

# THE HUMAN RIGHTS PROTECTION OF INTERNALLY DISPLACED PERSONS IN ETHIOPIA; EXAMINING THE INTERNATIONAL, REGIONAL AND ETHIOPIAN NORMATIVE FRAMEWORKS

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## Abstract

*Internal displacement is one wave of forced migration in which individuals are displaced from their place and become refugees within the territory of their own country. International and national normative frameworks are decisive to protect Internally Displaced Persons (IDPs). Internal displacement is one of the challenges Ethiopia has faced at different times and remained pervasive throughout the country. The government has attempted to respond and address the plights of the IDPs; however, the number of IDPs increased from time to time with dared living conditions. This study has employed qualitative research methodology and examined the normative frameworks and the human rights protection of IDPs in Ethiopia. The research has identified that there is a lack of comprehensive normative frameworks in the country. The 1995 Federal Democratic Republic of Ethiopia (FDRE) Constitution and other subsidiary laws gave slight attention to IDPs. Ethiopia ratified the Kampala Convention in 2020 with different reservations and declarations but has not been domesticated yet. Such a stalemate has disrupted the response process and the durable solution of the IDPs. Therefore, it is time for Ethiopia to revisit its normative frameworks and protect the human rights of IDPs.*

**Keywords: Ethiopia, IDPs, Kampala Convention, Durable Solution, Human Rights Protection**

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## 1. Introduction

Internal displacement is one wave of forced migration in which individuals are displaced from their place of origin and become refugees within the territory of their own country. It has become one of the prominent issues in the world and sub-Saharan Africa. Natural disasters, conflict, and human rights abuses are the triggering factors of displacement.

Internal displacement is one of the challenges Ethiopia has faced at different times and remains pervasive throughout the country's history. Natural disasters, conflicts, and developmental projects are the frequent causes of displacement in the country. However, since 2017 conflicts have become the main driver of displacement and the country has witnessed the displacement of millions of IDPs within its territory. In Ethiopia as of March 2022, an estimated 5,582,000 persons were displaced within the country due to armed conflict and natural disasters.<sup>1</sup>

IDPs are individuals of a country and the state has a primary obligation to ensure and protect their human rights.<sup>2</sup> In doing this the state should enact comprehensive normative frameworks and ratify international instruments. Particularly, in the case of conflict-induced internal displacement, the IDPs become susceptible to different types of human rights violations and are forced to live in dire conditions. During the three phases (before, during, and after) of the displacement, numerous protection concerns are encountered by the IDPs, and the plights of the IDPs become severe mainly before and during the displacement. During these stages, displaced persons lack protection and have become vulnerable to different types of human rights violations. This includes violence, intimidation, killings, looting, property destruction, house burning, and other violations that would force them to flee from their homes. Thus, the state has the primary obligation to respond to and address the plights of the IDPs based on the available normative frameworks. Therefore, this article attempts to examine the normative frameworks and the human rights protection of conflict-induced IDPs in Ethiopia.

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<sup>1</sup> Relief web, 'Response to Internal Displacement in Ethiopia Fact Sheet' (January to March 2022), <https://reliefweb.int/report/ethiopia/response-internal-displacement-ethiopia-fact-sheet-january-march-2022> accessed on 5/23/2023

<sup>2</sup> Africa Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Adopted 23rd October 2009 Kampala, Uganda by the Special Summit of the Union) art 4 and 5

## 2. A Nutshell on International Legal Frameworks

Human rights violations are one cause of internal displacement and may occur before, during, and after the displacement.<sup>3</sup> Accordingly, the response to internal displacement should focus on enhancing the human rights protection of IDPs.

Globally there are no international legal instruments or institutions specifically designed to prevent internal displacement and protect the rights of IDPs.<sup>4</sup> It is general humanitarian law, human rights conventions, and refugee law that give protection to IDPs. Hence, IDPs like every human being enjoy the same human rights protections that are provided by international human rights conventions and customary law.<sup>5</sup>

In contrast to refugees, who leave their country of origin to seek protection elsewhere, IDPs remain within the territory of the state and they need the protection of the government.<sup>6</sup> This makes IDPs more vulnerable to different risks because of the dangerous proximity of the violence or the actors that caused them to flee.<sup>7</sup>

IDPs may be uprooted for the same reasons as refugees, but they receive markedly less international protection or assistance in most emergencies and they may receive no help at all.<sup>8</sup> IDPs often have very little voice, few rights under international law unlike refugees, and unclear political status within their own countries.<sup>9</sup> Furthermore, unlike refugees, IDPs do not benefit from a specific international regime; rather they are subject to the needs of many actors including UN agencies, human rights organizations, and international and local NGOs who are involved in assistance, protection, and development activities.<sup>10</sup>

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<sup>3</sup> Maria Stavropoulou, 'Displacement and Human Rights: Reflections on UN Practice', [1998]

<sup>4</sup> Okoro Paul Mmahi, 'The Impact of Internal Displacement On Women And Children In Nigeria', [2016], p.8

<sup>5</sup> Opara, L. C.; Erasmus, D.; Ndimouwuri, L., 'Enhancing the protection of internally displaced persons through domestic law and policy', [2019]

<sup>6</sup> Ingvild Bode and Francis Deng, 'The Concern for Internally Displaced Persons: Intellectual Leadership in the United Nations', [2014]

<sup>7</sup> Adam Lichtenheld, 'Re-thinking Durable Solutions to Forced Displacement Global Trends and New Realities', [1998]

<sup>8</sup> United Nations Office for the Coordination of Humanitarian Affairs, 'Guiding Principles on Internal Displacement', (1998), Introduction, Para,2

<sup>9</sup> Wanninayake, S. 'A Brief Conceptual Analysis on Conflict Induced Internal Displacement, Return, and Resettlement', (2019), 126.

<sup>10</sup> Cathrine Brun, 'Research guide on internal displacement', NTNU Research Group on Forced Migration, (2005)

## 2.1.The Guiding Principles

The Guiding Principles are the only important international framework for the protection of IDPs which different heads of state and governments have recognized.<sup>11</sup> The Principles identify the human rights of IDPs and their protection and assistance during displacement as well as return or resettlement and reintegration.<sup>12</sup>

IDPs like every individual are entitled to benefit from equality without discrimination and they have the same rights and freedom under international and national law as other persons in their country.<sup>13</sup> The State has a responsibility to ensure the full and equal entitlement of human rights of all individuals on its territory or jurisdiction.<sup>14</sup> These States' responsibility to IDPs extends to protect and fulfill human rights at all times, including during armed conflict and disasters.<sup>15</sup>

In the human rights protection and promotion of IDPs, the UN agencies, and non-governmental organizations (NGOs) have translated the principles into different languages and provided training in them.<sup>16</sup> Local groups around the world use them as an advocacy tool on behalf of the IDPs.<sup>17</sup> Regional government bodies in Europe America and Africa use them as a monitoring tool for measuring conditions on the ground.<sup>18</sup>

## 2.2.Kampala Convention

The African Union Convention on the Protection and Assistance of Internally Displaced Persons (Kampala Convention) is one of the regional binding legal frameworks that protects the rights of

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<sup>11</sup> The Guiding Principles are 30 standards that outline the protections available to internally displaced people (IDPs). The Guiding Principles were presented by the then Representative of the UN Secretary-General on IDPs, M. Francis Deng, to the UN Commission on Human Rights in 1998. It is a milestone in the process of establishing a normative framework for the protection of IDPs. The document is not a legally binding instrument however, it has gained considerable authority and the UN General Assembly has recognized them as an important international framework for IDP protection and encouraged all relevant actors to use them when confronted with situations of internal displacement.

