



Jimma University
College of Law and Governance
School of Law

**Assessing the Right of Access to Justice of Victims of International
Organizations Having Jurisdictional Immunity in Ethiopia**

**A Thesis Submitted in the Partial Fulfilment of the Requirements of
Masters of Laws (LL.M) in Human Rights and Criminal Law**

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July, 2024
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Declaration

I Meron Tadesse, hereby declare that this thesis titled “Assessing the Right of Access to Justice of Victims of International Organizations Having Jurisdictional Immunity in Ethiopia” is the result of my own work, that it has not previously been submitted for any degree or master’s examination in any University. I also declare that the sources I have used or quoted in the thesis have been duly indicated and acknowledged.

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Acknowledgement

First of all, my heartfelt thank goes to the Almighty God who endowed me with all the hopes and strengths throughout my long journey and by the grace of whom all things are done.

I would like to express my deepest gratitude and sincere appreciation to my Principal Advisor Mr. Nega Ewunetie and Co-Advisor Mr. Kibrome Mekonnen for their unreserved scholarly advice, guidance and valuable comments without whom this paper could not be realized.

My thanks also extended to my families to whom this paper is dedicated; my dad, Mr. Tadesse Sahle and my Mom Mrs. Amsale Belay who are always there for me in any situation to support and encourage me.

Last but not least, I am very grateful to all my family, friends (Especially Rehima Ahmed and Deborah Bultuma), interviewees and colleagues who have been supporting me in every direction.

List of Acronyms and Abbreviations

AU – African Union

CCI – Council of Constitutional Inquiry

ECA – Economic Commission for Africa

ECLA – European Company Lawyers Association

ECHR – European Convention on Human Rights

ECtHR – European Court of Human Rights

ESCAP – Economic and Social Commission for Asia and the Pacific

FDRE – Federal Democratic Republic of Ethiopia

FSIA – Foreign Sovereign Immunities Act

HOR – House of Peoples Representatives

ICCPR – International Covenant on Civil and Political Rights

ICJ – International Court of Justice

IOs – International Organizations

MoFA – Ministry of Foreign Affairs

UDHR – Universal Declaration of Human Rights

US – United States

UNECA – United Nations Economic Commission for Africa

UN – United Nations

WW I – First World War

WW II – Second World War

Abstract

The jurisdictional immunity of international organizations has the role of allowing IOs to undertake their function fully without the interference of host states. Constituent instruments of IOs and headquarter agreements serve this role by conspicuously putting forth the role of host country judicial organs in entreating IOs whenever there is a conflict. In return, IOs adopt the means of providing justice to the citizens of the host state and others in its internal laws to settle disputes within the organization internally. Nevertheless, IOs residing in Ethiopia are curtailing victims' access to justice in the Federal High Court of Ethiopia in a civil case.

The IOs, under the guise of jurisdictional immunity, is acting against victims' right to access justice stipulated under international and regional human rights conventions, which Ethiopia itself has ratified and adopted in domestic law. This would amount to withering away a citizen's right to access justice and perpetuating human rights violations under the curtain of jurisdictional immunity.

Under this background, it is pertinent to assess and appraise victims' rights to access justice in Ethiopia in light of the principle of jurisdictional immunity of IOs. The assessment has paramount importance in showing gaps and rectifying the victims' legal right to access justice in their dispute with IOs in Ethiopia without diluting the inherent right of IOs to be free from unwanted interference from the host state. Against this background, the research thesis employs a qualitative research approach and uses a case and legal analysis and interview method with an extended literature review and synthesis.

Following a thorough legal and case analysis and assessment of the victims' rights access to justice in Ethiopia and in light of the principle of international organizations' jurisdictional immunity, the victims' rights are imperiled, threatened, and jeopardized in Ethiopia by the acts of IOs, and in doing so, the IOs commit a grave human rights violation. As a result, Ethiopia, as a state obligated to safeguard its citizens' rights, must take commandable steps to improve its citizen's access to justice, while its counterparts, IOs, must adhere to and respect everyone's right to access justice.

Key Words: *jurisdictional immunity, access to justice, international organization, Ethiopia.*

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CHAPTER ONE

INTRODUCTION

1.1. Background of the Study

The jurisdictional immunity of international organizations underwent numerous stages of phases with the development of international laws.¹ In the first phase, certain riparian commissions received the status of neutrality and independence; in the second phase, the League of Nations was created and diplomatic immunity was granted to that organization.² With the creation of the United Nations during post Second World War and the acceptance of "Functional immunity" for international organizations, the third stage got underway.³ Furthermore, as the League of Nations was established to maintain international peace and security in global governance following the First World War, the requirement for immunity for international organizations and their officials became even more crucial.⁴

Since most international organizations (Hereinafter, IOs), unlike states, do not have authority over land or a population, they are always subject to the municipal laws of the host-state.⁵ The host state award jurisdictional immunity to IOs to avoid or lessen the likelihood of member states interfering with the functions of IOs. To this end, the international organizations and their officers are exempt from domestic laws scrutiny.⁶

The jurisdictional immunity of IOs is derived from the intention of their member state parties to the treaty, which is reflected in the constituent treaties or agreements on privileges and immunities with regard to the legal relationship between that organization and its members, in

¹Tiina Pajuste, 'THE EVOLUTION OF THE CONCEPT OF IMMUNITY OF INTERNATIONAL ORGANISATIONS' 6.

² ibid.

³ ibid.

⁴Daniel D Bradlow, 'USING A SHIELD AS A SWORD: ARE INTERNATIONAL ORGANIZATIONS ABUSING THEIR IMMUNITY?' 48.

⁵ ibid 46.

⁶ ibid.

headquarters agreements, or in domestic law, according to the provisions of the practical application guide on the jurisdictional immunities of international organizations.⁷

There is no denying that there is conflict between the human rights norm of access to justice and the international law principle of jurisdictional immunity of international bodies.⁸ The main point of contention fault lines regarding jurisdictional immunity of international organization resides on the possibility of a denial of justice or accountability gap in cases when an international organization refuses to give victim parties recourse in the absence of access to a court or suitable alternative remedies.⁹

Ethiopia is a hub of many international organizations, notably the African Union and United Nation agencies, have their offices.¹⁰ Most importantly, Addis Ababa is the third diplomatic center after Geneva and New York. It is also the headquarters of the AU. The presence of all these IOs has had a positive impact on the economic growth of Ethiopia and on its image-building efforts. Yet, they are abusing the jurisdictional immunity afforded to them by the host country agreement and the fundamental act by preventing their personnel from using the courts and other forms of alternative dispute resolution whenever there is a problem.

Because of this, parties in disputes with IOs are left with no legal recourse. Although the Ministry of Foreign Affairs (Hereinafter, MoFA) has a distinct dispute resolution process, it is insufficient to give the parties to the issue a suitable legal recourse. A sizable part of these uncontested individuals has very few options for bringing their claims before a court that can render conclusive decisions in cases involving the UN respondent.¹¹

The main objective of the research thesis is to evaluate the right to access to justice regarding the jurisdictional immunities of IOs residing in Ethiopia. In the milieu of assessing the extent of jurisdictional immunities of IOs in Ethiopia, an in-depth appraisal be made to balance

⁷ 'themes_recently_concluded_Immunities_International_Organizations_Guide.Pdf' para 1.

⁸ Peter Quayle, *The Role of International Administrative Law at International Organizations: AIIB Yearbook of International Law 2020* (Brill Nijhoff 2021) 25 <<https://brill.com/view/title/56570>> accessed on 8 March, 2023.

⁹ *ibid.*

¹⁰ Kurabachew Tirfesa, 'THE RIGHT OF ACCESS TO JUSTICE AND DIPLOMATIC IMMUNITY IN ETHIOPIA: THE NEED FOR REVISITING THE EXISTING REMEDIAL APPROACH' 9.

¹¹ ijar and Yohannes Tessema Gerbi, 'IMMUNITIES AND PRIVILEGES OF UN AGENCIES IN ETHIOPIA: PROBLEMS AND POSSIBLE REMEDIES.' (2018) 6 International Journal of Advanced Research 143, 2.

jurisdictional immunities of IOs with the notion of access to justice stipulated within the international conventions ratified by Ethiopia.

1.2. Statement of the Problem

Denial of justice is an injustice in and of itself, and when it involves victims of human rights crimes, it is a double injustice.¹² It is also a terrible experience. Anyone who has suffered injustice knows that the inability to see it acknowledged and corrected can lead to severe psychological distress. It doesn't make it any less violent if such misery is inflicted on people through the use of a procedural concept with a technical and neutral appearance of immunity.¹³

Jurisdictional immunity forbids member states from interfering with the management, operation, and administration of IOs through their national courts. It protects organizations from being governed by local laws and ordinances.¹⁴ In addition, a suitable dispute resolution framework that improves the operation of IOs to address disputes with citizens of the host-state is required. Additionally, from a human rights perspective, this tension leads to a normative clash between the immunity of international organizations on the one hand, and the ability to access a court and a remedy on the other.¹⁵

Ethiopia is a signatory to the international and regional human rights conventions that adhere to citizens' access to justice. As part of its obligation, Ethiopia also included the right to access justice under municipal laws, including the 1995 FDRE constitution.¹⁶ Ethiopia's notable efforts towards the protection of the right to access to justice are categorically the ratification of bill of rights and the African Charter on Human and People's Rights.

The ICCPR and UDHR explicitly addressed and guaranteed access to justice. As per the provisions of the ICCPR, member states have the obligation to undertake that any person whose rights or freedoms are violated shall have an effective remedy and also to ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial,

¹² Luca Pasquet, 'Litigating the Immunities of International Organizations in Europe: The "Alternative-Remedy" Approach and Its "Humanizing" Function' (2021) 36 Utrecht Journal of International and European Law 192, 10.

¹³ *ibid.*

¹⁴ Quayle (n 8) 28.

¹⁵ Pasquet (n 12) 194.

¹⁶ 'Ethiopia' 2 <<https://ijrcenter.org/wp-content/uploads/2017/11/Ethiopia.pdf>> accessed on 3 March, 2023.

administrative, or legislative authorities, or by any other competent authority provided for by the legal system of the state, and to develop the possibilities of judicial remedy.¹⁷ Furthermore, the UDHR has repeated the right to access to justice for individuals in the same tone. It asserts that everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted to him by the constitution or by law.¹⁸ The UN Human Rights Committee explained that the different provisions of international human rights instruments impose an obligation on states to ensure the availability of accessible and effective remedies to vindicate rights violations, possibly judicial remedies.¹⁹

Even though Ethiopia protects and upholds citizens' intrinsic right to seek justice under any circumstances, diplomatic communities working for IOs violate this right under the pretense of jurisdictional immunity. To this end, the victims have no legal options or remedies due to the international organization's availability of broad functional immunity.²⁰ Unless, they waive their immunity clearly which is unlikely though.

The jurisdictional immunity of the IOs in Ethiopia is a big threat to Ethiopian citizen's realization of access to justice. According to the conventions regulating the jurisdictional immunities of international organizations, domestic courts are not permitted to decide legal disputes involving international organizations.²¹ The majority of Ethiopian citizens have very few options for presenting their claims before a court that may render conclusive rulings in cases where the IOs are a respondent. These forums frequently have a lengthy procedure and are not in Ethiopia.²²

Ethiopians are obligated to weigh their case within the mediation system set up under Ethiopia's MoFA in civil cases. The system passes decisions that cannot be reviewed, provides insufficient remedy, and ignores the due process of law. The system contradicts the principles of human

¹⁷ International Covenant on Civil and Political Rights 1976 art 3(a)(b).

¹⁸ Universal Declaration of Human Rights 1948 art 8.

¹⁹ UN Human Rights Committee, General Comment No.31, "The Nature of the General Legal Obligation Imposed on States Parties to the Covenant", CCPR/C/21/Rev.1/Add.13, Adopted on 29 March 2004, Paragraph 15.

²⁰ Edward Chukwuemeke Okeke, *The Tension between the Jurisdictional Immunity of International Organizations and the Right of Access to Court* (Brill Nijhoff 2020) 34
<<https://brill.com/display/book/9789004441033/BP000003.xml>> accessed on 1 March, 2023.

²¹ *ijar and Gerbi* (n 11) 2.

²² *ibid.*

rights treaties on access to justice, which Ethiopia and IOs are required to abide by, as it lacks legal and procedural validity.

