their contract early require an exit visa and a

²⁶⁸Id. p. 273.

²⁶⁹Id. Supra.p.168.

²⁷⁰Scully, Supra note 44, p.68.

²⁷¹Mehran Kamrava and Zahra Babar, *Migrant Labor in the Persian Gulf* (New York: Columbia University Press, 2012), p. 140.

²⁷²The Letter of the Law, supra note 24, pp.47-48.

²⁷³Ibid.

²⁷⁴Ibid.

²⁷⁵Ibid.

court order to do so by running away from the employer while doing so even the workers may fall in the hands of police officers so that they risk punishment, detention or in human deportation.²⁷⁶ Runaway workers do not get any form of justice even in the case where there is an obvious violation of rights.

3.3. The Situations of Migrant Workers in Saudi

As a conventional pride Saudi has officially banned slavery in 1964 under its legal system. However; migrant workers are still under the yolk of Neo- slavery like situations in the kingdom labor forces. As media and other unofficial reports and voices of immigrants have vocalized that migrant workers suffer from substantial overwork, exhaustion, torture, rape and other sexual harassments and food and water deprivation on the job site as well as servitude.²⁷⁷

Armed with the kafala system by which migrant laborers may not leave their employers under most situations, many Saudi employers feel empowered to abuse their workers, with migrants often complaining of extreme physical, psychological, and sexual abuse at the work place.²⁷⁸ While there are laws against forced labor, the government does not guarantee the protection of migrant workers' rights.²⁷⁹ Migrant workers, particularly domestic workers, are unable to legally end their contracts and often look for other employment opportunities, sometimes in illegitimate venues where working conditions are significantly worse than average.²⁸⁰ The restrictive nature of this institution leads to increased vulnerability of migrant workers to forced labor conditions, in particular their ability to report abuses to the legal and civil courts.²⁸¹

Additionally, as part of the benefit of working for a Saudi family, the understanding or agreement between employer and employee often calls for adequate accommodations for the migrant worker. As Human Rights Watch report while accommodations for the most part are made available to migrant workers, their conditions are often deplorable and usually

²⁷⁶ Ibid.

²⁷⁷ Redress Information & Analysis. *Exposing injustice, disinformation and bigotry*, (2013), Available at <http://www.redressonline.com/2013/12/the-abuse-of-migrant-workers-in-saudi-arabia/>, (accessed 22 April 2014).

²⁷⁸ Ibid.

²⁷⁹ HumanRightsWatch.SaudiArabia:LaborCrackdownViolence.1December2013,<http://www.hrw.org/news/2013/11/30/saudi-arabia-labor-crackdown-violence> (accessed 22 April 2014).

²⁸⁰ Human Rights Watch. (2013) Saudi Arabia: Protect Migrant Workers' Rights. Available, <http://www.hrw.org/news/2013/07/01/saudi-arabia-protect-migrant-workers-rights>, (last visited on 22 April 2014).

²⁸¹ Ibid.

inadequate.²⁸² Migrant workers living in Saudi Arabia gave accounts of having to sleep in constricted public spaces, such as in the kitchen or bathroom floor. As one worker interviewed by the researcher described it as:

“As soon as the agent in Saudi contacted me my sponsor took me to her home. My employer considers me as a domestic animal not a domestic worker. She only gave me a place to sleep under the staircase like an animal disregarding the contractual promise and my human dignity. I am not a dog, I am a human being...I migrated to work, I went there to do my best, but my employer also had to give me proper facilities and respect.”²⁸³

3.4. The Saudi Migration Policy and Practice

3.4.1. General Migration Policy

Saudi has no comprehensive migration policy governing all migrant workers for all employment sectors however, there exists an Iqama regulation (the Residency Act), which serves as a set of laws governing the status and rights of foreign migrants in the country. A foreigner who enters the country obliged to have a residency card and a work permit.²⁸⁴ The main institutions overseeing and coordinating migrant flows into the country are the Ministry of Interior with regard to domestic workers and the Labor Department with regard to other migrant workers respectively.²⁸⁵ Foreign or non-Saudi workers are not allowed to enter the country without the sponsorship of an eligible employer or a permitted Saudi household (in the case of domestic workers). Today, the government has frequently been adopting ever increasing restrictive as well as protective policies. Its' restriction policies aimed at managing the unemployment rate of its nationals as well as regulating the migrant population in the kingdom. Where as its protection efforts focused on according minimum protections to migrant workers. These twin policies will be dealt with in subsequent sections.

3.4.2. Policy on Labor Migration

The government of Saudi has been adopting various restrictive policies with the need to regulate the volume of migrant workers and to create job opportunities to their citizens whereby to manage the unemployment rate amongst the youth population of the country.²⁸⁶ It has also been

²⁸² Nisha, Supra note 266 p.83.

²⁸³ Interview with Malafia kebede Saudi Returnee, on 26Jan2015

²⁸⁴ Kafala, Supra note 42, p.7

²⁸⁵ Ibid.

²⁸⁶ Regional Mixed Migration Supra note, 32, pp.47-56.

adopting a number of protective policies with the need to accord certain theoretical foundations which avails protection for foreign workers in its territory.²⁸⁷

3.4.2.1. Protective Policies

A Saudi protective policy concerning migrant workers encompasses both the international and national legal frameworks and the institutional set ups. Saudi is party to a number of international human rights instruments relevant to migrant workers both at UN and ILO levels. Moreover; there are few national legislations as well as protection efforts recently introduced with a need to accord protection to migrant workers. Nonetheless, these legislative protective frames are remaining practically useless for considerable number of migrants who face severe abuses and violations in the kingdom.²⁸⁸ Under this sub section the existing legislative frameworks and their practical impacts with regard to providing effective protection will be discussed.

3.4.2.1.1. International Legal Regimes Pertaining Migrant Workers

UN Human Rights Conventions

The kingdom of Saudi had acceded to five major international treaties, albeit with major reservations. International Convention on the Elimination of All forms of Racial Discriminations (CERD),²⁸⁹ Convention on Elimination of All Forms of Discrimination Against Women (CEDAW),²⁹⁰ Convention Against Torture (CAT),²⁹¹ as well as Convention on the Rights of

²⁸⁷ Ibid.

²⁸⁸ Scully, Supra note 44, pp. 873-875.

²⁸⁹ International Convention on the Elimination of All Forms of Racial Discrimination , <http://treaties.un.org> (follow “Databases” hyperlink; then follow “Status of Treaties” hyperlink; then follow “CHAPTER IV” hyperlink; then follow “2. International Convention on the Elimination of All Forms of Racial Discrimination” hyperlink; then follow “Saudi Arabia” hyperlink) (last visited 10 September 2014).

²⁹⁰ Saudi Arabia acceded to the Women’s Convention on Sept. 7, 2000 with, among other reservations, the understanding that, “[i]n case of contradiction between any term of the Convention and the norms of Islamic law, the Kingdom is not under obligation to observe the contradictory terms of the Convention.” U.N. Treaty Collection, 8. Convention on the Elimination of All Forms of Discrimination against Women, <http://treaties.un.org> (follow “Databases” hyperlink; then follow “Status of Treaties” hyperlink; then follow “CHAPTER IV” hyperlink; then follow “8. Convention on the Elimination of All Forms of Discrimination against Women” hyperlink; then follow “Saudi Arabia” hyperlink) (last visited Mar. 10 Sep. 2014)

²⁹¹ U.N. Treaty Collection, 9. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, <http://treaties.un.org> (follow “Databases” hyperlink; then follow “Status of Treaties” hyperlink; then follow “CHAPTER IV” hyperlink; then follow “9. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment” hyperlink; then follow “Saudi Arabia” hyperlink) (last visited 10 Sep 2014)

Children (CRC).²⁹² These ratified instruments are incorporated in its legal system has the same statuesque with the domestic legislations of the state and can directly invoked in domestic courts proceeding. As it has been explained under sub section 1.4. of chapter one of this paper these international instruments ratified by Saudi Arabia have explicit inference references with regard to protection of migrant workers that bind the kingdom to accord protection to migrant workers and impose a duty against to protect, respect and full fill the rights of migrant workers. However the country suffers bitter criticism by the respective committee of these conventions with regard to its incompetence and ill commitments to respect, protect, and fulfill the rights enshrined in them to their nationals in general and to migrant workers in particular.²⁹³

ILO Conventions

In addition to the aforementioned core UN human rights conventions the country had ratified six major ILO conventions having specific relevance to migrant workers.²⁹⁴ Despite the country membership and ratifications of these ILO conventions to protect the rights and privileges of migrant workers, the enjoyments of migrants' rights remain fragile and imaginary. In some cases they are prohibited from enjoying their rights, in other instances there appear no government commitment as well as no enabling environments to implement and enforce the catalogues of these covenant rights and freedoms to concertize in to practice. For example, ILO Convention No. 111 prohibits any form of discrimination, and yet non-citizens often experienced severe discrimination, physical and psychological violence at the workplace.²⁹⁵ Saudi Arabia has also ratified ILO Conventions No. 29 and No. 105 on Forced Labor and the Abolition of Forced

²⁹² Saudi Arabia acceded to the Children's Convention on Jan. 26, 1996 with the following reservation: "[The Government of Saudi Arabia enters] reservations with respect to all such articles as are in conflict with the provisions of Islamic law." U.N. Treaty Collection, 11. Convention on the Rights of the Child 10, <http://treaties.un.org> (follow "Databases " hyperlink; then follow "Status of Treaties" hyperlink; then follow "CHAPTER IV" hyperlink; then follow "11. Convention on the Rights of the Child" hyperlink; then follow "View PDF" hyperlink) (last visited 10 Sep 2014).

²⁹³ The Letter of the Law Supra note, 24, p. 52

²⁹⁴ Saudi Arabia has ratified the following major ILO conventions: ILO Forced Labor Convention, No. 29 (1930), ratified by Saudi Arabia on June 15, 1978; ILO Abolition of Forced Labor Convention, No. 105 (1957), ratified by Saudi Arabia on June 15, 1978; ILO Equal Remuneration Convention, No. 100 (1951), ratified by Saudi Arabia on June 15, 1978; ILO Discrimination (Employment and Occupation) Convention, No. 111 (1958), ratified by Saudi Arabia on June 15, 1978; ILO Worst Forms of Child Labor Convention, No. 182 (1999), ratified by Saudi Arabia on Oct. 8, 2001. ILO Core Conventions Ratification by Country Saudi Arabia <http://www.ilo.org/dyn/normlex/en/f?p=1000:11001:0:::> (last visited 10 Sep 2014).

²⁹⁵ International Trade Union Confederation (ITUC). "Internationally Recognized Core Labor Standards in Saudi Arabia." Geneva: International Trade Union Confederation (ITUC), 2012.

Labor; however, it is the public secret that many migrant workers, especially female migrant workers, have experienced physical and sexual abuses, intimidation, day long chores when ill, and lack of access to health and justice services.²⁹⁶

3.4.2.1. 2. National Laws Pertaining Migrant Workers in Saudi Arabia

The Trafficking Act of Saudi Arabia

The government of Saudi has made several attempts to enact a number of national legislations having notional relevance to protect migrant workers since 2009.²⁹⁷ The government promulgated the “Suppression of the Trafficking in Persons Act” which defines and outlaws any form of human trafficking with a punishment of 15 years in prison or a fine in 2009.²⁹⁸ In order to give an effect to this law , the government of Saudi Arabia reported that it has broadcasted 250 programs and public service announcements on human trafficking issues and the treatment of migrant workers to raise awareness.²⁹⁹

Despite this trafficking Act and the programs with that effect however; the U.S Department of State ranks the government of Saudi Arabia as a Tier 3 country in terms of trafficking in persons - the lowest rank in the system - because it “does not fully comply with the minimum standards for the elimination of trafficking and is not making significant efforts to do so.”³⁰⁰ For example, though the government created new legislation, the new reforms do not ascribe any criminal penalties to perpetrators of abuse against migrant workers, nor do they specifically consider domestic workers’ rights ever since its enactment.³⁰¹

Moreover, despite anti-trafficking legislation and other small steps taken to address this issue, many government officials still lack awareness and the necessary training to effectively prevent, identify, and prosecute human trafficking cases and abuses reported by migrant workers.³⁰² Additionally, there is a lack of consistent reporting on the plight of migrant workers and a strict

²⁹⁶Id. p. 3

²⁹⁷ Abdul Hamid Al-Ansari, "72 Human Trafficking Cases Booked in 2012." Arab News. 23 August 2013. <http://www.arabnews.com/news/462964>.

²⁹⁸ U.S. Department of States, *supra* note, 31, p.321

²⁹⁹ Ibid.

³⁰⁰ Id. p.318.

³⁰¹ Ibid.

³⁰² Ibid.

media censorship policy enforced by the Ministry of Culture and Information, contributing to a general unawareness of issues related to migrant workers.³⁰³

Laws Governing Recruitment Companies

According to Arab news and Gazettes in 2013 a few other improvements were made to avail migrant workers.³⁰⁴ According to US department of state, the Saudi government implemented regulations mandating the formation of new unified recruitment companies that will replace the prevalent model of sponsorship by individuals' people and companies.³⁰⁵ This new initiation will allow migrant workers to leave employers without losing their legal status in the country. Accordingly, 16 unified recruitment companies were licensed in different parts of Saudi Arabia out of 20 recruitments lodged for approval and the government reportedly began to transfer sponsorship from individuals to recruitment companies.³⁰⁶

Laws Pertaining Domestic Workers

In 2013 the Saudi Government, Council of Ministers passed regulations that accord certain basic protections for domestic workers which involve a nine-hour daily break, prompt salary payment, sick leave, and a one-month paid vacation every two years for the first time.³⁰⁷ The law further confers rights, imposes obligations and entail penalty clause on both employers and domestic workers.³⁰⁸ Employers have the right to put the worker in probation for not more than 3 months. The worker should respect the teachings of Islam, obey the employer and his family members, preserve their property, should not harm children or elderly members and keep family secrets. The worker does not have the right to reject work or leave the job without any genuine reasons. Employers should pay the salary at the end of every month without delay; provide suitable accommodation and end-of – service benefits every 4 years. Penalties for first time contravention of the law are 2,000 Riyal (USD 533) for employers and ban from recruiting domestic workers for a year and 2,000 Saudi Ryals for domestic workers and a ban from working in Saudi Arabia.³⁰⁹ Yet the lack of implementation of similar measures in the past casts doubt on the efficacy of these laws going forward.

³⁰³ Vilger Supra note 59 p.167

³⁰⁴ Regional Mixed Migration Supra note 32,p.59

³⁰⁵ Harris, supra note 101, p.37

³⁰⁶ Ibid.

³⁰⁷ Human Rights watch (2014), supra note, 248, pp.603-604.

³⁰⁸ Ibid.

³⁰⁹ Ibid.

Finally the Ministry Council passed a law criminalizing domestic abuses on August 2013.³¹⁰ The new law defines domestic abuse as “all forms of exploitation, or bodily, psychological, or sexual abuse, or threat of it, committed by one person against another, including if [that person] has authority, power, or responsibility, or [if there is a] a family, support, sponsorship, guardianship, or living dependency relationship between the two [individuals].”³¹¹ The law also classifies neglect as domestic abuse.³¹² The penalty for domestic abuse is set between one month and one year in prison and/or a fine of between 5,000 Saudi Ryals [USD 1,333] and [USD 13,330] 50,000 Saudi Riyals unless Sharia law provides for a harsher sentence. Judges can double the specified penalties for recidivist.³¹³ Although it is welcoming that Saudi Arabia banned domestic abuse, Human Rights Watch criticized the new law as:³¹⁴

“It is not yet clear that which agencies will oversee the law’s implementation. Moreover, “the law does not have detail specific enforcement mechanisms to ensure prompt investigations of abuse allegations or prosecution of those who commit abuses. The new law gives an unspecified ‘competent’ government agency authority to investigate abuse allegations and take steps to ensure the safety of victims of abuse, and it authorizes the agency to refer cases to criminal justice authorities to arrest, prosecute, and convict perpetrators of abuse and remove dependents from an abusive guardian’s care.” According to Human Rights Watch the law is “merely ink on paper, without effective mechanisms to punish domestic abuse”.

In order to provide assistance to domestic workers the government has claimed to have opened a hotline for, among others, domestic workers in distress.³¹⁵ Nonetheless; it was reported that the kafala system denies migrant workers access to phones along with the difficulty of the hotline’s phone numbers to find that held the service practically useless to domestic workers.³¹⁶ Despite such international as well national efforts in Saudi however, it has been much more reluctant in its acceptance of any formalized laws and institutional set ups having practical impact to migrant workers in general and the most vulnerable ones such as domestic as well as other temporary workers. Though Saudi has signed a number of international conventions both at UN

³¹⁰ Watch, Human Rights Watch, Saudi Arabia: New Law to Criminalize Domestic Abuse. Available: <http://www.hrw.org/news/2013/09/03/saudi-arabia-new-law-criminalize-domestic-abuse> (last visited 11 September 2014).

³¹¹ Ibid.

³¹² Ibid.

³¹³ Ibid.

³¹⁴ Human Rights Watch supra note 310, p.110.

³¹⁵ Vlieger Supra note 59, p.196.

³¹⁶ Ibid.

as well as ILO spheres whose provisions either can be extended to protect these category of workers directly avail them its legislative as well as institutional frameworks are cripple to promote and protect the covenants rights and freedoms. Apart from this Saudi is not a party to the land mark conventions which are very crucial to protect migrant workers such as the United Nations (UN) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) as well as ILO C convention No.189 on decent work for domestic workers.³¹⁷

3.4.2.2. Restrictive Policies

Saudi Arabia has also been adopting an ever increasing restrictive policies in order to manage the unemployment rate of its citizens by reserving certain sectors entirely to their national akin to this restrictive policies aimed at curbing irregular migrations and trafficking which have been painstaking work for decades. These policies involve Saudization, border's blockage and mass deportation policies which are the subject matter of this sub section.³¹⁸

Saudization Policy

Saudization is one of the major restrictive policies that has been introduced for decades in Saudi to regulate the volume of migrant population and the labor force.³¹⁹ It refers the kingdom's policy to shift from predominantly labor importing policy to a concern for keeping for their nationals as far as possible.³²⁰ Saudi has been implementing its saudization policy to manage labor migration with the need to reserve the available job sectors to local youths since the Gulf war in 1990's.³²¹ In the mid 1990's the government introduced saudization policy to replace migrant workers by Saudi nationals to curb the unemployment rate among the youngest population which was reached up to 30 percent of the total population.³²² Nevertheless; the economy remains heavily depend on immigrant workers up until now taking the advantages of

³¹⁷ ILO core Conventions, Ratification by Country follow the hyperlink Conventions not ratified by Saudi Arabia, http://www.ilo.org/dyn/normlex/en/f?p=1000:11210:0::NO:11210:P11210_COUNTRY_ID:103208(Last visited 15 Mar 2015)

³¹⁸The Letter of the Law, supra note 24,pp.51-52.

³¹⁹Fargues, P. (2006). *International Migration in the Arab Region: trends and Policies*. p. 21.

³²⁰ COMPAS, *Saudi Arabia and its immigrants*, available at: <http://compasoxfordblog.co.uk/2013/08/saudi-arabia-and-its-immigrants/>, (last accessed 2 September 2014)

³²¹Z.Badar, (2011). *Free Mobility within the Gulf Cooperation Council*. Qatar: Center for International and Regional Studies, Georgetown University School of Foreign Service in Qatar.p.22.