<sup>12</sup> Okoro Paul Mmahi, 'The Impact Of Internal Displacement On Women And Children In Nigeria', [2016], 6.

<sup>13</sup> The Guiding Principles, (1998), Principle 1

<sup>14</sup> Ibid, Principle 3

<sup>15</sup> Ibid

<sup>16</sup> Ibid

<sup>17</sup> Ibid

<sup>18</sup> Ibid

IDPs.<sup>19</sup> It was adopted based on the UN guiding principles on internal displacement and seeks to protect the fundamental rights and freedom of IDPs by creating a durable solution to their displacement and ensuring that these individuals have an opportunity to lead dignified and productive lives.<sup>20</sup>

The convention affirms the panoply of rights enjoyed by IDPs as individuals under human rights and humanitarian law.<sup>21</sup> These include the rights of all persons to be protected from arbitrary displacement, human treatment, non-discrimination, equality, and the right to make informed decisions during return, integration, and resettling.<sup>22</sup>

As a protection instrument, the convention is not a package of IDPs' rights; rather it has boldly stated the obligations of state parties.<sup>23</sup> It has specified several concrete measures to be taken by national authorities to prevent displacement and protect and assist those who are arbitrarily displaced.<sup>24</sup> It requires state parties to criminalize acts of arbitrary displacement and prevent discrimination from inhuman and degrading treatment. Additionally, it has specified that individuals who commit an act of arbitrary displacement to be held accountable.<sup>25</sup>

The convention also requires the establishment of national authorities to make funding available to IDPs and to facilitate coordination among relevant government agencies and international partners.<sup>26</sup> Moreover, the convention obligates governments to provide compensation and other reparations to remedy the harm suffered by persons as a result of their displacement.<sup>27</sup>

Thus, once a State has signed and ratified the convention, the implication is that it is binding and States have to develop a national legal instrument.<sup>28</sup> Today, a growing number of governments are basing their laws and policies on the guiding principles and the convention, which make them

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<sup>19</sup> Andrew Solomon, 'African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa', [2010]

<sup>20</sup> Ibid

<sup>21</sup> Ibid

<sup>22</sup> Kampala Convention, (2009), Article 2

<sup>23</sup> Ibid

<sup>24</sup> Ibid, Article 4

<sup>25</sup> Ibid, Article 3 (1)

<sup>26</sup> Ibid, Article 3 (2)

<sup>27</sup> Ibid, Article 10

<sup>28</sup> Ibid

enforceable at the domestic level.<sup>29</sup> Therefore, the domestication of the principles into the national legal and political landscape of nations with acute IDP problems is a critical step in building greater national responsibility towards IDPs.<sup>30</sup>

### 3. National Normative Frameworks

The enactment of national laws, policies, and strategies on internal displacement would support the government in addressing the challenges of displacement and empower them to have a well-prepared short-term and long-term response plan.<sup>31</sup> Having a comprehensive legal framework is a foundation for effective responses and protection of internally displaced persons and conflict-induced IDPs in particular. A coherent national instrument that precisely defines IDPs' rights and clarifies state responsibility will improve the responses to protect and assist IDPs.<sup>32</sup> It can grant IDPs entitlements based on their situation, protect their rights and needs, and recognize them as citizens and habitual residents of the state.<sup>33</sup> In doing this national normative frameworks can serve as pillars of a solid response.<sup>34</sup>

The United Nations Guiding Principles on Internal Displacement and the Kampala Convention emphasize that national authorities have the primary duty and responsibility to provide protection and assistance to internally displaced persons.<sup>35</sup> Hence, the enactment of domestic laws and policies is the responsibility of the state that would serve as a basis for effective government responses. The principal aim of these instruments is to protect the safety, security, and dignity of IDPs vis-a-vis state and non-state actors by ensuring the fundamental human rights and freedoms of all persons.<sup>36</sup> It also includes the right to a remedy and some form of justice when these rights have been violated.

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<sup>29</sup> United Nations Office for the Coordination of Humanitarian Affairs, 'Guiding Principles on Internal Displacement', (1998), Introduction, Para,2

<sup>30</sup> Ibid

<sup>31</sup> Global Protection Cluster, 'Regulatory Frameworks on Internal Displacement, Global, Regional and National Developments' (2016), <https://reliefweb.int/sites/reliefweb.int/files/resources/UNHCR-GPC-Reg-Framework-IDP.pdf> accessed on 14 April 2022

<sup>32</sup> Ibid, 19.

<sup>33</sup> Ibid

<sup>34</sup> Ibid

<sup>35</sup> Ladan, M. 'Strategies for adopting the national policy on IDPs and domesticating in Nigeria the African Union Convention for the Protection and Assistance of IDPs in Africa', [2015], P.4

<sup>36</sup> Solomon, A., Gandhi, M., & King Jr, M. L. 'Justice, accountability, and the protection of displaced persons'[2009]

After a long period of a unitary state, in 1995, Ethiopia established a federal state structure and a parliamentary system of government.<sup>37</sup> Ethiopia is constitutionally a federation of nine regional member states and two city administrations delimited mainly based on ethnolinguistic boundaries, though two additional states are currently formulated.<sup>38</sup>

In the Ethiopian federal state structure, both the federal and state governments have considerable legislative, executive, and judiciary power.<sup>39</sup> The 1995 Federal Democratic Republic of Ethiopia Constitution specifies the power of the federal government and leaves the undesigned power to the regional governments.<sup>40</sup>

The House of Peoples' Representatives (HPR) of the federal government and the Regional State Councils are the legislative organs that have a primary mandate to enact laws applicable throughout the country.<sup>41</sup> Besides, the Council of Ministers and regional state executive organs may enact policies, strategies, and plans of action to enforce the primary legislation.<sup>42</sup> Thus, all laws and policies enacted by the Federal Government have applicability throughout the country and may take precedence over the laws issued by the regional governments.<sup>43</sup> The regional states also have the power to make laws on matters that are under their competencies and apply only within the territory of the relevant regional states.<sup>44</sup>

Ethiopia has adopted a mixed legal system and shares the characteristics of the common law and continental law legal system. Most of the Ethiopian laws are found in codified form. However, there is no specific legislation that deals with the protection and assistance of internally displaced persons except the ongoing draft proclamation. Thus, till now there are different provisions

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<sup>37</sup> Habtu, Alem, 'Ethnic Federalism in Ethiopia: Background, Present Conditions, and Future Prospects' International Conference on African Development Archives Paper 57, [2003]

<sup>38</sup> Maru Taddele, 'Causes, dynamics, and consequences of internal displacement in Ethiopia', working papers [2017]

<sup>39</sup> Article 50 (2) of the FDRE Constitution

<sup>40</sup> Ibid Articles 51 and 52

<sup>41</sup> Ibid article 55 and article 50 (5)

<sup>42</sup> International Federation of Red Cross and Red Crescent Societies, Ethiopia: Country Case Study Report, How Law and Regulation Supports Disaster Risk Reduction, April 2013, 14.

