



SCHOOL OF LAW GRADUATE PROGRAM

**CHILD RIGHTS PROTECTION IN EMERGENCIES:
THE ETHIOPIAN CONTEXT**

Submitted to Addis Ababa University, School of Graduate Studies in partial fulfillment of the requirement of the degree of masters in public international law

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DEDICATION

This work shall be dedicated to children lost their parents and parents lost their beloved children during arbitrary displacement of Oromo people from ethio-Somali and border conflict.

DECLARATION

I, **Ibsa Chemed**, hereby declare that this dissertation is original and has never been presented in any other academic institution. Where other people's works have been used and or referred to, acknowledgments have been duly made.

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ACRONYMS

ACHPR- African Charter on Human and Peoples Rights

AU –African Union

ACRWC-African Charter and welfare on children rights

AU IDP convention – Convention on Internally Displaced person of African Union

BoWCA- Bureau of Women and children Affairs

CRC- Convention on the Rights of Children

CPiE- Child Protection in Emergency

CPWG-Child protection working Group

CSO-Civil Society Organization

DPPC-Disasters prevention and preparedness Commission

EHRC-Ethiopian Human Rights Commission

FDRE –Federal Democratic Republic of Ethiopia

FDRE criminal code- Federal Democratic Republic of Ethiopia criminal code

GC IV-Geneva Convention IV

GC AP II- Additional protocol II to Geneva Convention

IHL-International Humanitarian law

IHRL-International Human Rights Law

IDP-Internally Displaced Person

ICCPR-International Convention on Civil and Political Rights

ICRC-International Committee of Red-Cross

IBCR-International Bureau Children Rights

ICESCR- International Convention on Economic and Social Cultural Rights

MoWCA-Ministry of Women and Children Affairs

NGO- Non-Governmental Organization

NDRMC- National Disaster Risk Management Commission

OCHA-Office of Coordination for Humanitarian Assistance

OWCAB- Oromia Women’s and Children Affairs Bureau

ONLF-Ogaden National Liberation Front

UNICEF-United Nation

UDHR-Universal Declaration of Human Rights

UNGAR-United Nation General Assembly Resolution

UNHCR-United Nation High Commissioner for Refugee

Abstract

Child rights protection in emergencies are efforts to prevent and respond to abuse neglect, exploitation and violence against children in calamity. Governments have the primary responsibility of ensuring that, children are protected at all times, especially through giving due consideration during emergencies. In disaster, so many factors increase a child's vulnerability. Displacement, separation from family and community, losing a parent or a loved one and losing home and possessions are all factors that can endanger a child's life. Conflict and IDP are some of manmade emergency. The main focus of this thesis is the protection of children rights in the case of internal conflict at the border between oromia and Somali regional state causes displacement of 484,934 people from the border and arbitrary displacement of Oromo people by liyu police of Somali regional state which causes the displacement of 246,282 Oromo people from Somali regional state. Children rights protected by the instruments like UNCRC, UDHR, ICCPR, and ECESCR, GC IV and AP II, AU IDP convention, UN IDP guideline and other declaration made in different time. In time of disaster children rights mainly given attention were rights to life and survival, right to education, Right to non-separation from family and protection from sexual violence and right to health and food. However during arbitrary displacement of Oromo people from Somali those rights were completely violated by the government organ. The present effort, evaluate the status of the protection of those rights and the status of their violation both during the border conflict and arbitrary displacement. In doing so, the writer has analyzed various international, regional, and domestic legal instruments, and the roles of institutional frame work. Continually, the writer has assessed the data related to displacement and border conflict from different organs. The data collection stage of the work has employed through interview with government officials, IDP, receiving data registered from government organs and field observation with IDP peoples, Committee of rehabilitation in which more than 100 peoples were consulted. After conducting serious analysis, the writer has, eventually, reached to the following findings; Except for some measurements to minimize the risky after displacement the federal government didn't fulfill its obligation for protection. Children were raped, they were slaughtered by police, they were psychologically distressed as a result of death of their family or any other thing indicated in the conflict; many children were separated from their parent and interrupt their education. The work has, finally, recommended plausible solutions to strengthen the protection of children rights in such emergency.

CHAPTER ONE: INTRODUCTION

1.1 Background of the study

Child protection in emergencies is about preventing and responding to violence, abuse, exploitation and neglect of children during times of emergency caused by natural and man-made disasters, conflict or other crises.¹An emergency can typically be defined as: “A situation where lives, physical and mental well-being, or development opportunities for children are threatened as a result of armed conflict, disaster or the breakdown of social or legal order or where the local capacity to cope is exceeded or inadequate”.²In short child protection refers to protection from the conduct of hostilities (death, disability, emotional distress) as well as from other misfortune brought on them by war (including starvation, malnutrition, displacement, poverty, educational disruption, and separation from family).³ Child protection is a special concern in situations of emergency. Many of the defining features of emergencies; displacement, lack of humanitarian access, breakdown in family and social structures, erosion of traditional value systems, a culture of violence, weak governance, and absence of accountability and lack of access to basic social services create serious child protection problems.⁴

Children are the most vulnerable part of the population.⁵ This is true both in time of war and in time of peace. In time of armed conflict, children are exposed to death, destruction, evacuation, separation from home and parents, starvation, physical and psychological trauma.⁶ The international humanitarian law (IHL) has gradually developed specific measures of protection of children in time of armed conflict.⁷ In equal position, the human rights law (HRL) has built up on the rights of the child, applicable in all time. The landmark 1989 Convention of the Rights of

¹Child Protection in Emergencies(CPiE) and The Public system,(training Resource book)provincial Disaster Management Authority ,Khyber Pakhtunkhwa,)(January 2014),p.9

²Ibid

³ Ibid

⁴Dan McGarry,Children Protection in Emergencies, a toolkit for practitioners in pacific island countries,(by UNICEF pacific,(2015),p.3

⁵Roberta Arnold and Noëlle Quénivet(*Edited*),International Humanitarian Law and Human Rights Law, Towards a New Merger in International Law,(2008),p.383

⁶ Ibid

⁷ Ibid

the Child (CRC)⁸ was negotiated, signed and ratified. Regional human rights law regimes have also continuously elaborated a child-rights approach. In advancement, the United Nations principal organs, General Assembly, Security Council, Secretary-General adopted and enforced various measures,⁹

The law on the rights of the child, such as the 1989 Convention (Articles 38 and 39), or the African Charter on the Rights and Welfare of the Child (Article 22)¹⁰ encompass obligations to respect the rules of IHL. Under this paper, the analysis of both IHL and HRL can be made in terms of children's rights. IHL and HRL should complement each other and, where necessary interplay with other regimes as to offer full protection and best care for all children, in all circumstances, in all times. Article 77 Additional protocol I establishes the principle of special protection of children: "Children shall be the object of special respect and shall be protected against any form of indecent assault."¹¹ The principle of special care for children is extended to apply in non-international armed conflicts in Article 4 Addition protocol II.¹² Internally displaced person is one case of emergency situation. 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 in order 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.¹³ Internally displaced children as beneficiaries of special assistance and protection due to the specificity of their needs require reproducing the contents of CRC.¹⁴

Ethiopia suffered as a result of different kinds of emergency situations. My research paper will emphasize mainly on the emergency situation emerged from border conflict between Oromia and

⁸Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3, [Hereinafter CRC].

⁹ Cited above at note 5,p.383

¹⁰African Charter on the Rights and Welfare of the Child,O.A.U. Doc. CAB/LEG/24.9/49, (1990) (entered into force Nov. 29, 1999) [hereinafter African Charter on the Rights and Welfare of the Child].

¹¹Protocol Additional to the Geneva Conventions of,12 August 1949 and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), June 8, 1977, 1125 U.N.T.S. 3 [hereinafter AP I].

¹²Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), June 8, 1977, 1125 U.N.T.S. 609 [hereinafter AP II].

¹³Guiding Principles on Internal Displacement, Office of the High Commissioner for Human Rights Geneva, Switzerland, Extract from the document E/CN.4/1998/53/Add.2, dated 11 February 1998,preamble par.2

¹⁴ Id ,princi.4(2)

Ethio-somali regions and mass arbitrary internal displacement of Oromo ethnic group in Somali region, starting from 1 September 2017. The conflict between Oromia and Ethio Somali are not new. However what is new is the, fact that the conflict occurred starting 1 September 2017 is an exception to the previous year conflicts, because it resulted in mass killing, sexual violation and mass displacement which is estimated to reach in 1 million people as expressed by the IOM.¹⁵ Among the people affected by this conflict, children are the most vulnerable one. Those protections of rights fall under the obligation of the state to protect the right to children. During the Oromia and Ethio-Somali conflict, which resulted in mass displacement of Oromo people from Ethio-somali there were more violations of the right of children during the conflict and after conflict in the camps.

1.2 Statement of the problem

Currently our planet faces various emergency situations; some of the most important global emergency situations are crisis arising from natural causes (such as earthquake, tsunami, flood), from armed conflicts, which may be international or internal (as defined in international humanitarian law), or from post-conflict situations that impair, interrupt, delay or deny the right to education, like internally displaced person, which impede its development or hold back its realization¹⁶and the breakdown of social or legal order and where local capacity to cope is exceeded or inadequate. Children rights are protected by different international and national instruments during emergencies especially during conflict and internal displacement. Though International law and enacted regulations in Ethiopia regarding child protection in emergencies, in general, the right to education, the right to protection from GBV, the right to Protection from physical harm, Protection from psychosocial distress, Protection from family separation and reunification when separation occurred, non- attacking on school, the right to Access to Public Health Services and Food Aid and Nutrition in particular declared to be protected, however it is Observed that the children rights violation in emergencies are takes place in border conflict between Oromia and Ethio-somali regional state and the forced displacement of Oromo Ethnic group in Somali region. In the country where all dominant international and regional human

¹⁵ Office of Coordination of humanitarian Assistance, Ethiopia: Conflict Displacement Situation Report para.3,issued on 23 January 2018,available at <https://reliefweb.int/report/ethiopia/ethiopia-conflict-displacement-situation-report> ,accessed on 13 march 2018

¹⁶Mashood A. Baderin(Edited),*International Human Rights Law*, Six Decades after the UDHR and Beyond, School of Oriental and African Studies (SOAS), University of London, *UK,(2010),p.500*

rights instruments ratified and incorporated in to the law of the land, it is unpleasant to hear gross violation of human rights, especially the right at hand.

1.3 Objective of the study

(i) General Objective of the study

The general Objective of the study is to identify whether or not the existence of the violation of children's rights in emergencies exist with especial analysis of the Oromia and Ethio-somali border conflict and Oromo ethnic group force fully displaced from Somali regional state.

(ii) Specific Objective of the study

The specific objectives of the study are:-

- ✚ To evaluate the violation of the right to children in emergencies in Ethiopia, with special emphasis in the situation of border conflict between Oromia and ethio-somali and arbitrary displaced Oromo ethnic group from Somali on the basis of their identity.
- ✚ To identify the protection of children rights in emergencies and identifying the violation of children's rights during border conflict between Somali and Oromia Region and arbitrary displacement of Oromo people from Somali and subsequently to assume appropriate solution for identified violation.
- ✚ To forward the proposed solution for the violation of children rights in emergencies in the specified case.

1.4 The main Research Questions

The following questions are forwarded to achieve the above stated aim (Objective):-

- ➡ Who are the abusers of laws protecting children rights in emergencies in the case of forceful displacement of Oromo ethnic group from Somali region and at border conflict between Oromo and Somali region?
- ➡ Why the Oromo ethnic group displaced from Somali region?
- ➡ What are the rights of children's violated in the displacement of Oromo Ethnic group in Somali regional state?
- ➡ What is the nature of state obligation under international law in situation of emergencies for protection of children's rights?
- ➡ What kinds of steps were taken by the concerned authority for the protection of children's rights for the case on hand?

1.5 Significance of the study

This research will have considerable significance in promoting and protecting the rights of children's in emergencies. The findings of this paper will definitely benefit international organization, government and children in the area of emergency situation and forceful displacement. Since the paper reveals the failure and weakness of government by listing out violations against the right in issue with its causes, the finding will help the government in rectifying its failures and in preventing any future violations thereby fulfilling its international obligations. Additionally since the paper is revealed violations of children's rights and its causes, it will help the government to avoid the root causes of the violation in the future. Children living in displacement and exist in oromai and Somali border conflict areas will be also beneficiaries of the finding of the research since the ultimate purpose of protecting the right and putting it as an international obligation of states is to secure their well-being. Also because of the paper identifies the violation of children rights in stated condition and the Ethiopian government fail to fulfill obligation under international law the international organization working in the protection of children's rights and to protect human and humanitarian rights in emergencies situation by informed of this they can give aid. Further, the paper could be used as a well developed literature on the normative content of the rights of children's in emergencies situation that makes the paper significant of both academic and practical matters.