³²² Ibid,

cheaper labor source of migrant workers by companies and individuals recruiters as well as in sectors nationals are refused to engage on sectors they are called '*non national's jobs*.'³²³

In order to respond the previous practical exigencies that challenge the effective implementation of Saudization policy; the government introduced the '*Nitaquat*' program whereby companies were categorized as red, yellow, green and platinum according to the percentage of the population of its citizens in the work force in 2011.³²⁴ Red companies are prohibited from employing immigrants or renewing contracts of already recruited immigrants.³²⁵ Platinum companies are not only prohibited from employing foreigners but may poach employees from red companies at will. Recently, in 2013 the ministry of labor published a comprehensive '*Nitaquat*' guide line with details on the program encompassing specifications for Saudization and percentages in the private sectors as well as the professions reserved only to Saudi citizens.³²⁶ The ministry has limited the number of visas that can be issued to business with regard to the facilities space the kind of commercial activities and the number of Saudi citizens.³²⁷

Boarder Blockage Policies,

Blocking the border from irregular migrants is the other manifestation of its restrictive policy. The Kingdom of Saudi is the major target for many irregular migrants from different corner of the world mainly migrants from North Africa given the available rampant human traffickers as well as loose border surveillance prevalent in the previous years.³²⁸ Therefore; unidentified vast irregular migrants dominated the labor force of the country, particularly in the lowest job sectors. Today, the kingdom has actively engaged in implementing restrictive policies to combat ever escalating irregular migration flow. For such end Saudi has been constructing three meters barriers between its boarder, Yemen and Oman barriers ever since 2003and frequent border surveillance.³²⁹ This barrier covers part of 1,800 kilometers which is full of sand bags and pipelines filled with concrete and fixed with electronic detection instrument.³³⁰ In 2013 Saudi

³²³ COMPAS, supra note, 320, p.9.

³²⁴ Ibid.

³²⁵ Ibid.

³²⁶ The Letter of the Law supra notes 24, p.52.

³²⁷ Harris, Supra note, 101, p.61

³²⁸ Ibid.

³²⁹ Ibid.

³³⁰ Ibid.

reported that the patrol caught approximately 70 migrants trying to trespass passing the border most of them were from Yemen, Ethiopia and Bangladesh every day.

Mass Deportation

Mass deportation also the third mechanism introduced in Saudi to retain the labor market to its citizens and curb irregular migration.³³¹ Saudi authorities have frequently deported immigrants directly to their home states and sometimes they have been dropped in the desert several kilometers away from the border with Yemen. Although deportation of irregular migrants is not a new phenomenon in the culture of Saudi Arabia restrictive migration policy for years, the Saudi authorities launched an unprecedented crackdown on irregular migration in 2013. Following the changes in the Kingdom of Saudi Arabia (KSA's) foreign workers legislation, the government crackdown on what it called illegal migrants in 2013 approximately 1 million migrants have been deported or leave willingly complying with the grace period given to evacuate in 2013 alone.³³² On the 4th of November, authorities began raiding businesses and setting up various checkpoints across the country, arresting and deporting thousands of illegal migrant workers.³³³ On some occasions, illegal migrants faced extreme violence and Saudi police torturing, raping, and extra judicially killing migrant laborers during deportation raids.³³⁴ As of January 2014, there have been an estimated 250,000 foreign migrant workers deported from Saudi Arabia.³³⁵ By March, that number had climbed to over 370,000.³³⁶

3.4.2.3. Saudi Arabia Mass Deportation Policy and Practices in Light of International Human Rights Laws

It is crystal clear that citizens of a country have universally recognized right to enter and leave that country.³³⁷ While no State may expel its nationals, however; it is the sovereign prerogative

³³¹ Ibid,

³³² Migrant Rights. (2013). *More than one million migrants deported from Saudi Arabia*, available at: <http://www.migrant-rights.org/2013/08/03/656-thousand-migrants-deported-from-saudi-arabia/>. Accessed (5 September 2014). P.13.

³³³ Ibid.

³³⁴ Freedom House. (2013) *The Dire Situation of Ethiopian Migrant Workers in Saudi Arabia*, http://www.freedomhouse.org/blog/dire-situation-ethiopian-migrant-workers-saudi-arabia#.U1Vlh_lU1k, (last visited 22, Oct. 2014). p.15

³³⁵ Harris, Supra note, 101, p.62

³³⁶ Migrants Rights Supra note 332, p.12

³³⁷ Article 13 of the Universal Declaration of Human Rights provides that "everyone has the right to leave any country, including his own, and to return to his country". Article 12(2) of the International Covenant on Civil and Political Rights contains a similar provision; while article 12(4) guarantees that "no one shall be arbitrarily deprived of the right to enter his own country".

of any state under international law to deport migrants, especially those who do not have the proper legal documents to live and work in that country.³³⁸ Nonetheless; this power is not absolute international laws as well as international human rights laws place some restrictions on the time and the manner how to enjoy this privilege.³³⁹

With regard to expulsions, there appear three types of protection are available, namely substantive protection against return to face grave violations of human rights, procedural safeguards during deportation procedures, and protection with regard to the methods of expulsions.³⁴⁰ In addition to the general protection afforded to all foreigners, certain categories of foreigners, such as asylum seekers and migrant workers may be afforded additional protection against expulsions and/or benefit from additional procedural guarantees.³⁴¹

In the light of these procedural safeguards, it will be demonstrated that mass or collective expulsions are clearly prohibited under International human rights law.³⁴² The term “mass expulsion” is defined to mean that “any measure compelling aliens, as a group, to leave a country, except where such a measure is taken on the basis of a reasonable and objective examination of the particular case of each individual alien of the group”.³⁴³

A general prohibition on collective expulsions follows from the procedural safeguards (which the notion of natural justice stands for) against arbitrary expulsions:³⁴⁴ if each alien is entitled to an individual decision on his or her expulsion, mass or collective expulsions therefore is prohibited.³⁴⁵ Moreover, mass expulsions would prevent the proper identification of people entitled to special protection such as asylum seekers, people who might be subject to torture if expelled, victims of trafficking, and so on.³⁴⁶ Therefore; this prohibitions of mass deportation

³³⁸Office of High Commissioner on Human Rights: (2006) *Discussion paper Expulsions of Aliens in International Human Rights Law*, OHCHR Discussion paper Geneva, p.1.

³³⁹ Ibid.

³⁴⁰ Ibid.

³⁴¹ Ibid.

³⁴² See CCPR Committee General Comment 15/27 of 22 July 1986, para.10

³⁴³Office of High Commissioner, supra note, 338, p.16.

³⁴⁴ ICCPR, Art.13.

³⁴⁵ Office of High Commissioner, supra note 338,p.3

³⁴⁶ Ibid.

accord protection not only for legal residents but also afford protection for illegal or undocumented residents in host states.³⁴⁷

Furthermore: the Berin Initiative has made, inter alia, recommendations on “mandatory return” in December 2004. It was suggested that mandatory return policies should be transparent, humane and fair that mandatory return should be conducted in dignity and safety, that forced return to conditions of danger and in humane situation should be avoided and which contravenes the international human rights norms and standards.³⁴⁸

In conclusion as a rule the act of mass deportation of aliens is prohibited under international human rights law and its jurisprudences given the stringent substantive and procedural guarantees which are available for all foreigners and special categories of aliens who are entitled extra protections however as an exception to this rule mass deportation is a justifiable ground if a state invoke any compelling reasons of national security to resort to mass deportation.

Even so, it must be done in an orderly and humane manner. Such limitation does not extinguish the sovereignty of a state nor it denies the right of the state to deport irregular migrants, but it requires the process above all to respect the natural justice for each and everyone to be treated with dignity and integrity even if one is an irregular migrant and his personal situations should be considered. Perusal of Saudi mass deportation policies and its enforcement in 2013 to deport over 1 million irregular migrant workers including some 163,018 Ethiopian nationals, it is neither compatible with the aforementioned substantive as well procedural requirements nor justified by any of excusable grounds mentioned under this section which will be discussed in depth under section 3.5.3 of this chapter.

3.5. Ethiopian Migration to Saudi Arabia and the Situations of Ethiopian Migrant Workers in Saudi

3.5.1. Ethiopian Migration to Saudi Legal and Illegal Mix

The Ethiopian emigrants pile in Saudi comprises documented, undocumented as well as overstayed migrant workers as noted under introductory section 1.1 of this paper. These

³⁴⁷ See Art. 13 of ICCPR in line with General Comment 15/27 of 22 July 1986, para.10, see also Art.22 (1), CMW, and The Committee on the Elimination of Racial Discrimination, General Recommendation, No.30 of 1 October 2004, para.25. These all discuss the procedural safeguards and the fact that it is prohibited.

³⁴⁸ See The Berne Initiative, International Agenda for Migration Management: common understandings and effective practices for a planned, balanced, and comprehensive approach to the management of migration, Berne, 16-17 December 2004, pp.55-56.

categories of workers have been departed through PEAs, Hajji Umra Pilgrims, for training and other proposes and other illegal routes.³⁴⁹ These émigrés travel via land, sea and air are all utilized by Ethiopian migrants in order to reach to Saudi. The Hajji Umra emigrants and most women who go to the Middle East and work as domestic workers travel by plane.³⁵⁰ However; their male counterparts travel using irregular channels through land and sea using human traffickers through Djibouti and Yemen finally to Saudi to work as drivers and construction laborers.³⁵¹

Regular(legal migration) for temporary and domestic work employment processes is undertaken after the employment contract is signed between an employer, an employee and a PEA and approved by MoLSA, the employer is expected to cover all the necessary costs of the employee who fulfilled all the necessary requirements and is hired as a migrant worker.³⁵² Visa fee for the country of destination, round trip air fare , resident and work permit fees and insurance coverage are the expenses needed to be covered by an employer.³⁵³

According to ILO and the Ethiopian Ministry of Labor and Social Affairs (MoLSA) figures, 100,000 regular Ethiopian labor migrants moved to Saudi Arabia in 2011 using legal channels.³⁵⁴ The total number of regular labor migrants (including domestic workers) from Ethiopia to Saudi Arabia in 2012 is estimated to have been 200,000.³⁵⁵ According to MoLSA figures, between July 2012 and July 2013, 161,787 Ethiopian migrant workers processed their migration to Saudi Arabia through PEAs. The large majority (154,660 or 96%) are females, with only 7127 males (4%).³⁵⁶

Creakingly, the majority of Ethiopian migrant workers who had been deported from Saudi Arabia were males (100,688 out of 163,018 or 62%) instead of females (53,732 or 33%), the remaining portion are children and unaccompanied minors.³⁵⁷ This indicates the fact that the correct numbers of Ethiopian migrant workers are hence unknown. Similarly, it implies that

³⁴⁹ Interview with, Almaw Wassie, MoLSA Senior Expert in Oversea workers Employment Service Directorate, on 10Jan2015.

³⁵⁰ Ibid.

³⁵¹ Ibid

³⁵² Ibid.

³⁵³ Ibid.

³⁵⁴ The Letter of the Law supranote,24, p.53.

³⁵⁵ MOLSA, (2013), Domestic Workers Report, p.3.

³⁵⁶ Ibid.

³⁵⁷ The Letter of the Law supra notes 24 p.18.

female migrants are better off using legal channels rather than their male counterparts who use the traffickers' channels. Furthermore; ILO expected the number of irregular migrants to be double that of the number of regular migrants provided that the cumulative volume of Ethiopians who have been arriving in Yemen ever since 2006- 2014 which counted 334,000 migrants whose whereabouts are not known yet.³⁵⁸

3.5.2.The Situation of Ethiopian Migrant Workers in Saudi

As it has clearly been mentioned under section 3.3 of this chapter working and living conditions in Saudi is almost like hell for most of migrant workers especially for temporary and domestic workers engaged in unregulated private sectors. It is highly associated with pervasive labor and human rights violations including physical confinement in households, physical, verbal, psychological and sexual abuses by employers and police officers are every day experiences of Ethiopian migrant workers especially in the domestic fields. This section describes the common complaints of labor and other physical and sexual abuses and exploitations experienced by Ethiopian migrant workers obtained from Saudi returnees of 2013.

3.5.2.1. Confiscation of Identity Documents

"You go legal, but they snatch your passport and then you're illegal. This is the worst outcome of kafala. That is a big problem. Please help us".

Malefia Kebede, Saudi Returnee, interview on 18 Feb 2015

One of the major intrinsic elements of the kafala recruitment practice pertaining migrant workers is bequeathing unlimited power to the employers to confiscate their identity documents to prevent workers run away from the household of the sponsor. The confiscation of passports is routine practice among low-paid migrant workers in Saudi Arabia.³⁵⁹ All of the workers who traveled by PEAs interviewed by the researcher revealed that they all surrendered their passports, necessary credentials and even mobile phones to their sponsors up on arrival of Saudi.³⁶⁰ Their passports had been confiscated by their employers upon arrival and domestic workers themselves presumed the practice so as to be legal.³⁶¹ Moreover; employers also used residence permits as a

³⁵⁸United Nations High Commissioner for Refugees, Global Appeal 2014-2015. Geneva: United Nations High Commissioner for Refugees.(2013)

³⁵⁹ Focus Group Discussions with Returnees at Addis Ababa who processed through PEAs on 18Feb 2015 and 21Feb2015.

³⁶⁰ Ibid.

³⁶¹ Ibid.

tool to control migrant workers and prevent them from running away.³⁶² Migrant workers complained that their sponsors had refused to give them residence permits, or delayed giving them for months. Migrant workers without a residence permit cannot work legally, or move freely, and may not be admitted to hospitals for medical treatment and they can even be arrested if they are found without even they are humiliated.³⁶³ As one Saudi judge of labor court interestingly described the importance of Identity Documents for workers in domestic and temporary sectors in Saudi under the yolk of *Kafala* recruitment system as:³⁶⁴

“In court, I ask the sponsor: Can I take away your hand, your body, your hair? No. The passport is like a piece of your body. It belongs to every human being and you cannot take it away from them. When I order a sponsor to hand back the passport to an employee, I make a point of not having the sponsor give the passport to me so that I would hand it back to the worker. No. The sponsor has to understand that it is the worker’s right to have the passport even without the court interference. He has to give it back to the worker himself.” Since, it means the whole thing for the worker, its life and source of legality in his/her day to day interactions.

3.5.2.2. Labor Rights Violations

Common problems reported by returnees interviewed for this study included: excessive working hours; wages lower than the stipulated salary; and failure to provide promised leave days or food and accommodation.³⁶⁵ Workers also reported that their employers failed to provide them with medical services when they were sick and injured, or refused to reimburse medical expenses in violation of as had been promised in the contract.³⁶⁶ In most cases, the employer simply did not abide by the terms of the contract signed in Ethiopia by the agents but in some cases workers reported substitution of the contract with an entirely new agreement upon arrival in the Saudi Arabia.³⁶⁷ However; Ethiopian migrants compelled to work regardless of the conditions because of the debt they owed in Ethiopia.³⁶⁸ Such labor violations as portrayed by victim returnees involve: unpaid or under payment of wages, over work, will be discussed here in under.

³⁶² Amnesty International Report Saudi(2014) *Exploited Dreams: Dispatches from Indian Migrant Workers in Saudi Arabia* p.48.

³⁶³ Ibid.

³⁶⁴ Ibid.p.50.

³⁶⁵ Individuals who travelled to Saudi through legal channels concluding contact and approved by MoLSA verified the fact that their contract has not been respected.

³⁶⁶ Ibid.

³⁶⁷ Interview with Haimanot Girma 18Feb2015

³⁶⁸ Ibid.

Unpaid Wages

The returnee interviewed by the researcher reported facing problems with wage payments – including wages being arbitrarily deducted, underpayment, late payment and even non-payment.³⁶⁹ In some cases, migrant workers said they were not paid in months, or were not paid at all, and were told by their employers to continue working if they wanted to be paid some day.³⁷⁰ Migrant workers, when they begin their jobs, are usually burdened by the debt they have accumulated to buy their visas, and can also face the additional burden of being expected to support their families in Ethiopia. Leila Mohammed experience explains that she had returned to Ethiopia empty handed after working as a housemaid in Saudi Arabia for nearly two years. Her employer made her clean several houses and cook, but when she complained, her salary was refused.³⁷¹

"They took my money, so that I have nothing to pay my loan back for the visa processes, I do not know how could I see the eyes of my families with empty hands that is why I did not go to my families to Arssi. They didn't even give me food to eat. I didn't get enough sleep because I used to work in many places all the time".

Over work

For many Ethiopian Domestic workers over work is their day to day experience in Saudi. They were forced to work from early morning until well into the night, with no days off, having little or no rest and are often eaten rotten or poor quality food or not at all.³⁷² Migrant workers told the researcher that they worked for hours much in excess of the eight hour maximum prescribed under the employment contract 8 hours per day.³⁷³ Some workers said they used to work between 15 to 18 hours a day which severely affected their health but were not paid or were underpaid for their overtime work.³⁷⁴ Some of the workers interviewed by the researcher also said that they were made to work on all seven days of the week without a day's rest.³⁷⁵ After they are tiered of the work load for many Ethiopian domestic workers there is no favorable place to sleep. They could be forced to sleep in store-rooms, cupboards and utility rooms where they

³⁶⁹ Interview with Sultan Kedir on 18Feb2015.

³⁷⁰ Ibid.

³⁷¹ Interview with Leila Mohammed, 15 Jan 2015

³⁷² Interview with Tayachew Assefa, 15 Jan 2015

³⁷³ All workers in the first and second focus groups interviewed by the researcher testified the fact that they used to work up to 18 hours per day even 24 hours some times.

³⁷⁴ Ibid.

³⁷⁵ Interview with Neima Abera, on 18Feb2015

are acutely vulnerable to sexual abuse. Kedijja's Experience of the over work in contravention of the maximum 8 hours stipulated in the contract contends that:³⁷⁶

"I was expecting a very good life, I thought I would get a decent job and would get paid well and would come back to Ethiopia with money and support my family," she said, I was working till I completely exhausted and fainted. I used to clean two story homes of my sponsor and their two families. Kedija further said that she was thrown on the street when she complained of her workload, and was soon after picked up by police. "At the jail, I saw people who were there for five months or a year, some committed suicide, and some went crazy. The treatment was really harsh," she said. I have not finished paying the money I borrowed," said Kedija, referring to a loan she took to pay her way to Saudi Arabia." If the business I am engaged is not successful I would like to go again to pay back my loan back and to support my families.

3.5.2.3. Other Physical and Sexual Harm

Female migrants who worked in private homes were particularly vulnerable to abuse by their employers and were unable to get help from friends and co-workers because of their isolation.³⁷⁷

The male migrant workers interviewed for this research primarily described experiencing labor law violations while most female workers reported verbal, sexual and physical abuse at the hands of their employers and Saudi police officers in detention centers.³⁷⁸

Lidia in her short term stay experienced different kinds of violence. Her stay in Saudi Arabia, as she described it, is staying "hell on Earth." Her employer was very cruel woman who, slapped, punched her every day and she requires her to perform household duties almost twenty four hours a day.³⁷⁹ She was never got her salary during her stay for 8 months she was denied her food and never allowed to contact her family.³⁸⁰ The worst thing happened when her employer torched her with electric cables and threw boiling oil on her hand which resulted in severe wound and physical damages.³⁸¹ She was not entitled to get medical treatment and on her dismay she run away across the street following her foots having no hiding place or someone she may new to shelter.³⁸² Finally, she had fallen under the *mercy less* hand of police officers they detained her

³⁷⁶ Interview with Kedija Tahir, on 21Feb2015

³⁷⁷ Amnesty International Supra note, 362, p.48.

³⁷⁸ In fact, according to respondents in Addis Ababa working with Ethiopian returnees (Agar and Good Samaritan Associations) most Ethiopian women have been sexually abused in Saudi Arabia while they came to rehabilitate. Often this occurred in the private sphere of the houses they were working in as domestic workers.

³⁷⁹ Interview with Lidya Asmelash on 21Feb, 2015.

³⁸⁰ Ibid.

³⁸¹ Ibid.

³⁸² Ibid.

in prison for four months time till her deportation in 2013. She described her situations in detention centers as:³⁸³

“When I tried to escape from my employer the police caught me and threw me in horrible prison center. I spent approximately four months in prison till I deported which was horrific, there were many Ethiopians; most of them psychologically traumatized and raped. There were raped Ethiopians; one girl was raped by four men and had severe physical problem. The police themselves take girls saying forensic check is required but it is just to rape them in turn. The police officers even were mocking on us saying ‘call your idiots embassy personnel’ and begged to rescue you-- we are Saudi. No one was our savior, no agent, no civil society; no government has had to care for us. They are right somehow they are Saudi. We are forgotten.”

