



ADDIS ABABA UNIVERSITY, COLLEGE OF SOCIAL SCIENCES

DEPARTMENT OF POLITICAL SCIENCE AND INTERNATIONAL RELATIONS

M.A. PROGRAM IN INTERNATIONAL RELATIONS AND DIPLOMACY

**THE ROLE OF DIPLOMATIC MISSIONS IN ENSURING THE RIGHTS OF CITIZENS
ABROAD; THE CASE OF ETHIOPIAN EMBASSIES AT BEIRUT AND PRETORIA**

BY

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**A thesis submitted for partial fulfillment of the requirements for the Degree of
the Master of Arts (M.A.) in International Relations and Diplomacy**

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ADDIS ABABA, ETHIOPIA JUNE, 2024

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DECLARATION

I, the undersigned, declare that this thesis entitled, **THE ROLE OF DIPLOMATIC MISSIONS IN ENSURING THE RIGHTS OF CITIZENS ABROAD; THE CASE OF ETHIOPIAN EMBASSIES AT BEIRUT AND PRETORIA**, is my original work and has not been presented for a degree in any other university and that sources of materials used for the thesis have been duly acknowledged.

Ruhama Taffese Mekiso
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ABBREVIATIONS AND ACRONYMS

BIT- Bilateral International Agreements

CRC- Convention on the Rights of the Child

ICJ- International Court of Justice

MoFA- Ministry of Foreign Affairs

IFA- Institute of Foreign Affairs

MoLS- Ministry of Labour and Social Affairs

MoH- Ministry of Health

MoJ -Ministry of Justice

JCC- Job Creation Commission;

FPC- Federal Police Commission;

INVEA- Immigration Nationality and Vital Events Agency;

FTVETA- Federal Technical and Vocational Education and Training Agency;

MoSHE- Ministry of Science and Higher Education;

ILC- International Law Commission

UNHCR- United Nations Human Rights Committee

ECCHR- The European Commission and Court of Human Rights

IACHR- Inter-American Commission on Human Right

ICCPR- International Covenant on Civil and Political Right

ICESCR-International Covenant on Economic Social and Cultural Right

ACHR- The American Convention on Human Rights

ECHR- The European Convention on Human Rights and their Protocols

CAT- Convention against Torture

PCIJ- Permanent Court of International Justice

IO- International Organizations

ICMW- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

UDHR- Universal Declaration of Human Rights

ICCPR- International Covenant on Civil and Political Rights

Abstract

Ethiopians have been migrating outside of the country for centuries for various different reasons. Millions of Ethiopians live across the globe currently and many of these reside in Lebanon and South Africa. Most of the Ethiopians residing in Lebanon work migrated to the country illegally and serve as domestic workers with very little safeguards to their rights while most of the Ethiopians Residing in South Africa engage in the informal sector with recurring threats of Xenophobic attacks. This study thus focused on what diplomatic protection is and ought to be provided to these distressed Ethiopians through the Ethiopian Embassies in Beirut and Pretoria by using qualitative methodology to explore the problem based on the detailed literature review and the interviews conducted. The consular protection and assistance provided by these embassies was found to be very little due to many factors and settling the politics within the country, equipping the embassies with the necessary budget and well trained and diplomats with capacity as well as having distinct attachés for compliant receiving purposes is recommended. The Thesis also recommends the already begun citizen centered diplomacy be well developed

Key Words; Violation of Rights, Protection of Citizens Abroad, Role of Diplomatic Missions

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1. CHAPTER ONE

INTRODUCTION

1.1 Background

One of the core functions of diplomatic missions, aside from facilitating diplomatic relations with the host country and conducting consular routine, is taking steps to ensure the safety of its citizens residing in the host country. Embassies are responsible for ensuring the rights of their citizens are respected in the host country at normal times and for the safety of their citizens at times of disasters in the host country.

Millions (Approximately 2.5 million) of Ethiopians live around the world (outside of Ethiopia) and a large number of them reside in Lebanon (Approximately more than 150,000)¹ and South Africa (approximately 44,000)². With this large number of Citizens also the problems they face and this in turn, implies the more their embassies are expected to act in favor of the rights of these Ethiopians. The issue is even more relatable to the specific embassies mentioned above due to the large number of Ethiopians living in those host countries being prone to abuse of their rights. This is because many of the Ethiopians living in Lebanon are women domestic workers and many Ethiopians living in South Africa also engage in low-level income activities. The center at the problem also happens to be the irregularity of migration to these countries, most of the Ethiopian migrants living in this countries arrived there through irregular means and channels thus making it impossible for the embassies to keep a record and close look at every citizen. Furthermore, it is a recent memory and today's reality that Ethiopians face ruthless treatment and abuse of rights in the host as mentioned earlier countries have. As a result, the Ethiopian Embassies there are expected to be more watchful and on standby to protect their citizens, It is the objective of this Thesis to assess the level of involvement of these embassies in ensuring the rights of the hundreds of thousands of Ethiopians in these countries and suggest a way forward.

¹

<https://qz.com/africa/1859690/ethiopian-domestic-workers-stranded-in-lebanon-by-covid-19/#:~:text=There%20are%20an%20estimated%20150%2C000,little%20as%20%24150%20a%20month>, retrieved on 26/04/2021

² <https://www.un.org/development/desa/pd/content/international-migrant-stock>

Although these problems prove to be important not much academic research has been done in this area and this Thesis would add value to the literature.

1.2 Problem Statement

Countries establish diplomatic missions in other states to ensure their national interest within the receiving states and to facilitate their bilateral relationship. One of the rudimentary roles of diplomatic missions, according to the Vienna Conventions on Diplomatic and Consular Relations, is ensuring that the interest of the 'sending State' as well as 'its national' is well entertained (Vienna Convention 1961), thus Citizens are part of the national interest of a given state, despite their whereabouts. It is a part of the function of diplomatic protection that the right to take up a claim and to ensure respect for the rules of international law must be envisaged (Denza 2018). Diplomatic Protection is defined as 'the invocation by a State, through diplomatic action or other peaceful means, of the responsibility of another State for an injury caused by an internationally wrongful act to a natural or legal person that is a national of the former State with a view to the implementation of such responsibility' (Denza 2018). The notion of protection of civilians abroad goes back to Roman times and the relationship of nationality and state serve as the basis for this claim of states to protect their citizens (Denza 2018), The premise of National protection is that an injury to an individual entails an injury to the state he/she is nationals of. Diplomatic missions are at the same time expected to give more emphasis in protecting their citizens due to the 'complexity and danger' threatening foreigners in host countries (Leira 2018). When the reason for protection of citizens is related to protecting their human rights. The principle of extra territorial application of human rights kicks in and allows states to extend protection to their citizens living abroad especially in cases of violations.

In light of these theoretical and legal backgrounds countries have been acting in protection of their citizens including; partnerships with local organizations, expansion of health and community services at the consulates, assistance in difficult situations, hotline for women and housemaids in distress; safe house for migrants escaping abusive employers (Haynal et al, 2013)

Ethiopia has a very long history of diplomatic relations dating back to the 9th century BC where Maqueda, the Queen of Sheba, visited King Solmon of Israel, Ethiopia also had three

‘Embassies’ in Europe during the 15th Century AD (Ram, 1986) It now has tens of embassies and consulate around the world, including Lebanon and South Africa.

Ethiopia, as one of the populous countries in Africa, has been sending large numbers of its citizens a close to 2.5 million Ethiopians live outside of their country (<https://www.un.org/development/desa/pd/content/international-migrant-stock>) these Ethiopians are dispersed across the world and reside in large numbers in Lebanon and South Africa. These Ethiopians dispersed across the globe are entitled to wide range of rights enshrined in wide range of international human rights instruments which include; freedom from forced labour, equality before the law, right to property, payment for works done, just and favorable working conditions and rights for travel documents not to be confiscated

It is widely known that Ethiopian citizens residing and working in Lebanon and South Africa have been targets of different sorts of attacks to the level many have died. Most of the Ethiopians working in Lebanon are women and work as domestic workers. For decades these vulnerable Ethiopians have been victims of their employers (especially due to the Kafala system) (Pande, 2013), the problems they face range from; being denied their freedom to move, to being denied their salaries, to getting abused physically, and even to death. To make things worse Lebanon seems to be in a continuing instability due to politics and disasters. Things are not so different for Ethiopians in South Africa. While recent Xenophobic attacks made it to international news every day, robbery and harassment seems to be the everyday reality for Ethiopians in South Africa (Estifanos and Zack, 2020). All the above mentioned specific problems have been disregarded by the existing literature, especially assessment of the problem in light of the diplomatic protection obligation of the Ethiopian Diplomatic missions abroad faces a huge gap in the literature thus requiring this research thesis.

As discussed in the foregoing paragraphs, although Ethiopian Embassies in South Africa and Lebanon are established for and mandated (legally and theoretically) to protect Ethiopians living in these countries and ensure for their rights (above mentioned) respected, the reality has been different. This Thesis thus attempts to explore this problem

What has, should or should not have been done by the Ethiopian Diplomatic missions in these countries as part of their diplomatic mandate to make Ethiopian Citizens. Exploring this thus

helps shape better future engagements of these missions and contribute a grain in the respect and protection of Ethiopian Citizens residing in these countries. Although not much specific research has been done on the specific problem this research utilizes the existing literature as well as reports of news outlets and different human rights organizations to assess the level of the problem, and forward the probable solutions.

1.3 Core/Central Argument

One of the main goals of diplomatic missions/Embassies is to ensure the well-being of home citizens in host countries. Citizens of poor countries like Ethiopia are more likely to engage in low-paid and less protected jobs when living abroad, as most migrant Ethiopians travel abroad without the necessary professional qualifications. Therefore, the burden on the Diplomatic Missions/Embassies of these third-world countries, except for those who send professional workers, is heavier regarding protecting their citizens living as low-paid laborers/domestic workers in host countries. The case for Ethiopian Diplomatic Missions/Embassies in Lebanon and South Africa is no different from this, the pressure is stronger on these embassies as most of the Ethiopians living in these countries are low-paid and prone to abuses.

1.4 Objectives (overall and specific)

1.4.1 Overall objective

The overall objective of this research Thesis is to assess the level of involvement of Ethiopian Embassies (in the given specific countries) in ensuring the rights of Ethiopians living/working in the host countries.

1.4.2 Specific objective

The specific objectives of this research Thesis are

- Assessing What rights are considered crucial for citizens, especially Ethiopians, living and working abroad

- Assessing the level of involvement of Ethiopian Embassies in Beirut and Pretoria in light with what is expected from them
- Indicating ways forward and recommending on ways to monitor and ensure the rights of citizens abroad.

1.4.3 Research Questions (overall and specific)

The overall Research question of this research Thesis is;

What is the level of involvement of Ethiopian Embassies in Beirut and Pretoria in ensuring the rights of Ethiopians living/working in the host countries?

The following are the specific research questions of this research Thesis

- Among the universally accepted human rights which ones are considered crucial for I for citizens living and working abroad especially Ethiopians residing in the middle east and southern africa
- What problems especially manifested in violations of rights are faced by Ethiopians living in Lebanon and South Africa?
- What diplomatic involvement, actions and responses are expected from Ethiopian Embassies in Beirut and Pretoria in ensuring the rights of Ethiopians living/working in the host countries?

1.5 Research Methodology Methods, and Instruments of Data Collection

This research mainly uses qualitative methodologies. Applying explorative methodology, which is usually applied to topics which ‘not much has been written about’ (Cresswell 2014), this study aims to explore the areas of the topic of this research as there are none to few prior researches done. With its distinct features, such as flexibility and semi-structured data collection (Cresswell and Clark 2018), explorative methodology is useful to address the questions of this research allowing the researcher to adapt to changes through the progress of the research

This study aims to achieve a better understanding of the scarcely covered research topic (Stebbins 2011) through unveiling of perceptions on the topic and forwarding queries towards

them; and by applying comparative research methodology it will give insight and better understanding to the topic through giving it a look from different angles by studying its similarities and differences with others (Stebbins 2011).

The input for this research is was retrieved through multiple methods such as assessment of the existing literature, document analysis, and interviews conducted with relevant key informants including but not limited to experts at the MoFA related institutions, Journalists who have done investigative journalism regarding the matter at hand, academicians /researchers who have direct link to the issue and human rights advocates has been conducted. Different types of interviews were conducted via digital means and face-to-face, semi-structured using open-ended interviews and interview notes. Public notes such as news articles, archives, and other records have also been analyzed. Videotapes, and documentaries previously done on the matter were also analyzed. This Thesis utilizes the existing literature as well as reports of Media Monitoring was done and news outlets and different human rights organizations to assess the level of the problem.

The overall background and roadmap of this study are presented on a descriptive technique while the theoretical presentations of this Thesis are related to the data collected through an explanatory technique. In summary, this research uses interviews, observations, documents, and audiovisual materials as methods of data collection as recommended by Asmussen & Creswell, 1995.

This research assumes the four key informants chosen for interview purpose have direct link to the issue at hand, do not have other motives than being mere sources of information and the answers given by them in interview are true.

The natural setting of some of key informants is to be maintained as they are to be interviewed where they currently are via technological means. The data collection instrument is to be developed by the researcher herself thus fulfilling ‘researcher as key instrument’ (Cresswell, 2013) the characteristic of qualitative research. This research attempts to reflect on and interpret the facts on ground to present a complete and intricate picture on the issue at hand.

Applying the qualitative methodology, the Thesis aims at echoing the voices of the Ethiopian diaspora living in Lebanon and South Africa re the role of the Embassies with regards to their

rights and the view of the author in the matter at discussion. It also aims at describing and interpreting the problem under research and contribute to the existing literature as well as the solution to the problem. This is supported by the below definition given to qualitative research by one of the leading experts in the field, John Cresswell (Cresswell 2007), The output will be a compilation of inputs of the resources, interpretation of the researcher, adequate description of the problem and the expected addition it would give to the field.

