

**GOVERNMENT PROTECTION OF DOMESTIC WORKERS IN THE DIASPORA:
A CASE OF KENYANS IN THE MIDDLE EAST [2006 – 2013]**

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DECLARATION

This project is my own original work and to the best of my knowledge has not been presented for any award in any University.

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DEDICATION

This work is dedicated to the God Almighty for his blessing and provision especially during the course of my studies, to my beloved husband Dr. Robert Ayisi for his encouragement and endurance, to my two children Raymond and Claire as aspiration to their academic world that let the sky be the limit for their studies. To my late parents Joachim and Clare Chitayi, to appreciate the academic foundation they laid for me. I have nothing to regret

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TABLE OF CONTENTS

DECLARATION	ii
DEDICATION	iii
ACKNOWLEDGEMENT	iv
LIST OF FIGURES	x
LIST OF ACRONYMS	xi
ABSTRACT	xii
CHAPTER ONE	1
INTRODUCTION TO THE STUDY	1
1.1 Background	1
1.2 Statement of the Research Problem	6
1.3 Objectives of the Study	8
1.4 Literature Review	8
1.4.1 Factors Influencing Domestic Employment of Migrants	8
1.4.2 Governments' Role in the Status of Diaspora Domestic Workers	9
1.4.3 The Nature of Domestic Employment in the Middle East	10
1.4.4 National Culture and the Employment Conditions of Domestic workers	11
1.4.5 Attitudes towards Unionization of Domestic Workers	12
1.5 Justification of the Study	13
1.6 Theoretical Framework	14

1.7	Hypothesis.....	15
1.8	Methodology	16
1.8.1	Research Sampling Design.....	16
1.8.2	Target Population	16
1.8.3	Data Collection Instruments.....	16
1.8.4	Data Analysis	17
1.9	Chapter Outline.....	17
CHAPTER TWO		18
DOMESTIC WORKERS IN THE DIASPORA		18
2.0	Introduction.....	18
2.1	Migrant Domestic Workers in the World	18
2.2	Working Conditions.....	19
2.2.1	Working Hours.....	19
2.2.3	Work-Life Balance.....	22
2.2.4	Terms of Employment	24
2.2.5	Other Predicaments.....	26
2.3	The Employer as a Perpetrator.....	26
2.4	Employment Agencies as Facilitators.....	27
2.5	Protection of Domestic Workers.....	28
2.5.1	Labour Laws.....	29

2.5.2	Enforcement	33
2.5.4	The Role of the International Labour Organization.....	36
2.5.5	The Domestic Workers Convention 189.....	38
2.6	Conclusion	39
CHAPTER THREE		41
KENYAN DOMESTIC WORKERS IN THE MIDDLE EAST		41
3.1	Introduction.....	41
3.2	An Overview of Kenyan Domestic Workers in the Middle East.....	41
3.3	Kenyan Domestic Workers in the Middle East.....	43
3.3.1	Why Kenyans migrate to the Middle East to be employed as Domestic Workers.....	43
3.3.2	Monitoring and Control of Domestic Workers Migrating to the Middle East.....	45
3.3.3	Working Conditions of Kenyan Domestic Workers in the Middle East.....	46
3.3.4	Domestic Workers' Condition in the Middle East Compared with Kenya.....	48
3.5	Conclusion	49
CHAPTER FOUR.....		50
THE ROLE OF KENYAN GOVERNMENT IN PROTECTION OF THE DOMESTIC WORKERS IN THE MIDDLE EAST		50
4.1	Introduction.....	50
4.2	Effectiveness of Bans on Movement of Domestic Workers to the Middle East	50
4.2.1	Why the Temporary Ban was not effective.....	51

4.3	Power Politics	52
4.4	Improvements in the Handling of the Plight of Kenyan Domestic Workers in the Middle East	53
4.5	The Role of the Ministry of Foreign Affairs.....	54
4.5.1	Collaboration between the Ministry of Foreign Affairs and the Ministry of.....	56
	Labour.....	56
4.6	Reducing the Prevalence of Bonded Slavery among Domestic Workers in the Middle East	56
4.7	The Role of the Kenya Government in Promoting Collective Bargain.....	57
4.8	Cooperation from Middle East Countries.....	58
4.9	Conclusion	59
	CHAPTER FIVE	60
	SUMMARY, DISCUSSIONS, CONCLUSIONS AND RECOMMENDATIONS.....	60
5.1	Introduction.....	60
5.2	Summary of Findings.....	60
5.3	Discussions	63
5.4	Conclusions.....	65
5.5	Recommendations.....	65
	BIBLIOGRAPHY.....	67
	APPENDICES	72

APPENDIX I: LETTER OF INTRODUCTION	72
APPENDIX II: LETTER TO THE RESPONDENT.....	73
APPENDIX LLL: KEY INFORMATION INTERVIEW GUIDE	74
APPENDIX IV: INTERVIEW GUIDE FOR DOMESTIC WORKERS	78
APPENDIX VI: TIME PLAN.....	82
APPENDIX VII: BUDGET ESTIMATE	83

LIST OF FIGURES

Figure 1 Coverage of domestic workers by national labour legislations across the world, 2010.	30
Figure 2 Factors that Make Kenyans end up Employed as Domestic Workers	44
Figure 3 Major Challenges regarding the Monitoring and Control of Domestic Workers exported to the Middle East	46
Figure 4 Whether the Domestic Work Situation in the Middle East is any different from the plight of domestic workers in Kenya.....	48
Figure 5 Would you say that the Kenya government’s temporary ban on Kenyan’s movement to the Middle East as domestic workers was effective? Why or why not?.....	51
Figure 6 Are there power politics at play that hinder the Kenya government from effectively protecting Diaspora domestic workers in the Middle East? Please explain?	53
Figure 7 Improvements in the Handling of the Plight of Kenyan Domestic Workers.....	54
Figure 8 Key Challenges to the Enforcement of Bilateral Agreements.....	58
Figure 9 Cooperation from Receiving Countries in the Middle East.....	59

LIST OF ACRONYMS

GCC	-	Gulf Cooperation Council
GDP	-	Gross Domestic Product
ILO	-	International Labour Organization
NRK	-	Non-Resident Kenyans
PKO	-	Persons of Kenyan Origin
UAE	-	United Arab Emirates
UN	-	United Nations
US	-	United States

ABSTRACT

The main objective of the study was to analyze the role of the government of Kenya in the protection of domestic workers in the Diaspora. Specifically, the study sought: to evaluate the initiatives that the Government of Kenya has taken towards the protection of domestic workers in the Middle East, and to establish the role of the foreign affairs office in the protection of domestic workers in the Diaspora. This research was based on the case of Diaspora domestic workers in the Middle East. Qualitative data was collected for the study. Primary data was collected through a purposive sample of eighteen respondents who were interviewed from the ministry of foreign affairs and the relevant staff of various embassies to the countries in the Middle East. Interviews at the ministry of foreign affairs were done with a representative from the Directorate of Diaspora Affairs, the Directorate of Consular Affairs and their respective subordinates. The rest of the interviews were done with the Secretary of Consular affairs and an Administrative Attaché at: the Saudi Embassy Kenya, Israeli Embassy Kenya, Qatar Embassy Kenya and United Arab Emirates Kenya. In addition, an interview was also conducted with a representative from the Ministry of Labour. A separate interview was conducted with domestic workers from the Middle East. The data collected was then analyzed using content analysis technique.

The findings showed that Kenyans migrate to the Middle East to be employed as domestic workers because of lack of employment and the attraction of better pay. However, domestic workers worked under deplorable working conditions. Comparatively, the findings showed that employment conditions were harsher in Middle East compared to Kenya. The temporary ban by the government was perceived as not effective. However, power politics did not play a role in the challenge of Kenyan protecting domestic workers in the Middle East. The findings showed that there have been notable improvements in the handling of the plight of Kenyan domestic workers in the Middle East following the recent media highlight. A common theme that prominently stood out was that the issue of fake recruitment agencies which was in the docket of the Ministry of Labour. The findings have shown that the Ministry of Foreign Affairs has taken a raft of initiatives including joint inter-ministerial committees, Draft Bilateral Agreements and stakeholders meetings.

The government should fast-track the bilateral agreements with the receiving countries as this will resolve the question of policy and provide the basis for enforcement of labour laws in these countries. In the mean time, the government should curb ignorance on the part of migrants by disseminating information about the realities of employment conditions in these countries. It should compel recruiting agents to prepare the migrants by training them and exposing them to the Arab's culture, customs, religion and beliefs before they can qualify to travel to the Middle East. The government should also improve the employment conditions of domestic workers at home by working in collaboration with employers and other agencies to train these workers and give incentives such as subsidies to compliant households.

CHAPTER ONE

INTRODUCTION TO THE STUDY

1.1 Background

Over the past decades, changes in economic, social and demographic structures have accelerated the growth of domestic employment and care work across countries.¹ Domestic work used to be done by housewives and daughters.² However, as women continue to enter the job market, families continue to rely on domestic workers. Women's increasing entry into the paid workforce is becoming a global trend that tests the state's reliance on women to provide care for their families on an unpaid basis.³

Family and household structures are also changing with nuclearization, migration and the emergence of new marital and conjugal patterns.⁴ There has been a rapid increase in middle class women entering the workforce as professionals in recent decades, which, coupled with growing income inequalities, has caused an increase in the demand for paid household labour.⁵ The advantage of household employees is that they may deal with care responsibilities at the same time taking responsibility for other household tasks.⁶ Care responsibilities denote help given to those in need of care such as the elderly and children, by one or more members of the care receiver's social environment.⁷ This differs from other household tasks in that there is a direct social link between the care giver and receiver in contrast to tasks such as laundry work where the object is not a human being.⁸

¹ Razavi, Shahra & Staab, Silke. Underpaid and overworked: A cross-national perspective on care workers, *International Labour Review*, Vol. 149 (2010), p. 4.

² Pierik, Roland & Werner, Wouter. *Cosmopolitanism in context: perspectives from international law and political theory*, Cambridge: Cambridge University Press. 2010.

³ Piper, Nicola & Lee, Sohoon. *Contribution of Migrant Domestic Workers to Sustainable Development*. Bangkok: UN Women. 2013, p.34

⁴ Razavi & Staab, *op cit.* (2010). p. 4

⁵ Moras, Amanda. The private home as a public workplace: Employing paid domestic labor, *Workplace Rights*, Vol. 13(4) 377-400., 2008.

⁶ Hein, Catherine. *Reconciling work and family responsibilities: practical ideas from global experience*, Geneva: International Labour Organization., 2005. p.18

⁷ Maria, Deirdre and Kolmer, Beneken. *Family Care and Care Responsibility*. HJ Delft: Eburon Uitgeverij B.V., 2007, p. 32.

⁸ *Opcit*, p. 32

The term domestic work refers to work performed in or for a household or households.⁹ Domestic workers are people who are employed in households to perform tasks such as cooking, cleaning, laundry, child care, running errands and sometimes working at their employers' businesses.¹⁰ This occupation includes live-in and live-out workers who labor for a single family, as well as those who are employed by multiple families.¹¹ Most domestic workers are live-ins. A live-in resides in her employer's home.¹² Live-in arrangements are particularly common for migrant domestic workers. This applies for both internal migrants, and international migrants.¹³ Reasons for this arrangement include the preference of the employer (especially when domestic workers have care responsibilities), regulations on migrant workers, the scarcity of alternative housing arrangements and the distance between the domestic worker's home and the workplace.¹⁴ Thus, the term "domestic worker" means any person engaged in domestic work within an employment relationship.¹⁵

Domestic workers are a backbone for the wealth of the world's major economies.¹⁶ In the western world, domestic workers provide a number of services for corporate elite – they are housekeepers, child care givers, elderly companions, private tutors, and personal assistants among other general roles. Commentators regard the rise in this sector as an outcome of women's increasing labour force participation which is a global trend that has squeezed the time hitherto available for unpaid care giving and unpaid domestic chores.¹⁷

Domestic work is closely interlinked with international migration, with domestic workers making up an ever-larger share of that migration stream.¹⁸ The global domestic work trade is

⁹ International Labour Organization. *Domestic Workers Convention*, June 2011, p. 2

¹⁰ Bohan, Chara Haeussler. *Go to the sources: Lucy Maynard Salmon and the teaching of history*, Oxford: Peter Lang., 2004., p. 18

¹¹ Boris, Eileen & Nadasen, Premilla. Domestic Workers Organize! *The Journal of Labor and Society*, 2008, 11 pp. 413–437.

¹² Maddalone, Guy. *How to hire & retain your household help: a household HR handbook*, New York: GTM Household Employment Experts., 2004., 107

¹³ International Labour Organization. *Domestic workers across the world: global and regional statistics and the extent of legal protection*. Geneva: International Labour Organization, 2013, p.58

¹⁴ Ibid

¹⁵ International Labour Convention. Documents and Communications: Conventions and Recommendations concerning Decent Work for Domestic Workers. *International Labour Review*, Vol. 150 (2011), No. 3–4, p. 440.

¹⁶ Jayaraman, Sarumathi & Ness, Immanuel. *The new urban immigrant workforce: innovative models for labor organizing*, New York: M. E. Sharpe., 2005.

¹⁷ Razavi & Staab, *op cit.* (2010). p. 4

¹⁸ International Labour Organization, 2010, *op cit.* p. 22.

one of the world's fastest-growing economic sectors as privileged families shift the burden of housework onto immigrant workers.¹⁹ Recent global statistics documented by the International Labour Organization suggests that at least 52.6 million men and women were employed as domestic workers across the world in 2010.²⁰ Considering the potential for undercounting, the same report estimates that the global number of domestic workers could be close to 100 million.²¹ In most countries the great majority of domestic workers find their employment through private contacts and introductions and personal recommendations. In some countries the public employment service is playing a useful role and has adapted its structures to the needs of the domestic sector. In some too, private employment agencies of various kinds cater for domestic workers and their prospective employers.²²

It has been observed that much of the domestic labour workforce is composed of migrants who are often preferred by the employers to the country's nationals, particularly if they are live-in domestic workers.²³ For example, Canada has traditionally filled its growing demand for domestic service by importing live-in domestic workers from other countries. Today, about 15,000 temporary work permits are issued each year by the Canadian Immigration Ministry to women from developing countries to fill the continuous need of household and child care help. Facilitated by the Government's discriminatory policies in immigration practices and in labor legislation, these permits enable Canadians to employ captive, cheap, and vulnerable women workers as they are deprived of both full labor and citizenship rights.²⁴

In the African continent, South Africa is the country with the highest number of domestic workers in the region. In 2010, 1.1 million domestic workers were working for private households, with the majority concentrated in the provinces of Gauteng (which includes

¹⁹ Robinson, Tony, Dryden, Jessie and Gomez, Heather. Intersection Oppressions: Racial-Ethnic Stratification in Domestic Work and Implications for Identity-Based Organizing. *Journal of Workplace Rights*, Vol. 16(2) 171-194, 2012, p. 173

²⁰ International Labour Organization, 2010, *op cit.* p. 19.

²¹ *Ibid.*

²² International Labour Convention. The employment and conditions of domestic workers in private households: an ILO survey. *International Labour Review*, 2003, 391-401. p393

²³ Albin, Einat and Mantouvalou, Virginia. The ILO Convention on Domestic Workers: From the Shadows to the Light. *Industrial Law Journal*, (2012)1-16. p2

²⁴ Cohen, R. Women of Color in white Households: Coping Strategies of Live-in Domestic workers. *Qualitative Sociology*, Vol. 4, No. 2, 1991, p.198.

Johannesburg and Pretoria) and KwaZulu-Natal.²⁵ More than three-quarters of all domestic workers in South Africa are female, and the sector was the country's third largest employer for women in 2010, employing approximately 15.5 per cent of all women workers.²⁶

In South Africa, many domestic workers are migrant workers. They endure poor working conditions and low incomes despite attempts by the Department of Labour to set minimum standards. Many live in isolation on their employers' properties and lack opportunities for collective action to improve their working conditions. Low incomes and arduous working conditions mean that access to health services may be limited, as time away from work may mean lost income.²⁷

The most prevalent cases of the growing employment of migrant workers are in the Middle East and Gulf countries.²⁸ In the Middle East, an estimated 2.1 million workers were employed as domestic workers in 2010, nearly double the 1.1 million found in 1995.²⁹ Migration of foreign domestic workers to the Middle East started in the 1970s as a result of increasing wealth and living standards due to the oil boom in the region.³⁰ Domestic work accounts for 5.6 per cent of total employment in the region, but this share is far exceeded in some countries, such as Bahrain (12.8 per cent in 2009), the United Arab Emirates (12.8 per cent in 2008) and Kuwait (21.9 per cent in 2005).³¹

According to the International Labour Organization, in the Middle East is one of the largest employers of domestic workers.³² The estimation of the number of women domestic workers in in the Middle East varies between 1.5 million and 876,596.³³ In absolute terms, the Middle

²⁵ International Labour Organization. *Domestic workers across the world: global and regional statistics and the extent of legal protection*. Geneva: International Labour Organization, 2013, p.34

²⁶ Ibid

²⁷ Dinat, Natalya and Peberdy, S. Restless worlds of work, health and migration: domestic workers in Johannesburg. *Development Southern Africa*, Vol. 24, No. 1, 2007., p188

²⁸ Schwenken, H. *Domestic Workers Count: Global Data on an Often Invisible Sector*. Kassel: kassel university press, 2011, p. 23.

²⁹ International Labour Organization, 2010, *op cit*, p. 31.

³⁰ International Labour Organization. *Domestic workers across the world: global and regional statistics and the extent of legal protection*. Geneva: International Labour Organization, 2010, p. 32.

³¹ International Labour Organization. *Domestic workers across the world: global and regional statistics and the extent of legal protection*. Geneva: International Labour Organization, 2013, p.31

³² Ibid, p. 32

³³ Schwenken, 2011, *op cit*. p. 24.

East is one of the largest employers of domestic workers, with approximately 784,500 persons engaged in domestic work in 2009 (of whom two-thirds were women). As in neighboring countries, the number of domestic workers has increased steeply – by more than 40 per cent – since the beginning of the decade. Paid domestic work now accounts for almost half (47.1 per cent) of total female employment. This high share is partly due to the low female employment- to population ratio in the Middle East: according to ILO estimates, only 18.1 per cent of all women above the age of 15 years were employed in 2009 (compared to 75.6 per cent of men).³⁴ As in most countries, the educational attainment of domestic workers in the Kingdom is concentrated at the lower end: in 2009, only 83,700 domestic workers had secondary education or above (or 10.7 per cent of the total), while 203,000 (25.9 per cent of the total) had only completed primary school and 301,000 (or 38.4 per cent) had obtained no formal educational qualifications.³⁵

Kenya's Diaspora policy defines Kenyan Diaspora as consisting of Persons of Kenyan Origin (PKO) and Non-Resident Kenyans (NRK's). PKO status designates foreign citizens of Kenyan origin or descent. On the other hand NRK status is for Kenyan citizens holding a Kenyan passport and/or having dual citizenship and residing outside the country for an indefinite period whether for employment, business, vocation, education or any other purpose.

