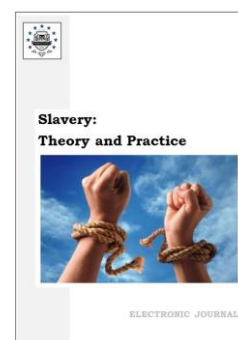


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Human Rights Abuses under Diplomatic Protection: The Issue of Modern Slavery and Forced Labor

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Abstract

The article explores the complex dynamics of human rights violations within diplomatic immunity, focusing on modern slavery and forced labor practices. The core of the study highlights how diplomatic immunity, as governed by the Vienna Convention on Diplomatic Relations, has unintentionally sheltered exploitative practices in diplomatic households, where forced labor often occurs without consequence. This immunity complicates enforcement and justice efforts for victims, especially domestic workers trafficked into servitude within diplomatic residences.

The article calls for more robust legal mechanisms and international cooperation to address these abuses effectively. Ultimately, the study stresses the need for a balanced approach that respects diplomatic protocols while preventing human rights violations. The decision in *Basfar v. Wong*, in which the Supreme Court of the United Kingdom held for the first time that the systematic exploitation of domestic labor for financial gain can be qualified as a “commercial activity” and thus not subject to diplomatic immunity, is considered as an important precedent in the context of the problem under study. This decision creates opportunities for new approaches in the protection of workers' rights and sets an example for other countries.

In conclusion, the author advocates for a balanced approach to diplomatic immunity – one that respects the rights of states to protect their diplomats while ensuring that human rights abuses are addressed. International law must continue to evolve, with the application of immunity carefully scrutinized in cases of forced labor and human trafficking. This evolving interpretation promotes a necessary balance between diplomatic privilege and the protection of individual rights, underscoring that no individual or institution should be beyond the reach of justice when human rights are at stake.

Keywords: diplomatic immunity, Vienna Convention on Diplomatic Relations, private servants, forced labor, human trafficking, domestic servitude, diplomatic households.

1. Introduction

The international legal efforts to combat slavery, forced labor, and human trafficking have evolved significantly over centuries, reflecting a global commitment to uphold human rights and dignity. The fight against slavery began in earnest in the 19th century, with the 1815 Congress of Vienna, where European powers declared their opposition to the transatlantic slave trade, adopting the Vienna Declaration Relative to Universal Abolition of the Slave Trade ([Handbook, 2012: 131](#)). The General Act of the Brussels Conference of 1890 (Convention Relative to the Slave Trade and Importation into Africa of Firearms, Ammunition, and Spiritous Liquors aimed to combat the slave

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trade in Africa) marked one of the first attempts at collective international action against slavery ([General act, 1890](#)). The Slavery Convention of 1926 established a more complex international legal framework under the League of Nations ([Convention, 1926](#)).

The issue of forced labor gained prominence with establishing the International Labor Organization (ILO) in 1919. The Forced Labor Convention (No. 29), adopted in 1930, required member states to suppress the use of forced or compulsory labor in all its forms (Article 1). This convention laid the groundwork for further efforts, emphasizing the eradication of practices where individuals are forced to work against their will under the threat of punishment ([Convention, 1930](#)). It was complemented by the Abolition of Forced Labour Convention (No. 105) in 1957, which called for the immediate abolition of forced labor used as a means of political coercion or punishment ([Convention, 1957](#)).

The Universal Declaration of Human Rights (UDHR), adopted in 1948, firmly states in Article 4 that “no one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms” ([Declaration, 1948](#)). Building on this, the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956 targeted practices that resemble slavery, such as debt bondage, serfdom, and child servitude ([Supplementary Convention, 1956](#)).

The modern challenge of human trafficking, often linked to forced labor and slavery, led to the adoption of the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, known as the Palermo Protocol, in 2000 ([Palermo Protocol, 2000](#)). The Protocol supplements the United Nations Convention against Transnational Organized Crime ([Convention, 2000](#)) and defines human trafficking broadly, including acts like recruitment, transportation, and harboring of individuals through force, coercion, or deception for exploitation (Article 3).