1.6 Delimitation (Scope) of the study

In order to make the work manageable within the limited time and resources allocated this paper is limited to the place at Oromia Regional state zone which have boundary demarcation with Somali regional state and at which the border conflict was made between the two regional states like Eastern Hararge, Western Hararge, Bale, Borena and East and West Guji. Therefore in general the research will be more emphasis on the Children rights in emergencies; in Ethiopian context with special emphasis to the border conflict between regional states and internally displaced Oromo ethnic group in Somali region. The study and data collection period is only limited to the period from 1 September 2017 to 30 January 2018 in the study areas.

1.7 Limitation Of the study

The time and resource are some of the restraint. Due to the high political sensitivity of the subject matter and since the country is under state of emergency the researcher faced the problem

of getting sufficient primary data from concerned government authority, office and the concerned authority fear to deliver the data to me. Since as a result some disturbance in our country there was interruption of internet connection there is a limitation access of internet to retrieve a document what is found to be relevant to my title for writing this thesis and constraint of the logistic like vehicles, camera are other limitations. However, this constraint does not prohibit the writer ability to make the paper in a better way.

1.8. Research methodology

1.8.1 Research Approaches

To identify clearly the Problem and the proposed solution, the researcher will employ *mainly* qualitative and in some cases quantitative approaches.

1.8.2 Sources and Method of Data Collection techniques

All data that help to conduct the research will be collected from primary and secondary sources.

1.8.2.1 Primary Data Collection Techniques

The research methodology the writer used in the study was as said before mainly qualitative types and in some cases quantitative of research methodology through analysis of data obtained from different government organ. In this methodology primary sources data highly obtained through interview, observation, focal group discussion and international and national laws.

Interview held with 100 peoples displaced from the residence including children and government officials, Committee established for the humanitarian support for those displaced persons established at oromia regional state level, with the children affected with the conflict, National and regional Disaster Risk Management Commission (NDRMC), the ministry of women and children affairs and local authority at zonal level at selected area, Oromia education bureau, displaced peoples living at different palace, and Oromia Security Bureau. Focal group discussion will be done with children affected by the conflict, displaced peoples, with the family of children separated from their children if any.

1.8.2.2 Secondary Data collection Technique

Secondary data will be obtained from related reference materials like book, and reports of different government and non government organs, decision of government organ, manuals, journal, soft laws and web sites as well as other relevant documents.

1.8.3 Sample Size and Sampling Techniques

I will use non probable sampling with more emphasis on the convenience sampling. This is because it is simply available to the researcher by virtue of its accessibility. To address the research objectives, the researchers will employ different sampling techniques. After securing the cooperation of the questionnaires for the sampled population on convenient basis the interview will be made. The convenient time chosen was the time they were free and they are expected free to answer my interview.

1.8.4 Method of data analysis and presentation

Once the collection of data completed, it was analyzed using descriptive analysis method, to investigate the identified problem and its proposed solution. For this analysis method, where it needed percentage was used to present and describe relevant variables.

1.9 Organization of the study

The Organization of the paper will be organized in to five main chapters. Chapter one deals with the general over view of the background of the study and pre-informs readers about what is included in the paper. This part is primarily intended to acquaint readers with the back grounds, statement of the study, objectives, research questions, significance, and scope of the study and soon. Chapter two will be deals normative frame work for the protection of children"s rights in emergencies at international and regional level. Under this the humanitarian laws and human rights laws related to protection of children rights will be assessed. Chapter three will be deals with legal and institutional frame work in Ethiopia for the protection of children"s rights in emergencies, chapter four deals with analysis of the cases of conflict and internal displacement between oromia and Somali regional state in relation to children rights protection during emergencies and finally under chapter five conclusion and recommendation forwarded.

CHAPTER TWO

2. THE INTERNATIONAL LEGAL FRAMEWORK FOR THE PROTECTION OF CHILDREN IN EMERGENCIES

2.1 Definition of children

The Convention on the Rights of the Child (hereinafter the “CRC” or “the Convention”) defines “child” as every human being below the age of eighteen years.¹⁷ From the reading of the convention, the Convention does not provide the minimum age of childhood. It does not stipulate either birth or conception as the starting point of childhood. The silence of the Convention on this point seems intentional. The Convention avoids taking position on the controversial issue of abortion with a view to encourage universal acceptance of the instrument.¹⁸ The setting of the starting point for childhood is left to the determination of States Parties to the Convention.¹⁹ Moreover, the Convention does not conflict with domestic legislation which provides for better protection more conducive to the realization of the rights of children.²⁰ The majority of the rights enshrined in the African Children’s Charter as well as the CRC are to be exercised following the birth of the child.²¹ The rights affirmed in the Convention are to be applied holistically in early childhood in the light of the principle of the universality, indivisibility and interdependence of all human rights²² in all conditions.

2.2 Definition of Child protection in Emergencies

Child Protection in Emergencies refers to the prevention of and response to abuse, neglect, exploitation of and violence against children in emergencies.²³ For the purposes of this paper“

¹⁷Cited above at note 8 on art 1

¹⁸Rachel Hodgkin and Peter Newell, Implementation Handbook for the Convention on the Rights of the Child(3rd edn Geneva 2007),p. 1

¹⁹Cited above at note 8 on art.1

²⁰ Id, art.41

²¹Cited above at note 18 ,p.2

²²Committee on the Rights of the Child, General Comment No.7, 2005, CRC/C/GC/7/Rev. 1 para. 3)

²³ Global Protection Cluster, child protection in 2018, available at <http://www.globalprotectioncluster.org/en/areas-of-responsibility/child-protection.html> accessed on 15 February 2018. The Global Protection Cluster coordinates and provides global level inter-agency policy advice and guidance on the implementation of the cluster approach to Protection Clusters in the field, supports protection responses in non-refugee situation humanitarian action as well as leads standard and policy setting relating to protection in complex and natural disaster humanitarian emergencies, in particular with regard to the protection of internally displaced persons.

emergency” refers to situation where lives, physical and mental wellbeing or development opportunities for children are threatened as a result of any crisis arising from natural causes (such as earthquake, tsunami and flood), from armed conflict, which may be international or internal or from post-conflict situations that impair, interrupt, delay or deny the right to education, like internally displaced person, impede its development, or hold back its realization²⁴and the breakdown of social or legal order and where local capacity to cope is exceeded or inadequate.²⁵Such situations put people’s health and lives at risk and threaten or destroy public and private assets, limiting the capacity and resources to guarantee human rights and uphold social responsibilities.²⁶

Child protection in emergencies (hereinafter the “CPE”) refers to all efforts to prevent and respond to abuse, neglect, exploitation, and violence against children in the aftermath of a disaster.²⁷ CPE prioritizes the fulfillment of certain rights for children in emergencies, namely those that protect children against maltreatment and ensures their survival and wellbeing.²⁸As duty-bearers, governments have the primary responsibility of ensuring that children are protected at all times, especially during emergencies. In emergencies, so many factors increase a child’s vulnerability.²⁹ Displacement, separation from family and community, losing a parent or a loved one, and losing home and possessions are all factors that can endanger a children life. The lack of safety and security, and reliance on humanitarian assistance also means they become exposed to violence, exploitation, abuse and other injustices.³⁰Assisting children in the context of an emergency has to be done through careful interventions, which address both their immediate needs and protects them from long-term harm. Complex emergencies³¹ that made by human being

²⁴Cited above at note 16 ,p.500

²⁵ Global Protection Cluster, child protection in 2018, available at <http://www.globalprotectioncluster.org/en/areas-of-responsibility/child-protection.html> accessed on 15 February 2018. The Global Protection Cluster coordinates and provides global level inter-agency policy advice and guidance on the implementation of the cluster approach to Protection Clusters in the field, supports protection responses in non-refugee situation humanitarian action as well as leads standard and policy setting relating to protection in complex and natural disaster humanitarian emergencies, in particular with regard to the protection of internally displaced persons.

²⁶Cited above at note 24, p.500

²⁷Cited above at note 4 ,p.3

²⁸ Ibid

²⁹ Ibid

³⁰ Ibid

³¹ Amy S.Rhoads, Internally Displaced Person and The Right to Education, United Nations University for Peace (2010),p.8

like wars, conflict, or civil strife have a serious impact on communities and result in mass displacement.

2.3 Some cases of manmade emergency situations

Even though there are many emergency situations, my thesis is emphasized on IDP and conflict among manmade emergency.

2.3.1 Armed Conflict

The term “armed conflict” is used to refer to both international and non-international conflicts of high and low intensity.³² In the late 20th and the early 21st centuries, the term „armed conflict“ replaced that of „war“.³³ While there is no generally accepted definition of the term, the Office for the Coordination of Humanitarian Affairs (OCHA) defines it as: “A dispute involving the use of armed force between two or more parties. International humanitarian law distinguishes between international and non-international armed conflicts.”³⁴ The International Committee of the Red Cross (ICRC) further differentiates between the two forms of conflict: “International armed conflicts exist whenever there is resort to armed force between two or more States. Non-international armed conflicts are protracted armed confrontations occurring between governmental armed forces and the forces of one or more armed groups, or between such groups arising on the territory of a State party to the Geneva Conventions.” Prevention of conflict whether internal or international in their territory is the ultimate responsibility of the state. If achieved, it has a myriad of positive effects on the lives of children and their communities.

According to additional protocol II of the Geneva convention non-international armed conflict means the conflict which take place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations.³⁵ In any situations in which AP II is applicable so is art.3 common to the Geneva conventions which the protocol supplements. However, Common article 3 is applicable in a much wider range of situations. It applies to any case of

³²Children and Armed Conflict, a Guide to international humanitarian and human right law published by International Bureau for Children’s Rights (hereafter IBCR)(2010), p.323

³³ Id, p. 32

³⁴ Ibid

³⁵ Cited above at note 12

armed conflict which is not of an international character and there is no requirement under this article that forces of the state be involved or as to territorial control by organization of the dissident forces as provided by the Additional protocol II. The protocol does not simply exclude internal disturbances and tensions but does so on the grounds that they do not constitute an armed conflict.³⁶ If the minimum threshold for the application of protocol II is higher than that traditionally applied to common art.3, then the protection of civilians will be better served by leaving open the question of the precise minimum threshold of common art.3 but it is clear that there is one.

A fundamental element to recall when discussing the protection of civilians is the recognition that States have primary responsibility to uphold the rights of all persons within their jurisdiction. Children share the same protected universal human rights as all other persons and, in addition, they have certain rights as laid out in the Geneva Conventions and the United Nations Convention on the Rights of the Child, because of their dependence, vulnerability.³⁷ During times of armed conflict, all civilians enjoy equal protection under international humanitarian law, and, in addition to this, children are accorded certain special protections under the Geneva Conventions.³⁸

2.3.2 Internally displaced persons

The UN non-binding guiding principles which have more significance on internal displacement define internally displaced persons as(hereafter IDP); “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 in order 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.”³⁹Protection of internally displaced persons should be guaranteed by national legislation concerning the rights and wellbeing of all citizens, international human rights obligations of governments and, in cases of armed conflict, by

³⁶Françoise J Hampson, Legal Protection Afforded to Children Under International Humanitarian law, report for the study on the impact of armed conflict on children University of Essex UK, (May 1996),p.5

³⁷ Id ,p.42

³⁸ Ibid

³⁹Guiding Principles on Internally Displaced Persons 1998, Art.2, available at http://www.reliefweb.int/ocha_ol/pub/idp_gp/idp.html

international humanitarian law.⁴⁰ IDPs, having remained in their home countries, are entitled to the protection of their home-country governments.⁴¹ Therefore the protection of IDP depends on the will of national government. IDPs are precluded from access to a variety of public services, such as healthcare and education, or the exercise of civil rights, including judicial recourse⁴². Under African Union binding convention for the protection and assistance of internally displaced person in Africa” (hereafter AU convention)” similar definition with the guiding principle is adopted. Ethiopia signed the convention but has not ratified it still now.

The lives of internally displaced children and their access to services (health, education, safety, and security) are disrupted as they relocate to other areas.⁴³ They become vulnerable, more targeted and exposed to violence, exploitation, abuse, and neglect. Special measures are always required to protect children from the devastating effects of displacement. Avoiding displacement is a necessary first step, and we should gear all our efforts towards this goal.⁴⁴ When it is forced displacement and there is imminent relief assistance should be provided by the government, international organization and community. Our country does not have any IDP laws internally. However, the rights of IDP Children are protected by different international and national laws.