36

Kenya's policy document for the Diaspora views migration of Kenyans abroad in three distinct waves: First, in the period preceding Kenya's independence in 1963, a small number of Kenyans were able to travel abroad in search of better education and training opportunities. Many of these pioneers participated in the struggle for independence and constitute part of the Diaspora. The second wave occurred during the great airlift where young Kenyans were taken abroad to acquire further education in order to come back and fill up positions in Government created by the young nation. The third wave constitutes those Kenyans who migrated to seek better economic opportunities in the face of falling living standards. This latter wave occurred

³⁴ Ibid

³⁵ International Labour Organization. *Domestic workers across the world: global and regional statistics and the extent of legal protection*. Geneva: International Labour Organization, 2013, p.32

³⁶ Republic of Kenya. *Diaspora Policy in Kenya*, 2011, p. 3

prominently in the 1980s and 1990s³⁷. To date, the number of Kenyans in the Diaspora is estimated at three million and is continuously on the rise.³⁸ The Kenyan Diaspora continues to play an important role in the development of the country through remittances. According to World Bank Reports the amount of inward remittances increased from Kshs. 70 Billion (\$1.0 billion) in 2005 to about Ksh.151.2 billion (\$ 1.9 billion) 2010, representing 4.6% and 5.4% of the GDP respectively.³⁹

The majority of Kenyan emigrants are highly skilled professionals, business people or students who do not face any major threats while migrating. However, this is not the case for a significant number of the more than 40,000 Kenyan migrants who work in the Middle East, specifically in Saudi Arabia, the UAE and Qatar. These low-skilled Kenyan emigrants face a number of risks, including labour exploitation, trafficking and smuggling.⁴⁰

1.2 Statement of the Research Problem

According to UN Women, the global domestic work industry is growing, and posing increasingly complex policy challenges for labour legislation, human rights, gender, and development.⁴¹ A report by the International Labour Organization showed that many domestic workers are still excluded from provisions that other workers take for granted with respect to essential working conditions, such as paid annual leave, working time, minimum wage coverage and maternity protection.⁴² Gibney and Hansen observes that local labour laws in the Middle East that cover domestic workers are nonexistent because they are mainly employed in private households and are therefore quite isolated.⁴³ Schwenken opines that migrant domestic workers are among categories of people who are most vulnerable and are

³⁷ Ibid

³⁸ Republic of Kenya, *op cit.* 2011, p.3

³⁹ Ibid, p. 5

⁴⁰ Regional Mixed Migration Secretariat. *Mixed Migration in Kenya: The scale of movement and associated protection risks.* 2013. p16. Retrieved on 7th July 2013 from <http://www.regionalmms.org/.../pdf>

⁴¹ UN Women. *Domestic Workers at the Interface of Migration & Development: Action to Expand Good Practice.* 2011.

⁴² International Labour Organization. *Domestic workers across the world: global and regional statistics and the extent of legal protection.* Geneva: International Labour Organization, p. 1.

⁴³ ⁴³ Gibney & Randall, 2005, *op cit*, p.27

likely to face worse conditions of employment as they are not sufficiently provided for under the law and state policies.⁴⁴

Kenya's policy document for the Diaspora acknowledges that there are existing administrative challenges which inhibit proper provision of consular services and lack of policy framework that is responsive to Diaspora needs.⁴⁵ A large number of Kenyan Diaspora lack necessary work permits and documentation. There is lack of inter-state collaboration in regularization of undocumented Kenyans in the Diaspora. In addition, non-registration by Kenyans in the Diaspora with Kenya Missions abroad hampers their protection and further constraints the provision of consular services to them⁴⁶. Under these conditions, it is not clear what initiatives have been implemented by the Kenya government besides bans towards the protection of domestic workers in the Diaspora. Some scholars point out that the scope of domestic work needs to be broadened by investigating other social actors, institutions, and sites such as the nonprofit sector and the state.⁴⁷

A common gap throughout the review of literature on the conditions of employment of domestic workers is the lack of research on the role of government and especially the Ministry of Foreign Affairs in the protection of Kenyan domestic workers in the Diaspora. Following the outcry concerning the abuse of Kenyan domestic workers in the hands of their employers in the Middle East⁴⁸, this study sought to contribute to the body of knowledge on the Government's initiatives and the informational role that the Ministry of Foreign Affairs play towards the protection of Kenyan domestic workers in the Diaspora in general and domestic employment in the Middle East in particular. The study therefore attempted to fill this research gap by establishing the state of protection of domestic workers in the Diaspora, focusing on the case of the Middle East. The study sought to answer the question; what is the role of the Kenya Government in the protection of domestic workers in the Middle East?

⁴⁴ Schwenken, H. *Domestic Workers Count: Global Data on an Often Invisible Sector*. Kassel: Kassel University press, 2011.

⁴⁵ Republic of Kenya. *Diaspora Policy in Kenya*, 2011, p. 5

⁴⁶ *Ibid*, p. 6

⁴⁷ Scrinzi, Francesca. "Cleaning and Ironing...with a Smile": Migrant Workers in the Care Industry in France. *Journal of Workplace Rights*, (2009), Vol. 14(3) 271-292. p.272

⁴⁸ Blackstone, Samuel. Kenya has banned citizens from going to the Middle East for Domestic work due to Growing concerns about abuse. *Business Insider*. Retrieved on 15th July 2013 from <http://www.businessinsider.com>

1.3 Objectives of the Study

The main objective of the study was to analyze the role of the government of Kenya in the protection of domestic workers in the Diaspora. Specifically, the study sought:

- i. to evaluate the initiatives that the Government of Kenya has taken towards the protection of domestic workers in the Middle East
- ii. to establish the role of the foreign affairs office in the protection of domestic workers in the Diaspora

1.4 Literature Review

The review of literature looks at factors fuelling domestic employment of migrants, the role of the government in the status of Diaspora domestic workers, the nature of domestic employment in the Middle East, the influence of national culture in the employment conditions of domestic workers in the Middle East and attitudes towards unionization of domestic workers.

1.4.1 Factors Influencing Domestic Employment of Migrants

Romina studied what she calls contract enslavement of female migrant domestic workers in Saudi Arabia and the United Arab Emirates.⁴⁹ The author argued that, contrary to what may be understood traditionally, the women who migrate to the Middle East do so willingly. She noted that many are educated and skilled and are not on the edge of abject poverty; in fact, many of these women come from lower-middle class families and take a proactive role in leaving the household in search of work. Although there is a key financial incentive to migrate, many women also do so because they are seeking adventure, independence, training, and upward social mobility. Pushed by these factors, women often incur substantial debts and pay recruitment agencies exorbitant fees to finance their migration. Relying on employment agencies and brokers, migrant domestic workers enter contractual bondage with employers whom they have never met before, leaving themselves vulnerable to abuse and exploitation.

⁴⁹ Romina, Halabi. Contract enslavement of female migrant domestic workers in Saudi Arabia and the United Arab Emirates. *Human Rights and Welfare*, 2006, p.43

In many ways, the study by Romania reflects the situation in Kenya in which it has also been reported that despite the fact that news of Kenyans being mistreated in the hands of employers in the Middle East had been all over the media, many Kenyans ignored the warnings and still sought to travel to these countries.⁵⁰ The study by Romina however did not highlight the role of governments through their respective agencies such as the Ministry of Foreign Affairs in fostering or abetting the domestic worker situation in the Middle East.

1.4.2 Governments' Role in the Status of Diaspora Domestic Workers

De Regt studied Ethiopian women in the Middle East focusing on the case of migrant domestic workers in Yemen. The scholar noted from this study that migrant domestic workers' mobility is in several ways affected by state policies and practices. The Ethiopian state allows women to look for work abroad because of the bad economic situation but is confronted with the illegal migration of women and human rights violations. The government tries to control and regulate women's migration to the Middle East, but does not want to lose women's remittances and therefore turns a blind eye to trafficking and human rights violations.⁵¹ Therefore, unlike Romina's study, the study by De Regt begins to shed light on the role of the government in the status of Diaspora domestic workers in the Middle East. As such, De Regt's study provides some insights into the understanding of the role played by sending country governments. However, her research was based in Ethiopia. Given that diplomatic relations and interests are potentially different, a similar study is necessary in Kenya, especially following the ban on the migration of domestic workers from the country to the Middle East.

⁵⁰ Omukubi, Noel. Kenyans want Middle East Jobs, not Government Protection! *Jamhuri Magazine*. Retrieved on 15th July 2013 from <http://jamhurimagazine.com/index.php>

⁵¹De Regt, Marina. *Ethiopian Women in the Middle East: The Case of Migrant Domestic Workers in Yemen*. Amsterdam: University of Amsterdam. P22

1.4.3 The Nature of Domestic Employment in the Middle East

Crane studied what he termed as modern slavery, exploring the conditions and capabilities for human exploitation. Defining modern slavery as “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised”, he noted in his review that one of the regions in which modern slavery is most prevalent in the Middle East. He highlighted four features that were attendant to this definition. These are: that under modern slavery, (i) people are forced to work through threat; (ii) owned or controlled by an “employer” typically through mental, physical or threatened abuse; (iii) dehumanized and treated as a commodity; and (iv) physically constrained or restricted in freedom of movement.⁵²

Crane further proposed a model that explains conditions enabling slavery. The model composed of conditions related to the industry contexts and conditions related to broader institutional context. This involved regulatory, normative and cultural systems, an institutional context that encapsulates socioeconomic, geographical, cultural and regulatory actors.⁵³ He posited that modern slavery is most prevalent in unregulated or poorly regulated service industries, particularly domestic work.⁵⁴ He argued that poverty is probably the most critical “push” factor since it creates a fertile context for the worst kinds of labour exploitations, with evidence suggesting that such a context offers slave recruiters the opportunity to use persuasion, coercion and deception to secure potential labourers.⁵⁵ He postulated that slavery will most likely occur where poverty in one geographic location is perceived to be considerably more extreme than poverty in another – but where relocation is only possible through an intermediary.⁵⁶

By implication, Crane linked the problem of domestic workers migrating to receiving countries such as the Middle East to unemployment, especially structural unemployment,

⁵² Crane, A. Modern Slavery as a Management Practice: Exploring the Condition and Capabilities for Human Exploitation. *Academy of Management Review*, 2013, Vol. 38, No.1, p1

⁵³ Ibid, p53

⁵⁴ Ibid, p54

⁵⁵ Crane, 2013, *op cit.* p55

⁵⁶ Ibid, p55

where, in the absence of alternative employment options, and without a social safety net, the offers from recruiters appear to be a family's best hope for economic survival. Moreover, those entering slavery will either be coerced or deceived about the actual circumstances of the working arrangement they are entering into, a phenomenon accentuated by illiteracy and low levels of education among target population. The author postulated that slavery is most likely to persist where informal institutional rules and norms provide an accommodative culture. He argued that there is considerable variation in the regulatory context, of which the strength of governance (government effectiveness, regulatory quality, rule of law, political stability, and control of corruption and accountability of citizens) is a key regulatory factor influencing whether modern forms of slavery will flourish.⁵⁷

The discourse by Crane therefore introduces the concepts underpinning institutional theory, arguing that institutional processes are profoundly political and reflect the relative power of organized interests and the actors who mobilize around them.⁵⁸ However, poverty as a factor claimed by the author appears to contradict Romina's findings which claimed that many Ethiopian Diaspora Domestic workers who migrated to Middle East were not actually on the edge of abject poverty. This suggests that findings concerning the dynamics underpinning African domestic workers in the Diaspora are mixed and as such, research is not conclusive. The discourse by Crane is nevertheless useful in theorizing the actions of governments and other institutional actors such as the International Labour Organization and the foreign affairs office in the attempt towards the protection of Diaspora domestic workers.

1.4.4 National Culture and the Employment Conditions of Domestic workers

A detailed report was compiled by UN Women, a United Nations Organization dedicated to gender equality and the empowerment of women. This report noted that in destination countries, domestic workers fall under minimum wage legislation, where it exists, but otherwise wages are determined by national stereotypes and not individual qualification and

⁵⁷ Ibid, p56

⁵⁸ Ibid, p55

skills, a practice which the report noted, is prevalent in the Middle East and Asia.⁵⁹ For example, the report claimed that Filipino workers are considered a status symbol in Arab households, and therefore, receive a higher salary than those from other countries, a trend which in part, demonstrate the arbitrariness in wage-determination for domestic work.⁶⁰ Additional myths include the belief in some countries that an increase in wage will result in decrease in demand for domestic work and subsequent increase in unemployment.⁶¹ The report however highlighted that although some domestic workers do not receive any payments in the initial months as their wages are used to pay off debts incurred in relation to their job placement and departure, some countries like the Philippines have banned charging domestic migrants the incurred placement and travel cost, albeit with no effect as the practice is widely ongoing through unofficial channels.⁶²

The report by UN Women is therefore important in providing a panoramic view of practices in various countries and government actions or inactions that contribute to the current state of affairs concerning domestic workers worldwide. Given that countries vary in their policy and practices as highlighted in the report, it means that bilateral relationships between sending countries and receiving countries are not static, but potentially depend on the socio-political and economic power and interests of the particular sending and receiving countries, making in-depth studies and focus on a particular sending country such as Kenya one of ongoing relevance for policy and practice.

1.4.5 Attitudes towards Unionization of Domestic Workers

The report by the UN Women also highlighted a common theme which was echoed in an Action Guide presented by Burrow, the Secretary General of International Trade Union Confederation, that of national stereotype.⁶³ The stereotype is that Employers look upon unions as trouble makers, making unionization and empowerment of domestic workers

⁵⁹ UN Women. *Contributions of Migrant Domestic Workers to Sustainable Development*. Bangkok: UN Women.2013, p.17

⁶⁰ Ibid. p.17

⁶¹ Ibid. p.18

⁶² UN Women, 2013 *op cit.* p.18

⁶³ Burrow, Sharan. Decent Work, Decent life for domestic workers. *ITUC Action Guide*. [Online] Retrieved: http://www.ituc-csi.org/IMG/pdf/ITUC_dwd_AnglaisWEB.pdf p. 51

difficult. The action guide noted that unions overcome this challenge in Kenya by involving the police, explaining to domestic workers to report any case of exploitation they know of to the authorities. The local union has contacts with the police stations that help them. However, when an employer realizes he or she is in the wrong, they may try to bribe their way out, but from then on they usually try harder to respect their domestic worker's fundamental rights, to avoid problems in future.⁶⁴

Burrow therefore presents a snapshot of the institutional contributions to change in the employment conditions of Kenyan domestic workers. It is useful in explaining how institutional actors such as the union and the government through the police collaborate to address the challenges faced by this vulnerable sector. It has also highlighted the important role of training local domestic workers and providing information to them regarding their rights at the workplace. However, the question of Kenyan domestic workers in the Diaspora is conspicuously absent in the discourse, a gap which needs to be filled through research and discourse on the role of the Government of Kenya through its foreign office towards the promotion of the rights of domestic workers in the Diaspora.

1.5 Justification of the Study

The importance of the protection of domestic workers in the Diaspora stem from Article 6 of the provisions of the General Conference of the International Labour Organization which passed that each member of the organization shall take measures to ensure that domestic workers, like workers generally, enjoy fair terms of employment as well as decent working conditions and, if they reside in the household, decent living conditions that respect their privacy.⁶⁵ Particularly, the International Labour Organization provides that national laws and regulations shall require that migrant domestic workers who are recruited in one country for domestic work in another receive a written job offer, or contract of employment that is enforceable in the country in which the work is to be performed, addressing the terms and conditions of employment hitherto referred, prior to crossing national borders for the purpose of taking up the domestic work to which the offer or contract applies.⁶⁶

⁶⁴ Ibid, p. 52

⁶⁵ International Labour Organization. *Domestic Workers Convention*, June 2011, p. 4

⁶⁶ Ibid, p. 5

A common gap throughout the literature review on conditions of employment of domestic workers is lack of research on the role of Government and especially the Ministry of Foreign Affairs in the protection of Kenyan domestic workers in the Diaspora. This study therefore sought to evaluate the extent to which the government of Kenya has enforced the ILO provisions and recommendations towards the protection of domestic workers in the Middle East.

1.6 Theoretical Framework

This research was approached from the lenses of institutional theory. Institutional theory is usually seen as a theoretical paradigm which had its origin around the turn of the century with the writings of scholars like Thorstein Veblen and John Commons.⁶⁷ Institutional theorists view individuals and groups as embedded in social contexts - sets of institutions – which govern their behavior. The theory was motivated by the need to examine ways in which collective action can be institutionally embodied and in that form, shape and constrain individual choice.⁶⁸

Institutional theory seeks to understand the existence of international institutions, and how they operate.⁶⁹ It is based on the notion that organizations have an influence on and are influenced by broader internal and external institutions in society based on three pillars: regulative, normative and cultural-cognitive pillars.⁷⁰ The regulative pillar refers to the ability to establish, inspect and review rules and to determine and enforce sanctions for non-compliance, either formally through legislation or informally such as adverse publicity.⁷¹ It constrains behavior through rule-setting, monitoring and sanctions.⁷²

⁶⁷ Bray, Mark & Wailes, Nick. *Institutionalism and Industrial Relations Theory*, [Online] Retrieved: <http://mngt.waikato.ac.nz>, p 55.

⁶⁸ Ibid, p 56

⁶⁹ Elman, Colin & Elman, Miriam Fendius, *and Progress in International Relations Theory: Appraising the field*, Cambridge: MIT press. p.87.

⁷⁰ Price, Robin, Bailey, Janis, McDonald, Paula and Pini, Barbara. Employers and child workers: an institutional approach. *Industrial Relations Journal*, 42:3 p. 223

⁷¹ Ibid, p.223

⁷² Mccarthy, K. J., Fiolet, Maya and Dolfsma, Wilfred. *The Nature of the New Firm: Beyond the Boundaries of Organisations and Institutions*. Cheltenham: Edward Elgar Publishing.