1.6 Scope

Although at its first part this Thesis would deal with general matters such as the general obligation of Diplomatic Missions towards citizens abroad and crucial rights of citizens living/working abroad, the scope of the details of the research would be focused on the activities of the enlisted Ethiopian Embassies with regards to the burning rights issues of Ethiopian Citizens residing/working in the host countries during the past couple of decades.

When dealing with the rights of migrant workers number of general and specific international human rights instruments apply. Migrant works being human are endowed with the general rights and freedoms enshrined under the UDHR, ICCPR and ICESCR. And depending on the special status of the individual migrant worker (the migrant worker being a woman, underaged or person with disabilities etc) CEDAW, CRC, CRPD etc may apply. The major international human rights instrument that specifically apply to migrant workers is; 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 (entered into force in March 2003)

Rights at stake

Migrant workers are endowed with a numerous list of rights and freedoms enshrined under the above listed international human rights instruments. These rights range from; the right to life and bodily integrity to enjoyment of the highest attainable standard of physical and mental health; freedom of thought and conscious to the right to receive any medical care that is urgently required; freedom from slavery to the right not to be expelled except under the law; and many more. Though the list of rights given to migrant workers is plentiful this Thesis focuses on the most pressing rights that are crucial to Ethiopian migrant workers in Lebanon and South Africa.

Right to life, right to bodily integrity, freedom from forced labour, equality before the law, right not to be expelled except under the law, the presumption of innocence right to property, right to payment for works done, just and favorable conditions of work right to receive any medical care that is urgently required, right for their travel documents not to be confiscated or destroyed, have recourse to the protection and assistance of the consular or diplomatic authorities of their State of origin and , right to transfer their earning and savings; would be the focus of this Thesis.

1.7 Significance

The primary significance of this research lies in its contribution to the identification of gaps faced by the Ethiopian Embassies about ensuring the rights of Ethiopian migrant workers in host countries, the research also contributes in the indication of solutions for the identified gaps.

On the other hand, this research Thesis is significant in the identification of important rights to migrant workers in Lebanon and RSA, who engage in low-skill level employment. It further contributes to the existing scarce literature on the role of Ethiopian Embassies in ensuring the rights of Ethiopian migrant workers. It should also not be forgotten that this research Thesis encourages the development of the practice of citizen-focused diplomacy.

1.8 Organization of the study

This research Thesis will begin with an introduction that set forth the overall content of the Thesis. The first part of the research will cover a literature review on the theoretical and practical basis for diplomatic missions to protect their citizens in host countries. The literature on the crucial rights of people living outside of their countries will also be covered in this part. After establishing the basis for diplomatic missions' duty to promote the rights of citizens the research would then deal with Conceptual Issues/ Theoretical Perspectives, and literature review of the issue at hand and . The third part would assess the historical and contemporary conditions of Ethiopians in Lebanon and South Africa as well as the action of the Embassies with regard to these conditions. The fourth chapter will deal with The (re)action of the embassies with regard

to the violation of the rights of Ethiopians in their respective host countries vis a vis the previously established theoretical and practical basis for diplomatic missions to promote the rights of their citizens. The research will conclude by a fifth chapter which includes an analysis of the whole situation based on the findings and set forth implications and recommendations which may include appreciating what the embassies are doing or recommending ways to improve their current handling of the situation. A short conclusion would conclude this research Thesis.

Chapter two

2. Literature Review : Conceptual Theoretical framework

2.1.1 Conceptual Issues

Nationals as Diaspora

Diaspora is a constructed identity by governments and other agents to nationals having an established lifestyle away from their sending state and Sending states are original homelands that maintain durable linkages with diasporas abroad, and incorporate diasporas into policy areas, such as health, labor, economy, culture, education, voting, and foreign policy.³ Theoretical explanation for this engagement by sending states is basically defined in three theory rationales; utilitarian Identity based and governance.

‘Utilitarian Rationale explains the need of sending states to engage its diaspora for the use of the diaspora in economic, social and political areas. When it comes to the economic value of the diaspora; remittance and FDI come into picture. The diaspora’s social capital is taken into consideration when it comes to the social arena and transfer of expertise. The political use of the diaspora is important in lobbying receiving states and other governments for that matter. So the theory states that sending nations take into account all these utilities of the diaspora in deciding its policy to either encourage or discourage its nationals to stay abroad.’⁴ ‘states of origin have been increasingly keen to harness the political clout and economic vibrancy of their diaspora for remittances, electoral and democratic might and cultural influence.’⁵

³ Koinova, Maria (2018). “Sending States and Diaspora Positionality in International Relations”, *International Political Sociology*, forthcoming p. 3 citing COLLYER, MICHAEL (ed.). (2013) *Emigration Nations*. London: Palgrave and GAMLEN, ALAN (2014) *Diaspora Institutions and Diaspora Governance*. *International Migration Review* 48:180-217

⁴ Alan Gamlen, Michael E. Cummings & Paul M. Vaaler (2019) *Explaining the rise of diaspora institutions*, *Journal of Ethnic and Migration Studies*, p. 497

⁵ Megret citing Eva Østergaard-Nielsen, (Palgrave, 2001) ‘Diasporas in World Politics’ in Daphné Josselin and William Wallace (eds), *Non-state Actors in World Politics* (, p 225

‘The identity-based (constructivist) rationale shows how sending states cultivate diaspora identities to maintain links with the original culture.’ It theorized that borders and territory do not define identity; rather the nationality link of the diaspora to the sending state remains intact despite the residence of the diaspora, thus the diaspora should keep its identity links to the ending state.⁶ “Sending states foster these links through commemorations of important holidays mother tongue education and nation-state curriculum, ;teachers spreading national discourses, support for religious institutions, home country visits and media and laws to benefit co-nationals and through these Sending states play an important role in awakening, constructing, reconstructing, and sustaining diaspora identities”⁷

The governance rationale explains sending state opt to to govern and engage with their diaspora through entering of BITs and participating in IOs,⁸ thus’ Individuals are encouraged to participate in self-regulation, so boundaries between state and society are relative’⁹

The socio spatial rationale attempts to inform the other three rationales by showing that diasporas’ global position could be an asset for sending states and it relates to the Governance rationale more.’¹⁰ It focuses on how to engage specific groups of diaspora in accordance to their position and use considering their specific skills and advantage over others.¹¹

Nationality and Protection from the State of Origin

It is within the powers of the state to endow individuals and legal persons with nationality international law left it to sovereign States to determine rules for the grant of its nationality” and

⁶ Morgan Muat (2020), Migration, Development, and Diaspora Governance A comparative analysis of the diaspora, engagement policies of India and Ghana, London’s Global University, Working Paper No. 7

⁷ Koinova p. 4

⁸ Hollifield, James F (2012) Migration and international relations. In Marc R. Rosenblum and Daniel J Tichenor (eds) The Oxford handbook of the politics of international migration. Oxford: Oxford University Press.

⁹ GORDON, COLIN. (1991). Governmental Rationality. In The Foucault Effect, edited by G. Burchell et al. Chicago: University of Chicago Press

¹⁰ Koinova p. 8

¹¹ Tsurapas, Gerasimos (2015) Why do states develop multi-tier emigrant policies? Evidence from Egypt. Journal of Ethnic & Migration Studies 41(13): 2192–2214

this nationality comes with benefits locally and abroad including diplomatic protection.¹² ““The notion of conferring protection goes back to the times of Rome where all a Roman Citizen had to do to be respected was utter ‘Civis Romanus sum’. ‘Hugo Grotius, a fifteenth century Dutch jurist and early international law scholar, has been quoted as saying: —Kings, and those who are invested with a Power equal to that of Kings, have a Right to exact Punishments, not only for Injuries committed against themselves, or their Subjects.’”¹³ As per the PCIJ Where there are no other specific arrangements the state picks up its right of diplomatic protection from the mere fact of its relationship with the individual through nationality, this right includes standing on behalf of the nation to assure that its rights are respected under international law.¹⁴

In principle nationality results in protection from one's own country and ‘protection from one's own country was deeply tied to nationality during the 1800 and first half of the 1900s’.¹⁵ Protecting citizens abroad is also a matter of national security . In practical terms the state claims its position in protecting its citizens from international law. This is because the right of diplomatic protection lies on the national state when in lieu of other connecting dots other than nationality. Where the injury was done to the national of some other State.¹⁶ Diplomatic Protection is defined as ‘the invocation by a State, through diplomatic action or other peaceful means, of the responsibility of another State for an injury caused by an internationally wrongful act to a natural or legal person that is a national of the former State with a view to the implementation of such responsibility’¹⁷ What was meant was that there should be a minimum threshold to which aliens are treated which include protections conferred on the person and his property and not meeting this threshold would be considered as injustice which would entitle the

¹² Eileen Denza, (2018), Nationality and Diplomatic Protection, Netherlands International Law Review 65:463–480 <https://doi.org/10.1007/s40802-018-011>, 464

¹³ Andrew W. R. Thomson, (1976), Doctrine of the Protection of Nationals Abroad: Rise of the Non-Combatant Evacuation Operation, Washington University Global Studies Law Review, Volume 11 Issue 3 2012 citing Leslie Green, Rescue at Entebbe: Legal Aspects, 6 ISR. Y.B. HUM. RTS. 312, 323 .

¹⁴ Denza 464

¹⁵ Panevezys–Saldutiskis Railway case, PCIJ (1939) Series A/B No. 76, para. 65; Jennings and Watts (2008)

¹⁶ Jennings R, Watts A (2008) Oppenheim’s international law, 9th edn. OUP, Oxford pp. 511–515. citing *Panevezys–Saldutiskis Railway* case, PCIJ (1939) Series A/B No. 76, para. 65;

¹⁷ Titles and texts of the draft articles on Diplomatic Protection adopted by the Drafting Committee on second reading, INTERNATIONAL LAW COMMISSION Fifty-eighth session Geneva, 1 May-9 June and 3 July-11 August 2006 <https://legal.un.org/ilc/sessions/58/docs.shtml>

sending state the rights to request for damages from the host state in the place of the alien.¹⁸ Although the principle had seemed to decline after WWII for several reasons it revived again due to an increase of migration from Global south to the North and the growing interest of the Global south to protect its citizens in the Global North and the CMW is an evidence to this rise¹⁹

One of the rudimentary roles of diplomatic missions, according to the Vienna Conventions on Diplomatic and Consular Relations, is ensuring that the interest of the ‘sending State’ as well as ‘its national’ is well entertained.²⁰ Although current security issues give little or no relevance to how to practice it, the concept of protection of citizens abroad is a ‘matter of security’.²¹ The primary responsibility of protecting everyone within its boundaries lies in the hands of the local administration but diplomatic missions are at the same time expected to give more emphasis in protecting their citizens due to the ‘complexity and danger’ threatening foreigners in host countries.²²

In carrying out their responsibility to protect their citizens Consulates are entitled to communicate with the relevant authorities of the hosting state and they are also entitled to receive relevant information(re their citizens) from these relevant authorities.²³

The acts of diplomatic missions in the exercise of the duty of ‘diplomatic protection’ are classified into two, formal and informal. The formal is exercised by the missions in cases where the national has attempted all he could and applied all local remedies thoroughly, and the remaining remedies can now be exercised by the mission only. Informal ‘diplomatic protection’ is practiced by the mission or its employees in normal times and as an auxiliary to the efforts of the nation in exhausting local remedies still available,²⁴ The need for the state of origin to intervene in cases of unwillingness and disability from the host state to ensure the rights still

¹⁸ FRÉDÉRIC MÉGRET, THE CHANGING FACE OF PROTECTION OF THE STATE’S NATIONALS ABROAD, Advance Copy

¹⁹ Id. p 6-8

²⁰ Roberts I (ed) (2017) Satow’s diplomatic practice, 7th edn. OUP, Oxford

²¹ Nina Græger and Wrenn Yennie Lindgren,(2018) “**The Duty of Care for Citizens Abroad: Security and Responsibility in the In Amenas and Fukushima Crises**”, *The Hague Journal of Diplomacy* 13 (2018) 188-210, October 2017, PP 189

²² Halvard Leira, (2018), ‘Caring and Carers: Diplomatic Personnel and the Duty of Care’, *The Hague Journal of Diplomacy*, vol. 15, no. 2

²³ Article 37 and 38 VCCR 1963

²⁴ Denza (2018), P466

exist.²⁵ Although the issue of adequate finance hinders the practice of consular protection it remains advantageous.²⁶

This duty of protecting citizens abroad “*covers juridical, moral and political ground and has an element of foresight of harm, reasonable legal proximity between the parties, and a fair and reasonable interpretation of a situation should be in place to invoke it.*”²⁷ It also requires beyond the old-style office desk solutions and more of practical works on site that involve creating networks, working with local officials, showing physical effort and getting your hands dirty,²⁸ as the success of diplomats is judged highly upon whether they were able to act in harmony with other actors or not²⁹ as Melissen and Caesar-Gordon put it Citizen focused approach yield better than the outdated state focused approach of communication³⁰

The modern world with fast transportation and travel technologies as well as the ease in the mobile style of life challenges today’s diplomats as dealing with large numbers of citizens abroad, who expect their quality service, becomes their day-to-day task.³¹ *

As stated above, informal diplomatic protection plays a great unmatched role in present-day international relations and although its main constraint is finance, This also proves to be true for the case of Ethiopia. But the embassies failed to protect their citizens even in ways that do not require finance and only good will. For instance, opening the doors of the Beirut consulate for the distressed Ethiopians running away from their abusive employers does not require a dime so does opening their phone lines to hear what they have to say.³²

²⁵R.B Lillich, (1983) The Current Status of the Law of State Responsibility for Injuries to Aliens, in International Law of State Responsibility for Injuries to Aliens 1, 17,

²⁶ Megret 479

²⁷ Græger and Lindgren, P 189

²⁸ Jan Melissen and Matthew Caesar-Gordon, (2016), ‘Digital Diplomacy and the Securing of Nationals in a Citizen-Centric World’, *Global Affairs*, vol. 3, no. 2

²⁹ Ole Jacob Sending, Vincent Pouliot and Iver B. Neumann, ‘Introduction’, in Sending, Pouliot and Neumann (eds.), *Diplomacy and the Making of World Politics*, p. 19.