In 2015, the United Nations Sustainable Development Goals ([SDGs, 2015](#)) further emphasized the global commitment to ending modern slavery and human trafficking. Goal 8, “Decent work and economic growth,” calls for the eradication of forced labor, human trafficking, and child labor in all its forms by 2030. It underscores the intersection of economic development and human rights in fighting against these practices, encouraging states to take comprehensive measures to protect vulnerable populations.

Throughout this evolution, international law has increasingly recognized the complex and multifaceted nature of slavery, forced labor, and human trafficking. While significant progress has been made through these conventions and protocols, challenges remain in ensuring effective enforcement and protection for victims worldwide. There remain quite a few loopholes in the law, both national and international, that allow people to be exploited and held in slavery-like conditions with impunity. Domestic servitude in diplomatic households is one quite common problem, which is extremely difficult to solve due to the peculiarities of the legal status of diplomatic agents. Workers employed in diplomatic households are particularly vulnerable to exploitation, as they may be isolated, lack access to legal support, and fear deportation or loss of employment if they report abuse. Despite international treaties prohibiting forced labor and human trafficking, enforcing these laws within the realm of diplomatic premises remains challenging due to the immunity provided to diplomats and their residences.

This study highlights the legal challenges faced by victims of domestic servitude within diplomatic premises and explores potential solutions to balance diplomatic immunity with the protection of fundamental human rights. It aims to examine the intersection between diplomatic privileges and the enforcement of labor rights, contributing to the broader discourse on human rights and diplomatic law.

The goal of the article is to analyze the legal framework governing diplomatic immunity and its impact on addressing cases of domestic servitude and forced labor in diplomatic missions. The study seeks to explore the extent to which diplomatic immunity obstructs the enforcement of labor rights and to propose mechanisms that could better protect the rights of vulnerable workers without undermining the principles of diplomatic relations.

The key objectives of the study are: 1) to examine the legal basis and scope of diplomatic immunity under international law, focusing on the Vienna Convention on Diplomatic Relations and related legal instruments; 2) to analyze case studies of domestic servitude and forced labor within diplomatic missions, identifying common patterns of abuse and challenges faced by victims

in seeking justice; 3) to assess the effectiveness of existing international and national legal instruments for addressing forced labor in the context of diplomatic immunity; to propose recommendations for mechanisms that could enhance the protection of domestic workers employed in diplomatic households, ensuring compliance with international human rights standards while respecting the principles of diplomatic immunity.

2. Materials and methods

The research adopts a complex approach, integrating doctrinal and comparative legal methods, involving a detailed analysis of legal texts of relevant international treaties and comparing legislation and case law of the host countries where cases of domestic servitude in diplomatic missions have been reported. Comparative analysis also contributes to identifying patterns and differences in how states address such issues, including the interpretation and application of diplomatic immunity. The case study analysis is used for the exploration of reported cases of domestic servitude and forced labor involving diplomatic staff, drawing from both international and domestic court cases. It helps to assess how legal principles are applied in practice and the challenges faced by victims seeking redress. Content analysis contributes to understanding the broader context of forced labor issues and recommended practices. It was used primarily to analyze reports and publications from international organizations such as the International Labor Organization (ILO), the United Nations Office on Drugs and Crime (UNODC), the OSCE Office of the Special Representative and Coordinator for Combating Trafficking in Human Beings, and NGOs working on human trafficking and labor rights. It will help understand the broader context of forced labor issues and recommended practices.

To achieve the study's objective, the author examines relevant international agreements, resolutions, and guidelines proposed by international governmental bodies, as well as reports and advancements from international NGOs. The current prevalence of domestic servitude in diplomatic missions was evaluated using statistics and data summaries released by international organizations, alongside media reports illustrating specific enslavement cases. By analyzing court decisions, the study uncovered approaches developed within justice systems to combat forced labor and to harmonize such measures with the principles of diplomatic law.

3. Discussion

The Vienna Convention on Diplomatic Relations of 1961 ([Vienna Convention, 1961](#)) codifies the privileges and immunities afforded to diplomatic agents. Outlining several privileges and immunities granted to diplomatic agents, the Convention provides the legal framework crucial for the proper implementation of diplomatic functions. These privileges and immunities form the cornerstone of diplomatic law, ensuring that diplomatic agents can perform their duties without undue interference.