On this point Amira has also touching story with regard to her unhappy situations as victim of physical and sexual abuses:³⁸⁴

“One night everybody had gone out, to visit family, the madam told me to clean the ground floor where my male employer lives. When I was on that floor, there was nobody else there, and he was there naked. He boxed me when I tried to resist him. He pushed me dropped me on the floor. Then, carried me to the bed, and raped me. Finally, he warned me to take my life away should I tell to his wife.

3.5.3. The Situation of Ethiopian Migrant Workers during the Mass Deportation Raid

3.5.3.1. Overview of the Whole Deportation Process

Following the changes in the Kingdom of Saudi Arabia foreign workers legislation, the government crackdown on what it called illegal migrants.³⁸⁵ On 4th November 2013 Saudi police instructed irregular migrants to “surrender” themselves at detention camps in Riyadh until they could be deported after the expiry of the grace period for regularization.³⁸⁶ Following the previous police raid, workers of African origin mainly Ethiopian were highly impacted.³⁸⁷

After the expiry of the Amnesty period along with the Ethiopian origins’ strong resistance against the act of mass deportation, the Saudi government has embarked its unprecedented campaign of mass deportation against Ethiopian migrant workers in the 21st Century. In fact the 2013 migration crackdown in Saudi Arabia, has unearthed and plethora of poisonous practices, racism, hatred, abusive act that prevalent in the country. The violence melted out by security

³⁸³ Ibid.

³⁸⁴ Interview with Amira Yasin on 21Feb,2015

³⁸⁵ IOM Newsletter (2013) The Migrant on Post Arrival Assistance to Ethiopian Returnees volume 5 Issue, p.7

³⁸⁶ Ibid.

³⁸⁷ Ibid.

personnel, civilian gangs on the city streets that have revealed publicly the level of miss treatment suffered by thousands of domestic workers hidden from view, trapped and enslaved.³⁸⁸ The deportation had been committed by police officers, and civilian mobs that armed with weapons, sticks, swords, machetes, and firearms that had been allowed and encouraged by the authorities and state Medias to attack, murder, and rape innocent Ethiopians. As Returnees interviewed by the researcher witnessed men and women have been dragged through the streets, beaten, raped and dozens have been killed and robbed.³⁸⁹

The mass deportation of the migrant workers was unprecedented, especially considering the number of migrants deported in a short period of time and the dire situation some returnees were during the transportation phase.³⁹⁰ Returnees had gone through some serious human rights violations and abuses which, for some, reached lethal stages.³⁹¹

First and foremost, the government of Saudi has never invoked a pressing national security reasons to justify its act of mass deportation against Ethiopian migrant workers. Even so, the Saudi government carried out its mass deportation without any regard to the difficulty of accomplishing orderly deportation complying with the aforementioned substantive as well as procedural safeguards enshrined under international human rights laws while resorted to detain large number of people and deport them in the manner that were both inhumane as well as undignified. The decision to deport all irregular migrants or illegal workers results in the collective expulsion and deportation of more than 163,018 people men women and un accompanied minors within four months time as shown under table one here in below.³⁹²

The implications of such type of expulsion were above all led into the detention of people in inhumane Centers, without proper food and water and medical treatments. Moreover, it also gave rise to massive abuses during detentions as well as during the deportation process. Secondly, the collective deportation itself, did not regard to the needs and questions of individuals which among the deportees might have legitimate grounds to be exempted from the decision. Nonetheless, this was not the case, rather the whole process brought a definite situation which

³⁸⁸ Human Rights Watch, *supra* note, 279

³⁸⁹ Ibid.

³⁹⁰ Ibid.

³⁹¹ Interview with Abreham Tamirat, *supra* note, 233

³⁹² IOM News Letter *Supra* note 385, p. 10. See also, ILO Report(2014), Domestic Workers in Action, see the hyperlink , http://www.ilo.org/beirut/projects/WCMS_226943/lang--en/index.htm, (last visited 06Aug.2014)

led into the collective detention of pregnant women, breastfeeding mothers, children, sick people and elderly in the same manner adults were deported.

Table 1. The Number of Deported Ethiopians

Male	Female	Children	Unaccompanied Minor	Total
100,688	53,732	8,084	514	163,018

3.5.3.2. Types of Abuses and Human Rights Violations Committed against Ethiopian Migrant Workers

Inhuman Detention Centers

“The police officers found me on the streets during the crackdown and gave me medicine. I didn’t know what they gave me. They slept with me, and raped me the whole night. And now I am victim of Fistula.”

A 15 years old Anonymous Returnee in Agar Rehabilitation Center

As the Ethiopian government declared during the time of the unprecedented deportation campaigning that there were 64 detention centers holding Ethiopian irregular migrants in Saudi Arabia which were the cages of various types of human rights violations and countless abuses. Countless Ethiopian nationals were gang raped by the police, security officers and other civilians under the supervision of the police.³⁹³ Beside, prevalent rape in the detention centers also contributed to different types of abuses physical and other abuses.³⁹⁴ One of which includes, inducement of sexual intercourse in exchange for food and water as many of the Centers were not providing sufficient supplies.³⁹⁵ The supply of food and water were used as a gamble for sexual intercourse. Due to the urgent needs for the Saudis to get rid of migrant workers from their country, they put lots of people in different places, some in Centers which may be referred as detention centers at least because the Centers provide shelters, but the rest were in vehicles and some just in outskirt areas, simply in deserts.³⁹⁶ Nonetheless, the situations of the shelters were in fact inhuman because the Centers were made to take in as much people as possible, as the result they became overcrowded without enough air to breath, no place to sleep and no specific places for sanitation.³⁹⁷ According to health professional testimonies almost all of the detainees in these places were suffer, serious of upper trachea infections which were also

³⁹³ Ethiopian Human Rights Commission (EHRC) Monitoring Report on the Treatment Ethiopians Deported From Saudi Arabia Regarding their Human Rights (2013), Unpublished, pp. 8-13

³⁹⁴ “Most common were sexual abuse and fractures”. IOM health worker in A.A Interview with Anonymous respondent, on 01Jan2015

³⁹⁵ EHRC, Supra note, 393, p.11

³⁹⁶ Ibid.

³⁹⁷ Both Focus Group discussions reveal the facts of the dire situations of the detention centers.

contagious from one person to another, particularly fast when many were suffocated in small rooms.³⁹⁸

Moreover, the infection also caused weakening of the body, which was seriously aggravated with lack of sufficient food and water.³⁹⁹ The others who were made to stay in vehicles were forced to sit for days without any movement, sanitations and of course without enough food and water.⁴⁰⁰ As a result, many of these people suffered from body swellings (mostly swelled feet) due to lack of proper blood circulations. Unlike these forms of detentions, many people were forced to stay in deserts, often outside of cities while the police were keeping an eye on them.⁴⁰¹ Here, the detention became even worse due to the weather condition which was extremely hot during the day and temperature falling at night.⁴⁰² The limited supply of food and water, were distributed as the guards throw it against people, causing serious chaos and in totally undignified manner.⁴⁰³ Akins to this inhuman deportation camp of Saudi government Shamssias has horrible experience on the hostile situations of the detention centers she explained to the researcher as:⁴⁰⁴

“I surrendered myself to the police officers believing that the Ethiopian government and its Embassy would send me to Ethiopia within three days. However, the promise was false; we stayed for a month in the jungle, slept on meadow without enough food and medications. The weather conditions were harsh; it was too hot during the day and the steam during night was irresistible. There were 5 women with a month aged children with us believing that they would come back to Ethiopia as promised forthwith. But when the time prolonged their children could not cope with the weather conditions up without food, and sanitations then their face became disfigured. There was no one who could give them any food and medical treatments though we cried for them consequently; they passed away. I remember that their mothers were unable to consol from their bitter grief. However: the Saudi police officers were ridiculed at their grief. In detention centers four Ethiopian men were shot and killed by the officers and there were large numbers of women and men with scar, broken hands and legs , frequently raped women and insane. Sadly, there was no one by our side to stop the animalistic barbarism of the Saudi government when we suffered those atrocities.”

Torture, Degrading and Inhuman Treatments

³⁹⁸ Anonymous respondent supra note, 394

³⁹⁹ Ibid.

⁴⁰⁰ Interview with Neima supra note 375

⁴⁰¹ Interview with Haimanot Girma, Supra note 367

⁴⁰² Ibid.

⁴⁰³ Interview with Shemsia Mohammed on 18 Feb2015

⁴⁰⁴ Ibid.

Torture, degrading and other forms of inhumane treatments were the other common violation committed against Ethiopian in Saudi. Starting from the early of nationwide hunt for Ethiopian migrants, up to the detention and the deportation, many Ethiopians have suffered from such ill treatments. Almost everyone including pregnant women, children, sick people, elderly and of course poor people became the victim of several acts.⁴⁰⁵ These includes, indecent push and pull, dragged, chased after with the treat of serious punishment, some thrown out of buildings, hand cuffed like a criminal for long time, stripped of their clothes, beaten by rifle butts, cut with knife, beaten by sticks, ropes, belts, slapped, punched, spitted at, kicked, flashed with boiled water, banged against the wall, forced to kneel for long time, denied of food and water and equally treated with all the possible forms of torture, degrading and other forms of inhumane treatment.⁴⁰⁶

According to the Ethiopian Human Rights Commission observation at the Air port and its monitoring report conducted through observation of various centers and interviewing of medical professionals and other concerned individuals on various centers that have been established to provide medical and other treatments, many that faced such horrible inhuman acts, were deported with physical evidences that was visible on their body.⁴⁰⁷ Bruised body, body parts covered with scars, knife cuts, dislocated fingers, serious harm to internal organs and several other physical evidences were witnessed.⁴⁰⁸

The torture was chiefly committed in detention centers and on the ways to the detention centers, many of the acts were committed by members of the police and security officers.⁴⁰⁹ However, due to the State's propaganda which inflamed individuals to actively route out migrants out of the country, many civilians also took part in abusing Ethiopians while they were at home, hiding and even in the streets. Several people were physically attacked in angry mobs.⁴¹⁰

⁴⁰⁵ EHRC, supra note 393pp.11-12.

⁴⁰⁶ Ibid.

⁴⁰⁷ Ibid.

⁴⁰⁸ Ibid.

⁴⁰⁹ Interview with Ephrem W/Michel on 21Feb/2015

⁴¹⁰ Human Rights Watch Saudi crack down, Supra note 279 p.2

As The RMMS consultant visited one of the IOM transit centers in Addis Ababa and also reported that:⁴¹¹

“There were 800 returnees in the building majority of them were rural young men from North East of Ethiopia. Among whom some of the returnees told their stories. One man broke his leg, when he was attacked by thieves in KSA. One girl was thrown out of the window by her Saudi employer and broke two legs. Another man reports suspicion of organ theft: “He was a healthy guy, 20 years old. Then he woke up in a hospital in Saudi Arabia, remembers nothing but with large scar along the belly and chest with severe pain.”

Serious Attacks against Private Properties

Similarly such highly red-looking national passion caused a serious campaign by both the state agents and by civilians against the private properties of migrants. Many Ethiopians especially women were kicked out their employment places without their wages; even some cruel people took away the private properties including cloths and personal items from the migrants. There were more than 20 males had been arrived bare foot.⁴¹² Civilians had conducted widespread campaigns to confiscate the properties, money, jewelries and other personal items of migrants, often going house to house.⁴¹³ Similarly, the police and security officers were active in taking away properties, sometimes even women’s purses.⁴¹⁴

Apart from facing the worst nightmare of many Ethiopians, in detention and deportation, losing their property which they have earned from abusive work conditions is seriously a great pain to all that cause mental insatiability on the majority of the returnees.⁴¹⁵ Even during deportation, the Saudi started to stockpile people into planes first without any regard to luggage, which often came in the next flight or second day.⁴¹⁶ In addition to this, many luggage were sent without name tags. When the luggage arrived, those which did not have name tags were hard to be claimed by the right owner, at least without tedious process of remembering things they packed as they were asked by people here at the airport.⁴¹⁷

⁴¹¹ The Letter of the Law supra note, 24 p.70

⁴¹² IOM News Letter (2013) Supra note 385,p.9

⁴¹³ Human Rights Watch, Saudi crack down supra note, 388.p.2

⁴¹⁴ Ibid.

⁴¹⁵ Interview with Michel Hareg, supranote,237

⁴¹⁶ IOM News Letter supra note,385p.10

⁴¹⁷ Ibid.

As the 17 years old Halima Abdella witnessed the fact that she was deported while she was terribly sick with empty hands as:⁴¹⁸

“I was terribly sick while they took me from the house when they wanted to send me back to my country, but I refused because I was afraid they would take me to the police. Then they just left me alone in the middle of the road. The police took me to horrible camp suffocated with inconsiderate number of Ethiopians. All my belongings were still with the family in Saudi Arabia and I came back home alone without my cloth, salary and any properties”.

Furthermore; as one of the interviewee Ephrem W/michel, who worked in Saudi as a driver for four years with a dream to help himself and his families but ended up with exploited dreams. He enunciated his entire pain, his working situations and the deportation scene in his words:⁴¹⁹

“I was a first year University Student when I dropped it and migrated due to financial problems. I have encountered unforgettable suffering and pain while travelling to Saudi crossing whistling sandy dessert of Yemen without food and water day and nights on foot with traffickers. It was my dream to survive myself and my families from hunger and severe economic problems. I have worked in Saudi for four years as a driver in a place where the crackdown has been fuelled “Menffuae.” I was at work during the crackdown begun and when I got back to home, it was broken and all my properties have been pillaged by the civilians. They left me nothing except the clothes in it. After a month stay in suffocated detention center without food and water with sicked and insane people, I got deported in vain.”

Indiscriminate Detention and Deportation of Pregnant Women, Breast-feeding Mothers and Children

As it is known, internationally pregnant women in the last three months of pregnancy are prohibited to fly for medical reasons to the health of the mother and to the unborn baby.⁴²⁰ Contrary to this, the Saudi government deported many pregnant women even when they are medically and legally prohibited to do so. As legal professional of IOM informed to the researcher that 51 women were delivered as soon as they arrived at IOM rehabilitation center around Gerji.⁴²¹ Similar to this, many women were deported without any special treatment right after they had just gave birth to babies, some even within a week time.⁴²² Moreover, some

⁴¹⁸ Interview with Halima Abdella on 18Feb2015

⁴¹⁹ Interview with Said Shemmsu on 21Feb,2015

⁴²⁰ EHRC, supra note 393,p.13

⁴²¹ Anonymous Health worker at IOM on 01Jan2015

⁴²² Ibid.

security officials at different places ordered the women to put their babies' milk, food and sanitation products inside luggage, denying them to look after their babies during hours of flight.

⁴²³Since most luggage come late, almost all mothers and babies did not have milk, food and sanitation products when they arrive at Bole international airports.⁴²⁴

In addition, close to six thousand children found in every age were the subject of such humiliating detention and deportation.⁴²⁵ These children were kept in detention centers with adults contrary to universal principles that they should be detained in separate rooms from adults.⁴²⁶ These children were neither treated as they should nor did they receive any special treatments as they must. Eventually they got deported in the same way as the remaining adults were.⁴²⁷ The only difference was as to the matter of time as they were detained for a shorter time. In equally serious circumstances, more than a hundred of children were detained and deported even when they were unaccompanied minors without any family member or legal guardian to look after them during such horrible experience.⁴²⁸

Commission of Murder

Along with the aforesaid gross human rights violation Ethiopia government Ministry of Foreign Affairs claimed that three of its citizens were killed in clashes with police as migrants prepared to be sent home.⁴²⁹ However; interviewed returnees contended that the number of dead Ethiopians reached to more than twelve.⁴³⁰

To wrap up, whilst the hospitality of returnees along with international NGO organizations, local NGO's and other concerned governmental institutions were the first remarkable achievement of the government of Ethiopia which must be praised in assisting each and every returnee, medically, materially and to provide personal comforts, another also equally important issue, that ought to be given adequate attentions was that the human rights situations of such a large number

⁴²³ Interview with Esete Birle at EHRC chief monitoring expert, on 20Jan2015

⁴²⁴ Ibid.

⁴²⁵ Ibid.

⁴²⁶ Ibid.

⁴²⁷ Interview with Mesfin Alemeneh chief Expert on Women and Children Rights at ministry of Women Youth and Children Affairs, on 02Feb2015

⁴²⁸ Ibid.

⁴²⁹ BBC. (2013). Ethiopians 'surrender' in Saudi after clamp down Available: <http://www.bbc.co.uk/news/world-africa-24938570>. Accessed 13 December 2013. Ministry of Foreign Affairs Tewodros Adhanom on Tadias Megazin, p.6

⁴³⁰ Returnees in the focus group reported that the number of Ethiopian shot and killed reaches more than 12 both on the streets and various detention centers.

of people. Sadly, it was entirely forgotten by the governmental and nongovernmental actors to redress these unearthed mistreatment and violations. Especially, when one considers the pervasive nature of abuses, violence and violations committed against so many of our citizens, the absence of a devoted party to conduct proper investigation on the matters is indeed an unfortunate failure on the part of Ethiopian government along with other concerned international human rights actors. The Ethiopia government has had a number of opportunities to seek redressing mechanisms and bring the issue at the international arena. Regretfully, it has not been worried to exercise on behalf of its nationals to date.

For example, the United Nations Human Rights Council (UNHRC) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) could be the venues to lodge its complaints for the government and pressurizes to bring the perpetrators before justice.⁴³¹

The Ethiopian government ought to lodge a complaint and request an investigation and intervention on behalf of its citizens. OHCHR has the mandate to “respond to serious violations of human rights” like the case at hand and “undertaking of preventive human rights actions” among other core purposes rather than asking the Saudi regime ‘which is the moral offender for the crime’ to initiate an investigation and to render justice.⁴³² Such work, even if it does not provide justice to individual victims as such, it is fundamental to bring the facts to the international community so that it will be serve as a jurisprudence to combat similar abuses will never happen in the future. Regretfully, Saudi returnees who are victims of the afore said gross human rights violations left alone without material, psychological and social support to date in exchange of maintaining the Ethiopian government’s diplomatic relationship with Saudi government.

In conclusion, although the kingdom of Saudi Arabia has ratified a number of international instruments as a member of UN and ILO and enacted a number of national laws relevant to protection of migrant workers including Ethiopian; as mentioned earlier they are dead black letters having no practical significance for demands of migrant workers in the kingdom. The working and living conditions of migrant workers including Ethiopian migrants are shocking to

⁴³¹UN Human Rights Council Commission of Inquiry, has the mandate to investigate such violations See, Academy of International Humanitarian Law and Human Rights, brief on mandates and responsibilities of The UN Human Rights Council: Commissions of Inquiry, Geneva,(2011)

⁴³²Ibid.

human conscience. Which are characterized by countless atrocities and brutal human rights breaches and violations accompanied by forced labor and servitudes in this 21st Century with no redressing mechanisms. Especially, Ethiopian migrant workers are highly vulnerable to abuse and exploitations due to nonexistent of effective protection mechanisms furnished by the Saudi government as well as in the absence of compliance to its national and international normative commitments on the part of the Ethiopia government to cover the shortfalls instead. As a result, they are severely victims of the gross human rights violations during their stay and while deportation as this chapter explicates as “*a herd of sheep having no shepherd.*”

Therefore; in order to address all these exigencies, the subsequent chapter will scrutinize the implementations and practical gaps of the legal, institutional frameworks of the human rights protection system throughout the three phases of the oversea deployment processes with the need to pinpointing the challenges and forward possible recommendations to maximize the ultimate efforts of protections of the Ethiopian government to its citizens in the due course.

Chapter Four

4. An appraisal of the Practice of Ethiopian Human Rights protection and Assistance Mechanisms Pertaining Migrant Workers of Saudi Arabia

Introduction

In order to curb the afore mentioned gross human and labor rights abuses and exploitations against Ethiopian migrant workers to Saudi and to accord protection to their, safety, dignity and rights call for the government's strong commitments and interventions at all stages of the labor migration process, from the decision to travel abroad, throughout the worker's stay in the country as well as through repatriation and reintegration. Therefore, this chapter presents the practical implementations and enforcements of the policy and legal machineries pertaining migrant workers to Saudi Arabia. Moreover; it examines the practical operation of various governmental and private institutions, and NGOs in preventing and protecting the human and labor rights of Ethiopian migrant workers of Saudi Arabia throughout the three phases of the migration spans.