There is no universal treaty that specifically addresses the protection needs of IDPs.⁴⁵ The AU convention or Kampala convention which entered into force in December 2012 is the first international treaty to address the matter of protection and assistance for IDPs.⁴⁶ IDPs are protected by various bodies of law, including domestic law, human rights law and, if they are in a State involved in armed conflict, IHL. These principles reflect existing international law and are widely recognized as providing an international framework for the protection of IDPs during all phases of displacement.⁴⁷

⁴⁰Ibid

⁴¹Hand Book for Parliamentarians No.20,-2013,Internal displacement ;Responsibility and actions, UNHCR, refugee Agency,p.19

⁴² Id,p.22

⁴³ Cited above at note 16, p.500

⁴⁴ Id,p.20

⁴⁵International Humanitarian Law, Answers to your questions, by ICRC,(2016),p.69

⁴⁶ Ibid

⁴⁷ Ibid

Children who are displaced but remain in their own countries face unsafe circumstances. There are an increasing number of situations where families and communities are chronically displaced due to localized, continued armed conflict.⁴⁸ Another acute problem for internally displaced children is access to health and education services.⁴⁹ Even if schools exist, the children may not be able to enroll because they lack proper documentation, they face unsafe environment.⁵⁰ In case of displacement, all possible measures must be taken to ensure satisfactory conditions of children's shelter, hygiene, health, safety and nutrition and non-separation of family members.⁵¹ This obligation has got the status of customary international law.

2.4 The international legal framework for the protection of children in emergencies

2.4.1 International human rights law

Legal protections for children are contained principally in two bodies of international law; International Humanitarian Law and International Human Rights Law. The following section describes a number of important international instruments.

2.4.1.1 Universal Declaration of Human Rights

The preamble to the Universal declaration of human rights (hereafter UDHR) express that the highest ambition of the common people was the “advent of the world in which human being shall enjoy freedom *from fear and want*”.⁵² In these foundational human rights documents, civil and political rights and socio economic rights were set out together, as interlocking and interdependent rights. UDHR applies to all human beings.⁵³ Therefore children are included within the scope of its provisions. One of the provisions has directly linkage with children that “motherhood and children are entitled to special care and assistance. All children are entitled to special care and assistance. All children shall enjoy the same social protection care and

⁴⁸Promotion and protection of the rights of children, impact of armed conflict on children, Note by the Secretary General, at UN Fifty-first session Item 108 of the provisional agenda, Distr. General A/51/306 26 August 1996, para.81

⁴⁹ Id, para.82

⁵⁰ Ibid

⁵¹Jean-Marie Henckaerts and Louise Doswald-Beck, Customary International Humanitarian law volume 1, Published in the United States of America by Cambridge University Press, New York , The Rule of ICRC study, reprinted of 2009.rule 131.

⁵²Universal Declaration of Human Rights Adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948

⁵³ Id ,art.1

assistance.”⁵⁴ Since this provision, adopts states obligation as moral and legal obligations to protect children in any circumstances through special care. In the Declaration, children were regarded as vulnerable beings who must receive special protection, better education.⁵⁵

2.4.1.2 International Covenant on Civil and Political Rights

The international Covenant on Civil and political rights (ICCPR) was adopted in 1966 and entered into force on 1976. Our country ratified this instrument. Even though the ICCPR has no particular concentration towards child rights, however, some provisions of this convention are concerned with children. The most notable article in the ICCPR dealing with children is article.24(1), “non-discrimination of children as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family and the state”⁵⁶. Human Rights Committee emphasizes in General Comment number 6, that state parties should take measures to not only prevent and punish deprivation of life by criminal acts, but also to prevent arbitrary killing by their own securities forces.⁵⁷ The Committee considers that States have the supreme duty to prevent wars, acts of genocide and other acts of mass violence causing arbitrary loss of life.⁵⁸ Since children are one group of the society they can share the benefit obtained from government responsibility. In other words, ICCPR stresses the role of the family “as the natural and fundamental group unit of society”⁵⁹ which is “entitled to protection by society and the state.”⁶⁰

2.4.1.3 The International Covenant on Economic, Social and Cultural Rights

International covenant on Economic, social and cultural Rights (here after ICESCR) is another significant covenant in the field of human rights law. The key provision of relevance to

⁵⁴ Id ,art.25(2)

⁵⁵ Holzscheiter. Anna, Children's Rights in International Politics, the Transformative Power of Discourse, Great Britain by CPI Antony Rowe, Chippenham and East bourne. 2010), p.128-29

⁵⁶ International covenant on civil and political rights Adopted and opened for signature, ratification and accession by General Assembly resolution 2200 A (XXI) of 16 December 1966
Enter into force : 23 March 1976,art.24(1)

⁵⁷ Human Rights Committee, General Comment 6, on Article 6 (Sixteenth session, 1982), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRIGEN1Rev.1 at 6 (1994),par.3

⁵⁸ Id ,para.2

⁵⁹ ICCPR art.23(1)

⁶⁰ Ibid

protection of children is found in article 10(3) that emphasis that “special measures of protection and assistance should be taken on behalf of children and young people without any discrimination for reasons of parentage or other conditions. Children and young peoples should be protected from economic and social exploitation”.⁶¹ These rights were protected irrespective of any circumstance. ICESCR article 2(1) talk about available resources to implement of Economic and social issues, such as right to education (article13), right to health (article 12), and right to food (article 11). As stated, by article 12 of the ICESCR, “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health” should be protected. In addition, the right to education is particularly guaranteed by the provisions of Articles 13 and 14 of the Covenant. Ethiopia was signed and ratified the convention.

2.4.1.6 The declaration of the child and women during emergency 1974

Taking in to consideration, almost all children are physically, morally, economically, politically, and militarily powerless in emergency situations. There were two declarations which concerned about children’s rights before 1974. Those are 1924 and 1959 declaration. In 1924, the League of Nations passed declaration known as the Declaration on the Rights of the Child as the first international declaration on human rights ⁶²and the first one of its kind exclusively protecting the rights of children.⁶³On another time in 1959, the General Assembly adopted the declaration of the rights of child. The adopted Declaration of the rights of the child consists of the preamble and ten principles⁶⁴among them access to adequate nutrition, housing, recreation and medical services.⁶⁵In 1974 the U.N. General Assembly adopted the Declaration on the Protection of Women and Children in Emergency and Armed Conflict, raising a gender-based awareness about the suffering of the most vulnerable groups of the population.⁶⁶ The Declaration demands

⁶¹International Covenant on Economic, Social and Cultural Rights, Adopted and opened for signature, ratification and accession by General Assembly resolution 2200 A (XXI) of 16 December 1966 ,Entry into force: 3 January 1976,art.10(3)

⁶²Geneva Declaration(1924) on the Rights of the Child, Document number not specified, Adopted 26 September, 1924

⁶³Cited above at note 45, p.128-29

⁶⁴Declaration on the on the right of the child 1959,G.A.res.1386(XIV),14U.N.GAOR supp.No.16)at 19,U.N.doc.A/4354(1959),principle 3

⁶⁵Declaration on the right of the child 1959,G.A.RES.1386(XIV),14UN.GAOR supp.(No.16)at 19,UN.doc.A/4354(1959),principle 4

⁶⁶Declaration on the Protection of Women and Children in Emergency and Armed Conflict, G.A. Res. 3318, U.N. GAOR 29th Sess., Supp. No. 31, U.N. Doc. A/9631 (Dec. 14, 1974) [hereinafter Declaration on the Protection of Women and Children].

that “all forms of repression and cruel and inhuman treatment of women and children, including imprisonment, torture, shooting, mass arrests, collective punishment, destruction of dwellings and forcible eviction, committed by belligerents or armed group in the course of military operations or in occupied territories shall be consider criminal.⁶⁷ Although this declaration is not legally binding on the parties to a conflict, it succeeded in drawing international attention to the plight of women and children as victims of inhuman acts and the importance of increasing protection for these vulnerable groups in internal conflicts.⁶⁸

2.4.1.7 The United Nations Convention on the Rights of the Child (1989)

No treaty on human rights is more globally well-known than the CRC as a very significant instrument adopted. It is the most widely signed of all UN treaties. As at 1 July 2017, the Convention on the Rights of the Child had been ratified or acceded to by 196 States. The United States of America is not yet party to the Convention.⁶⁹ The convention covers the full range of civil and political rights as well as economic, social and cultural rights of children. This treaty is special in terms of it is not only concerned with the granting and implementing of rights in time of peace, but it also concerned with the regulation of armed conflicts⁷⁰ and emergencies situation. For the duration of conflict or post conflict, article 39 of the convention is as well vital for social reintegration of child victim. The Convention sets out rights for all children regardless of ethnicity, religion, gender, social origin, or any other indicator of status.⁷¹ It obliges governments to apply policies that enhance these rights in full where possible and, in all cases, “to the maximum extent of their available resources and, where needed, within the framework of international cooperation.”⁷² Under this thesis the writers focus on some important rights; rights life, to adequate nutritious foods, to the highest attainable standard of health, and education, the right to be protected from all forms of violence and non-separation from their family.⁷³

⁶⁷ Id ,par,5

⁶⁸ Cited above at note 32 ,p.78

⁶⁹ United Nation Office of High commissioner, Status of the Convention on the Rights of the Child ratified state. Available at http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx accessed on 3 may, 2018. The Convention on the Rights of the Child is the most widely ratified international human rights instrument, with 196 States with the exception of United State of America. Somali and south Sudan ratified in 2015.

⁷⁰ Id ,page 16

⁷¹ David, Children in Latin America and The Caribbean, New York university Steven and Alejandra Kubitschek Bujones, The Laboratory of Development The Impact of Social Policies (2014),p.3

⁷² Ibid

⁷³ Ibid

2.4.2 International Humanitarian Law and protection of children in emergencies

International humanitarian law (otherwise known as the law of armed conflict) is the body of international law which governs the conduct of international or non- internal conflict: it sets out the parameters of what is legally permissible during hostilities and includes the four Geneva Conventions of 1949 and the two Additional Protocols of 1977. In order to assess, whether humanitarian law offers protection to children and to see the extent of such protection, the Fourth Geneva Convention and the 1977 Additional Protocols must be analyzed.

2.4.2.1 Protection Offered to Children under the Fourth Geneva Convention

The Law of Geneva affords protection to victims, where „victims“ are those who are vulnerable. With the introduction of the fourth Geneva Convention, it was extended to include civilians, but for the most part, the protection was restricted to a specific group of civilians.⁷⁴The necessary measures to ensure that children who are orphaned or are separated from their families as a result of the conflict, are not left to their own resources, and that their maintenance, the exercise of their religion and their education are facilitated in all circumstances.⁷⁵It should be concerned that only *Article 24* singles children out explicitly, but it only focuses on those "who are orphaned or are separated from their families as a result of armed conflict." This provision fails to address the needs of children who are still with their parents but have similar problems of maintenance and education. It should be noted that the Fourth Geneva Convention primarily applies to international armed conflicts as defined in *Article 2*. However, in as much as *Common Article 3* is in the Fourth Geneva Convention and applies to non-international conflicts, one should argue that the Fourth Geneva Convention applies in non-international conflicts as well.⁷⁶

⁷⁴Carolyn Hamilton, Director, Children’s Legal Centre, Senior Lecturer in Law, University of Essex, and Tabatha Abu El-Haj, Research Assistant, Children’s Legal Centre. On the title Armed Conflict: the Protection of Children under International Law. Available at https://www1.essex.ac.uk/armedcon/story_id/000577.html, accessed on 9 February 2018

⁷⁵ Geneva convention I, Relative to the protection of civilian persons in time of conflict of 12 August 1949,art.24

⁷⁶Carolyn Hamilton, Director, Children’s Legal Centre, Senior Lecturer in Law, University of Essex, and Tabatha Abu El-Haj, Research Assistant, Children’s Legal Centre. On the title Armed Conflict: the Protection of Children Under International Law. Available at https://www1.essex.ac.uk/armedcon/story_id/000577.html, accessed on 9 February 2018. It should be noted as well that Common Article 3 encourages parties to a non-international conflict to make special agreements bringing into force as much of the Conventions as possible.

Leaving aside the historical approach of the Convention, there are a number of substantive problems with the Convention from children's rights angle. First as we have seen above, the protection offered by the Convention, both in the articles relating to the civilian population and to children specifically, is limited in nature and, for the most part, only covers a very restricted group of children in the population. A second substantive defect relates to the definition of „child“, is, current children's rights instruments treat humans up to the age of 18 as children, although in some areas of life children may obtain adult rights at an earlier age. The protections offered by the fourth Geneva Convention do not, on the whole, extend specific protections to children over fifteen: for instance, *Article 24* only applies to children up to the age of fifteen who have been separated from their parents as a result of conflict. In addition children under seven have an additional right, to be with their mothers, if in such a safety zone.⁷⁷The inconsistencies in definition of „child“ throughout the Convention lessen the protection available to children and are incompatible with current thinking in the field of children's rights which establishes eighteen as the end of childhood and the age at which adult responsibilities can be enforced.