[https://www.preventionweb.net/files/36213\\_ethiopiadrrcasestudy201311.pdf](https://www.preventionweb.net/files/36213_ethiopiadrrcasestudy201311.pdf), accessed on May 25 2022

<sup>43</sup> Ibid

<sup>44</sup> Article 50 (5) of the FDRE Constitution

dispersedly addressed in the federal and regional legislations.<sup>45</sup> The following normative frameworks have depicted the legal lacuna and vague provision of the law.

### **3.1. The 1995 Federal Democratic Republic of Ethiopia Constitution**

Ethiopia has gone through different constitutional histories and the 1995 FDRE Constitution is the fourth written constitution.<sup>46</sup> It has 106 articles and eleven sections. It incorporates the following core issues human and democratic rights of individuals, power, and responsibilities of the state, and issues related to government policies.<sup>47</sup> It is the first type that has formally established a federal state structure.

The Constitution addressed the issue of internal displacement in two ways. Few constitutional provisions specifically deal with internal displacement while most of them are indirectly applicable to IDPs as individual citizens of the country.

Article 40 of the constitution has recognized and guarantees the property rights of Ethiopian peasants and pastoralists to obtain land for free and protection against eviction and displacement.<sup>48</sup> This provision of the constitution is of paramount importance for persons affected by development-induced displacement or displacements caused by state-initiated programs. But, this provision is silent on natural disasters and conflict-induced internal displacement. Consequently, property right seems far from protection in the case of natural disasters and conflict-induced internal displacement. Besides, a contra reading of this article implied that the rights laid down under the constitution exclude non-pastoralists or non-peasant communities from protection against displacement and the right to get compensation as a result of displacement.<sup>49</sup> The essence of this article clearly shows that it does not give protection for conflict-induced internally displaced persons.

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<sup>45</sup> Meskele Ashine, E. 'The Adequacy of Law and Policy Frameworks on Internal Displacement in Ethiopia: A Critical Appraisal. In: Adeola, R. (eds) National Protection of Internally Displaced Persons in Africa. Sustainable Development Goals Series. [2021]

<sup>46</sup> The 1931 Constitution was the first written constitution in Ethiopian constitutional history under the regime of Haile Selassie, and it was revised in 1955 within the same regime. In 1987 the new Constitution of The People's Democratic Republic of Ethiopia was established by the Dergu regime and in 1995 it was replaced and Ethiopia comes up with Federal Democratic Republic Constitution with a federal state structure.

<sup>47</sup> See Chapters Three, Five, and Ten of the FDRE Constitution

<sup>48</sup> Ibid, article 40 (4 and 5)

<sup>49</sup> Meskele Ashine, E. 'The Adequacy of Law and Policy Frameworks on Internal Displacement in Ethiopia: A Critical Appraisal. In: Adeola, R. (eds) National Protection of Internally Displaced Persons in Africa. Sustainable Development Goals Series. [2021]

The other provision of the constitution that touched upon the issue of internal displacement is Article 44, which claims the right to the environment. The title of this article is defined as the right to a clean and healthy environment. Hence, "All persons who have been displaced or whose livelihoods have been adversely affected as a result of State programs have the right to commensurate monetary or alternative means of compensation, including relocation with adequate State assistance."<sup>50</sup> This provision of the constitution affirms the government's responsibility towards development-induced IDPs.

Thus, the scopes of these two articles are limited to a particular cause of internal displacement, that is developmental-induced, and they are dealing with post-displacement situations. However, development is one and not the only cause of internal displacement rather natural disasters, conflicts, and human rights violations resulted in a massive flow of IDPs.<sup>51</sup>

The only constitutional provision that addressed all types and phases of internal displacement is Article 89 sub Article 3 of the constitution. This provision of the constitution acknowledges the response to internal displacement as one part of the economic objectives of the government.<sup>52</sup> Henceforth, it has underlined that the "Government shall take measures to avert any natural and man-made disasters, and, in the event of disasters, the government has the responsibility to provide timely assistance to the victims".<sup>53</sup> Hence, the government has a responsibility before, during, and after the displacement whatever the causes of the displacement are.

However, this provision of the constitution is not congruent with Articles 40 and 44 of the constitution only focuses on development-induced internal displacement and there is no other provision that emphasizes government response in case of conflict-induced internal displacement. Hence, the silence of the FDRE Constitution evokes the issue of jurisdiction and the power of the federal government toward conflict-induced internal displacement.

Article 50 of the constitution specifically lists out the power of the federal government and has left the undesignated power to the regional governments. Article 51 (14) of the constitution specifies that the federal government has the power on issues of immigration, asylum, and refugees; however, it is silent on the case of internal displacement and conflict-induced IDPs in

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<sup>50</sup> The FDRE Constitution, art 44 (2)

<sup>51</sup> African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), (2009), art 1, definitions (K),

<sup>52</sup> The FDRE constitution, art 89 (3)

<sup>53</sup> Ibid

particular. This may raise the question, who has the responsibility to assist and protect the rights of conflict-induced IDPs?

The constitution is blurred and unclear on the response of the federal and regional governments. Particularly the predicament of the IDPs will be worsening when conflict becomes the cause and individuals are displaced from one to another region. In such cases, the constitution is not clear on the response of the federal government, host regional government, and home regional government. This agitates conflict-induced IDPs to encounter difficulties because of a lack of federal and regional government responses.

On the other hand, conflict-induced IDPs are individual citizens of the country and Chapter Three of the FDRE Constitution states that the human and democratic rights provisions would be equally applicable without reservation to conflict-induced IDPs.<sup>54</sup> Besides, Article 9 of the FDRE constitution explains that all international agreements ratified by Ethiopia are considered an integral part of the law of the land. Thus, international and regional human rights instruments and humanitarian laws to which Ethiopia is a party have domestic applications in response to and protection of conflict-induced IDPs in the country.

Therefore lack of direct constitutional provisions on conflict-induced IDPs does not mean that the constitutional provisions and international human rights and humanitarian instruments have no application and conflict-induced IDPs are out of protection.

### **3.2.The Kampala Convention Ratification Proclamation No. 1187/2020**

In Africa, two legislations are directly related to the response to internal displacement. The 2006 Great Lakes Protocol on the Protection of and Assistance to Internally Displaced Persons is the first legally binding instrument that exclusively dealt with the issues of internal displacement.<sup>55</sup> However, its scope is limited to member states of the Great Lakes Region which Ethiopia is not a part of it.

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<sup>54</sup> One-third of the FDRE constitution which is chapter three from articles 14 to 44 deals with the human and democratic rights of individuals. Conflict-induced IDPs are individuals who are residing within the boundary of the state and are citizens of the state. Thus the human and democratic rights of the constitution will be equally applicable to conflict-induced IDPS like other individuals who are not displaced.