Depending on the data gathered during the field work through interviews, focus group discussions, observations and the data obtained from official reports of concerned government organs, the gaps and limitations of the existing Ethiopian human rights protection system pertaining migrant workers in light of best practices of protection mechanisms of other labor sending countries will be scrutinized. The data utilized under this chapter were obtained from the 2013 returnees from Saudi Arabia who are organized in different business centers in small and micro business enterprises in Addis Ababa and rehabilitees' victims, concerned government and nongovernmental officials and private actors linked with the protection of human rights of Saudi Immigrants.

4.1. The Government Preventive Mechanisms

4.1.1. Pre Departure Orientations and Trainings

Pre-departure program is a part of the whole cycle of migration and are designed to reduce the vulnerability of migrant workers and to enable them to maximize benefits from overseas employment. It is the first phase of the migration protection scheme begins with. The premise of pre departure trainings serves dual purposes first, it implicates that the protection of migrants begins at home; second such information builds a foundation for migrant empowerment and

protection.⁴³³ Hence, with pre departure training and orientations programs migrants need to be educated about their rights. They would be capacitated to learn how to demand for the application of those rights. They must learn when and how to invoke those rights, especially when they get exposed to abject conditions. They must be informed about the terms of their contracts and where they can seek redress if needed. They must be well trained in skills necessary to the employment sectors they will be engaged in the oversea, the languages and cultural and religious norms and settings. Such skill training and orientation help to prevent the occurrence of conflict between employers and the workers which may result in multifaceted violations on the one hand and it enables the workers to demand their rights in case of the violations on the other.⁴³⁴

The government of Ethiopia makes efforts to furnish information on labor migration and the dangers of illegal recruitment to migrant in order to prevent its citizens from possible harms and violations through its pre departure training programs.⁴³⁵ Accordingly, MoLSA is under mandated obligations to provide per-employment and pre-travel counseling to citizens about the country of their deployment.⁴³⁶ Consequently, it used to provide a brief highlight regarding the legal rights and the contents and terms of employment contracts, the nature of the domestic work and the culture of employers, and information of whom to contact in case of any problems.⁴³⁷ A film was also included in the orientation to make the labor migrants visualize what the situation looks like in advance and adjust themselves. The orientation is important in at least providing a kind of introduction of what the domestic workers will be facing; however there are lots of limitations that could obstacle the effort. First, it has been only focus on only domestic workers by disregarding other vulnerable temporary workers and the orientation has been given only for three hours.⁴³⁸ So that, it is very hard to inculcate such orientations especially in the minds of individuals having different back grounds and most of them are illiterates- school dropouts belong to rural countries. Second, it is not comprehensive enough to create awareness with this short period of time. Third, there are migrant workers belong to regions whose vernaculars are

⁴³³Maria Angela “Mayan” C. Villalla Good Practices for the Protection of Philippine Women Migrant Workers in Vulnerable Jobs .p.46

⁴³⁴Ibid.

⁴³⁵Interview with Meselech Assefa MoLSA Oversea Employment Contract Approval and Training Co-Ordinator, on 15Jan2015.

⁴³⁶Ibid.

⁴³⁷Ibid.

⁴³⁸Interview with Almwaw, supra note 349

different from Amharic where as the orientation is given only in the official language of the country, i.e. Amharic, leaves many who do not understand the language having no clue what has been said.⁴³⁹ Because of the general lack of skills of Ethiopian migrants, most respondents in Ethiopia see better pre-departure orientations and training of migrant workers as part of the solution to prevent abuse.⁴⁴⁰ This should ensure that migrants arrive with a certain set of basic skills. It is, however, reported that the MoLSA pre-departure training consists of three hours of one-way training (with no room for interaction), which is delivered in Amharic and has the potential to exclude migrants who speak other languages.⁴⁴¹ Migrant workers, PEAs and NGOs in Ethiopia have therefore argued that migrants should get at least 3 or 4 days of training (if possible more) in order for get them leave prepared.⁴⁴²

The Philippines Government pre- departure training experience could be best model to the government of Ethiopia with regard to pre departure orientations and skill trainings:

Philippine law mandates that Filipino domestic workers wishing to travel overseas obtain the National Certificate for Household Service Workers and other temporary works issued by the Technical Education and Skills Development Authority and attend a country-specific language and culture orientation carried out by Oversea Workers Well fare Agency without having participated in this pre departure training, workers are not cleared to leave the Philippines. The mandatory pre departure education program is implemented by OWWA and carried out by recruitment agencies, and industry associations free of charge. The program consists of two parts. The first part, a country-specific pre departure orientation seminar which is a whole day orientation to OFWs consisting of a comprehensive module on employment contract familiarization, profile of the country of destination, stages of the OFW's life, health and safety, airport procedures, government programs and services."The second part is a comprehensive pre departure education program that provides a "3- to 6-day live-out training for Household Service Workers (HSWs) consisting of language training, culture familiarization and stress management to prepare them for life overseas." It educates migrant workers on possible challenges they may face abroad; the laws, culture, and customs of the country they are traveling to; their rights and responsibilities under their employment contract; health and safety information, including HIV/AIDS information; financial literacy; OWWA services; it can be supplemented with a post arrival orientation seminar, to be held in the host country as well.

⁴³⁹ Ibid.

⁴⁴⁰ Returnees in both focus group discussion revealed the fact that they have had no as such knowledge and skill while the left for work

⁴⁴¹ Interview with Meselech supranote 435

⁴⁴² Both government officials at MoLSA and MOFA as well as PEAs and NGOs interviewed expressed their concerns for better pre departure trainings.

Source: ILO Decent Work for Domestic Worker 99th Series (2010)

4.1.2. Labor Market Information System

Another way to prevent migrant workers from trafficking and other problems in Saudi is through establishment of a labor market information system on jobs abroad. Article 36 of EEP imposes an obligation on MoLSA assign labor attachés in consultation with the Ministry of Foreign Affairs, as may be required, to ensure the protection of the rights, safety and dignity of workers deployed abroad.⁴⁴³ In addition to the protection of migrant workers, labor attachés are also expected to ascertain the financial capacity of an employer to hire workers; to check the documents and operations of overseas representatives of PEAs; to collect information on job opportunities abroad, visa and residence permit requirements, and labor legislations of destination countries; and to approve employment contracts.⁴⁴⁴ However, no labor attaché has been assigned so far to prevent the human rights of Ethiopian migrant workers to Saudi.⁴⁴⁵ As a result, as the Association of Ethiopia Oversea Recruitment president complains that the operations of their overseas representatives were not monitored, however MoLSA holds PEAs in Ethiopia fully accountable for the operations of overseas representatives, even though they do not have the authority to control and monitor the operations their overseas representatives without the government assistance.⁴⁴⁶ As a result large number of Ethiopian migrants worker are victims of gross human rights violations as mentioned in the previous chapter.

4.1.3. Employment and Vocational Training

Employment and vocational training policies and opportunities is another preventative intervention. Article 16 (2) (1) of EEP provides that the PEA ‘should ensure the worker has acquired the necessary skills for the intended employment abroad and to produce evidence to prove such fact.’⁴⁴⁷ Some domestic workers may be responsible for caring and assisting their employer’s children, assisting to the personal needs of the elderly, sweeping, cleaning, laundering, purchasing household supplies, preparing food, and performing other domestic duties.⁴⁴⁸ Some of these duties require the use of electrical applies and basic knowledge in Arabic or English language. However; the law does not put the vocational training in

⁴⁴³EEP, Art.36

⁴⁴⁴ Ibid.

⁴⁴⁵Interview with Almaw, supra note, 349

⁴⁴⁶Interview with, Solomon Melse Association of Ethiopia Over sea Recruitment president, 20Feb15Addis Ababa

⁴⁴⁷EEP, Art, (16)(21)

⁴⁴⁸ Interview with Meselech Supra note, 435

mandatory tone for oversea deployment, on the other spectrum there is no mechanisms and monitoring practice by the government whether the worker has acquired the basics for his/her employment by MoLSA.⁴⁴⁹ Moreover, most migrant domestic workers have been high school dropped outs and thus their knowledge in foreign language is limited, while others come from rural areas where the use of electrical application is not common.⁴⁵⁰ This lack of skills is reported to be the source of many conflicts between the employer and domestic worker, as the expectation of the employer may not be met despite the large amount of costs he/she paid for the visa, airfare and sponsor fees to hire the worker.⁴⁵¹ Even though some PEAs provide pre departure trainings most of them depend on written documents and video films for the training, they do not have the necessary equipment and items and centers to train migrant workers for the intended employment practically.⁴⁵² As the Ethiopian Overseas Recruitment Agency Association manager asserted at this juncture that:⁴⁵³

“Except few hours orientation that has been provided which is full of do’s and don’ts and informing the possibility of problems and inconveniences that migrants may face in Saudi, the migrants are not fully armed and practically trained to perform their intended work as per specified in the contract of employment. So that this is one of the major center of conflicts in between that held workers vulnerable to a number of abuses and ill treatments by their employers.”

Furthermore Hayat she was 16 when she went to Saudi Arabia with fake identity cards through “Hajji and Umra” pilgrims to work as a baby sister.⁴⁵⁴ However; the agent contacted her to a sponsor who required a servant having skill of cleaning and preparing foods. Her madam used to order to work 24/7 without rest periods cleaning 5 story apartments with ten families. Even so, her madam used to in conflict with because of her illiteracy how to cook Arab foods and how to use different electric equipments. As a result she denied her four months’ salary; she used to yell at her, slap her, denied her meal and pour dirt waters on her face till her run away.

4.1.4. Bilateral Labor Agreements

“You go legal, but they snatch your passport and residence permit then you’re illegal. This is the worst outcome of kafala.. That is a big problem. Please help us”

⁴⁴⁹Solomon, Supra 446

⁴⁵⁰ Nigussie, Supra,243

⁴⁵¹ Ibid.

⁴⁵² Almaw supra note,349

⁴⁵³ Solomon, supra 446

⁴⁵⁴ Interview with, Hayat Mohammed, on 18Feb2015

Malefia Kebede, Saudi Returnee, interview on 18 Feb 2015

Issues of jurisdiction play an important role in determining the level of protection of migrant workers. The legal framework of the country of origin applies only until the workers leave the home country and once they finish their employment abroad and come back.⁴⁵⁵ Therefore, the Ethiopian Proclamation 632/2009 is thus limited to regulating the pre departure period, including information-sharing and awareness-raising activities and to re-integration activities. It is also limited to regulate and monitor labor-recruiting agencies in Ethiopia while their counterparts reside abroad are exclusively under the jurisdiction of the laws of the host states far from the ambit of the proclamation.

Suffice here to say that, once Ethiopian workers start their employment in Saudi, their protection depends on the level guaranteed by Saudi Arabia. Although UN Convention on the Protection of Migrant Workers and their Families (1990) and ILO convention on Decent Work for Migrant Workers (C189) set high international standards for the rights of migrant workers irrespective of their status in host countries and domestic workers respectively; unfortunately as stated time and again neither Ethiopia nor Saudi is a party to the conventions and therefore, not bound by these.⁴⁵⁶

In the absence of ratification of UN Convention (CMW 1990) and (ILO C189) and in the nonexistence of adequate legal protections for temporary and domestic workers in Saudi legal system; bilateral agreement or a memorandum of understanding between the two countries can play indispensable role to ensure the protection of Ethiopian migrant workers in Saudi in lieu of.⁴⁵⁷ Therefore; problems of Ethiopian migrants like coated above could be solved through diplomatic protection which can only be activated by the state through bilateral interventions. Supporting this the promotion and Fund Raising Director of Agar Ethiopia asserted that :“At the global level especially in the Gulf, forging of bilateral and multilateral agreements with and among governments is essential for making life better for Ethiopian temporary and domestic

⁴⁵⁵ International Human Rights Clinic(2013) ,The Protection of the Rights of Migrant Domestic Workers in a Country of Origin and a Country of Destination: Case Studies of the Philippines and Kuwait,p.44

⁴⁵⁶ Both Ethiopia and Saudi have not ratified these conventions having a critical role for the protection of the rights of migrants throughout the migration processes, available at www.ilo.com List of ratification by countries follow the link conventions not ratified by Ethiopia and Saudi respectively. see supra note, 209

⁴⁵⁷ Simel Esim & Monica(eds. 2004) Gender and Migration in Arab states: the case of domestic workers,p.59.

workers.”⁴⁵⁸ However; some returnees afraid of even bilateral agreements could alleviate the deep rooted and prevalent xenophobia and culture of exploitations against Ethiopian migrant workers in Saudi provided that we are poor and illiterates most of them considered us cursed aliens not as human beings with inalienable rights.⁴⁵⁹

With this derive, article 39(2(c) of EEP authorizes the National Committee to undertake in studies with a view to concluding bilateral agreements with receiving countries where Ethiopian citizens have gone or may go on issues relating to employment and thereby establish conducive situation.⁴⁶⁰ Accordingly, Ethiopia has concluded the bilateral labor agreement with Quatar, kwait and Jordan .⁴⁶¹ Nevertheless: these agreements did not explicitly contain provisions to protect workers such as by outlining mandatory rest periods, including grounds for filing grievances, and prohibiting recruitment fees. Ethiopia is also under meticulous concession to conclude employment bilateral agreement with Saudi, Lebanon and U.A.E after six years of the enactment of the proclamation lately.⁴⁶² And its deal with Bahrain, Oman and Yemen is on pipe line.⁴⁶³ This seems the Ethiopia government wakes from its veil of ignorance up in order to shield its citizens from human and labor abuses and exploitations after hundreds of its citizens are dead, thousands are humiliated, and exploited in Gulf countries and Saudi Arabia eventually.

According to the MoFA representative Saudi has offered to take 2000 migrant workers yearly mainly domestic from Ethiopia since they are cheaper and compliant; despite the fact that, it has not come to conclude labor agreement yet in nut shell of its ‘*Sharia law*’ as a escaping goat to sign and by the period when the employment ban remains in operation.⁴⁶⁴ Surprisingly, Saudi has concluded landmark labor agreements with Sirilanka, Indonesia and Philippines in 2014.⁴⁶⁵

The agreement between these countries establishes the ability of labor sourcing migrant workers to hold on to their travel documents, change their employers, receive direct deposits of their salaries into their bank accounts, and be informed through clear,

⁴⁵⁸Nigussie, supra note, 243,

⁴⁵⁹ For instance Zelalem One of the respondents of Saudi Returnees expressed her opinion from her 16 years life experiences in Saudi, about the discrimination, and disrespect culture of Saudi nationals and employers against Ethiopian migrant workers in their jurisdiction.

⁴⁶⁰EEP, Art.39(2(c))

⁴⁶¹Interview with Tafa Tulu, MoFA Councilor Monitoring and Support Director on 16Jan15

⁴⁶²Ibid.

⁴⁶³Ibid.

⁴⁶⁴Ibid.

⁴⁶⁵Harris supra note, 101, p.50.

understandable language in their contracts of the type of facilities that will accompany the jobs they apply for. In February 2014, Saudi Arabia also signed a bilateral agreement with Indonesia agreeing to similar terms for Indonesian maids.

whilst bilateral agreements are certainly a step in the right course, they cannot effectively substitute for comprehensive change in and enforcement of domestic Saudi labor law.⁴⁶⁶ First, they do not encompass all migrant worker jobs in Saudi Arabia. Additionally, they do not effectively address the inability of migrant workers to access the justice system to report employer abuses, nor do they prevent withholding of wages.⁴⁶⁷ While they may make progress in some areas, these bilateral agreements significantly fail to demand accountability from the Saudi government.⁴⁶⁸ Even so, the effectiveness of these bilateral mechanisms depends not so much on how legally binding they are as how well they are implemented and enforced by Ethiopia and other contracting parties.

Although Ethiopia signs bilateral agreements with governments of destination countries, it may not have the necessary influencing power to enforce implementation of the agreements given uneven power in between that tends bilateral agreement weak. It is also meaningless to say that Ethiopia will not send our citizens to work in their countries since migrant workers reach there through various unofficial channels. Therefore to fill these pitfalls Ethiopia also should work hard that bilateral agreements should be negotiated within the framework of multilateral and regional agreements to create equal statuesque.⁴⁶⁹

4.1.5. Utilization of Model Employment Contract

Model employment contract is an essential tool to tune the relationships of the worker and employer to formal channel and to regulate the basic conditions of employment to prevent migrant workers from abuses and exploitations.⁴⁷⁰ This is particularly important, as most migrants are engaged in domestic and other degrading, unregulated sectors where employment contracts are considered worthless and are regularly assumed to be for an unlimited duration of time.⁴⁷¹ Accordingly, MoLSA has been prepared a tri-partite model

⁴⁶⁶Ibid.

⁴⁶⁷Ibid.

⁴⁶⁸Id.p.52

⁴⁶⁹ Ibid.

⁴⁷⁰ILO(2010), Decent work for domestic workers, p.18

⁴⁷¹Id.p.19

employment contract for Ethiopians who migrate through a PEA, which should be signed by the Employer agent, employee and the PEAs. The model contract is developed inspired on the minimum labor standards enshrined under the Ethiopian Labor Law Proclamation.

The employment contract should be authenticated by the Ethiopian mission in the country of destination and by MoLSA once they approve, the basic conditions set by the model employment contract are fulfilled.⁴⁷² The employment contract is prepared in three languages: Amharic, English and Arabic; and is signed in four copies, where the PEA, the employer, the employee and MoLSA get one copy for each.⁴⁷³ MoLSA has also set the minimum wage of migrant workers especially to domestic workers to be 250 dollars according to article 24 of EEP and under article 16 of the Directive though contradictory with the minimum wage under the model employment contract.⁴⁷⁴

PEAs argue that the basic conditions with regard to rest periods of domestic workers are unrealistic and usually end up creating misunderstanding between the employer and migrant worker, as most employers are not willing to give one month leave with full pay or one additional month salary in exchange.⁴⁷⁵ Although the model contract does not impose a mandatory limit on normal hours of work, representative of MoLSA reported they could not approve the contract unless the contract specifies that a regular working day is eight hours per day which is fancy without other enforcement mechanisms.⁴⁷⁶

However; it is unrealistic given the peculiar feature of the domestic work which need extended hours to satisfy the needs and demands of the employer and which could be the ground of a lot of arguments between the employer and the worker that tend to the poor migrants vulnerable to mistreatments and exploitations in lieu of. In similar fashion of other labor sending countries the practice of the Model Employment Contract is one of the remarkable initiatives of

⁴⁷²Interview with Meselech supra note 435.

⁴⁷³Ibid.

⁴⁷⁴EEP, Art.24 inter alia with Art.16 of MoLSA directive where as in practice the minimum salary that stipulated in model employment contract shows 180 \$ per month for prospective domestic worker which in conflict with the 250\$ minimum salary as per Art.16 of the directive.

⁴⁷⁵Interview with Andualem Demssie, manager at Wogdi Employment Agency ,16Jan15

⁴⁷⁶Meselech supra 435

MoLSA however in the eyes of migrant returnees it is mere black letters which is practically use less.⁴⁷⁷

Most of the basic conditions set in the contract are not respected by the employers and that representatives of PEAs in oversea do not always ensure that the terms are fully implemented to avoid alteration with the employer.⁴⁷⁸ Furthermore, since it has not been prepared with consultation of Saudi government and negotiation to give effect its enforcement before the justice machineries tends impossible due to jurisdictional issues. Another complaint by migrant workers is that even though the minimum wage for migrant workers is set to be US\$180 by MoLSA, in most cases they take less, in other instance the may be denied at all.⁴⁷⁹ The model contract provides that the wage should be paid at the beginning of each calendar month, under signed of receipt.⁴⁸⁰ However, problem of arrears of wages is one of the problems reported to be common both by migrant workers and PEAs. The model contract also addresses the issue of accommodation and living conditions, which are critical to domestic workers since they spend their time working and living in their employer's home.⁴⁸¹ Living and working in their employer's home has a major impact on migrant domestic workers' personal independence and mobility. The employer could also take advantage of this circumstance and use the provision of adequate accommodation and food as a leverage to control and abuse the domestic worker. Moreover; although the standard employment contract provisions look good on paper, in reality there is no mechanisms for its enforcement. As 3of the 17 interviewed returnees described to the researcher that their employers in Saudi forced them to sign another contract with less benefits or a lower salary when they reach in Saudi.⁴⁸² And they signed because they were already in Saudi and they have spent so much in placement and other fees just to get employment abroad. Many Ethiopian migrants will rather work for less pay compared to the rate stated in the contract than be forced to return to Ethiopia without earning at least the amount paid for placement and other fees.⁴⁸³ Interviews with MoFA and MoLSA also

⁴⁷⁷ Migrants who deployed through MoLSA in the focus group discussion informed that they have not paid them the 180 dollar or its equivalent per month, they had no breaks and work at least 18 hours per day.