The normative pillar of institutional theory encapsulates normative rules that introduce a prescriptive, evaluative and obligatory dimension into social life such as human resource policies and values about the protection of vulnerable groups – whose basis of compliance is a sense of moral obligation that this is the way things should be done.⁷³

The cultural-cognitive pillar of institutional theory brings into the frame the shared conception that constitutes the nature of social reality and the frames through which meaning is made. Institutions are defined as persistent and connected sets of rules (formal and informal) that describe behavioral roles, constrain activity, and shape expectations.⁷⁴

A central tenet of institutional theory is that legitimacy is critical to the evolution of all organizations as societal acceptance of the organization and its subsequent survival depends on its attaining the support of relevant entities in its environment which are perceived as a source of pressure on organizations.⁷⁵ Thus, institutional theory does help explain state strategies, since those strategies are affected not only by fundamental preferences but the constraints and opportunities in their environment, including those provided by international institutions.⁷⁶ Institutional theory was therefore adopted to help explain the role of the Kenyan government as an institution on the protection of Diaspora domestic workers in the Middle East. The theory's significance in this study is found in its potential to expose the regulatory role of governments in protecting domestic workers as well as the cultural dimension of the institutional environment that characterize domestic employment in the Middle East.

1.7 Hypothesis

The Kenya Government has taken a raft of initiatives towards the protection of Kenyan domestic workers in the Middle East. The Ministry of Foreign Affairs is significant in disseminating information to stakeholders towards the protection of Kenyan domestic workers in the Middle East.

⁷³ Ibid, 42:3 p.223.

⁷⁴ Elman, Colin & Elman, Miriam Fendius, *Progress in International Relations Theory: Appraising the field*, Cambridge: MIT press. 2003. p. 87.

⁷⁵ Kenis, Patrick, Janowicz, Martyna and Cambre, Bart. *Temporary Organizations: Prevalence, Logic and Effectiveness*. Cheltenham: Edward Elgar Publishing. 2009. p. 95.

⁷⁶ Ibid, p.96

1.8 Methodology

The section discusses the Research design, target population, sample and sampling procedure, research instruments, validity and reliability of the instruments, data collection and data analysis.

1.8.1 Research Sampling Design

This research was based on the case of Diaspora domestic workers in the Middle East. The study used primary and secondary data. Secondary sources included books, scholarly journals and articles.

1.8.2 Target Population

The target population was relevant staffs at the Ministry of Labour and Ministry of Foreign Affairs and International trade, Kenyan Embassies in the Middle East countries. The study also targeted Kenyan Domestic workers in the Middle East, whether present or past.

1.8.3 Data Collection Instruments

Qualitative data was collected for the study. Primary data was collected through a purposive sample of eighteen respondents who were interviewed from the ministry of foreign affairs and the relevant staff of various embassies to the countries in the Middle East. Interviews at the Ministry Of Foreign Affairs were done with a representative from the Directorate of Diaspora Affairs, the Directorate of Consular Affairs and their respective subordinates. The rest of the interviews were done with the Secretary of Consular affairs and an Administrative Attaché at: the Saudi Embassy Kenya, Israeli Embassy Kenya, Qatar Embassy Kenya, and United Arab Emirates Kenya. In addition, an interview was also conducted with a representative from the Ministry of Labour. A separate interview was conducted with domestic workers from the Middle East.

Data collection was based on a structured interview guide and note taking for oral interviews. The interview guide was used to direct and control the various research topics and themes as they arose during the interaction with the respondents. During the interview, emerging issues were jotted down in a notebook.

1.8.4 Data Analysis

The data collected was then analyzed using content analysis technique. Content analysis is a qualitative technique of data analysis which involves the attempt of discovering patterns and meanings by counting the number of times certain terms or phrases appear in qualitative data.⁷⁷ The findings were summarized and presented pie charts which were corroborated by verbatim narratives.

1.9 Chapter Outline

Chapter one is the introduction to the study. It has stated the problem and proposed objectives. It has also looked at the scope, justification and assumptions. It has further discussed the theory which underpinned the study and a review of literature related to diaspora domestic workers.

Chapter two discusses the domestic workers in the Diaspora and in particular Middle East relating it to Kenya. It identifies which countries in the Middle East are affected with issues of domestic workers from Kenya. It also talks about the International Labour organization and its role within the context of Diaspora domestic workers in the Middle East.

Chapter three explores Kenyan domestic workers and their protection, and the awareness role of the Ministry of Foreign Affairs.

Chapter four analyzes the Government protection of Kenyan domestic workers in the Middle East, their effectiveness and challenges.

Chapter five presents a summary of the findings, conclusions and recommendations.

⁷⁷ Rubin, A. & Babbie, E. R. *Essential Research Methods for Social Work*. New York: Cengage Learning., 2009.

CHAPTER TWO

DOMESTIC WORKERS IN THE DIASPORA

2.0 Introduction

This chapter presents a review of Kenyan domestic workers in the Diaspora. It begins by profiling the explosion of migrant domestic workers in the world today and considers various case studies. Subsequently, it discusses the issues of domestic workers in the Middle East, relating it to Kenya. It then identifies the countries in the Middle East that are affected with issues of domestic workers from Kenya. It then concludes with a summary of the major concerns.

2.1 Migrant Domestic Workers in the World

Despite the acknowledged role played by domestic workers in many economies of the world, International Labour Organization reports show that domestic workers are among the least protected internationally and one of the major abuses they face include severe restrictions of the freedom of movement.⁷⁸ Domestic workers, usually young girls, live and work in the shadows of society – hidden behind the locked doors of their employers' homes, isolated from their family and peers and with little regulatory oversight by the government.⁷⁹ They are largely a part of an informal economy where low pay, lack of social security and lack of job security are part of the game.⁸⁰ Further, restrictions on the right of domestic workers to associate make it difficult for them to join trade unions and hence to participate in collective bargaining, which in turn is a crucial factor for the improvement of conditions of work and enhancement of other rights.⁸¹ The ILO estimates that there are 20.9 million victims of forced labour worldwide; with domestic work one of the most frequently cited economic sectors, with many different dimensions.⁸²

⁷⁸ Banik, D. *The Legal Empowerment Agenda: Poverty, Labour and the Informal Economy in Africa*, London: Ashgate Publishing, Ltd., 2011, p.10

⁷⁹ Sheppard, B. *Workers in the shadows: abuse and exploitation of child domestic workers in Indonesia*, New York: Human Rights Watch., 2009.p33

⁸⁰ Pierik, R. & Werner, W. G. *Cosmopolitanism in context: perspectives from international law and political theory*, Cambridge: Cambridge University Press., 2010. p49

⁸¹ Banik, (2011), *op cit*, 2011. p.10

⁸² International Labour Organization. *Domestic workers across the world: global and regional statistics and the extent of legal protection*. Geneva: International Labour Organization, 2013, p.45

2.2 Working Conditions

Working conditions refers to the working environment and aspects of an employee's terms and conditions of employment. This covers such matters as: Working Hours, Wages, work – life balance, terms of employment, the organisation of work, work activities; training, skills and employability; health, safety and well-being; and working time Pay is also an important aspect of working conditions, although Article 153 of the Treaty on the Functioning of the European Union (TFEU) excludes pay from the scope of its actions in the area of working conditions.

2.2.1 Working Hours

The number of hours of work, working-time arrangements and rest time has significant effects on the quality of work and on quality of life in general.⁸³ While increase in work hours and the performance of overlapping activities may lead to higher monetary income and completed household tasks, the manner in which informal women workers spend their time can lead to a deterioration in health due to stress, chronic fatigue, and a lack of recreation and sleep.⁸⁴ Well-established findings from occupational health studies show that long working hours, night working and patterns of shift work that involve an irregular distribution of working hours are the factors that have the greatest negative effects on workers' health.⁸⁵

However, working hours of domestic workers around the world are among the longest and most unpredictable for all groups of workers.⁸⁶ For instance, the ILO reported that while the average actual hours of work of the general employed population in Nepal in 2008 was 39 hours per week, domestic workers worked on average 52 hours per week. Similarly, the report showed that domestic workers in other Asian countries, such as Indonesia (51.6 hours, 2008), Malaysia (65.9 hours, 2008), the Philippines (52.0 hours, 2010) and Thailand (58.3 hours, 2003), routinely work in excess of the 48-hour threshold. Data from Namibia (62 hours, 2007)

⁸³ International Labour Organization. *Domestic workers across the world: global and regional statistics and the extent of legal protection*. Geneva: International Labour Organization, 2013, p.55

⁸⁴ Floro, M. S. and Pichetpongsa, A. Gender, work intensity, and well-being of Thai home-based workers, *Feminist Economics*, 2010 16(3), 5–44.

⁸⁵ Op cit., 2013, p.55

⁸⁶ Ibid, p.55

and the United Republic of Tanzania (63.0 hours, 2006) show a similar pattern. In Saudi Arabia, it was reported that domestic work was the sector with the highest average working hours, at 63.7 hours worked per week (2009). This was also the case in Qatar, where the average time worked by persons employed by private households amounted to 60 hours per week (2009).⁸⁷

The foregoing literature suggest that domestic workers virtual work overtime. Overtime in relation to a given period of time means the portion of time employees work for their employers in excess of the ordinary working hours established by law.⁸⁸ A significant number of countries have no regulations on overtime, mainly because they either do not deal with hours of work of domestic workers in their laws or simply because they exclude them for the general norms on that matter.⁸⁹ A study conducted in South Africa revealed that despite minimum standards set by the department of labour, the women interviewed lived hard lives, and worked long hours for low pay, and their responses indicated that many employers were not meeting the statutory minimum standards of employment.⁹⁰ Further, excessive hours of work and round-the-clock availability are often the lot of live-in domestic workers, especially those employed to look after children, the elderly or handicapped members of the family.⁹¹

In the International Labour Convention held in 2011, the main issue of contention centred on the alleged difficulty – both conceptual and practical – of measuring the hours actually worked by domestic workers, owing to the varying intensity of domestic work in the course of the day, the unpredictability of domestic workers’ work schedules due to the volatility of households’ needs, and the impracticability of keeping track of hours worked.⁹² However, the available data also showed that there was still a huge gap in the statutory provision of weekly rest periods: some 44.9 per cent of all domestic workers, or 23.6 million worldwide, were not

⁸⁷ International Labour Organization. *Domestic workers across the world: global and regional statistics and the extent of legal protection*. Geneva: International Labour Organization, 2013, p.58

⁸⁸ Maria, Jose and Machado, Ramirez. *Domestic work, conditions of work and employment: A legal perspective*. Geneva: International Labour Organization, 2003, p. 4

⁸⁹ Ibid

⁹⁰ Dinat, Natalya and Peberdy, S. Restless worlds of work, health and migration: domestic workers in Johannesburg. *Development Southern Africa*, Vol. 24, No. 1, 2007., p189

⁹¹ Tomei, Manuela and Belser, Patrick. New ILO standards on decent work for domestic workers: A summary of the issues and discussions. *International Labour Review*, Vol. 150 (2011), No. 3–4, p.435

⁹² Tomei, Manuela and Belser, Patrick. New ILO standards on decent work for domestic workers: A summary of the issues and discussions. *International Labour Review*, Vol. 150 (2011), No. 3–4, p.435

entitled to any weekly rest under national legislation. An ILO report noted that most of them lived in Asia and the Middle East: in both regions, only a small fraction of domestic workers are entitled to a weekly day of rest under national legislation, namely domestic workers in Iran and Jordan.⁹³

Article 10 of the Domestic Worker Convention provides that each Member shall take measures towards ensuring equal treatment between domestic workers and workers generally in relation to normal hours of work, overtime compensation, periods of daily and weekly rest and paid annual leave in accordance with national laws, regulations or collective agreements, taking into account the special characteristics of domestic work. It also stipulates that weekly rest shall be at least 24 consecutive hours. Further, periods during which domestic workers are not free to dispose of their time as they please and remain at the disposal of the household in order to respond to possible calls shall be regarded as hours of work to the extent determined by national laws, regulations or collective agreements, or any other means consistent with national practice⁹⁴. It is however not clear the extent to which these recommendations have been implemented generally and particularly by the governments in the Middle East.

2.2.2 Wages

The domestic work sector is usually characterized by low wages. A analysis by the ILO showed that domestic workers typically earn around 40 per cent of average wages, although the level relative to average wages varies between 63.8 per cent in Honduras (2006) and only 14 per cent in Botswana (2005/06).⁹⁵ In principal however, many countries use minimum wage as a tool for overcoming asymmetries in bargaining power or the lack of effective collective bargaining, with the objective of minimum protecting “disadvantaged groups of wage earners” against “unduly low wages”.⁹⁶ Article 11 of the Domestic Workers Convention provides that each Member shall take measures to ensure that domestic workers enjoy minimum wage coverage, where such coverage exists, and that remuneration is

⁹³ International Labour Organization. *Domestic workers across the world: global and regional statistics and the extent of legal protection*. Geneva: International Labour Organization, 2013, p.62

⁹⁴ International Labour Convention. Documents and Communications: Conventions and Recommendations concerning Decent Work for Domestic Workers. *International Labour Review*, Vol. 150 (2011), No. 3–4, p. 443

⁹⁵ International Labour Organization. *Domestic workers across the world: global and regional statistics and the extent of legal protection*. Geneva: International Labour Organization, 2013, p.67

⁹⁶ *Ibid*, p.74

established without discrimination based on sex. According to the ILO, many countries already use minimum wage legislation to set a wage floor for domestic workers, either by including domestic workers into the coverage of a generally applicable national minimum wage, or by fixing specific minimum wages for domestic workers; depending on the overall characteristics of the minimum wage system established in a given country.⁹⁷

However, in practice, domestic workers often have to accept deductions from their salaries for the costs of housing and food – even when living in the employer’s household is a requirement that primarily benefits the household.⁹⁸ A common practice is for the employer to pay live-in domestic workers a flat weekly or monthly rate, but without specifying the working hours. This practice is based on the employer’s assumption that the domestic worker will be available whenever their services are needed.⁹⁹ The ILO further noted that gender-based pay discrimination in domestic work may be compounded with other forms of discrimination such as the worker’s ethnic or social origin and/or nationality might determine the level of remuneration, rather than any legitimate criteria.¹⁰⁰ In relation to Kenya, the ILO increased the minimum wage of domestic workers which was consequently gazetted by the Government of Kenya in June 2011 and was to take effect within a year.¹⁰¹

2.2.3 Work-Life Balance

Migrant women who enter domestic service have lives beyond their work and the private confines of the home.¹⁰² Domestic work is however characterized by long working hours, which sometimes, combined with sleep interruption, threaten domestic workers’ work-family balance and negatively affect their physical and psychological health. This may result in

⁹⁷ International Labour Convention. Documents and Communications: Conventions and Recommendations concerning Decent Work for Domestic Workers. *International Labour Review*, Vol. 150 (2011), No. 3–4, p. 443.

⁹⁸ Op cit., 2013, p.3

⁹⁹ Ibid, 2013, p.58

¹⁰⁰ International Labour Organization. *Domestic workers across the world: global and regional statistics and the extent of legal protection*. Geneva: International Labour Organization, 2013, p.69

¹⁰¹ Akinyi, M. How many can afford it? *The Standard*, 2011 Retrieved on 10th July 2013 from <http://www.standardmedia.co.ke>

¹⁰² Yeoh, Brenda and Huang, Shirlena. Negotiating Public Space: Strategies and Styles of Migrant Female Domestic Workers in Singapore. *Urban Studies*, Vol. 35, No. 3 (1998). 583-602. pp584

fatigue, stress, and increased risk of accidents at the workplace.¹⁰³ A research conducted among migrant domestic workers in South Africa showed that the social lives of domestic workers, like their working lives, were relatively constricted, at least for those who live in. Most of their social activity (whether migrant or non-migrant) took place in homes or at church, and very few regularly ventured outside their employers' home.¹⁰⁴ For the live-in domestic worker, her temporary 'home' in a foreign land is also her 'place of employment' where she is subject to a certain degree of scrutiny and surveillance integral to the social relations of waged work. Places away from her employer's home such as public spaces may in fact afford more degrees of 'privacy' and personal freedom to revert to her own social and cultural norms such as in speech and behavior.¹⁰⁵

Living-in domestic workers are dependent on their employers for accommodation and food; because they live and work in the same place as their employers, they end up being in a state of "permanent availability" to the employers' families, while their own personal life is hindered. It is the blurring of the boundaries between work and personal relationships that is characteristic of living-in jobs, especially when workers develop relationships of affection with the people for whom they care. At the same time, care-work relationships can also be characterized by psychological exploitation, which is aggravated by the isolation in which the domestic worker lives.¹⁰⁶

Domestic workers are also often excluded from maternity leave and the associated maternity cash benefits. Given that more than 80 per cent of all domestic workers are women, this is an important shortcoming. While domestic workers often enable others to improve their balance of work and family obligations, domestic workers themselves are often excluded from crucial provisions: more than one-third of all domestic workers themselves have no right to go on

¹⁰³ International Labour Organization. *Snapshot ILO in Action: Domestic Workers*.
www.ilo.org/domesticworkers, 2013, p.6

¹⁰⁴ Dinat, Natalya and Peberdy, S. Restless worlds of work, health and migration: domestic workers in Johannesburg. *Development Southern Africa*, Vol. 24, No. 1, 2007., p189

¹⁰⁵ Op cit., pp585

¹⁰⁶ Scrinzi, Francesca. "Cleaning and Ironing...with a Smile": Migrant Workers in the Care Industry in France. *Journal of Workplace Rights*, (2009), Vol. 14(3) 271-292. p.274

paid maternity leave.¹⁰⁷ Further, expunging off-days for domestic workers provide the most foolproof mechanism to restrict the foreign domestic worker's forays into public space without the employer's guiding and restraining presence. Domestic workers placement agencies and employers often do not view this as a form of victimization or deprivation; instead, some view their control as a means of protecting the domestic worker 'for her own good/security/safety'.¹⁰⁸

In a study of migrant live-in domestic workers in Canada, it was established that feelings of deprivation among domestics were enhanced by the isolation and loneliness many of them experienced. In key respects, domestics, living and working in their employers' houses, where many aspects of their existence are controlled, are in a situation similar to inmates in total institutions. Their daily routines, including after work hours, are largely defined by their employer's life-style. Since there are no co-workers within the setting to share the hardship, it makes sense that there should be a greater need for external power resources. Live-in domestics reported being treated as "non-human objects".¹⁰⁹ In some cases, some domestic workers ask for an occasional afternoon off in addition to the official off-days to run errands such as going to the bank or sending parcels home, while others increase the 'time out' period on the official off-day, citing traffic jams or other unforeseen circumstances as reasons for returning to the employer's home late.¹¹⁰

2.2.4 Terms of Employment

The contract of employment governs the employer-employee relationship. It establishes the rights and obligations of the parties involved and the legal basis they must refer to regarding job description, type of employment (full-time/part-time, live-in/liveout), probationary period, working days, hours of work, breaks, overtime, holidays, wages, leaves, termination of

¹⁰⁷ International Labour Organization. *Domestic workers across the world: global and regional statistics and the extent of legal protection*. Geneva: International Labour Organization, 2013, p.3

¹⁰⁸ Yeoh, Brenda and Huang, Shirlena. Negotiating Public Space: Strategies and Styles of Migrant Female Domestic Workers in Singapore. *Urban Studies*, Vol. 35, No. 3 (1998). 583-602. pp591