□ Researchers point to the strong adherence to the law in the practice of diplomatic immunity because, almost like in no other area of international law, the mutual benefits of compliance are clear and visible. Nearly every state that hosts a foreign diplomatic mission will have its own embassy on the territory of the sending state. Every country wants to have its own diplomats working abroad and its diplomatic mail and archives to receive the protections provided by international law. The principle of reciprocity thus serves as a robust safeguard against violations of diplomatic law by states ([Higgins, 1985: 641](#); [Värk, 2003: 111](#)). If cases of violations of diplomatic immunity occur, they usually lead to high-profile diplomatic scandals and even to the breakdown of diplomatic relations. For example, an incident of this kind took place in 2024. Ecuadorian authorities raided the Mexican Embassy in Quito to arrest Jorge Glas, a former Ecuadorian vice president, who had sought asylum there. Glas, previously convicted of corruption, claimed he was being politically persecuted. Mexico granted him asylum and requested safe passage, but Ecuador proceeded with the raid. Citing imminent flight risk, Ecuador justified its actions by claiming the embassy was harboring a convicted individual and posed a threat to Ecuador's judicial proceedings ([Bargent, 2024](#)). The conflict strained diplomatic relations significantly. Mexico viewed the embassy raid as a direct violation of diplomatic immunity and swiftly suspended diplomatic relations with Ecuador, condemning the act as a breach of international law. This action drew condemnation from other Latin American countries, as well as the Organization of American States (OAS), which called for a diplomatic resolution. Argentina,

Brazil, and Chile, among others, expressed solidarity with Mexico and rejected Ecuador's decision to breach embassy security, underscoring the importance of diplomatic sanctity in such cases. Currently, both Mexico and Ecuador have filed lawsuits against each other at the UN International Court of Justice (ICJ, 2024a; ICJ, 2024b)

Therefore, compliance with the obligations towards the diplomatic community in one's own country is widely viewed as an important factor in ensuring both effective diplomatic relations and international cooperation in general.

Among diplomatic privileges and immunities, personal inviolability stands out as paramount. It's considered the core diplomatic immunity, from which all others stem. Article 29 of the Vienna Convention (Vienna Convention, 1961) governs this crucial protection, safeguarding diplomats from arrest or detention. The Convention also obligates the receiving State to treat the diplomatic agent with due respect and take all appropriate steps to prevent any attack on his/her person, freedom, or dignity. Article 29 protects diplomats from legal actions, even in cases where they engage in illegal practices.

Articles 30-32 of the Vienna Convention on Diplomatic Relations address specific protections and rights related to diplomatic agents and their family members. According to Article 30, private residences of diplomatic agents are granted the same inviolability and protection as the premises of the mission (The host State cannot enter them without the explicit consent of the head of the mission. It is obligated to take all appropriate measures to protect the premises of the diplomatic mission from any form of intrusion, damage, or disruption. All premises, furniture, property, and vehicles used for diplomatic purposes are exempt from search, requisition, arrest, or enforcement actions). The papers, correspondence, and property of diplomatic agents also enjoy protection from any intrusion or infringement.

Article 31 provides diplomatic agents enjoy immunity from the criminal jurisdiction of the receiving State. They also have immunity from civil and administrative jurisdiction, except in cases of real property claims for private immovable property in the receiving State, unless held on behalf of the sending State for mission purposes; inheritance matters where the agent acts as executor, administrator, heir, or legatee in a private capacity; actions related to professional or commercial activities outside official functions. In addition, diplomatic agents are not obliged to give evidence as witnesses. No enforcement measures can be taken against a diplomatic agent except in the above cases, and only if they don't violate their personal inviolability or residence. Nevertheless, immunity from jurisdiction in the receiving State doesn't exempt the agent from the jurisdiction of the sending State.

Diplomatic personal inviolability also encompasses customs immunity, which consists of three key elements: the unrestricted import and export of goods intended for official and personal use, exemption of these goods from customs duties, and, as a general rule, exemption of personal luggage from customs inspection.