⁴⁷⁸ Ibid.

⁴⁷⁹ Ibid.

⁴⁸⁰ Ibid.

⁴⁸¹ Ibid.

⁴⁸² Ibid.

⁴⁸³ Ibid.

indicated that the most commonly violated provision in the standard employment contract is the provision on payment of wages.⁴⁸⁴

Many employers not only refuse to pay the wage agreed upon but worse, refuse to pay wages for several months and years at all which result in the mental sickness for many Ethiopian returnees.⁴⁸⁵ Many employers also do not provide benefits such as paid days -off and medical insurance to Ethiopians although these benefits are stated in the contract.⁴⁸⁶ Adding said these Officials at MoFA and MoLSA admit that it is difficult to monitor the implementation of the standard employment contract due to the nonexistence of labor attaché position in Saudi and lack of effective councilor support given scarcity of resources and manpower of the government so far.⁴⁸⁷ Hence, it is palpable that the contract of employment is susceptible to be breached by the employers by the very reason that domestic work and other temporary works are excluded in Saudi legal system unless it is accompanied by bilateral labor agreement and effective monitoring for its enforcement by the government and other concerned organs. At this juncture the agreement between employers and Filipino migrant domestic workers with regard to model employment contracts appears better in providing for the workers as:

The Agreement between the Philippines and Qatar concerning the employment of Filipino human power requires the individual employment contract not only to be prepared in Arabic and English and to specify the basic employment conditions in conformity with the Qatari Labor Act (section 6), but also to indicate in detail the employer's obligations regarding the worker's accommodation (section 7). The contract, certified by the Department of Labor, must be verified and authenticated by the embassy or consulate. While the Arabic text of the employment contract is held to prevail (section 9), the employer may not introduce any change in the contract unless it improves the terms and conditions of service for the worker (section 8).

ILO (2010) Decent Work for Domestic Workers 99th Series.

4.1.6. Monitoring and Inspections of PEAs

One of the states obligations who are party to ILO convention, C181 involves establishing efficient legal and institutional frameworks to monitor and control PEAs with a need to prevent migrant workers from false promise, trafficking, clandestine abuses and exploitations by PEAs

⁴⁸⁴ Interview with Tekeste Ashenafi, Diplomatic Attaché at MOFA 18Oct15, and see also Almaw supranote, 349

⁴⁸⁵ Ibid.

⁴⁸⁶ Ibid.

⁴⁸⁷ Ibid.

and their representatives.⁴⁸⁸ So that effective monitoring of PEAs is a cornerstone task for labor sending countries to prevent their citizens from trafficking and exploitations. Therefore, Ethiopia as a party to ILO convention No. 181 governing PEAs bears an obligation to regulate and monitor PEAs under its jurisdiction. In view of that, it has designed its legislative as well as institutional frameworks in order to prevent its citizens from the fraudulent acts of thereof.⁴⁸⁹ Hence; MoLSA is under mandated obligation to monitor and inspect the PEAs. There are mainly four basic mechanisms whereby MoLSA exercises its mandates.⁴⁹⁰ First, through pre-license monitoring, MoLSA undertakes a thorough scrutiny of the documents and necessary credentials of the applicant to be prospective agent before the license are issued to vindicate the fact that whether the legal requirements for viability are fulfilled.⁴⁹¹ Second , the inspection of the PEAs without prior notice and examine relevant documents or make inquiries to make sure that the conformity of thereof with the requirements laid down under the proclamation.⁴⁹² Third, it undertakes appropriate investigations where it receives complaints as to the contravention of this proclamation or directives issued pursuant to this Proclamation by a private employment agency.⁴⁹³ Fourth, regular monitoring and inspection when PEAs approach them to renew their license every year as to their documents, the accessibility of the offices and the practices and efforts of PEAs to follow up the rights, dignity and safety of migrants deployed through them.⁴⁹⁴ Moreover, MoLSA is also under an obligation to ensure that whether private employment agencies' give orientations to workers to be deployed abroad on the general conditions of work and the situations they may encounter in countries of destinations.⁴⁹⁵ PEAs also in duty to submit regular report to MoLSA on the profile, number and employment conditions of migrant workers. They also have the duty to notify MoLSA if a migrant worker that they have deployed abroad has sustained a bodily injury or died.⁴⁹⁶

⁴⁸⁸ Tim Demayer(2013),*Good Practices Concerning Protection of Migrant Workers*, Applicable in Asian Countries, p.10.

⁴⁸⁹ For such end Ethiopia has promulgated proclamation No632/2009 which governs PEAs as well as defines powers and responsibilities of various institutions in relation to migrant workers.

⁴⁹⁰ EEP, Art.35

⁴⁹¹ Ibid.

⁴⁹² Ibid.

⁴⁹³ Ibid.

⁴⁹⁴ Ibid.

⁴⁹⁵ Ibid.

⁴⁹⁶ EEP, Art.16(2(k).

However, as discussed earlier, there are certain operations of PEAs that are not in line with EEP against which MoLSA has not taken timely measures. First and foremost the proclamation prohibits PEAs from receiving any kind of payment for the employment exchange service whereas as some returnees testified that they were requested and paid 3000-11000 Ethiopian birr to recruitment Agencies for the deployment to Saudi in contravene of Art.38 of the proclamation.⁴⁹⁷

The other gaps between the laws and the practice here is that the proclamation obliged PEAs to have oversea representative that may be in a position to follow up the dignity, safety and rights of the workers as pursuant to Art 7(f).⁴⁹⁸ However; according to the testimony of government officials most of the agencies fill out this requirement only to secure their licenses.⁴⁹⁹ Most of them engage in illegal deployment process either through trafficking under the shelter of their license or in other instances PEAs buy visas from Saudi diplomats who play as double agents and send workers to Saudi without contacting or having oversea representatives.⁵⁰⁰

The government identified that Saudi diplomats engaged in unofficial brokerage by selling Visas to PEAs without complying stringent Visa procedures by their personal capacities that aggravate the situations.⁵⁰¹ This act of the PEAs sending migrant workers without having a representative who may stand on workers behalf during controversy contributes for the commission of heinous abuses and violations against Ethiopian migrant workers in Saudi. The other disparity between the law and the practice involve the minimum age for deployment. Art 16 (2(a) of the proclamation sets 18 years to be minimum age for oversea employment and obliged PEAs from selecting individuals under the ages of 18.⁵⁰² While, it is usual to see those under age nationals who are still 14 are engaged in oversea employment and suffer shocking abuses in Saudi.⁵⁰³

MoLSA remains incapable to verify the identity and true ages of the migrants who are at majority with fake identity cards without uniform national Identification Card. Although, the

⁴⁹⁷ Interview with Shamsia, on 18Feb2015, Shamsia paid 7,000 to go to Jedah; Haimont also paid 5000 for the visa for PEAs licensed by MOLSA.

⁴⁹⁸ Tafa supranote, 461

⁴⁹⁹ Ibid.

⁵⁰⁰ Ibid.

⁵⁰¹ EEP, Art.16(2(a).

⁵⁰² Art 16 (2(a) EEP.

⁵⁰³ *For instance, Neima was only 14 years old when she left Addis Ababa before two years with fake ID. As the respondent informed to the research it was very hard to find job since she was kid in the first three and four months as a domestic helper. The researcher has also interviewed a 15 years of girl raped and victim to Fistula.*

government established the Office of Vital Records to implement the law requiring registration of all births nationwide in order to give response for the selection problem; however, the lack of a uniform national identification card continued to impede implementation of the law and allowed for the continued issuance of district-level identification cards that were subject to fraud.⁵⁰⁴

The other limitations that cripple the efforts of MoLSA from disposing its monitoring and inspection functions involve financial and man power limitations. As the senior expert of MoLSA informed to the researcher, there are at most 5 -6 inspectors in charge with monitoring and inspecting the adherence of 406 PEAs with the spirit of the proclamation. The inspectors have had no sufficient trainings and powers to use punitive measures upon identifying labor violations.⁵⁰⁵ All these incapacities of MoLSA have created golden opportunities to profit minded PEAs who have been engaged in import and export trade to Saudi to export innocent and poor Ethiopians like those commodities who export in the region. Suffice here to say that, according to the investigation conducted on PEAs following the 2013 Saudi mass deportation campaign against Ethiopian nationals revealed that among the 406 agencies who have been licensed to engage in the recruitment business only 6 of them were found relatively deploying workers legally, the rest categorized as entirely illegal, or deploying illegally under the cover of their legal license.⁵⁰⁶ Officials at MoLSA and MoFA have also acknowledged that licensed employment agencies were involved in facilitating both legal and illegal labor migration that forced the government to impose temporary ban on the legal emigration of low-skilled laborers and suspension of licenses of PEAs in October 2013.⁵⁰⁷

To wrap up, despite the fact that the proclamation puts a number of mechanisms to monitor and inspect PEAs to combat human trafficking and to safeguard the rights and dignity of Ethiopian migrant workers to Saudi, it has not automatically eradicated exploitation, violence, and abuses against migrant workers. This was among other things stated above mainly attributed to the fact that it applies only at the country level, whereas the main responsibility for exposing migrants to

⁵⁰⁴ US State Departments (2014), Ethiopia Office to Monitor and Combat Trafficking in Persons Ethiopia, p.10, (available at <http://www.state.gov/j/tip/rls/tiprpt/2014/index.htm>, (last visited on Dec052014)

⁵⁰⁵ A senior Expert for MoLSA, Ato Almaw Wassie, supra 349, informed the fact that there are only 5-6 experts in MoLSA this however impedes the effective monitoring and inspection roles of the institution.

⁵⁰⁶ Interview with Nigussie, supra note, 243

⁵⁰⁷ Representatives of both institutions admitted the fact that PEAs were highly involved in trafficking businesses in nutshell of their legal licenses which result in revocation of their licenses in 2013.

maltreatment lies with recruitment agencies that provide Ethiopian migrant workers with access to employment abroad. This means that some unscrupulous recruitment agencies located domestically are able to escape prosecution since maltreatment of the migrant workers recruited happens abroad allowing the recruitment agencies to distance themselves from the abuse.

4.2. Government Practices to Protection and Assistance of Migrant Workers

“The usual mistake of the government of Ethiopia is its belief in dead legislative letters and struggle to solve the problems here. It always worries in reforming black letters of the law without enforcing and implementing the existing one even within its available resources and efforts. Decorating the domestic laws does not have practical significance for sound protection of migrant workers in the jurisdiction of others as such. What the government should have to worry is that establishing effective protection mechanisms in the host states. Since the complaints are there, the victims are there, the perpetrators and employers are there, and the violations and the problems are mainly there not here in Ethiopia.”

Almaw Wassie on 10Jan2015 MoLSA Expert

Protection measures aim at providing support services to victims of exploitation and abuse and also to reduce the risk of secondary victimization by the same authorities that are entrusted to provide support. Considering the fact that most of the migrant domestic workers and other temporary workers engage in sectors no labor regulations and employment benefits with immediate and absolute control of the employers, protection measures should also ensure that future exploitation and abuse do not occur.⁵⁰⁸ As most of the abuse and exploitation occur in the destination countries the government protection policy should also focus on there. As noted above it is the Ethiopian government obligation to protect its nationals as it is a party to various human rights instruments as well as Vienna Convention on Consular Relations in country of employment as pursuant to Art. 5 of it.⁵⁰⁹ The most common measures to protect the safety of migrant workers include: the provision of temporary accommodation, rendering effective consular services and supporting migrant workers through labor attaché services which are the subject matter of this section.

⁵⁰⁸ IOM (2005) *Migration in Asia: Protection of Migrant Workers, Support Services and Enhancing Development Benefits*, p. 132.

⁵⁰⁹ Vienna Supra note, 208 under Art 5 thirteen functions of a council are listed including protecting in the receiving state the interests of the sending state and its nationals.

4.2.1. Protection through Temporary Accommodations

In Country of Employment when workers are abused, discriminated, distressed or mistreated run away from their employers. They usually seek shelter by fleeing to their in country embassy, or they turn to non-governmental organizations and church-based organizations.⁵¹⁰ These shelters accommodate runaways who encountered difficulties adjusting to the culture, nonpayment of wages, physical abuse, and other instances of exploitation.⁵¹¹ In order to protect these workers both the government of origin and the government of destinations establish temporary relief shelters to migrant workers. Saudi as a government of destination full of runaway migrant workers has opened two government manipulated temporary shelters to migrant workers though they are deplored for overcrowded and do not have favorable conditions.⁵¹² These shelters are located in Riyadh and Jeddah.⁵¹³ The former is for domestic workers who require exit visas, return tickets, identity documents, and who have on-going wage disputes with their employers while “migrants called deportation centers.”⁵¹⁴ The latter on the other hand was originally set up to help repatriate pilgrims who had lost their documents or overstayed their trip to Mecca.⁵¹⁵ As the inflow in this centre became very large, in 2011 it was reported that many migrant workers were now refused entrance and consequently ended up under the flyovers of Sitteen Street, Jeddah, where hundreds of irregular workers sleep on the streets for months without proper access to sanitary facilities.⁵¹⁶ Along with host country oriented temporary shelters the Ethiopia government as country of origin with large number of workers in Saudi is supposed to establish conducive temporary shelters to its citizens in Saudi. Temporary accommodation centers in destination states established by labor sending countries can serve dual purposes. On the one hand it helps the government to protect its citizens by providing temporary reliefs for distressed workers, runaways, victims of trafficking and abused workers.⁵¹⁷ On the other spectrum, it plays a pivotal role to keep the embassy/ Consulate away from being over flooded by run away and distressed migrant workers that may bring inconvenience to its other regular diplomatic missions.⁵¹⁸ However; the government of Ethiopia has had no accommodation shelter to protect

⁵¹⁰ Domestic Workers Supra note 455, p.35

⁵¹¹ Ibid.

⁵¹² Vlieger, A.R. (2011). Domestic Workers in Saudi Arabia and the Emirates: Trafficking Victims? p.195

⁵¹³ Ibid.

⁵¹⁴ Id.p.194

⁵¹⁵ Ibid.

⁵¹⁶ Ibid.

⁵¹⁷ Domestic worker supra, 455 p.36

⁵¹⁸ Id.p.37.

its citizens. Returnees feel hope less when they hear about the Ethiopian Embassy in Saudi they claimed that the Ethiopian Embassy has been over flooded by abused, mentally sick, raped, abandoned workers in vain without help.⁵¹⁹ As the research learned from the testimony obtained from the two focus group discussions, the Ethiopian Embassy is well known by its ignorance and bad will to help and support its citizens among the Ethiopian community in Saudi.⁵²⁰ As respondents said, it's reckless and incapacity is even known by Saudi police officers and employers who enjoy the opportunity to exploit and ride them; let alone to establish temporary shelters for their safety and wellbeing.⁵²¹

Furthermore; despite the fact that art 7 (2) (b) of the proclamation obliges PEAs to setup sufficient office and facility that provides temporary food and shelters abroad, as mentioned earlier in practice no PEAs has ever complied with to support its clients.⁵²² And even most of them have no representatives to do so, given handicapped monitoring capacities of MoLSA. PEAs were neither suspended due to their failure to open up nor monitored and warned to render such services to migrant workers in Saudi by MoLSA till the unprecedented mass deportation.

Nevertheless; a state who is highly concerned for its citizens -Philippines which has excellent experiences and famous for protecting the rights, safety, and dignity of its oversea citizens has set up conducive shelters for its runaway citizens which retain up to 200 workers.⁵²³ When the Philippines Embassy's shelter administrators receive a runaway, the staff members immediately takes him or her to the hospital, regardless of the time of day or night and help them to rehabilitate and support them in immigration processes if they wish return home. More over Sri Lanka, Indonesia, has also established safe haven in Saudi for their national heroes.⁵²⁴

4.2.2. Protection through Effective Consular Support

In the absence of effective local redressing mechanisms for victims of abuse, the foreign mission of the labor sourcing country play critical role in advocating for their nationals' rights and

⁵¹⁹ Of the interviewed returnees 12 of them believed that the Embassy is not willing to support them when they are in need. They further contended that even the telephone line never works to contact and every Ethiopian knows this fact in Saudi.

⁵²⁰ Ibid.

⁵²¹ Ibid.

⁵²² EEP, 7 (2) (b)

⁵²³ ILO (210) *Decent Work for Domestic Workers: The Case For Global Labor Standards, Human Rights Abuses, Best Practices, and Recommendations for ILO Convention*, p.10.

⁵²⁴ Ibid.

providing services such as shelters, legal aids and assistance in claiming unpaid wages from employers in the jurisdiction of others.

As mentioned here above Ethiopia as a party to Vienna Convention it is under an obligation to protect the interests of its nationals in Saudi. Accordingly, Ethiopian Expatriate Directorate General of the Ministry of Foreign Affairs has a councilor monitoring and support directorate responsible to protect Ethiopian citizens' rights, safety and dignity once they are abroad both legally as well as illegally.⁵²⁵ As far as illegal immigrant is concerned, as the representative of the directorate stated, it reaches them only when they face problems, detained in other countries or when their families lodged complaints before it where as it reaches legal migrants when PEAs, and their families' lodge complaints.⁵²⁶ The representative of this directorate noted that since Ethiopians migrants in Saudi has no other mechanisms to lodge their complaints, they usually contact this directorate for support through their family members or sometimes the Ethiopian missions when they are abused and/or stranded, dead in countries of destination.⁵²⁷ When it receives this kind of complaints, the directorate first checks the type of assistance and support needed.⁵²⁸

If the citizens can be assisted through the Ethiopian mission in the country of destination, the directorate passes the complaint and focuses on the follow-up.⁵²⁹ However, where the abuse is a serious one and the citizen needs to return to Ethiopia, the directorate first checks whether the migrant worker was sent by a PEA, or not.⁵³⁰ If the citizen was sent by a PEA, the Directorate refers the complaint to the PEA that will be responsible for the return of the migrant worker since it is their duty to protect their clients even during repatriation as per the proclamation.⁵³¹ If not, the directorate makes every effort to raise the necessary funds from the Ethiopian community in the country of destination and provides support.⁵³² However, interviewed PEA's Association president and returnees complained the assistance provided

⁵²⁵ See, the web site of MOFA, [www.mfa.gov.et/Ethiopians Origin Abroad](http://www.mfa.gov.et/Ethiopians-Origin-Abroad)

⁵²⁶ Interview with Tafa, Supra note 461

⁵²⁷ Ibid.

⁵²⁸ Ibid

⁵²⁹ Ibid.

⁵³⁰ Ibid.

⁵³¹ Interview with Tekeste, supra note 484

⁵³² Ibid.

by Ethiopian missions is minimal and staff members are not necessarily caring and understanding.