1.3. Review of the Related Literature

Many scientific studies have been conducted on the jurisdictional immunities of IOs and the right to access to justice. However, none of them have come out with a standard recommendation principle to settle the debate between the jurisdictional immunities of IOs and the right to access to justice. It has to be noted that, the uneven practices in various international and national judicial organs have been a result of the lack of universally recognized principles that states have agreed upon regarding how to enforce the right to access courts in the host state whenever IOs refuse under the guise of jurisdictional immunity.

The scholarly Article written by Yohannes Tessema Gerbi on “Immunities and privileges of UN agencies in Ethiopia: A problem and possible remedies” argued that, due to the Convention's prohibition on courts hearing issues involving UN agencies, many Ethiopian people's right to justice was infringed by these organizations.²³ This leaves those who are embroiled in disputes with UN organizations without any legal recourse.²⁴ To this end, the implementation of immunities and privileges leads to legal and practical problems and is also the only mechanism to secure effective remedy which mediation in the MoFA is not effective and efficient and also it is not easily accessible to individual claimants.²⁵

A research article by Luca Pasquet titled "Litigating the Immunities of International Organizations in Europe: The Alternative-Remedy Approach and its "Humanizing Function"²⁶ incorporated the method of resolving the controversy over the immunities of IOs in Europe. According to Luca, the European Court of Human Rights has developed an appropriate and practical alternative remedy strategy as a way to reconcile the two conflicting international norms.²⁷ Luca went on mentioning that, considering the availability of strong alternative

²³ ijar and Yohannes Tessema Gerbi, 'IMMUNITIES AND PRIVILEGES OF UN AGENCIES IN ETHIOPIA: PROBLEMS AND POSSIBLE REMEDIES.' (2018) 6 International Journal of Advanced Research 143, 2.

²⁴ ibid 143.

²⁵ ijar and Gerbi (n 11).

²⁶ Pasquet (n 12) 1.

²⁷ ibid 10.

remedies is the only way to avoid a denial of justice when granting immunity and the only way to re-involve the individual in the technical process of determining jurisdiction.²⁸

Furthermore, Luca recommended that applying the alternative remedy criterion superficially, disregarding the efficacy of the claimants' available remedies, and accepting any of them as a "reasonable" substitute for national courts are ways to dismiss the effects of immunity for persons.²⁹ This mindset encourages IOs to refrain from offering efficient legal means of dispute-settlement by reducing access to justice to a mere formality and depriving it of its humanizing power inside the law. Unfortunately, many courts, including the European Court of Human Rights, have this viewpoint.³⁰

A book chapter written by Edward Chukwuemeke Okeke on "The Tension between the Jurisdictional Immunity of International Organizations and the Right to Access to Court" has addressed the major controversy between the right to access to court and the jurisdictional immunity of international organizations.³¹ Okeke examines in his writing, whether the existence of an alternate conflict settlement mechanism affects the jurisdictional immunity of international organizations.³² In particular, it addresses whether the processes of international administrative tribunals adhere to the criteria of agreements like Article 6(1) of the European Convention on Human Rights.³³ It also discusses the suitability of alternative conflict resolution mechanisms. Okeke argued that, even in cases where using an alternate dispute resolution mechanism is an option, the question of whether the system satisfies the requirements for independence and impartiality in deciding a legal claim still remains.³⁴

The LL.M research thesis conducted in Addis Ababa University on “The right to access to justice and Diplomatic Immunity in Ethiopia: the need for revisiting the existing remedial approach” by Kurabachew Tirfessa is a notable one, though the research resides is conducted on the diplomatic immunities of sending states or on diplomatic communities working in the consulates and embassies.

²⁸ *ibid.*

²⁹ *ibid* 11.

³⁰ *ibid.*

³¹ Okeke (n 20) 25.

³² *ibid* 26.

³³ Okeke (n 20).

³⁴ *ibid* 92.

Kurabachew argued that, unless the immunity of diplomatic missions and agents are revoked by the sending state in the case of embassies and an authorized authority in the case of IOs, which rarely occurs, there is virtually ever an effective method of redress for victims of diplomats' activities. As a result, there is essentially no procedure for compelling the actors to stand trial. This is made worse by our nation's degree of political and economic development, which leaves us in a weaker position to take significant action.³⁵

The research thesis conducted in Nairobi University on “Diplomatic Privileges and Immunities: A Case Analysis on the Vienna Convention on the Diplomatic Relations” by Charity Simuli Wanyela has appraised the extent to which abuse of diplomatic immunity and privileges and the applicability of the laws governing these matters to diplomatic action.³⁶ Wanyela also made an effort to discuss the current system of diplomatic privileges and immunities and to pinpoint difficulties with upholding diplomatic immunities in the face of rising violations.³⁷ What options do the victims have when a diplomat is solely exempt from local criminal jurisdiction? Wanyela questioned. Is the seeming impunity in diplomatic situations due to the insufficiency of the established laws on diplomatic etiquette?³⁸

1.4. Objectives of the Research

1.4.1. General Objective

The general objective of the research is to critically assess victims of international organizations rights to access justice in Ethiopia in light of the principle of jurisdictional immunity of international organizations.

1.4.2. Specific Objective

- To assess the conceptual underpinnings of the jurisdictional immunity of international organizations.

³⁵ Tadesse (n 10) 11.

³⁶ Charity Simuli Wanyela, ‘Research Title: Diplomatic Privileges and Immunities: A Critical Analysis of the Vienna Convention on Diplomatic Relations (1961)’ 12.

³⁷ *ibid* 11.

³⁸ *ibid*.

- To appraise the mechanism of balancing the right to access justice with the jurisdictional immunity of international organizations.
- To study countries experiences dealing with jurisdictional immunity of international organizations and the right to access justice.
- To assess the practical cases of victims abused by international organizations having jurisdictional immunity in Ethiopia in light of the right to access justice.
- To recommend solutions and reconcile remedies for victims of international organizations in Ethiopia without diluting jurisdictional immunity.

1.5. Research Questions

- How does the principle of jurisdictional immunity of international organizations impact the rights of victims to access justice in Ethiopia?
- What are the conceptual underpinnings of international organizations jurisdictional immunity?
- How best is it possible to balance the right to access justice for victims with the jurisdictional immunity of international organizations?
- How do countries deal with the jurisdictional immunity of international organizations and the right to access justice?
- How has the jurisdictional immunity of international organizations abused the victim's right to access justice in Ethiopia?
- What are the solutions and reconciling remedies for the victims of international organizations in Ethiopia without diluting jurisdictional immunity?

1.6. Research Methodology

The research falls under the ambit of doctrinal types of legal research and employs a qualitative approach. A qualitative approach is chosen because assessment of the right of individual victims to access justice in light of the jurisdictional immunity of international organizations in Ethiopia can be best explained by the expression of views and status. Consequently, the research depends on a literature review and assessment of existing literature and legal and non-legal documents. In

addition, interviews with the chosen participants were undertaken to provide insights into the practical interpretation and application of the law, so providing a practical viewpoint to supplement the doctrinal study.

The experiences of major legal system principles is analyzed to identify best practices, harmonization, integration, and informed legal reform. The selected jurisdictions exhibit the most advanced experience in protecting human rights across their jurisprudence. Furthermore, analysis of views on access to justice and the jurisdictional immunity of the international organization in Ethiopia from books, journals, and internet sources was made to substantiate legal sources. A review of the literature was conducted to collect data from both primary and secondary sources in relation to the access to justice of victims of wrong acts of IOs residing in Ethiopia. To supplement the doctrinal study, interview was conducted with victims, experts and legal consultant working in the practical cases of IOs jurisdictional immunity abuse.

Last but not least, a case study methodology is used to gather information on actual, specific cases of international organizations violations that took place in Ethiopia and how both the domestic judicial system and the international organizations responded.

1.6.1. Data Sources

Primary and secondary data sources were also taken into account. Customary international laws, charters of international organizations residing in Ethiopia, headquarters agreements, as well as international human rights conventions that Ethiopia has ratified, were therefore taken into consideration based on a purposeful approach. On top of that, interviews were conducted with the Ethiopian MoFA workers who were selected based on the purposive sampling method. This sampling method is selected because it has the ability to identify those with knowledge and expertise in the area. The research selected two participants from the MoFA, one from the private legal consultation area, and four victims using a purposive sampling approach. Besides, victims are also a primary source of data, and they have the value of correlating the legal sources. The data from reports, journal articles, books, and published and unpublished theses and materials on the subject has been carefully reviewed in terms of secondary sources.

1.7. Scope of the Study

The scope of the research is limited to assessing the individual right to access justice and the functional immunity of international organizations. In particular, it assessed whether or not the charters of international organizations are devoid of absolving responsibility for their workers in host states. Likewise, it critically assessed conventions on functional immunity of international organizations, headquarters agreements, and the Ethiopian domestic laws regarding the responsibilities of foreigners working and residing in Ethiopia. In doing so, it explained the legal and practical gaps in the implementation of access to justice to the victims of international organizations.

1.8. Significance of the Study

The thesis gives readers a thorough understanding of the normative and legal foundations of international organizations' immunity from jurisdictional liability and the corresponding right of individuals to obtain justice. International organizations' jurisdictional immunity is being used as a cover to trample on people's right to obtain justice. It also has the benefit of removing obstacles from diplomatic communities' ability to carry out the duties they set. Finding the gaps can be made easier by examining the egregious abuses committed by the foreign organizations and the ensuing denial of access to justice in Ethiopia.

It provides policymakers and other key stakeholders with a look into what needs to be done to improve the victims of international organizations in Ethiopia's access to justice. Additionally, it evaluates the wisdom of jurisdictional immunity and proposes the best and most workable substitute that takes into account the functional immunity of international organizations without compromising people's access to justice.

It also provides policymakers with a starting point and opens the door for legal experts to conduct and consider future research on how to balance the individual right to access justice with the operational immunity of international organizations.

1.9. Limitations of the Study

Lack of relevant and timely published material on the victims of international organizations in Ethiopia could have been an issue in performing the research, and this may have reduced the study's quality. However, the researcher made every effort to consult all available material sources. Furthermore, many of the materials on the subjects are written only about specific international organizations; given the time and scope of the research title, a literature review would consume much time.

1.10. Organization of the Study

The research thesis is organized into five chapters. The first chapter elucidates the background of the study, the statement of the problem, the review of the related literature, the objectives, the research question, the methodology, the scope, the significance and limitations of the study, respectively. Chapter two is designed to discuss the conceptual underpinnings of the jurisdictional immunity of international organizations. Chapter three is devoted to balancing the right to access justice and jurisdictional immunity of international organizations and discussing countries experiences with responding to the right of access to justice of victims of international organizations having jurisdictional immunity. Chapter Four critically assesses and examines the jurisdictional immunity of international organizations and victims' rights to access justice in Ethiopia. It closely examined the challenges of jurisdictional immunity to the realization of the right to access justice using factual cases. Chapter five concludes and recommends the findings of the study.

CHAPTER TWO

CONCEPTUAL UNDERPININGS OF JURISDICTIONAL IMMUNITY OF INTERNATIONAL ORGANIZATION

2.1. Introduction

Immunity is a legal strategy that ensures an international organization's proper accommodation within an international system that otherwise allocates jurisdiction to states largely on the basis of territoriality and nationality. On top of that, international organizations' jurisdictional immunity is an extension of state diplomatic immunity, which is based on the long-held belief that nations are autonomous, sovereign, and equal in their reciprocal legal relationships, with no superior authority over another.³⁹ The IOS's jurisdictional immunities allow them to avoid the host states inspection of the organization, its property and assets, and its officers, representatives, and delegates accredited to the organization. These immunities shall be granted to the extent necessary to allow the organization's full and effective discharge of its responsibilities.

International organizations' jurisdictional immunity is derived from clauses in the founding document, a subsequent treaty between member states specifying immunities and privileges, and/or the headquarters agreement between the organization and its host state. These treaty clauses are often adequate to clarify international organizations' immunities at the level of positive law.⁴⁰ Besides, certain theories have formed the bedrock for the notion of jurisdictional immunity.

In a nutshell, the purpose of this chapter is to investigate the theoretical foundations of jurisdictional immunity, the benefits it provides for the IOs, and the historical source of jurisdictional immunity by rationalizing the rationale for granting jurisdictional immunity to international organizations, as well as why international organizations are granted immunity from legal proceedings in the countries in which they operate.

³⁹ Sompong Sucharitkul, 'Immunities from Jurisdiction in Contemporary International Law' [2002] Golden Gate University School of Law GGU Law Digital Commons 722.

⁴⁰ Abeyratne Ruwantissa, 'Immunities and Privileges of International Organizations and the International Civil Service' (2014) 6 Journal of Public Administration and Policy Research 34, 36.