Diplomatic agents are exempt from all taxes, fees, and duties (personal, property, state, regional, and municipal) in the receiving state, except for indirect taxes included in goods/services prices; fees on private real estate, unless used for mission purposes; inheritance taxes, with some exceptions; taxes on private income sourced in the receiving state and on commercial investments; charges for specific services; registration, court, and property-related fees (e.g., mortgage, stamp duty).

This comprehensive protection ensures diplomats can carry out their duties without interference, while also enjoying certain practical freedoms in their host country.

The 1961 Vienna Convention on Diplomatic Relations provides diplomats with immunity from criminal prosecution in the host country, acting as a protective "cloak of invisibility." The Convention's noble purpose is to ensure the unobstructed fulfillment of diplomatic duties. However, in the hands of unscrupulous persons, this protection can turn into a license for impunity. Abuse of diplomatic immunity is surprisingly common among diplomatic agents. It is not only about elementary violations of traffic rules by cars with diplomatic license plates or non-payment for parking. Although the consequences of such violations can also be spectacular. For example, The Guardian cites impressive facts for 2016. In Canberra, Australia, diplomats representing various foreign countries owe the city more than A\$500,000 – mostly in unpaid parking fines. Fines for running red lights and speeding were also common. Saudi diplomats alone owe almost 140,000 Australian dollars. In New York, parking tickets issued to UN diplomats totaled more than \$16 million. Here, Egypt was the worst offender, with nearly \$2 million in debt.

In London, diplomats failed to pay 4,858 parking fines in just one year, running up a debt of £477,499 ([The Guardian, 2016](#)). Scholars quite rightly call such practices a culture of corruption among diplomats ([Fisman, Miguel, 2006](#))

Diplomats often commit much more serious actions to the detriment of the host state or private individuals. Crimes such as money laundering, espionage, and even human trafficking – offenses that would land an ordinary person in prison – may go unpunished when committed by diplomats.

In the mid-1970s, it was discovered that certain diplomatic missions were in possession of firearms, violating local laws. Moreover, it appeared that these weapons were often smuggled in through diplomatic channels. Various Western countries have experienced terrorist incidents where it's believed that the weapons used originated from diplomatic sources. There was a widespread belief that some foreign governments were actively promoting state terrorism against exiled dissidents by involving their embassies in the host countries ([Higgins, 1985: 643](#)).

In practice, abuse of diplomatic immunity often occurs when diplomats or associates seek to achieve specific social, political, or religious objectives that contravene the Vienna Convention and diplomatic responsibilities. Such motives run counter to the Vienna Convention's preamble, which underscores that diplomatic immunity should not serve individual interests but should facilitate the effective performance of diplomatic functions. Any attempt to pursue non-diplomatic goals undermines the principles of diplomatic immunity and privileges. Researchers notice that the main categories of abuse are personal, political, and cultural ([Nikolova-Marković & Baltezarević, 2020: 12](#)).

Political abuse of diplomats includes espionage under the guise of diplomatic immunity, bribery of politicians in the host country, and other types of illegal political manipulation. Furthermore, the freedom of movement and communication granted to diplomats can, in the wrong hands, serve as a tool for intelligence operations and coordination of illicit activities. Personal abuse is aimed at personal enrichment or other material or non-material benefits. Diplomatic residences, shielded from searches and arrests, may become ideal sites for smuggling or safe havens for criminals. Diplomatic bag, exempt from inspections, may contain not only confidential messages but also prohibited goods. Customs privileges, initially intended to facilitate international communications, can be exploited as loopholes for smugglers and money launderers. Cultural abuse may involve the implementation of practices that are culturally (and in some cases legally) unacceptable in the host country (hunting or trading endangered species, physical punishment of family members of household workers, etc.). However, there are cases when abuses are complex in nature, combining political, cultural, personal and other aspects.