<sup>55</sup> Abebe, Allehone M. 'The emerging law of forced displacement in Africa development and implementation of the Kampala Convention on internal displacement', [2017]

In 2009, the African Union (AU) adopted the Kampala Convention, a landmark instrument that established a common regulatory standard for IDPs.<sup>56</sup> The convention is composed of 23 Articles and identifies state obligations as a fundamental starting point.<sup>57</sup> The convention specifically addressed the issue of protection against displacement, protection, assistance during displacement, and durable solutions through return, integration, and relocation.<sup>58</sup>

The UN's guiding principles on internal displacement are an important source of inspiration for the enactment of the Kampala Convention.<sup>59</sup> The convention has also recognized different human rights instruments in Africa and reaffirmed the rights and protection of IDPs on the continent.<sup>60</sup> It is comprehensive in terms of covering all phases and causes of internal displacement and follows a human rights-based approach.<sup>61</sup> Besides, it details the responsibilities of all actors involved in the response and protection of IDPs.<sup>62</sup> It emphasizes that states bear the primary responsibility and national legislation is the principal legal basis for the protection of IDPs and conflict-induced IDPs in particular.<sup>63</sup>

Ethiopia signed the Kampala Convention in 2009 a decade ago and was not ratified until 2020. At different times, the government has claimed that the existing domestic legal and policy frameworks are adequate guidance for the protection and the response to internal displacement.<sup>64</sup> However, the review of the normative frameworks revealed that there is no adequate and comprehensive national legal framework that deals with internal displacement and conflict-induced internal displacement in particular.<sup>65</sup> Thus, after a decade of being a signatory state, Ethiopia ratified the Kampala Convention in March 2020.

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<sup>56</sup> Global Protection Cluster “Regulatory Frameworks on Internal Displacement, Global, Regional and National Developments” (2016), <https://reliefweb.int/sites/reliefweb.int/files/resources/UNHCR-GPC-Reg-Framework-IDP.pdf> accessed on February 2022

<sup>57</sup> Abebe, Allehone M. ‘The emerging law of forced displacement in Africa development and implementation of the Kampala Convention on internal displacement’, [2017]

<sup>58</sup> Ibid

<sup>59</sup> African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), (2009), preamble

<sup>60</sup> Abebe, Allehone M. ‘The emerging law of forced displacement in Africa development and implementation of the Kampala Convention on internal displacement’, [2017]

<sup>61</sup> Maru Taddele, ‘Causes, dynamics, and consequences of internal displacement in Ethiopia’, working papers [2017]

<sup>62</sup> Ibid

<sup>63</sup> Arbouw, Mulugeta. ‘The role of the African Union in addressing the lack of legal protection afforded to internally displaced persons in Ethiopia’, [2018]

<sup>64</sup> Ibid

<sup>65</sup> Ibid

The government ratified the convention after more than three million conflict-induced individuals were displaced from different parts of the country. Consequently, the ratification of the Kampala convention aimed to fill the gaps in national frameworks and protect the rights of conflict-induced internally displaced persons in the country. Though the ratification showed the willingness and concern of the government, it ended up with different reservations and declarations.

In the preamble, the ratification proclamation does not address the current trends of internal displacement in the country and the need for the ratification of the Kampala Convention. The preamble merely declared that Ethiopia is a signatory state and currently has ratified the convention.<sup>66</sup> The description in the preamble does not answer the question of why Ethiopia has ratified it. The rationale for the ratification of the convention is not adequately acknowledged and recognized at the beginning.

In addition, the Government of Ethiopia has incorporated reservations and declarations on different provisions of the convention. The government has entered a reservation in Article 12 of the Convention that deals with the issue of compensation.<sup>67</sup> The ratification proclamation has specified that the government will address the issue of compensation when the displacement only resulted from expropriation rather than natural and conflict-induced displacement.<sup>68</sup> This assertion of the proclamation is related to Articles 40 and 44 of the FDRE constitution.

The proclamation also states that the response to natural and man-made disasters will be limited to providing assistance and ensuring rehabilitation by Article 89 of the FDRE constitution. This implies that the government response to developmental-induced and natural disasters and conflict-induced internal displacements are not comparable. The government assumed fewer obligations in response to conflict-induced IDPs.

However, the issue of conflict-induced internal displacement is worse than expropriation and development-induced displacement. During conflict-induced displacement, individuals could

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<sup>66</sup> Proclamation No. 1187/2020, African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa Ratification Proclamation

<sup>67</sup> Ibid, art 3 (1(a))

<sup>68</sup> Ibid

lose their property and flee in any direction to save their lives.<sup>69</sup> In the process of displacement, conflict-induced IDPs encounter different types of human rights violations. Particularly the problem is high when the state fails to protect the peace and security of its people and/ or participates in the conflict and becomes the cause of the displacement.

On the other hand, Article 89 of the constitution is a common economic objective and gives equal protection for all types and phases of internal displacements. The government has a responsibility to take measures before, during, and after the displacements.<sup>70</sup> This provision of the constitution is not limited to government assistance or duty to protect rather it incorporates durable solutions for all types of internal displacement. Compensation/restitution is one part of durable solutions that refers to the return of lost property to victims of displacement and redress of the wrong done and facilitates return and reintegration in the area of origin.

However, the Ethiopian Government blatantly makes reservations on the issue of compensation for conflict and natural disaster-induced IDPs which is against the essence and the objects of the Kampala Convention that gives equal protection in each phase and for all types of displacement. Thus, this reservation of the Ethiopian Government is contrary to Article 21 of the Kampala Convention which obliged States Parties not to make reservations that are incompatible with the object and purpose of the Convention.

The ratification proclamation also firmly denies the jurisdiction of the African Court of Justice and Human Rights.<sup>71</sup> Ethiopia is the founding member of the OAU now AU and the government advocates for human rights and transparency are the base for democracy.<sup>72</sup> However, the reservation of the government seems to be pessimistic in the protection of human rights of conflict-induced IDPs. Thus, it has refused the jurisdiction of the African Court of Justice and Human Rights in which the reservation is against the spirit of the convention and the principle of transparency and accountability. These types of reservations would affect the protection of conflict-induced IDPs in the country. For example, conflict-induced displacement has occurred

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<sup>69</sup> Carrillo, A. C. 'Internal displacement in Colombia: humanitarian, economic, and social consequences in urban settings and current challenges', [2009]

<sup>70</sup> FDRE Constitution, art 89

<sup>71</sup> Proclamation No. 1187/2020, African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa Ratification Proclamation, art 3 (1(c))

<sup>72</sup> After three years of violent demonstrations in different parts of Ethiopia, the ruling party of the Ethiopian People's Revolutionary Democratic Front (EPRDF) declared that it would pursue reforms and a new prime minister was elected. The prime minister boldly acknowledged and affirmed that the government will work for the protection of the human rights of its individuals.

in different parts of Oromia and Addis Ababa after the assassination of Ethiopian Artist Hachalu Hundessa. Hence more than thousands of individuals were displaced and lost their property.<sup>73</sup> Particularly in the city of Shashemene more than one hundred houses, hotels and investments were destroyed<sup>74</sup> and the victims have no right to demand compensation or the restoration of their property. Mostly the restoration is dependent upon the political willingness of the federal and regional governments and volunteer individuals rather than the duty of the government.

The government also specified declarations on the definition of IDPs and affirmed the definition given by the Kampala Convention in Article one (K).<sup>75</sup> This is because in Ethiopia there is no specific national normative framework that has defined IDPs except the Somali Regional State Durable Solution Strategy which makes references to the guiding principles.<sup>76</sup> Thus, the ratification proclamation declared that the definition of IDPs in the proclamation would serve as the definition of IDPs in the country.