2.2. Historical Background of International Organizations Jurisdictional Immunity

Jurisdictional immunity of international organization is a relatively new in the arena of international law spectrum compared with diplomatic immunities of states.⁴¹ Despite the fact that, historically, jurisdictional immunities arose from a sense of comity among equal sovereigns, whose actions were not to be judged by their fellow rulers unless they expressly consented to it.⁴² Besides, it was shifted from the figure of the sovereign to that of the state with the establishment of nation-states. This idea was eventually codified in a number of international accords and is now regarded as part of customary international law.⁴³

The initial explanation justifying the application of this privilege used to lie in a reciprocal sense of comity; however, with the passing of time, it was deemed that sovereign immunity served a functional purpose as it enabled both the state and its agents especially those working at foreign locations to carry on their duties without being hampered by the threat of being sued in local jurisdictions.⁴⁴

Furthermore, the immunity accorded to IOs stems from the previously described foreign sovereign immunity tradition. It is, however, supported by a theory of "functional necessity," which emerged after World War II, when emerging IOs required support from the States in order to acquire a particular level of maturity and therefore be able to perform their duties unhindered.⁴⁵ This type of immunity was founded on the premise that it would serve the organizations' best interests by shielding them from prospective litigation that would jeopardize the organizations' limited resources at the time or their ability to function independently.⁴⁶

Before the era or advent of the earliest primitive, practical, administrative world organizations, such as the Universal Postal Union (UPU), the Telephone and Telegraph Union, now

⁴¹ Sucharitkul (n 39) 48.

⁴² Greta L. Rios, 'INTERNATIONAL ORGANIZATION REFORM OR IMPUNITY? IMMUNITY IS THE PROBLEM' 436.

⁴³ *ibid* 437.

⁴⁴ *ibid*.

⁴⁵ *ibid* 436.

⁴⁶ *ibid*.

International Telecommunications Union (ITU), and the International Labor Organization (ILO), there were no pre-existing customary rules of international law.⁴⁷

The League of Nations, founded after World War I, was possibly the first international organization of global nature, and its demise was followed by the formation of the United Nations Organization following the end of hostilities in World War II.⁴⁸ The laws and practices of IOs can be found in the constituent instruments, or treaties that form the organizations in question, such as the League of Nations Covenant and the United Nations Charter.

2.3. The Functional Basis of the Immunities of International Organizations

IOs' jurisdictional immunity stems from state diplomatic immunity, which emanates from state sovereignty. And, as states started establishing IOs for a variety of objectives, they began to grant and extend IOs their inherent sovereign immunity. The reasons and objectives for the extension are mentioned in their constituent instruments or subsequent laws and regulations, but it is important to describe some of their functional basis. As a result, the following section of the research thesis studied some of the fundamental bases of jurisdictional immunities in international organizations.

2.3.1. International Status and Functional Necessity

International organizations frequently maintain that their immunity requires them to conduct their operations in accordance with their international status.⁴⁹ The founding member collectives and member nations will form an organization and delegate certain functions to it. They confer an independent personality in their operations to achieve the purposes endowed with them by founding and later laws through instrumentality, according to their intrinsic right to the IOs.

The achievement of those functions is the overarching concern of all organizations, explaining both their existence and the scope of their legal competencies.⁵⁰ IOs expresses the membership's

⁴⁷ Sucharitkul (n 39) 48.

⁴⁸ *ibid.*

⁴⁹ Michael Johns, 'Intergovernmental Organizations and International Governance of Migration and Ethnic Politics', *Oxford Research Encyclopedia of International Studies* (2010) 11 <<https://oxfordre.com/internationalstudies/display/10.1093/acrefore/9780190846626.001.0001/acrefore-9780190846626-e-224>> accessed on 2 December, 2023.

⁵⁰ Michael Johns, 'Intergovernmental Organizations and International Governance of Migration and Ethnic Politics', *Oxford Research Encyclopaedia of International Studies* (2010) 11

collective will, distinct from individual member states, and is recognized as having its own international character under international law. Because international organizations, unlike states, do not have their own territory or population, they are potentially susceptible or dependent. As a result, they can only act on territory over which a state has jurisdiction and via individuals who are linked to states through the bonds of nationality.

Thus, it is only by such accommodation within the jurisdictional system that an international organization's genuinely international status can be ensured. Without immunity, an organization could be subject to interference by the authorities of any state in which it functioned, or even any state whose nationals worked for it. This vulnerability of multinational organizations underscores the importance and sensitivity of immunity issues for them.

2.3.2. Ensuring Institutional Efficiency

The jurisdictional immunity of IOs assists in ensuring IOs develops methods and strategies to maximize their operations and fulfill their goals effectively and efficiently. This includes streamlining procedures, improving decision-making, improving communication and coordination among member countries or stakeholders, and maximizing resource utilization.⁵¹ International organizations can improve their performance and achieve better results by fostering openness, accountability, and good governance principles. Furthermore, monitoring and assessing the organization's actions, as well as executing continuous improvement projects, are critical for institutional efficiency.⁵²

It was predicated that, given their international vocation, multinational organizations may be subject to the jurisdiction of any state in which they are in any way engaged. As a result, a large number of judicial lawsuits in several states may have to be defended independently, necessitating the appointment of a wide range of experienced local lawyers, incurring costs,

<https://oxfordre.com/internationalstudies/display/10.1093/acrefore/9780190846626.001.0001/acrefore-9780190846626-e-224> accessed on 2 December, 2023.

⁵¹ Yohei Okada, 'The Immunity of International Organizations before and after *Jam v IFC*: Is the Functional Necessity Rationale Still Relevant?' (*QIL QDI*, 5 July 2020) <<http://www.qil-qdi.org/the-immunity-of-international-organizations-before-and-after-jam-v-ifc-is-the-functional-necessity-rationale-still-relevant/>> accessed on 21 December, 2023.

⁵² *ibid.*

duplication of effort, and inefficiencies.⁵³ Furthermore, requiring an organization to seek settlement of its conflicts through a variety of national legal systems would almost certainly result in variable and inconsistent outcomes, compelling the organization to adopt different policies and procedures depending on the numerous States in which it operated. This could compel the organization to make difficult decisions about where and how it conducts its operations, virtually definitely resulting in increased spending.

As a result, immunity from local courts allows for consensual solutions, with international arbitration under a more appropriate body of law, such as general principles of law, as an option if this fails. Furthermore, IOS's jurisdictional immunity is justified on the basis of organizational efficiency, which saves on shared resources that may then be used to fulfill the common goods /functions/ for which the organization was formed.

2.4. Theoretical Basis of International Organizations Jurisdictional Immunity

Jurisdictional immunity of IOs, has been a subject of debate and has evolved over time through international practice and legal developments. The balance between the autonomy of international organizations and the rights and obligations of host states continues to be an ongoing discussion in the field of international law.⁵⁴

It is known that the immunity of many of the major international organizations is sometimes enshrined in treaty articles that make broad references to immunity from jurisdiction or immunity from all types of judicial process. Much of the literature on the subject portrays immunities as procedural impediments to national courts' jurisdiction rather than substantive law exemptions.⁵⁵

In the legal literature dealing with the immunities of IOs, there is broad agreement on the functional basis of immunity, but considerable debate on the appropriate degree of such

⁵³ Michael Wood, 'Do International Organizations Enjoy Immunity Under Customary International Law?' (2014) 10 *International Organizations Law Review* 287, 22.

⁵⁴ Kristina Daugirdas and Sachi Schuricht, 'Breaking the Silence: Why International Organizations Should Acknowledge Customary International Law Obligations to Provide Effective Remedies', *The Role of International Administrative Law at International Organizations* (Brill Nijhoff 2020) 24

⁵⁵ Kristina Daugirdas and Sachi Schuricht, 'Breaking the Silence: Why International Organizations Should Acknowledge Customary International Law Obligations to Provide Effective Remedies', *The Role of International Administrative Law at International Organizations* (Brill Nijhoff 2020) 24.

protection.⁵⁶ Regarding the latter, three broad positions can be identified: (1) international organizations should have absolute immunity from local jurisdiction; (2) the restrictive doctrine of State immunity should be applied to international organizations, with a special exception for commercial activities; or (3) immunity should be limited in some way by reference to the functional standard. A fourth, more radical viewpoint, that immunity should be gradually abandoned in favour of a limited number of substantive exemptions from national law, is examined in greater length in the following section.⁵⁷ Therefore, cognizant this fact various theories have been established to explain international organizations' immunities and privileges, with the major conventional theoretical explanations for diplomatic immunity being absolute immunity, extraterritoriality, restrictiveness, and functional necessity.

I. Absolute immunity

The concept of absolute immunity of international organizations refers to the legal principle that grants certain international organizations immunity from the jurisdiction of national courts. This immunity is intended to protect the independence and effective functioning of international organizations.⁵⁸ Many countries recognize the concept of absolute immunity, which is based on customary international law. In general, it means that global corporations are not subject to national court jurisdiction, including civil and criminal proceedings. This immunity applies to the entire organization, as well as its officials and property.⁵⁹

It is crucial to emphasize, however, that absolute immunity has restrictions. In certain circumstances, international organizations may waive their immunity, and there are restrictions to immunity in cases involving commercial activities or violations of human rights. The precise scope and use of absolute immunity can differ based on the legal structure and agreements that govern the international organization in question. To understand the unique immunity rules

⁵⁶ Cedric Ryngaert, 'The Immunity of International Organizations Before Domestic Courts: Recent Trends' (2010) 7 International Organizations Law Review 121, 15.

⁵⁷ *ibid.*

⁵⁸ Rapporteur: Mr Volker ULLRICH, 'PACE Website' (2018) 1 <<https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=24239&lang=en>> accessed on 2 December, 2023.

⁵⁹ Dapo Akande, 'International Law Immunities and the International Criminal Court' (2004) 98, The American Journal of International Law 407, 3.

applicable to a given international organization, it is best to refer the appropriate international treaties, agreements, and international legislation.⁶⁰

All proponents of international organizations' absolute immunity have sought to distinguish the position of international organizations from the position of states. They frequently cite treaty clauses that grant international organizations "immunity from all forms of legal process," emphasizing the comparative weakness of international organizations that do not have their own area or people.⁶¹

In contrast to a State, for example, whose bulk of activity is focused within its own territory and hence obviously subject to its own jurisdiction, virtually all activities of international organizations take occur on territory over which a State has jurisdiction. It is thus suggested that their demand for broader immunities corresponds to their greater weakness in relation to states.

II. The Extraterritoriality Theory

According to extraterritoriality theory, international organizations, have a certain degree of extraterritoriality, which means they are not subject to the jurisdiction of the host state in which they are located.⁶² It is founded on the premise that international organizations have a legal identity distinct from their member states. As such, under international law, they are regarded entities with their own rights and obligations.⁶³ It upholds that the host state should not have the authority to interfere with the international organization's internal affairs or activities.

IOs, are afforded specific immunities and privileges under the extraterritoriality doctrine to ensure their independence and effectiveness. Immunities may include immunity from judicial procedure, property inviolability, and exemption from taxes and customs duties.⁶⁴ On top of that, these immunities are required to ensure the organization's ability to perform its activities without undue interference. International scholars and legal opinion have recently questioned and

⁶⁰ Kristen E Boon, 'The United Nations as Good Samaritan: Immunity and Responsibility' 16 *Chicago Journal of International Law*.

⁶¹ Sucharitkul (n 39) 34.

⁶² Ryngaert (n 56) 13.

⁶³ Mariya Tait Slys, 'Chapter I - Definition and Early Origins of Extraterritorial Consular Jurisdiction', *Exporting Legality: The Rise and Fall of Extraterritorial Jurisdiction in the Ottoman Empire and China* (Graduate Institute Publications 2014) 12

⁶⁴ *ibid* 13.

rejected this approach, claiming that it is excessively expensive and exorbitant, and that it precludes nations from curtailing diplomats' privileges and immunities.⁶⁵

III. Restrictive Immunity Theory

The restrictive theory states that restrictive immunity applies to international organizations and is possessed by a small number of authors as well as governments. It includes interpreting treaty passages creating immunity from jurisdiction as only applying to acts *iure imperii* of international bodies.⁶⁶

The question raised by those who hold this stance is whether it is any longer feasible for international organizations to have immunity in connection to their private or commercial activities, especially given the growing acceptance of the limiting doctrine of State immunity. While acknowledging that international organizations are entitled to jurisdictional protection in order to safeguard their institutional autonomy, some argue that such immunity should not extend to their private law or commercial activities.⁶⁷ This was argued due to the fact that states have accepted that foreign courts may assert jurisdiction over their own private law activities without infringing on their independence or sovereignty, national courts can similarly assert jurisdiction over international organizations' private law activities without infringing on their independence or sovereignty.