For example, in 2017 the Global Initiative against Transnational Organized Crime presented the Report uncovered state-supported North Korean criminal operations in Africa, highlighting the involvement of diplomats and embassies in illegal trade activities involving rhino horn, ivory, cigarettes, and minerals. The Global Initiative's research connects holders of North Korean diplomatic passports to at least 18 cases of rhino horn and ivory trafficking over the three decades. Using interviews with senior North Korean defectors, diplomatic and government insiders, along with a comprehensive review of documents, press articles, and academic research, the Report, titled *Diplomats and Deceit – North Korea's Criminal Activities in Africa*, investigated North Korea's connections to illicit networks within Africa. It also suggested that North Korean embassies in several African countries are deeply embedded in complex criminal activities aimed at supporting the Kim Jong-un regime and financially benefiting North Korean diplomats ([Global Initiative, 2017](#)).

Nonetheless, it would be unjust to assume that all diplomats misuse their privileges. The majority of diplomats dutifully serve their roles, advancing international cooperation and mutual understanding. However, even isolated cases of abuse cast a shadow over the entire diplomatic community and erode trust in international institutions.

4. Results

As seen from the above, the inviolability of diplomats and their property is a challenge in achieving justice. Compared to other abuses by diplomats, the use of forced domestic workers and human trafficking is one of the most latent offenses. Multifaceted factors create significant barriers for authorities in detecting and addressing exploitation in diplomatic settings, ultimately making cases of trafficking and forced labor within these environments difficult to identify and prosecute.

According to Article 30 of Vienna Convention “The private residence of a diplomatic agent shall enjoy the same inviolability and protection as the premises of the mission” ([Vienna Convention, 1961](#)). Therefore, diplomatic households are considered to be inviolable, meaning that host country officials, such as police or security forces, cannot enter them without permission from the head of the mission. Situations of domestic servitude that have gained public attention and caused negative consequences for diplomats have mostly involved cases where victims escaped or attempted to seek help outside the diplomatic residence. On the other hand, it should be understood that victims working within diplomatic residences or embassies are often isolated and have limited access to outside help. Language barriers, lack of local connections, and the risk of retaliation often prevent them from seeking assistance or contacting authorities, further concealing these abuses. Diplomats may use their position of authority to intimidate victims, who fear deportation, loss of livelihood, or even harm to their families back home if they report their treatment. The dependency on employers for visas and residency, especially in foreign countries, heightens the victims' vulnerability. Even in cases where domestic servitude or human trafficking becomes evident, diplomatic immunities and privileges limit victims' access to justice and hinder the prosecution of those responsible.

However, despite the requirements of diplomatic law, certain measures may still be applied to diplomatic agents guilty of such illegal acts. When a case of domestic servitude, forced labor, or human trafficking is discovered involving a diplomatic agent in the course of their duties in the host country, the receiving state has several options for addressing the situation. The host country can declare the diplomat *persona non grata* (Article 9 of Vienna Convention), effectively expelling him or her from the country. This is one of the most common responses when serious abuses are discovered and allows the host state to remove the diplomat without violating diplomatic immunity.

The host country can formally raise the issue with the diplomat's home country through diplomatic channels. This may involve a formal diplomatic protest or communication expressing concern, seeking accountability, or requesting that the home country take action against the diplomat. The host state can also request that the diplomat's home country waive the agent's immunity to allow for criminal prosecution or civil suits in the host country. Although this waiver is rare, it is an option for serious offenses.

Even with such limited possibilities for responding to diplomats' criminal actions, states do not always make use of them. In 2015, a Saudi diplomat, Majed Hassan Ashoor, faced accusations in India of imprisoning and repeatedly abusing two Nepali domestic workers in his residence near Delhi. Two women of 30 and 50 years old reported physical and sexual abuse, and an investigation was initiated. However, due to Ashoor's diplomatic immunity under the Vienna Convention, Indian authorities were unable to prosecute him. The case sparked significant international outcry, especially from Nepal, but Ashoor was ultimately permitted to leave India without facing legal consequences ([Presse, 2015](#)).