The ratification proclamation also declared that the assistance and protection of the UN, AU, and other humanitarian organizations are based on the prior permission or approval of the government of Ethiopia.<sup>77</sup> However, this is not clear which government permission or approval is needed since Ethiopia follows a federal state structure and the constitution is blurred on the response of the federal and regional governments towards conflict-induced internal displacement. Besides, the FDRE constitution is not clear to what extent the regional governments will conduct international relations and allow the cooperation and participation of UN, AU, or humanitarian organizations in response to conflict-induced internal displacement in their respective regions. Simply the FDRE constitution specified that foreign relations is the power of the federal government.

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<sup>73</sup> Ethiopian Observer, 'Ethnically-motivated attacks in Shashemene and elsewhere,' <<https://www.ethiopiaobserver.com/2020/07/06/ethnically-motivated-attacks-in-shashemene-and-elsewhere/>>, accessed on May 2021

<sup>74</sup> Ibid

<sup>75</sup> Proclamation No. 1187/2020, African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa Ratification Proclamation Article (3(2(a)) 1(c))

<sup>76</sup> The Somali Regional State durable Solution strategy adopted the definition of the 1998 Guiding Principles and 2009 Kampala Convention as "internally displaced persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized state border."

<sup>77</sup> Proclamation No. 1187/2020, African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa Ratification Proclamation Article 3 (2(b))

The government also made a declaration on the role of international organizations, participation, and coordination to be based on the prior request and arrangement of the government.<sup>78</sup> This declaration of the government negates the principle of sovereign responsibility which is one of the basic principles of international law, the guiding principles of the Kampala Convention. States may intentionally be the perpetrators of conflict-induced displacement a lack of capacity and willingness to address the plights of conflict-induced IDPs. In some instances, IDPs might intentionally be uprooted by their government on ethnic, religious, or political grounds. In such cases, international organizations have a responsibility to intervene in state matters and protect the predicaments of conflict-induced internally displaced persons albeit the government is silent on the issue.

The proclamation has declared that the participation of aid agencies is applied based on the health, safety, and security precondition of the government.<sup>79</sup> This gives power to the government to make the cooperation and participation of UN agencies, AU, or other humanitarian organizations to be dependent on the precaution and the will of the government. Moreover, the proclamation empowers the Ministry of Peace to cooperate with other relevant organs to follow up and implement the convention.<sup>80</sup> This implies that the Ministry of Peace has a responsibility for the domestication of the convention and enactment of the subsequent proclamations and subsidiary legislations. Nevertheless, the institutional response towards conflict-induced internally displaced persons in Ethiopia is blurred and I will return to this issue in Chapter Five.

### **3.3.Ethiopian National Policies and Strategies**

National policies and strategies are one part of normative frameworks that unveil the government's directions toward a specific issue. It was in the 1970s that Ethiopia enacted the first national policy and strategy on disaster response associated with the establishment of the Relief and Rehabilitation Commission.<sup>81</sup> However, the full national policy on Disaster Risk Management (DRM) was developed in 1991, after the establishment of the Transitional

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<sup>78</sup> Ibid article 3(2(c))

<sup>79</sup> Ibid article 3(2(d))

<sup>80</sup> Ibid article 4

<sup>81</sup> International Federation of Red Cross and Red Crescent Societies, Law and Regulation for the Reduction of Risk from Natural Disasters in Ethiopia, A National Law Desk Survey August 2012

Government of Ethiopia.<sup>82</sup> Hence, in the subsequent years, in 1993 and 1995 the government enacted a relatively detailed national policy, directives, and guidelines on Disaster Prevention and Management (NPDPM).<sup>83</sup>

The 1993 NPDPM focuses on three areas of responses as basic operation modalities in disaster prevention and management, on the structure of relief management, and the duties and responsibilities of those persons involved in disaster prevention and management.<sup>84</sup>

For the first time, this policy has formally addressed the issue of prevention and preparedness as well as set out a relatively detailed framework for DRM and Disaster Risk Reduction (DRR) activities in Ethiopia.<sup>85</sup> As a result, for a long time, the NPDPM together with the Directives and Guidelines served as the national document of DRM in the country.

However, in 2007 the Ethiopian government began to implement a process of ‘business re-engineering and reviewed the disaster management framework and its structure.<sup>86</sup> Subsequently, a new institutional structure (the Disaster Risk Management and Food Security Sector (DRMFSS)) was created within the Ministry of Agriculture and Rural Development.<sup>87</sup> Further, the government has enacted a new National Policy and Strategy on Disaster Risk Management (NPSDRM) and after a long period as a draft document, it was adopted in 2013.

### **3.3.1. The 2013 Ethiopian National Policy and Strategy on Disaster Risk Management (NPSDRM)**

The 2013 NPSDRM is an amendment to the 1993 National Policy on Disaster Prevention and Management. The DRM policy provides a comprehensive framework of disaster risk management system that focuses on multi-hazard and multi-sectorial approaches as well as on measures that need to be taken before, during, and after the displacement through establishing a

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<sup>82</sup> Ibid

<sup>83</sup> Disaster Risk Management And Food Security Sector Ministry Of Agriculture, Disaster Risk Management Strategic Programme And Investment Framework, [2013], p.14

<sup>84</sup> International Federation of Red Cross and Red Crescent Societies, Law and Regulation for the Reduction of Risk from Natural Disasters in Ethiopia, A National Law Desk Survey August 2012

<sup>85</sup> Ibid

<sup>86</sup> Ibid

<sup>87</sup> Ibid

coordinated, accountable, and decentralized system.<sup>88</sup> The policy has brought a paradigm shift by moving away from a disaster management approach that focused on drought and the provision of emergency relief assistance to a more proactive, multi-sectorial, and multi-hazard DRM approach.<sup>89</sup> It recognizes Ethiopia as vulnerable to multiple hazards associated with climate and conflict-induced displacements.<sup>90</sup> One of the specific objectives of the DRM policy is to prevent and reduce disaster, and when the disaster occurs to save lives, protect livelihood, and ensure all disaster-affected populations are provided with recovery and rehabilitation assistance.<sup>91</sup>

Moreover, the policy and its associated Strategic Programme and Investment Framework (hereinafter DRM-SPIF) inculcated important statements that could boost the reliability of the government's response to internal displacement. The DRM activities implemented during the pre-disaster phase contributed to preventing and mitigating conditions that might lead to internal displacement and it emphasized responses based on early warning or disaster assessment information systems.<sup>92</sup>

On top of these, the DRM policy lays down general directions and major implementation strategies on a decentralized DRM system, information management, funding base, international cooperation, and integration of disaster risk reduction into development plans.<sup>93</sup> The policy has also defined displacement as "the process of people being forced to move from their home to other places because of a natural hazard, war/conflict, and other human-made action".<sup>94</sup>

The policy recognizes and incorporates conflict as well as natural disasters as causes of internal displacement in the country.<sup>95</sup> Nonetheless, the policy fails to define IDPs and the early warning system was solely prepared to address climate-induced internal displacement by abandoning conflict-induced displacement.<sup>96</sup> The DRM and its respective strategic program fail to spell out

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<sup>88</sup> The NDRMP, 2013, introduction, 3.