¹⁰⁹ Cohen, R. Women of Color in white Households: Coping Strategies of Live-in Domestic workers. *Qualitative Sociology*, Vol. 4, No. 2, 1991. p.199

¹¹⁰ Yeoh, Brenda and Huang, Shirlena. Negotiating Public Space: Strategies and Styles of Migrant Female Domestic Workers in Singapore. *Urban Studies*, Vol. 35, No. 3 (1998). 583-602. pp596

employment, settlement of disputes, etc.¹¹¹ In a situation of extreme hierarchy and informality, terms of employment are usually biased against the domestic workers. They have no security of employment, health insurance or pension. Occupational health problems are prevalent, and the low status of domestic workers, compounded by lack of social confidence and a low level of unionization, makes them vulnerable to sexual and other forms of harassment.¹¹²

Arbitrary changes of work contracts, pay cuts or even non-payment of salaries are facilitated by the irregular nature of the employment relationship in the domestic work sector. The lack of a binding labour contract makes it difficult for dismissed workers to obtain an assessment of severance pay and other obligatory fringe benefits. This is also underlined by the fact that, frequently, the working contract is of an oral nature, presenting the worker with the extra difficulty of proving the existence of a contractual working relationship in case of controversy.¹¹³ Very few countries formally require the conclusion of a written contract of employment for domestic service in private households, and some countries expressly exclude domestic employment from a general requirement for such contracts.¹¹⁴ If any case, domestic workers, even when not formally hired for childcare, may be engaged in indirect childcare because of the location of their work and as a result of their informal work contracts.¹¹⁵

Further, the definitions of “work” and the categories used to measure it, informality or the absence of a contract of employment, “invisibility” due to the location of the work, embeddedness in personal relations, the social status and sex of the worker, and the socio-cultural valuation of different activities, particularly those in which women predominate¹¹⁶

¹¹¹ Maria, Jose and Machado, Ramirez. *Domestic work, conditions of work and employment: A legal perspective*. Geneva: International Labour Organization, 2003, p.15

¹¹² Palriwala, Rajini and Neetha, N. Care Arrangements and Bargains: Anganwadi and Paid Domestic Workers in India. *International Labour Review*, Vol. 149 (2010), No. 4, pp 512-527, p520

¹¹³ Op cit., 2003, p. 7

¹¹⁴ International Labour Convention. The employment and conditions of domestic workers in private households: an ILO survey. *International Labour Review*, 2003, 391-401. p394

¹¹⁵ Palriwala, Rajini and Neetha, N. Care Arrangements and Bargains: Anganwadi and Paid Domestic Workers in India. *International Labour Review*, Vol. 149 (2010), No. 4, pp 512-527, p512

¹¹⁶ Ibid., p511

2.2.5 Other Predicaments

The extreme dependency on an employer, combined with the lack of rights and the isolated and unprotected nature of domestic work, can render domestic workers vulnerable to exploitation and abuse. In the case of migrant domestic workers, in particular, their often precarious legal status in the destination country, and their lack of knowledge of the local language and laws, make them especially vulnerable to abusive practices. Reports of physical and sexual violence, psychological abuse, non-payment of wages, debt bondage and abusive living and working conditions are also frequent in many countries.¹¹⁷

Moreover, migrant domestic workers who have been recruited through intermediaries in one country for employment in another country generally have little or no opportunity to engage in direct negotiations with the employing household. When their residence status is tied to their employment contract, they lack not only a voice but also an “exit” option, as they would have to return to their home country if they terminate their contact. Socio-cultural factors, such as language barriers, may also prevent domestic workers from engaging and negotiating with their employers. These factors also increase their vulnerability to abusive treatment, discrimination and unfair working conditions.¹¹⁸

2.3 The Employer as a Perpetrator

Historically, the relationship between a domestic worker and their employer has often relied on a paternalistic model, rather than on an explicit employment contract under which the worker and the employer each has clearly defined rights and obligations.¹¹⁹ It has been noted that many employers fail to see their home as a workplace or themselves as employers. A study by Moras found out that domestic employers had a difficult time assuming employer positions, evidenced by their lack of direct and straightforward communication and

¹¹⁷ International Labour Organization. *Domestic workers across the world: global and regional statistics and the extent of legal protection*. Geneva: International Labour Organization, 2013, p.44

¹¹⁸ International Labour Organization. *Domestic workers across the world: global and regional statistics and the extent of legal protection*. Geneva: International Labour Organization, 2013, p.70

¹¹⁹ Ibid, p47.

supervision strategies.¹²⁰ Employers often conceptualize domestic workers as an extension of housewives rather than as workers. Furthermore, the assertion that a domestic worker is “one of the family members” opens up that relationship to further exploitation and conceals the power relationships at work.¹²¹ As a result, domestic workers bear abuse and mistreatment before they retaliate, sometimes violently, against their employers.¹²²

While employer-employee relationships could range from business-like arrangements to more familial ones, the state’s abdication of responsibility over the foreign domestic worker’s work conditions and relegation of the task of ‘policing the domestic worker’ to the employer tends to drive employers towards excessive control over their domestic workers’ activities.¹²³ For instance, employers in Dubai use the migrant’s lack of knowledge of host country language to their advantage by restricting access to the outside world. Passports, airline tickets, and identification papers are frequently confiscated upon arrival at the worksite – though these actions are prohibited by UAE law – leaving the migrants virtually shackled to their employers. Without identification, faced with language barrier and subject to acute poverty, migrant workers have no choice but to endure forced involuntary labor and servitude on a monthly salary of anywhere from US\$ 100 to US\$250.

2.4 Employment Agencies as Facilitators

Domestic workers do not only look for work in their own home countries, but often move to other countries in search of better employment opportunities – often with employment agencies as intermediaries.¹²⁴ There is considerable variation in the terms and conditions that agencies impose on employers and in the services they offer to workers, as well as in their objectives. Exploitation by placement agencies adds to the woes of many domestic workers. Particular concerns raised in the literature include non-payment of wages, features of forced/

¹²⁰ Moras, Amanda. The Private Home as a Public Workplace: Employing Paid Domestic Labor. *Journal of Workplace Rights*. Vol. 13 (4) 377-400, 2008. p. 382

¹²¹ Ibid

¹²² Agler, T., Kroh, M. & Tanori, J. Culture Clash: Domestic Workers and Their Employers in Kenya, *Politics of Culture in Kenya*, 2006. Retrieved on 3rd July 2013 from www.centerfordomestictraininganddevelopment.org

¹²³ Yeoh, Brenda and Huang, Shirlena. Negotiating Public Space: Strategies and Styles of Migrant Female Domestic Workers in Singapore. *Urban Studies*, Vol. 35, No. 3 (1998). 583-602. pp590

¹²⁴ International Labour Organization. *Domestic workers across the world: global and regional statistics and the extent of legal protection*. Geneva: International Labour Organization, 2013, p.21

bonded labour, forms of social exclusion and discrimination, and the possibility of sexual exploitation (by the middlemen, agents and employers).¹²⁵ Migrant domestic workers are particularly fearful of unscrupulous private employment agencies, some of which charge exorbitant fees that can lead to debt bondage and forced labour, and sometimes to confusion as to who the real employer is.¹²⁶

Several factors transform this legal transaction into a form of slavery. Recruitment fees, although banned by international covenant and illegal in many “supply countries”, are demanded of foreign workers under the title of “job placement fee” or “employment fee”. Often in the shocking range of US\$4,000-11,000, the fees are paid to the labor recruiter or to the company hiring the workers abroad. The recruiters, who already receive a commission for their work, doubly benefit from the advanced fees.¹²⁷ The rigid practices of employment agencies, combined with the lack of legal protection for domestic workers, may also force domestic workers to become entangled in active relationships, including relationships with boyfriends, in order to meet not only needs for self-esteem and other emotional needs, but also economic needs.¹²⁸

2.5 Protection of Domestic Workers

According to the ILO, The protection of domestic workers depends mainly on legislation. Further, the real conditions of work and employment of domestic workers not only depends on the extent that labour laws offer them protection, but also on the level and the way that these laws are, in fact, enforced by the competent authorities.¹²⁹ Protection is largely contingent on the existence of requisite legislation and the enforcement of such laws.

¹²⁵ Palriwala, Rajini and Neetha, N. Care Arrangements and Bargains: Anganwadi and Paid Domestic Workers in India. *International Labour Review*, Vol. 149 (2010), No. 4, pp 512-527, p520

¹²⁶ Tomei, Manuela and Belser, Patrick. New ILO standards on decent work for domestic workers: A summary of the issues and discussions. *International Labour Review*, Vol. 150 (2011), No. 3-4, p.432

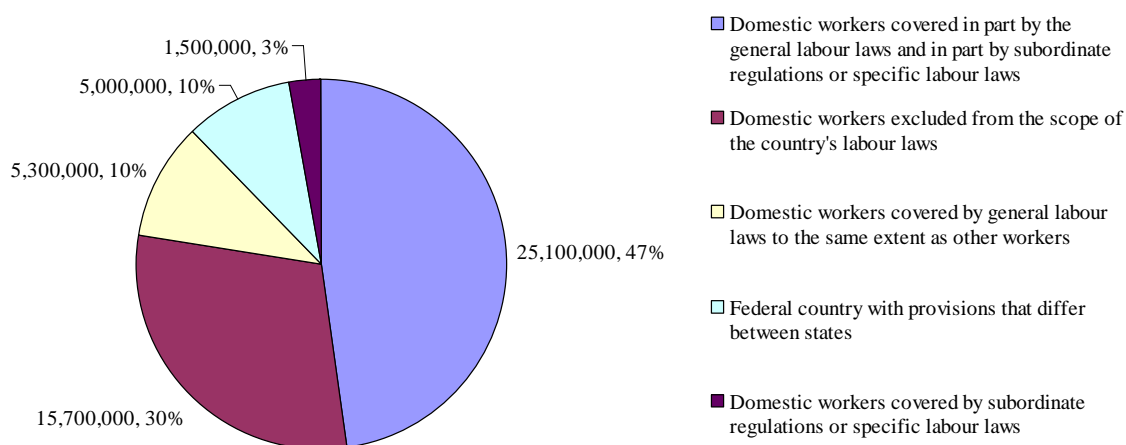
¹²⁷ Caplin, Jessica. Mirage in the Desert of Oasis: Forced Labor in Dubai and the United Arab Emirates. *Havard International Review*, 28-31 (2009), p29

¹²⁸ Ueno, Kayoko. Love Gain: The Transformation of Intimacy among Foreign Domestic Workers in Singapore. *Journal of Social Issues in Southeast Asia*, Vol. 22, No. 1. (2013), pp36-63., p. 41.

¹²⁹ Maria, Jose and Machado, Ramirez. *Domestic work, conditions of work and employment: A legal perspective*. Geneva: International Labour Organization, 2003, p. 25

2.5.1 Labour Laws

A review of national laws across the world by the ILO suggested that a large number of countries have legislation protecting the wages of domestic workers, such as fixing the periodicity of payment, the employer's right to make deductions and the worker's right to dispose of his or her earnings.¹³⁰ Further, a smaller but sizable number (many in Africa), have minimum wages covering domestic workers, mostly related to those fixed for other occupations and respecting any national minimum. However, everywhere else, however, wages are fixed by the parties alone and left to the play of demand and supply.¹³¹ The extent of coverage of domestic workers by national labour legislations across the world is represented in figure 1. The figure shows that generally, 47% of domestic workers in the world are covered in part by the general labour laws and in part by subordinate regulations or specific labour laws. However, an estimated 30% of the domestic workers were excluded from the scope of their country's labour laws. Domestic workers covered by general labour laws to the same extent as other workers accounted for only 10% of the statistics, whereas 10% represented federal countries with provisions that differ between states. Some 3% of the domestic workers were covered by subordinate regulations or specific labour laws.



¹³⁰ International Labour Convention. The employment and conditions of domestic workers in private households: an ILO survey. *International Labour Review*, 2003, 391-401. p394

¹³¹ Ibid, p.394

Figure 1 Coverage of domestic workers by national labour legislations across the world, 2010.¹³²

The ILO however observed that only a few countries have legislative or other provisions on daily rest, some concerned with overall rest during the day and others specifying the times at which rest is to be taken (such as an afternoon break or a long noon break). A slightly larger number of countries prescribe a minimum period of night rest or set the time of the day or evening at which work shall, as a rule, cease.¹³³ Comparatively few countries have standards regulating sick, maternity or emergency leave for domestic workers; the problems of domestic workers and their employers in these respects are rather special, particularly in the case of workers living in.¹³⁴

In receiving countries, migrant domestic workers often benefit from limited legal protection given their foreign status. In some cases, immigration laws tend to differentiate between local and foreign workers in terms of protection and access to support services.¹³⁵ In India for example, the working conditions of domestic workers are not governed by any legal norms at the national level. Nor is there any official minimum wage for their occupation except in a few states. There is no uniformity in their hours of work and other conditions of work, but most of them work a seven-day week with no annual vacation or sick-leave entitlements.¹³⁶

Previous research investigates the role of racism and immigration policies in shaping the new arrangements of the gendered division of labor in the receiving countries and reveals the linkages between immigration policy and social policy.¹³⁷ The hiring of migrant domestic

¹³² International Labour Organization. *Domestic workers across the world: global and regional statistics and the extent of legal protection*. Geneva: International Labour Organization, 2013, p.51

¹³³ International Labour Convention. The employment and conditions of domestic workers in private households: an ILO survey. *International Labour Review*, 2003, 391-401. p395

¹³⁴ *Ibid*, p396

¹³⁵ Maria, Jose and Machado, Ramirez. *Domestic work, conditions of work and employment: A legal perspective*. Geneva: International Labour Organization, 2003, p.4

¹³⁶ Palriwala, Rajini and Neetha, N. Care Arrangements and Bargains: Anganwadi and Paid Domestic Workers in India. *International Labour Review*, Vol. 149 (2010), No. 4, pp 512-527, p519

¹³⁷ Scrinzi, Francesca. "Cleaning and Ironing...with a Smile": Migrant Workers in the Care Industry in France. *Journal of Workplace Rights*, (2009), Vol. 14(3) 271-292. p.272

workers reaffirms gender and class relations but also global inequalities. Immigration policies tend to reinforce the employers' position vis-à-vis migrant domestic workers.¹³⁸

The situation is even bleaker for the Middle East, where, among those countries with available data, Jordan is the only one that covers domestic workers through its labour legislation (in the form of specific labour laws). This leaves an estimated 99 per cent of all domestic workers in the region outside the scope of labour legislation. Some countries in the region, namely Kuwait and Lebanon, regulate domestic work through mandatory standard employment contracts. Likewise, Bahrain and the United Arab Emirates have announced plans to introduce standard contracts that outline recruitment conditions and basic rights of domestic workers. While these do provide some limited protection to domestic workers, they are not a full substitute for legislation. The countries of the Gulf Cooperation Council (GCC) argued to the Committee on Domestic Workers that the new instruments would help to improve the conditions of domestic workers and would lend support to efforts to protect domestic workers fully, in line with the specificities of that type of work.¹³⁹

Labour laws in Arab states largely exclude domestic workers, who, in this region, are to very large extent women migrant workers from Asia and Africa. However, some countries have issued so-called standard employment contracts for migrant domestic workers which regulate basic aspects of the employment relationship.¹⁴⁰ Although the vast majority of countries provide some maximum limit on hours of work, and guarantee minimum weekly rest and annual leave, domestic workers are often exempted from this standard. Specific exemptions with respect to working time exist even in countries where the labour laws, in principle, cover domestic workers.¹⁴¹

Only in a minority of cases is it due to the absence of any standard on weekly working hours for all types of workers. At a regional level, the coverage is weakest in Asia and the Middle East, where – as far as data are available – statutory limitations on the normal weekly working

¹³⁸ Ibid, p.272

¹³⁹ International Labour Organization. *Domestic workers across the world: global and regional statistics and the extent of legal protection*. Geneva: International Labour Organization, 2013, p.54

¹⁴⁰ Ibid p.47

¹⁴¹ Ibid, p.59

time of domestic workers are almost universally absent.¹⁴² The data show a significant regional variation. Minimum wage coverage on an equal footing with other workers exists for a large majority of domestic workers in developed countries (86 per cent), Eastern Europe and the CIS countries (95 per cent), Latin America and the Caribbean (95 per cent) and in Africa (83 per cent). In contrast, the overwhelming majority of domestic workers in Asia and the Middle East remain unprotected. About 88 per cent of domestic workers in Asia and 99 per cent in the Middle East are not entitled to a statutory minimum wage. Given that the primary objective of minimum wage legislation is to protect vulnerable workers at the bottom of the wage distribution, this is a serious gap in coverage.¹⁴³

In addition to restrictive eligibility criteria, domestic workers frequently face exclusion from maternity leave protection when the scope of national legislation is not clearly defined. Given the historical exclusion of domestic workers from labour legislation and the widespread acceptance of informal employment arrangements, legislation that is silent on this issue hinders domestic workers from claiming their rights and can bolster employers looking to shirk their obligations. Domestic workers' right to maternity leave should not be doubted and should be enshrined in clear and decisive legislation that provides protection to all domestic workers.¹⁴⁴ The eligibility for coverage by maternity leave legislation varies considerably between regions. In the Middle East, domestic workers are generally excluded from maternity leave.¹⁴⁵

The ILO noted that in the case of migrant domestic workers, some countries link work permits to a negative pregnancy status. For example, Singapore requires foreign domestic workers to undergo a medical examination for infectious diseases and pregnancy every six months. A failure of the test results in immediate repatriation. Similar policies and approaches exist at various levels in other countries. While international labour standards and the national legislation of most countries provide for protection from dismissal during pregnancy, the informal nature of the employment relationship often enables employers to lay off pregnant

¹⁴² Ibid, p.60

¹⁴³ Ibid, p.79

¹⁴⁴ International Labour Organization. *Domestic workers across the world: global and regional statistics and the extent of legal protection*. Geneva: International Labour Organization, 2013, p.87

¹⁴⁵ Ibid, p.88

domestic workers without fear of recourse from the worker. They have a particular incentive to do so where the payment of maternity benefits is the employer's responsibility and is not covered by a social insurance fund.¹⁴⁶

2.5.2 Enforcement

In practice however, domestic workers remain one of the least protected groups of workers under national labour legislation.¹⁴⁷ The ILO posited that compliance may be poor due to weak enforcement mechanisms, the highly informal nature of employment relationships, and the lack of awareness about legal entitlements among workers – who often lack higher education, or even basic literacy – and employers alike. Moreover, even where domestic workers are covered by labour laws, migrant domestic workers might be excluded from the provisions, or they may lack any realistic means of insisting that their employers respect their rights.¹⁴⁸