The clear reason for India's actions in this case appears to be political, reflecting its reluctance to confront Saudi Arabia. In contrast, judicial practices in countries like the USA and the UK closely examine the timing of diplomatic immunity. When a person has ended their diplomatic role or if criminal actions occurred before their appointment, accountability becomes more likely. The case *Reyes v. Al-Malki* (2017, United Kingdom Supreme Court) deals with human trafficking allegations made by Ms. Reyes, a Philippine national employed as a domestic worker for Mr. and Mrs. Al-Malki in London. Mr. Al-Malki, a Saudi diplomat, allegedly exploited Reyes, confiscated her passport, controlled her movements, and did not pay her wages until her employment abruptly ended upon her escape. The diplomatic agent and his wife left the United Kingdom when Mr. Al-Malki's posting comes to an end. Reyes initiated legal proceedings in the Employment Tribunal for race discrimination, unlawful wage deductions, and failure to pay the national minimum wage. However, the Employment Tribunal determined it lacked jurisdiction due to Mr. Al-Malki's diplomatic immunity, which Mrs. Al-Malki also claimed as a family member. The UK Supreme Court ruled that the domestic worker Ms. Reyes could pursue her claim, though based on limited grounds. Article 31 of the Vienna Convention grants immunity only while a diplomat is actively serving. After leaving their post, diplomats retain immunity under Article 39(2) only for acts related to official functions. Ms. Reyes's services to Mr. and Mrs. Al-Malki were deemed personal, not official. The Court did not definitively rule on whether employing a domestic worker for

personal tasks constitutes “commercial activity” under Article 31(1)(c), a point which led to differing opinions among the justices ([Reyes v. Al-Malki, 2017](#)).

In certain cases, legal actions against non-immune individuals may work. If other individuals involved in the abuse (such as third-party associates) do not have diplomatic immunity, the host country may pursue legal action against them. This can include criminal charges, civil suits, or both.

Finally, the host country can offer support to the victim by providing shelter, legal assistance, or access to social services. This includes facilitating the victim's access to justice and offering protection to ensure their safety.

OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings in 2014 produced the Handbook with recommendations for host states for actively preventing the exploitation of private domestic workers in the diplomatic households. In particular it is recommended to ensure the effective application of the Vienna Conventions and headquarters agreements of international organizations; increase awareness among foreign diplomatic missions and international organizations about their responsibility to comply with national regulations and laws; establish clear guidelines or regulations for employing private domestic workers in diplomatic households, including requirements that deter abuse; educate relevant ministries and authorities, especially the judiciary, about the scope and limits of immunity, as well as the option to request a waiver of immunity; inform private domestic workers about their rights, obligations, and available support services in the host country during the visa application process and upon arrival, including through group briefings or an in-person registration process; promote a collaborative, multidisciplinary approach for dispute resolution and working with NGOs or trade unions to support vulnerable and exploited workers; train law enforcement and judicial authorities on the specifics of diplomatic and consular immunities, including their limitations; implement a system to request waivers of immunity from sending states when immunity would otherwise prevent prosecution in serious cases of domestic worker abuse; providing awareness and clear employment guidelines to domestic diplomatic personnel on hiring private domestic workers ([Handbook, 2014](#)).

These guidelines are beneficial for equipping host states with practical tools to identify and curb potential exploitation. They emphasize preventive measures, such as informing domestic workers of their rights and supporting them through NGOs, and a collaborative approach among local organizations, NGOs, and labor unions to address disputes. However, these recommendations are not a full solution. Diplomatic immunity remains a significant barrier to prosecuting diplomats suspected of abuse, as immunity waivers depend on the sending state's cooperation, which is not always granted. Consequently, achieving true accountability requires broader international cooperation and commitment from both host and sending countries.

In the context of international legal efforts to combat domestic servitude, the UK Supreme Court's decision in [Basfar v. Wong \(Basfar v. Wong, 2022\)](#) is ground-breaking. This ruling represents a significant advancement in the protection of domestic workers employed by diplomats. Its impact is notable not only for the UK's legal system but also as a potential benchmark for the global community. The decision exemplifies a critical step toward balancing diplomatic privileges and immunities with the effective fight against human trafficking.

The circumstances of the case were as follows. Ms. Josephine Wong, a Philippine national, was employed as a domestic worker in the household of Mr. Khalid Basfar, a Saudi Arabian diplomat stationed in the United Kingdom. Ms. Wong alleges that she was trafficked and forced to work under conditions amounting to modern slavery after accompanying the Basfar family to the UK in August 2016. She claims she was confined to Mr. Basfar's residence except when taking out the trash, restricted from communicating freely, required to work daily from 7 a.m. to 11:30 p.m. without rest days, and subjected to degrading treatment. According to Ms. Wong, she received no payment for her work during her first seven months in the UK, received only a partial payment in July 2017, and then went unpaid until her escape in May 2018.