Moreover returnees interviewed by the researcher are different in many ideas and assertions but all of them have something in common, ‘which is an Ethiopian counsel in Saudi is symbolic, ill equipped, and full of inhuman, coldhearted, corrupted, representatives to their poor – alien--brothers and sisters – Ethiopians.’⁵³³ For returnees what usually surprises them even in rare cases when they contact and seek for their assistance, the embassy personnel discriminate and embarrassed them before their enemies (opponents) in mediating employer-employee disputes, embassy personnel, they claim, to listen more to the employers than to the their citizens.⁵³⁴ For instance Seble was encountered serious disagreement with her sponsor (*kafil*), due to the work load and she used to cry day and night because of her stress. Yet, she was unable to communicate due to language barrier. Finally, her sponsor brought her to Ethiopian Embassy to ask for her problems, the Embassy personnel before them, embarrassed and insulted her ‘she was stupid’ after listening her sponsor’s complaints without give her the chance to defend the sponsor’s claim and ordered her to comply with her wishes.⁵³⁵

Adding this, returnees interviewed by the researcher held the embassy personnel responsible for their inhuman deportations from Saudi. At this point Neima shares her experience that:⁵³⁶

“I went to Saudi with clothes, hopes and confidence before three years. And I had a dream to come back to home before 6 months from Saudi crackdown against Ethiopian migrant workers in 2013 - “Manfouha” with all my belongingness. I asked the embassy to renew my passport; I paid everything, even for the Renaissance Dam “ABAY BOND” which was mandatory payment for the service. However; because of their incapacity and ignorance I could not get my passport. As a result; I lost my everything even my identity and humanity by the deportation raids. Then I came back with bottle of emotions forcefully, full of emptiness: no hopes, no clothes, and no confidence with degraded morals to the poorest country with poorest families.”

The director in the councilor office of MoFA admitted that the financial and human resources allocated to Ethiopian missions are rather limited compared to the workload and demand for

⁵³³ All returnees in the two focus group discussion both who were requested the Embassy support or others feel that they had no one in Saudi on their behalf during problematic situations.

⁵³⁴ Interview with, Seble Tessema, on 18Oct15

⁵³⁵ Ibid.

⁵³⁶ Interview with Neima, Supra note, 375

services.⁵³⁷ However, in case of a victim suffering an abuse or exploitation, assistance is limited to the resources that the MoFA has been able to raise from the Ethiopian community in the country of destination.⁵³⁸ It is stated that this will be settled in the near future as additional human resources have been allocated for Ethiopian missions in the major countries of destinations five for each.⁵³⁹ However; returnees claimed that the Ethiopian embassy in Saudi Arabia lacks of concern with human rights abuses of Ethiopian citizens in Saudi Arabia even to the least of its available resources and man powers. All of them expressed the opinion that the Ethiopian government should care more about the protection of its overseas citizens like countries of Philippines and Indonesia.

At this point Teklu has unforgettable history on the reckless and irresponsible officers of Ethiopian Councilor office to protect their citizens. He articulated through his words as:⁵⁴⁰

“One day we heard that one girl whose age estimated to be 24 was thrown through the window and she was found dead. The police found the body then called to the Eritrea Embassy to take its body considering that she was an Eritrean. Consequently; Eritrean Embassy personnel arrived forthwith and examined the body and identified that she was an Ethiopian and left it. Then both the police and we called to the Embassy, from early outset no one picked the phone up as always and it failed to come and support us .On this dismay we collected money from the Ethiopia Community and our pockets and sent her body back to home, but the Embassy.”

Furthermore; Ethiopian Government has not been in the position to negotiate that effective and adequate remedies are availed for Ethiopian migrant workers who are abused and exploited in Saudi and following the deportation since there is currently no bilateral labor agreement with Saudi Arabia in force that give a room to redressing mechanisms and lack of commitment to dig other options to date.

Be that as it may, the US Department of State, also shares the limited consular services provided to Ethiopian workers abroad continued to be a weakness in government efforts.⁵⁴¹ For instance, although EEP which governed the work of approximately 406 licensed labor recruitment agencies, (now temporarily suspended) requires licensed employment agencies to place funds in

⁵³⁷ Interview with Tafa, Supra note,461

⁵³⁸ Ibid.

⁵³⁹ Ibid

⁵⁴⁰ Interview with Teklu Bayisa, on 18Feb2015

⁵⁴¹ US department supra note 31 p.167.

escrow in order to provide assistance in the event a worker's contract is broken or damages.⁵⁴² However, MoFA has no success story to pay for victims' transportation back to Ethiopia rather it collects from Ethiopian Community abroad as mentioned.⁵⁴³ For instance, in one case, a young woman in domestic servitude was pushed off the six stories building by her employer in Jeddah once the victim was out of the hospital, the Ethiopian Embassy assisted in her repatriation, and upon her arrival, officials referred her to an NGO called Agar for assistance rather than reimbursing from the "escrow."⁵⁴⁴

In contrast however the Philippines, as a labor-sending country, the Consular Office, through the Assistance to Nationals Unit (ANU), addresses all matters inherently non-labor and employment related, e.g. police cases and jail visitations, visa expiration, registration of nationals, representation with the host Government and other consular-related services. It provides legal assistance to undocumented migrant workers. In coordination with NGOs and PEAs helps and repatriates migrants who are victimized by war or disease. It facilitates the repatriation of workers who have died in the host states, as well as the remains of overseas workers who have been executed for crimes. They also facilitate the shipping of their personal belongings. More over a legal assistant for Migrant Workers Affairs in charge of providing legal assistance services to Filipino migrant workers is also established at the Department of Foreign Affairs. A legal assistance fund is set up as well to cover "the fees for the foreign lawyers to be hired by the Legal Assistance for Migrant Workers Affairs to represent migrant workers facing charges abroad, bail bonds to secure the temporary release of workers under detention, court fees and charges and other litigation expenses."

ILO Decent Work for Domestic Worker 99th Series (2010)

4.2.3. Protection through Establishing Labor Attaché

Establishing overseas labor attaché under the auspices of the embassy of labor sourcing country abroad is the other mechanism to ensure the rights and wellbeing of migrant workers. Labor attaches have a key role to play in seeking to better promote and protect the rights of migrant workers in host states.⁵⁴⁵ As labor migration from Ethiopia to GCC and Saudi has legally and

⁵⁴² EEP, Art.23(3)

⁵⁴³ With this regard Tekeste who is a diplomatic attaché in councilor support directorate at MoFA knows only a single success story that has been settled in negotiation and a ransom award was paid for injured victim from Saudi by the agent who sent the victim. Adding this as he admitted the fact that no such trend was accustomed to compensate the victims from the escrow and there is no procedural mechanisms to implement.

⁵⁴⁴ Interview with Tekeste supra note, 485

⁵⁴⁵ Nepali Human Rights Group Report: on Promoting and protecting the Human Rights of Migrant Workers from Nepal to Middle East (2013)p.42

illegally been grown, which tend to have a labor attaché which serves as a dual purposes – to expand work opportunities for Ethiopian nationals – and to represent their interests and ensure their welfare. As clearly mentioned under chapter three of this paper, due to the problematic recruitment practice (*Kafala*) prevalent in Saudi along with the reluctance of the government of Ethiopia to set up effective protection machineries to safeguard the interests of its citizens held Ethiopian migrant worker victims of countless labor related abuses and exploitations in Saudi.

Thus Establishing Labor attaché department in Saudi somehow mitigates these problems. For this purpose, Article 36 of the proclamation obliges MoLSA to assign Labor Attaches where necessary in consultation with the Ministry of Foreign Affairs to ensure the protection of the rights, safety and dignity of workers deployed abroad entrusted with the tasks illustrated under article 37 of thereto. However, the labor attachés have been established nowhere including Saudi yet, given the lame excuses of resource and man power scarcities of the Ethiopian government at the cost of the lives and dignities of Ethiopian migrant workers who are the main heroes for its economic development without borders.

However the government of Philippines has established practical and problem solving oversea labor department in Saudi full of responsible labor attaché to address all matters which are inherently labor and employment-related.⁵⁴⁶ Such as, wages, contract-termination and substitution, recruitment and deployment, community outreach, medical services, counseling. It undertakes its business through negotiation and mediation as well as through hiring country specific lawyers and in collaboration with volunteer NGOs who render free legal aid services to migrant workers.

In conclusion Ethiopian returnees interviewed by the researcher from Saudi feel that their government has not accorded them enough protection compared to the governments of Philippines, Indonesia and Sirilanka who are privileged in the kingdom due to their governments' active interventions. Therefore, Ethiopia embassy set up to alleviate the plight of Ethiopian migrant workers has done little to protect their rights.

4.3. Private Initiatives to Protect and Assistance Migrant workers of Saudi Arabia

The efforts and involvements of private initiatives in the migrant workers protection scheme are as equally important as the effort of the government's schemes to Saudi. NGOs and other

⁵⁴⁶ ILO (210), Supra note, 523, p.12

members of civil society are integral to the promotion and protection of the rights of migrant workers and, as such, can be valuable partners for the government to combat the problems temporary and domestic workers face in Saudi.⁵⁴⁷ This role may include increasing awareness and respect for the rights of temporary and domestic workers and to combat human trafficking.⁵⁴⁸ Therefore; under this section the efforts of private initiatives towards the prevention and protection of the rights of migrant workers to Saudi are assessed.

4.3.1. Private Initiatives to the Prevention of Migrant Workers to Saudi

Art 16(2)(l) of EEP imposes main obligation on the preventions and protection of the rights and safety of the oversea workers imposed on PEAs.⁵⁴⁹ In order to comply with the requirement of the statutory obligations of prevention of migrant workers they are supposed to provide information, training and orientations to prospective migrant workers to equip them with the knowledge and skills so that they can meet the requirements of overseas employment and lessen the risk of abuse and exploitation. According to PEAs response migrants are provided with skills-training and orientation before they leave the country as per article 16(2)(l).⁵⁵⁰ They also claimed to provide sufficient orientation on the situation in Saudi, the culture and the different behavior they should expect from people who come from different cultures than their own as well as orientation on the know how to use different electric equipments and kitchen utensils and cleaning chemicals supported by video films.⁵⁵¹ Migrants have also been informed about the food they should expect in Saudi and about healthy eating habits and serving.⁵⁵² While, MoLSA representative argues against for this allegation of PEAs, for the informant the pre-departure and pre employment trainings rendered by PEAs were inadequate and incomprehensive enough to prepare the migrants to their oversea tasks.⁵⁵³ Even so, only few PEAs were involved in rendering such trainings, some of them were even ignorant to know the identities and profiles of their clients deployed abroad through them.⁵⁵⁴ At this juncture, the president of PEAs associations also admit on this point that the training and the skill orientations provided to migrant workers have not been comprehensive enough to prepare them

⁵⁴⁷ Maria Angela supra note 433, p.34.

⁵⁴⁸ Ibid.

⁵⁴⁹ EEP, art 16(2)(l)

⁵⁵⁰ Interview with Aminat Abdella, Manager at Al Islamia Private Employment Agency, on 12Dec14

⁵⁵¹ Interview with Abdella Ali, Manager at Al Hijira Private Employment Agency, on 01Sep15

⁵⁵² Ibid.

⁵⁵³ Interview with Almamaw, supra note, 349

⁵⁵⁴ Ibid.

for oversea job as well as to lessen the degree of vulnerability eventually.⁵⁵⁵ For the said president there is no responsible body to verify whether the prospective migrant obtained the necessary orientations and skills consequently migrant workers engaged to the oversea work without the knowledge and required skills and come back with bottle of emotions and exploitations in vain.⁵⁵⁶

Taking the advantages of the incapacity and recklessness of MoLSA to monitor them effectively the majority of the PEAs as mentioned above found in trafficking businesses.⁵⁵⁷ They were not acting inconformity with the statutory obligation rather they escaped buying Visas from Saudi diplomats and sold Ethiopian migrant workers mainly from countryside without the necessary skills and trainings.⁵⁵⁸

Furthermore; in the eyes of 6 of the 17 returnees interviewed by the researcher who had been deployed through the formal channels; PEAs had given no enough information about the condition of life, types of works and the required skills; sometimes they could not even understand what they wanted to say given their poor understanding capacity due to illiteracy.⁵⁵⁹

They had no idea about the culture in Saudi, had they been well informed about Saudi so that they would be able to prepare it. They feel they should be taught such things to make their integration into a different culture easier.⁵⁶⁰ They claim that they did not have access to people in the agency who were able to answer their questions regarding different issues concerning their departure and situation at arrival.⁵⁶¹ They had no idea about the responsibility of the agencies or the laws concerning migration. They think they should be oriented about it and someone from the agencies should be accessible to them to clarify such issues.⁵⁶²

In addition to PEAs some local NGOs such as Agar Ethiopia⁵⁶³ and Good Samaritan Associations⁵⁶⁴ along with IOM⁵⁶⁵ engaged in awareness creation about modern slavery- human

⁵⁵⁵ Interview with Solomon, Supra note, 446

⁵⁵⁶ Ibid.

⁵⁵⁷ Interview with Tafa, supra,461

⁵⁵⁸ Ibid.

⁵⁵⁹ These returnees from the two focus group discussions testified the fact that they got no enough pre departure orientations and skills trainings.

⁵⁶⁰ Ibid.

⁵⁶¹ Ibid.

⁵⁶² Ibid.

⁵⁶³ Interview with Nigusse,supranote,243

⁵⁶⁴ Interview with Michel, supra note,237

trafficking through different Medias, pamphlets and public campaign in some regions. ILO has also engaged to carry out information dissemination programs in collaboration with partners, both government and other institutes under its Counter Trafficking project.⁵⁶⁶ The information dissemination project has the objective of raising awareness on the dangers of trafficking among potential victims of trafficking and their families in Ethiopia.⁵⁶⁷ The campaign will include awareness raising on HIV/AIDS in relation to migration and specially trafficking.⁵⁶⁸ The program will also prepare and make available information pamphlets on Ethiopian migrant worker's rights and other pertinent issues related to working abroad.⁵⁶⁹

Despite such efforts migrants pointed out that private organizations could do a lot of work in the preparation of migrant workers to Saudi and raising the awareness about the risks of trafficking and the exploitative situations many trafficked women live in so as to protect others from being trafficked and the situations and living conditions of Saudi Arabia and others.⁵⁷⁰ They can network with NGOs and other agencies like religious organizations in the receiving countries to exchange information and then lobby the Government to accord the necessary protection to its citizens. Returnees also pointed out those private organizations should also focus on providing counseling to victims of abuse both in the sending and receiving country.⁵⁷¹

4.3.2. Private Initiatives to the Protection of Rights, Safety and Dignity

Article 20(2) of EEP obliges PEAs in the center for the protection of the rights, safety and dignity of their clients whom recruit and supply abroad.⁵⁷² It is presumed that the Ethiopian agents send migrant workers to Saudi, his counterparts deployed them, and monitor and follow up their safety, and solve occupational deutes, and bring them back with all dignity when the period of the contract lapses.⁵⁷³ PEAs contend that they take care of the problems of their clients in Saudi by contacting their representatives through, e mil, phone letters, and sometimes by

⁵⁶⁵ Interview with Abraham, supra 233

⁵⁶⁶ Ibid

⁵⁶⁷ Ibid.

⁵⁶⁸ Ibid.

⁵⁶⁹ Migrants from both FGDs expressed their concerns on the involvements of to prevent them from abuses and sexploitations.

⁵⁷⁰ Ibid.

⁵⁷¹ Ibid.

⁵⁷² Article 20(2) of EEP

⁵⁷³ Interview with Tafa, supranote,462

going physically there when workers have got problems to solve.⁵⁷⁴ If the problem could not be solved through these mechanisms, and the involvement of the MoFA is mandatory interviewed PEAs pointed out that they would inform and resolve the problems together with MoFA. In some cases, if the workers need to return home or unable to work with the employers due to conflicts, PEAs would facilitate their return to Ethiopia as per the requirement of the proclamation.⁵⁷⁵ However; this is not the reality for returnees. As the data obtained from victim returnees of those who were in trouble and desperately requested PEAs support pointed out that they were not able to get the help and end up abused and abandoned. Haimanot's Experience on this point:⁵⁷⁶

"I went to Saudi before two years, to feed my 3 and 1 years children respectively. I processed my visa through one of the agents in Addis Ababa for 700 Saudi Ryals per month. I paid 5000 birr for the visa. I told the agent to go to Jeddah and brought me a visa for Jeddah. But when reached there the work place was not Jeddah, where as "Yembu" a place where bit far from Jeddah by plane. I was not comfortable with the condition of my employment. I was supposed to work for more twenty hours a day without getting any rest cleaning and nanny. My employer even didn't want to see me sit for few minutes to eat food. I worked for three months but she did not give me my salary. She always yelled at me, insulted and slapped me. she did not give me food for three days except uncooked rice, she denied me phone calls to my families. Sometimes she locked the compound and left me 'oh! God that was slavery' she said. Finally, one day when things beyond my control I screamed loudly and asked her to contact me the agent in Saudi who is Saudi citizens. She called me and contacted me an Ethiopian who work for the agent. I was thrilled when I got someone who talked to me in Amharic and told everything that happened to me (crying). Sadly, he replied to me 'I had to keep on working otherwise she would sell me to someone she wants' and quitted the phone. Everything was dark with three days starvation, then the following day I run away following my foots, fortunately I found a taxi driver and begged him to take me a place where Ethiopians live, he dropped me there I begged and paid him for the service. I had nothing. I was working illegally for six months till my deportations with empty hands."

According to the PEAs association president, it is not easy to protect the rights, dignity and safety of domestic workers who are locked in the employers apartments without the government interventions through deploying labor attachés to the Embassies and without

⁵⁷⁴ Interview with Abdella, supra note 552

⁵⁷⁵ Ibid.

⁵⁷⁶ Interview with Haimanote, supra note,367

bilateral agreements with receiving countries such as Saudi.⁵⁷⁷ It is beyond the capacity of PEAs to follow up the conditions of each and every domestic worker facing violence.⁵⁷⁸ However, for the president things are even worse than the previous now due to the government employment ban to Saudi.⁵⁷⁹ Since, Ethiopian PEAs are suspended and could not send workers to their representatives in Saudi, their counterparts will not co-operative to help those workers facing problems even with minimum efforts.⁵⁸⁰

Representative of MoFA has also confirmed the information obtained from returnees. For the director at consular support office as long as the PEAs obtained their license claiming that they have the capacity to work in line with the provisions of the proclamation, they are fully responsible for every domestic worker they recruit and sent.⁵⁸¹ However; in practice they are incapable to protect their clients; they merely pretend having everything necessary for the business including diligent representatives and shelters abroad only to secure the licenses mentioned above.⁵⁸² MoFA and Embassies are cooperating with the PEAs when they face difficulties to handle cases especially in cases of death PEAs are unable to solve without the cooperation of MoFA.⁵⁸³ This, according to the informant, will create a burden for the ministry and should be done by a separate party whose work should mainly focus on the cases of citizen labor migrants in a particular country.⁵⁸⁴ This, and lack of bi-lateral agreement with destination countries are obstacles to the effort of solving the problems citizens are facing.⁵⁸⁵

In the eyes of returnees PEAs are irresponsible for their clients' safety. They look honest and cooperative till they get their money and sell the workers, then after no one by their side in alien countries. Sometimes they try to help them when they called to their families for help and complained through MoLSA and MoFA.

One can easily go and observe at MoFA how far the problem is to the worst even today and PEAs are incapable to shield their clients. According to the researcher observation during the

⁵⁷⁷ Interview with Solomon, Supra note, 446

⁵⁷⁸ Ibid.

⁵⁷⁹ Ibid.

⁵⁸⁰ Ibid.

⁵⁸¹ Interview with Tafa, supra note, 461

⁵⁸² Ibid.

⁵⁸³ Ibid.

⁵⁸⁴ Ibid

⁵⁸⁵ Ibid.

field study there were countless complainants against PEAs on behalf of their families abroad. Some were cried because their families declared dead there and contacted MoFA for letter of support to bring their body back. Some went there because they lost contact with their families after rescue phone calls and others were there because their families were detained in jails and had no one to help abroad in Saudi and other Arab countries; PEAs were not cooperative to help them.

Suffice here to say that, Zelalem has 16 years experience in Saudi; she explained the irresponsibility of PEAs to protect their clients in Saudi as:⁵⁸⁶

There is a place called “Shimashi” especially those workers who went through (PEAs) for limited contractual period faced countless atrocious abuses and exploitations. Most of them were from country sides, illiterates and under ages. Some were thrown by the windows, some were raped and humiliated by arrogant sponsors, and some were killed themselves. Some were torched and boiled. It was natural to see teenagers raped and dropped on the streets and on Ethiopian Embassy. When they run away they fall on the merciless hands of police officers who always favor their citizens and detained as illegal and sometimes as robbers due to false accusations of their sponsors. The agents are so selfish; they hired 15 years children to a sponsor knowing the fact that he is ill-mannered single-literally to rape her. No one was there to help those kids, no agents, no government representatives, no NGOs in the stormy country-Saudi.