With regard to labor, the UAE has since 1980 included a provision requiring a minimum wage law. Its labour law number 8 of 1980 is a federal law subject to continued amendments and modifications by ministerial resolutions regulating labour relations across the UAE. These laws enumerate legal terms of recruitment, maximum working hours and age limits. It cites the right to annual leave, overtime, occupational safety measures and healthcare provided by employers. Notably, though the ministry of labor imposes the federal law, the individual emirates can adopt their own agencies of enforcement and such as the case in Dubai.¹⁴⁹

Internationally, the UAE is a member of the ILO and has ratified six of the eight central ILO conventions. It has ratified conventions relating to the elimination of forced labor, of discrimination regarding employment, and of child labor. It has also ratified conventions relating to hours worked, labor inspections and night time work for women. These acts

¹⁴⁶ Ibid, p.85

¹⁴⁷ Ibid, p.46

¹⁴⁸ International Labour Organization. *Domestic workers across the world: global and regional statistics and the extent of legal protection*. Geneva: International Labour Organization, 2013, p.50

¹⁴⁹ Caplin, Jessica. Mirage in the Desert of Oasis: Forced Labor in Dubai and the United Arab Emirates. *Harvard International Review*, 28-31 (2009), p31

represent a growing recognition among the Dubai and UAE governments that the situation of migrants demand a response. However, the UAE has chosen not to ratify ILO conventions 87 and 98, which provide Freedom of Association and Protection of the Right to Organize and the Right to Collective Bargaining, respectively. Additionally, wage disputes though provided with a legal outlet, are generally considered a private matter. Laborers rarely receive the ear of the government.¹⁵⁰ As in the case of normal weekly hours and weekly rest, legal coverage is the weakest in Asia and the Middle East, where 97 per cent and 99 per cent of domestic workers, respectively, have no entitlement to annual leave under national legislation. Leave arrangements therefore depend entirely on the discretion of the employer and holidays are often only granted for national festivals.¹⁵¹

Normally, labour inspection regulations of general application are, unless otherwise stated by the law, also applicable to domestic workers. However, this does not imply that the implementation of the law is carried out in the same way as for other categories of workers. Two basic facts explain this: the supervisory action is normally carried out at the workplace; and in domestic work, the workplace and the employer's private home are one and the same. Thus, two fundamental rights may collide here: namely, the right and the duty of the State to protect the basic labour rights of domestic workers through the supervisory function of labour inspection, and the employers' basic right to the protection of their privacy and that of their families.¹⁵² As a result, and given the private household sphere of the workplace, it is very difficult for labour inspectors to act on their own initiative.¹⁵³

Further, the enforcement of contracts of service is difficult. The greatest problem, where contracts are not in writing, is the lack of evidence. Because of this, as well as cost considerations, special importance attaches to the conciliation work performed by the public officials of labour ministries or related bodies with a view to advising the parties concerned and ensuring equitable treatment. Sometimes, notably in Arab states, mandatory standard

¹⁵⁰ Ibid

¹⁵¹ International Labour Organization. *Domestic workers across the world: global and regional statistics and the extent of legal protection*. Geneva: International Labour Organization, 2013, p.66

¹⁵² Maria, Jose and Machado, Ramirez. *Domestic work, conditions of work and employment: A legal perspective*. Geneva: International Labour Organization, 2003, p. 63

¹⁵³ Ibid

employment contracts do offer some protection. However, such contracts are essentially an agreement between two private parties, with domestic workers in practice often lacking both negotiating power and the capacity to seek enforcement of their contractual rights in court.¹⁵⁴ For instance, workers whose migration status is tied to their employer will in practice hesitate to use complaints procedures against abusive labour practices and violations of their rights when this puts their employment contract and hence their residence status into jeopardy. Moreover, they often do not speak the language of their host country well enough to navigate an alien and often complex legal system.¹⁵⁵

Regardless of the level of remuneration, domestic workers are particularly vulnerable to abusive practices with regard to the payment of wages. Payment in kind continues to be customary in the domestic work sector in many parts of the world, particularly in the form of accommodation and food. While this can be in the interests of the worker and the worker's family, these in-kind payments bear the potential for abusive practices – especially when the value attributed to the in-kind payments is excessive, or when the in-kind payments are unilaterally imposed by the employer. In particular, residence in the household might be an employer-required term of employment that primarily serves the employer's desire to receive round-the-clock services.¹⁵⁶

While in only a few countries the labor inspectorate has no formal authority to enforce these laws and regulations, in practice action is restricted by the legal limitations on the right of entry into private households and by the very real administrative difficulties of supervising a multitude of private homes. In practice action is taken only on complaint, which for a variety of reasons, is very rare, even though violation of the law may be common. Next, there is the question of the availability of advisor assistance to domestic workers in the case of difficulties relating to their employment. This may be especially necessary for young people and for

¹⁵⁴ Ibid, p.50

¹⁵⁵ Ibid., p.53

¹⁵⁶ International Labour Organization. *Domestic workers across the world: global and regional statistics and the extent of legal protection*. Geneva: International Labour Organization, 2013, p.81

illiterate or semi-illiterate adults, and experiments with services able to provide this assistance, perhaps as an adjunct to their other activities, might well be encouraged.¹⁵⁷

2.5.4 The Role of the International Labour Organization

The International Labour Organization (ILO) was created in 1919, as part of the Treaty of Versailles that ended World War I, to reflect the belief that universal and lasting peace can be accomplished only if it is based on social justice.¹⁵⁸ The driving forces for ILO's creation arose from security, humanitarian, political and economic considerations.¹⁵⁹ The ILO's literature on Decent Work agenda points out that work which is central to people's well-being by providing income, paving the way for broader social and economic advancement, and strengthening individuals, their families and communities, hinges on work that is decent.¹⁶⁰

According to the ILO, Putting the Decent Work Agenda into practice is achieved through the implementation of its strategic objectives. These are: guaranteeing rights at work – to obtain recognition and respect for the rights of workers. All workers, and in particular disadvantaged or poor workers, need representation, participation, and laws that work for their interests; Extending social protection – to promote both inclusion and productivity by ensuring that women and men enjoy working conditions that are safe, allow adequate free time and rest, take into account family and social values, provide for adequate compensation in case of lost or reduced income and permit access to adequate healthcare; and Promoting social dialogue – Involving strong and independent workers' and employers' organizations is central to increasing productivity, avoiding disputes at work, and building cohesive societies.¹⁶¹

In 1965, the ILO, through the International Labour Conference, took a fresh look at the domestic worker situation and adopted a resolution which drew attention to the urgent need to provide for domestic workers the basic elements of protection that would assure them a minimum standard of living, compatible with the self-respect and dignity which are essential

¹⁵⁷ International Labour Convention. The employment and conditions of domestic workers in private households: an ILO survey. *International Labour Review*, 2003, 391-401. p399

¹⁵⁸ International Labour Organization. *History of ILO*. Retrieved on 15th July 2013 from <http://www.ilo.org/global/about-the-ilo/decent-work-agenda/lang--en/index.htm>

¹⁵⁹ Ibid

¹⁶⁰ Ibid

¹⁶¹ Ibid

to social justice.¹⁶² A number of decades later, delegates nominated by governments, trade unions and employers' organizations worked towards international standards in the Committee on Domestic Workers during the International Labour Conference in 2010 and 2011, motivated by the pressing need to better protect domestic workers and the desire to give domestic workers recognition as workers and respect and dignity as human beings.¹⁶³ In essence, the ILO convention demands that countries enact rules that see domestic workers receive annual leave, maternity leave, social security cover and a minimum wage to protect over an estimated 100 million domestic workers, majority who are women.¹⁶⁴

In June 2011, the International Labour Organization passed Convention 189 which sets out salary schemes and benefits through the provision of better pay and enhanced benefits for domestic workers, a landmark progress which has since gained international status.¹⁶⁵ It was a landmark moment for domestic workers whose participation in the paid labour market and specific working conditions were recognized for the first time in a holistic manner within a legal document. It was also a landmark moment for the international labour law regime that incorporated within the ILO documents a human rights approach, which is sectorally based, stemming from the view that although domestic work is 'work like any other', it should also be treated as 'work like no other'.¹⁶⁶ It is considered a historic agreement because domestic workers have been calling for such protections for decades, and because this was the first time that the ILO agreed standards which cover a group of informal workers.¹⁶⁷ To date, seven countries have ratified the Convention.¹⁶⁸ The Convention, which comes into force in September 2013, is binding for countries that ratify it. As of June 2013, Uruguay, the

¹⁶² International Labour Convention. The employment and conditions of domestic workers in private households: an ILO survey. *International Labour Review*, 2003, 391-401. p391

¹⁶³ International Labour Organization. *Domestic workers across the world: global and regional statistics and the extent of legal protection*. Geneva: International Labour Organization, 2013, p.43

¹⁶⁴ Human Rights Watch. 2013, *op cit*. p2.

¹⁶⁵ Human Rights Watch. World Report 2013: Events of 2012. New York: Seven Stories Press. 2013.

¹⁶⁶ Albin, Einat and Mantouvalou, Virginia. The ILO Convention on Domestic Workers: From the Shadows to the Light. *Industrial Law Journal*, (2012)1-16. p2

¹⁶⁷ Rainford, Paul. *The UK could have led the way on rights for domestic workers. Instead it has refused to sign a new international convention that promotes fair pay, health and safety, and labour rights*. blogs.lse.ac.uk. 2011.p1.

¹⁶⁸ International Labour Organization. *Snapshot ILO in Action: Domestic Workers*. www.ilo.org/domesticworkers, 2013, p.2

Philippines, Mauritius, Nicaragua, Italy, Bolivia and Paraguay have ratified the Convention, and more countries have initiated the ratification process.¹⁶⁹

2.5.5 The Domestic Workers Convention 189

To combat forced labour in domestic work, the Domestic Workers Convention, No. 189 (2011), calls on governments to take measures to extend national legal protections to domestic workers.¹⁷⁰ The Convention, and the accompanying Domestic Workers Recommendation, 2011 (No. 201), are in fact milestones towards improving the working conditions of millions of workers across the world. The Convention affirms the fundamental rights of domestic workers and lays down basic principles and measures regarding the promotion of decent work for them. The instruments recognize that domestic workers have the same right to benefit from social and labour protection as other workers. At the same time, they accept that domestic work is in many aspects “work like no other” and has special characteristics and, hence, that domestic workers face particular vulnerabilities, which requires specific responses to ensure that they can enjoy their rights fully. While much remains to be done to make this a reality, some countries have shown that better legal protection of domestic workers is in fact possible and viable.¹⁷¹

The Domestic Workers Convention, 2011 (No. 189), is a legally binding international treaty open to ratification by member States, while its accompanying Recommendation (No. 201) is a non-binding instrument which complements the Convention with more detailed guidance on its implementation.¹⁷² The new ILO instruments provide for a combination of measures ranging from bilateral agreements – against abuses by transnational employment agencies in both sending and recipient countries – to the establishment of safe houses for domestic workers who are victims of abuse by national governments.¹⁷³

¹⁶⁹ Ibid. p.3

¹⁷⁰ International Labour Organization. *Domestic workers across the world: global and regional statistics and the extent of legal protection*. Geneva: International Labour Organization, 2013, p.45

¹⁷¹ Ibid, p.43

¹⁷² Tomei, Ia and Belser, Patrick. New ILO standards on decent work for domestic workers: A summary of the issues and discussions. *International Labour Review*, Vol. 150 (2011), No. 3–4, p.432

¹⁷³ Tomei, Manuela and Belser, Patrick. New ILO standards on decent work for domestic workers: A summary of the issues and discussions. *International Labour Review*, Vol. 150 (2011), No. 3–4, p.433

The Philippines became the only second country after Uruguay to ratify the treaty in September 2012 year after meeting the minimum number of ratifications needed to bring it to effect. According to an opinion piece by Muthoki Mumo reported on the 15th of September edition of Kenya's Daily Nation online newspaper, despite Kenya having voted for the convention to be passed in 2011, it is yet to ratify it, meaning that the provisions are not yet enforceable locally, although most of the provisions of the convention are already part of current Kenyan law.¹⁷⁴

2.6 Conclusion

This chapter has discussed the issues of domestic workers around the world. The literature has depicted employers of domestic workers in the Diaspora as perpetrators and employment. The chapter has discussed the issues related to their working conditions such as working hours, wages, work environment, leave, and work-life balance. agencies as facilitators of forced domestic labour. These issues have ranged from slave-like working conditions, constant threat of sexual abuse from employers and beatings, injuries and death. The chapter has further highlighted the role of the International Labour Organization and the recent development that manifest in the adoption and ratification of the Domestic Workers Convention 198.

In this chapter, it has been noted that domestic workers remain disadvantaged in matters of legislation and enforcement of legislation. They work under extreme working conditions, long working hours, abusive employment relationship and low or non-existent compensation. While most legislations have made some effort to address the plight of domestic workers, such legislations face difficulty in their implementation due in part to governments' reluctance and the potential to infringe on the privacy rights of households. Migrant domestic workers are particularly disadvantaged because they are infrequently protected by host country's national laws. The review has revealed that in the Middle East particularly, legislation catering for foreign domestic workers are largely non-existent and the paternalistic culture that has characterized the domestic work sector enables the perpetuation of human rights abuse meted against domestic workers in the Middle East. This underscores the role of the government towards addressing the plight of domestic workers in these countries. The next

¹⁷⁴ Rehal, S. S. (2013). Kenya's Domestic Workers Bill: Implications. The African Executive. [Online] Retrieved: http://www.africanexecutive.com/modules/magazine/article_print.php?article=6869

chapter examines the issues of Kenyan domestic workers in the Middle East regarding their working conditions.

CHAPTER THREE

KENYAN DOMESTIC WORKERS IN THE MIDDLE EAST

3.1 Introduction

In this chapter, issues of Kenyan domestic workers in the Middle East and their protection are analyzed based on both primary and secondary data. The chapter begins by presenting an overview of the issues of Kenyan domestic workers in the Middle East before analyzing the employment conditions Kenyan domestic workers in the Middle East go through in the hands of their employers.

3.2 An Overview of Kenyan Domestic Workers in the Middle East

Research shows that the leading demanders of migrants are wealthier Asian and Middle Eastern countries, mainly Saudi Arabia, the United Arab Emirates, Malaysia and Kuwait. Combined, these countries demanded 13.5 million migrant workers. Dubai, with a population that is only 20 percent Emirati and 80 percent foreign born, with nearly 50 percent of the total population originating in South Asia. A growing phenomenon found in Asia and the Middle East is labor trafficking through legal recruitment. Migrant workers under this category are not documented. Rather, they are legitimately recruited in their own country and transported to wealthy “demand” countries, after which they are coerced into situations of forced labor or bond labor.¹⁷⁵

Saudi Arabia, a Kingdom situated in the Middle East has been in the spotlight for unlawful human trafficking that is characterized by the mistreatment of laborers, including women and children. The Kingdom has been named as a Tier 3 country by the United States Department of State in its 2005 Trafficking in Persons Report required by the Victims of Trafficking and Violence Protection Act of 2000. Tier 3 refers to those countries whose governments do not fully comply with the minimum standards of Trafficking of Victims Protection Acts.¹⁷⁶

Research shows that trafficking in persons to work in forced domestic labour, while global, can be witnessed most particularly in the confluence of wealth and people that is Dubai, UAE.

¹⁷⁵ Caplin, Jessica. Mirage in the Desert of Oasis: Forced Labor in Dubai and the United Arab Emirates. *Harvard International Review*, 28-31 (2009), p28

¹⁷⁶ Wangui, Joyce. Kenyan Migrants Treated like “Trash” in Saudi. *Africa News*. Retrieved on 14th July 2013 from http://www.africanews.com/site/list_message/35023

After its transformation from desert, Dubai is now known throughout the world as a leading financial centre of the Middle East, enjoying prestige and fascination worldwide as well as a dynamic construction campaign at home.¹⁷⁷ Though UAE Law charges employers a fee for each foreign laborer brought into the country and requires that the recruiters pay the migrant's plane ticket from the country of origin to Emirates, employers openly flout this law, instead placing the burden of these charges on the migrants. By charging low-skilled, low-income workers before they commence employment, employment agencies are vastly increasing the likelihood of debt incurrence among their contract workers. Debt, which can take between two and three years to pay back, if wages are paid at all, has been cited as a precursor to involuntary servitude among migrant workers, though it must be combined with other forms of exploitation and abuse to be classified as trafficking. Thus, the fate of migrants is nearly determined before they even enter the jobsite.¹⁷⁸

Other conditions of domestic workers widely reported throughout the Middle East include poor accommodation provisions (sleeping in the laundry, kitchen or lounge); long hours (fourteen to sixteen hours per day, and often on-call for twenty-four hours); little or no leisure time (one day per week, a few hours on a Sunday for religious services or not at all); and severe restrictions on leaving the house (some are locked in as part of recruitment agency "guarantee" conditions).¹⁷⁹ In certain countries in the Middle East, for instance, the individual sponsorship system (*kafala*) for foreign labourers ties migrant domestic workers' visas to individual employers, resulting in a relationship of structural dependence that can encourage abuses.¹⁸⁰ In addition, there is no minimum wage in Saudi Arabia, and also average monthly wage of a worker varies according to race, religion and nationality. Domestic workers are forced to work 15-20 hours a day, seven days a week, denied their salaries; they are frequently facing forced confinement, food deprivation, physical and sexual abuses. Different

¹⁷⁷ Caplin, Jessica. Mirage in the Desert of Oasis: Forced Labor in Dubai and the United Arab Emirates. *Havard International Review*, 28-31 (2009), p28

¹⁷⁸ Ibid, p29

¹⁷⁹ Ibid.

¹⁸⁰ International Labour Organization. *Domestic workers across the world: global and regional statistics and the extent of legal protection*. Geneva: International Labour Organization, 2013, p.45

types of abuses are beating, burning with hot iron, threats, insults and humiliation by shaving heads.¹⁸¹

Various human rights groups noted that the human rights situation for domestic workers in the United Arab Emirates leaves a lot to be desired: Non-Governmental Organizations report about food deprivation, forced confinement, physical and sexual abuse against female domestic workers.¹⁸² Most importantly, the standard contract for domestic workers induced in April 2007 offers some protection but does not limit working hours, weekly holidays, overtime pays, workers compensations. Despite the significant economic interests in encouraging labour migration to the Middle East, sending countries have attempted to apply minimum labor conditions within the labor contracts by establishing a licensing procedure for private recruitment agencies.¹⁸³

3.3 Kenyan Domestic Workers in the Middle East

Kenyans voluntarily migrate to other East African nations, South Sudan, Europe, the United States, and the Middle East – particularly Saudi Arabia, but also to Qatar, Kuwait, the United Arab Emirates (UAE), Lebanon, and Oman in search of employment, where they are at times exploited in domestic servitude, massage parlors and brothels, or forced manual labor.¹⁸⁴ In Saudi Arabia, it has been reported that 80% of the domestic worker population hails from Kenya and Ethiopia, replacing women from the Philippines and Indonesia, who have recently faced bans and in the latter case imposed a moratorium.¹⁸⁵

3.3.1 Why Kenyans migrate to the Middle East to be employed as Domestic Workers

In this study, respondents were asked about the factors that makes Kenyans end up employed as domestic workers in the Middle East. Figure 3.1 summarizes the findings. The findings showed that better pay and lack of employment emerged as the two most recurring themes

¹⁸¹ Ibid, p. 24.