³⁰ Melissen and Gordon(2016), P1-3

³¹ Jan Melissen,(2020) Consular diplomacy's first challenge: Communicating assistance to nationals abroad, Asia and the Pacific Policy Studies, Australian National University, Policy Forum Article, February 2020, P220

³² Denza (2018), P479

Consular Protection Vs. Consular Assistance

Consular protection presumes an internationally wrongful act done and the state brings the case directly to the other party involved in the act without the requirement of ‘exhaustion of local remedies. And it aims at addressing the person who is in need and providing solutions for his/her problems.³³’ The case for a duty to assert diplomatic/Consular protection, moreover, is all the stronger where the protection sought concerns human rights, especially core human rights.³⁴

Consular assistance on the other hand means the activities of consuls in assisting their citizens who are living abroad especially faced with distress (a person facing a temporary emergency situation and is unable to handle it himself/herself).³⁵ The primary purpose of consular assistance is easing things for nationals facing challenges abroad. Consular assistance serves the role of advocating and protecting the rights of the accused and detained in cases of arrests of their citizens by security forces.³⁶ Among many different consular services to be provided by consulates, such as notarial services, by far the most vital is the assistance given to citizens detained abroad.³⁷ This proves to be truest given the fact that it is only ‘consular officials’ that are legally allowed to contact detained citizens.³⁸ This protection can only be realized through appointed official diplomats and their office as these bodies are those endowed with guaranteeing the rights.³⁹

Although countries are not formally obliged to give consular assistance to their citizens living abroad under contemporary international law, they tend to do so as the overall purpose of consular assistance in accordance with article 36(1) of the 1963 VCCR is to protect the rights of citizens abroad ensured by the ICCPR.⁴⁰ When giving such services Embassies/Consulates aim that; their detained citizens obtain accurate information with regards to the overall procedural law and criminal legal system of the detaining state and that they get the moral support they need

³³ Eva-Maria Alexandrova Poptcheva, (2012) ‘Consular Protection Abroad, A Union Citizenship Fundamental Right?’ PHD Thesis, University of Barcelona Law Faculty, Department of Political Science and Public Law, P87

³⁴ Megret p. 15

³⁵ Poptcheva, 2012, p87

³⁶ Dewi Avilia, (2017) CONSULAR ASSISTANCE FOR NATIONALS DETAINED BY A FOREIGN GOVERNMENT: STATES’ POLICIES AND PRACTISES, Indonesia Law Review 1: 113 – 134, P113

³⁷ Id. 2017, P 114

³⁸ Article 36, VCCR 1963

³⁹ Okano-Heijmans, 2010, P10

⁴⁰ Avilia, P. 116

from their home country. This provision (Article 36(1)c of VCCR 1963) that gives consulates the right to visit and facilitate legal assistance for citizens detained clearly indicates the expected act from consulates with regards to ensuring the protection of the rights of citizens abroad.

2.1.2 Doctrinal Debates- Legal

Protection of National Abroad is an international substantive norm developed by state practice over the past 150 years; it was considered developed enough to be codified back in the days of the League of Nations.⁴¹ This stands against the Calvo Doctrine which states that non-nationals do not qualify for the enjoyment of rights that are not given to nationals, and that therefore they may seek redress for grievances only before local authorities just like ordinary citizens.⁴² The Calvo Doctrine argues that the principle of protection of National Abroad is strictly against the way to developed democracy to allow foreign states pressure other sovereign states by the pretext of violation of rights of their citizens⁴³ but proponents of the principle argue it is more undemocratic to deny the state of its claims originating in alleged injuries to the former's nationals. States tend to reject the principle claiming their sovereignty in the past especially in cases of nationalizing private properties of foreign nationals. Lillich argues although attacked from different angles 'the modern doctrine of diplomatic protection' endowed for citizens living outside of their home state deserves and ensures unstopping backup from nationals abroad warrants the continued vigorous support of all enlightened internationalists'.⁴⁴ The premise of National protection is that an injury to an individual entails an injury to the state he/she is nationals of, the injury is thus indirect rather than direct, thus labeled fictitious; But after all the principle itself is required when the injury is indirect as there would be no need for diplomatic protection when the state is requesting claims as a result of direct injury⁴⁵ Okowa argues 'there is a presumption that nationals are indispensable elements of a State's territorial attributes and a

⁴¹ R. B. LILlich, THE DIPLOMATIC PROTECTION OF NATIONALS ABROAD: AN ELEMENTARY PRINCIPLE OF INTERNATIONAL LAW UNDER ATTACK THE AMERICAN JOURNAL OF INTERNATIONAL LAW Vol. 69, p. 359

⁴² Oyepho Akeuseph, Tamunoemi A. Abbiyesuku and Zinami Fyneroad Iwariso, (2023) CALVO DOCTRINE AND HULL FORMULA UNDER INTERNATIONAL LAW: A CRITICAL APPRAISAL, UNIPORT Journal of International and Comparative Law (Vol. 4)

⁴³ Id

⁴⁴ Lillich. p. 360ff

⁴⁵ E. de Vattel, Le Droit des Gens ou Principes de la Loi Naturelle (1758),

wrong done to the national invariably affects the rights of the State.⁴⁶ Brierly opposes this and labels it an exaggeration to claim a whole state is considered injured when it is just an individual who actually did.⁴⁷ Unlike direct injury to the state and remedies to injury to the national require exhaustion of local remedies and nationality of claims. When the notion of protection of nationals abroad arises two international rules are at stake, the violation of rights of the individual which is a primary rule and the right of the state for protection of that nationality as a secondary rule.⁴⁸

‘In an agreement with Linlich’s and Okowa’s pro-argument of the legality of principle of protection of nationals abroad but more in a more balancing approach considering the individual’s complete control over the procedure, ILC adopted on the second reading of draft articles on diplomatic protection. This is an enormous leap as ILC is known for codifying existing norms and practices in international law. The ILC takes the notion of exhaustion of local remedies as procedural rule thus without the need for exhaustion of local remedies the host state would take liability by the mere fact of the committing internationally illegal act but its is only after the exhaustion of local remedies that the injured state may invoke the principle of Diplomatic protection’⁴⁹

The principle of extra territorial application of human rights also allows states to extend protection to their citizens living abroad especially in cases of violation of Jus cogens level of rights, the extraterritorial application of human rights means a circumstance where a state has human rights responsibilities regarding a person outside of its borders.⁵⁰ Unlike human rights bodies, states have jurisdiction regarding the application of human rights treaties in relation to their citizens even outside of their territories.⁵¹ Despite the fact that the state of origin exercises no primary jurisdiction in the territories of the host state it still keeps some sort of jurisdiction in regards with its citizens residing in the host country; the relationship between the state of origin and its citizen established by the connecting dot of nationality provides enough ground for the

⁴⁶ Okowa, (2006) ‘ Issues of Admissibility and the Law on International Responsibility ’, in M.D. Evans, *International Law*, at 483.

⁴⁷ J.L. Brierly, 1963 *The Law of Nations*, at 276 – 277.)

⁴⁸ Annemarieke Vermeer-Künzli, (2007) *As If: The Legal Fiction in Diplomatic Protection*, *The European Journal of International Law* Vol. 18, p.50ff

⁴⁹ *Id.* p. 53

⁵⁰ Milanovic M, (2011) *Extraterritorial Application of Human Rights Treaties: Law, Principles, and Policy* (OUP)

⁵¹ Philipp Janig, (2022) ‘Extraterritorial Application of Human Rights’ in Christina Binder, Manfred Nowak, Jane A Hofbauer and Philipp Jang (eds), *Elgar Encyclopedia of Human Rights*, vol II (Edward Elgar Publishing 2022) p1-2

sending state to invoke diplomatic protection for its citizens in the host state which might extend to repatriation.⁵² Although some of the human rights treaties limit the applicability of the principle through their wordings on jurisdiction, several others omit this limitation, opening the door for the extraterritorial application of human rights. In principle and primarily it is the responsibility of the host state to protect all persons residing within its territory, and extra territorial applicability is the exception.⁵³ The repeatedly compatible philosophy of law as well as and binding interpretations of international tribunals and courts especially regarding the ECHR, the ACHR and the CAT gave the legality of the extraterritorial applicability of these conventions, thus the complete rejection of the principle of extraterritorial applicability is itself rejected by the legal philosophy and binding decisions of these bodies⁵⁴

‘The model applicable for cases of protection of citizens abroad is the personal Model. As seen in the case of *Hirsi Jamaa and Others v Italy* (GC) 2012 at the European Court of Human Rights, The state may also exercise its (legal) authority through diplomatic or consular agents abroad. As indicated under *Al-Skeini and Others v UK* (GC) 2011 in the same court a state might through the consent, invitation or acquiescence of the Government of that territory may exercise all or some of the public powers normally to be exercised by that Government; and also In the case of *L.H. and Others v France* [2020] at the CRC Committee concerned with the situation of children detained in refugee camps in Syrian Kurdistan, controlled by non-state actors. It considered that France ‘as the State of the children’s nationality, has the capability and the power to protect the[ir] rights’, who were therefore in its jurisdiction.⁵⁵ In the *Reparation for Injuries Suffered in the Service of the United Nations* case, the ICJ noted that not only the UN but also the State to whom the individuals (employees of the UN) are citizens to may claim reparation for injuries sustained against those individuals.⁵⁶

⁵² Sébastien Touzé, (2007) *La protection des droits des nationaux à l'étranger: Recherches sur la protection diplomatique* [Protection of the Rights of Nationals Abroad: Research on Diplomatic Protection] (Pedone)

⁵³ Janig, p4-5

⁵⁴ Ralph Wilde, *The extraterritorial application of international human rights law on civil and political rights* p640

⁵⁵ Janig

⁵⁶ Denza 465

Fiction vs. Actual Rule

‘In few words Legal Fictions serve to fill gaps caused as a result of unforeseeable events, They are a tool used to enhance our understanding and knowledge of reality, twist of reality and that they are a means to an end. They are a legal mechanism to apply legal rules to a given, unregulated, situation. However, not all conceptual constructions are legal fictions and they are also different from presumptions.⁵⁷ they are imprecise, necessary and limited;

“The lack of precision is due to the fact that they are always forced and always knowingly present a false situation by pretending something is something else, The assimilation is thus imperfect. One of the main reasons for the imperfection is that the assimilation only occurs one way. To give one standard example from Roman law: the alien is treated as a citizen but not vice versa. The necessity for legal fictions arises out of lack of an applicable regime for a particular situation. If there are no laws on inheritance from or by aliens, we pretend that the aliens are citizens to include them in an existing regime. It is particularly for this reasons that fictions are a means to an end. Finally, fictions are limited. The fiction applies to one field of law or one set of rules but not to another. The fiction that aliens are citizens is only applicable with respect to, for instance, inheritance. Applying the function to these matters does not imply that they also have all the other rights citizens have, such as the right to vote. Or, to return to diplomatic protection, the fiction that injury to an individual is an injury to the individual’s national state does not also imply that the responsibility of an individual is the same as the responsibility of a state. As mentioned above, legal fictions are a device to apply an existing regime to a (new) situation or compilation of facts that is not (yet) governed by its own regime but for which regulation is deemed necessary. They are reaching out to establish inclusion.”⁵⁸

Fictions also serve as a transitional back up for a certain practice until a concrete argument or rule is set up. Supporters of this fiction are those who consider states as primary actors in international law and those who reject it argue individuals are also recognized under international law thus there is no need for the involvement of the state in their matters.⁵⁹

⁵⁷H. Vaihinger,(1922) Die Philosophie des Als Ob. System der theoretischen, praktischen und religiösen Fiktionen der Menschheit at p.xii: ‘ How is it that we arrive at the truth through knowingly wrong ideas? ’

⁵⁸ Vermeer-Künzli, (1935)p.44 citing R. Dekkers, L a Fiction Juridique, étude de droit romain et de droit comparé, at 117

⁵⁹ Id. p.44

Proponents of the notion as a legal rule rather than a fiction argue that it is not correct to treat the case in which the law grants a foreigner the same rights as a citizen as a legal fiction, one should rather consider that the legal framework has been expanded to also include foreigners.⁶⁰ Thus its is the broadening of the law to cover matters and persons which were out of its reach before.

When it comes to the rule of protection of citizens abroad is exactly through the operation of the fiction that a state has the right to espouse a claim (a secondary rule) based on injury to an individual national arising out of the violation of a right under international law of this individual (a primary rule).⁶¹ The fiction thus facilitates the transformation from a primary rule into a secondary rule. Primary Rules under international law are the rule directly related to the rights and obligations of the primary actors in international law which are state, secondary rules are the rules are necessary to enforce the primary rules, to facilitate change or lay down the rules of adjudication they lay down the consequences arising out of a violation of the primary rules, the modalities of change of the primary rules and, wherever applicable, the hierarchy between these rules.⁶²

‘In conclusion, legal fiction is a mechanism of transition, transforming the individual’s primary right into his or her national state’s secondary right. The resulting right is the right of a state: the right to claim responsibility for another state and to demand reparation for the injury after local remedies have been exhausted and after the occurrence of an internationally wrongful act has been established.’⁶³

2.1.3 Theoretical Issues on Diplomatic Protection

Consular assistance being part of the study of diplomacy has been neglected by the Theories of International relations realm (“*dominated by (neo)realist and (neo)liberalist thought*”).⁶⁴

⁶⁰Kelsen, (1968) ‘ Zur Theorie der juristische Fiktionen’, in H. Klecatsky, R. Marci , and H. Schambeck, Die Wiener Rechtstheoretische Schule, ausgewählte Schriften von Hans Kelsen, Adolf Julius Merkl und Alfred Verdross , at 1215 – 1241)

⁶¹ Bennouna, ‘ Preliminary Report on Diplomatic Protection ’ , International Law Commission, 50th Session, A/CN.4/484 (1998), at para. 60.