<sup>89</sup> Ibid

<sup>90</sup> The DRM Policy as it has recognized conflicts triggered by different factors as one of occasionally occurred and causes of internal displacement, 2013, introduction

<sup>91</sup> DRM Policy, 2013, introduction

<sup>92</sup> Ibid

<sup>93</sup> Ibid

<sup>94</sup> Ibid

<sup>95</sup> International Organization for Migration, 'Placing IDPs on the map in Ethiopia and beyond', <https://weblog.iom.int/placing-idps-map-ethiopia-and-beyond>, accessed on June 2021

<sup>96</sup> Ibid

mechanisms to deal with risks associated with conflicts which is the current primary deriving factor of displacement in the country.<sup>97</sup>

The policy does not offer a sound base for the provision of protection and assistance needs as well as durable solutions for IDPs.<sup>98</sup> It is against this backdrop, that the Ethiopian government has launched the Federal Government's Strategic Plan to Address Internal Displacement and the cost of recovery/rehabilitation to ensure a voluntary, safe, dignified, and sustainable return/relocation of people uprooted by conflicts in the seven regions and the one administrative City of Ethiopia.<sup>99</sup>

### **3.3.2. The 2019 Federal Government Strategic Plan to Address Internal Displacement and Costed Rehabilitation**

The Strategic Plan was enacted to fill the gaps in the policy and to give a response to the prevailing situations of conflict-induced internal displacement in the country. Henceforth the strategic plan was enacted to achieve four results.<sup>100</sup> The first two are related to the restoration of law and order, ensuring peace and reconciliation, and voluntary return and relocation of conflict-induced IDPs while the other results are the rehabilitation and livelihood support of the IDPs which demand the participation of different sectors.<sup>101</sup>

This instrument is specifically designed to return/relocate/reintegrate conflict-induced IDPs in three phases. The first phase addresses persons displaced within their region of origin and where conditions allow a voluntary, dignified, and sustainable return to be conducted.<sup>102</sup> The second phase targets persons displaced from areas where substantial security and rehabilitation of basic services are required before returns.<sup>103</sup> The final phase deals with persons displaced from areas where alternative solutions to returns are preferred, including IDPs whose place of origin is deemed viable for return but who still choose not to return.<sup>104</sup>

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<sup>97</sup> Ibid

<sup>98</sup> Ibid

<sup>99</sup> Ibid

<sup>100</sup> Ethiopian Federal Government's Strategic Plan to Address Internal Displacement and a costed Recovery/Rehabilitation Plan, 2019, Objectives

<sup>101</sup> Ibid

<sup>102</sup> Ibid

<sup>103</sup> Ibid

<sup>104</sup> Ibid

However, this instrument is limited in scope as it is designed to address a particular phase of the displacement process that is, the need to achieve durable solutions.<sup>105</sup> The IDP Strategic Plan was adopted with the overall aim of ensuring a voluntary, safe, dignified, and sustainable return/relocation of people uprooted by conflict in a different part of the country.<sup>106</sup> It has been targeted to return 80% of conflict-induced IDPs to their areas of origin while 15% of the total conflict-induced IDPs will be reintegrated into current areas of displacement and 5% of the total conflict-induced IDPs will be relocated to other areas.<sup>107</sup> However, this target was made by the government authorities without considering the principles of voluntary participation, safety, dignity, and non-discrimination of IDPs.

Apart from the IDP strategic plan of 2019, Ethiopia does not have either national law or national policy that guides the search for durable solutions. Besides, the IDP strategic plan has several limitations that may affect its potential to address the displacement crisis sustainably. First of all, the IDP strategic plan of 2019 is designed to address durable solutions only for conflict-induced IDPs.<sup>108</sup> Thus, this instrument does not provide and give much support for those persons displaced by climate change-related factors. Secondly, it does not state the rights of IDPs including access to effective mechanisms to restore lost properties and compensation without which it is challenging for IDPs to achieve sustainable solutions.<sup>109</sup> Furthermore, the strategic plan is silent on the approach and corresponding responsibilities of the state and other organizations.<sup>110</sup> Therefore, the strategic plan does not provide a sufficient legal or normative basis for protecting the rights of IDPs by itself and for the enactment of subsequent binding laws and legislations. Furthermore, there is no clear provision that shows directions and facilitates durable solutions for all types of internal displacements.

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<sup>105</sup> Supra note 55

<sup>106</sup> Ibid

<sup>107</sup> The Ethiopian Federal Government's Strategic Plan to Address Internal Displacement and a costed Recovery/Rehabilitation Plan, 2019

<sup>108</sup> Abebe, Allehone M. 'The emerging law of forced displacement in Africa development and implementation of the Kampala Convention on internal displacement', [2017]

<sup>109</sup> Ibid

<sup>110</sup> Ibid

### 3.4. The 2004 Revised Criminal Code

Internal displacement is an unanticipated movement of individuals from their habitual residences and fleeing to anywhere within the boundary of the state in search of refuge.<sup>111</sup> The predicaments of the IDPs worsen when the cause of internal displacement is related to violence and conflict.<sup>112</sup> Conflict-induced IDPs are forcefully uprooted from their habitual residence and become a victim of human rights violations that threaten their life, safety, security, and dignity.<sup>113</sup> This can include inhumane treatment, serious bodily harm, loss of life, loss of property, enforced disappearances, arbitrary detention, and modern forms of enslavement like human trafficking.<sup>114</sup> These and similar violent acts and abuses can happen in all phases of displacement and, they can affect those living in camps, with the host community as well as returned and relocated.<sup>115</sup>

The UN Guiding Principle on internal displacement does not criminalize acts giving rise to internal displacement, rather it has declared that the national authorities have the primary duty to guarantee and protect the rights of IDPs through domestic laws and policies.<sup>116</sup> Besides, the Kampala Convention explicitly obligates state parties to criminalize acts of arbitrary displacement in domestic law, to ensure individual responsibility for these acts, and to provide victims of displacement with effective remedies.<sup>117</sup>

Thus, criminalization is one way of domestication that will protect and guarantee the rights of conflict-induced IDPs. Victims of conflict and displacement would identify justice as one of their most pressing needs as they seek to rebuild their lives. Justice in displacement contexts would require accountability for the insecurity, exploitation, and abuse suffered by the victims of displacement.<sup>118</sup> Prosecuting the perpetrator of arbitrary displacement and making liable individuals who have participated in criminal activities and human rights violations of conflict-induced IDPs is one part of the state obligation. Justice and accountability can play an important

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<sup>111</sup> Saxena, P. 'Internally Displaced Persons-Lack of Legislation and Empathy', [2012]

<sup>112</sup> Solomon, A., Gandhi, M., & King Jr, M. L. [2009], Justice, accountability, and the protection of displaced persons

<sup>113</sup> Ibid

<sup>114</sup> Ibid

<sup>115</sup> Ibid

<sup>116</sup> Ibid

<sup>117</sup> The Kampala Convention, article 3 (g) and Article 4 (6)

<sup>118</sup> Solomon, A., Gandhi, M., & King Jr, M. L. 'Justice, accountability, and the protection of displaced persons'[2009]

role in resolving conflict-related displacement and remedying the adverse effects of these phenomena on the displaced and society as a whole.<sup>119</sup> Further, ensuring respect for human rights and holding to account those responsible for crime and human rights violations through justice and accountability measures is an essential part of the government response process.<sup>120</sup>

In Ethiopia's federal state structure, the enactment of the penal code is the power and function of the House of Peoples' Representatives.<sup>121</sup> However, the regional states may enact penal laws on matters that are not specifically covered by federal penal legislation.<sup>122</sup> Henceforth, Ethiopia has revised the 1957 penal code in 2004. The revised criminal code was enacted to fill the gaps in the previous penal code and to accommodate the existing economic, political, and social changes.<sup>123</sup>

However, there is no specific provision of the code that deals with internal displacement and conflict-induced internal displacement in particular. Rather, all provisions of the criminal code are applied to crimes committed on conflict-induced IDPs like citizens of the country. Besides, the criminal code provisions that deal with genocide and war crimes against civilians have direct applicability to crimes committed against conflict-induced IDPs.<sup>124</sup> Therefore, government officials, individuals, or a group of individuals, who have participated in or committed crimes on conflict-induced IDPs, are responsible and accountable via the ordinary provision of the revised criminal code.