¹⁸² Ibid.

¹⁸³ Gibney, Matthew J. & Randall A. Hansen. *Immigration and Asylum: from 1900 to the present*. New York: ABC-AGLIO.

¹⁸⁴ StateGov. Kenya (Tier 2 Watchlist). Retrieved on 8th July 2013 from <http://www.state.gov/documents/organization/210740.pdf>

¹⁸⁵ Blackett, Adelle. *Domestic Workers at the Interface of Migration & Development: Action to Expand Good Practice*. 2011. Retrieved on 13th July 2013 from <http://www.gfmd.org/.../pdf>

among the different categories of respondents, accounting for sixty percent and thirty percent of the cases, respectively. For example, Dennis Gichovi, an interviewee who worked in the department of Diaspora and Consular Affairs Directorate of the Ministry of Foreign Affairs had this to say:

Lack of employment and low wages for domestic workers here in Kenya... We had cases of Kenyans using backstreet and unlicensed recruiting agents to facilitate their travel to the Middle East.¹⁸⁶

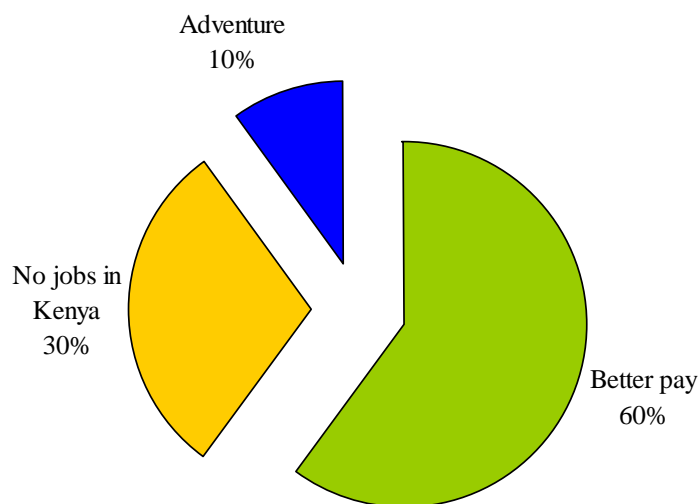


Figure 2 Factors that Make Kenyans end up Employed as Domestic Workers

The foregoing observations were shared by the Deputy Director of the department of Employment in the Ministry of Labour in a rather punctuated way:

Better pay. Prestige. No jobs in Kenya. Greener pasture.¹⁸⁷

These sentiments depicts the general labour market situation in Kenya and suggest that there was a perception among Kenyans migrating to the Middle East to be employed as domestic workers that there are “greener pastures” in these countries.

¹⁸⁶ Dennis Gichovi. Intern in the Diaspora and Consular Affairs Directorate of the Ministry of Foreign Affairs, interviewed on 29/08/2013.

¹⁸⁷ Deputy Director, Employment Department, of the Ministry of Labour. Interviewed on 29/8/2013

3.3.2 Monitoring and Control of Domestic Workers Migrating to the Middle East

The statistics about Kenyan domestic workers in the Middle East vary wildly. Some media reports suggest that there are about 4,000 Kenyan domestic workers in the Middle East.¹⁸⁸ Others estimate that there are more than 30,000 Kenyans working as domestic workers in the Middle East¹⁸⁹ whereas other reports indicate that the number is more than 40,000.¹⁹⁰ Meanwhile, it has been indicated that each year, recruitment agencies organize visas for an average of 17,000 Kenyans to work in Saudi Arabia alone.¹⁹¹ This study suggests that inconsistency in the numbers is mirrored in the challenge regarding the monitoring and control of domestic workers exported to the Middle East. The most recurring theme across the respondent categories was that domestic workers do not register with the Embassies. This sentiment was shared by over two-thirds of the interviewees in the study. For example, Joyce, a Foreign Service Officer in the Department of Diaspora Affairs in the Ministry of Foreign Affairs lamented thus;

The challenges are in monitoring the house girls who do not register at the Kenyan embassy in Middle East...¹⁹²

¹⁸⁸ Munene, Mugumo. The Ordeal of Kenyans in Arab 'Slave Markets'. Retrieved on 10th July 2013 from <http://syndication.nation.co.ke/contentdetail/index/article/125>

¹⁸⁹ Kaberia, Judie. Kenya stops Export of Labour to Middle East. Retrieved on 10th July 2013 from http://www.capitalfm.co.ke/news/?p=38447&wmpmp_switcher=mobile

¹⁹⁰ Regional Mixed Migration Secretariat. *Mixed Migration in Kenya: The scale of movement and associated protection risks*. 2013. p16. Retrieved on 7th July 2013 from <http://www.regionalmms.org/.../pdf>

¹⁹¹ Ibid

¹⁹² Joyce, Foreign Service Officer, Diaspora Affairs, Ministry of Foreign Affairs, interviewed on 29th August 2013

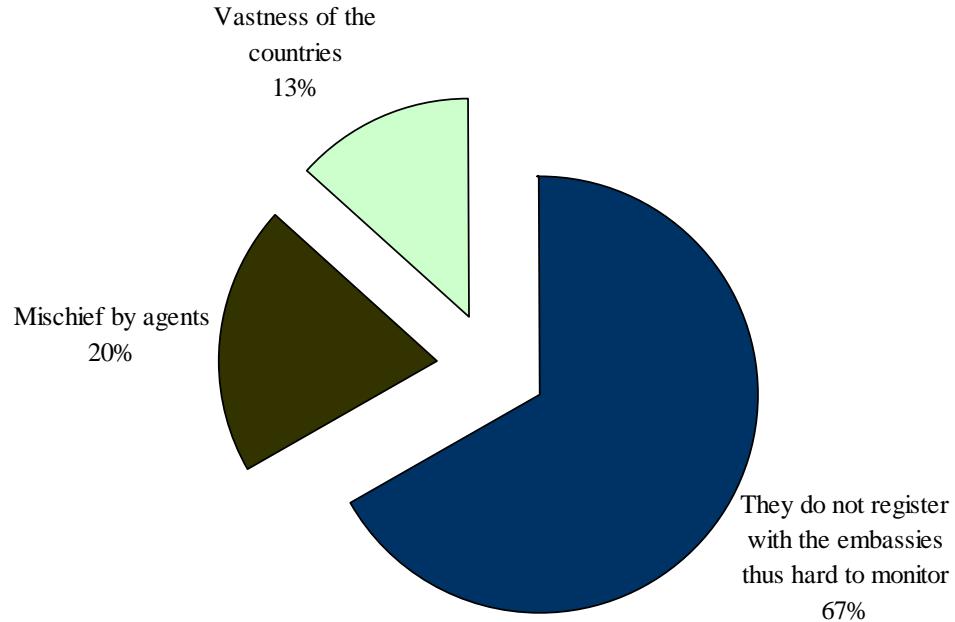


Figure 3 Major Challenges regarding the Monitoring and Control of Domestic Workers exported to the Middle East

3.3.3 Working Conditions of Kenyan Domestic Workers in the Middle East

Notwithstanding the lack of clarity about the exact number of Kenyan domestic workers in the Middle East, it has been reported that these domestic workers work in slave-like working conditions.¹⁹³ For example, workers will go for long without pay or on meagre earnings as employers deduct the \$3,000 (Sh240,000) or more that they have to pay upfront for air tickets and preliminary expenses.¹⁹⁴ Media reports showed that in the year 2011, there were seven Kenyans who died under the hands of employers in the Middle East.¹⁹⁵ A report by the Human Rights Watch revealed that In January 2010, Saudi authorities summarily deported Fatma Athman, a domestic worker from Mombasa, Kenya, a week after she suffered injuries

¹⁹³ Munene, Mugumo. The Ordeal of Kenyans in Arab 'Slave Markets'. Retrieved on 10th July 2013 from <http://syndication.nation.co.ke/contentdetail/index/article/125>

¹⁹⁴ Ibid.

¹⁹⁵ Kithi, Ngumbao. Even at home, they are slaves of poverty. *Standard Digital*. Retrieved on 13th July 2013 from <http://www.standardmedia.co.ke/?articleID=2000057582>

she said resulted from her employer pushing her off a third-floor balcony in an attempt to kill her; but survived because she fell into a swimming pool.¹⁹⁶

A similar state of Kenyan domestic workers in the Middle East is further depicted in this study where by the general perception was that domestic workers worked under deplorable working conditions. For example, Mwanaisha Hussein, a 26 year old lady who worked in the Middle East for eight months but came back narrated as follows:

There are no jobs in Kenya and I have not gone to school well. I am a first born from a poor family. I went through a recruitment agency that I don't know. I was taken from my home in Mumias by a relative, they looked for me a passport, visa and we paid Ksh.20,000. Then the agent escorted me to the airport and was met the other side by another agent. I faced a lot of problems while in Jedah. I was a house help. The working conditions are poor, there is little food it is horrible. I decided to escape through the window and hurt myself. I was taken to hospital by neighbors then the hospital took me to the embassy... Kenyans are suffering. Those people are not human beings.¹⁹⁷

The respondent's experiences were echoed by majority of the views of representatives from both the Ministry of Labour and the Ministry of Foreign affairs.

It has also been reported that a working day of 18 to 22 hours, constant threat of sexual abuse from employers and beatings, sometimes with the use of hot irons, by the wives of employers characterize an ordinary life of a domestic worker from Kenya in Saudi Arabia.¹⁹⁸ However, the Saudi government offers no legal aid to foreign victims and does not otherwise assist them in using the Saudi Criminal Justice System to bring their exploiters to justice.¹⁹⁹

A report by the Human Rights Watch noted that thousands of Kenyan women have migrated to the Middle East as domestic workers in recent years.²⁰⁰ Many face deception during the poorly regulated recruitment process prior to employment abroad, where they risk a wide range of abuses from long hours of work to slavery-like conditions.

¹⁹⁶ Human Rights Watch. Saudi Arabia: Domestic Worker Brutalized. *Human Rights Watch*. Retrieved on 12th July 2013 from <http://www.hrw.org/news/2010/09/02/saudi-arabia-domestic-worker-brutalized>

¹⁹⁷ Mwanaisha Hussein, a resident of Mumias interviewed on 28th 7, 2013

¹⁹⁸ Wangui, Joyce. Kenyan Migrants Treated like "Trash" in Saudi. *Africa News*. Retrieved on 14th July 2013 from http://www.africanews.com/site/list_message/35023

¹⁹⁹ Ibid.

²⁰⁰ Human Rights Watch. World Report 2013: Events of 2012. New York: Seven Stories Press., 2013.

3.3.4 Domestic Workers' Condition in the Middle East Compared with Kenya

Asked whether the domestic work situation in the Middle East was any different from the plight of domestic workers locally, respondents generally conceded that the situation was indeed different, whereby respondents painted the picture of employment conditions as harsh in Middle East compared to Kenya. This was corroborated by nearly three-quarters of the respondents across the respondent groups.

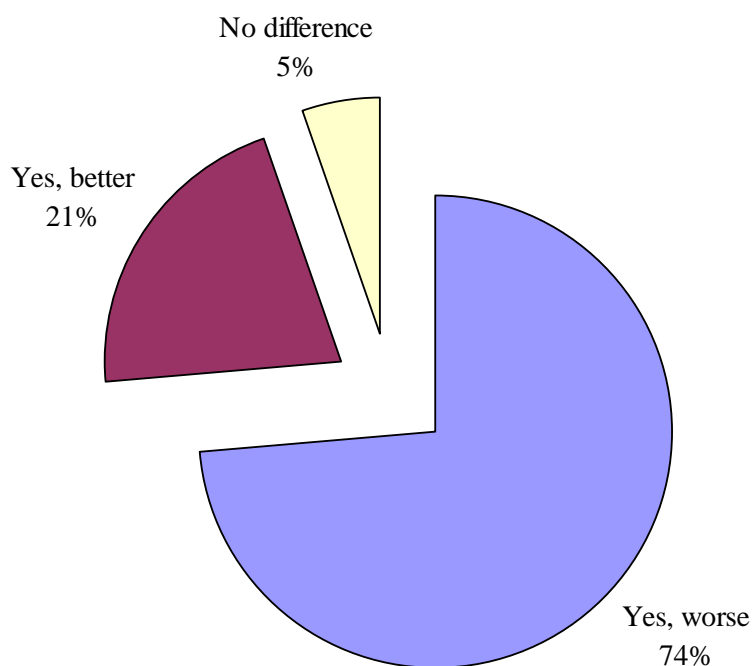


Figure 4 Whether the Domestic Work Situation in the Middle East is any different from the plight of domestic workers in Kenya

These respondents attributed the poor working conditions of domestic workers in the Middle East to cultural difference and culture shock. For example, according to Joyce of Foreign Service Office, Diaspora affairs who interviewed on 28th August 2013;

The situation in the Diaspora is unique because Kenyans could be working in countries with a different culture from theirs.²⁰¹

²⁰¹ Joyce, Foreign Service Office, Diaspora Affairs, Ministry of Foreign Affairs, interviewed on 29/8/2013.

Another interviewee from the Ministry of Foreign Affairs in the name of Lazarus Opicho added to the problem of cultural difference, other factors that make the domestic work situation in the Middle East unique thus;

Yes it was unique because of culture, climate, remunerations, nature of work and living style differs from our local lifestyle.²⁰²

Narrating her experiences, Mwanaisha Hussein, 26 years old Residence of Mumias who was at the time of the study not working had this to say;

For sure it is different because I was a house help when I left but I was not being mistreated.²⁰³

3.5 Conclusion

The chapter has shown that the leading demanders of migrants are wealthier Asian and Middle Eastern countries, mainly Saudi Arabia, the United Arab Emirates, Malaysia and Kuwait. Particularly, Saudi Arabia and the United Arab Emirates have adversely been mentioned as the countries affected by issues of domestic workers from Kenya. The findings has shown that Kenyans migrate to the Middle East to be employed as domestic workers because of lack of employment and the attraction of better pay. Respondents link the challenge regarding the monitoring and control of domestic workers exported to the Middle to the fact that domestic workers do not register with the Embassies. The chapter has shown that domestic workers worked under deplorable working conditions. Comparatively, the findings showed that employment conditions were harsher in Middle East compared to Kenya.

²⁰² Lazarus Opiyo, Head of Security, Administration Department of Ministry of Foreign Affairs.

²⁰³ Mwanaisha Hussein, aged 26 years, a resident of Mumias who was not working interviewed on phone on 28/7/2013.

CHAPTER FOUR

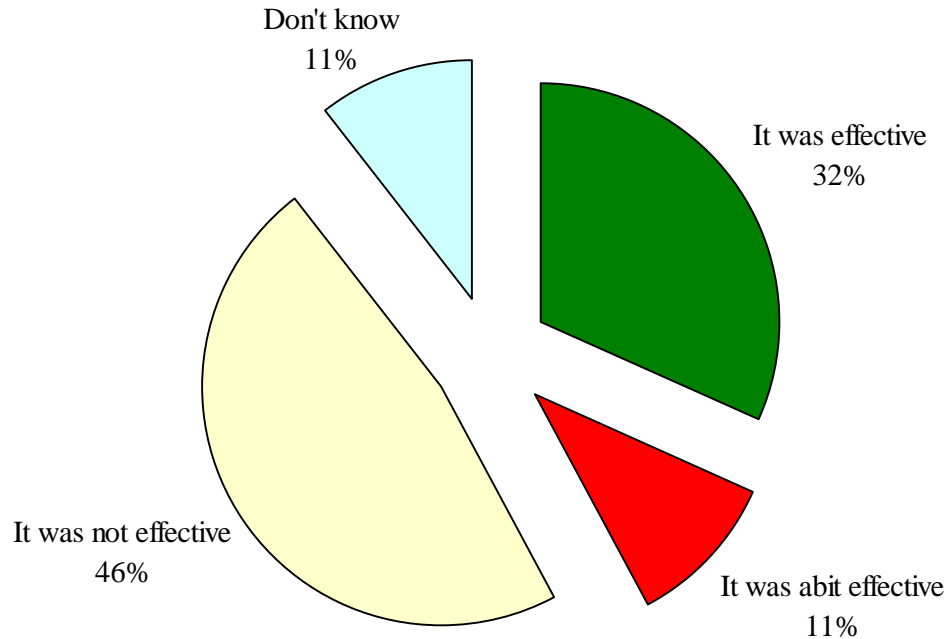
THE ROLE OF KENYAN GOVERNMENT IN PROTECTION OF THE DOMESTIC WORKERS IN THE MIDDLE EAST

4.1 Introduction

This chapter analyzes the role of the Kenya government towards the protection of Kenyan domestic workers in the Middle East. It evaluates the initiatives taken by the government through its various agencies and explores the challenges faced.

4.2 Effectiveness of Bans on Movement of Domestic Workers to the Middle East

After a number of high-profile abuses, Kenya banned further migration of domestic workers to the Middle East in June 2012. By November 2012, the policy had been reverted.²⁰⁴ Similar bans enacted by other labor-sending countries have rarely been effective and have increased the risk of irregular migration and trafficking.²⁰⁵ This state of affairs was reflected in the findings of this study. Asked whether they would say that the Kenya government's temporary ban on Kenyan's movement to the Middle East as domestic workers was effective, most of the respondents held the view that the ban was not effective.