2.4.2.2 Protection available in Additional Protocol II of 1977

Additional Protocol II applies in non-international armed conflicts as defined in *Article 1*, affords some protection to children from the conduct of hostilities. Despite its deficiencies,⁷⁸ Protocol II marks an important development in the law for, up until 1977, there was no protection in non-international armed conflicts other than Common Article 3 of the Geneva Conventions. This left children unlucky enough to find themselves in an internal conflict without proper legal protection. Protocol II supplements Common Article 3 whose humanitarian principles came to be regarded as too general and incomplete to provide an adequate guide to the conduct of hostilities in internal conflicts. The most interesting feature of Protocol II is that we see for the first time in humanitarian law a provision relating to all children as children, namely *Article 4(3)*: Children shall be provided with the care and aid they require, and in particular;⁷⁹ they shall receive an education, including religious and moral education, in keeping with the wishes of their parents,

⁷⁷Cited above at note 75, Article 14; it is interesting that the age of seven for accompaniment by the mother was chosen. One wonders on what basis this age was settled upon. Evidence indicates that teenagers find separation from their parents equally distressing.

⁷⁸There is no definition of civilians and combatants as a consequence of sensitivity about sovereignty; there is no explicit obligation to minimize civilian losses although some protections against the conduct of hostilities exist. There is no specific prohibition of reprisals against civilians.

⁷⁹Cited above at note 12, art.4(3)

or in the absence of parents, of those responsible for their care;⁸⁰. Thus in *Article 4(3)* all children are being given fundamental guarantees in an attempt to ensure that they are treated humanely in non –international conflict. The criticism of the limited definition of „child“, which does not extend up to 18, in the Fourth Geneva Convention applies to Protocol II.

In addition, there is a real problem of the applicability of Protocol II which applies only if: "There is an armed conflict not covered by Article 1 of Additional Protocol I, The armed conflict takes place in the territory of a High Contracting Party, Involved in the conflict are the armed forces of a High Contracting Party and dissident armed forces or other organized armed groups, These dissident armed forces or other organized armed groups are under a responsible command, They have control over a part of the territory of the High Contracting Party so as to enable them to carry out sustained and concerted military operations and to implement Protocol II.⁸¹The situation is not an internal disturbance or tension, a riot or isolated and sporadic act or acts of violence or other similar act.⁸²Situations of internal disturbances, like armed conflict, put children’s lives at risk create economic crises, it cause the separation of children from parents and make child protection services more difficult to implement as the government loses control.

Where Protocol II does not apply (including situations of internal disturbances), or where its application is contested, *Common Article 3* should apply. However, the protection afforded under *Common Article 3* is quite limited. In the case of armed conflict not of an international character occurring in the territory of one of the high contracting parties, each party to the conflict shall be bound to respect, as a minimum, the following acts which shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:⁸³ violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; taking of hostages; outrages upon personal dignity, in particular humiliating and degrading treatment.⁸⁴The Geneva rules have got the status of customary international law. There is a condition that while

⁸⁰ Id ,art.4(3)(a))

⁸¹ Id ,art.1(1)

⁸² Id ,art.1(2)

⁸³ common Article 3 of Geneva Convention

⁸⁴ Ibid

humanitarian law forbids the targeting of hospitals and medical facilities, in reality hospitals, health centers and health posts are often targeted in certain conflicts.⁸⁵

2.4.2.3 Guiding Principles on Internal Displacement 1998

In recognition of the significant and growing problem of internally displaced persons and the lack of international action and specific legal protection for them⁸⁶ the Representative of the Secretary-General on Internally Displaced Persons was appointed in July 1992, at the request of the UN Commission on Human Rights.⁸⁷ In response to his mandate, the Representative developed the Guiding Principles on Internal Displacement, which have been widely disseminated to States and international agencies.⁸⁸ The guidelines contain a number of specific provisions relating to the protection of internally displaced children, such as children are entitled to protection and assistance which takes into account their special needs,⁸⁹ the guideline on IDP guarantees protection of persons from forced displacement and to their protection and assistance during displacement as well as during return or resettlement and reintegration. National authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction.⁹⁰ Certain internally displaced persons, such as children, especially unaccompanied minors, expectant mothers, mothers with young children, female heads of household, persons with disabilities and elderly persons, shall be entitled to protection and assistance required by their condition and to treatment which takes into account their special needs.⁹¹ Every human being shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence.⁹² Arbitrary displacement includes; when it is based on policies of apartheid, "ethnic cleansing" or similar practices aimed at/or resulting in altering the ethnic, religious or racial composition of the

⁸⁵Article 12 & 13 of Protocol I and Article 11 of Protocol II: protection does not cease for a civilian medical unit unless it commits hostile acts as defined by the law (where giving medical care to combatants is not a „hostile“ act) and even then a final warning is required.

⁸⁶Cited above at note 32,p.112

⁸⁷ Ibid

⁸⁸ Ibid

⁸⁹Guiding Principles on Internal Displacement, adopted in 1998

⁹⁰ Id,prin.3(1)

⁹¹ Id prin.4(2)

⁹² Id ,Prin. 6

affected population;⁹³ In situations of conflict, unless the security of the civilians involved or imperative military reasons so demand,⁹⁴ displacement is prohibited.

Prior to any decision requiring the displacement of persons, the authorities concerned shall ensure that all feasible alternatives are explored in order to avoid displacement altogether.⁹⁵ The law prohibits that displacement shall not be carried out in a manner that violates the rights to life, dignity, liberty and security of those affected.⁹⁶ States are under a particular obligation to protect against the displacement of indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands.⁹⁷ Internally displaced persons, including children whether or not their liberty has been restricted, shall be protected in particular against rape, mutilation, torture, cruel, inhuman or degrading treatment or punishment, and other outrages upon personal dignity, such as acts of gender-specific violence, forced prostitution and any form of indecent assault.⁹⁸ All internally displaced persons have the right to know the fate and whereabouts of missing relatives.⁹⁹ Separated children will be united with their families as quickly as possible;¹⁰⁰ and free and compulsory education at the primary level will be provided.¹⁰¹ The Guiding Principles are not in themselves legally binding; however it can be seen as a collection of the provisions relevant to the internally displaced persons that are contained in various human rights treaties. The principles are increasingly being accepted and implemented by States.¹⁰²

The primary duty and responsibility for providing humanitarian assistance to internally displaced persons lies with national authorities.¹⁰³ International humanitarian organizations and other appropriate actors have the right to offer their services in support of the internally displaced. Such an offer shall not be regarded as an unfriendly act or interference in a State's internal affairs

⁹³ Ibid

⁹⁴ Ibid

⁹⁵ Id princ.7(2)

⁹⁶ Id princi.8

⁹⁷ Id ,Principle 9

⁹⁸ Id, Principle 11

⁹⁹ Id , Principle 16

¹⁰⁰ Id , Principle 17(3)

¹⁰¹ Id ,Principle 23(1)

¹⁰² Cited above at note 32,p.113

¹⁰³ Cited above at note 89 ,principle 25

and shall be considered in good faith. The protections given in general to IDP are automatically in special condition applied to children in IDP. This principle was applied by many courts of the states in the world. Internal displacement has an impact on children's rights through changed livelihood, has resulted in breakdown of family, community structures, affected education, nutrition, loss of life, health care and the disintegration of traditional social norms are at danger.¹⁰⁴ Children are exposed to physical danger- they may be separated from their families, physically abused, exploited or abducted. Many children are often forced to discontinue their education.

2.5 Regional legal frameworks for the protection of children's rights in emergencies

2.5.1 Protections under African charter on the rights and welfare of children

Under African charter on the rights and welfare of the children"(hereafter African charter)" the child is defined as every person under the age of eighteen regarded as a child falling within the scope of the charter.¹⁰⁵ The charter required and concerned that due to the unique factors of children's socio-economic, cultural, traditional and developmental circumstances, natural disasters, armed conflicts, exploitation and hunger, and on account of the child's physical and mental immaturity he/she needs special safeguards and care.¹⁰⁶ The Charter obliges the member state to make the child grow up in a family environment in an atmosphere of happiness, love and understanding,¹⁰⁷ recognizes the need to take appropriate measures to promote and protect the rights and welfare of the African Child. Unlike the CRC convention, the charter therefore applies to every person below 18 years.¹⁰⁸ Therefore the charter is more advanced than the CRC convention so far as its definition is absolute and does not allow for any exception. States are obliged to set up support programmers" particularly with regard to nutrition, health, education, clothing and housing¹⁰⁹ in peace time and emergencies.

¹⁰⁴Subajini Mahalingam, Geeta Narayan, and Esther van der Velde, The Rights of Internally Displaced Children: Selected Field Practices from UNICEF's Experience,(2002),p.37

¹⁰⁵ African Charter on the Rights and Welfare of the Child, OAU Doc. CAB/LEG/24.9/49 (1990), *entered into force* Nov. 29, 1999.art.2

¹⁰⁶ Id preamble para. 4

¹⁰⁷ Id ,para.5

¹⁰⁸ Mechael Gose, The African Charter on the Rights and Welfare of the Child, an assessment of the legal value of its substantive provision by means of direct comparison to the convention on the rights of the child, published by community center,2002, p.27

¹⁰⁹Id ,p.37

2.5.2 Protection of children’s rights under African charter and welfare of children during internal armed conflict

The provision of the charter ensures that the respect for rules of international humanitarian law applicable in armed conflicts which affect the child.¹¹⁰ States Parties to the Charter shall, in accordance with their obligation under international humanitarian law, protect the civilian population in armed conflicts and shall take all feasible measures to ensure the protection and care of children who are affected by conflicts. Such rules shall also apply to children in situations of internal armed conflicts, tension and strife.¹¹¹ The Charter makes it clear in the last sentence of this provision that the rules set out in Article 22 are applicable in situations of internal conflict and tension as well. This explicit statement of the Charter is of great use and provides for a comprehensive protection of the child.

2.5.3 African Union Convention for the protection and assistance of IDP in Africa

This convention “hereafter AU Convention” is a comprehensive legal instrument covering all phases of displacement from prevention to protection, assistance and durable solutions. It embraces all causes of internal displacement including armed conflict, generalized violence, violations of human rights, natural or human-made disasters. The responsibility for the prevention of internal displacement, its mitigation, protection and assistance, and finding durable solutions for their problems lies primarily with the concerned Member State. However, in situations where the state is either unable or unwilling to effectively carry out these obligations, it is expected to seek, enable and facilitate the assistance of the African Union, International Organizations and Humanitarian Agencies.

States Parties has an obligation to undertake to respect and ensure respect for the present Convention, in particular, refrain from, prohibit and prevent arbitrary displacement of populations;¹¹² States Parties also shall respect and ensure respect for their obligations under international law, including human rights and humanitarian law, so as to prevent and avoid conditions that might lead to the arbitrary displacement of persons¹¹³ and where necessary,

¹¹⁰Cited above at note 10,art.22(1)

¹¹¹ Id art.22(3)

¹¹²African Union Convention for the Protection and Assistance of IDPs in Africa (Kampala Convention), adopted on October 23, 2009 and entered into force in 2012 (hereinafter the AU IDPs Convention), art.3 (1)(a).

¹¹³ Id, art.4(1)

provide immediate protection and assistance to internally displaced persons.¹¹⁴ The prohibited categories of arbitrary displacement include but are not limited to displacement based on policies of racial discrimination or other similar practices aimed at¹¹⁵ displacement caused by generalized violence or violations of human rights. Displacement caused by any act, event, factor, or phenomenon of comparable gravity to all of the above and which is not justified under international law, including human rights and international humanitarian laws.¹¹⁶ States Parties shall take measures to protect and assist persons who have been internally displaced due to natural or human made disasters, including climate change.¹¹⁷ States Parties shall provide persons affected by displacement with effective remedies.¹¹⁸ Therefore, even though the Kampala convention does not name children in the most of the provision of the convention since children are one group of society, it protects children's rights.

2.6 Institutional framework for protection of children rights

2.6.1 The Role of African Commission on Human and Peoples Rights and Its Special Mechanism

The ACHPR has been the continent's principal supervisory organ in the area of human and peoples' rights promotion and protection. In addition to performing any other tasks which may be entrusted to it by the Assembly, the Commission has three expressly listed functions: the promotion of human and peoples' rights; the protection of human and peoples' rights; and the interpretation of the African Charter.¹¹⁹ The African Charter contains basic rights and guarantees the breach of which can be invoked in front of the Commission. In recent time the Commission deserves some mention in the area of protection and promotion of the rights of IDPs One of this is the appointment of the Special Rapporteur on Refugees, Asylum-Seekers, Migrant Workers and Displaced Persons in 2004. This mandate was renewed in 2007.¹²⁰ The Special Rapporteur

¹¹⁴ Ibid

¹¹⁵ Id .art 4(4)

¹¹⁶ Ibid

¹¹⁷ Id ,art.5(4)

¹¹⁸ Id, art.1291)

¹¹⁹ African [Banjul] Charter on Human and Peoples' Rights adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5 (herein after the African Charter), Art.45.