For Zelalem Saudi police officers and sponsors consider the Ethiopian embassy as “one migrant domestic worker not as a diplomatic mission” like American and British embassies whom they respect and afraid of.⁵⁸⁷ In her opinion the government should stop exporting its citizens to Saudi forever.⁵⁸⁸ It should never leave its voiceless, jobless, innocent citizens with hunger and poverty on the mercy of coldhearted; profit oriented, licensed traffickers what so called “agents.”⁵⁸⁹ Unless the government establishes stringent, practicable, genuine protection mechanisms composed of sympathetic individuals to safeguard the rights, privileges, dignity and safety of its subjects like countries of Philippines and Indonesian.⁵⁹⁰

⁵⁸⁶ Interview with Zelalem Girma, on 18Feb15

⁵⁸⁷ Ibid

⁵⁸⁸ Ibid

⁵⁸⁹ ibid

⁵⁹⁰ Ibid.

4.4. Government Initiatives Related to Returnees

In its work on return and reintegration, especially for exploited migrants and victims of human trafficking, the ILO strongly advocates that economic empowerment interventions are as important as social preparation, counseling and legal assistance, in ensuring that the returnees are able to reassume their work and family lives in their home countries.⁵⁹¹ Furthermore, for Lawrence Jeff Johnson, “comprehensive reintegration initiatives for returning migrant workers are crucial to prevent recruitment malpractices, which include the risk of human trafficking. However, he added that more work is needed “in terms of informing and educating local communities to protect and assist migrant workers and their families.”⁵⁹²

Even though this is what the international community advocates and other countries operates the Ethiopian government has had no comprehensive initiatives to reintegrate and rehabilitate returnees.⁵⁹³ However; in 2013 following the deportation of 163,018 returnees from Saudi Arabia the Government cooperated with a range of international organizations and NGOs to provide return and reintegration assistance (including reception, medical and psychosocial support, onward transportation, temporary accommodation, family tracing and reunification for UAMs, treatment and rehabilitation of victimized female returnees).⁵⁹⁴ And those returnees from regions have transported to their families⁵⁹⁵ and the regional governments have taken the responsibility to reintegrate the returnees by organizing them in different business sectors.⁵⁹⁶ Moreover; National chamber of mobility for citizens has been established under the auspices of the Prime minster office leading by Deputy Prime Minster which monitors and follow up the activity reports of the regions about the progress of the reintegration every three months.⁵⁹⁷

With regard to Addis Ababa Returnees, Addis Ababa City administration Office of labor and Social affairs has been provided the mandate for the psycho social as well as economic integration supports. According to the representative of this office, it has alleged to render services such as psychosocial training for 2000 returnees for 6 days by professional psychologist

⁵⁹¹ ILO, (2012,)‘Good Practices’ in Protecting Migrant Workers’ Rights, p.1.

⁵⁹² Ibid, Lawrence Jeff, Johnson ILO Country Office Director for the Philippines.

⁵⁹³ EEP, Art.31 (5)

⁵⁹⁴ IOM News letter, supra note, 385 p.11.

⁵⁹⁵ Ibid

⁵⁹⁶ Ibid

⁵⁹⁷ Ibid.

and psychiatrists to rehabilitate from their trauma.⁵⁹⁸ It has also rendered life skill trainings for 2802 returnees of 3500 returnees of Saudi Arabia.⁵⁹⁹ It provided trainings for those who returned with money how to manage their businesses as well as for returnees who need financial support from governments with 46 types of business sectors for the period of 10 days up to 3 months.⁶⁰⁰ It has organized in 291 small and micro enterprises and facilitated credits and premises to operate the businesses.⁶⁰¹ Furthermore it has facilitated free scholar ship for 82 schools dropped out returnees and medical treatments for 100 mentally sick returnees in collaboration with other stake holders.⁶⁰²

Nonetheless; one and half years later- some of these returnees are left Addis Ababa, some are left the sectors they had been organized to engage since it is not productive , some are tired enough to continue the business without conducive and profitable working environment and continuous support. Both individual interviews and focus group discussions with returnees confirm this fact. All the returnees who participated in this research stated that they have received no follow up and effective support from the Government as promised.⁶⁰³ Though the hospitality and the trainings were good enough, now they have no one to support even who asks their whereabouts.⁶⁰⁴ For most of the returnees in the discussion the businesses are not productive. The building given to undertake for the business is not moderate for the kind of business they are operating. Moreover; the buildings have no water, electric and sanitation supplies. No government agent has supervised them ever. The researcher has also observed the hostile environment of their business environment while conducting this study in Addis Ketema, Yeka and Kirkos Subcities where some of the returnees undertake their businesses.

Further; they claimed that they cannot work together without a skill on business management since they are individuals from different back grounds with different pain and abuses so that they are unable to operate the business friendly.⁶⁰⁵ The government had no business development

⁵⁹⁸ Interview with Kumneger Addisu, Overseas' Employment Team Leader, at Addis Ababa City administration Office of labor and Social affairs, on 23Jan15

⁵⁹⁹ Ibid.

⁶⁰⁰ Ibid.

⁶⁰¹ Ibid.

⁶⁰² Ibid.

⁶⁰³ All participants in the focus group discussions conducted on 15Feb2015 and 18Feb2015.respectively, expressed their feelings that the business they are engaged in is not welcoming to continue no government supports

⁶⁰⁴ Ibid.

⁶⁰⁵ Ibid. Group members in the focus group unanimously express their feelings that how thing are hard to work together without government involvement.

service plan to monitor and follow up the success and the failure of their business and to take remedial measures. For the majority it is even worse than their situations in Saudi, at least they had their daily meal there. They are ashamed on to stay here because they finished what they brought and they get nothing from the business even to pay their credits. At a time they are ashamed on to return through illegal channels after all of this chaos.⁶⁰⁶

So far so much, the government rehabilitation and reintegration efforts faced severe difficulties to achieve its intended outcomes through creating local job opportunity. It does not go beyond seasonal political propaganda. According to the testimony of one anonymous expert at MoFA, majority of male returnees (who were drivers before deportation) left the enterprises and re-migrated. On top of that what was worse is that the morale of these returnees was really low. They had traveled to Saudi Arabia looking for economic opportunities, hoping to send money back to support their families. Most of them have not achieved this goal and they are in a worse situation than they were before leaving Ethiopia. The main problem is that they come back without any resources, and are very dependent on the help of the government for job opportunities, and access to credit. Most of the returnees interviewed in the three sub cities in Addis Ababa lost their hope on the reintegration program and the government, they are thinking to re migrate forgetting what happened on them before.

The reintegration efforts of the government are also non remarkable throughout the nation. According to Aida Awel, chief technical adviser on migrant domestic workers at the ILO's Addis Ababa office for Ethiopia pointed out that a large nationwide needs assessment survey has been conducted on returnees and shows the direction which the returnees want to pursue.⁶⁰⁷ Financial support and consistent coaching are measures required by the returnees as the survey conducted by ILO shows.⁶⁰⁸ The needs assessment survey has also shown that “not less than 50% plan to re-migrate again despite their past experience”⁶⁰⁹

Moreover; according to the research findings conducted by ILO and IOM and presented in the consultancy meeting in anniversary of one year of the returnees from Saudi on the topic of

⁶⁰⁶ Interview with Ephrem, supra note, 409

⁶⁰⁷ Consortium of Christian Relief and Development Associations (CCRDA), Press Release Returnees from Saudi Arabia- *Taking stock one year after the exodus*.(2014),p2

⁶⁰⁸ Ibid.

⁶⁰⁹ Interview with Michel Hareg, supra note 237

“WHERE ARE THEY”, despite there were little efforts of reintegration of returnees by the government of Ethiopia more than 90 percent of the reintegration efforts have been failed throughout the nation.⁶¹⁰ Most male returnees including a person whose kidney was stolen have re-migrated across the seas and deserts and the remaining are staying hopeless waiting for the legal channel and less than 10 percents are engaged in non productive business without continuous support and assistance from the government.⁶¹¹

4.5. Private Initiatives Related to Returnees

As noted under sub section 2.2.5.3 of this paper Agar Ethiopia, Good Samaritan Associations and IOM Ethiopia have rehabilitation and reintegration initiatives towards victims of trafficking and abuses from Middle East and Saudi Arabia. This section examines the practical efforts of rehabilitation and reintegration initiatives of these NGOs towards returnees from Saudi Arabia in 2013.

Agar Ethiopia

Agar Ethiopia provides shelter and psychosocial support to female vulnerable migrants, including victims of trafficking.⁶¹² The victims that seek support services from Agar are usually referred by Immigration and Nationality Affairs Authority, Air port, Federal Police, IOM, Addis Ababa Labor and Social Affairs.⁶¹³ According to the promotion and fund raising director of Agar most of the victims of trafficking referred by the Authority are those who have been deported by the authorities of the destination countries.⁶¹⁴ Most of them do not have families in Addis Ababa and some are mentally ill even unable to recognize who and where they are.⁶¹⁵

Agar has played a critical role to support 200Returnees from Saudi.⁶¹⁶ According to the promotion and fund raising director of Agar those victims who transferred for assistance were 50 percent were legal and 50 percent were illegal immigrants.⁶¹⁷ They were both victims of gross human and labor abuses and exploitations regardless to their status.⁶¹⁸ Among the victims who

⁶¹⁰ Ibid.

⁶¹¹ Nigusse supra note,243

⁶¹² Agar Ethiopia broacher, on the activities that the organization has done so far, 2013.

⁶¹³ Ibid.

⁶¹⁴ Interview with Nigusse, supra note, 243

⁶¹⁵ Ibid.

⁶¹⁶ Ibid.

⁶¹⁷ Ibid.

⁶¹⁸ Ibid.

received the services 99 percents were sexually abused, by Ethiopian citizens, agents, abroad as well as Saudi employers and police officers.⁶¹⁹ There were people whose internal organs were taken away.⁶²⁰ For the informant, most returnees who were mentally sick were those who were denied their two or three year's salaries by their employers.⁶²¹ Since their very purposes of migration was to work and get money to support their children, their families and to pay back their loans for the visa processes, they would get automatically insane when denied by Saudi employers.⁶²²

Agar with IOM provided financial support up to 9000 birr to reunify returnees with their families especially those victims from regions and created link with the government offices to continuous support and assistance.

It has rendered life and vocational trainings for 125 Saudi victims in different job sectors in collaboration with private and governmental stakeholders. It has celebrated their graduation at Hilton by the sponsor of IOM while celebrating the international migration day in Addis Ababa.⁶²³ Of these graduated some have been placed in different private organizations.⁶²⁴ Others have been given the necessary resources that enable them to begin their small businesses. However; as admitted by the promotion director, the vocational training that they provide to returnees who were trafficked only provides for limited opportunities and is not supported with micro-credit scheme given its financial scarcity and support.⁶²⁵ Moreover; the services available are very minimal when compared to the needs for services by victims of trafficking, and the challenges of returnees. They are neither comprehensive nor immediate.

The Good Samaritan

The Good Samaritan Association is another local NGO running a shelter. GSA started working with victims of trafficking from Arab countries about six years ago and now also runs a women's health clinic.⁶²⁶ Up until now GSA has rendered rehabilitation and reunification services for more than 500 returnees from Arab countries and all have got shelter services which includes;

⁶¹⁹ Ibid

⁶²⁰ Ibid

⁶²¹ Ibid.

⁶²² Ibid.

⁶²³ Ibid

⁶²⁴ Ibid

⁶²⁵ Ibid.

⁶²⁶ Good Samaritan Activity Report on the works that have been done so far,(2015),p3.

Food, bed, clothing, and counseling service by psychiatrics, healing treatments, referrals with government hospitals.⁶²⁷ Of which over 95% returnees received medical care at the Shelter and also referred to Emmanuel Hospital for Psychiatric problem and Petro's Paulo's Hospital for Medical problems.⁶²⁸

Of 63,018 of Saudi returnees GSA received 96 women some of them arrived pregnant. On average, women spend 3 to 4 months in the shelter and most were between 18 and 30, although some were as young as 14.⁶²⁹ When women start talking and remember where their family is, GSA tries to bring them home and reunify them with families. At the time of the visit to GSA in January 2015, there were 6 women living in the shelter, located around Shiromeda.⁶³⁰ One of them has lived in the shelter for 4 months, but has not spoken since her arrival. She's sitting on her bed, motionless. One of the girls tells her story. She paid 12, 000 Birr to a broker. Somebody in her village knew this broker in Addis Ababa. She left after her father died and flew to Saudi Arabia. She worked as a domestic helper with a Saudi family. During the pre-departure training by MOLSA, she learned you have to work 8 hours, but she had to work 22 hours a day. They tried to rape her, but she resisted and became aggressive. She has been deported and came back mentally ill, but is now feeling better and works as staff for GSA.

International Organization for Migration (IOM),

In the case of migrant workers in KSA, following the official request of the government of Ethiopia, IOM has been the primary organization assisting returnees during the mass deportation of migrant workers from the Kingdom by providing emergency post-arrival assistance.⁶³¹ IOM was the leading agency in responding to the 'returnee crises. IOM provided reception at the airport with medical and psychosocial support, onward transportation, temporary accommodation, family tracing and reunification for UAMs, reinsertion and onward transportation allowance and treatment and rehabilitation of victimized female returnees.⁶³²

⁶²⁷ Ibid

⁶²⁸ Ibid

⁶²⁹ Interview with Michel, Supra note,237

⁶³⁰ Ibid.

⁶³¹ Interview with, Abreham supra, 233

⁶³² Ibid.

In conclusion, protection of migrant workers cannot be work by the efforts of government alone since it is a transnational issue requiring the involvement of different private actors, international and national NGOs and Civil Societies. In Ethiopia however; there are minimum efforts of private initiatives with regard to the protection of migrant workers as clearly discussed under this section because of a number of factors. On the one hand the Employment Exchange Proclamation does not encourage NGO participation and co operation in the protection efforts of migrant workers at all stages of the migratory processes .So that currently there are only two local NGOs having limited involvement in the private initiatives protection system. On the other hand; despite the reliance on NGOs to provide victims care, the government at times created challenges for these organizations as a result of its 2009 Charities and Societies Proclamation.⁶³³ This proclamation prohibits organizations that receive more than 10 percent of their funding from foreign sources from engaging in activities that promote—among other things—human rights, the rights of children and persons with disabilities, and justice.⁶³⁴ These restrictions had a negative impact on the ability of some NGOs to adequately provide a full range of, preventive and protective services, including assistance to victims in filing cases against, PEAs and traffickers with authorities and conducting family tracing.

In contrast to Ethiopia plenteous NGOs are operating in the Philippines. In fact, the Philippines has been referred to as the “*NGO capital of the world*.”⁶³⁵ NGOs and other members of civil society are integral to the promotion and protection of the rights of temporary and domestic migrant workers and, as such, can be valuable partners for the government.⁶³⁶ The Migrant Workers and Overseas Filipino Act 8042 /95” of Philippines encourage NGO participation in migrant workers protection scheme.⁶³⁷ The Act provides a non-adversarial relation with non-Government organizations (NGO) in the promotion of migrant workers rights by calling NGOs as “partners” in the protection of migrant worker rights, under (Sec. 2h).⁶³⁸ Accordingly, there are more than thirty-three non-Government, non-profit organizations and church programs involved in the prevention and protection of migrant workers and their families apart from Government

⁶³³Charities and Societies Proclamation 2009, Art 2(2(3(4), Proclamation No.621,**Federal.Neg.Gaz.**year 15,no.25

⁶³⁴ Ibid.

⁶³⁵ Rina Jimenez-David, “The NGO Capital of the World,” Philippine Daily Inquirer, accessed at <http://opinion.inquirer.net/6139/the-ngo-capital-of-the-world> last visited (11 Mar2015)

⁶³⁶ Domestic orkers,supranote455, p.73

⁶³⁷ Philippine Government, Migrant Workers and Overseas Filipinos Act of8042/1995

⁶³⁸ Id. Sec, 2h

organizations and recruitment agency associations.⁶³⁹ Of the 33 private groups, twenty-two primarily focus on migrant workers, while the rest focus on women, children, and workers' issues while at the same time providing services and programs for migrant workers.⁶⁴⁰

⁶³⁹ Rina, *supra* 635, p.23

⁶⁴⁰ *Ibid.*

Chapter Five

Conclusion and Recommendation

5.1. Conclusion

As the statistical index of International Labor Organization (2010) reflects, today's migration is mainly characterized by economic migration. Cross border mobility of people which reaches more than 105 million with the need to looking for work and better life opportunities all over the world. This mass volume migration interlinked with the economic development of both country of origins and country of destinations. Nonetheless; at a time it is allied with various human and labor violations at every corner of the migratory stages especially barriers and violations are high for people with low skills.

Considering the precarious situation of migrant workers in low skills and temporary fields the international community re-affirms the already existing core instruments as well as adopts new convention to promote and protect migrant workers rights both at UN and ILO spheres of protection system regardless to the migrants' status. These normative frameworks imposed obligations on both countries of destination and origin to take appropriate steps to adopt effective policy, legislative, and institutional frameworks having specific purposes of protecting migrant workers at all stages of migration.

Accordingly, Ethiopia as a member of the international community and as country of origin has an obligation to take appropriate measures to prevent and protect the rights and dignity of its nationals by establishing comprehensive protection systems. At present over 1.2 million nationals are estimated to live outside of Ethiopia, with large volume of people in the Middle East, N. America and Europe. However: current Ethiopian migration trends are typified by low skilled migrants to the Gulf countries. Ethiopian nationals both women and men purposely travel to be recruited as domestic helpers, nannies, construction workers, laborers and drivers through officials and traffickers channels in search for job opportunities.

Among Gulf countries, Saudi consumes the lion share of Ethiopian temporary workers. It retains more than 300,000 Ethiopian immigrant piles currently residing in the kingdom without including the unknown number of undocumented or illegal settlers.

These Ethiopian migrant workers play a vital role in the country's economy and development, with remittances accounting for nearly USD 359 million or 2.0 percent of the country's GDP as reported by UNDP(2010). They are also the major source of income for large volume of Ethiopian families in the form of remittance. Despite this population's economic and social contributions they experience a range of labor and human rights violations at the hands of the private employment agencies from the moment of recruitment through their return home. Private Employment Agencies including recruitment agencies in destination countries, and employers, are responsible for most harm that Ethiopian workers suffer in the course of migration for work.

At home Ethiopian migrant workers are exposed to the charging of excessive fees, false promises and trafficking by PEAs and other brokers which put their vulnerability situations volatile. They have also suffered a range of labor and human rights violations in country of Employment—Saudi. They are highly susceptible since they are under the yolk of kafala recruitment practice and workers belong to unregulated - 3D jobs sectors in Saudi Arabia.

As the data obtained from the interviewees of Saudi returnees, most common compliant of human rights violations involve, excessive working hours; wages denial and deduction, absence of sick and monthly leave, food and accommodation deprivation, breach of contract, sexual harassment and exploitations verbal and physical abuses, discriminations and xenophobia. They are also victims of gross human rights violations during mass deportation raids such as torture and inhuman treatments, rape, confiscation of personal property, pillage, homicide and mutilations. However; all these victims of gross human and labor rights violations are left alone without material or moral damages and compensations due to lack of protecting and redressing mechanisms furnished either by the government of Saudi Arabia or government of Ethiopia.

Although Saudi has ratified international human rights instruments, and adopt a number of national laws having implication on migrant workers protections, due to their confinement to Sharia laws and lack of political willingness, Ethiopian migrant workers in it are left unprotected.

Despite the Ethiopian government efforts at the national level to protect migrant workers they have been ad-hoc in nature and have not constituted a coherent and comprehensive strategy towards addressing the many complex issues pertaining to labor migration management in Ethiopia especially, the protection of labor and human rights of migrants and the extent of irregular migration. Ethiopia is not a party to the UN Convention on the Protection of the Rights

of All Migrant Workers and Members of Their Families, ILO Convention on Decent Work to Domestic Workers, No. 189 as well as the Palermo Protocol which the land mark conventions with respect to migrant workers protection at all phases of the migration processes and to combat human trafficking for labor purposes. National labor migration laws and policies in Ethiopia are still primarily concerned with reducing local unemployment reduction, and thus tend to focus more on facilitating the outward labor migrant rather than creating an effective protection mechanism for migrants.