²⁰⁴ Regional Mixed Migration Secretariat. *Mixed Migration in Kenya: The scale of movement and associated protection risks*. 2013. p18. Retrieved on 7th July 2013 from <http://www.regionalmms.org/.../pdf>

²⁰⁵ Ibid

Figure 5 Effectiveness of Kenya government's temporary ban on Kenyan's movement to the Middle East as domestic workers

4.2.1 Why the Temporary Ban was not effective

Although enforcement of such measures may have been put in place to protect migrant domestic workers, they often expose them to further vulnerabilities by pushing the migration procedure underground.²⁰⁶ From the reasons furnished by respondents in this study, the major theme that recurred was that cases of Kenyans using backstreet and unlicensed recruiting agents to facilitate their travel to the Middle East were prevalent. For example, Anna Mwita, a Secretary in the Consular and Diaspora Affairs department in the ministry of Foreign Affairs had this to say;

It really was not effective because even today many girls are at the Agent's offices trying to go to the Middle East to work as domestic workers²⁰⁷

Another respondent, Kariuki, a Human Resource Manager with the Ministry of Labour shared the opinion that the ban was not effective however had this to say;

[The ban is] not effective because the government does not have unemployment solutions at home²⁰⁸

This observation was also expressed by Scholar, a former house girl, turned recruitment agent as follows:

Not helpful. Because there is no homegrown solutions to unemployment²⁰⁹

However, a section of the respondents mainly drawn from the ministry of foreign affairs and foreign missions abroad held the view that the ban was effective. These respondents explained that the ban was effective because the cases which used to come to the Ministry [of Foreign Affairs] in regard to mistreatment have drastically reduced. A minority of the respondents,

²⁰⁶ Piper, Nicola & Lee, Sohoon. Contribution of Migrant Domestic Workers to Sustainable Development. Bangkok: UN Women. 2013, p. 20

²⁰⁷ Anna Mwita, Secretary, Consular & Diaspora Affairs, Ministry of Foreign Affairs, interviewed on 29/8/2013

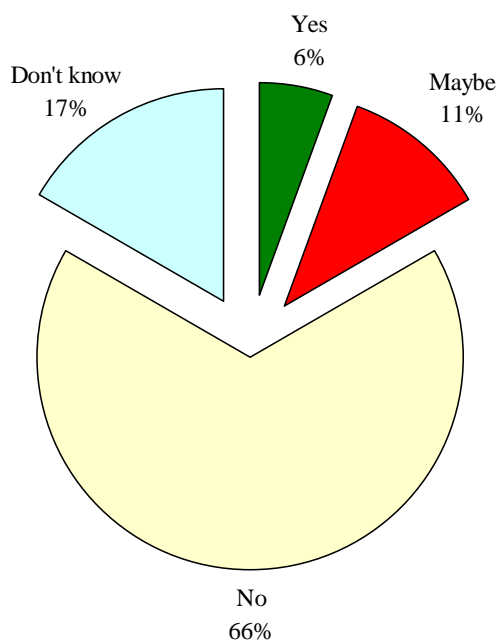
²⁰⁸ P Kariuki, Human Resource Manager, Ministry of Labour, interviewed on 26/8/2013

²⁰⁹ Scholar, Recruitment Agent based at Imenti House, Nairobi, interviewed on 27/8/2013

who were mainly former domestic workers from the Middle East did not know whether the ban was effective or not.

4.3 Power Politics

Gibney and Hansen noted that the governments of the Philippines, Bangladesh, Thailand, and India went so far as to ban the placement of female domestic helpers in some countries following reports of physical and sexual abuse.²¹⁰ For example, the Philippine government banned domestic workers from going to Saudi Arabia in 1982 but pragmatically relaxed the ban when the Saudi government decided to stop all recruitment from the Philippines. In this study, the views of respondents were sought regarding whether there were power politics at play that hindered the Kenya government from effectively protecting Diaspora domestic workers in the Middle East. There was a general perception from across the respondent categories that there was no power politics at play in the problem of protecting Kenyan domestic workers in the Middle East. This is depicted in the chart below.



²¹⁰ Gibney, Matthew J. & Randall A. Hansen. *Immigration and Asylum: from 1900 to the present*. New York: ABC-AGLIO. 2005.

Figure 6 Are there power politics at play that hinder the Kenya government from effectively protecting Diaspora domestic workers in the Middle East? Please explain?

Respondents generally commented as follows;

No. The government is at times not aware of the number of Diaspora domestic workers as some use backdoors to travel to the Middle East.²¹¹

May be or I strongly do not think so. As is evidenced, despite the ban imposed by Government, behind their back, the agents still recruiting, fleecing the common Mwananchi.²¹²

I don't think this has anything to do with power politics. I would think the influx of domestic workers to the Middle East is a new issue that had not been thought of.²¹³

It has also been observed that the ban on migrants seeking domestic work and blue collar jobs in Saudi Arabia and Oman has pushed agencies to direct migrants to Qatar as an alternative. According to IOM, after the ban a number of Kenyans left to work in the Gulf States by using other capitals in the region, such as Dar es Salaam, as a departure point.²¹⁴

4.4 Improvements in the Handling of the Plight of Kenyan Domestic Workers in the Middle East

The respondents were asked whether there have been improvements in the way host governments address the plight of Kenyan domestic workers in their countries. Most of the respondents observed improvements generally. These respondents gave the example of Saudi Arabia which offered amnesty for domestic workers to be repatriated to Kenya and even extended the amnesty. Others related the improvements to the recent media highlights whereas others associated improvements to the banning traveling of domestic workers to Middle East. However, one of the respondents said that they have never improved; that it is their culture.

²¹¹ Denis Gichovi, Intern, Diaspora and Consular Affairs Directorate, Ministry of Foreign Affairs, interviewed on 29/08/2013.

²¹² Anna Mwita, Secretary, Consular and Diaspora Affairs, Ministry of Foreign Affairs, interviewed on 29/08/2013

²¹³ Koech Samson Kemboi, Second Secretary, Consular Affairs, Kenya Embassy Abudhabi, interviewed on 28/8/2013 by Phone.

²¹⁴ Regional Mixed Migration Secretariat. *Mixed Migration in Kenya: The scale of movement and associated protection risks*. 2013. p17. Retrieved on 7th July 2013 from <http://www.regionalmms.org/.../pdf>

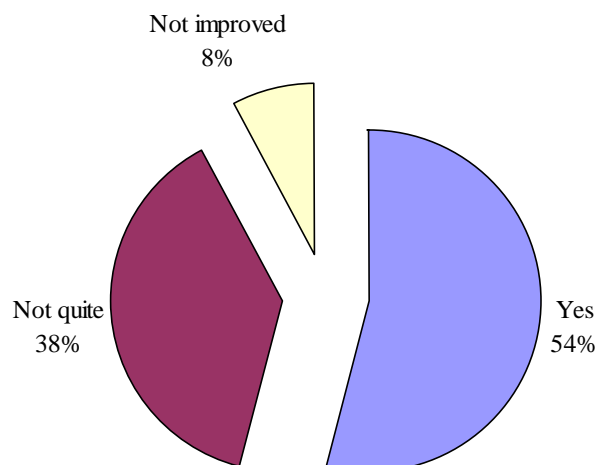


Figure 7 Improvements in the Handling of the Plight of Kenyan Domestic Workers

4.5 The Role of the Ministry of Foreign Affairs

Kenya's ministry of foreign affairs is the government's arm charged with safeguarding the nationals in the Diaspora. As such, it has an informational role to play in the protection of domestic workers in the Diaspora. It has been observed that most employers and employees remain unaware of the legal regulations governing domestic work, most obviously because there has been no substantial effort by the government or media outlets to inform domestic workers or employers about these regulations.²¹⁵ Further, the legislation and guidelines on migration out of Kenya are not well established. However, like some other African countries such as Ethiopia and Senegal, Kenya has undertaken efforts to assist potential emigrants by providing information on migration opportunities through pre-departure orientation seminars and counseling them about the risks and potential abuses involved.²¹⁶

In this study, the researcher sought to establish how the foreign affairs office combated the menace of unscrupulous recruitment agencies and whether the strategy worked. A common theme that prominently stood out was that the issue of fake recruitment agencies was in the docket of the Ministry of Labour. This is depicted in the following excerpts:

²¹⁵ Moras, Amanda. The Private Home as a Public Workplace: Employing Paid Domestic Labor. *Journal of Workplace Rights*. Vol. 13 (4) 377-400, 2008. p. 387

²¹⁶ Regional Mixed Migration Secretariat. *Mixed Migration in Kenya: The scale of movement and associated protection risks*. 2013. p16. Retrieved on 7th July 2013 from <http://www.regionalmms.org/.../pdf>

Agencies, is the docket of Ministry of Labour. Though of recent they have been working closely with the Ministry of Foreign Affairs.²¹⁷

The agencies are registered with ministry of labour and foreign affairs deals with distress cases. The only way the ministry of foreign affairs can be able to combat the recruitment agencies is through awareness through the media.²¹⁸

The office is creating awareness amongst Kenyans on the maliciousness of the unscrupulous recruitment agencies.²¹⁹

The ministry has taken initiative of talking and working together with the ministry of labour by ensuring anybody who works as an agent must have proper documents to be allowed to work as an agent.²²⁰

Equally important in supporting policy and law reforms, is enhancing the knowledge base on migrant domestic workers. This is the objective of the projects Promoting Integration for Migrant Domestic Workers in Europe and Global Action Programme on Migrant Domestic Workers.²²¹ Measures to establish a Labour Migration Unit – as in Kenya – are proactive, and can be facilitated by international organizations; in the Kenyan case, the International Organization on Migration helped the country to create a “one stop shop”. One of the core functions of such a unit would be to register and regulate agencies, to curtail abusive practices that create forced labour conditions in migrant domestic work.²²² This study established that similar initiatives have been put in place by the Ministry of Foreign Affairs. For example, Pasto Jane, a recruitment agent based in Nairobi observed as follows;

...Foreign affairs are inspecting all recruitment agencies to ensure they have the right documents and they are carrying out legal business as licensed.²²³

Some critics argue that governments of sending countries are primarily concerned with enhancing the women’ s remittances as measures to overcome deficits in balance of

²¹⁷ Susan Kitemi, Foreign Service Officer, Consular Affairs, Kenya Consulate Dubai, interviewed on 29/8/2013

²¹⁸ Joyce, Foreign Service Officer, Diaspora Affairs, Ministry of Foreign Affairs, interviewed on 29/8/2013

²¹⁹ Denis Gichovi, Intern, Diaspora and Consular Affairs Directorate, Ministry of Foreign Affairs, interviewed on 29/08/2013

²²⁰ Lazarus Opicho, Head of Security, Administration, Ministry of Foreign Affairs, 28/8/2013.

²²¹ International Labour Organization. *Snapshot ILO in Action: Domestic Workers*. www.ilo.org/domesticworkers, 2013, p.3

²²² Blackett, Adelle. *Domestic Workers at the Interface of Migration & Development: Action to Expand Good Practice*. 2011. p.17 Retrieved on 13th July 2013 from <http://www.gfmd.org/.../pdf>

²²³ Pasto Jane, Recruiting Agent, interviewed in Nairobi on 26/8/2013

payments, rather than with drawing up policies on wages and conditions of service to protect these women in the sphere of paid work. Similarly, in receiving countries, state policy often treats foreign domestic workers as no more than a form of commoditized labour to be bought and sold in the open market, and a short-term solution to the crisis of social reproduction in newly industrializing countries.²²⁴ Currently, all legitimate Kenyan agents are required to sign a bond with the Ministry of Labour, which also verifies documents and contracts before a recruit can be allowed to leave the country.²²⁵ It remains unclear whether the government, through the foreign affairs ministry, is providing enough information to its citizens concerning the domestic work sector in countries in the Middle East.

4.5.1 Collaboration between the Ministry of Foreign Affairs and the Ministry of Labour

The study sought to establish from the respondents how the foreign affairs ministry was working with the ministry of labour to protect Diaspora domestic workers in the Middle East and other regions. Respondents indicated that both ministries held joint inter-ministerial committees and stakeholder meetings. In addition, it gives information and verification of some of the agents that recruit the agents in Middle East; that is, the Ministry of Labour verifies some of the companies and agents in Middle East before the domestic worker leaves for Middle East. It ensures that the recruiting agents are registered and their contracts renewed once expired with the ministry of labour. Foreign affairs have opened a consular directorate where all foreign employers are supposed to inform the ministry of labor and foreign affairs. For example, it has a list of agencies and are interested to know how they operate in Abu Dhabi and in Kenya. Respondents also mentioned that they ensure signed documents from foreign affairs and ministry of labor agree for the transportation of the worker to Middle East especially at the airport.

4.6 Reducing the Prevalence of Bonded Slavery among Domestic Workers in the Middle East

The study sought to determine what could be done to overcome the prevalence of bonded slavery that is usually characteristic of domestic labor in the Middle East. An array of

²²⁴ Yeoh, Brenda and Huang, Shirlena. Negotiating Public Space: Strategies and Styles of Migrant Female Domestic Workers in Singapore. *Urban Studies*, Vol. 35, No. 3 (1998). 583-602. pp584

²²⁵ Munene, Mugumo. The Ordeal of Kenyans in Arab 'Slave Markets'. Retrieved on 10th July 2013 from <http://syndication.nation.co.ke/contentdetail/index/article/125>

suggestions were proposed by the respondents. These were: that Kenyans to go for skilled employment or professionals instead of domestic work; some pre-training on what is expected of the house-help because when they get there they have culture shock; pre-employment counseling where Kenyans are told on the cultural shock they are to get especially for non-Muslims once they get to Middle East; awareness of what is to be expected on the other side to avoid culture shock such as dress code, food, religion, etc; proper mechanism should be put in place before anybody is allowed to go and work as a domestic worker or labourer such as bilateral agreements should be signed; enlighten the potential employees by way of education; use proper agents which are recognized by both governments; devise ways of discouraging people to desist going there for purposes of domestic work; and that agencies should follow up on the worker in case of abuse agency and ministry of foreign affairs should take action.

4.7 The Role of the Kenya Government in Promoting Collective Bargain

Respondents were asked to indicate what they perceived of as the role of the Kenya government in promoting collective bargain for its domestic workers in the Diaspora. The themes of awareness and bilateral agreements strongly emerged from the views of the respondents. The suggestions included; that the government should have awareness campaigns where the girls are informed of the dangers of going to Middle East; the government should spear-head the protection and awareness of the domestic workers rights as Kenyan citizens in the Diaspora; draft bilateral agreements such as the one ongoing between Saudi Arabia and Kenya; supporting the formation of unions.

The findings showed that bilateral agreements were ongoing Kenya and countries in the Middle East – Kenya and Saudi Arabia and Kenya and Qatar. The study sought to determine the key challenges to enforcement of bilateral agreement. Four challenges were consistently mentioned across the respondent groups with varying frequencies. They are: lack of proper policies and regulations in place for both the skilled and the unskilled workers recruited and exported abroad, policy issues between the governments because of different laws, different constitutions and different cultures and religious affiliations; and lack of enforcement of existing labour laws.

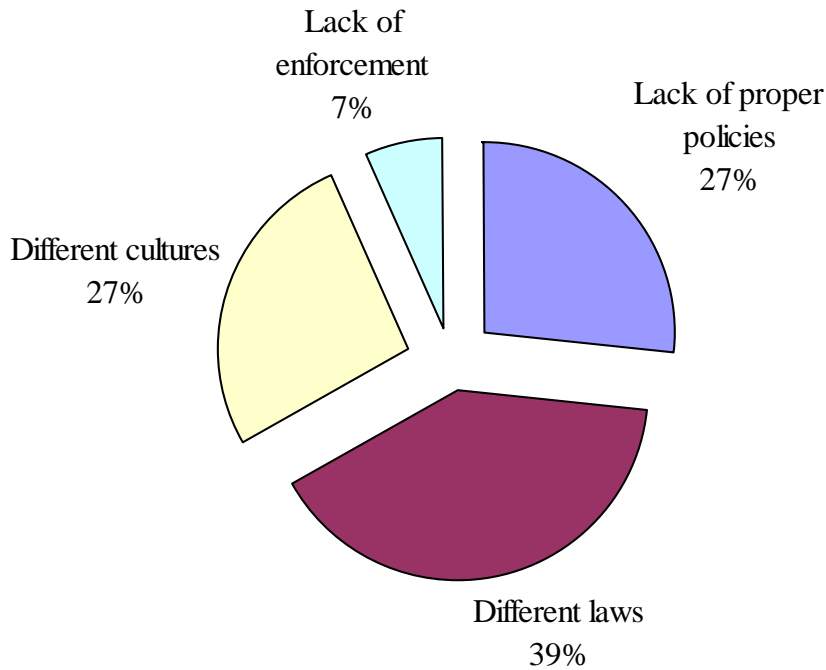


Figure 8 Key Challenges to the Enforcement of Bilateral Agreements

4.8 Cooperation from Middle East Countries

The study sought to determine whether the Kenya government gets cooperation from the governments of these countries in the Middle East regarding the implementation of bilateral agreements. From the findings, there was a general consensus that there was cooperation between the government of Kenya and the receiving countries, citing bilateral negotiations in advanced stages.

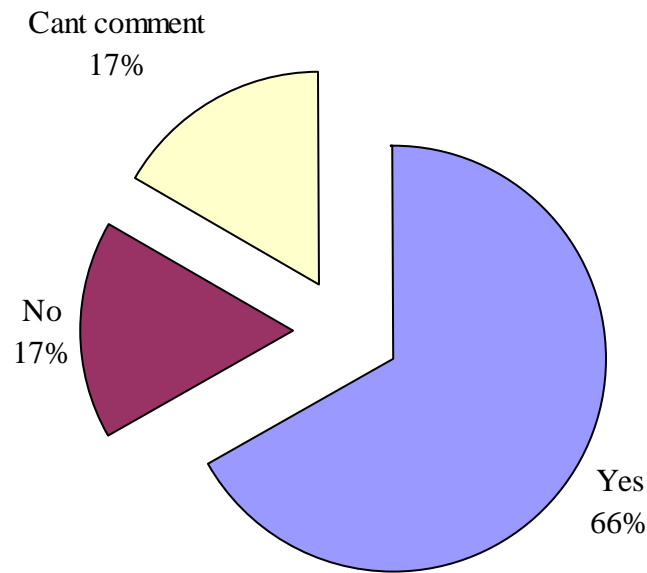


Figure 9 Cooperation from Receiving Countries in the Middle East

4.9 Conclusion

This chapter has analyzed the role of the government in the protection of Kenyan domestic workers in the Middle East. The chapter has shown that the temporary ban by the government was perceived as not effective. The major theme that recurred was that cases of Kenyans using backstreet and unlicensed recruiting agents to facilitate their travel to the Middle East were prevalent. It has shown that power politics did not play a role in the challenge of Kenyan protecting domestic workers in the Middle East. The findings have shown that there have been notable improvements in the handling of the plight of Kenyan domestic workers in the Middle East following the recent media highlights whereas others associated improvements to the banning traveling of domestic workers to Middle East. It has shown that a common theme that prominently stood out was that the issue of fake recruitment agencies was in the docket of the Ministry of Labour. The findings have shown that the Ministry of foreign affairs has taken a raft of initiatives including joint inter-ministerial committees and stakeholder meetings. The chapter has shown that the role of the government was understood through ongoing negotiations of bilateral agreements with the receiving countries.

CHAPTER FIVE

SUMMARY, DISCUSSIONS, CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction

The main objective of the study was to analyze the role of the government of Kenya in the protection of domestic workers in the Diaspora. In this chapter, a summary of the major findings of the study are presented. A discussion of the findings is then made in view of previous theories and assumptions of the study. Conclusions are then drawn based on the discussions and finally, recommendations made for improvement.