¹²⁰ Resolution on the Mandate of the Special Rapporteur on Refugees, Asylum Seekers and Internally Displaced

regularly presents a report on the situation of vulnerable groups including IDPs. He made a modest contribution by investigating IDPs' situations, compiling reports and collecting and disseminating data.¹²¹ However, it is not identified that whether the Special Rapporteur will expand his activities under the AU IDPs Convention. The increased attention of the African Commission in the issues of IDPs such as recent agreement with the UNHCR for better coordinated works and the appointment of the Special Rapporteur will for sure enhance the promotion and protection of the rights of IDPs. In another way, the Convention requires the AU to share information with the Commission and cooperate with its special mechanism such as the Special Rapporteur in addressing the crisis of internal displacement and the protection and assistance of IDPs.¹²² Thus, the Convention has made the Commission's system as part of the continent's institutional mechanisms to respond to the problems of internal displacement.

2.7 The rights of children mainly protected during emergencies

Family separation and the breakdown of national and community-based child protection systems make children vulnerable to abuse, exploitation, violence and neglect.¹²³

2.7.1 The Right to Life and survival and development

During conflicts, children may suffer extreme violence, such as killing, torture, separation from family and abduction. Under UNCRC it is stipulated that, States Parties recognize that every child has the inherent right to life and States Parties shall ensure to the maximum extent possible the survival and development of the child.¹²⁴ Many children die because the humanitarian relief does not arrive or is not let in within a time. This may be caused by the neglect of the government in the protection of these rights.¹²⁵ The understanding of the right to life as both a human right of the child and a general principle of the CRC requires an interpretation of Article

Persons in Africa, ACHPR/Res.72 (XXV) 04, June 2004 and this mandate was renewed by ACHPR/Res.116 (XXXII) 07, November 2007. The latter resolution included migrants as one subject of concern to the Special Rapporteur.

¹²¹Roberta Cohen, Developing an International System for IDPs, *International Studies Perspective* (2006) 7, P.162.

¹²²Cited above at note 112, Art8 (e&f).

¹²³ Save the children's, child protection strategy 2013-2015, Making the world a safe place for children, p.15

¹²⁴ CRC, art.6

¹²⁵ Save the children's, child protection strategy 2013-2015, Making the world a safe place for children, p.15

6 which takes into account all the other human rights enshrined in the Convention.¹²⁶ Of particular relevance for the development of the child are the rights to health (Article 24), education (Articles 28 and 29), an adequate standard of living, including nutrition, water, clothing and housing (Article 27), The contents of the survival and development of the child in Article 6 of the CRC are further defined indirectly in Articles 24 and 27 of the CRC.¹²⁷

Article 1 of the League of Nations Declaration of the Rights of the Child, 1924 provided that the child must be given the means requisite for its normal development, both materially and spiritually.¹²⁸ The idea of this provision was further elaborated in Principle 2 of the UN Declaration of the Rights of the Child 1959, which reads as¹²⁹ the child shall enjoy special protection, and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity.¹³⁰ States Parties have the obligation to fulfill the right to life, survival and development of vulnerable children. The more vulnerable children become (orphans, children separated from their parents, internally displaced children etc.) the more important the respective State obligation to fulfill becomes.¹³¹ In addition to these explicit duties, States also have a more general duty to take measures of creating an environment conducive to the best possible survival and healthy development of children.

The right to life has properly been characterized by the Human Rights Committee as the supreme human right, since without effective guarantee of this right; all other rights of the human being would be devoid of meaning.¹³² The CRC Committee went one step additional in according definite importance to the right to life in the CRC. The right to life is the only right in the CRC

¹²⁶ A Commentary on the United Nations Convention on the Rights of the Child (*Editors,*) (André Alen, Johan Vande Lanotte, Eugeen Verhellen, Fiona Ang, Eva Berghmans and Mieke Verheyde), The Right to Life, Survival and Development, By Manfred Nowak UN Special Rapporteur on Torture Director of the Ludwig Boltzmann Institute of Human Rights at Vienna University, MARTINUS NIJHOFF PUBLISHERS LEIDEN , BOSTON 2005,p.2

¹²⁷ Id ,p.8

¹²⁸ Ibid

¹²⁹ Ibid

¹³⁰ UN declaration on Child rights of 1959 princi.2

¹³¹ Id , p.38

¹³² Human Rights Committee, General Comment No. 6: the Right to Life (UN Doc. HRI/GEN/1/Rev.7, 1982), para.1 and General Comment No. 14: Nuclear Weapons and the Right to Life (UN Doc. HRI/GEN/1/Rev.7, 1984), para.1 in relation to Article 6 of the ICCPR.

described as inherent.¹³³ This expression has been taken over from Article 6(1) of the ICCPR, where it was adopted with the intention to give expression to the natural-law basis of the right to life.¹³⁴ The Human Rights Committee already in 1982 derived from Article 6 of the ICCPR the „supreme duty“ on States to prevent war, genocide and other acts of mass violence causing arbitrary loss of life.¹³⁵

The right to life can be found in Article 5 of the African Charter on children under the heading “Survival and Development”. It has been highlighted that the respective Convention Article (Article 6) is one of the four “pillars” of this instrument and goes far beyond merely addressing the physical continuance of existence.¹³⁶ This protection is made without taking into consideration any situation. The Charter, like the Convention, does not provide for clear guidance as to when the human life protection starts.¹³⁷ It therefore takes no stance on the issue of abortion and leaves this topic open for individual and different approaches in culturally different States. In contrast to nearly the same wording of the respective provision of the Convention (Article 6), Article 5(1) of the Charter includes a second sentence which states that this right to life shall be protected by law.¹³⁸ This additional sentence could be interpreted as a special obligation for States to pass legislation that treats every act a person commits and which deprives a child of his or her life as a criminal offence.¹³⁹ States would simply be obliged to undertake all essential efforts and to use all available resources to secure the survival, protection and development of the child.

2.7. 2 Protection from exploitation and gender-based violence

In the disorder that can follow an emergency, children are especially at danger of sexual violence and exploitation. The consequences of sexual violence on girls and boys are social, physical, emotional, spiritual and psychosocial, and require a multi-sectoral response. Sexual violence is present in all emergencies, but it is often hidden. Lack of security and the chaos that ensures a disaster increases the risk of sexual abuse and violence against children. Sexual violence has

¹³³Cited above at note 108,p.17

¹³⁴Ibid

¹³⁵Id, p.23

¹³⁶Id, p.44

¹³⁷ Ibid

¹³⁸Ibid

¹³⁹Ibid

various legal definitions; most of them include all forms of rape, demanding sex in return for favours. Sexual abuse is any attempt to attract, persuade, coerce, or engage a child in sexual activity. They may indicate signs of anxiety or fear of a particular person or activity.¹⁴⁰ UNCRC imposes obligation on state parties by adopting; state Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent it.¹⁴¹ Article 19 Of UNCRC more generally covers protection from “all forms of physical or mental violence” and specifically mentions sexual abuse.¹⁴² The protection of this right was imposed on the member state in any condition.

Article 16(1) of the African Charter on the rights and welfare of children combines the provisions of the first sentence of Article 37(a) and Article 19(1) of the convention. Under article 16 of African charter, States Parties to the present Charter shall take specific legislative, administrative, social and educational measures to protect the child from all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment including sexual abuse, while in the care of the child.¹⁴³ Under this Article the protection shall include effective procedures for the establishment of special monitoring units to provide necessary support for the child and for those who have the care of the child, as well as other forms of prevention and for identification, reporting referral investigation, treatment, and follow-up of instances of child abuse and neglect.¹⁴⁴ States Parties to the Charter shall undertake to protect the child from all forms of sexual exploitation and sexual abuse and shall in particular take measures to prevent it.¹⁴⁵

2.7.3 Protection from emotional and psychosocial distress

Emergencies pose a tremendous threat to a child’s mental health and wellbeing. Witnessing destruction of school and health center, leaving home, separating from family, and losing a parent or a loved one can traumatize a child. Trauma is a condition that happens to a person

¹⁴⁰ Cited above at note 4, p.27

¹⁴¹ Cited above at note 8, art.34

¹⁴² Cited above at note 18, p.513

¹⁴³ Cited above at note 110, art.16(1)

¹⁴⁴ Id ,art.16(2)

¹⁴⁵ Id ,art.27(1)(a))

when they become overwhelmed by their emotions and are unable to process them.¹⁴⁶ In relation to this the Convention on the right to child provides that, States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim.¹⁴⁷ The conventions on the rights of child compel state parties in express language to prevent the cause of emotional and psychosocial distress against children.

2.7.4 Prevention of family separation and protection of Separated and unaccompanied children

In emergencies, many children are unwillingly separated from their families, and it becomes one of the most painful events in a child's life. Separated children are separated from both parents or from their previous legal guardian or customary primary caregiver but are not necessarily separated from other relatives. These may include children accompanied by other adult family members.¹⁴⁸ Unaccompanied children, also called unaccompanied minors, have been separated from both parents and other relatives and are not being cared for by any adult who by law or custom is responsible for doing so.¹⁴⁹ While unaccompanied children (or unaccompanied minors) are those separated from both parents and other relatives and not cared for by an adult. Orphans are children whose parents, or at least one parent, is known to be dead.¹⁵⁰ The longer a child is separated from her or his family, the more difficult it is to reunite them, and the more vulnerable a child becomes to violence, abuse, and exploitation.¹⁵¹ Child protection efforts in emergencies center of attention significantly on reuniting separated and unaccompanied children with their families. The reunification programmes must be set-up without delay, in the interim; children should be placed in community-based care.¹⁵² In case the child is not able to unite with his or her family, long-term stable care arrangements must be guaranteed for the child. Permanent arrangements however, such as adoptions, should be postponed entirely until all reunification efforts have been exhausted, and a significant amount of time has passed giving parents a chance to return.¹⁵³

¹⁴⁶Cited above at note 4,p.30

¹⁴⁷Cited above at note 8, art.39

¹⁴⁸Marie Dela soudiere ,Jan Walliamson, Jacqueline botte, emergency care and Family tracing for separated children from birth to five years United Nations Children's Fund (UNICEF), New York, 2007,p.1

¹⁴⁹ Ibid

¹⁵⁰ Ibid

¹⁵¹ Ibid

¹⁵² Ibid

¹⁵³ Cited above at note 4,p.23

As provided on article 9 of CRC it adopts that; States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.¹⁵⁴ Also it imposes duties that States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.¹⁵⁵ When by breach of this obligation separation is made through any means state has the duty to make reunification with their family when the interests of the child requires. The idea of this principle are repeated and developed in the Convention's preamble: "the child... should grow up in a family environment, in an atmosphere of happiness, love and understanding."¹⁵⁶ In situations of conflict or other emergency particularly when associated with unexpected or crowd population movements, a major number of children turn out to be separated from their families.

The International Covenant on Civil and Political Rights provides "The family is the natural and fundamental group unit of society and is entitled to protection by society and the State."¹⁵⁷ This is mirrored by article 10 of the International Covenant on Social, Economic and Cultural Rights) and: "No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honor and reputation."¹⁵⁸ In some situations, steps can be taken ahead of time to prevent family separation, or, if separation occurs, to reduce the risk that babies and very young children lose their identities – and with it the chance of their families ever finding them again.¹⁵⁹

¹⁵⁴Cited above at note 8,art,9(1)

¹⁵⁵ Id ,9(3)

¹⁵⁶Id, para.6

¹⁵⁷.Cited above at note 56 ,art.23(1)

¹⁵⁸.Cited above at note 61,art.10

¹⁵⁹.Cited above at note 148,p.1

The right to parental care and protection is contained in Article 19 of the African charter. This special provision finds its counterpart in Article 9 of the Convention even though the content of it has been mainly newly formulated. The charter adopts the rule that every child shall be entitled to the enjoyment of parental care and protection and no child shall be separated from his parents against his will, except when a judicial authority determines in accordance with the appropriate law, in which such separation is in the best interest of the child.¹⁶⁰ The provision provides that the child has the enjoyment of parental care and protection this may be achieved by the support of the government by protecting the forceful separation of children from their parents. The charter also adopts, child who is separated from one or both parents shall have the right to maintain personal relations and direct contact with both parents on a regular basis.¹⁶¹ Where separation results from the action of a State Party, the State Party shall provide the child, or if appropriate, another member of the family with essential information concerning the whereabouts of the absent member or members of the family.¹⁶² The African charter on the rights and welfare of children empowers the child who is permanently or temporarily deprived of his family environment for any reason shall be entitled to special protection and assistance.¹⁶³ All responsibility under the charter binds Ethiopia as a member state.