The legal frameworks governing foreign Employment encounter loopholes on very important aspects of migrant workers protections. The gaps on issues involve: in adequate attention to NGO participation, lack of oversea welfare schemes, reintegration schemes, limited scopes, inadequate attention to vulnerable immigrants, as well as it fails to advocate safe migration schemes. Even so, they are not effectively implemented with the available man power and resources.

There are governmental interventions efforts to prevent and protect migrant workers to Saudi Arabia, they are however, highly curtailed by man power, financial and institutional scarcities. Moreover; the government efforts are handicapped due to lack of political willingness and commitments to protect migrant workers of Saudi Arabia at all stages of the migration phases.

Non-Governmental Organizations involvement in the protection and prevention efforts remains highly minimal. On the one hand it is not encouraged by the legal frameworks and the government to work in collaboration with as “*partners*” as done by countries like Philippines. On the other hand the government draconian laws discourage them from partaking in the prevention and protection efforts. Hence, with the need to alleviate these exigencies that hamper the sound human rights protection efforts of the government of Ethiopia the next section proposes possible recommendations that the government should comply with.

5.1.1. Policy Frameworks

Lack of safe migration policy is one of the major factors for the vulnerability of Ethiopian migrant workers to human rights violations in Saudi as addressed in this paper. Therefore, it is recommended that the government should adopt and implement comprehensive safe migration policy beyond meager regulation of labor migration as well as should adopt comprehensive legal

and institutional frameworks in harmony with its policy. Its local employment creation policy should go hand in hand with safe migration policy.

5.1.2. Legal Frameworks

Domestic Legal Framework

As noted above, the Employment Exchange Proclamation 632/2009 faces a number of limitations and gaps that curtail to accord comprehensive human rights protection to Ethiopian migrant workers to Saudi. So that, it should be amended to inculcate the following issues:

- The scope is silent about the legal protection of irregular migrants whether they intentionally or unknowingly use the traffickers channel, the law should also cover these category of immigrants to enjoy the protection at all levels of the migratory stages.
- Together with governments efforts the role of NGOs also have pivotal role for better protection of migrant workers to Saudi, so that it is recommended that the law should provide adequate recognition and place for NGOs participation.
- The law should be amended to advocate rights based approach to migrant workers. It should bestow claimable right with corresponding obligations of PEAs, Government Organizations and other valuable Actors.
- The law should inculcate sufficient attention to the demands of vulnerable groups such as women and trafficked persons.
- The law shall cover appropriate mechanisms and procedures for the investigation of complaints, alleged abuses and fraudulent practices concerning the activities of private employment agencies. This is a requirement laid down under the Private Employment Agencies Convention, 1997, which Ethiopia has ratified.
- Establishing comprehensive protection incurs large amount of money and man power, it is highly difficult given the country multi dimensional developmental undertakings, unless backed by a membership driven fund oversea welfare scheme. So that the law should introduce oversea welfare scheme which is membership driven fund collected from workers and employers having valuable importance in protecting migrant workers without over extending the government financial capacity.
- The law should deal with safe migration where by the government shall not allow nationals to be deployed in countries having no sufficient protection policies for migrant

workers and to countries where the government has not ratified bilateral agreements or memorandum of understanding.

- The law should appropriately address and allocate sufficient funds for reintegration schemes for maximum protection while workers repatriated; it should also mention the concerned governmental and nongovernmental organs for social and economic reintegration and how could this be implemented.

International Legal Frameworks

As pointed out in the research, Ethiopia has not ratified the most valuable land mark conventions that have direct relevance for sound protection of Ethiopian migrant workers both at ILO and UN levels in this 21st Century. Therefore it is recommended that the government should ratify the following Conventions without reservations:

- The migration for Employment Convention (revised,1994(No.97) accompanied by migration for employment Recommendation (revised,1949(No.86)
- Migrant Workers (supplementary provisions) convention,1995 (No.143)
- The Convention on the Promotion of Equal Opportunity and Treatment of Migrant Workers,1975
- The UN International Convention on the Rights of Migrant Workers and Members of their Families,1990
- ILO Conventions on Decent Work for Domestic Workers, No(189), 2011
- UN protocol to Prevent, Suppress, and Punish Trafficking in Person especially Women and Children, Supplementing the UN Convention against Trans National Organized Crime, 2000.
- The Government should also publicize conventions that have already been ratified for their effective implementations and enforcements in domestic legal systems.

5.1.3. Prevention Interventions

Pre -departure and Pre- employment Orientations and Trainings

Ethiopian migrant workers leave for employment to the Saudi with minimum pre-departure training and orientations that result in a number of disputes, abuses and violations. It is recommended that mandatory pre-departure and pre-employment orientations should be intensified. The government should consider extending the duration of the mandatory trainings,

separating workers according to employment fields, and it should be provided not only in Amharic, it should also be delivered through migrants' local vernaculars. Moreover, the government shall also cast mechanisms to deliver pre- employment orientations up on arrival in Saudi. There should be an orientation program to explain to them their rights and to refer them to appropriate places where they can receive services, including safe accommodations and psychological, medical, and legal services. For all these purposes the government shall cooperate with the government of Saudi Arabia to draft more specific syllabi. The syllabi would be designed to fully inform departing workers about (a) the conditions they will find in Saudi, (b) their rights, (c) the psychosocial and medical services, and (d) their legal recourses.

Skill Training

The government should make Skill training mandatory requirement for oversea deployment .For this end minimum educational level should be set. An independent vocational institution should be established providing skills training pertinent to the desired work in the oversea. And prospective migrant workers should be certified and the verification mechanisms whether the prospective migrant workers acquired the necessary skills should also established.

Bilateral Agreements

According to information gathered from the Ministry of Foreign Affairs, Ethiopia did not conclude bilateral agreements with Saudi Arabia to date. Such agreements are essential to prevent abuses and fraudulent practices in recruitment placement and employment of migrant workers. It is recommended that The bilateral agreement should be mandatory prerequisite to deploy migrant workers to Saudi .This bilateral agreement should include, issues like provisions of retaining identity documents, freedom of movements and freedom of changing ones employer without losing legal status, conducive working environments, annual and sick leaves, timely bank deposit salary receipts and legal accountability of employers and PEAs(Individuals or companies) who violate the labor and human rights of migrant workers and effective redressing mechanisms.

Monitoring PEAs

The research has found that PEAs were found incapable to dispose their obligations to safeguard the rights, dignity and safety of their clients and some were also found involving in trafficking

practices. So that it is recommended that the government should establish strong mechanisms to regulate and monitor PEAs; the eligibility criteria to obtain a PEA license needs to be revised and code of ethics should be prepared. The government should allocate necessary finance and man power to regulate and monitor PEAs, with the need to prevent workers from false promises and fraudulent acts of PEAs and to bring them to justice.

5.1.4. Protection Interventions

Temporary Relief Centers

The research found that many domestic workers fall in the hands of traffickers, and Saudi police officers when they run away from abuses, distress or mistreatment of employers which made their fragile situations to the worst due to lack of temporary relief centers. Thus, the government should allocate necessary funds to establish temporary accommodation centers in Saudi for stressed or run away workers in order to minimize the extent of their vulnerability.

Councilor Support

Embassies in general and Saudi Embassy in particular have not been given an explicit mandate to assist migrant workers whose rights have been violated. The government should provide clear guidelines for assisting migrant workers with complaints against parties in Saudi. As the research findings suggests that the Ethiopian Embassy in Saudi is ill equipped with staffs, having inadequate resources, training, with little commitments and compassionate to influence to genuinely assist workers when their rights are violated. Hence, the government should allocate sufficient finance, assign professional and compassionate man power to provide effective councilor support regarding all matters inherently non-labor and employment related cases.

Labor Attaché

With the need to promote job opportunity as well as to maintain the interests of Ethiopian migrant workers to Saudi Arabia, the government should establish labor attaché positions in the diplomatic mission and should assign competent professionals to address all matters which are inherently labor and employment matters.

5.1.5. Prosecution

The government should strengthen its efforts to combat human trafficking and to bring those actors: illegal brokers, traffickers, double agent PEAs and Saudi diplomats before justice and punished. As the research findings reveal that Ethiopian migrant workers both domestic and

other temporary workers who faced severe human rights abuses and exploitations at work place and during deportation crusade left without any moral and material damages. These cases must be thoroughly investigated, and the perpetrators, including police officers and governmental officials must be tried and convicted before international justice systems.

The government should also negotiate with the government of Saudi to establish a framework where by those individuals who may confiscate travel documents; who denies fundamental contractual rights, nonpayment, late payment, or underpayment of salaries; excessive working hours; insufficient rest periods and commits violations such as emotional, physical, or sexual abuses; and other forms of exploitation should be held responsible and punished.

5.1.6. Re integration Schemes

Even though there is recent initiatives by the government to re integrate Saudi returnees socially and economically, it is highly limited and not deliberately practiced. The government should take comprehensive measures to retain the repatriates from re migration and from being victims of trafficking as well as initiatives to attract home those who are living in extremely exploitative situations by creating job opportunities as well as furnishing conducive working environment to returnees with money savings. The government should also work along with NGOs with the need to assist returnees to organize and create job for themselves. The government should establish follow up mechanisms whether the returnees are effectively reintegrated, should also have business development plan to monitor whether the business which the returnees are engaged is profitable or not with the need to take appropriate, timely remedial measures.

5.1.7. NGOs and Civil Societies,

Protection of migrant workers is a cross cutting issue as well as a transnational matter, which can never be accomplished by singular efforts of the government of Ethiopia. It requires huge amount of money, man power , large scale institutional setups, well organized systems and cooperation, and the involvement of various actors at home, transit and destination countries .As the research findings suggests that the involvement of NGOs and Civil Societies in Ethiopia in the area of migrant workers protection is almost nonexistent so that the government should allocate sufficient funds to support and should create strong bondage with international and national NGOs in order to furnish adequate, accessible, affordable services for migrant workers in general and Saudi immigrants with particular emphasis at all phases of the migration.

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Appendices

Profile of Informants

Governmental and Non Governmental Institutions

No.	Name	Sex	Name of Institution	Position
1.	Abraham Tamirat	Male	IOM	Program Assistance
2.	Michel Hareg	Female	GSA	Project Coordinator
3.	Nigussie Ketema	Male	Agar Ethiopia	Fund raising and Promotion Director
4.	Almaw Wassie	Male	MoLSA	Senior Expert
5.	Esete Birle	Female	EHRC	Chief Monitoring Expert
6.	Mesfin Alemeneh	Male	Women Youth and Children Affairs	Chief Expert on Women and Children Rights
7.	Meselech Assefa	Female	MoLSA	Oversea Employment Contract Approval and Training Co-Ordinator
8.	Tafa Tulu	Male	MoFA	Councilor Monitoring and Support Director
9.	Tekeste Ashenafi	Male	MOFA	Diplomatic Attaché
10.	Kumneger Addisu	Male	Addis Ababa City administration Office of Labor and Social Affairs	Overseas' Employment Team Leader

Private Employment Agencies

No.	Name	Sex	Name of Institution	Position
1.	Aminat Abdella	Female	Al Islamia Private Employment Agency	Manager
2.	Abdella Ali	Male	Al Hijira Private Employment Agency	Manager
3.	Andualem Demssie	Male	Wogdi Employment Agency	Manager
4.	Solomon Melse	Male	Association of Ethiopia Over sea Recruitment	President

Saudi Returnees

No.	Name	Sex	Age	Educational back ground	Mode of Travel and Employment	Work oversea
1.	Haimanot Girma	Female	23	7 th	PEAs	cleaner
2.	Sultan Kedir	Male	28	12 th	Traffickers	waiter
3.	Leila Mohammed	Female	15	3 rd	PEAs	Maid
4.	Hayat Mohammod	Female	26	12 th	PEAs	Maid
5.	Tayachew Assefa	Male	25	9 th	MoLSA	Maid
6.	Neima Abera	Female	23	8 th	Haji Umra	Maid
7.	Kedija Tahir	Male	27	10 th	PEAs	Maid
8.	Lidya Asmelash	Female	24	8 th	PEAs	Maid
9.	Amira Yasin	Female	22	10 th	Traffickers	Maid
10.	Shemsia Mohammed	Female	25	9 th	Brokers	Maid
11.	Ephrem W/Michel	Male	28	1 st year university	traffickers	Driver
12.	Halima Abdella	Female		9 th	PEAs	Maid
13.	Said Shemmsu	Male	41	4 th	Haji Umra	Carpenter
14.	Malefia kebede	Female	21	7 th	PEAs	maid
15.	Seble Tessema	Female	24	10 th	PEAs	Shop keeper
16.	Teklu Bayisa	Male	47	1 st year commerce	Traffickers	driver
17.	Zelalem Girma	Female	37	Deploma, Accounting	Haji Umra	School Assistance

Focus Group One

No.	Name	Sex	Educational back ground	Mode of Employment	Work oversea
1.	Teklu Bayisa	Male	1 st Commerce dropped out	Haji Umra	laborers
2.	Haimanot Girma	Female	7 th	PEAs	maid
3.	Shamsia Mohammod	Female	9 th	brokers	home maid
4.	Sultan Kedir	Male	12 th	traffickers	waiter

Focus Group Two

No.	Name	Sex	Educational back ground	Mode of Employment	Work oversea
1.	Said Shemmsu	Male	4 th	Haji Umra	carpenter
2.	Ephrem W/Michel	Male	1 st year Mekele University dropped out	traffickers	Driver
3.	Amira Yasin	Female	10 th	traffickers	home maid
4.	Lidya Asmelash	Female	8 th	PEAs	home maid

In-depth Interview Guide for Governmental institutions, NGOs & PEAs

A. Interview Questions for Ministry of Labor and Social Affairs.

1. I am Yonas Zemene and a graduating class at Addis Ababa University post graduation program-Law Faculty, Human Rights Stream. I am working my graduating thesis on the research title of *An Appraisal of the practice of Ethiopian Human Rights Protection Mechanisms Pertaining Migrant Workers: the Case of Ethiopian Migrant Workers in Saudi Arabia*. The very purpose of this interview is for academic purpose not go beyond that. I assure you that every profile and the contents of your interview are kept confidential.

2. Respondent Profile

2.1 Name of Respondent

2.2 Sex: Male ____ Female ____

2.3 Age: _____

2.4 Educational Background:

2.5 Represented institution

2.6 Official capacity

2.7 Duration of engagement with the institution represented

3. Interview Questions

3.1. What are the policy, legal, bilateral agreement as well as institutional frameworks pertaining to migrant workers in Saudi? How effective are they?

3.2. In what manner has your organization been involved in the issues pertaining migrant workers in Saudi?

3.3. What do you think are the factors that enhancing the vulnerability of Ethiopian Migrant workers in Saudi? What do you think the major problems and how could be the problems solved?

3.4. Does your institution undertake interventions projects/programs/ with a need to prevent human rights violations against migrant workers in Saudi?

3.5. How do you assess your organization's cooperation with other international organizations, CSO's, NGO?

3.6. How do you see the 2013 mass deportation act Saudi against Ethiopian Migrant Workers from human rights point of view?

3.7. What was the response of your organization in order to assist and integrate those who were deported? Are there re integration initiatives for returnees?

3.8. What do you think the challenges and gaps that hurdle the protection and prevention efforts for migrant workers to Saudi? What do you recommend for possible measures to address the challenges and gaps

B. Interview Questions for Ministry of Foreign Affairs(MoFA)

1. I am Yonas Zemene and a graduating class at Addis Ababa University post graduation program-Law Faculty, Human Rights Stream. I am working my graduating thesis on the research title of *An Appraisal of the practice of Ethiopian Human Rights Protection Mechanisms Pertaining Migrant Workers: the Case of Ethiopian Migrant Workers in Saudi Arabia*. The very purpose of this interview is for academic purpose not go beyond that. I assure you that every profile and the contents of your interview are confidential.

2. Respondent Profile

2.1 Name of Respondent

2.2 Sex: Male ____ Female ____

2.3 Age: ____

2.4 Educational Background:

2.5 Represented institution and location:

2.6 Official capacity

2.7 Duration of engagement with the institution represented

3. Questions.

- 3.1. What are your experiences with regard to migrant workers and in what manner has your organization ever been involved in the issues pertaining migrant workers in Saudi?
- 3.2. What roles the Ethiopian embassies or councilor office missions have regarding protecting the rights, safety and dignity of citizens employed in Saudi Arabia and how are they executed?
- 3.3. How do you explain the whole processes of the 2013 mass deportation campaign of against Ethiopian migrant workers? What was your response to assist the returnees?
- 3.4. What are your projects/programs/ with a need to prevent and protect human rights of migrant workers in Saudi? And who are your stakeholders?
- 3.5. What do you think that the prevalent challenges that hurdle to accord effective protection of rights, safety and dignity of Ethiopian migrant workers and what do you recommend for possible solutions? By whom?

C. Interview Questions for NGO and CSO's

1. I am Yonas Zemene and a graduating class at Addis Ababa University post graduation program- Law Faculty, Human Rights Stream. I am working my graduating thesis on the research title of *An Appraisal of the practice of Ethiopian Human Rights Protection Mechanisms Pertaining Migrant Workers: the Case of Ethiopian Migrant Workers in Saudi Arabia*. The very purpose of this interview is for academic purpose not go beyond that. I assure you that every profile and the contents of your interview are kept confidential.

2. Respondent Profile

2.1 Name of Respondent [Optional]

2.2 Sex: Male ____ Female ____

2.3 Age:

2.4 Educational Background:

2.5 Represented institution and location:

2.6 Official capacity/title

2.7 Duration of engagement with the institution represented

3. Questions

- 3.1. Have your organization ever involved with regard to migrant workers in general and migrant workers to Saudi? In what manner and what was your experience?
- 3.2. What kind of support does your organization provide for migrant workers?
- 3.3. How do you describe the mass deportation of migrant workers from Saudi and how do you handle their situations?
- 3.4. How do you assess your organization's co operation with concerned government organs?
- 3.5. What are the challenges for the operation of supporting migrant workers? What do you recommend to solve the challenges? By whom?
- 3.6. What do you suggest for government and other stakeholders must be done regarding migrant workers and after they returned?

E. Interview Questions for Employment Agencies (PEA's)

1. I am Yonas Zemene and a graduating class at Addis Ababa University post graduation program- Law Faculty, Human Rights Stream. I am working my graduating thesis on the research title of *An Appraisal of the practice of Ethiopian Human Rights Protection Mechanisms Pertaining Migrant Workers: the Case of Ethiopian Migrant Workers in Saudi Arabia*. The very purpose of this interview is for academic purpose not go beyond that. I assure you that every profile and the contents of your interview are kept confidential.

2. Respondent Profile

2.1 Name of Respondent

2.2 Sex: Male ____ Female ____

2.3 Age: ____

2.4 Educational Background:

2.5 Represented institution and location:

2.6 Official capacity/title:

2.7. Duration of engagement with the institution represented

3. Questions

- 3.1. How do you describe your engagement in overseas employment recruitment sector?
- 3.2. What did your agency recruitment practices look like and how could you facilitate employment services?
- 3.3. What are the expenses of your services and who is responsible for the fees? What benefits do you get from it?
- 3.4. What mechanisms are there in Ethiopia and Saudi to ensure the protection of your clients from abuse and exploitation?
- 3.5. Who are your stakeholders in Ethiopia and Saudi Arabia?
- 3.6. How did you see the mass deportation of Ethiopian migrant workers in Saudi? What were your roles?
- 3.7. What do you think the major challenges in order to accord prudent protections for migrant workers to Saudi? What kind of measures should be taken to address the problems? (by GOs and NGOs)

Guideline Questions for Focus Group Discussions

- What necessitated you to go to Saudi?
- How do you express living and working in Saudi?
- Have you ever in need of support from the government of Ethiopia?
- What are the major causes of human rights violations while you are Saudi?
- How do you express life after your deportation in Ethiopia?