5.2 Summary of Findings

The findings showed that Kenyans voluntarily migrate to the Middle East in search of employment. Better pay and lack of employment emerged as the two most recurring themes among the different categories of respondents, accounting for sixty percent and thirty percent of the cases, respectively. The study established that there was a perception among Kenyans migrating to the Middle East to be employed as domestic workers that there are “greener pastures” in these countries. The most recurring theme across the respondent categories was that domestic workers do not register with the Embassies. This sentiment was shared by over two-thirds of the interviewees in the study.

There was also the general perception that domestic workers worked under deplorable working conditions. A report by the Human Rights Watch noted that many Kenyan women who have migrated to the Middle East as domestic workers face deception during the poorly regulated recruitment process prior to employment abroad, where they risk a wide range of abuses from long hours of work to slavery-like conditions. Asked whether the domestic work situation in the Middle East was any different from the plight of domestic workers locally, respondents generally conceded that the situation was indeed different, whereby respondents painted the picture of employment conditions as harsh in Middle East compared to Kenya. This was corroborated by nearly three-quarters of the respondents across the respondent groups. These respondents attributed the poor working conditions of domestic workers in the Middle East to cultural difference and culture shock.

After a number of high-profile abuses, Kenya banned further migration of domestic workers to the Middle East in June 2012. By November 2012, the policy had been reverted.²²⁶ Asked whether they would say that the Kenya government's temporary ban on Kenyan's movement to the Middle East as domestic workers was effective, most of the respondents held the view that the ban was not effective. The major theme that recurred was that cases of Kenyans using backstreet and unlicensed recruiting agents to facilitate their travel to the Middle East were prevalent. A significant number of respondent attributed the ineffectiveness of the ban to the government's lack of unemployment solutions at home. However, a section of the respondents mainly drawn from the ministry of foreign affairs and foreign missions abroad held the view that the ban was effective. These respondents explained that the ban was effective because the cases which used to come to the Ministry [of Foreign Affairs] in regard to mistreatment have drastically reduced.

The findings showed that there was a common view that there were no power politics at play in the problem of protecting Kenyan domestic workers in the Middle East. Respondents explained that the government is at times not aware of the number of Diaspora domestic workers as some use backdoors to travel to the Middle East.²²⁷ It has also been observed that the ban on migrants seeking domestic work and blue collar jobs in Saudi Arabia and Oman has pushed agencies to direct migrants to Qatar as an alternative. According to IOM, after the ban a number of Kenyans left to work in the Gulf States by using other capitals in the region, such as Dar es Salaam, as a departure point.²²⁸

Most of the respondents observed improvements in the way host governments address the plight of Kenyan domestic workers in their countries. These respondents gave the example of Saudi Arabia which offered amnesty for domestic workers to be repatriated to Kenya and even extended the amnesty. Others related the improvements to the recent media highlights

²²⁶ Regional Mixed Migration Secretariat. *Mixed Migration in Kenya: The scale of movement and associated protection risks*. 2013. p18. Retrieved on 7th July 2013 from <http://www.regionalmms.org/.../pdf>

²²⁷ Denis Gichovi, Intern, Diaspora and Consular Affairs Directorate, Ministry of Foreign Affairs, interviewed on 29/08/2013.

²²⁸ Regional Mixed Migration Secretariat. *Mixed Migration in Kenya: The scale of movement and associated protection risks*. 2013. p17. Retrieved on 7th July 2013 from <http://www.regionalmms.org/.../pdf>

whereas others associated improvements to the banning traveling of domestic workers to Middle East.

Kenya's ministry of foreign affairs is the government's arm charged with safeguarding the nationals in the Diaspora. A common theme that prominently stood out from this study was that the issue of fake recruitment agencies was in the docket of the Ministry of Labour. Nevertheless, the study found that the ministry has taken initiative of talking and working together with the ministry of labour by ensuring anybody who works as an agent must have proper documents to be allowed to work as an agent.²²⁹ This was exemplified in the views of one recruitment agent, that foreign affairs are inspecting all recruitment agencies to ensure they have the right documents and they are carrying out legal business as licensed.²³⁰ The findings showed that the ministry also collaborates with the Ministry of labour by holding joint inter-ministerial committees and stakeholder meetings. The findings showed that Foreign affairs have opened a consular directorate where all foreign employers are supposed to inform the ministry of labor and foreign affairs.

The themes of awareness and bilateral agreements strongly emerged from the views of the respondents. The findings showed that bilateral agreements were ongoing Kenya and countries in the Middle East – Kenya and Saudi Arabia and Kenya and Qatar. However, four challenges were consistently mentioned across the respondent groups with varying frequencies. They are: lack of proper policies and regulations in place for both the skilled and the unskilled workers recruited and exported abroad, policy issues between the governments because of different laws, different constitutions and different cultures and religious affiliations; and lack of enforcement of existing labour laws. From the findings, there was a general consensus that there was cooperation between the government of Kenya and the receiving countries, citing bilateral negotiations in advanced stages.

²²⁹ Lazarus Opicho, Head of Security, Administration, Ministry of Foreign Affairs, 28/8/2013.

²³⁰ Pasto Jane, Recruiting Agent, interviewed in Nairobi on 26/8/2013

5.3 Discussions

From the findings, it was clear that the migration of Kenyans to the Middle East to be employed as domestic workers was voluntary. This agrees with previous studies conducted by Romina²³¹ who argued that the women who migrate to the Middle East do so willingly, contrary to what is perceived traditionally. However, unlike Romina's study findings which suggested that the women who migrated to the Middle East did so because they were seeking adventure, independence, training, and upward social mobility; this study established that Kenyans were attracted to the Middle East because they lacked employment at home and because of better pay in the Middle East; thus the term "greener pastures" undergirded most explanations. It was also apparent from the study that the migration of Kenyans to the Middle East to work as domestic workers was poorly regulated, consistent with past findings by the Human Rights Watch. This was suggested in the fact that domestic workers do not register with the Embassies, a theme that frequently recurred from the findings.

The findings suggested that there was a gap between the perceptions of Kenyans regarding the employment conditions in the Middle East and the reality. For example, that the picture painted of employment conditions was harsh in Middle East compared to Kenya is in stark contrast to the intended meaning of "greener pastures" which seemed to drive Kenyans to the Middle East. That the poor working conditions of domestic workers in the Middle East was attributed to cultural difference and culture shock suggests that Kenyans migrating to the Middle East lack the information and preparation they needed to make decisions about getting employed as domestic workers in the Middle East. This was further exemplified in the findings which showed that despite the temporary ban on Kenyan's movement to the Middle East as domestic workers, major theme that emerged from this study was that cases of Kenyans using backstreet and unlicensed recruiting agents to facilitate their travel to the Middle East were prevalent.

²³¹ Romina, Halabi. Contract enslavement of female migrant domestic workers in Saudi Arabia and the United Arab Emirates. *Human Rights and Welfare*, 2006 , p.43

From the findings of this study, it can be inferred that the demand of migrants was the one pushing agencies to find alternative means of migrating to the Middle East for instance by directing migrants to Qatar as an alternative. This agrees with previous observations by IOM that after the ban a number of Kenyans left to work in the Gulf States by using other capitals in the region, such as Dar es Salaam, as a departure point.²³² Nevertheless, the effectiveness of the ban manifested in the observed improvements in the way host governments address the plight of Kenyan domestic workers in their countries; for example, Saudi Arabia offered amnesty for domestic workers to be repatriated to Kenya and even extended the amnesty.

As this study established, a common theme that prominently stood out from both the Ministry of Foreign Affairs and the Ministry of Labour was that the issue of fake recruitment agencies was the responsibility of the Ministry of Labour. Such perceptions imply that the ministry was not proactive in helping to find solutions to the problem of unscrupulous recruitment agencies that lure Kenyans to be employed as domestic workers in deplorable working conditions. Consistent with institutional theory arguments, the ministry did take some initiative such as talking and working together with the ministry of labour by ensuring anybody who works as an agent must have proper documents to be allowed to work as an agent; holding joint inter-ministerial committees and stakeholder meetings and instituting an office of a Consular Directorate to handle matters of Kenyans employed in the Diaspora.

Institutional theory further seemed to explain the dynamics of Kenyan domestic workers in the middle east as four challenges were consistently mentioned across the respondent groups: lack of proper policies and regulations in place for both the skilled and the unskilled workers recruited and exported abroad, policy issues between the governments because of different laws, different constitutions and different cultures and religious affiliations; and lack of enforcement of existing labour laws.

²³² Regional Mixed Migration Secretariat. *Mixed Migration in Kenya: The scale of movement and associated protection risks*. 2013. p17. Retrieved on 7th July 2013 from <http://www.regionalmms.org/.../pdf>

5.4 Conclusions

The problem of Kenyans migrating to the Middle East to be employed as domestic workers boils down to two reasons: lack of employment in Kenya and the promise of better pay in the Middle East. The Kenya government's temporary ban on Kenyan's movement to the Middle East to be employed as domestic workers was of little consequence as agents still use alternative means to facilitate their travel to the Middle East. However, there were no power politics at play that could hinder the Kenya government from effectively protecting Diaspora domestic workers in the Middle East. Instead, the major culprit appears to be the unscrupulous recruitment agencies that continue to lure Kenyans to the Middle East illegally. The government has taken a number of initiatives to protect the plight of domestic workers in the Middle East. This mainly manifest through its two agencies - the Ministry of Foreign Affairs and the Ministry of Labour. The ministry has taken initiative of talking and working together with the ministry of labour by ensuring anybody who works as an agent must have proper documents to be allowed to work as an agent. It also holds joint inter-ministerial meetings and stakeholder meetings. Bilateral agreements between the Kenya government and the countries in the Middle East are ongoing. However, the efforts to address the plight of Kenyan domestic workers in the Middle East are challenged by differences in law, culture and the problem of lack of enforcement.

5.5 Recommendations

The government should fast-track the bilateral agreements with the receiving countries as this will resolve the question of policy and provide the basis for enforcement of labour laws in these countries. In the mean time, the government should curb ignorance on the part of migrants by disseminating information about the realities of employment conditions in these countries. Part of the information is to encourage them to have proper documentation and refrain from backdoor travels. It should compel recruiting agents to prepare the migrants by training them and exposing them to the Arab's culture, customs, religion and beliefs before they can qualify to travel to the Middle East. For example, they should be oriented to the practice that women are not supposed to walk alone but must be accompanied by a man. It should monitor and control the migration of domestic workers to the Middle East by ensuring signed documents from foreign affairs and ministry of labor agree for the transportation of the

worker to Middle East especially at the airport. Kenyan missions in these countries should also assist Kenyans who are seeking for employment and confirm if there is employment when Kenyans have been promised jobs. The government should also improve the employment conditions of domestic workers at home by working in collaboration with employers and other agencies to train these workers and give incentives such as subsidies to compliant households.

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APPENDICES

APPENDIX I: LETTER OF INTRODUCTION

Gaudencia Chitayi Ayisi

Nairobi University

Institute Of Diplomacy and international Studies

P.O.Box 30197

Nairobi- Kenya

TO WHOM IT MAY CONCERN

RE: REQUEST FOR DATA

I am a Postgraduate student at the University Of Nairobi pursuing a Post Graduate Diploma in International Relations. I am required to submit as part of my research work, a research project report on “Government Protection of Domestic Workers in the Diaspora: A Case of Kenyans in the Middle East [2006 – 2013]”

To achieve the objectives of the study, your organization has-been chosen to participate in the study. I kindly request for your cooperation to enable me generate data required for this study. This information will be used purely for academic purpose.

Your assistance and cooperation will be highly appreciated.

Thank you in advance.

Gaudencia Ayisi

Student Researcher

Kenyatta University

APPENDIX II: LETTER TO THE RESPONDENT.

Dear Respondent,

I hereby request you to respond to the questions being administered as honestly as possible and to the best of your knowledge. The guide is designed for the purpose of this study only therefore your responses will be treated with utmost confidentiality and findings will be used for academic purposes only . Thank you in advance for your cooperation.

For any further inquiries, please feel free to contact the undersigned.

**Gaudencia Ayisi
Student Researcher
[0721 980 068]**

APPENDIX LLL: KEY INFORMATION INTERVIEW GUIDE

1. What would you say are the factors that make Kenyans end up employed as domestic workers in the Middle East?

2. Would you say that the Kenya government's temporary ban on Kenyan's movement to the Middle East as domestic workers was effective? Why or why not?

3. What could be done to overcome the prevalence of bonded slavery that is usually characteristic of domestic labor in the Middle East?

4. Are there power politics at play that hinder the Kenya government from effectively protecting Diaspora domestic workers in the Middle East? Please explain?

5. What is the role of the Kenya government in promoting collective bargain for its domestic workers in the Diaspora?

6. How has the foreign affairs office combated the menace of unscrupulous recruitment agencies? Has the strategy worked?

7. Are there any bilateral agreements that have been put in place between Kenya and countries in the Middle East such as Saudi Arabia to help improve the plight of Kenyan domestic workers in the Middle East?

8. Have the bilateral agreements been enforced and would you say enforcement has been successful?

9. What are the key challenges to enforcement of bilateral agreements?

10. Does the Kenya government get cooperation from the governments of these countries in the Middle East regarding the implementation of bilateral agreements?

11. What are the major challenges regarding the monitoring and control of domestic workers exported to the Middle East?

12. Would you say there have been improvements in the way host governments address the plight of Kenyan domestic workers in their countries?

13. How is the foreign affairs ministry working with the ministry of labour to protect Diaspora domestic workers in the Middle East and other regions?

14. Is the domestic work situation in the Diaspora any unique from the plight of domestic workers locally?

15. Please suggest ways in which the following actors could contribute to the protection of Diaspora domestic workers?

i. Kenyan migrants

ii. Placement agencies

iii. The ministry of labour

iv. The Kenya police

v. The ministry of foreign affairs

vi. Kenyan embassies in the Diaspora

vii. Foreign embassies in Kenya

16. Do you have any other comments or suggestions?

THANK YOU FOR YOUR TIME AND COOPERATION

APPENDIX IV: INTERVIEW GUIDE FOR DOMESTIC WORKERS

1. What would you say are the reasons why you opted to be employed as a domestic worker in the Middle East?

2. Would you say that the Kenya government's temporary ban on Kenyan's movement to the Middle East as domestic workers was effective? Why or why not?

3. What was the working condition like during your employment as a domestic worker in the Middle East?

4. What do you think is hindering the Kenya government from effectively protecting domestic workers in the Middle East? Please explain?

5. Has the Kenya government done anything to ensure better conditions of work for its domestic workers in the Middle East? Please explain?

6. Are you aware of any thing that the ministry of foreign affairs has done to deal with fake recruitment agencies? Has this helped the situation?

7. Are you aware of any arrangements between the Kenya government and that of the country you were in the Middle East put in place to help improve the plight of Kenyan domestic workers in the country? Are the arrangements helping the situation?

8. Has the conditions of domestic work in the Middle East improved?

9. Do you think the ministry of labour is doing enough to protect domestic workers in the Middle East?

10. Would you say that domestic work situation in the Middle East is any different from the plight of domestic workers in Kenya? How?

11. Please suggest ways in which the following people or institutions could contribute to the protection of domestic workers in the Middle East and other countries?

i. Kenyan migrants

ii. Recruitment agencies

iii. The ministry of labour

iv. The Kenya police

v. The ministry of foreign affairs

vi. Kenyan embassies in the Middle East

vii. Foreign embassies in Kenya

12. Do you have any other comments or suggestions?

THANK YOU FOR YOUR TIME AND COOPERATION

APPENDIX V: KEY INFORMANT INTERVIEW CHECKLIST

OFFICE/GENCY/MINISTRY	PERSONNEL TO BE INTERVIEWED	STATUS
Ministry of Foreign Affairs	1. Rep. Directorate of Diaspora Affairs	
	2. Rep. Directorate of Consular Affairs	
Ministry of Labour	3. Rep. Department of Labour	
Kudheiha	4. Chairman	
	5. Secretary	
Saudi Embassy Kenya	6. Secretary of Consular Affairs	
	7. Administrative Attaché	
Israeli Embassy Kenya	8. Secretary of Consular Affairs	
	9. Administrative Attaché	
Qatar Embassy Kenya	10. Secretary of Consular Affairs	
	11. Administrative Attaché	
UAE Embassy Kenya	12. Secretary of Consular Affairs	
	13. Administrative Attaché	

APPENDIX VI: TIME PLAN

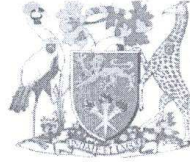
	Time taken to Complete an Activity								
	April 2013	May 2013	June 2013	July 2013	August 2013	September 2013			
Study Activity									
Proposal Validation	■								
Preliminary Assessment		■							
Pilot study			■						Submission of Report
Instrument validation				■					
Actual data collection				■	■				
Data coding, entry and analysis						■			
Report writing and corrections							■	■	

APPENDIX VII: BUDGET ESTIMATE

ACTIVITY	COST @ PIECE (Kshs)	CALCULATION	TOTAL (Kshs)
Data Collection	Pilot study Duplication: 300 Assistant: 5,000 Travelling & Subsistence: 15,000	300 x 15 copies 5,000 x 1 15,000 x 1	24,500
	Actual Collection Duplication: Assistant: 5,000 Travelling: 2,000 Subsistence 1,000	300 x 15 copies 5,000 x 1 2,000 x 1 1,000 x 1	12,500
Data Coding and Entry	Computer Software (Editing): 5,000 Assistant: 3,000	5,000 3,000	8,000
Report Writing	Printing and Binding:	8,000	8,000
Total Cost			53,000

APPENDIX VIII: LIST OF MIDDLE EAST COUNTRIES

1. Bahrain
2. Cyprus
3. Egypt
4. Iran
5. Iraq
6. Israel
7. Jordan
8. Lebanon
9. Oman
10. Palestine
11. Qatar
12. Saudi Arabia
15. Syria
16. Turkey
16. United Arab Emirates
18. Yemen
19. Kuwait



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P. O. Box 30197
 Nairobi
 Kenya

19/07/2013

TO WHOM IT MAY CONCERN

RE: GAUDENZIA CHITAYI AYISI – R40/80917/2012

This is to confirm that the above named person is a bona fide student of this Institute pursuing the **Postgraduate Diploma in International Relations**. She has cleared the coursework and is now working on her research project prior to graduating in December 2013.

Any assistance given to her will be highly appreciated.

Yours Sincerely,

[Handwritten signature]
 APPROVED
K. K. MBALI
 FOR: DIRECTOR
 IDIS

c.f.c. of the original

FOR PERMANENT SECRETARY
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