⁶² H.L.A. Hart,(1961) The Concept of Law, at 212 – 213

⁶³ Vermeer-Künzli p. 55-56

⁶⁴ Maaïke Okano-Heijmans, (2010) Change in Consular Assistance and the Emergence of Consular Diplomacy, NETHERLANDS INSTITUTE OF INTERNATIONAL RELATIONS ‘CLINGENDAEL’, P 9

*“In a general sense, the root of diplomacy’s marginalization in IR theory is found in the bottom–up conceptualization of political space and the fact that most IR theories tend to be substantialist rather than relationalist.”*⁶⁵ The cause of this ignorance by the theorists seems to lie in their way of formulation of their thought that conceives political space to be built up bottom-up.

As the core for Realism theory in the study of IR theories is the power struggle, the leading realists in the field tend to view diplomacy with this concept of power and tend to categorize diplomacy as an instrument showing the power of states.⁶⁶ While on the side of liberals, diplomacy is a mere concept that is nothing outside of the concept of rules and institutions that in turn determine the intentions of states when engaged in a relationship with other states.⁶⁷ Diplomacy has therefore been considered not worthy of theoretical development by scholars of both the major theories.⁶⁸ Although the leading scholars in the ‘English School’ are the first to come up with the notion of Diplomacy as an institution,⁶⁹ they still tend to minimize its role as a mere catalyst in the game of the big; *“the balance of power, international law, war and the Great Powers”*⁷⁰ and retained that the major player of diplomacy are states/governments.

On a slightly different side James D. Fearon argues that Balance of power, likeliness of power war and/or relations between states that are characterized by competition are the things structural realists attempt to elucidate, and these notions are *‘either foreign policies or the direct result of foreign policies, as political outcomes such as a balance of power are the direct, if sometimes unintended, result of individual states. foreign policy choices’* He further argues that ‘systemic and neorealist theories emphatically are theories of foreign policy’.⁷¹ These theories would substantiate the analysis of this Thesis, by explaining the reasons behind the realities and actions of the diplomatic missions under discussion, these theories also serve in the explanation of the

⁶⁵ Christer Jönsson and Martin Hall, (2005) *Essence of Diplomacy* (Hampshire: Palgrave Macmillan), pp. 12–15.

⁶⁶ Hans J. Morgenthau (1968), *Politics among Nations: The Struggle for Power and Peace* (New York: Alfred A. Knopf, 1968 [1948]).

⁶⁷ Robert O. Keohane, (1989) ‘Theory of World Politics: Structural Realism and Beyond’, in Robert O. Keohane (ed.), *International Institutions and State Power: Essays in International Relations Theory* (Boulder CO: Westview, Hall, 2005

⁶⁸ Hall, 2005

⁶⁹ Hedley Bull, (1977) *The Anarchical Society: A Study of Order in World Politics* (New York: Columbia University Press, 2002 [1977]).

⁷⁰ Okano-Heijmans, 2010, P10

⁷¹ James D. Fearon, (1998) DOMESTIC POLITICS, FOREIGN POLICY, AND THEORIES OF INTERNATIONAL RELATIONS, *Annu. Rev. Polit. Sci.* 1:289-313.

relationships discussed under this Thesis. They would be used as the glasses through which actions of diplomatic missions and their relationships with their citizens are viewed.

2.1 Rights of People Living Outside of Their Countries

Developments after 1945 resulted in proliferation of human rights instruments which had the effect of endowing individuals' access to justice in international bodies, this however should not hold back embassies from carrying out their responsibilities of protecting their nationals.

Though not an international Human Rights document, VCCR 1963 endows some rights to citizens living outside of their home countries. for instance, Article 36(1) aims at ensuring the basic rights endowed to individuals by virtue of the ICCPR which includes the right to due process.

The reverse reading of article 5(d) of VCCR 1963 gives citizens abroad the right to protection and assistance by the consulate of their home government. Detained citizens also have the right to inform their consulate of the state of their arrest in accordance with article 36(1)b of VCCR 1963.

Right to life liberty and security of person

“The right to life belongs to the category of fundamental rights and, from a historical perspective, it is one of the first rights proclaimed and enshrined in international law.”⁷²

Migrant workers like any other human being calling this planet home are endowed with the inalienable right to life itself , a backbone right to all the other rights, a human being will be able to enjoy all the rights and freedoms only if he stays alive. Any arbitrary deprivation of this right is a violation of international Human Rights law.

“The right to liberty means that people must not be arrested and detained, unless provided for by law. Their arrest and the detention must also not be arbitrary. This right applies to all forms of

⁷² Luminita Dagne , (2013) The right to life – a fundamental human right, Social Economic Debates,, Vol. 2, No. 2, Christian University Faculty of Legal and Administrative Sciences,

*detention where people are deprived of their liberty, not just criminal justice processes. This can be relevant any time a person is not free to leave a place by their own choice. The right to security requires the State to take reasonable measures to protect a person's security (both physical and mental). The government does this through the work of the police and emergency services,*⁷³

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families dictates that there should be laws guaranteeing the right to life of migrant workers and members of their families and there should not be an arbitrary violation of their right to bodily integrity including prohibition of torture or to cruel, inhuman or degrading treatment or punishment.

Freedom from forced labour

Article 4 of the UDHR prohibits slavery and servitude of any and all kinds , The ICCPR further clarifies this right under its article 8(3)a prohibiting performance of involuntary or obligatory labour.

Equality before the law

Equality and non-discrimination are the basic principles that all the rights enshrined under international Human Rights instruments ought to be exercised in due consideration. The very first principle in which the ICCPR is to be operated in consideration of, enshrined under its second article, is this principle. Furthermore, this right of equality is most important in the context of application of the law on individuals (civil and criminal alike). Migrant workers should be treated equally with everyone else especially in cases of legal/court proceedings to ensure due process of law, meaning; they should be treated equally with others in terms of being informed of the charges brought against them(in a manner they understand), to be given due time and to prepare defense including consulting a lawyer, being brought before court without delay,

⁷³Queensland Human Rights Commission website, <https://www.qhrc.qld.gov.au/your-rights/human-rights-law/right-to-liberty-and-security-of-person>, accessed on 10th November 2021

defending oneself in person or a choice of council, not to self-incriminate, right against double jeopardy, to examine all evidence brought against them.

The **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families(ICMW)**, the specific applicable international human rights instrument regarding migrant workers states in this regard that; Migrant workers and members of their families should be treated equally and in the same manner as citizens of the host country especially in legal proceedings both civil and criminal; especially criminal proceedings all due due procedural advantages should be given to them including fair and public hearing.(Article 18(1))

Right not to be expelled except in accordance with the law

Migrant workers are protected against unlawful deportation under international Human Rights Law, the ICCPR in this regard dictates that a non-citizen of a host state is protected from expulsion by the state except in cases necessary for national security or order of courts in accordance to the law and even in these instances the person retains the right for his expulsion case to follow all procedural requirements ; Article 13, ICCPR

Presumption of innocence

Guilt shall not be presumed in the process of criminal proceeding against anyone. Migrant workers when faced with criminal charges have the right to be treated like a guiltless person until the outcome of the proceeding proves that they have actually committed the act they are accused of. This basic principle of criminal procedure is enshrined under article 11 and article 14(2) of the UDHR and ICCPR respectively. Article 18(2) of ICMW clearly state the right to be presumed innocent extends to migrant workers and their family members.

Right to Property

Article 17 of the UDHR states that individual and communal ownership of property is a right endowed to everyone and Article 15 of ICMW protects migrant workers from the arbitrary deprivation of property.

Right to payment for works done

UDHR declares that “Everyone, without any discrimination, has the right to equal pay for equal work.”⁷⁴ Article 25 of ICMW further declares that “Migrant workers shall enjoy treatment not less favorable than that which applies to nationals of the State of employment in respect of remuneration”. Article 7 of the ICESCR provides the right to remuneration as part of safe working conditions.

Just and favorable conditions of work

The UDHR endows everyone with the right to ‘just and favorable conditions of work’. ICMW goes further and elucidates these working conditions to be “overtime, hours of work, weekly rest, holidays with pay, safety, health, termination of the employment relationship and any other conditions of work which, according to national law and practice”⁷⁵

The ICESCR under its 7th article provides for the right to enjoyment of just and favorable conditions of work which include; safe and healthy working conditions, rest, leisure and reasonable limitation of working hours

Right to receive any medical care that is urgently required

The 25th article of the UDHR considers medical care as part and parcel of the right to ‘Standard of living adequate for the health and well-being of ‘oneself and of one’s family

Article 28 of ICMW stipulates that health issues that are grave need to be addressed immediately to keep the migrant worker or members of his family alive or out of irreversible harm shall be given the same attention given to the citizens of the host state despite the residence and employment status of the Migrant worker

⁷⁴ Article 23 UDHR

⁷⁵ Article 25(1)a ICMW

Right for travel documents not to be confiscated or destroyed

Article 21 of ICMW states;

“It shall be unlawful for anyone, other than a public official duly authorized by law, to confiscate,

destroy or attempt to destroy identity documents, documents authorizing entry to or stay, residence or establishment in the national territory or work permits. No authorized confiscation of such documents shall take place without delivery of a detailed receipt. In no case shall it be permitted to destroy the passport or equivalent document of a migrant worker or a member of his or her family.”

Protection and assistance of the consular or diplomatic authorities of State of origin

Article 23 of ICMW obliges the diplomatic missions of the state of origin to extend consular assistance for the protection of the rights of migrant worker enshrined in the convention especially in cases of deportation.

Right to transfer their earning and savings

Article 32 of ICMW states that migrant workers have the right to send back home cash they have been saving as well as other personal property they have, when their stay of employment ends at the host state.

2.3 Practice of other countries

In some of the ‘emerging economies’ citizens abroad are given the consular attention they deserve as a result of the huge amount of the annual remittance sourced from them. (*“The volume of remittances in these countries – \$53 billion in India, \$51 billion in China, \$22 billion in Mexico and \$21 billion in the Philippines”*). Some of the activities done by the consular services of these countries include; networking with local related associations, providing social services (including safe houses) in the premise of the diplomatic missions, providing relief and toll free call and services for distressed citizens.⁷⁶

⁷⁶ George Haynal, Michael Welsh, Louis Century & Sean Tyler, 27 March 2013 A report for Foreign Affairs and International Trade Canada Citing IOM & MPI, *Developing a Road Map for Engaging Diasporas in Development*,

India as a country with a huge number of migrant workers internationally especially low skilled workers in the Arabian Peninsula has focused on striving to give better safety for these low skilled migrant workers, It has engaged in multiple agreements with receiving countries concerning the protection of these workers abroad; The same is true for the Philippines who entered with different labour and consular protection agreements with several countries who host large numbers of Filipino migrant workers⁷⁷. The Philippines, for example, ensures its citizens are not abused by providing escape channels and providing centers/shelters run by its embassies for those requiring its protection.⁷⁸ In a different genre, the FBI declassified a report accusing Saudi Arabia of smuggling its citizens accused of different sorts of crimes to run away from trials in the US.⁷⁹

Today's and tomorrow's consular diplomacy requires a connection between the longstanding traditional way of doing consular services with other foreign policy concerns.⁸⁰

2.4 Empirical Framework; Ethiopian Diaspora and the Emergence of Citizen Diplomacy

As briefly discussed under chapter three of this Thesis Ethiopians, throughout their history migrated for different reasons and the fact today is that the number of Ethiopian diaspora is in millions across the globe

‘The Diaspora participation Policy Framework of 2013 set out seven principles namely ‘ A sector wide approach in which Diaspora affairs shall be done collaboratively with many stakeholder; Effectiveness in which poverty eradication is given priority; Resources Utilization focusing on availability of resource and capacity; Complementarity focusing on integrated implementation of national development policies, strategies and programs; Participatory focusing on participation of all stakeholders; Transparency on ensuring transparent implementation; and Partnerships based on based on enhancing Diaspora participation and ensure to preserve their rights and interest abroad.

⁷⁷ Id. P 1-16

⁷⁸ Expectations and Realities in Labour Migration: Experiences of Filipino Domestic Workers in a government-run shelter in Kuwait, A Feminist Participatory Action Research, <https://www.gaatw.org/>

⁷⁹ Jeff Merkley, January 18, 2020

<https://www.merkley.senate.gov/fbi-saudi-government-almost-certainly-helps-citizens-accused-of-serious-crimes-escape-from-us/>

⁸⁰ Melissen (2020) P225

The policy framework aims at achieving eight goals; ‘Preserving the rights and benefits of the Diaspora, Improving Diaspora engagement in investment, trade and tourism, Enhancing knowledge and technology transfer, Encouraging foreign currency inflow and Diaspora participation, Promoting cultural values and promoting image building, Advancing Diaspora participation in good governance and democracy, Encouraging philanthropy and development associations, participation on issues concerning national image building. The policy framework defines Ethiopian Diaspora as Ethiopians and Ethiopian origins that live outside Ethiopia and aims at building a strong relationship with them.’⁸¹

The Ethiopian diaspora have been active throughout the years in different manners and the coming into power of the current administration brought renewed emphasis on diaspora engagement. Encouraging remittance, FDI, social capital, transfer of expertise, lobbying receiving states (as discussed under utilitarian rationale); commemorations of important holidays and the calling of home country visits(as discussed under constructivist rationale) and entering into multiple BITs and increased involvement in IOs (As discussed under governance rationale). The administration somehow also applied Konova’s socio positional rationale by appointing numbers of diaspora expertise important and key government positions during the past six years. Although many encouraging advances in diaspora engagement Ethiopia still does not recognize double citizenship and attempts to mitigate this through the issuance of special ID for Ethiopian Origin diaspora for a somehow equal treatment as Ethiopian Citizens minus voting rights.

The concepts discussed under this chapter are crucial in analyzing the living realities of Ethiopians and the actions of Ethiopian missions which would be done in the forthcoming chapters.

Ethiopian nationals transformation into diaspora through migration would be analyzed in light with the conceptual issues discussed under this chapter; the importance of Ethiopian citizens living abroad that amounts to an issue of national interest on the side of Ethiopia would also be discussed in light with the concepts of nationality and protection from country of origin under

⁸¹ The Diaspora participation Policy Framework of 2013

this chapter; mandate of Ethiopian missions abroad to protect their Citizens will be discussed with the background on consular protection and consular assistance covered under this chapter.