2.7.5 Protection from denial of children's access to education and attacking on school

Protecting the right to education in emergency situations can reinforce the protection of other human rights by creating a more favorable environment for the realization of human rights; for example, by safeguarding children from exploitative and hazardous labour and sexual exploitation, promoting human rights and democracy, and protecting the environment.¹⁶⁴, that the limited attention paid by the humanitarian agencies involved, and the relative absence of clear programmatic principles, indicators or funding, are most clearly revealed.¹⁶⁵ The obligation of states to respect, protect and fulfill the right to education endures throughout emergency situations.¹⁶⁶ In addition, the right to education inheres in each person regardless of legal status,

¹⁶⁰ cited above at note 10, art.19(1)

¹⁶¹ Id , art.19(2)

¹⁶² Id, art.19(3)

¹⁶³ Id , art.25(1)

¹⁶⁴ Cited above at note 16, p.499

¹⁶⁵ Id ,p.501

¹⁶⁶ Ibid

whether „refugee or „internally displaced. Moreover, states have the primary responsibility in law for guaranteeing education, even if they lack the capacity needed to do so. This is why, since the international community’s legal undertakings have been conceived to fully meet people’s needs, these undertakings include the provision of educational cooperation, as provided for in Article 28(3) of the UNCRC.¹⁶⁷ Under Article 39 of the CRC, states should, *inter alia*, take all appropriate measures to promote physical and psychological recovery and social reintegration of child victims of armed conflicts, which includes putting them back in the school.

The UNHCR found it necessary, however, to gear much of its work towards the protection of displaced persons, despite the lack of specific mandate within its statute for such work.¹⁶⁸ The growing number of displaced persons and the lack of specific legal protection prompted the development of the Guiding Principles on Internal Displacement (Guiding Principles),¹⁶⁹ Principle 23 of the Guiding Principles affirm the right of every human being to education, specify that “to give effect to this right for internally displaced persons, the authorities concerned shall ensure that persons, in particular displaced children, receive education which shall be free and compulsory at the primary level, and education should respect its recipients’ cultural identity, language and religion;¹⁷⁰ Although they are not legally binding, the Guiding Principles have been disseminated widely among states and international agencies and are increasingly being used to guide protection and assistance strategies.¹⁷¹ International humanitarian law establishes a regulatory framework protecting the right to education during armed conflicts. The Geneva Convention Relative to the Protection of Civilian Persons in Time of War¹⁷² (GC IV) states that measures should be taken to ensure that children who are orphaned or separated from

¹⁶⁷ Cited above at note 8

¹⁶⁸ The General Assembly progressively granted competence to UN High Commissioner for Refugees on issues related to internally displaced populations, based on Article 9 of the Statute of the Office of the United Nations High Commissioner for Refugees, UNGA Res. 428 (1950) GAOR 325th Session.

¹⁶⁹ Report of the Representative of the Secretary-General, Mr Francis M. Deng, submitted pursuant to Commission Resolution 1997/39: *Guiding Principles on Internal Displacement*, UN Doc. DE/CN.4/1998/53/ Add.2 (1998).

¹⁷⁰ Cited above at note 13, principle 23

¹⁷¹ Cited above at note a6, p. 505

¹⁷² Geneva Convention Relative to the Protection of Civilian Persons in Time of War (adopted 12 August 1948, entered into force 21 October 1950, 75 UNTS 287) (hereafter GC IV).

their families as a result of a war or on conflict have access to education.¹⁷³ The 1977 Additional Protocol II¹⁷⁴ to the Geneva Conventions, applying as it does to non-international conflicts, is of the utmost relevance today. This is internationally recognized and has got the status of customary international law. In emergency situations, the obligation remains for states to ensure the right to education, even though they might lack the requisite will and/or capacity to do so through cooperation

Internally displaced persons are disproportionately denied their right to education, this may be due to a number or a combination of reasons: chronic lack of security, lack of an international agency specifically mandated to respond to their needs, lack of physical access to education providers, lack of political will in governments to allow education providers to offer such people real opportunities, or the simple reluctance of governments to commit themselves generally to fulfillment of the right.¹⁷⁵ Conflict has a serious impact on their enjoyment of the right to an education that is free of charge, compulsory, relevant and of good quality, especially for the children still living in the affected areas. As many of the children and adolescents indicated, access to education and whether or not children remain in school depend to a large extent on the cost of education to them, including uniforms, teaching materials, food and travel.¹⁷⁶ Attacks on learners, education and education facilities is one of the prime areas monitored. Under African Charter on the Rights and Welfare of the Child on article 11 it deal with the children right to education and education related issues.

2.7.6 The right to protection of Breakdown of Health and Community Infrastructures and access to public health service

States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and the rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health

¹⁷³ Art.50 of GC IV and art.78 of Protocol I Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International Armed Conflicts (adopted 8 June 1977, entered into force 7 December 1978, UN Doc. A/32/144 Annex I, 1125 UNS no. 17512).

¹⁷⁴ Cited above at note 12, Article 4(3) (a), which asserts an obligation to provide children with the care and aid they require, and more specifically the right to receive education. Article 8 of the Statute of the International Criminal Court (ICC), states that all intentional attacks on buildings dedicated to education considered as war crime.

¹⁷⁵ Cited above at note 16,p.10

¹⁷⁶ Ibid

or care services. ...¹⁷⁷ This right does not contain any exception by which it can be limited in any condition. The breakdown of health and community infrastructures also leads to the death of children from avoidable causes. Very often skilled professionals, including doctors, nurses and hospital technicians, are among the first to flee war zones. The result is that those medical facilities which are functioning are likely to become under-staffed at a time when the number of patients in need is rapidly rising.¹⁷⁸ As medical facilities are at full-stretch coping with the most serious physical injuries, there is little time or man-power to provide for the physical and psychological rehabilitation of child victims of emergencies related trauma.¹⁷⁹ These kinds of protection are given without taking into consideration of any condition because the provision does not identify any condition rather general protection of the rights. Therefore the government has the responsibilities to protect children health condition and any condition threatening the life and health of the children in any condition. In general International law provides special protection and assistance for children during emergencies.

The right to health under African charter on the rights and welfare of the child has as their objective the attainment of the child's basic needs for subsistence and rounded growth and development.¹⁸⁰ The right to health and health services is contained in article 23(1) of the Convention and article 14(1) of the Charter. The other aspect of the protection of the children's rights under African children's rights charter is the right to the best attainable state of health regards expectant and nursing mothers (Article 14(2)(e) of the Charter), who shall be cared for in order to protect the unborn or the very young child. The wording of the Charter differs from the Convention's Article 24(2)(d) in as far as it substitutes the word "pre-natal" by the word "expectant" and the word "post-natal" for the word "nursing".¹⁸¹ There seems to be no difference between these concepts and they are essentially the same. There is no exception at which the state can derogate from this rule.

¹⁷⁷ Cited above at note 8, art.24

¹⁷⁸ Carolyn Hamilton ,Director, Children's legal center ,Senior Lecturer in law, University of Essex ,and Tabatha Abu El-Haj, Research Assistant, Children's Legal Center. On the title Armed Conflict: the protection of Children under International law. Available at https://www1.essex.ac.uk/armedcon/story_id/000577.html, accessed on 9 February

¹⁷⁹ Ibid

¹⁸⁰ Cited above at note 108,p.81

¹⁸¹ Ibid

CHAPTER THREE

3. LEGAL AND INSTITUTIONAL FRAMEWORK FOR THE PROTECTION OF CHILDREN RIGHTS DURING EMERGENCIES IN ETHIOPIA

Ethiopia ratified the Convention on the Rights of the Child (CRC) on December 9, 1991¹⁸² by virtue of Proclamation 10/1992 and the African Charter on the Rights and Welfare of the Child (ACRWC) on October 2, 2002 by virtue of Proclamation 283/2002. The adoption of the two instruments marks a pattern of shift since it identifies children as bearers of not only care and protection rights but also civil and political rights as well. These two documents are comprehensive treaties which are familiar with the civil, political, economic, social and cultural rights of children. The two child rights treaties are among the treaties ratified by the country by way of notices of ratification i.e. Proclamations 10/1992 and Proclamation 283/2002. Therefore the rights provided under the convention and charters are applied in Ethiopia. Because the Federal Democratic Republic of Ethiopian constitution”(hereafter FDRE constitution)” on its article 9(4) provides to that effect.

3.1 The definition of child under Ethiopian Laws

The term “child” is not specifically defined under Ethiopian law. Instead, Ethiopian laws make use of such terms as “minors”, “infant”, “Young workers” or “young people”. Chapter Twelve of the Revised Federal Family Code deals with minors. The civil code defines minor as “minor is a person of either sex who has not attained the full age of eighteen years”.¹⁸³ The Revised Federal Family Code defines a “minor” as a person of either sex who has not attained the full age of eighteen years old.¹⁸⁴ The oromia regional state Family code also defines minor in similar ways with that of Federal revised family laws on article 232 of the provision. Based on the Revised Family Code and Family Codes adopted by other Regional States like Oromia in Ethiopia, it is possible to assert that the general age of majority in the country is 18 years. Hence, Ethiopian legislation has maximum ages defined under various laws pertaining to the protection of children.

¹⁸²Ministry of Labor and Social Affairs, Ethiopia’s National Plan of Action for Children (2003-2010 and beyond), 2004, Addis Ababa, p. 1

¹⁸³ The 1952 Ethiopian, civ. Cod. art.198

¹⁸⁴The Federal Revised Family Code, 2000,proc. No.213,Fed.Neg.Gaz., 6th year Extra Ordinary Issue no.1,Addis Ababa 4th day of July,2000, Article 215

3.2 The legal protection for the rights of child under Ethiopian laws during emergencies.

Under Ethiopian laws there are laws and policies for the protection of the rights of the children. Under the following section we will see some of the protection accorded to children during emergencies.

3.2.1 The Federal Democratic Republic of Ethiopian constitution (FDRE constitution)

Under FDRE constitution children's rights are protected in general like every person in the country. For instance under article 15 "every person has the right to life. No person may be deprived of his life except as a punishment for a serious criminal offence determined by law". However under article 117(1) of criminal code a "death sentence shall be passed only on criminal who, at the time of the commission of the crime, has attained the age of eighteen years." Therefore unlike adults the right to life of children has no limitation.

Even though, children have got a general protection like any other person, there is the provision which gives special protection for the children by taking in to consideration their vulnerability. Article 36 of the Constitution incorporates rights of children in the supreme law of the land by saying; every child has the right to life, to know and be cared for by his or her parents or legal guardians. Also the constitution adopt that children are not to be subject to exploitative practices, neither to be required nor permitted to perform work which may be hazardous or harmful to his or her education, health or well-being and finally it provides, in all actions concerning children undertaken by private and public institutions, courts of law, administrative authorities or legislative bodies, the primary consideration shall be the best interests of the child.

Under the same article it provides that the state shall accord special protection to orphans and shall encourage the establishment of institutions which ensure and promote their adoption and advance their welfare, and education.¹⁸⁵ Article 36 (1)(d) of the FDRE Constitution stipulates that every child has the right "not to be subject to exploitative practices, neither to be required

¹⁸⁵Girmachew Alemu (Ph.D.) and Yonas Birmeta, Handbook on the Rights of the Child in Ethiopia, Center for Human Rights, College of Law and Governance Studies Addis Ababa University In Collaboration with Save the Children Norway- Ethiopia, p.13

nor to be permitted to perform work which may be hazardous or harmful to his education, health or well-being.”

With respect to violence against children, there is no one comprehensive law dealing with all types and aspects of violence. The management of violence itself is multi sectoral. Thus, it is a shared responsibility between diversified laws as well as institutions. A number of laws address the different forms of violence against children. Being the supreme law of the land, the Federal Constitution provides the basis for the protection of children from violence. Firstly, it domesticates all international human right instruments which Ethiopia has ratified by stating „all international agreements ratified by Ethiopia are an integral part of the law of the land“. (Article 9(4) of the FDRE Constitution) Secondly, it has incorporated a specific provision on the rights of children.