### **3.5.Draft Proclamation on the Protection and Assistance of IDPs in Ethiopia**

The Ethiopian government has ratified the Kampala Convention on 2020 with some reservations. Accordingly, it has started the domestication processes though not yet completed. The ratification proclamations specified that the domestication processes to be led by the Ministry of Peace<sup>125</sup> however, the ministry was restructured and there were no clear institutional structures that had the responsibility to domesticate the Kampala Convention. Hence, currently, the

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<sup>119</sup> Ibid

<sup>120</sup> Ibid

<sup>121</sup> The FDRE Constitution, art 56

<sup>122</sup> Ibid

<sup>123</sup> See the preamble of the 2004 Revised Criminal Code Proclamation No.414/2004, The Criminal Code of The Federal Democratic Republic of Ethiopia

<sup>124</sup> The revised criminal code of Ethiopia art 261 and article 4 (6) of the Kampala Convention

<sup>125</sup> Proclamation No 1187/2020 Proclamation to Ratify the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), art 4

domestication processes and the enactment of the proclamation are jointly conducted by concerned national organizations and in cooperation with international organizations. Through the coordination of the ministerial task force, The Ministry of Justice the Legal drafting directorate is leading the processes, and the Ethiopian National Disaster and Risk Management Commission, the Ministry of Peace, the Ethiopian Human Rights Commission, and other concerned national and international organizations are participating in the process. Accordingly, the draft proclamation is prepared and it is under review by different stakeholders. Thus, the draft proclamation is comprehensive and it deals with the rights of internally displaced persons before displacement, during and after the displacement. The draft proclamation is under review by different national and international stakeholders. Hence, it is not the aim of this article to examine it in detail however the following is a nutshell.

The preamble and the objective of the draft proclamation specified that the enactment of the proclamation would prevent, protect, and assist the internally displaced persons and ensure a durable solution for internally displaced persons in the country.<sup>126</sup> The draft proclamation also asserted that Ethiopia has ratified different international human rights instruments and recognized the rights of internally displaced persons as human rights. It has also specified the civil, political, economic, social, and cultural rights of the internally displaced persons. Besides, the draft proclamation specified that the participation of internally displaced persons is at the center and it has followed a human rights-based approach.<sup>127</sup> In addition, it has mentioned the establishment of a National Coordination Council that will be chaired by the Deputy Prime Minister and also the Fund for Internally Displaced Persons.<sup>128</sup>

The draft proclamation has attempted to cover the gaps of the criminal law and it has imposed criminal responsibilities. Accordingly, it has criminalized acts of arbitrary displacement, obstruction against assistance to internally displaced persons, military conscription of internally displaced persons, and crimes against humanity that are committed on internally displaced persons as criminal offenses.<sup>129</sup>

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<sup>126</sup> The draft proclamation አዋጅ ቁጥር .../2015 የአገር ውስጥ ተፈናቃዮች ጥበቃና ድጋፍ አዋጅ, art 4

<sup>127</sup> See section two of the draft proclamation

<sup>128</sup> See Article 21 of the draft proclamation

<sup>129</sup> See Article 31 of the draft proclamation

However, the draft proclamation has specified a general and prohibitory provision on the acts of international organizations and humanitarian partners to respect the sovereignty of the country and the national integrity of the state.<sup>130</sup> This statement is skeptical and might hinder the humanitarian organizations not to freely and fully conducting their activities. The provision is vague and gives power to the government to interpret the activities of humanitarian organizations subjectively. Besides the draft proclamation has imposed obligations on state institutions to prevent, protect, and support internally displaced persons.<sup>131</sup> However, it has also specified an escape clause in that the obligations of state institutions will be measured based on the available resources and the capacity of the state. Furthermore, the draft proclamation attempted to address the issues of internal displacement from one region to another region. It has specified that depending on the cases, the federal government might minimize and shift some of the supplementary budgets of one regional state to the established fund when the region becomes the source of conflict-induced internal displacement.<sup>132</sup> However, this provision is not clear in the case of internal displacement occurring within the region and from the federal government to other regions. Besides, the application of this provision might create disputes between the regional states. Thus, states might deny the displacement of individuals out of their region to save the deduction from the supplementary budget and to avoid the perception of weak leadership. In most cases, the regional governments perceived that internal displacement particularly; conflict-induced is a cause of weak leadership and management. As a result, the regional government did not provide the exact numbers of internally displaced persons living within and out of the region. This becomes a challenge in creating cooperation between the regional governments and also in realizing effective protection and responses to internally displaced persons in the country.

#### **4. Durable Solutions for Internally Displaced Persons**

IDPs are one of the vulnerable groups of individuals, who have the right to a durable solution and the process needs the assistance of different organs. The Guiding Principles from 28-30 and the Kampala Convention of Article 11 set the rights of IDPs, the responsibilities of national authorities, and the role of humanitarian and development actors to assist durable solutions. The

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<sup>130</sup> Article 19 of the draft proclamation

<sup>131</sup> Article 20 of the draft proclamation

<sup>132</sup> Article 30 of the draft proclamation

work towards a durable solution will minimize the vulnerabilities of IDPs and strengthen their capacities to enjoy their human rights without discrimination.<sup>133</sup>

To realize durable solutions, the Inter-Agency Standing Committee has identified three options based on the principles of voluntariness, safety, dignity, and non-discrimination.<sup>134</sup> These are the return of displaced persons to their place of origin or habitual residence, local integration in areas where displaced persons have sought refuge, and settlement elsewhere in the country.<sup>135</sup>

However, durable solutions must not be exclusively understood as a return to one's former home or a re-establishment of the status quo before displacement.<sup>136</sup> Sometimes the government and the IDPs may assume return as the best solution having different reasons and the authorities encourage return as a political tool for reclaiming territories, while the IDPs seek only their home and livelihood.<sup>137</sup>

Even if when return is also possible, returnees often face several challenges related to land and property rights, infrastructure, and social services.<sup>138</sup> These would force IDPs to choose the other option which is local integration with the host communities and this may have a challenge in finding a job or a dwelling to rent because of discrimination against IDPs by the resident population or authorities.<sup>139</sup> Displaced populations usually suffer marginalization of all types of insecurities, fear, and threat particularly when they live with the host communities.<sup>140</sup>

When people can neither return nor continue to live in the dire camp or other temporary shelters, resettlement is a third alternative, and IDPs may require humanitarian, developmental, and financial assistance until they can access livelihoods, education, and health services in their new location.<sup>141</sup>

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<sup>133</sup> The Brookings Institution, 'The University of Bern Project on Internal Displacement, IASC Framework on Durable Solutions for Internally Displaced persons', [2010]

<sup>134</sup> Ibid

<sup>135</sup> The Guiding Principle Article 28 and Article 11 of the Kampala Convention

<sup>136</sup> The Brookings Institution, 'The University of Bern Project on Internal Displacement, IASC Framework on Durable Solutions for Internally Displaced persons', [2010]

<sup>137</sup> Cathrine Brun, 'Research guide on internal displacement', NTNU Research Group on Forced Migration, (2005)

<sup>138</sup> Ibid

<sup>139</sup> Ibid

<sup>140</sup> Wanninayake, S. 'A Brief Conceptual Analysis on Conflict Induced Internal Displacement, Return, and Resettlement', (2019), 126.