The status of Ethiopian Embassies in protecting Ethiopians in comparison with what other states do for their citizens would also be analyzed in the forthcoming chapters in view of what has been discussed under this chapter. The crucial rights that were covered under this chapter would serve as the basis for the analysis of the status of the rights of Ethiopians living in Lebanon and South Africa in the next chapters. The vulnerability and the need of Ethiopians for protection by their embassies, as a result of being citizens of and originating from Ethiopia, the duty of Consular assistance falling upon Ethiopian Embassies and the manner these embassies are fulfilling this duty would also be analyzed.

Chapter Three

Historical and Contemporary Conditions of Ethiopians in Lebanon and South Africa

3.1 Historical Perspective

3.1.1 History and Status of Migration of Ethiopians

Ethiopia throughout its history has witnessed movement of people inside and out. Ethiopians moved across the world for trade, religious reasons, and regional conflicts.

Migration outside of the country was common for education during the imperial period under Emperor Haile Sellasie. Large flow of Ethiopians was sparked by the Political instability following the overthrow of the Crown by the military Junta in the 1970's followed by a tyrannical rule and the rule of terror of the military throughout the 1980s added to the naughty famines of the decade, which led to, the Ethiopian Diaspora, which is one of the largest of all African countries. 'The political overthrow of the Ethiopian Imperial Government in 1974, the independence struggle of Eritrea, the war between Ethiopia and Somalia between 1977 and 1978, and the civil conflict in Sudan and Somalia in the 1980s have all been mentioned as major catalysts of large involuntary movements of people in the region.'⁸²

As per Girmachew there were three major large-scale migrations of Ethiopians abroad. The first being before the overthrow of the Emperor which involved a small number of Ethiopians traveling abroad for education; 'Between 1941 and 1974, an estimated 20,000 Ethiopians departed overseas as students and diplomats.' The second being Ethiopians fleeing the authoritarian military rule of the Derg in large numbers, At the peak in 1980, well more than 2.5 million Ethiopians were living as refugees or other forcibly displaced migrants'. The third period after the downfall of Derg signified the departure of Ethiopians as a result of 'intermittent ethnic

⁸² Girmachew 2021

violence, political repression, and the lure of economic opportunity.’ The middle east and South Africa happen to be two of the major destinations of Ethiopian migrants as part of this third wave.

Most Ethiopians Migrants choose irregular travel channels, and among Ethiopians migrating Women constitute a big number which increased from 47.3% in 2000 to 49.1% in 2017.⁸³ As a result of the high demand of domestic workers in the Middle East Ethiopian Women dominate the eastern route.⁸⁴ Ethiopians are among the largest group of asylum seekers in South Africa, with an IOM estimation of 65,000 – 70,000 Ethiopians migrating to the country in 2009, There are also a significant number of seasonal labourers, dominated by male migrants especially to Sudan.’⁸⁵

3.1.2 Push and Pull Factors of Migration of Ethiopians

Summarized and theorized the consideration that people take into mind in making the decision of migrating in to four being; first push factors related to area of origin, second pull factors related with area of destination, third factors in between and finally factors distinct to the person migrating;⁸⁶ and the case for Ethiopian Migrants is no different. Social political and financial elements such as lack of employment opportunities and inability to stay on job, skyrocketing inflation, lack of basic social provisions including costly housing and unavailability of enough arable land (added to the fragmentation of arable land) provision inadequate infrastructure and corrupt government practices exacerbated migration from Ethiopia to the outside.⁸⁷

The corrupt governance added to the fragile politics evidenced by recurring ethnic conflicts fueled up by the rapid population growth beyond the capacity of the economy brought catastrophic results for the country.⁸⁸ The severe recurring famines as a result of repeatedly appearing draughts as well as depletion of natural resources and the overpopulation beyond the

⁸³ Kiya Gezahegne & Oliver Bakewell, National & international migration policy in Ethiopia EFFEXT BACKGROUND PAPER, p8

⁸⁴ Asnake and Zerihun 2015

⁸⁵ Gezahegn and Beckwell . p7

⁸⁶ Everett S. Lee, A Theory of Migration, Demography, Vol. 3, No. 1. (1966), pp. 47-57.

⁸⁷ Guday and Kiya 2013

⁸⁸ Sonja Fransen and Katie Kuschminder, (2009) Migration in Ethiopia: History, Current Trends and Future Prospects, Maastricht Graduate School of Governance , p5

capacity of the food production and economy and other natural reasons have pushed people to migrate from Ethiopia.⁸⁹

Ethnic tensions and conflicts have contributed to the migration increase and the high rate(7.6%) also contributes as a push factor. As per Emebet even those who returned home ‘decided to go back after staying in the country for over a year without any employment, however bad the real situation at the destination countries might be Ethiopian Migrants would go and see for themselves, because no alternatives are available to them within the country’⁹⁰ In some parts of the country in addition and sometimes aside from the usual push factors Research has also found ‘culture of migration’ in which people migrate for the sake of the advantages experienced by migrating to a better economic region and thus uplifting the lifestyle and social status of ones family.⁹¹

As discussed in the previous chapter the concept of Diaspora constructed identity by governments to nationals having an established lifestyle away from their sending state and Sending states are original homelands that maintain durable linkages with diasporas abroad,⁹² This also holds true to Ethiopian migrants that leave their homeland for several different reasons and settle in receiving states as Ethiopian Diaspora.

3.1.3 Data On Ethiopian Migration

Present data depicting the number and scale of migration of Ethiopians fail to depict a true and representative image and estimation of the actual amount, trend and details of Ethiopian migrants as result of irregularity of the migration⁹³. ‘An estimated 839,000 Ethiopians migrated abroad, in a largely irregular mode, between the years 2017 and 2021 among which more than 260,000 were destined to the Middle East while South Africa also hosted many,⁹⁴close to 1 million

⁸⁹ Berhanu, B. & White, M. (2000). War, Famine, and Female Migration in Ethiopia, 1960-1989. Economic Development and Cultural Change, Brown University, FAO 2009

⁹⁰ Emebet Kebede, ETHIOPIA: AN ASSESSMENT OF THE INTERNATIONAL LABOUR MIGRATION SITUATION The case of female labour migrants GENPROM Working Paper No. 3 Series on Women and Migration, ILO working paper P.8 and 12

⁹¹ Girmachew Adugna,(2019) Migration patterns and emigrants’ transnational activities: comparative findings from two migrant origin areas in Ethiopia, Comparative Migration Studies,

⁹² Maria (2018)

⁹³ Gezahegn and Beckwell. p 6

⁹⁴<https://ethiopia.iom.int/news/over-800000-ethiopians-migrated-abroad-past-5-years-labour-migration-survey-finds>

Ethiopians migrated outside of Ethiopia in the year 2020 this number is estimated to remain almost the same for the year 2022.⁹⁵ While the Middle East has become a prominent destination for labor migrants, Ethiopia's diaspora is scattered over a range of continents.⁹⁶

3.1.4 Vulnerability of Migrating Citizens

Among migrating Ethiopian workers the less educated and skilled dominate the number, among these Ethiopians many settle in the Middle East acquiring employment positions reserved for the uneducated, untrained and unskilled.⁹⁷ Without due regard to documentation status and legality Women migrant worker's vulnerability to mischiefs and abuse increases by the mere fact of their gender, in addition to this with the level of education, training and skills they have their job opportunities narrow and they will be obliged to very less regulated areas making them prone to an even more discrimination and abuse.⁹⁸

The failure of the host state to give required protection to migrant women exacerbates the vulnerability of these migrant workers especially the ones with no legal entry, the mere fact that they work outside of their country does not make them prone for abuse but the fact that 'they are employed as domestic workers for whom little protection is accorded under legislation.'⁹⁹

3.2 Living Conditions of Ethiopians in Lebanon and South Africa

⁹⁵ https://www.migrationdataportal.org/international-data?i=stock_abs_origin&t=2020&cm49=23

⁹⁶ Girmachew Adugna, (2021) Once Primarily an Origin for Refugees, Ethiopia Experiences Evolving Migration Patterns,

⁹⁷ Beza L. Nisrane a,b , Ringo Ossewaarde a and Ariana Need, , ENDER, PLACE & CULTURE 2020, VOL. 27, NO.4, 568–586 <https://doi.org/10.1080/0966369X.2019.1611545>,

⁹⁸ Fasil Demissie, (2018) Ethiopian female domestic workers in the Middle East and Gulf States: an introduction, AFRICAN AND BLACK DIASPORA: AN INTERNATIONAL JOURNAL, VOL. 11, NO.

11–5 <https://doi.org/10.1080/17528631.2017.1405518>

⁹⁹ Emebet p6

3.2.1 Lebanon

Country Profile

Lebanon is a Near East country with Beirut as its capital, with a population of around 4 million and sharing a Border with Syria in the North and east and Israel in the South while its entitled east cost is a Mediterranean shore. . Lebanon happens to be a historical country dominating port trades and culture owning Phoenician civilization with ‘some of the oldest human settlements in the world—the Phoenician ports of Tyre (modern Şūr), Sidon (Şaydā), and Byblos (Jubayl) in the 3rd millennium’¹⁰⁰ . Present day Lebanon with its present territories and being came into being after the end of WWI and its mandate administration of the French in 1926 and achieved its independence during WWII in 1943¹⁰¹ .

Prior to the recent blow to the Lebanese Economy, The country was the center of attention as the region's commercial hub characterized by liberal economy with minimal tax requirements where the private sector flourished.¹⁰²

Working Conditions

“Migrant Domestic Workers (MDWs) constitute loosely regulated global workforce of some 43.6 million or 83 per cent of the total domestic workers”¹⁰³

Lebanon’s sponsorship, or kafala system, links a MDW’s legal status to one employer and has been noted by many interlocutors as the main structural factor contributing to MDWs’ vulnerabilities to abuse and mistreatment. (The kafala, or sponsorship, system is a customary practice applied in Lebanon, as well as in other Gulf Cooperation Countries, by which the migrant worker is required to have an in-country sponsor responsible for their residence permit and legal status, usually the migrant’s employer. The system has been strongly criticized by civil society organizations as a practice that can create opportunities to exploit the migrant worker, as the migrant would be less likely to complain about abuses and exploitation by the employer when her legal status is dependent on the sponsor. In the case of domestic workers this can be

¹⁰⁰ <https://www.britannica.com/place/Lebanon>

¹⁰¹ Fawwaz Traboulsi, A History of Modern Lebanon, 2007, p105

¹⁰² <https://www.britannica.com/place/Lebanon/Climate>

¹⁰³ Yeshiwas Degu Belay, Migration and State Responsibility: Ethiopian Domestic Workers in Lebanon

compounded by the fact that the domestic worker is required to live in the same domicile as the employer or sponsor.¹⁰⁴

Lebanon has been a destination of Ethiopian Migrant domestic workers for decades now. A study conducted in 2010 indicated that Ethiopians constitute 27% of the total migrant workers in Lebanon¹⁰⁵.

The ‘Kafala’¹⁰⁶ system, that administers the employment relationship of the migrant domestic workers in Lebanon,, allows the employer to have a legal and financial control over the migrant worker. The employer covers all costs of travel, Visa and work permit and in return obtains a total control of the worker for the duration of the work permit which is two years(Belay). The Kafala system ties the residence permit of a domestic employee to a particular person(the employer who brought the employee in) through procedural and substantive rules¹⁰⁷. This system allows the employer to withhold their passport and other documents in order to prevent them from breaking the contract and working outside for other employers¹⁰⁸, and the worker is not allowed to change employer without a written waiver declaration from the current employer signed at the public notary, this waiver is also a requirement to go back home as well .¹⁰⁹Therefore whenever the employment relationship with the employer ends(notwithstanding the reason being abuse) the worker automatically becomes an illegal immigrant exposing them to all sorts of abuse(belay).

To make things worse Ethiopian Migrant workers face even more discrimination for the color of their skin(Belay).In the words of the UN special rapporteur Shahinian “Currently, the visa

¹⁰⁴ Migrant Reform in Asia, REFORM OF THE KAFALA (SPONSORSHIP) SYSTEM, Policy Brief No. 2,

¹⁰⁵ Ali Fakih, Walid Marrouch (2013) Who hires foreign domestic workers? Evidence from Lebanon, Scientific series,

¹⁰⁶ In its contemporary form, the kafala system implies that the sponsor has assumed legal and economic responsibility for the MDW during the contract period. Technically, the sponsor also assumes responsibility for repatriating the MDW at the end of her contract period. In return for assuming these responsibilities, the sponsor has the sole right to employ the MDW(Pande 517)

¹⁰⁷ Hamill, Kathleen (2012) ‘Policy Paper on Reforming the “Sponsorship System” for Migrant Domestic Workers: Towards an Alternative

¹⁰⁸ Abdulrahim, Sawsan (2010) 'Servant, Daughter, or Employee? A Pilot Study on the Attitudes of Lebanese Employers towards Migrant Domestic Workers' KAFA (enough) Violence & Exploitation, Lebanon.

¹⁰⁹ Amrita Pande, The Paper that You Have in Your Hand is My Freedom”: Migrant Domestic Work and the Sponsorship (Kafala) System in Lebanon University of Cape Town 519

regime is such that if a domestic worker leaves an employer, she immediately breaks the law. In the case of a domestic worker held in domestic servitude, she is, as a result, treated as a criminal instead of a victim of human rights violations”¹¹⁰

Adem Nurhusein former Consul General at the Ethiopian Consulate testified that his office was dealing with 148 suspected suicides of Ethiopian nationals between 2007-08.¹¹¹

3.2.2 South Africa

Country Profile

South Africa, as its name indicates, is a country at the southern tip of Africa with Namibia, Botswana and Zimbabwe as its northern neighbors while the Indian and southern Atlantic oceans cover its southern tips. Pretoria is its Political-Executive Capital and its population is estimated to be 60 Million¹¹². South Africa is one of the archeological sites for fossils of early human beings that date back to hundreds of thousands of years and the history of Khoekhoen and San people go as far back as 2000 years.¹¹³ “The first European settlement in southern Africa was established by the Dutch East India Company in Table Bay (Cape Town) in 1652.” South Africa gained its independence from British Colonial rule in 1910 and it was declared a republic in 1961. “GDP in South Africa, on the other hand, reached USD 6,766 per capita, or 405.27 billion USD for the whole country. South Africa is therefore currently ranked 39 of the major economies.”¹¹⁴ South Africa's GDP is almost three times more of Ethiopia's GDP and its per capita is 6 times more (Ethiopia's GDP stands at 126 Billion USD and its per capita is 1027 as per World Bank Data report).