The FDRE Constitution stipulates important provision on the rights of the child. The Constitution devotes special section specifying rights pertaining to children solely. Therefore, the FDRE Constitution recognizes the rights of children to life, to name and nationality, and to know and be cared for by his or her parents at any time without any exception. It provides the right of children to live a life protected from violence, neglect, exploitation and abuse. In particular, the provision affirms the right of children to life and bans exploitative practices against children and their engagement in work which could be prejudicial to their health and well-being. Article 36(2) enunciates the principle of the best interest of the child as the primary consideration in matters affecting children at any time. This means all measures and initiatives undertaken for the protection of children must be aimed, above all, at ensuring the physical, mental and social well-being of the child. This principle contains the special protections accorded to the children during emergencies like IDP and conflict time. Article 36(5) also accords special protection for orphans for the advancement of their welfare, and education.

The FDRE Constitution proclaims that the Constitution is the supreme law of the land.¹⁸⁶ Article 9(4) of the FDRE Constitution renders all international instruments ratified by Ethiopia an

¹⁸⁶The Federal Democratic Republic of Ethiopia Constitution of 1995, Art.9(1), Proc. No.1, Fed.Neg.Gaz., 1st Year, No.1

integral part of the law of the land.¹⁸⁷ During non-existence of sufficient law domestically the international rule can be applied. By the contrary even if sufficient law exist; when it disregard the international rule regarding human rights it is inapplicable. Furthermore, Article 13(2) of the Constitution provides that the fundamental rights and freedoms specified in the third chapter of the Constitution shall be interpreted in a manner conforming to the principles of the Universal Declaration of human rights, International Covenants on human rights and international instruments ratified by Ethiopia.¹⁸⁸ AU convention on the rights of internally displaced person obliges member state that “they shall; incorporate their obligations under this Convention into domestic law by enacting or amending relevant legislation on the protection of, and assistance to, internally displaced persons in conformity with their obligations under international law.” However, our country signed the AU Kampala convention on IDP but does not ratify it. Unlike other countries in the world that have IDP law, Ethiopia has no specific law governing IDP situation including children.

3.3. Oromia national Regional State constitution.

Under Oromia National Regional state the rights of child have got emphasis under the constitutional provision as amended. It adopts the rights of children, right to life, to be cared by his/her parents and guardians.¹⁸⁹ It also imposes duty on regional government to accord special protection to orphans and encourage the establishment of special institution to promote their adoption and to support institution that upbringing their education.¹⁹⁰

3.4 Rights of children protected under Ethiopian laws

3.4.1 The Right to Life and Maximum Survival and Development under constitution

The other principle designated as a general principle is the right to life and maximum survival and development. The principle implies that protection from violence, neglect and abuse is required at any time. The implementation of this principle is mirrored under Article 5 of the African Charter on the Rights and Welfare of the Child, under the heading “Survival and Development.” The protection of the right to life requires from the state not only negative duties

¹⁸⁷ Ibid

¹⁸⁸ Id, Article 13(2)

¹⁸⁹ The Oromia National Regional State Constitution of 2001, Art.36 (1) (a,c), No 46 as it amended with proc. No.94/2005 and 108/2006, Meg. Oro., 8th year, No.6, 12th July 2000, art.36 (1)(a,c).

¹⁹⁰ Id, art.36(5)

but also positive duties.¹⁹¹ Negative duties or duties of omission implied by the right to life include prohibiting and preventing extra legal, arbitrary or summary executions or situations of enforced disappearance.¹⁹²

Under FDRE constitution this rights is adopted under article 15 and art.36. Under article 15 the constitutions expressly adopt right to life by saying “every person has the right to life. No person may be deprived of his life except as a punishment for a serious criminal offence determined by law”. These provisions also apply without any exception towards children in contrary to exception made for general public. The reason for this argument is as provided under the provision of FDRE criminal code on article 117(1) it provides that “sentence of death shall be passed only on criminal who, at the time of the commission of the crime, has attained the age of eighteen years”. Therefore, since the child is a person below 18 years and the death penalty does not apply on such person the exception provided under art.15 of the constitution does not refer the children. In addition to this the right to life of the children is adopted in the constitution under art.36 it says “Every child has the right to life” this right is absolute concerning the children.

3.4.2 Right to Know and be Care for by Parents

In similar manner with the provision of the convention on art.7 which assures right of the child to know and be cared for by his or her parents, Article 36(1) (c) of the FDRE constitution and Oromia Regional state constitution goes on to affirm the right of children to know and be cared for by his or her parents or legal guardians. The term parent is widely defined as to include genetic parents and birth parents i.e. the mother who gave birth and the father who claimed paternity through partnership with the mother at the time of birth.¹⁹³ Some also include psychological parents in the definition. Psychological parents are those individuals who cared for the child for significant periods during infancy and childhood.¹⁹⁴ The right of the child to be cared for by the parent implies a duty of more active involvement on the part of the parent than simply effecting payment for the other parent for purposes of upbringing.¹⁹⁵ The formulation of

¹⁹¹Cited above at note 18,p. 84

¹⁹²Cited above at note 185 ,p.49

¹⁹³ Cited above at note 18,p.103

¹⁹⁴Id ,p. 104

¹⁹⁵Id ,p. 108

this right further suggests that it is the right of the child and not only that of the parent. This right cannot be realized if the parents are dead or have disowned the child.

Article 34(3) of the FDRE Constitution provides that the family is the natural and fundamental unit of the society and is entitled to protection by society and the State. The Constitution of the Federal Democratic Republic of Ethiopia has endorsed the rights and freedoms of children as enunciated in the Convention on the Rights of Children. The Convention has also been made basic part of the domestic law of the land by virtue of the Constitution. Article 36(c) of the Constitution of the Federal Democratic Republic of Ethiopia proclaims the right of children to be cared for by their parents. Therefore it is the double duty of the state to protect the parents at the same it gives effect for the protection of the rights of child. Article 41(5) of the FDRE Constitution also requires the state “to allocate resources to provide for rehabilitation and assistance to children who are left without parents or guardians within available means.” These provisions impose duty on the state irrespective of the cause of the death or disappearance.

3.4.3 Freedom from Torture or Other Cruel, Inhuman, Degrading Treatment or Punishment

Article 37(a) of CRC provides the right of the child to freedom from torture or other cruel, inhuman, degrading treatment or punishment. This provision is also related to Article 19(1) of the same convention which provides protection against violence and abuse. Article 16(1) of the African Charter on the Rights and welfare of the Child combines the two provisions.¹⁹⁶ Article 18(1) of the FDRE Constitution and Oromoi regional state constitution provides that everyone has the right to protection against cruel, inhuman or degrading treatment or punishment. Therefore since the child is one group of the population which protection accrued to them, the protection given under this provision applied for children in special way.

3.4.4 The rights freedom of movement

Article 32(1) of the FDRE Constitution assures of the right to freedom of movement. It stipulates that any Ethiopian or foreign national lawfully in Ethiopia has, within the national territory, the right to liberty of movement and freedom to choose his residence, as well as the freedom to leave the country at any time he wishes to. Even though the law provides such full rights for any

¹⁹⁶Cited above at note 108,p. 55

Ethiopians, the Oromo ethnic groups in Somali regional state, including children were displaced for the mere fact that they were Oromo's. After and during their displacement children were facing many human rights violation. The FDRE constitution also under article 89(3) expresses general principle by saying the "Government shall take measures to avert any natural and man-made disasters, and, in the event of disasters, to provide timely assistance to the victims. "Therefore, under this provision the government have two main duty the 1st one is the government should take measure to avert the emergencies and the 2nd is to provides timely assistances when the emergencies occurred by any cause. During the displacement of Oromo Ethnic group in Somali regional state as the displaced people expressed the federal government took no measure to avert such displacement which is against the main objective of the constitution.¹⁹⁷

3.5 Institutional framework for the protection of Children's rights during emergencies

3.5.1 Ministry of women and children affairs (MOWCA)

As per proclamation No.916/2015 in Ethiopia the main executive body that is mandated with child rights in general as well as the implementation of the CRC in particular is MOWCA (Proclamation No.916/2015, art.9(24) and art.36;). According to the same proclamation the MOWCA empowered to follow up the implementation of treaties relating to Women and Children and submit reports to the concerned bodies.¹⁹⁸ The Ministry is working in order to protect the rights of children independently and also in cooperation with other state and non-state actors.¹⁹⁹ Though the very existence of institution entrusted with child rights at Ministerial level as well as the measure being taken in order to follow up the implementation of the convention is observed in positive manner, there is some practical problem. In what manner the children's rights protected during IDP of Oromo Ethnic group from Somali regional sate from the border treated will be analyzed in depth under chapter four. Under article 36(1), the proclamation also entitles the Ministry to collect, compile and disseminate to all stakeholders information on the

¹⁹⁷ Interview held with senior expert of Conflict Early Warning and Early Response at Oromia Administration and Security on 16/05/2018, and interview held with Abdi Oromo one of the displaced person from Ethio- Somali region currently residing in Dukam town on 10/05/2018.

¹⁹⁸ Definition of Powers and Duties of the Executive Organs of the Federal Democratic Republic of Ethiopia Proclamation No. 916/2015, Fed.Neg.Gaz.,22nd Year No.12 Addis Ababa 9th December , 2015 art.36(1)(j))

¹⁹⁹ Interview with Anonymous, one of directors of Children's and Women's at Oromia Women's and Children Affairs Bureaus on 19/03/2018

objective realities faced by women and children²⁰⁰ and they coordinate all stakeholders to protect the rights and well-being of children in any time according the convention and FDRE constitution.

3.5.2 The Role of Ethiopia Human Rights Commission and Non-state actors (NGOs & CSOs) in Protecting Children's Rights

Independent human rights institutions play a crucial role for the monitoring, promotion and protection of the rights of children. The Ethiopian Human Rights Commission is vested with the responsibility to promote and protect the rights of children. These quasi-judicial national human rights organs are vested with promotional, protective, monitoring and advisory mandate as regards the implementation of the rights of children.²⁰¹ They are also mandated to undertake studies and research on ways and means of effective implementation of the rights of children. The Commission may conduct investigation on the basis of complaints submitted to it or on its own initiation, where it so finds necessary.²⁰² To this effect, the Ethiopian Human Rights Commission has Commissioners heading Children and Women Affairs specifically responsible for children.²⁰³

As per proclamation No.210/2000 EHRC has the general mandate of taking the necessary measure where the human rights are found to have been violated.²⁰⁴In other ways it ensure that the human rights and freedoms provided for under the Constitution of the Federal Democratic Republic of Ethiopia are respected by all citizens, organs of state, political organizations and other associations as well as by their respective officials.²⁰⁵When the violation made it undertake investigation, upon complaint or its own initiation, in respect of human rights violations.²⁰⁶Accordingly, the commission has a duty to protect the rights of children and when violation made it can undertake investigation since the children are one group of society. The

²⁰⁰Cited above at note 198,art.36(1(b))

²⁰¹Ethiopian Human Rights Commission Establishment Proclamation of 2000, No. 210,Fed. Neg.Gaz., 6thYear No. 40,

²⁰² Id ,art.24(1)(2))

²⁰³ Id ,art.31(6)

²⁰⁴ Procla.210/2000,art.5

²⁰⁵ Id art.6(1)

²⁰⁶ Id art.6(4)

involvement of the commission in protection of human rights in general and children's rights in particular hindered by limitation of budget. What makes this worst is the proclamation of 621/2009; Proclamation to provides for the registration and regulation of charities and societies "(hereafter CSOs") proclamation that provides "Foreign Charities and Ethiopian Residents Charities" which receives more than 10% of their funds from foreign sources to work in the areas of child rights does not allowed to participate in child rights protection²⁰⁷,devastated the cooperation of the Commission with CSOs from where it can get additional fund.²⁰⁸

3.5.3 The federal Disaster Prevention and preparedness commission

The Federal Disaster Prevention and Preparedness Commission (DPPC) is the main government actor responsible for the emergency needs of conflict induced IDPs and natural disaster IDP in collaboration with relevant ministries such as Health, Agriculture and Water Resources. This commission provides reliefs for saving the lives during the situation wherein a segment of the community or the population of a locality cannot any longer meet the need for food and other basic necessities, due to natural or man-made calamities, with its daily life thus falling into crisis which renders it unable to survive without assistance from others.²⁰⁹ It also in cooperation with the appropriate organs, to rehabilitate Victims of disaster²¹⁰ and to coordinate and supervise relief activities of nongovernmental aid organizations²¹¹ given for life saving. It also request for and receive any form of Assistance from domestic and foreign sources²¹².

3.5.4 Oromia women's and children's affairs bureau

The women and children affairs bureau has the power to perform many activities like that of similar federal organ. However the researcher will stick to the point related the title of the research, which is the duty for the protection of children's rights during emergencies. The bureau has the responsibility to organize data's regarding women and children's affairs make known by

²⁰⁷ Proclamation to Provides for the Registration and Regulation of Charities and Societies, Proclamation of 2009,art.14(2)(l),No. 621, Fed.Neg.Gaz.,15th year No.25, Addis Ababa, 13th February 2009,

²⁰⁸ Interview held with the department head of the child protection In emergency program coordinator at Oromia Women's and Children's affairs Bureau on 19/03/2018.