Ms. Wong filed a claim in an Employment Tribunal seeking unpaid wages and alleging breaches of employment rights. Mr. Basfar moved to dismiss the case, citing diplomatic immunity under Article 31 of the Vienna Convention 1961, which, as incorporated into UK law by the Diplomatic Privileges Act 1964, generally grants diplomats immunity from both criminal and civil jurisdiction. However, the Convention provides an exception for civil claims related to any “professional or commercial activity” conducted outside official functions.

The Employment Tribunal initially rejected Mr. Basfar's application to dismiss the case. However, the Employment Appeal Tribunal reversed this decision, allowing an appeal to the Supreme Court without requiring a hearing in the Court of Appeal. The Supreme Court subsequently granted permission to hear the appeal. The central issue was whether the alleged conduct constitutes a "commercial activity" outside Mr. Basfar's official duties, thus exempting it from diplomatic immunity.

In a majority decision (three to two), the UK Supreme Court allowed the appeal, ruling that if the alleged facts are proven, Mr. Basfar does not have diplomatic immunity regarding the claim.

Court underlined, that diplomatic immunity is a key principle in both national and international law, ensuring the efficient functioning of diplomatic missions. Article 31 of the Vienna Convention on Diplomatic Relations provides limited exceptions to immunity, one of which concerns "commercial activity." Additionally, Article 42 stipulates that diplomatic agent "shall not in the receiving State practice any professional or commercial activity for personal profit." The Convention's text should be interpreted in line with the principles of the Vienna Convention on the Law of Treaties, which mandates that treaties be interpreted in good faith, considering their purpose and context.

Diplomatic immunity does not extend to everyday private matters, including personal purchases, but judges rejected Basfar's claim that the exploitation of a domestic worker could be equated with standard employment. Modern slavery cannot be compared to voluntary employment, which is based on freedom of choice, whereas forced labor is characterized by coercion and victim control.

Based on the assumed facts, the control Mr. Basfar exerted over Ms. Wong was so severe and coercive that it placed her in conditions of domestic servitude. Further, as the Court noted, Mr. Basfar gained substantial financial benefit from withholding wages, qualifying his actions as a "commercial activity" for personal profit.

The Court emphasized that key criteria for distinguishing between typical employment arrangements and exploitation that falls within the "commercial activity" exception are forced labor, slavery, and human trafficking, as recognized in international law and often grouped under the term "modern slavery." This case, based on the assumed facts, falls into all these categories.

The Court also rejected the argument that allowing Ms. Wong's claim might lead to retaliatory measures against British diplomats abroad. Such a risk, the Court held, is unlikely and should not influence the interpretation of "commercial activity." Ultimately, the Court ruled that if Ms. Wong's allegations are proven, Mr. Basfar would not be immune from the jurisdiction of UK courts ([Basfar v. Wong, 2022](#)).

The *Basfar v Wong* case represents a significant legal milestone in addressing domestic servitude within diplomatic households. In this case, the UK Supreme Court ruled that if the alleged facts of modern slavery were proven, Mr. Basfar, a Saudi diplomat, would not enjoy diplomatic immunity against a civil claim brought by Ms. Wong, his domestic worker. This ruling is crucial in the broader fight against human trafficking and domestic servitude by sending a clear message that diplomats are not shielded from responsibility for exploiting individuals within their households. It challenges a long-standing perception that diplomatic immunity serves as an inviolable barrier in cases involving domestic worker abuse, setting a new precedent in the UK and potentially influencing international approaches to such cases.

A primary focus of the *Basfar v Wong* decision lies in interpreting the scope of "commercial activity" within the Vienna Convention 1961. Under Article 31, diplomats are generally immune from civil jurisdiction in the host country, but there is an exception for "commercial activity" conducted outside official functions. The Court's majority held that the systematic exploitation of a domestic worker could indeed constitute "commercial activity," especially when such exploitation results in substantial personal financial gain for the diplomat. This interpretation marks a departure from earlier rulings, where employing domestic staff was seen as incidental to personal life and thus protected by immunity. By identifying forced labor and financial exploitation as factors that could qualify as "commercial activity," the Supreme Court expanded the interpretation of exceptions to diplomatic immunity in a way that prioritizes human rights protections over blanket immunity in cases of severe abuse.