IV. Functional Criteria for Restricting Immunity

The idea of functional necessity is the main doctrine on which international institutions are granted immunity. This is reflected in the agreements that established the majority of international institutions.⁶⁸ The fundamental premise is that there must be a functional necessity for immunity, especially to ensure the participants' and the organization's independence.⁶⁹

⁶⁵ ijar and Yohannes Tessema Gerbi, 'IMMUNITIES AND PRIVILEGES OF UN AGENCIES IN ETHIOPIA: PROBLEMS AND POSSIBLE REMEDIES.' (2018) 6 International Journal of Advanced Research 143, 145.

⁶⁶ Wood (n 53) 7.

⁶⁷ Daugirdas and Schuricht (n 54) 61.

⁶⁸ UN Charter art 105(1) "The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes."

⁶⁹ C.F. and Amerasinghe, *Principles of the Institutional Law of International Organisations* (Cambridge University Press 2005) 315-316.

The theory is that international institutions require immunity in order to carry out the functions for which they were formed by the states who established them. In other words, activities that fall outside of the purview of the international institutions are not protected by this exemption. Traditionally, the issue has been determining which acts come within the scope of tasks delegated to international institutions and should be immune from legal action.

2.5. The Sources of International Organizations Jurisdictional Immunity

2.5.1. Conventions

States can form international organizations for a variety of reasons, which are spelled out in their founding charters. Their foundation charter specifies the means by which they will achieve their goals. As a result, this founding document provides a tangible source of jurisdictional immunities. Thus, present rules of international law can be deduced from a variety of fundamental international instruments, most notably:

- I. Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly, 13 February 1946
- II. Convention on the Privileges and Immunities of the Specialized Agencies, approved by the General Assembly, 21 November 1947
- III. Vienna Convention on the Representation of States in their Relations with International Organizations of Universal Character, 14 March 1975.

2.5.2. Headquarters Agreements

A headquarters agreement is an arrangement signed by the IOs and the host country. The agreement's objective is to specify how the headquarters will engage with the host country.⁷⁰ The well-known headquarters that the UN established are highlighted here. For the United Nations alone several Headquarters Agreements have been concluded with member States having one of the seats in their territory, such as the United States, 26 June 1947⁷¹; the Netherlands for the ICJ, 26 June 1946⁷²; Chile for ECLA, 16 February 1953⁷³; Thailand for ESCAP, Geneva, 26 May

⁷⁰ Zsolt Hetesy, 'The Making of the Basic Principles of the Headquarters Agreement' 627.

⁷¹ UN, *LEGISLATIVE TEXTS AND TREATY PROVISIONS CONCERNING THE LEGAL STATUS, PRIVILEGES AND IMMUNITIES OF INTERNATIONAL ORGANIZATIONS* (1989) 204-216. <https://legal.un.org/legislativeseries/pdfs/volumes/book11.pdf> accessed on 29, November 2023.

⁷² *ibid* 193–195.

1954⁷⁴; Ethiopia for ECA, 18 June 1958⁷⁵; and Japan for UN, 25 July 1952, and UN Forces in Japan, 19 February 1954.⁷⁶ Countless other like agreements and arrangements have been concluded for specialized agencies and other organizations.

2.5.3. Domestic Laws

National laws also provide international organizations with jurisdictional immunity since it determines the implementation of a headquarters agreement and the conventions that member states have ratified by adhering to domestic law. The United Nations, for example, compiled national legislative enactments giving effect to bilateral headquarters agreements and multilateral conventions in two volumes in a legislative series on legislative texts and treaty provisions concerning the legal status, privileges, and immunities of international organizations, published in 1959 and 1961.⁷⁷

2.5.4. Decisions of National and International Tribunals

Decisions of national courts abound in the legal systems where international organizations operate with their principal headquarters, or head offices or regional offices. At least three important advisory opinions of the International Court of Justice deserve to be raised as notable example:

- I. Reparation for Injuries Suffered in the Service of the United Nations, 1949⁷⁸,
- II. Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations, 1989,
- III. Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights, 1998.

⁷³ *ibid* 217-223.

⁷⁴ *ibid* 224-231.

⁷⁵ *ibid* 231-236.

⁷⁶ *ibid* 268-294.

⁷⁷ *ibid* vols. I and IT, 1959 and 1961.

⁷⁸ *Certain Expenses of the United Nation* [151].

CHAPTER THREE

BALANCING THE RIGHT TO ACCESS TO JUSTICE AND JURISDICTIONAL IMMUNITY OF INTERNATIONAL ORGANIZATION: OTHERS EXPERIENCE

3.1. Introduction

The sovereign immunities of states gave rise to the immunity afforded to international organizations.⁷⁹ International law principles were equally unaware of the idea of jurisdictional immunity for international organizations as they were of state sovereign immunity. However, the creation of international organizations and the subsequent grant of their legal personality gave them immunity from the jurisdiction of national courts.⁸⁰

The immunity is supported by a "functional necessity" theory that emerged following WWII, when newly formed international organizations required support from the States to reach a certain level of maturity and, as a result, be able to carry out their duties without interference.⁸¹ Jurisdictional immunity of the international organization accords immunity from the oversight and scrutiny of the national courts in their official acts undertaken for the function of the international courts.

Most often, the constituent documents of international organizations provide jurisdictional immunity.⁸² International organizations may also obtain jurisdictional immunity from other privileges and immunities multilateral agreements, bilateral host nation agreements, or national

⁷⁹ GretaL. Rios and Edward P. Flahert, 'INTERNATIONAL ORGANIZATION REFORM OR IMPUNITY? IMMUNITY IS THE PROBLEM' (2010) 16:2 LSA Journal of International& Comparative Law 23, 436.

⁸⁰ *Reparation for injuries suffered in the service of the United Nations, Advisory Opinion* (ICJ) 174.

⁸¹ GretaL. Rios and Edward. Flahert, 'INTERNATIONAL ORGANIZATION REFORM OR IMPUNITY? IMMUNITY IS THE PROBLEM' (2010) 16:2 LSA Journal of International& Comparative Law 23, 436.

⁸² Okeke (n 20) 27. See, for instance, The UN Charter article 105: "(1) The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfillment of its purposes. (2) Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.

laws like the International Organizations Immunities Act of the United States and the International Organization Act of the United Kingdom.⁸³

Individuals have the right to present cases before competent courts and administrative bodies under the right of access to court. The right implies that there is no way, under any circumstances, to restrict an individual's ability to access the courts. This right is accorded to citizens irrespective of the identity of the parties and the subject matter, including international organizations. In order to enforce substantive rights, the right to access courts has already been made a fundamental tenet of both international and regional human rights instruments.

Conscious of the underlying principles of the right to access court and the jurisdictional immunity of international organizations, there is a clear tension and overlapping. The main point of contention regarding jurisdictional immunity is the possibility of a denial of justice or accountability gap in cases when an international organization refuses to give harmed parties redress in the absence of access to a court or suitable alternative remedies. This is due to the fact that if jurisdictional immunity is claimed and granted, an offended party will always be left without a legal remedy or recourse.

This chapter of the research thesis is dedicated to discussing the manner of balancing these two contending notions under two consecutive headings. Under this background, the first section is devoted to balancing and reconciling the right to access justice with the jurisdictional immunity of international organizations. Section two is devoted to outlining states and international tribunals' experiences in reconciling these two concepts and the remedial approaches they have utilized. This is used to discern the experiences of major legal system principles to identify best practices, harmonization, integration, and informed legal reform. The selected jurisdictions exhibit the most advanced experience in protecting human rights across their legal jurisprudence.

⁸³ *ibid.*

3.2. Balancing the Right to Access to Justice and Jurisdictional Immunity of International Organization

The privileges and immunities that have been granted to international organizations in order to allow them to carry out their functions effectively and independently are directly related to the judicial accountability of international organizations.⁸⁴ International organizations' jurisdictional immunities are typically thought of as tools required to ensure the independence of international organization from their members' unwanted interference in their tasks.⁸⁵ It is commonly acknowledged that governments could improperly interfere with international organizations' operations if they were able to submit them to the jurisdiction of their courts.⁸⁶

The main rationale behind awarding international organization jurisdictional immunity is to protect them from the scrutiny of the member states. Immunities shield international organizations from the interference of their members, but they also shield them from accountability, at least the kind of accountability that involves the judicial scrutiny carried out by national courts.⁸⁷

The right to access to justices has been part and parcel of international and regional human right conventions. The right to access justice holds a distinctive place in the hierarchy of human rights. Consequently, the right to access justice is a crucial part of the system for defending and upholding human rights.⁸⁸ The right serves as both substantive and procedural tools of enquiring the violation of human rights. For instance, as per the ICCPR, article 2(1) and 2(3) the right to access to justice has been succinctly defined. On the same note, the General Comment no. 32 has addressed the importance of the right to access to court briefly.

As per a General Comment no. 32, the right to access to justices must be adequately maintained to ensure that no person is denied the opportunity to pursue justice in terms of the legal process. Moreover, it has to be accorded to all people, regardless of nationality, statelessness, or whatever

⁸⁴ 'The Immunity of the International Organisations' 1
<https://ebrary.net/252902/political_science/immunity_international_organisations> accessed on 24, April 2023.

⁸⁵ Pasquet (n 12) 193.

⁸⁶ *ibid.*

⁸⁷ *ibid* 194.

⁸⁸ Johan Lindén, 'Immunity of International Organizations and the Right of Access to Justice for Individuals' (Uppsala Universitet 2018) 15.

their status, including asylum seekers, refugees, migrant workers, unaccompanied minors, and other people, who may find themselves in the territory or subject to the jurisdiction of the State party, must have access to courts and tribunals and be treated equally before them.⁸⁹

Given the significance of the right to access justice as a means of holding international organizations accountable for human rights breaches, it is essential to prevent a normative conflict between the two without watering down the essence of either value. The right of access to justice nor the jurisdictional immunity of international organizations has attained the character of customary international law such that it is applicable *erga omnes*, it is more difficult to resolve the contradiction.⁹⁰

The methods used by different nations and international tribunals to handle and reconcile these two opposing normative notions vary. According to the practices, there are two techniques that are frequently used. The First one is the no conflict approach. It refers that the concept of immunity is viewed as having restrictions that implicitly determine the scope of the right to a court, therefore immunity cannot possibly clash with such right.⁹¹ The Second one is the reasonable alternative remedy approach. It refers, where plaintiffs lack access to a national court as an alternative remedy to protect their rights, the award of immunity to an international organization may be a violation of their right to a court.⁹²

Without regard to whether the techniques are efficient or not, the tendencies of international organizations in resolving these two debating and disputing continue to be based on the means of dispute they put on under their constituent instrument and headquarters agreement. For instance, under article 105 of the UN charter, the UN is free from every form of legal process, including from national courts and competent national administrative organs, as far as the acts are under the milieu and scope of the UN's functions. On top of that, the provision depicts that, the immunity and privileges of the UN is limited when the immunity and privileges are waived expressly. In actuality, the UN must offer suitable mechanisms of resolving conflicts in which it is a party. However, the range of disputes is restricted to: disputes resulting from contracts or

⁸⁹ 'UN Human Rights Committee (HRC), General Comment No. 32, Article 14, Right to Equality before Courts and Tribunals and To Fair Trial, 23 August 2007, UN Doc. CCPR/C/GC/32, Para. 9.'

⁹⁰ Okeke (n 20) 29.

⁹¹ Pasquet (n 12) 194–195.

⁹² *ibid* 195.

other disagreements of a private law character to which the UN is a party; disputes involving any UN official who, by virtue of his official position, enjoys immunity, if immunity has not been waived by the UN Secretary-General.⁹³

Similarly, article IX Sec. 31 (a) of the convention on the immunities and privileges of the UN specialized agencies provides that:

“Each specialized agency shall make provision for appropriate modes of settlement of: (a) Disputes arising out of contracts or other disputes of private character to which the specialized agency is a party; (b) Disputes involving any official of a specialized agency who by reason of his official position enjoys immunity, if immunity has not been waived in accordance with the provisions of Section 22.”⁹⁴

It has to be noted that, it is unclear in this case what constitutes an adequate manner of compensation for individuals who are hurt. Although article VIII, Section 29 of the convention states that the UN will make provisions for suitable forms of settlement, it does not specifically provide a mechanism to deal with claims brought against officials who have acted in an official capacity and whose immunity has not been waived.⁹⁵ As a result, under the UN framework, the organization offers compensation to claimants who have been hurt by UN personnel who are immune from liability.⁹⁶

Furthermore, due to the absence of judicial remedies for the resolution of conflicts between the organization and other parties, there is less conflict between the organization's enjoyment of immunity and the existence of these other means of dispute resolution.⁹⁷ It is common practice to include a typical arbitration clause in contracts with regard to disputes resulting from those contracts.⁹⁸ It is common practice to include the UNCITRAL Arbitration Rules in contracts. Tort claims may also be resolved through negotiation or mediation without being subject to the host

⁹³ Convention on the Privileges and Immunities of the United Nations 1946 art VIII.section.29.