¹¹⁰ <https://newsarchive.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11499&LangID=E>

¹¹¹ <https://addisstandard.com/as-investigates-a-decade-ago-ethiopian-diplomats-siphoned-640000-from-maids-in-leba-non-to-pay-off-a-us-based-lobby-firm-what-happened-next/>

¹¹² <https://www.worldometers.info/world-population/south-africa-population/>

¹¹³ Pocket Guide to South Africa, 2003, P 18,

<https://www.gcis.gov.za/sites/default/files/docs/resourcecentre/pocketguide/2003/history.pdf>

¹¹⁴ <https://www.worlddata.info/africa/southafrica/economy.php#:~:text=Worldwide%20gross%20domestic%20product%20in,39%20of%20the%20major%20economies>

Working Conditions

South Africa being the richest state in the African Continent attracts migrants from the whole continent including Ethiopia. Despite its wealth South Africa is also notorious for its rate of violence and crime.¹¹⁵ The prevalence of competition for jobs caused resentment from the local youth in South Africa which became manifested in the form of Xenophobia. 'Violence against foreign nationals in South Africa has persisted during its post-apartheid history, tens of thousands of people have been harassed(including looting), attacked or killed because of their status as outsiders or foreign nationals.¹¹⁶ The discrimination of immigrants including Ethiopians is manifested in the derogatory slang used by locals including security officials in addressing immigrants, 'Makuwerekuwere', meaning a 'stinking foreigner'.¹¹⁷

For many years the high rate of unemployment has been one of the major problems in South Africa causing rifles.¹¹⁸

The fact that most of the Ethiopian immigrants are unskilled and uneducated makes them vulnerable to many different problems including the violation of their human rights. As a result of enough skills of language and communication as well as legal documents to reside in South Africa, Ethiopian immigrants are forced to pay for their basic rights.¹¹⁹ Their vulnerability is linked with the fact that many migrated irregularly and are engaged in in the informal sector. ¹²⁰.

Further more Ethiopian migrants are accused of price cutting in the business they are engaged in, thus accusation fuels the already prevalent xenophobic outlook prevalent among the locals¹²¹, where immigrants are stigmatized as people who undermine economic development and are economic threats to locals.¹²² This negative sentiment against immigrants including Ethiopians manifests itself in both violent and non-violent attacks and verbal abuse of immigrants, as one

¹¹⁵ IOM 2013, P18

¹¹⁶ Yordanos Estifanos and Tanya Zack,(2020) Migration barriers and migration momentum: Ethiopian irregular migrants in the Ethiopia-South Africa migration corridor, EU Emergency Trust Fund for Africa;Research and Evidence Facility Consortium,, p.8 citing (Mlilo & Misago, 2019).

¹¹⁷ Liqu Teshome Gebre, (2007)The experience of Immigrants in South Africa; the Case of Ethiopians in Durban, University of Kwazulu Natal, P46

¹¹⁸ Yordanos Seifu Estifanos, 'Social networks, Dreams and Risks: Ethiopian Irregular Migrants into South Africa(Draft), UNECA,SDPD

¹¹⁹ Landau, L. B. and A. Wa Kabwe-Segatti(2009), Human development impacts of migration: South Africa case study. Human Development Research Paper Series 2009/05, United Nations Development Programme, New York

¹²⁰ Estifanos and Zack ,

¹²¹ Estifanos

¹²² Gebre ,

migrant indicated, “Whenever something goes wrong in South Africa, all eyes are on immigrants”.¹²³ Whenever South Africans are frustrated with the poor economic performance of their government they take it out on the immigrants.¹²⁴ These attacks are also prevalent during times of celebration. The depth of this xenophobic¹²⁵ sentiment is explained in one of the testimonies of the informants of Estifanos’ research stating that ‘the xenophobia is so established that even in the act of robbery and theft perpetrators are not just robbing and stealing but they’re infused with hatred; they do not refer to the items they are robbing as ‘your’ but ‘mine’ as if they are retrieving their property implying foreigners have no right to own property and this deepens the pain of being robbed. In addition to this some locals utter expressions of hateful insults, treating the victim as less than human. In the informant’s words *some downgraded me below a South African dog; others make fun out of my work; and yet others splashed boiling water onto me.*”¹²⁶ Other than the xenophobic sentiments, arbitrary stoppings and arrests are problems faced by Ethiopians living in South Africa.¹²⁷

Ethiopian immigrants are more likely victims of local crime as a result of; first their choice of residence being high crime rate areas, second their door-to-door business activity being vulnerable, third lack of access to banking service and having to carry cash, and fourth and final being specific targets of crimes committed by officials by merely being immigrants.¹²⁸

The exacerbating factor to all the above problems seems to be the illiteracy of Ethiopian immigrants of their rights and legal procedures, and resorting to bribes rather than pursuing legal routes.¹²⁹

¹²³ Estifanos

¹²⁴ Landau, Laurent. 2011. *Exorcizing the demon within: xenophobia, violence and state-craft in contemporary South Africa*. Johannesburg: Wits University Press.

¹²⁵ Xenophobia is defined as a dislike of or prejudice against people from other countries.

¹²⁶ Estifanos

¹²⁷ Gebre, 48

¹²⁸ Id. 50-51

¹²⁹ Id. 47-50

3.3 Major Challenges Faced by Ethiopians Residing and Working in Lebanon

and South Africa

3.3.1 Lebanon

Ethiopian Migrant workers face a wide range of challenges working in Lebanon, these challenges revolve back to them being alien to the host country and to make things worse to the fact that many are ‘illegal migrants’(Belay), These challenges are even worse for domestic workers as their fact of life is being women and required to live in the same domicile as the employer.

Lebanese legal and institutional system has proved to be a failure in reaction to protecting migrant workers(Belay), it ignores these migrant workers to the level of invisibility (UN report) To make things worse, perpetrators do not face justice with regards to abusing domestic migrant workers, in “2010 HRW found that out of 114 judicial proceedings reviewed not one employer faced punishment for confiscating MDWs, passports, locking them inside homes or denying them access to food¹³⁰. These violations faced by migrant domestic workers are not mere individual problems but a result of the system in general; ‘Violations of workers’ rights happen in the context of the system itself and not just because of individual employers/agents.’¹³¹

3.3.2 South Africa

‘Despite South Africa’s constitutional guarantee of basic rights and policy frameworks taking migrants into consideration, implementation challenges impact negatively on migrants’ well-being.’¹³²

Among the challenges faced by Ethiopians in South Africa some come from the local government administration who perceive the migrants as sources of crime, disease and

¹³⁰ Human Rights Watch (2012) Lebanon: Stop Abuse of Domestic Workers March 23, 2012

¹³¹ Voices International, (2011) ‘I Came Here For Work’, Calls for Better Protection of Migrant Domestic Workers in Lebanon’, Irish Aid sponsored Research Document

¹³² IOM. 2013. The Wellbeing of Economic Migrants in South Africa: Health, Gender and Development. Working paper for the World Migration Report.

unemployment and are there to deplete the economic resource of South Africa.¹³³ The Migrants in return are reluctant to report the abuses and violations they experience to local security officials as they also have distrust in them.¹³⁴

During the notorious Xenophobic attacks that took place in May 2008, ‘Foreign traders and shopkeepers(Including Ethiopians) were the primary targets and, in the absence of efficient protection from the police, a lot of them had to flee their homes and shops.’¹³⁵

3.4 Important Rights of Ethiopians Residing and Working in Lebanon at risk of Violation

3.4.1 Lebanon

Most of the instruments providing for the rights of Immigrant workers provide for the protection of all their rights despite ‘nationality and ethnic background’. Research found that much of the below violations of workers’ rights as well as others not mentioned herein are ‘inherent to the kafala system of controlling migration and work.’¹³⁶

Right to information and a standard contract

Voice International document states the following on the Right to information and a standard contract of domestic migrant workers residing in Lebanon: Prior to leaving their home state it is common that their right to get enough information about their destination is violated, the violation happens in the form of misinformation and inadequate training on the part of sending recruitment agencies; upon arrival the workers are illiterate about the conditions awaiting them to the extent of in some cases the job they are there for this being added to the language barrier results in mis-communication; the workers right for a standard agreement is seldom respected

¹³³ Vearey, J.,(2011) Learning from HIV: Exploring migration and health in South Africa. *Global Public Health: An International Journal for Research, Policy and Practice*, 2011a , 6(3):1744–1706

¹³⁴ Misago, J. P. et al.,(2010) Vulnerability, Mobility and Place: Alexandra and Central Johannesburg Pilot Study. Forced Migration Studies Programme, Johannesburg

¹³⁵ Segatti, A., (2011) Mobilisation against foreign traders in South Africa. Migration Issue Brief 5, University of the Witwatersrand–African Centre for Migration Studies, Johannesburg,

¹³⁶ Voices International P 8

that they mostly do not sign the agreement and even if they do they agree to what they do not understand as a result of the language barrier.¹³⁷

Right to minimum wage, and full and timely payment of wages:

Not only the salaries paid to Migrant Domestic Workers is way below the minimum wage it also is almost always paid late or not paid at all.¹³⁸

Freedom from forced Labor

Lebanon being a party to the relevant international human rights instruments ‘is required to take steps to prevent abuses, to punish those who committed, and to provide remedies to individuals who have been ill-treated from the enjoyment of freedom from forced labor.’(Belay)

Forced labour is defined as

“all work which is exacted from any individual under the threat of penalty or punishment including loss of rights and privileges and for which that person has not voluntarily offered himself. It includes restrictions on movement, withholding of passport and identity Thesiss, withholding of wages or refusal of payment, threat of physical or sexual violence”¹³⁹

But these cruel acts of forced labour are normalized in most Lebanese households, they are the normal way of life. Excruciating conditions of work like Extended hours of work(as long as twenty hours per day), underpayment, passports being taken away and being barred from going out of the house are some of the living conditions faced by Ethiopian Migrant workers in Lebanon. Furthermore migrant domestic workers are excluded from the application of the Lebanese labor law and as a result they ‘are not able to access either in legal or practical terms formal Lebanese unions that could assist them in lobbying for their rights.’¹⁴⁰ The reason for the prevalence of violence on Domestic Migrant workers is multi-dimensional; the fact that most of these migrant workers are women coupled with the reality of the kafala system created a ‘predictable pattern’ of violence in most households in Lebanon.¹⁴¹The kafala system that makes the employee to wholly rely on the employer even for lively existence encourages abuse and leaves accountability out of the picture.¹⁴²

¹³⁷ Id p7

¹³⁸ Ibid

¹³⁹ ILO Convention No.29)

¹⁴⁰ Voices International p5

¹⁴¹ Pande p 516

¹⁴² Fassil 2018

To make things worse these migrant workers are prone to violence of all sorts while attending their duties. The UN Special Rapporteur, Gulnara Shahinian, gave a testimony saying “I met with women who had been forced to work long hours without any remuneration or valid contract; physically and sexually abused; and morally harassed by constantly being insulted, humiliated and belittled”¹⁴³ This is no different to Ethiopian Migrant domestic workers

Rights to regulated work hours and Freedom of movement

Although the standard contract for Domestic Migrant workers stipulates regular work hours may not exceed 10 hours per a 24 hour period Domestic Migrant workers in Lebanon are forced to work as long as 20 hours. It also is a common practice to lock these workers in the employers house denying them access to the outside world and also confiscation of their travel documents by the employers. Ethiopian Domestic migrant workers are usually forced to work for friends and relatives of their employers in addition to their primary obligation of serving their direct employers without any extra payment.¹⁴⁴ They do not have the courage to challenge the mischief as they are aliens in a place where they do not properly speak the language and where their identity documents are snatched from them thus they keep on being abused and bullied.¹⁴⁵

3.4 Practices of Re(action) of Ethiopian Embassies in South Africa and Lebanon in the protection of Ethiopian citizens towards Violations of Rights

3.4.1 Comparative perspective in relation to Countries Ethiopia has BIT's with

In middle eastern countries hosting Ethiopians which have bilateral agreements with Ethiopia and extensive local legislation¹⁴⁶ dealing with migrant workers situations seem to be better for

¹⁴³ <https://newsarchive.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11499&LangID=E>

¹⁴⁴ Emebet p.9

¹⁴⁵ Livia Röthlisberger, (2019)Ethiopian Female Labor Migration to the Middle East An Investigation of the System of Irregular Migration Alice Salomon University of Applied Sciences, MAThesis in Intercultural Conflict Management,

¹⁴⁶ As per the ILO paper published in 2020 under the link https://webapps.ilo.org/wcmsp5/groups/public/---africa/---ro-abidjan/---sro-addis_ababa/documents/publication/wcms_743461.pdf, Government of Ethiopia have Bilateral Agreements with Government of Qatar signed in 2012, Government of Jordan signed in 2012, Government of Kingdom of Saudi Arabia (KSA) signed in 2017, and Government of United Arab Emirates (UAE) signed in 2018. These countries also have local legislation dealing

Ethiopian Migrant workers. The difference primarily lies in the mode of migration to these countries being regular and monitored.