This ruling has potential far-reaching implications. First, it establishes a path for domestic workers to bring civil claims against diplomats in the UK, even when the diplomats' countries

refuse to waive immunity. Second, it could pressure diplomatic missions to adhere to ethical employment practices, as diplomats now face potential civil liability if they exploit workers in conditions resembling forced labor or domestic servitude. Furthermore, this decision may encourage other jurisdictions to adopt similar interpretations, fostering a broader global shift toward accountability for human rights abuses within diplomatic households.

By narrowing the scope of immunity in cases of domestic servitude, the *Basfar v Wong* decision not only strengthens the legal recourse available to abused workers but also emphasizes the importance of enforcing protections against exploitation under international human rights principles. Ultimately, this case sends a strong message to diplomatic missions worldwide: abuse of domestic workers, especially in forms that parallel modern slavery, will not be protected by diplomatic status.

5. Conclusion

Balancing between respect for diplomatic privileges and the need to ensure law and order is a complex task that requires constant dialogue and cooperation between states. In a world where global challenges are constantly evolving, mechanisms to prevent the abuse of diplomatic privileges must also adapt. The international community continues to debate how to ensure that these privileges are not abused while maintaining the functional needs of diplomatic missions.

Diplomatic immunity, while essential for the effective functioning of international relations, often shields diplomats from prosecution for offenses committed in their private lives, including the exploitation of domestic workers. Such cases are particularly challenging to detect and address due to the inviolability of diplomatic residences and the isolation of victims, who often face language barriers, fear of retaliation, and dependency on employers for legal residency. Addressing this issue is critical to ensuring that diplomatic privileges do not become tools for abuse.

Host states encounter multiple obstacles in responding to cases of forced labor and trafficking within diplomatic settings. Despite international obligations to combat trafficking and protect human rights, the practical application of these laws is complicated by diplomatic immunity. Even in cases where exploitation is apparent, the process of pursuing justice is hindered by the necessity of a waiver from the diplomat's home country, a step that is rarely taken. Consequently, host countries often resort to indirect measures, such as declaring the offending diplomat *persona non grata* or issuing formal diplomatic protests. Although such actions allow for the removal of the diplomat, they fall short of delivering justice to the victims or holding perpetrators fully accountable.

To address these challenges, host states can adopt several proactive measures to better protect domestic workers in diplomatic households. Recommendations from international bodies, such as the OSCE, include enhancing awareness of diplomatic missions regarding local laws on employment practices, educating domestic workers about their rights, and developing clear guidelines for employing domestic staff within diplomatic residences. Additionally, collaboration with non-governmental organizations can provide critical support to domestic workers, offering legal assistance, shelter, and access to justice mechanisms. Such efforts, while unable to fully resolve the limitations posed by diplomatic immunity, establish a framework for minimizing abuses and supporting vulnerable workers.

The *Basfar v Wong* decision by the UK Supreme Court marks a pivotal step forward in addressing the tension between diplomatic immunity and accountability for human rights abuses. By interpreting the systematic exploitation of a domestic worker as a “commercial activity,” the Court has redefined the boundaries of diplomatic immunity to include exceptions for severe exploitation and modern slavery. This ruling sends a strong message that diplomatic privileges cannot be exploited to justify or conceal such abuses, establishing a precedent for other jurisdictions to follow. It opens the door for domestic workers to seek justice against diplomats, even when immunity has historically prevented such claims.

In essence, the *Basfar v Wong* decision not only sets a new legal standard within the UK but also resonates as a potential catalyst for global reform. It aligns with international human rights principles, reinforcing that the protection of vulnerable individuals must take precedence over diplomatic immunity in cases of severe exploitation. As a landmark ruling, it provides both legal and moral support to the growing call for accountability within diplomatic settings, setting a significant precedent for balancing diplomatic privileges with fundamental human rights protections.

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