⁹⁴ Convention on the Privileges and Immunities of the Specialized Agencies. 1947 art IX Sec.31(a).

⁹⁵ *ijar and Gerbi* (n 11) 8.

⁹⁶ *ibid.*

⁹⁷ *ibid.*

⁹⁸ *ibid.*

country's legal system because the definition of "private law character" is so broad as to embrace non-contractual situations.⁹⁹

In general, host states and the international organization should use either special or regular mechanisms to respond to the individual claimant's right to access justice without restriction and in a way that doesn't persist an unwanted grab between the host states and international organization, which aims to protect and enhance organizational autonomy in every way.

3.3. International and National Tribunals Experiences

3.3.1. European Court of Human Rights (Alternative Remedy Approach)

The European Court of Human Rights (hereinafter ECtHR) was established under the European Human Rights Convention that entered into force in August 2021 under Article 19. The court was established to guarantee compliance with the commitments made by the parties to the convention.¹⁰⁰ The convention contained substantive and procedural provisions regarding human rights, including the right to access to court, explained under Article 6 of the convention under the title "a right to a fair trial".¹⁰¹

The ECtHR has entertained the debate between the right to access to court and the jurisdictional immunity of international organization in a different occasion. Most importantly, in 1999 the passed a foundational decision in the case Waite and Kennedy Vs Germany and Beer and Regan Vs Germany regarding the normative contention between the right to access to court and jurisdictional immunity of international organizations.

In the decision, the European Court of Human Rights (ECtHR), has created its own standards to address the conflict between the jurisdictional immunity of international organizations and the right of access to court provided by Article 6(1) of the European Convention on Human Rights

⁹⁹ *ibid.*

¹⁰⁰ 'European Convention on Human Rights' art 19.

¹⁰¹ *ibid* 6 ". "The determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice".

(ECHR).¹⁰² It concluded that giving immunity to international organizations would impair the applicants' right to access a court if they did not have recourse to an alternative remedy.¹⁰³

3.3.1.1. Waite and Kennedy Vs Germany and Beer and Regan Vs Germany.

The applicants Waite and Kennedy were employed by a business to perform services for ESA and were German residents who were British nationals.¹⁰⁴ When the firm told the applicants that their job would end when their contract expired, they filed a lawsuit against ESA before the Darmstadt Labour Court, arguing that they had become ESA's employees as defined by German labour law.¹⁰⁵ The Darmstadt Labour Court ruled that the applicants' action was inadmissible after ESA invoked its immunity under its fundamental instrument.¹⁰⁶

Both the German Federal Labour Court and the Frankfurt /Main Labour Appellate Court dismissed the applicants' appeal.¹⁰⁷ The applicants subsequently filed a complaint with the European Commission of Human Rights, alleging that their right to access a court for the resolution of their dispute with ESA over a matter governed by German labour law had been violated.¹⁰⁸ The Commission rejected their request and forwarded the matter to the ECtHR.¹⁰⁹ The right of access to the courts guaranteed by Article 6(1) of the Convention, according to the ECtHR, "is not absolute, but may be subject to limitations; these are permitted by implication since the right of access by its very nature calls for regulation by the State."¹¹⁰

The ECtHR argued that to decide whether a grant of immunity from an international organization is legal, according to Article 6, one should take into account whether the petitioners have access

¹⁰² Okeke (n 20) 12.

¹⁰³ Pasquet (n 12) 196.

¹⁰⁴ The European Space Agency is an international organization established under the Convention for the Establishment of a European Space Agency. "The European Space Agency ("ESA") with headquarters in Paris, formed out of the European Space Research Organisation ("ESRO") and the European Organisation for the Development and Construction of Space Vehicle Launchers ("ELDO"), was established under the Convention for the Establishment of a European Space Agency ("ESA Convention") of 30 May 1975 (United Nations Treaty Series 1983, vol. 1297, I – no. 21524)".

¹⁰⁵ *Waite and Kennedy v Germany* [1999] ECtHR [GC] 26083/94 [5–9].

¹⁰⁶ *ibid* 8.

¹⁰⁷ *ibid* 11.

¹⁰⁸ *ibid* 29–30.

¹⁰⁹ 'Waite-and-Kennedy-v.-Germany' (n 95).

¹¹⁰ *Waite and Kennedy v. Germany* (n 105) para 43.

to a reasonable alternative method to preserve their rights.¹¹¹ Even if the international organizations does provide a means to settle the grievances of individuals, at least it should ensure the availability of a reasonable alternative method.

The decision passed by the ECtHR was one of the innovative and even for some time has decreased the tension between the right to access court and the counterpart jurisdictional immunity of international organization particularity in issues where European countries citizens are the party to the dispute. Moreover, it did away with the notion that international organization immunity was "unaffected by the adoption of article 6 (1) of the European Convention of Human Rights" and opened the door to a human rights exception to the immunity of international organizations.¹¹² Surprisingly, it implied that the use of immunities was not always permitted by Article 6 (1) ECHR and can even become excessive if the claimants were denied access to a "reasonable" alternative remedy.¹¹³

3.3.2. US Courts

In 1945, the United States passed the International Organizations Immunities Act in place of ratifying the UN Treaty on Privileges and Immunities, which many in the U.S. Congress believed went far beyond what was required or appropriate for international organizations.¹¹⁴ According to this law, organizations have "the same immunity from suit and access to all forms of judicial process as are enjoyed by foreign governments."¹¹⁵

The US courts still applies the absolute immunity approach regarding the jurisdictional immunity of international organization, even though it tends to incorporate restrictive approach later on.¹¹⁶ In which it asserts that whenever there is a dispute the international organizations itself should avail an alternative remedies mechanism in cases in which they rely on their immunity from

¹¹¹ 'Waite-and-Kennedy-v.-Germany' para 58 <<https://iilj.org/wp-content/uploads/2016/08/Waite-and-Kennedy-v.-Germany.pdf>> accessed on 22 April, 2023.

¹¹² Pasquet (n 12) 196.

¹¹³ *ibid.*

¹¹⁴ GretaL. Rios and Edward P. Flahert (n 71) 438.

¹¹⁵ 'U.S.C. Title 22 - FOREIGN RELATIONS AND INTERCOURSE' art 2(b), ch. 652, 59 Stat. 669 (1945). <<https://www.govinfo.gov/content/pkg/USCODE-2011-title22/html/USCODE-2011-title22-chap7-subchapXVIII-sec288.htm>> accessed on 23 April, 2023.

¹¹⁶ GretaL. Rios and Edward P. Flahert (n 83) 438.

jurisdiction.¹¹⁷ However, with the enactment of the Foreign Sovereign Immunities Act (FSIA) in 1976, the United States adopted the restrictive theory of foreign governments' immunities, which restricted their immunity to acts *Dejure imperii*.¹¹⁸

The Fifth and Fourteenth Amendments of the US Constitution specifically address the right of access to the courts in US law. No one shall "be deprived of life, liberty, or property without due process of law," according to this statement.¹¹⁹ The ability of courts to dismiss an action without giving a party the chance to be heard on the merits is thus constitutionally limited by these laws.¹²⁰

Let's examine one well-known case in order to grasp the genuine strategy used by the US courts in the current case in order to comprehend US case law addressing the dispute between the right to access the courts and the jurisdictional immunity of international organizations.

3.3.2.1. Haiti Cholera: George Vs United Nation

Cholera first surfaced in Haiti nearly a century ago, ten months after the terrible earthquake of January 12, 2010. On October 22nd, 2010, the first instances were officially confirmed.¹²¹ As of April 17th, 2011, there have been 285,931 cases of cholera reported, resulting in 154,041 (54.0%) hospitalizations and 4,870 (1.7%) fatalities.¹²² The system of black-water disposal from latrines at a base of the U.N. Mission in Haiti (MINUSTAH), where Nepali forces were stationed, was probably certainly the root of the cholera outbreak in Haiti.¹²³

Over 5,000 people who were impacted by the outbreak filed a claim with the UN in November 2011 for compensation.¹²⁴ The plaintiffs accused the UN of acting recklessly and with great

¹¹⁷ CHANAKA WICKREMASINGHE, 'THE JURISDICTIONAL IMMUNITIES OF INTERNATIONAL ORGANISATIONS AND THEIR OFFICIALS' (PhD Thesis, LONDON SCHOOL OF ECONOMICS AND POLITICAL SCIENCE 2003) 81.

¹¹⁸ Davis Graham & Stubbs LLP, A Primer on Foreign Sovereign Immunity, WORLD SERVICES GROUP, Mar. 8, 2006, http://www.hg.org/articles/article_1223.html (last visited on February 20, 2010). cited in GretaL. Rios andEdwardP. Flahert (n 71) 438.

¹¹⁹ FOURTEENTH AMENDMENT RIGHTS GUARANTEED PRIVILEGES AND IMMUNITIES OF CITIZENSHIP, DUE PROCESS AND EQUAL PROTECTION 1868 art 1.

¹²⁰ GretaL. Rios and Edward P. Flahert (n 83) 443.

¹²¹ Dr Alejandro Cravioto, 'Independent Panel of Experts on the Cholera Outbreak in Haiti' 8.

¹²² *ibid*.

¹²³ *ibid* 14.

¹²⁴ *ibid*.

carelessness. The UN responded to the claim with a statement in February 2013. The Organization claimed that the claim was "not receivable" in accordance with article VIII, section 29 of the General Convention since it was of a public or policy law nature.¹²⁵

Article VIII section 29 of the General convention holds the mode of settlement whenever there is a dispute or the enshrined immunity is waived under article VIII section eight as follows:

“The United Nations shall make provisions for appropriate modes of settlement of: (a) Disputes arising out of contracts or other disputes of a private law character to which the United Nations is a party; (ft) Disputes involving any official of the United Nations who by reason of his official position enjoys immunity, if immunity has not been waived by the Secretary-General”¹²⁶

US or Haitian citizens who themselves or their family died from the cholera pandemic or became ill filed a lawsuit against the UN in US courts, claiming the defendant was to blame for the disease.¹²⁷ Additionally, the plaintiffs claimed that the Organization had violated its obligation under article VIII, section 29 of the General Convention by failing to establish any dispute process to settle the claims.¹²⁸ The petition calls for greater water cleanliness, a public admission of guilt, and recompense for the victims (\$50,000 for injured and \$100,000 for death).¹²⁹

Therefore, immunity for the Organization should not be given. The US District Court rejected the claim in 2015 and upheld the Organization's complete immunity.¹³⁰ The court specifically ruled that nothing in the General Convention's linguistic interpretation indicated that the absolute protection guaranteed by article VII, section 2, is dependent on the alternative dispute resolution mechanisms put out by the UN. It was decided that the provision's language was unambiguous and unequivocal, and that there was no opportunity for interpretation that would limit the Organization's offer of complete immunity.¹³¹

¹²⁵ *ibid.*

¹²⁶ Convention on the Privileges and Immunities of the United Nations art VIII.section.29.

¹²⁷ Agnes Rydberg, ‘Immunity of the United Nations Vs Right to Access Justice: Addressing the Remedy Gap’ 20.

¹²⁸ *ibid.*

¹²⁹ Boon (n 60) 20.

¹³⁰ *Georges Vs United Nations* (United States Court of Appeals for the Second Circuit).