By virtue of the above mentioned bilateral agreements and local legislation migrant workers including Ethiopians in these destinations enjoy a wide range of rights. Their travel cost(including visa and insurance) is covered by their employers and their employers are legally obliged not to engage the workers to work outside of what is stated in their employment agreement, without their consent. The employers are also obliged to provide

“nutritious food and drink, health care, and medication; cover the costs of returning her/his remains, belongings and salaries in case of death; avail decent working and decent living conditions that respect the privacy of the migrant workers; provide orientation to the migrant worker upon arrival; explain to the migrant worker the provisions of the contract and ensure that these are understood observed; obtain and renew residence and work visa for the migrant worker; refrain from any form of abuse, exploitation and harassment of migrant workers; safeguard, protect and guarantee migrant workers’ dignity and wellbeing; never expose domestic worker’s health or life to danger, or any harm that may affect them physically or morally; respect his/her rest periods and shall not request migrant worker to work during his/her rest periods, or during his/her weekly rest, unless there is a prior agreement between both parties to do the extra work, which should be adequately compensated; pay the monthly wage agreed upon with the domestic worker at the end of the month, or at the latest on the third day of the consecutive month not deduct any fees, expenses or commissions from worker’s wage to compensate for recruitment.”¹⁴⁷

The above mentioned legislations and agreements also oblige Ethiopian government and he governments of the receiving countries to provide the Ethiopian migrant workers equal treatment as local workers, access to justice including remedies for violation, ensure the enforcement of the protective laws as well as promotion, protection of the Human rights of the migrant workers as

with the matter and protecting migrant workers, KSA Decision 310 of 1434 on Domestic Work (2013), Qatar Domestic Worker Law No. 15 of 2017, UAE Federal Law No. 10 of 2017 on Support Service Workers (Domestic Workers Law), and Jordan Regulation No 90/2009 of Domestic Workers, Cooks, Gardeners and Similar Categories

¹⁴⁷https://webapps.ilo.org/wcmsp5/groups/public/---africa/---ro-abidjan/---sroaddis_ababa/documents/publication/wcms_743461.pdf

well as protection from abuse and harassment.¹⁴⁸ These agreements specifically oblige the FDRE Ministry of Labour and Skills Protecting the rights, safety, and dignity of Ethiopian workers abroad; Overseeing private employment agencies to prevent mistreatment and exploitation of migrant workers; Establishing a system for migrant workers to file grievances or complaints; Resolving complaints amicably whenever possible, or through formal channels in major destination countries if necessary.

3.4.2 Ethiopia's Overseas Employment laws

Ethiopia have promulgated a proclamation, Proclamation Number 923/16 with its amendment Proclamation Number 1246/21¹⁴⁹ specifically dealing with overseas employment of Ethiopians. These laws came in to being 'to protect the rights, safety and dignity of Ethiopians who are willing to take-up overseas employment in pursuance of their qualifications and ability', it is the belief of the promulgators that the signing of Bilateral Agreements would strengthen lawful overseas employment and thus halt human trafficking.

The Ministry of Labour and Skills (MOLS), under these laws, is legally mandated to deal with the foreign employment of Ethiopians overseas. Mr. Tekle Tesfaye¹⁵⁰ explained the ministry deals with the sending of Ethiopians for employment overseas in three manners; first by the Ethiopian government through BIT's with foreign governments (Government to Government sending), second through Private Employment Agencies recruiting Ethiopians for foreign employment and third through private employment opportunities found by individual Ethiopian employees. In all the three cases the Ministry is involved in the whole employment process. Especially when it comes to employment through agencies, the Ministry is responsible for issuing competence certificate (a necessary requirement for issuance of a Business Licence) for Employment agencies, while processing the certificate the ministry thoroughly investigates the documents of the receiving employment agency at the host country (whom the local agency proposes to work with). This process per Mr. Tekle assures accountability both on the side of the sending and receiving agency for the protection of rights of the employees to be sent. The

¹⁴⁸ Ibid

¹⁴⁹ Proclamation No. 923/16 Preamble

¹⁵⁰ Informant #1, Overseas Employment Desk Head At the Ministry of Labour and Skills

ministry also checks and verifies the employment agreements to be signed between the employer and the employee, which also strengthens the protection mechanism for the employee. The Proclamation further empowers the ministry to prepare a model contract that includes Regular working hours and weekly as well as annual rest periods and other forms of vacation, Competitive wages in line with the minimum wage per the rules of the destination country and the bilateral agreement entered into or other international agreements (whichever is more favorable to the employee), Travel assistance and Comprehensive support which includes medication, diet, accommodation and Insurance protection¹⁵¹

As per article 37(1)the amendment proclamation 1246/21 the specific employment agreement entered between the employer and the employee based on the above model contract has to be approved by the ministry.

The Ministry There also is a distinct office for complaints in cases of violations and abuse, when such complaints are submitted to the Ministry the would first try to solve the issues by communicating with the local and receiving agencies and when such attempts fail it communicates with MoFA in Addis Ababa and the Embassy at the host country to find a lasting solutions. The Ministry ‘undertakes regular pre-employment and pre-departure awareness raising to citizens who show interest to take-up overseas employment pertaining to the conditions of receiving countries, the required skill for a job position they are taking, their rights and duties and similar other matters The ministry together with MoFA The Ministry and ‘have the responsibility to ensure that the rights, safety and dignity of workers deployed in overseas employment are respected(Article 64), This responsibility includes provision of free ‘legal assistance to workers victimized in connection with overseas employment’(Article 64(5)). In cases of disputes not solved in amicable manner or cases of injury or death of the employee the sending Agency is obliged for repatriation of the employee(or his/her body) and his/her personal effects together with the appropriate medical documentation covering all of the cost (Article 69).

¹⁵¹ Proclamation No. 923/16 Article 17(1)

The amendment proclamation 1246/21 dictates the establishment of a Board Comprising MoFA, MoSHE, MoH, MoJ, Job Creation Commission, FPC, INVEA, with the objective of coordinating relevant stakeholders towards ensuring that the rights, safety and dignities of Ethiopians employed overseas are protected. Among the powers and duties given to this board appears ensuring that necessary measures be taken against the violation of Ethiopian workers' rights and abuse in receiving countries.¹⁵²

But all these protection mechanisms prerequisite a BIT with the recipient countries.¹⁵³

3.5 Practices of Re(action) of Ethiopian Embassies in Beirut and Pretoria

'In times of trouble, workers get limited support from formal organizations like embassies, consulates, police and recruitment agencies'¹⁵⁴

'Despite a mandate that would call for Ethiopia's consular staff to keep tabs on the wellbeing of fellow citizens, they systematically ignore complaints and turn a blind eye to some of the most harrowing reports of abuse.'¹⁵⁵ The Ethiopian consulate in Beirut is accused of not giving due care about the horrors of the Ethiopian Migrant Domestic Workers in Lebanon despite the number of deaths.¹⁵⁶

The consulate seems to be focused on assisting in sending of corpse of murdered (with convincing evidence of murder)Ethiopian Migrant Workers home rather than pushing for criminal investigation on the perpetrators and following through with these investigations for the purpose of justice (this was also the case for Desta Tafesse(Ethiopian Migrant Worker who faced brutality from her employees and finally found dead on May 12th 2019)¹⁵⁷

¹⁵² Id. Article 15 (3) and (4)

¹⁵³ Id. Article 12

¹⁵⁴ Voices International P6

¹⁵⁵ Despite a mandate that would call for Ethiopia's consular staff to keep tabs on the wellbeing of fellow citizens, they systematically ignore complaints and turn a blind eye to some of the most harrowing reports of abuse.

¹⁵⁶ Zecharias Zelalem,(2019) Ethio-Lebanese Corpse INC, An Article published on OpenDemocracy, July 2019 <https://www.opendemocracy.net/en/north-africa-west-asia/ethio-lebanese-corpse-disposal-inc/>

¹⁵⁷ <https://armlebanon.org/open-letter-to-the-ethiopian-government-from-ethiopian-groups-in-lebanon/>

In relation to the mystery of the death of Mulu Tilaye, who fell off the 5th floor of a 10 story apartment, while trying to escape where she practically was a prisoner; the Ethiopian Consulate in Beirut sent its member diplomat to sort the case at the police station. The diplomat never showed back at the police station let alone pursue a legal case, despite the prevalence of ample evidence towards the criminal acts of the employers of the deceased victim.¹⁵⁸

Tigist Belay, another Ethiopian Domestic Worker, died in 2019. Tigist's employers gave contradictory testimonies regarding her death both in the official police investigation file and when asked over the phone. The male employer testified that she hung herself in her bedroom on the official police report and later (on the page) gave a contradictory statement saying she hung herself on the balcony, in the same police report. To make things even more suspicious a female member of the employer family sent a voice message to the sister of the deceased stating she took her life by drinking some sort of detergent. But Ethiopian consular officials seem to deny that it is part of their diplomatic protection obligations to protect their citizens and investigate and follow through.¹⁵⁹ As per a CSO based on Beirut that operates a Migrant Community Center, the Ethiopian Consulate is capable of dealing strikes with relevant local authorities when it desires so and they have witnessed such occasions, but the consulate does not often opt to do that and requires much nagging to get involved in matters.¹⁶⁰

To make things worse domestic workers have testified to being denied to enter the consulate and in worst cases being thrown away from the consulate's premises and at time being told not to come back again and the consulate was also accused of being uncooperative by researchers at Human Rights Watch¹⁶¹ This is further substantiated by the video broadcasted by, Lebanese broadcaster LBC. The mentioned video shows an Ethiopian Domestic Worker who was trying to get consular assistance being 'left on the doorstep of the consulate after repeatedly being denied entrance.'¹⁶² The failure of the Ethiopian Consulate in Beirut to accommodate, treat and protect its citizens have contributed to the rise in incidents of loss of lives and infliction of bodily harm

¹⁵⁸ <https://thisislebanon.site/case-of-kafala-abuse/mulu-aged-21-plunges-to-her-death-in-plight-to-escape-slavery/>

¹⁵⁹ <https://addisstandard.com/in-depth-analysis-seven-ethiopians-die-in-lebanon-as-new-ethiopian-consulate-policy-abandons-citizens-to-their-fate/>

¹⁶⁰ Zelalem

¹⁶¹ <https://www.newarab.com/analysis/ethiopian-domestic-workers-abandoned-lebanons-economy-flatlines>

¹⁶² Fasil

on Ethiopian Migrant workers in Beirut. Ethiopian returnees feel that their Government has not accorded them enough protection compared to the Governments of other migrant workers. Some returnees from Beirut say the Consulate set up to alleviate the plight of Ethiopian migrant women has done little to protect their rights.¹⁶³

Woineshet Nigussies who managed to escape her employers and arrive at the Ethiopian consulate in Beirut with severe case of pneumonia was obliged to wait for a whole month in her condition for her travel arrangements to be done by the consulate, unfortunately ‘Some Time prior to boarding, she collapsed and died.’¹⁶⁴

In December 2019 the consulate came up with a new policy of non-engagement, in relation to with domestic workers, that dictates the requirement of prior written order from the Ministry of Foreign Affairs in Addis Ababa, for the consulate to deal with inquires of help from Ethiopian Domestic Migrant Workers in Lebanon.¹⁶⁵ This absurd rule is a fuel to the already flaming fires of many cases of unaccountable abuses and violations perpetrated against Ethiopian Domestic Migrant Workers in Lebanon. The following except shades lights on the practicality of this rule; As discussed in the previous chapters large number of Ethiopian Migrants originate from the far Rural parts of the country and these rural areas are so far from the capital many hundreds of kilometers away making it an absolute burden to commute to the capital just to bring their case and wait till these reports are proceed and go through bureaucratic paperwork by the office in Ethiopia and sent back to the Consulate in Beirut, what should directly had to be done by the Consulate itself in the beginning, this delays the solution and elongates the suffering of the Migrant Ethiopian Workers.¹⁶⁶

The Head Office of MoFA in Addis denies the existence of such a rule therefore it is safe to conclude this absurd rule was authored by the consulate in Beirut and is a failure in citizen focused diplomacy which could have saved hundreds of lives of Ethiopian domestic workers residing in Lebanon.

¹⁶³Emebet

¹⁶⁴<https://mg.co.za/article/2019-12-02-seven-ethiopians-die-in-lebanon-while-their-consulate-abandons-them/>

¹⁶⁵Zelalem

¹⁶⁶Ibid

In an Open letter to the PM of Ethiopia, Abiy Ahmed, Ethiopians residing in Lebanon requested an action to be taken against the consulate in Beirut for it had failed to work on the safety and protection of Ethiopian Citizens in Lebanon. They further explained the Consulate failed to act in a patriotic spirit against the violations of the rights of Ethiopians despite its clear obligations ¹⁶⁷

A news article published on the Reporter (very widely read newspaper in Ethiopia) back in the day summarized life of Ethiopians in Beirut as the below

“As far as Ethiopian migrants are concerned Beirut is not really the dazzling capital of Lebanon; it is the city of untold misery and despair, of endless stories of ignominious horror and injustice. For young Ethiopian girls who end up there looking for a future, some future, Beirut is the Embassy of hell on earth”¹⁶⁸

South Africa

Ethiopian immigrants do not have a well built connection with their embassy resulting in the non-information and reluctance of the embassy to the problems these migrants are confronted with and making it impossible to meddle on their behalf.¹⁶⁹ The majority of those in the Ethiopian diaspora lack access to consular services that should be provided to all citizens without discrimination. The researcher came across people who have been denied these rights by the Ethiopian Embassy in Pretoria¹⁷⁰

Ethiopians residing in South Africa with opposition stance towards the Ethiopian Government back at home happen to be deprived of basic consular services let alone advocacy of their rights by the Embassy when their rights are infringed in any manner in the host country.¹⁷¹ Due to the difficulty to have formal documentation at the Ethiopian embassy many Ethiopians are forced to turn to International Organizations for support like any other undocumented migrant around the world which could not get official support from local governments or their embassies.¹⁷²

¹⁶⁷ <https://www.bbc.com/amharic/news-50058089>

¹⁶⁸ The Reporter, 29 Sep 1999 issue, Addis Ababa, Ethiopia

¹⁶⁹ Akanle et al (2016) The existentialities of Ethiopian and Nigerian migrants in South Africa, International Journal of African Renaissance Studies - Multi- Inter- and Transdisciplinarity

¹⁷⁰ Gashaw Teshome Mengesha, (2016) Ethiopian Diaspora in South Africa: Typology and Policy Implications, PHD Thesis, University of KwaZulu-Natal, Durban, Tanya Zack & Yordanos Seifu Estifanos (2015): Somewhere else: social connection and dislocation of Ethiopian migrants in Johannesburg, African and Black Diaspora: An International Journal,

¹⁷¹ Id. 170-173

¹⁷² Maurizio Ambrosini and Minke H. J. Hajer, (2023) Irregular Migration, IMISCOE Research Series, IMISCOE Short Reader,

During xenophobic attacks in Durban, Ethiopian Migrants who arrived in South Africa through the involvement of the embassy were endowed with protection from the embassy , the embassy further met and discussed with the Zulu leader to make amends to his public stance on immigration, and the MoFA headquarters echoed this as a commendable action taken by the embassy as part of its diplomatic protection activities.¹⁷³

¹⁷³ Mengesha, 194

Chapter Four

4. Analysis of Conditions of Rights Violation and the Actions of Ethiopian Embassies

4.1 Analysis of The Adequacy of Actions Taken by Ethiopian Embassies Towards Violations of The Rights of Ethiopians in Lebanon and South Africa

As discussed under chapter two, citizenship of a state endows an individual protection from that particular state despite the residence of that individual, and this responsibility of the state amounts to an issue of 'national security. It was also discussed that one of the fundamental responsibilities of consular services is protecting its citizens residing in the country of destination. Consular offices carry out this obligation through smooth communication with their citizens as well as local authorities. This expected practice of consular offices requires activities ranging from formal office premise service to practical and physical networking.