<sup>141</sup> Ibid

Thus, the mere return, local integration, or resettlements of IDPs are not the end of durable solutions.<sup>142</sup> The options must be feasible, sustainable, and have a long-term focus, anchored in political will and leadership.<sup>143</sup> Unlike refugees, IDPs have no legal status and there is no cessation clause for IDPs.<sup>144</sup> Hence, the IASC Framework asserts a durable solution will be achieved when there is long-term safety, an adequate standard of living, access to employment, access to compensation, access to documentation and voluntary reunification, participation in public affairs, and effective remedy for displacement-related violations.<sup>145</sup> Besides, the durable solution needs to be supported by comprehensive normative frameworks. Accordingly, displacement will end when durable solutions are achieved and IDPs no longer have needs specifically related to their displacement.<sup>146</sup>

Ethiopia is one of the sub-Saharan African countries which highly affected by different types of internal displacement and the situation has remained prevalent throughout the country's history.<sup>147</sup> Natural and man-made disasters are the frequent causes of internal displacement in the country.<sup>148</sup> For a long period, such types of displacement have drastically affected society to live with different types of conditions like changes in the family structure, deteriorating community relations, and new identity formation. In the bargain, the displacement situation has been disrupting the social relationships between and/or among the adjacent communities. The displacement situation has led the IDPs into a state of economic hardship, poverty, and deprived living conditions, and makes them vulnerable to psychological problems and physical violence. In particular, when the cause of the displacement is conflict, the situation severely affects the life of the IDPs and it becomes more complicated. Thus, conflict-induced IDPs are the most vulnerable in most cases, and they are neglected by the government. Humanitarian partners are also reluctant to intervene frustrating the political dimension of the conflict.

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<sup>142</sup> The Brookings Institution, 'The University of Bern Project on Internal Displacement, IASC Framework on Durable Solutions for Internally Displaced persons', [2010]

<sup>143</sup> Ibid

<sup>144</sup> Wanninayake, S. 'A Brief Conceptual Analysis on Conflict Induced Internal Displacement, Return, and Resettlement', (2019), p.126

<sup>145</sup> Inter-Agency Standing Committee, IASC Framework on Durable Solutions for Internally Displaced Person, 2010, [IASC Framework on Durable Solutions for Internally Displaced Persons | IASC \(interagencystandingcommittee.org\)](https://www.interagencystandingcommittee.org/)

<sup>146</sup> Cathrine Brun, 'Research guide on internal displacement', NTNU Research Group on Forced Migration, (2005)

<sup>147</sup> Maru Taddele, 'Causes, dynamics, and consequences of internal displacement in Ethiopia', working papers [2017]

<sup>148</sup> Ibid p. 13

In Ethiopia, in 2019 the Government enacted the Ethiopian Durable Solution Initiative aiming to provide a principled operational framework and platform to design and implement durable solutions in support of internally displaced persons (IDPs) in Ethiopia and host communities/communities at locations of return, relocation or local integration.<sup>149</sup> Besides, the Kampala Convention specifically mentioned that a durable solution is one of the basic rights of IDPs.<sup>150</sup> Furthermore, the Somali Regional Government has enacted a durable Solution Strategy Plan since 2017 and has also revised it in 2022 which will be applicable till 2024.<sup>151</sup> However, this good initiative did not expand to other regional governments, and the gaps in the federal normative frameworks have been reflected in the normative frameworks of the regional governments.

## 5. Conclusion

Internally displaced persons and refugees have encountered the same challenges however there are no comprehensive international normative frameworks for the protection and assistance of IDPs. It is the international human rights law, humanitarian law, and refugee law that serve as a guide for the protection and responses to IDPs.

Regionally, Africa is the only continent that has binding laws on the protection and responses to internal displacement. The Kampala Convention prescribes the rights of IDPs and state obligations. It states that IDPs are the holder of rights and the state has the primary obligation to ensure those rights. The majority of the African states have ratified the Kampala Convention and it serves as a base for the enactment of national legislation.

Internal displacement has become a pervasive and major challenge in Ethiopian history since the 1970s and the country has attempted to enact different laws and policies in repose to protect IDPs.

The 1995 FDRE constitution specifies that the government should avert any type of natural and man-made disasters and give timely responses. Howbeit, the constitution does not give due

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<sup>149</sup> United Nations Ethiopia, 'Ethiopia Durable Solution Initiative, (2019) [DSI Ethiopia low res.pdf \(un.org\)](#) accessed on June 2022

<sup>150</sup> See Article 11 of the Kampala Convention

<sup>151</sup> Somali Regional State Durable Solution Strategy (2022-2025), [Somali Region DSI Strategy\\_0.pdf \(un.org\)](#)

attention to conflict-induced internal displacements. It gives protection from natural disasters and development-induced-internal displacements.

It is the 1993 NPDPM and the revised 2013 NPSDRM policies that give comprehensive responses to all types of internal displacements. Nonetheless, the policy focuses more on natural disasters and internal displacements and gives less attention to conflict-induced internal displacement. The policy was enacted mainly to prevent and give responses to internal displacement that occurred as a result of drought and flood. Thereupon, in the responses to the 2018 Gedeo-Guji and Oromo-Somali conflicts induced internal displacement in 2019, the federal government has enacted a strategic plan to address internal displacement and cost recovery/rehabilitation. Accordingly, the federal and regional governments in collaboration with humanitarian partners have attempted to address the needs of a massive number of IDPs. Therewithal, to cover the gaps in the normative framework the government has ratified the Kampala Convention in 2020 despite it is not domesticated yet. The government has made reservations and declarations that are against the objective of the convention. The regional constitutions are the direct replica of the federal constitution and there is no clear provision that specifically addresses the issue of conflict-induced internal displacements in their respective regions as well. The 1995 FDRE constitution is also vague on the power and responsibilities of the regional governments in the responses and protections to IDPs displaced from and within the regions.

It is only the Somali Regional Government that has attempted to enact regional durable solution strategies and addressed the needs of all types of internal displacements. The strategy has acknowledged the existence of conflict-induced internal displacement in the country and has affirmed that the responses and protection have to follow right right-based approach. Nevertheless, this initiative has not been expanded to other regional governments, and the gaps in the federal normative frameworks will affect the prevailing human rights protection of Internally Displaced Persons and the response process. Therefore, the government needs to revisit its normative frameworks and domesticate the Kampala Convention hastily.