¹³¹ *ibid.*

Although the Court of Appeals considered the issue from scratch, it upheld the lower court's conclusions after concluding that the Organization's compliance with its obligations under article VIII, section 29 of the General Convention is not a prerequisite to its immunity under article II, section 2.¹³²

3.3.3. Netherland Courts

3.3.3.1. Stichting Mothers of Srebrenica and Others Vs the Netherlands -Dutch

The horrific events of the Bosnia and Herzegovina war between 1992 and 1995 gave rise to the case.¹³³ Ten Bosnian and Herzegovina citizens who were the surviving relatives of those killed in the slaughter as well as a foundation established under Dutch law on behalf of those affected by the Srebrenica slaughter were the petitioners.¹³⁴ The UN was unable to stop the 1995 genocide of around 7,600 Muslim civilians in Srebrenica. Despite being stationed to protect a secure sector, Dutch UN peacekeeping troops were unable to stop the Bosnian Serb forces. It was argued that the Organization's decision to send a small military detachment without using air attacks violated its mission.¹³⁵

The 'Mothers of Srebrenica' organization filed a lawsuit in 2007 in The Hague District Court, requesting monetary damages,¹³⁶ arguing that Article 6 of the ECHR and the *jus cogens* ban of genocide had superseded the UN's jurisdictional immunity.¹³⁷ The Regional Court rejected the UN's request for jurisdiction and observed that, the United Nations was established before the Convention went into effect.¹³⁸

¹³² *ibid.*

¹³³ UNGA, 'Report of the Secretary-General Pursuant to General Assembly Resolution 53/54, The Fall of Srebrenica' (United Nations 15 November) A/54/548.

¹³⁴ Okeke (n 20) 16.

¹³⁵ UNGA (n 133).

¹³⁶ '20120420T023627-Decision District Court the Hague 10 July 2008 (English). Pdf' para 2.2 <[https://www.asser.nl/upload/documents/20120420T023627-Decision%20District%20Court%20The%20Hague%2010%20July%202008%20\(English\).pdf](https://www.asser.nl/upload/documents/20120420T023627-Decision%20District%20Court%20The%20Hague%2010%20July%202008%20(English).pdf)> accessed on 23 April, 2023.

¹³⁷ European Court of Human rights, 'THIRD SECTION DECISION Application No. 65542/12 STICHTING MOTHERS OF SREBRENICA AND OTHERS against the Netherlands' para 54.

¹³⁸ *ibid* 64.

The applicant appealed their cases to Court of Appeals¹³⁹ by arguing that insofar as it was pertinent to the case before the Court, they contended that the State's reliance on the UN's total immunity went hand in hand with its claim that only the UN was to blame for the failure to stop the genocide represented by the Srebrenica massacre. Accepting that argument would mean denying the living relatives of the massacre victims' access to a court, which is illegal, cruel, and immoral.¹⁴⁰ Finally, The Hague's Court of Appeals upheld the Regional Court's decision after the applicants filed an appeal there.

The petitioners subsequently filed an appeal with the Supreme Court, which ruled that the UN could not be called before the national courts of its member States in accordance with the General Convention and the UN Charter.¹⁴¹ The applicants finally brought their case to the Supreme Court by being dissatisfied with the decision of the court of appeal. In the applicants' opinion, given the interrelationship between the two cases, the Court of Appeal's difference between proceedings against the Netherlands State and against the United Nations was unjustified. If it were determined that the United Nations had immunity in this case, the Netherlands State would be able to claim that its actions were justified or attributable to the United Nations and escape accountability.¹⁴²

The Supreme Court passed the last decision on the case by mentioning that; the United Nations' immunity is based on Article 105 of the United Nations Charter and Article II, section 2 of the Convention, which should be distinguished from the immunity of its functionaries and of experts performing missions for it. The Court of Appeal correctly interpreted the latter clause, which expands on Article 105 Section 1 of the Charter, by applying Article 31 of the Vienna Convention on the Law of Treaties. This clause grants the United Nations the most comprehensive immunity from jurisdiction, as it prevents it from being called before any domestic court of the nations that are parties to the Convention on the Privileges and Immunities of the United Nations.¹⁴³

¹³⁹ *ibid* 72.

¹⁴⁰ *ibid* 73.

¹⁴¹ *ibid* 77–81.

¹⁴² *ibid* 83.

¹⁴³ *ibid* 94(4.2).

CHAPTER FOUR

JURISDICTIONAL IMMUNITY OF INTERNATIONAL ORGANIZATIONS AND VICTIMS RIGHT TO ACCESS TO JUSTICE IN ETHIOPIA

4.1. Introduction

The jurisdictional immunity of international organizations is a bottleneck to the victim's access to justice in Ethiopia. The victims are denied their right to present their grievances to either the regular court or another administrative organ. The process is filled with a myriad of practical and legal hurdles. The victims have very few options for presenting their claims before a regular court that may render conclusive rulings in cases where international organizations are respondents. Indeed, the system contradicts the principles of human rights commitments on the right to access to justice, which Ethiopia and IOs are required to abide by, as it lacks legal and procedural validity.

In light of this, it is vital to articulate the specific violations of the victims' and all other individuals' right to access justice, as well as to identify the most pressing impediments to the implementation of this right in Ethiopia.

The next sections of the research thesis chapter are dedicated to analyzing and assessing the jurisdictional immunity of international organizations and victim's right to access justice from the touchstones of real-life cases presented to the MoFA's Arbitration Affairs Directorate and courts. Henceforth, the researcher evaluated the existing remedial approach to determine whether or not it was sufficient to respond to the concerns of the victims and align with the right to access justice which is an anchor principle of human rights conventions.

4.2. The Right to Access to Justice under Ethiopian Legal Regime

The right to access justice is the ability of every group of citizens to present their case, either individually or collectively. Content-wise, the right to access justice entails the process of enforcing the alleged cases, which must be fair, and the designated organ, whether a court of law

or a quasi-judicial authority, must be impartial. This right is clearly provided under Ethiopian municipal laws as a procedural as well as substantive right.

The 1995 FDRE Constitution defined the term right to access to justice under Article 37 of the Constitution. The constitution describes the right to access justice as follows: "Everyone has the right to bring a justiciable matter before, and to obtain a decision or judgment from, a court of law or any other competent body with judicial power."¹⁴⁴ The provision admits the right of everyone to bring their cases before courts of law and any other organs, including administrative organs with judicial power. The provisions limited the cases that could be brought before the courts and administrative organs to only justiciable matters.¹⁴⁵

Ethiopia has also ratified the Bill of Rights and openly acknowledged the right to access justice. In which, according to the hierarchical structure of Ethiopian law, all of them become the law of the land.¹⁴⁶ In addition, the fundamental freedoms guaranteed by Chapter three of the Constitution must be interpreted in accordance with the tenets of the Universal Declaration of Human Rights, the International Covenants on Human Rights, and other international agreements ratified by Ethiopia.¹⁴⁷

As part of realizing the right to access justice vividly mentioned under the FDRE Constitution and international human rights instruments ratified by Ethiopia and rights adopted by domestic organs, the FDRE constitution has established two tiers of courts at the federal and regional levels. As per the provision of the constitution, Article 78 "...The House of Peoples' Representatives may, by two-thirds majority vote, establish nationwide or in some parts of the country only, the Federal High Court and First-Instance Courts it deems necessary".¹⁴⁸ On the same provision it depicted the establishment of courts by regional states. It reads as follows: "States shall establish State Supreme, High and First Instance Courts".¹⁴⁹ On the same provision,

¹⁴⁴ FDRE Constitution 1995 art 37.

¹⁴⁵ Justiciability refers to the ability to bring legal action and receive decision from an independent and impartial body, is one of the main mechanisms for enforcement of human rights in general. See, May, Christopher N.; Ides, Allan, 'Constitutional Law: National Power and Federalism' 97–99.

¹⁴⁶ FDRE Constitution art 9(4).

¹⁴⁷ *ibid* 13(2).

¹⁴⁸ *ibid* 78(2).

¹⁴⁹ *ibid* 78(3).

the constitution depicts the establishment and presence of institutions that could have quasi-judicial power like that of regular courts.¹⁵⁰

The Federal Court Establishment Proclamation no.1234/2021 has also referred the right to access to justice defined in the FDRE Constitution under the preamble of the proclamation.¹⁵¹ On the same foot, the proclamation clearly stipulated the right to access to justice under the preamble part. “It is necessary to establish a system in which Federal Courts play an inimitable role in enforcing the rules of law and, protection of human and democratic rights”.¹⁵² The proclamation has briefly described the role of the right to access to justice than the FDRE Constitution in its role in executing and implementing human rights whenever it is violated.

The proclamation has also addressed the right to access justice accorded to all citizens whenever both municipal and international laws are violated by individuals, states, and non-state actors. To this end, the federal courts, including the first, high, and supreme courts, entertain cases of constitutional law, federal laws, and international laws ratified by Ethiopia, including international human rights conventions ratified by Ethiopia, and that has been accorded the right to access to justice conspicuously.¹⁵³ Moreover, the proclamation has expressed its regard for the right to access justice by imposing an obligation on federal courts to interpret provisions, including the right to access justice, following international human rights ratified by Ethiopia.¹⁵⁴

The right to access justice is expressly recognized in the Constitution, and its numerous elements are included in several areas of the Constitution. A number of global and regional human rights instruments that Ethiopia has ratified also provide the right to access to justice. In general, both the FDRE constitution and the newly approved federal court establishment proclamation have explicitly addressed the right to access to justice. Furthermore, regional and administrative organs have recognized the FDRE constitution's right to access justice.

¹⁵⁰ *ibid* 78(4).

¹⁵¹ Federal Courts Proclamation 1234-2013. 2021 para 2.

¹⁵² *ibid* 3.

¹⁵³ *ibid* 3(1)(a).

¹⁵⁴ *ibid* 3(2).

4.3. Jurisdictional Immunity of International Organization and the Existing Remedial Approaches

Ethiopia's capital, Addis Ababa, is the headquarters of several international organizations; it is, in fact, a hub of the international community. Being a hub for international organizations has allowed Ethiopia and its people to interact with the international community in a variety of ways. The two known IOs in Addis Ababa are the AU and the United Nations Economic Commission for Africa (UNECA). And all of these international organizations have jurisdictional immunity, which means they are not subject to scrutiny by national or domestic courts.

To ensure that people's rights are not jeopardized by the IOs residing in Ethiopia under the guise of jurisdictional immunity, the federal government of Ethiopia delegated the responsibility for overseeing the implementation of international human rights and subsequent treaties which Ethiopia has ratified and adhered into to the MoFA.¹⁵⁵ According to Article 39 of the proclamation, which defines the powers and duties of the FDRE's executive organs, the ministry shall ensure, without prejudice to the powers entrusted to other organs, the enforcement of rights and obligations arising from treaties signed by the Ethiopian government.¹⁵⁶

In light of this, Ethiopia's Ministry of Foreign Affairs has established a Protocol Affairs General Directorate and an Arbitration Affairs Directorate, both of which are tasked with hearing cases presented by victims whenever there is a civil dispute with the IOs.¹⁵⁷ This mandate has also been stipulated by the House of Federation ruling in a case brought before Council of Constitutional Inquiry (CCI).

The MoFA's, Arbitration Affairs Directorate has the authority to oversee and mediate cases involving IOs-conflicted jurisdictional immunities.¹⁵⁸ In addition, the directorate is distended to provide justice to victims if there is a dispute with the IOs and to ensure access to justice.¹⁵⁹ The

¹⁵⁵ MoFA, 'በኢትዮጵያውያንና በባለልዩ መብት እና ከሌላ ተጠቃሚዎች መካከል ለሚነሱ አለመግባባቶች የአቤቱታ አቀራረብ፣ የድርድር፣ የውሳኔ አሰጣጥ እና አፈጻጸም ረቂቅ የሥነ-ሥርዓት መመሪያ በኢትዮጵያ ፌዴራላዊ ዲሞክራሲያዊ ሪፐብሊክ' (2014)3.

¹⁵⁶ Definition of Powers and Duties of the Executive Organs Proclamation No. 1263/2021. 2021 art. 39.

¹⁵⁷ MoFA (n 158) 3.

¹⁵⁸ *ibid.*

¹⁵⁹ *ibid* 4.

directorate has jurisdiction over civil matters such as family, labor, tort, administrative, and petty offenses. As per the interview conducted with a lawyer working in the MoFA, the directorate has settled around 72 cases in the 2022 budget year.¹⁶⁰ He also stated that the number represents the center's improvement in settling cases compared to previous numbers. Despite the large number of cases submitted to the center, only a few were able to receive decisions that the IOs was required to follow.

The mediation process began when a complainant submitted his/her written application to the mediation section. The written application must be in English, and the claimant must specify the cause of action that gave birth to his/her claim, the extent of injury experienced, and attach proof to establish his case.¹⁶¹ After receiving complaints, the mediator evaluates the claim and evidence and then writes to the relevant IOs to respond to the matter.¹⁶² Most of the time, IOs are unwilling to respond in writing; instead, they prefer to respond orally. Furthermore, apart from monetary claims, every complainant explains how their rights are violated in their relationship with diplomatic communities.