As per Key informant number four diplomatic mission of any sovereign state in another sovereign state would have two basic functions one being facilitation of the relationship of the two states and the second ensuring the interest of the sending state in the receiving state and among the interests of the sending state is the insurance of the rights of the citizens of the sending state. Mr. Daniel is also of the opinion that the Ethiopian Missions in Lebanon and South Africa would highly likely not have the exact information regarding the Ethiopians Citizens living in these countries as many migrate illegally and the minimal capacity of these missions.

The Diplomatic interest shown to these specific states by the Ethiopian government is minimal especially compared to the West, and the citizens going to these countries are not well invested on in terms of proper training and proper agreements. Being on the poorer side of the bargain Ethiopia should divert its focus on citizen focused diplomacy because it takes extra effort to get its citizen's of poorer nations respected. ¹⁷⁴ Poor states are considered small powerless states under the realist theory and this theory in line with this argument of Key Informant Number four

¹⁷⁴ Key Informant #4, Mr. Daniel Mekonnen, Interview

states that small states should revert to modes of making association and coalitions to stand strong, as the central theme of the theory is Power and for these small states to be powerful stronger together” holds true.¹⁷⁵ As per Waltz the level of ability of states to achieve what they desire is different¹⁷⁶ and the specific ability of Ethiopia as an actor in international relations shall be considered in all the diplomatic efforts of the Ethiopian Embassies.

As per Key informant number two the role of the embassies in these countries is also defined by the bargaining powers of the respective negotiating states and is also politics. A direction to Ethiopian embassies is given to focus on their citizens but the result of this direction is yet to be proved by more research.

As thoroughly discussed in the previous chapter the Ethiopian Embassies at Beirut and Pretoria acted in an adequate manner towards the complaints of violation of Rights of Ethiopians in those countries. The consulate in Beirut especially has repeatedly failed to provide its assistance to migrant workers when requested.

The past five years have seen some shift in the focus on distressed citizens abroad. Multiple repatriation missions were accomplished, especially from KSA. Personal and practical gestures of bringing distressed citizens on the same flight as him were shown during the early days of PM Abiy

As dealt with under chapter two, consulates have the duty of consular protection of their citizens, directly involved in the affairs of their citizens who need protection and remedies. The consulates also have the duty of consular assistance to assist distressed citizens. Ethiopian diplomatic missions in RSA and Lebanon seem to have lacked in these areas. The consulate in Beirut had no or little involvement in harassment cases of its citizens as part of its consular assistance responsibility.

¹⁷⁵ Gregory Gleasona, Asel Kerimbekovab and Svetlana Kozhirova (2007), Realism and the Small State: Evidence from Kyrgyzstan International Politics, Palgrave Macmillan Ltd,

¹⁷⁶ Id Citing Waltz, K.N. (1959) Man, the State and War, New York, NY: Columbia University

4.1.1 Beirut

Chapter Three of this thesis thoroughly explained the living conditions of Ethiopians living in vis-a-vis their interaction with their embassy in regards to the difficulties and violation of rights they face.

Ethiopians, particularly domestic workers, in Lebanon have faced violation of rights that range from verbal abuse to homicide throughout the years. The Ethiopian embassy in Beirut has repeatedly been accused of (both by the Media and CSOs) mistreating its citizens let alone standing up for them.

International law and diplomatic practice dictates Embassies/Consulates provide their citizens consular assistance and as stated under chapter two protection of citizens abroad amounts to a matter of national security. In this regard the attention given by the Ethiopian Embassy in Beirut to this issue is worse than minimal, if we agree on protection of citizens abroad is a matter of national security

As also discussed under chapter two, in carrying out their responsibility to protect their citizens embassies and consulates are entitled to communicate with relevant local authorities, and the Ethiopian Consulate in Beirut falls very short in this regard, the best they communicate with local authorities happened to be when facilitating to send corpses back home.

The main aim of the establishment of the consulate in Beirut was to provide protection to the large number of Ethiopian Migrant workers thus a researcher recommended ‘the staff of these embassies or consulates should be trained on the rights of migrant workers and on the legal mechanisms that are available to accord protection to these workers.’¹⁷⁷ The effectiveness of the mission in Beirut is not solely the result of in-house problems but also the prevailing political instability of Lebanon itself, being a country with diversified people in terms of religion and politics characterized by extremist factions.¹⁷⁸

Key Informant Number one stated that there has been no legal sending of domestic workers to Lebanon for the past few years and most Ethiopian Domestic Workers currently working In Lebanon had arrived there illegally and highly likely through human trafficking. As per Mr. A

¹⁷⁷ Emebet

¹⁷⁸ Dr. Mohammed Seid, Key Informant Number Two, Interview

Bilateral Agreement(BIT) regarding employment was recently signed between Ethiopia and Lebanon, thus the ministry is now making preparations to send domestic workers to Lebanon through arranged legal channels. Among the preparations recommended by the ministry to the Ethiopian Embassy in Beirut, for the proper implementation of the BIT, was the establishment/assignment of a labour attache(officer assigned by the Ministry in consultation with MoFA and deployed at a receiving country with the duty of monitoring and providing support in ensuring the protection of the rights, safety and dignity of Ethiopians employed overseas¹⁷⁹). Proclamation 923/16 also dictates that The Ministry of Labor together with the MoFA to appoint labor attachés to Ethiopian embassies abroad which will help protect the rights, safety, and well-being of Ethiopian workers overseas. The two ministries will create a joint rule outlining the specific duties and responsibilities of these positions.

But the Embassy has not yet established/assigned a distinct labour attache, this would indeed adversely affect the efforts to protect the rights of Domestic Ethiopian workers living in Lebanon. It is absolutely necessary that a distinct and responsible person/department exists within the Embassy for the assurance of protection of Domestic Ethiopian Workers, given the fact that most of the Ethiopians living in Lebanon (and also planned to be sent to Lebanon through the BIT) are Domestic Workers.

4.1.2 South Africa

Though the Embassy in Pretoria has not received major complaints against it with regards to mistreatment of its Citizens recently , it used to have a bad reputation in the previous years. And currently it seems like it's focused on mobilizing its citizens for their financial support towards their country rather than advocating for their rights in the host country and assisting them in the pursuance of their rights. The embassy in South Africa has repeatedly organized fundraising events for local projects (which are well advertised on its digital media platforms), yet there has not been as many reports to what it had done in pursuance of protection of its Citizens subjected to violation of Human Rights in the host Country.

¹⁷⁹ Proclamation 1246/21 Article2 (16)

Chapter Five

Summary and Conclusion of the Study

Unskilled and prone to violations citizens keep on flooding to RSA and Lebanon mainly irregularly, to this date, thus the issue is rather a continual diplomatic headache for the Ethiopian diplomatic missions in the host countries as long as a permanent solution is not given. The researcher recommends a permanent and distinct desk with equipped diplomats in the area be dedicated for dealing with right's violation issues. And primarily halting the irregular migration and resorting to regular routes.

Ethiopia happens to have Government of Ethiopia Bilateral Agreements with Government of Middle east, with Qatar signed in 2012, Government of Jordan signed in 2012, Government of Kingdom of Saudi Arabia (KSA) signed in 2017, and Government of United Arab Emirates (UAE) signed in 2018 but failed to enter into one with Lebanon. The researcher highly recommends bilateral agreement dealing with detailed issues of migrant workers signed with Lebanon very recently to be implemented thoroughly and the negotiations with the South African government be pursued giving high regard to the protection of the high number of Ethiopian migrant workers.

An online system is in place for communication and updates on employment overseas with countries we have BITs with and this assists on the response speed in cases of complaints of violation by employers or agencies, the researcher thus recommends the strengthening of this communication system involving the embassies for a quick and effective response in cases of violations.

Posts at the embassies should be filled giving due regard to capacity rather than as mere retirement place. Well equipped diplomats with the capacity to represent the nation well should be assigned to these embassies. The problem outside is the reflection of the political turmoil within the country and building a country with a settled political environment would assure the respect of our citizens abroad. Due attention shall be given to these embassies given due regard

to the growing social and economic interest Ethiopia has in these countries. The Ethiopian foreign policy (official and written) which has no mention of migration issues shall be revised to include all these matters and make Ethiopian citizens abroad a point of interest as well.

Facilitating legal routes of migration incorporating training sessions as well as overseeing of detailed employment contracts would improve the current dire situation of Ethiopians in Lebanon and RSA. Assignment of a distinct attache(functional and effective) and supporting the establishment association of Ethiopian workers would play a great role in minimizing the incidents of right's violations.

It has even been argued that the 'digital revolution' has created new conditions for the constant interaction of citizens abroad and their government, increasing expectations that certain obligations will be discharged by the latter (notably in the form of diaspora-specific departments in ministries of foreign affairs) for the benefit of the former.¹⁸⁰

This study found that the Ethiopian Embassies in Pretoria and Beirut, especially the embassy in Beirut, have played a minimal role in the protection of Ethiopians residing in these countries.

In the previous chapters of this Thesis it was discussed that protection of citizens abroad amounted to national interest for the sending state, yet the protection of rights of Ethiopian citizens living, amounting to the national interest of Ethiopia, is not endowed with the importance it deserves by these embassies. Protection from the home country through diplomatic missions abroad arises from the relationship of the person to be protected and the sending state through the nationality of that person. These Embassies failed to protect their nationals as envoys of the sending state; Ethiopia. These embassies were mandated with the responsibility of protection of Ethiopians through Consular Assistance yet have failed to assist their citizens. This failure happens to be due to the country's internal politics, lack of resources in terms of finance and human resource capacity as well as the diplomatic attention given to the host countries. Thus efforts shall be put towards stabilizing the internal politics, adequate resources shall be budgeted

¹⁸⁰ Jan Melissen and Matthew Caesar-Gordon, 'The Impact of the Digital Revolution on Foreign Ministries' Duty of Care' (Working Paper No 08, Stiftung Wissenschaft und Politik (SWP)/German Institute for International and Security Affairs, February 2017).

to these destinations as they host hundreds of thousands of Ethiopians and well equipped diplomats shall be deployed.

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Interviews and Questions

Key Informant #1 Mr. Tekle Tesfaye, Head of Overseas Employment Desk MoLS, 21 May 2024

1. What is the role of the ministry in sending, and receiving Ethiopian migrant workers abroad, do we have a bilateral agreement dealing with labour with Lebanon and RSA
2. What schemes does it have to monitor Ethiopian migrant workers in foreign countries
3. What plans does it have in improving the working conditions of Ethiopian migrant workers in foreign countries especially in Lebanon and South Africa

Key Informant #2 Dr. Mohammed Seid , Senior Researcher FSI, 24 May 2024

1. What are the roles and duties of Diplomatic Missions with regards to ensuring the rights of citizens in the host countries
2. Do Ethiopian Embassies provide a informative secession for Ethiopians regarding their rights and remedies for their violation
3. Do Ethiopian embassies have designated desk or employee to deal with complaints from home citizens, set of rules and formal procedure to deal with complaints of violation of human rights by Ethiopian domestic workers residing in the host country
4. Do the embassies follow up on rights violation cases brought by Ethiopian domestic workers to local security and justice institutions
5. Are there any bilateral agreements with Lebanon and South Africa regarding migrant workers
6. What do you recommend be done to improve the conditions of rights of Ethiopian Citizens living abroad

Key Informant #3 Mr. Melaku Mulalem, IFA, 24 May 2024

7. What are the roles and duties of Diplomatic Missions with regards to ensuring the rights of citizens in the host countries
8. Do Ethiopian Embassies provide a informative secession for Ethiopians regarding their rights and remedies for their violation

9. Do Ethiopian embassies have designated desk or employee to deal with complaints from home citizens, set of rules and formal procedure to deal with complaints of violation of human rights by Ethiopian domestic workers residing in the host country
10. Do the embassies follow up on rights violation cases brought by Ethiopian domestic workers to local security and justice institutions
11. Are there any bilateral agreements with Lebanon and South Africa regarding migrant workers
12. What do you recommend be done to improve the conditions of rights of Ethiopian Citizens living abroad

Key Informant #4 Mr. Daniel Mekonnen, Assistant Professor Wolkite University, 25 May 2024

1. What are the overlaying reasons for the violation of Ethiopian citizens living abroad especially in the Lebanon and South Africa
2. Do Ethiopians embassy have a system (registration or otherwise)to follow up on Ethiopian migrant workers residing in the host country
3. What should be the level of involvement of Ethiopian Embassies in Beirut and Pretoria in light with what is expected from them
4. What recommendations do you have on ways to improve, monitor and ensure the rights of citizens abroad.