The directorate does not have an appeal system; rather, when the IOs fails to accept the mediation roles of the directorate and the victim is unsatisfied with the outcome, the directorate would raise the concern in a joint meeting that would be held between the IOs and MoFA to solve the encumbrance. Following that, there might be a chance for the IOs to accept the role, and the victim would be satisfied. If it is still failing again due to disagreement, the minister of foreign affairs and high officials will decide the fate of the cases; however, the content of the decision is not clear. In addition, there are also cases where victims bring their cases to prime ministerial offices occasionally.

The Directorate, though established with its own structure quite recently, does not have a full-fledged legal environment to operate in. According to Ato Gemmechu Girma, a private legal consultant, when the mediation section sends a summons to the concerned IOS, the first step is to solve the dispute through negotiation; if that fails and parties cannot reach an agreement, the

¹⁶⁰ Interview with Abel Mamo, 'Interview' (2023).

¹⁶¹ MoFA (n 158) arts 5 and 6.

¹⁶² *ibid* 12.

mediation section experts will take on the umpire role in settling the dispute.¹⁶³ As a result, the priority is to settle through the parties themselves in the first place; otherwise, mediation will be unnecessary if the opposing parties settle their dispute. Opposing parties, however, do not always reach an agreement. When the two parties are unable to reach an amicable resolution, the mediation department will draw up a timetable to mediate the parties.

4.4. Challenges in the Implementation of Jurisdictional Immunities of International Organizations in Ethiopia

I. Legal and Structural Challenges

The Arbitration Affairs Directorate lacks a full-fledged directive and procedure for resolving matters involving the IOs with the victims. As a gap filling, the directorate uses Ethiopian civil procedure code but is not as formal. Due to the absence of procedural law, the IOs has repeatedly inquired about the legitimacy of the summons.¹⁶⁴ The lack has been making the IOs to disregard and reject the victims' summons and allegations. As a result, the directorate shall develop a procedure and rules. This has the value of ensuring the MoFA's duty to ensure victims' access to justice. According to Ato Abel Mamo, the Directorate has only three experts: the Director, the Arbitration Affair Counselor, and the Arbitration Affair Officer.¹⁶⁵ Given the large number of cases submitted, the intricacy of the cases, and the sensitive nature of the subject, it is critical that the directorate add experts in the Directorate. Because of the limited number of professionals, matters brought to the office would be ignored, given scant consideration, and even withdrawn. A lengthy appointment will render the patients helpless. According to Ato Abel, the directorate's limited size shows that the ministry's attention to the matter is low.¹⁶⁶

II. Absence of Immunity Act

There is no immunity act in Ethiopia. According to Ato Gemmechu Girma, the absence of Immunity Act is the pillar factor for hindering victim's access to justice.¹⁶⁷ The Ethiopian

¹⁶³ Interview with Gemmechu Girma (2023).

¹⁶⁴ *ibid.*

¹⁶⁵ Interview with Abel Mamo (n 163).

¹⁶⁶ *ibid.*

¹⁶⁷ Interview with Gemmechu Girma (n 166).

Ministry of Foreign Affairs has recently attempted to develop a draft proclamation on immunities, but it has not yet been approved for adoption by HPR. Looking at the experience of other countries, such as Kenya and South Africa, we can see that they have immunity legislation for their diplomatic missions. Furthermore, the lack of an immunity legislation has caused IOs to be hesitant and arbitrarily violate victims' right to access justice. If Ethiopia had implemented the Immunity Act IOs, as Kenya has, they would be aware of their rights and responsibilities, as well as the threshold of jurisdictional immunity in Ethiopia.

III. Lack of Awareness

One of the difficulties in enforcing victims' rights is a general lack of awareness. Not only do victims lack understanding, but practically all justice systems lack appropriate know-how and jurisdictional protection from IOs. Due to a lack of understanding, victims frequently submit their cases to the directorate after exhausting all other avenues and visiting regular courts, and the court dismisses their claims due to jurisdictional immunity. This was the reason IOs did not appear in the directorate summons. This was all caused by victims' lack of knowledge about where to bring their cases. When the issue was adjudicated in court, even the victims consented to the minimum fees that they had denied.

IV. Absence of a Standard Contract

The lack of a standard contract that clearly describes the parties' rights and duties assists and facilitates parties in resolving disputes and improving mutual understanding. Even with their contractual independence, the parties must specify terms properly. One of the challenges in implementing jurisdictional immunities for IOs and victims' rights to obtain justice is the lack of a uniform contract.¹⁶⁸ It is usual to find a contractual provision that imposes additional obligations on the parties. As a result, a standard contract must be prepared for this activity, and the contract's provisions must be explicitly stated.

¹⁶⁸ *ibid.*

V. Accessibility Challenge

One of the problems to safeguarding victim rights to justice is the accessibility of the mediation process. According to Ato Gemmechu Girma, because the mediation procedure is only available at the Ministry of Foreign Affairs' main office in Addis Ababa, it is difficult for individual claimants, particularly those from different parts of the nation, to access. As a result, victims outside of Addis Ababa are exposed to financial expenses and must employ consultants at a considerable cost.

4.5. Case Study

In Ethiopia, there are around 75 IOs, all of which have jurisdictional immunity.¹⁶⁹ Pragmatically, victims of jurisdictional immunity in Ethiopia usually file a complaint with the Ministry. In addition, certain cases have been filed with ordinary courts, the CCI, the HPR, office of prime minister, and other administrative offices. The following are recent cases and pending cases brought before these organs that highlight the scope and depth of jurisdictional immunity misuse and how much the right to access to justice is jeopardized. To protect either party's confidentiality, the complete names of both victims and the IOs are not disclosed; however the cases were obtained from MoFA arbitration affairs directorate.

I. L.S Vs IO

Mr. L.S., an employee of IO, was injured while working as a driver. Mr. L.S. suffered permanent disabilities as a result of the car accident, and this has been attested to and recognized by the hospital boards where he had a diagnosis. Mr. L.S. claimed damages for his permanent disability, but the IO responded that the mandate to pay damages is for the insurance company. Subsequently, the insurance company was sought for damages since the IO's report of the injury had not been reported on time, and the IO responded that we had reported the incident to the insurance company on time. When the case was later reviewed, the IO was found to have failed to disclose the injury to the insurance company on time. Despite the fact that the MoFA's Arbitration Section recommended that the IO should pay the victim's damages, nothing has been paid to the victim in nine years and is still pending.

¹⁶⁹ *ibid.*

II. M.H. Vs IO

Mr. M.H. suffered injuries from the IO's driver, and the driver's whereabouts were unknown after the accident. Mr. M.H. spent a long period of time recuperating from the accident. The traffic police report revealed that the driver had contributed to the accident and was fully responsible for it. Following the recovery, the victim reported the situation to the MoFA's Arbitration Division; however, the IO did not appear as summoned by the MoFA. Despite the fact that the arbitration section had contacted the IO several times, nothing was done for the victim. The matter was eventually referred to the MoFA's upper organ structure. Though the case is on the table of MoFA's higher officials, it has been pending for two years.

III. H.G. Vs IO

Mr. H.G. was an IO employee. Mr. H.G. alleged that the IO fired me before I reached the legal retirement age. Mr. H.G. did their best and requested the IO on the subject numerous times, but no positive response was received from the IO. Finally, Mr. H.G. presented their case to the MoFA's arbitration section. MoFA determined and investigated the case by conducting a thorough investigation of the employment contract; it discovered that the contract would be governed by Ethiopian labor law and the IOS law. According to Ethiopian labor law, the retirement age is 60 years, although the IOs law is 65 years.

The victims have said that the IO's retirement age is 65, which is legitimate and governs my working relationship with the IO. The IO claimed that Ethiopian labor law has the potential to regulate and that the retirement age of 60 is appropriate. The lawsuit was stuck in this back-and-forth for two years. The main source of contention was the employment contract's ambiguous provisions.

IV. L.K. Vs IO

Mr. L.K. served as a security guard for the IO for a long time. His employment with the IO was terminated while he was working in the above mentioned capacity. The reason for the termination of the employment contract was that he had stolen the IO's property from where he works. The situation was reported to the police, who investigated and determined that Mr. L.K. did not commit the alleged offense. As the case was already submitted to the Ministry of Justice

for prosecution, the prosecutor office closed the case after the police investigation determined that Mr. L.K. did not commit the crime. The report was eventually referred to the Arbitration Affairs Directorate, who intervened, and the IO eventually paid compensation to Mr. L.K. for the unlawful termination of his employment contract.

4.5.1. General Remarks from the Cases

The above cases offer specific instances of how the IO's jurisdictional immunity has violated citizens' rights to access justice. Even if the IOs also infringe against the rights of victims in other situations, they severely violate citizens' rights in civil matters involving employment and torts. According to the data gathered from the cases, the primary cause of the egregious violation stems from victims' not enough knowledge of their relationship with IOs, the lack of a national immunity act, a shortage of personnel and funding, and the justice sector's, including courts', lack of understanding of the IOs' jurisdictional immunity.

In order to avert the violation and guarantee victims' access to justice, MoFA should acknowledge the violation, urge Ethiopia's government to enact the Immunity Act, and offer legal assistance to individuals connected to the IOs and justice sectors in various regions of the nation regarding the application of IOs jurisdictional immunity in a dispute with Ethiopians.

4.6. The Need for Revisiting the Existing Remedial Approach

The right to access justice is a means of converting substantive human rights into an enforced and workable right. International and regional human rights instruments enshrine the right to access justice as a bedrock principle. The principle obliges states to take measures that support the full applicability and enforcement of substantive rights. According to the Universal Declaration of Human Rights, which is one of the international human rights that have attained the status of customary international law, everyone has the right to an effective remedy by competent national tribunals for acts violating the fundamental rights granted to him by the constitution or by law, and the mere existence of rights is meaningless unless there is an effective remedy for violations of those rights.

Ethiopia has also ratified a plethora of instruments that ensure the right of access to justice for its citizens is realized. Nevertheless, ratifying a bundle of human rights laws is nothing until the

means of enforcing those rights are entrenched. According to the case studies, the IOs in Ethiopia is flagrantly violating victims' rights to access justice under the pretense of jurisdictional immunity.

The acts of repudiating victims' access to justice resulted from a variety of reasons, including but not limited to the Absence of Immunity Act, victims' lack of awareness, little knowledge of the domestic justice machinery regarding jurisdictional immunity of IOs, accessibility issues, and structural flaws within the existing directorate. These all-studied issues hampered victims' fundamental rights to access justice, which were granted by a multi-international human rights instrument.

The IOs's jurisdictional immunity can help the IOs achieve the goals for which it was established. Nonetheless, as the cases in the preceding sections show, they violate victims' fundamental human rights in host countries. Ethiopia, as a country, has a duty to defend all citizens' human rights and must act accordingly by implementing pillar actions. For example, an immunity statute that recognizes victims' right to seek justice while simultaneously having the capacity to compel the IOS to appear is required. As a stopgap measure until the HPR adopts the immunity legislation, the MoFA must maintain regular contact with the IOS to ensure victims' rights to justice are protected.

Furthermore, despite the fact that the IOs is sufficient to grasp the right of individuals to access justice, MoFA must strengthen and build the existing alternative remedial system. As per the case studies, the Directorate falls short of fulfilling victims' rights to access justice, which is inadequate. As far as possible, the directorate has to build a mechanism that compels IOs to present and defend themselves in the MoFA's mediation mechanism. In the same vein, MoFA should revisit headquarter agreements to align with commitments Ethiopia entered into as per human rights conventions and domestic laws. This includes communicating both formally and informally with the IOs on how to compensate victims of the IOs in accordance with international and headquarters agreements.

In addition, the government of Ethiopia through considering the victims as a vulnerable and disadvantaged group must have to avail legal aid and counsel from qualified attorneys such as

public defender services and pro bono representation, laypeople with legal training (such as paralegals), or both (such as "alternative lawyering" and "developmental legal aid") in order to initiate and pursue justice procedures. This assists the victims to acquire a nuanced understanding on jurisdictional immunity of IOs and their rights and provides them a well-versed in the procedures for resolving complaints with the IOs.

One of the areas where the victim's rights to access justice are violated is the employment relationship. This flaw is directly related to the victims' lack of comprehension of the conditions of their job contract. Workers must understand their rights and responsibilities when dealing with the IOs, as well as where to file complaints. To curtail the violations encountered by the victims in this area, MoFA should train IO employees as part of its responsibility to ensure the enforcement of rights and duties deriving from treaties signed by the Ethiopian government. Besides, as part of its duty to protect the rights of citizen, the government of Ethiopia shall take all reasonable steps to make the laws that have been approved and passed by municipal bodies accessible to the general public. Making the general public more aware of the law will enable people to use their rights in the proper manner.

The question of identifying whether Ethiopian or IOs labor rules apply in administering the employment relationship has been explicitly established under current and amended Ethiopian laws. According to the proclamation, employment relations between Ethiopian nationals and foreign diplomatic missions or international organizations operating on Ethiopian territory shall be governed by this proclamation unless the Council of Ministers decides otherwise by regulation or an international agreement to which Ethiopia is a signatory provides otherwise.¹⁷⁰

In this regard, the Labour Proclamation provides two possibilities for exclusion, in the absence of which the relationship is governed by the Labour Proclamation. The first alternative is for the Ethiopian government and foreign organizations to reach an international agreement on how employees will be governed. The second alternative is for the Council of Ministers to issue relevant regulations. The Council of Ministers has not yet issued such a regulation. In practice, the first option has come to fruition.

¹⁷⁰ Labour Proclamation No. 1156/2019 art 3(3)(a).

According to Ministry of Foreign Affairs staff, when diplomatic missions or international organizations begin operations in Ethiopia, they sign "Host Country Agreements" with the Ministry of Foreign Affairs.¹⁷¹ This agreement outlines their rights, responsibilities, privileges, and immunities while operating in Ethiopia. Nonetheless, they are required under the agreements to follow Ethiopian laws. This indicates that they must follow the provisions of the Labour Law in their employment relationships.

Nevertheless, the IOs was denying this clear stipulation in the case studies for the victims. Besides, the absence of regulations on the employment relationship of Ethiopians working in IOs paved the way for IOs to violate the rights of their employees. Thus, in order to reduce abuse and raise awareness, the ministry's council must adopt a regulation and notify the public about its commitment to defending workers' labor rights.

The absence of immunity Act in Ethiopia rendered victims unable to present their grievances to the IOs. The cases that took nine years due to the car accident presuppose that the absence amounts to denial of basic rights for a longer period of time. The IOs themselves are aware of the absence and ignore the allegation brought to their offices and the mediation section of the MoFA. The MoFA should utilize strong methods such as arresting the offender IO workers after exhausting all the available methods as part of ensuring the victims right to access justice.

Despite the fact that this proposal would reduce the immunity granted to the IOs through a slew of accords, it would serve as a deterrent and a show of the government's commitment to the promotion and preservation of human rights. As long as they are ratified by the same agency, there is no hierarchy among international laws; even the human rights pledge carries greater weight than the agreements engaged into with the IOs.

¹⁷¹ Interview with Abel Mamo (n 163).

CHAPTER FIVE

CONCLUSION AND RECOMENDATION

The thesis's four preceding chapters explored and evaluated the right to access to justice for victims of foreign organizations with jurisdictional immunity in Ethiopia. The fifth chapter of the thesis completed and approved the results gained. The first section of Chapter five came to an end. The second half of the chapter presented a suggestion. A recommendation was made with the goal of guaranteeing victims' right to justice without undermining the fundamental concepts of international organizations' jurisdictional immunity.

5.1. Conclusion

International organizations' jurisdictional immunity may allow IOs to carry out their functions and objectives. Similarly, it protects international organizations from their members' meddling, but it also protects them from accountability, at least the kind of accountability that includes judicial review by national courts. The immunity was granted to allow IOs to carry out their duties without being subjected to the scrutiny of host-state courts in the event of a dispute.

A variety of theories have been developed to support this assertion through the development of jurisdictional immunity for IOs; however, the functional theory holds that jurisdictional immunity exists solely to protect IOs from the scrutiny of the host country and focuses on the mandates granted to them through the instrumentalities of the founding and subsequent documents.

The immunity granted to the IOs paves the stage for the violation of victims' access to justice in cases involving the IOs. Despite the fact that each IOs has its own dispute resolution systems, they arbitrarily violate Ethiopian citizens' access to justice in a variety of ways. Notably, by failing to compensate victims, failing to appear before the MoFA's existing redressal channels, and failing to follow domestic laws.

As a result, the IOs has ignored victims' right to access justice in a variety of circumstances, most notably tort and labor difficulties. Ethiopia's existing remedial mechanism has also contributed to the violation and contempt. Such as the Ethiopian government's, notably the MoFA's, lack of

care about the situation. The MoFA's arbitration affairs directorate is struggling due to a shortage of expertise and a lack of procedural and substantive laws. The lack of immunity legislation is also a significant barrier. Similarly, the victims have a limited level of comprehension and awareness. The existence of a mediation center in the capital is also driving victims away from the city due to excessive fees and fees.

Ethiopia, as a nation, has a responsibility to safeguard and advance its people human rights. The IOs is seen to arbitrarily violate the rights of its citizens. This is evidenced by the cases brought to the court and the mediation department of the MoFA. This has serious consequences for Ethiopia from a variety of perspectives, the most serious of which is the country's failure to uphold its commitment to protecting citizens' rights to access to justice, despite laws ratified by Ethiopia and subsequently becoming the law of the land, as well as laws adopted by the House of Representatives ensuring victims' access to justice. Furthermore, the fundamental law of the nation constitution expressly states the right to obtain justice. On the one hand, it implies that the government, which is obligated to protect citizens' human rights, is breaching such rights by entering into additional subsidiary agreements and failing to fill the gaps left by the absence of legislation.

5.2. Recommendations

In view of the international organizations violations of victims' right to access to justices in Ethiopia, the following recommendations should be implemented in order to ensure the victims right to access to justices.

- ✓ The federal government of Ethiopia should adopt the Immunity Act
- ✓ The Council of Ministers should enact a regulation regarding Ethiopian nationals working in international organizations.
- ✓ Ethiopia's Ministry of Foreign Affairs should frame a standard and general draft employment contract that would serve the new workers joining international organizations.
- ✓ The Ethiopian Ministry of Foreign Affairs should enact legal procedures for the ministry's arbitration affairs directorate.

- ✓ The Arbitration Affairs Directorate's structure should be revised to accommodate the current needs of victims.
- ✓ Providing awareness creation trainings for the workers in international organizations in a certain period of time, such as biannually, on their rights and duties.
- ✓ The Ethiopian Ministry of Foreign Affairs should establish a liaison arbitration affairs section in the major regional states' cities.
- ✓ The government shall revisit bilateral host country agreements, thereby inserting a clause on how to settle cases whenever diplomats misuse their immunity at the expense of nationals 'rights and interests.
- ✓ Providing a mandatory insurance recovery mechanism so that the victims could proceed directly against the IOs insurer and the insurer should not have the benefit of a defense of jurisdictional immunity. Otherwise, the insurer will be given the undue opportunity to grab the windfall premium without peril to insure.
- ✓ Ethiopia should employ and utilize a reasonable alternative method of the EU's to preserve the rights of victims.

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APPENDICES

Check list Questions for KI for MoFA's International Law Expert

Section I – Identification

- Respondent 's name: _____
- Place of work and Position: _____
- Place of Interview: _____
- Date of Interview: _____

II. Section II – Questions for specific information

1. How long have you worked as an international law expert at the MoFA?
2. What is the extent to which international bodies abuse their jurisdictional immunity?
3. What mechanisms are available to Ethiopia if IOS violates its jurisdictional immunity?
4. Are there any known civil proceedings made against IOS in Ethiopia to the MoFA's Arbitration Directorate? If so, please detail the facts and processes used to hear the case.
5. Do you believe the MoFA Arbitration Affairs Directorate's remedial strategy effectively addresses jurisdictional immunity abuses? What options do you propose for better protecting victims' human rights, particularly their access to justice?
6. How can Ethiopia apply lessons from other governments to address jurisdictional immunity abuses?
7. How do you think victims of jurisdictional immunity misuse in Ethiopia can seek justice?

I thank you!

Check list Questions for KII for Private Legal Consultant

- Respondent 's name: _____
- Place of work and Position: _____
- Place of Interview: _____
- Date of Interview: _____

II. Section II – Questions for specific information

1. How long have you worked as a private legal consultant?
2. What is the extent to which international bodies abuse their jurisdictional immunity?
3. What mechanisms are available to Ethiopia if IOS violates its jurisdictional immunity?
4. Are there any known civil cases brought against IOS in Ethiopia? If so, please detail the facts and processes used to hear the case.
5. Do you think the MoFA Arbitration Affairs Directorate's current remedial approach effectively addresses jurisdictional immunity abuses? What options do you propose for better protecting victims' human rights, particularly their access to justice?
6. How can Ethiopia apply lessons from other governments to address jurisdictional immunity abuses?
7. How do you think victims of jurisdictional immunity misuse in Ethiopia can seek justice?

I thank you!

መጠይቅ (For Victims)

ክፍል 1 - መግቢያ

ይህ መጠይቅ “Assessing the Right of Access to Justice of Victims of International Organizations Having Jurisdictional Immunity in Ethiopia” ለተሰኘ ትምህርታዊ የመመረቂያ ጥናታዊ ዕሁፍ ግብዓት የሚሆኑ መረጃዎችን ለማሰባሰብ ብቻ የሚውል ነው። በዚህ ጠቃሚ ሰርቪዬ ላይ ለመሳተፍ ፈቃደኛ በመሆንዎ ክልብ አመሠግናለሁ። ይህንን መጠይቅ ሞልተው ለመጨረስ ከአሥር እስከ አሥራ አምስት ደቂቃ ሊወስድብዎት የሚችል ሲሆን የሚሰጡት መረጃ ሙሉ በሙሉ ሚስጥራዊነቱ በጥብቅ የሚጠበቅልዎት መሆኑን አረጋግጣለሁ።

ክፍል 2 - ጠቅላላ መረጃ

2.1. ጾታ:

ወንድ ሴት መግለፅ አልፈልግም

2.2. የትምህርት ደረጃ:

ዲፕሎማ እና ከዛ በታች የመጀመሪያ ዲግሪ ሁለትኛ ዲግሪ እና ከዛ በላይ

2.3. ክስ ወይም አቤቱታ ያቀረቡበት መስሪያ ቤት

የተባበሩት መንግሥታት ድርጅት (ተ.መ.ድ.)

ከተ.መ.ድ. ውጭ ያለ ዓለም አቀፍ ድርጅት

2.4. ድርጅቱ ዋና መስሪያ ቤት የሚገኝበት አህጉር

አፍሪካ አውሮፓ ሰሜን አሜሪካ

ኢሲያ ላቲን አሜሪካ አውስትራሊያ

ክፍል 3 - ልዩ መረጃ

3.1. ክስ የቀረበበት የክርክር ጉዳይ

የሥራ ክርክር የቤት ኪራይ የቤተሰብ /የልጅ ቀለብ/

ውል ከነዚህ ውጭ ከሆነ ይግለፁ _____

3.2. ክሱን ካቀረቡ ምን ያህል ጊዜ ሆኖታል?

ከ1 ዓመት በታች ከ1-3 ዓመት ከ3 ዓመት በላይ

3.3. ቀደም ብሎ በነበርዎት ግንኙነት ዓለም አቀፍ ድርጅቶች ያለመከሰስ ልዩ መብታቸውን ያለአግባብ በመገልገል በእርስዎ ላይ ያደረሱት በደል መጠን /ደረጃ/ ምን ያህል ነው?

ከፍተኛ መካከለኛ ዝቅተኛ ምንም ዓይነት በደል የለም

3.4. በዓለም አቀፍ ድርጅቶች አማካኝነት የአለመከሰስ መብትን ያለአግባብ በመጠቀም በእርስዎ ላይ ምን ያህል ጊዜ በደል ደርሶታል?

አንድ ጊዜ ሁለት ጊዜ ከሁለት ጊዜ በላይ የለም

3.5. ዓለም አቀፍ ድርጅቶች የሚያደርሱትን በደል በሚመለከት በውጭ ጉዳይ ሚኒስቴር የማስማሚያ ዳይሬክቶሬት የሚሰጠው መፍትሔ አጥጋቢና በቂ ነው በሚለው ይስማማሉ?

እስማማለሁ አልስማማም ይህ ክፍል መኖሩንም አላውቅም

3.6. ዓለም አቀፍ ድርጅቶች የሚያደርሱትን በደል በሚመለከት ከውጭ ጉዳይ ሚኒስቴር ይልቅ በመደበኛ ፍርድ ቤት ቢታይ የሚሻል ይመስሎታል?

አዎ ይመስለኛል አይመስለኝም

3.7. በመጨረሻም የዓለም አቀፍ ድርጅቶች ያለመከሰስ መብትን እና ተግባራዊነቱን በሚመለከት መሻሻል አለበት የሚሉት አስተያየት ካልዎት፡-

አመሠግናለሁ!