²⁰⁹Disaster Prevention and Preparedness Commission Establishment Proclamation of 1995, Art.2 (1), No. 10, Fed. Neg. Gaz.,1stYear No. 10 ,Addis Ababa, 24 August ,1995,

²¹⁰ Id, art.6(9)

²¹¹ Id, art.6(10)

²¹² Id ,art.6(6)

the concerned authority.²¹³ The other duties of the bureau is to make the implementation on of conventions of United nation and African union as well as another conventions Ethiopia has ratified to protect the rights of women and children to be implemented.²¹⁴ Finally work with concerned body on the children who have lost their parents due to various reasons and exposed to social problems is another duty²¹⁵. Therefore the provision of the proclamation for redefining of the power of executive organ of Oromia Regional state impose sense of duty on OWCAB for the protection of children's rights during emergencies through collection of data and by ensuring the implementation of the children's rights under CRC, African charter on children's right and other laws ratified by Ethiopia.

3.5.5 Oromia Disaster Prevention and preparedness commission

The commission shall have the power and duties; to Co-ordinate follow-up; and evaluate the programs of disaster threat minimization, responding for the damage caused and rehabilitation of the victims²¹⁶ and it works in co-ordination with non-governmental organization engaged in aid and food security in the region.²¹⁷ From the reading of the reorganization and redefining of the power and duties of the executive organs of the Oromia regional state no.199/2016 proclamation, one can easily understand that the proclamation does not gives any special emphasis for child rights protection in emergencies by taking in to consideration of their vulnerability. In spite of the existence of policy ,laws and institutional commitments by most of the key actors engaged in the protection of children during emergencies, effective protection of children as the law says remains a challenge in most emergency situation.

²¹³ A proclamation to Provide the Reorganization and Redefinition of the Power and Duties of the Executive Organs of the Oromia National Regional State no.199/2016, art.29 (3), Meg. Orom. , July 20,2016

²¹⁴ Id ,art.29(16)

²¹⁵ Id art.29(20)

²¹⁶ Id ,art.47(12)

²¹⁷ Id ,art.47(12)

CHAPTER FOUR

4. ANALYSIS OF CHILD RIGHTS PROTECTION IN EMERGENCIES, THE CASE OF FORCED DISPLACEMENT OF OROMO ETHNIC GROUP FROM SOMALI REGIONAL STATE AND BORDER AREAS

In the prior chapter, an attempt has been made to the assessment of international, regional and national legal and institutional frameworks for the protection of child rights in emergencies with special emphasis on internal displacement and border conflict. In this chapter an attempt is made to analyze the protection of children’s rights during the course of forced displacement of Oromo ethnic people from Ethio-Somali regional state and the internal displacement due to border conflict between the two regional states.

4.1 Backgrounds of the forced displacement and border conflict of 2017

4.1.1 Circumstance of conflict between the two regions.

Oromia is the largest region in Ethiopia and shares its border with all regions except Tigray. Oromia also shares boundary with neighboring countries like south Sudan and Kenya. Based on 2016 restructure, the region is divided into 20 zones and eight town administrations with its capital city, Addis Ababa. The region is further divided into 287 rural and 46 town woredas(districts).²¹⁸ Oromia faces different kinds of emergencies like droughts, flood, border conflict and disease. Today, the region is struggling with the impact of displacement of hundreds of thousands of people within the region because of border conflict with Ethio-Somali and arbitrary displacement of Oromo people from the Somali region. These conflicts have intensified and changed since September 2017 by its causes, level and forms brought the death of hundred and displacements of hundred thousand.

The conflict between Oromia and Somali regional state since 2017 is high by its degree. One of the senior officials at Oromia Bureau of Administration and Security expressed the conflict between the two regional states which start in 2017 in the following manner; “This conflict was

²¹⁸Child protection in Emergency, rapid assessment Report the case of Displaced Oromo people from Ethio-Somali and from the border. It is conducted by the Oromia WCAB with collaboration of UNICEF and other organization in November, 2017,p.3

not the conflict immediately created rather pre-planned. To solve the border conflict between the two regional states the referendum were made in 2004 according to the constitution. At that time from 422 kebeles to which the referendum was made, 312 kebeles were selected to be administered under the Oromia regional state, and the remaining 110 kebeles were selected to be administered under the administration of Somali regional state. Around 18 kebeles the referendum was planned to hold however, the plan was not successful. Even though the administration was identified by the referendum the boundary was non marked. While the committee established by federal government begun to demarcate the boundary lines, the Somali liyu police started waging war against the Oromo peoples at the border for expansion of land. The Federal Government armies²¹⁹ participated in the war by supporting the Somali liyu police by wearing their uniform. In the course of the conflict, this was observed at the border of one woreda. When the Liyu police waged war against the people, the people defended themselves with all what they had. Then in the conflict, those personnel who were wearing the liyu police uniforms were killed, and when their identity was identified, some of them were the Federal police, some of them were Ethiopian army force.

Even though the people tried to defend the liyu police by support of regional government they cannot defend themselves fully because the liyu police were trained by the Ethiopian army, they used dangerous weapons like Brian ,Dishaka, snipers and waged war by using patrol and one patrol war caught at the conflict now gives serves in Oromia. The Oromia Farmers do not have balance of force with them. They were defending themselves by small army. When around 731,216 were displaced, the federal government was chose silence. Even when 246,282, Oromo people were displaced from Somali region, the Federal army and Federal Police transported them to Oromia by supporting the liyu police rather than preventing the displacement. Also when many people were killed in mass by the Liyu police, they took no measure rather they told the people; we haven't any permission from the government. Many properties like school, health center and others were damaged by the liyu police. Many lives were lost in the Somali region during displacement and at the border during conflict. The federal Government did not act as it expected from it during displacement of Oromo people from Somali to stop the displacement.

²¹⁹ Ethiopia army means a person who renders military services on permanent basis in the Defense Force of Federal Democratic Republic of Ethiopia as defined in proclamation 809/2013,art.2(4)

The Oromia regional state tried to defend the security of the people by taking different measures like by coordinating the regional state Militia to defend the people, providing different food and non-food material, when the condition permits making reconciliation, influencing Federal government to stop such action between the two regional states. The Federal government did not act as it is expected from it to stop displacement even though it tried to making reconciliation in Adis Ababa. However, the situation went beyond the regional state.”²²⁰ More than 270 people including children were killed only during border conflict in the study period.²²¹ These numbers were contested by the people displaced from the border by arguing that the losses of life were more than one thousand.²²² Even though the number is contested the loss of many lives was confirmed.

One of the victims of IDP from the border explained his displacement in the circumstance; “Before my displacement I was living at the border between Oromia and Somali region. However during referendum the kebele I was living in was marked to Oromia regional state. The kebele was called in Afan Oromo „Bilisa Guddaa” which is to mean big freedom. At the beginning of 2010 EC the Somali Liyu police waged war against us which is high in intensity and situation. In one day they killed 8 people and wounded 18 people from Oromo. They waged war against us by sniper, Dishqa, materias and hand bomb. At that place in one day from one family 7 people were killed. From these peoples around 4 children were below 18 years old. Still now on the day of this interview made the conflict continued.”²²³ The other person said that “at the border the conflict was high between the Somali liyu police and Oromo people who were defending themselves. In one day when I was there to defend liyu police with other peoples, 5 people died nearby me. The liyu police also slaughter dead bodies of people after they kill them.

²²⁰ Interview held with the Anonymous with the senior Expert of Conflict Early Warning and Response at Oromia Regional State Bureaus Administration and Security on 15/05/2018.

²²¹ Data obtained from Oromia Bureaus Administration and security on 15/05/2018.

²²² Interview held with Abdi Oromo, Abdi Ibrahim Hasan, Hasan Nuur Mohammad those displaced from Somali region and currently residing in Dukem town on 10/05/2018.

²²³ Interview held with Anonymous, one of the displaced from border as a result of conflict at the border now residing in Dukem town on 10/05/2018.

This conflict is for the seek of finding additional land.”²²⁴ My father died by dangerous weapons fired from liyu police at the border conflict of cinaksen woreda.²²⁵

The other displaced people from the border expressed his displacement from the border in the following manner. “I was displaced from the border of Cinaksen woreda. In 2010 EC the liyu police, the Ethiopian army force, come to wage war against Oromo peoples at the border of cinaksen. The Oromo peoples at that time have only one option, defending themselves then to die. Then the war was started and the Oromo peoples also defended themselves. Only in one day conflict at one time from Oromo people 5 were died, from liyu police 10 were died and from Ethiopian army who were wearing the uniform of Somali liyu police and fight Oromo peoples with liyu police 13 died. After their death when their identity was identified from their identity cards they belonged to Ethiopian army even though they were wearing the uniform of Somali liyu police. On that day, I was injured by the bulletin of „Dishka“ fired from liyu police and Ethiopian army.”²²⁶

A person displaced from Cinksen Woreda Huluqo Kebele expressed his displacement as follows. “Huluqo kebele was administered under Somali regional state before referendum of 2004. However by the 2004 referendum this kebele belongs to Oromia. Before July 15, 2010 EC, the Somali authorities collected Oromo people living in that Kebele and warned them to call themselves Somali not to be removed from Huluqo woreda. However the Oromo people refused the warning. Angered by this incident, on July 15, 2010 EC around 180 Somali Liyu police fully armed, started to waging war against Oromo people. The Oromo people defend themselves by what they had. Many people died in both group. On this day the person called Abdi Umar with his five children was taken and imprisoned at Jjijiga. On this day two schools were set fire by Liyu police in one kebele.”²²⁷ “After 53 kebeles belongs to Oromo by the referendum of 2004 from one woreda, there was border conflict between the two regional states. But after 2017 the

²²⁴ Interview held with Anonymous, one of the displaced from border as a result of conflict at the border now residing in Dukem town on 10/05/2018

²²⁵ Interview held with Badir Ibrahim, one of the displaced people from Somali Region currently residing in Dukem town on 10/05/2018.

²²⁶ Interview held with Anonymous, one of the displaced from border as a result of conflict at the border on 10/05/2018 currently residing in Dukem town.

²²⁷ Interview held with Anonymous, one of the displaced from border on 10/05/2018. Children were taken during the conflict to Jjijiga.

conflict was increased by its intensity and it was made by the Somali liyu police by dangerous weapons supported by patrol against the farmer. Those weapons were the hand bomb, materias, Brian, Dishka, and 47AK. By this conflict many people were killed by the liyu police force. Among them children were exist.”²²⁸The border conflict between Oromia and Ethio-Somali region affected total of 6 Oromia zone (East hararge, west Hararghe,Bale, Borena and West and East Guji) and around30 woreda’s where by 484,934 population including children were displaced from the border area because of fearing their security. From this population 81,210 were household, where as 403,724 were family members.²²⁹ Therefore majority of the population displaced from the border due to conflict were children. Even though international humanitarian laws as discussed under chapter two prohibits the attack of school under art.50 of IV GC and art.78 of AP I, Civilian hospitals and health center to give care to the wounded and sick, and maternity cases under art.18 of IV GC, there were many school and health institution damaged as informant confirmed. The Federal government was too let to prevent the arbitrary displacement and border conflict which causes loss of many lives and displacement of many people through unconstitutional way. This indicates violation of human rights protected by FDRE constitution and other international instrument by its neglect which it has the duty to protect.

In general the Oromo peoples displaced from the Somali region by Liyu police and in Oromia from the border areas due to conflict were total of 731,216(seven hundreds thousands and thirty one thousands and two hundred sixteen).²³⁰ Among those population 136,953 are household and

²²⁸Interview held with Anonymous, one of the Displaced Man from Somali Regional State on 10/05/2018 and interview held with Anonymous, one of the displaced man from the border between Oromia and Somali Regional State on Monday 10/05/2018 and now they are residing in Dukem town. The federal government took nothing to stop this armed conflict rather there were the Federal government Army who were participated in conflict by supporting the Somali Liyu police by firing army against Oromo People.

²²⁹Data obtained from Oromia Regional State Disaster Prevention and Preparedness Commission on 16/05/2018 and also interview held with Anonymous with the senior officials, with the Disaster Risk Reduction and Early Warning Directorate at Oromia Disaster and Risk Management Commission on 16/05/2018.

²³⁰Ibid

where as 594,263 are family.²³¹ Among those displaced peoples more than half were children.²³² This number increased based on the situation at the border.²³³

4.1.2 The situation of arbitrary displacement of Oromo ethnic group from Somali region

A total of 246,282(two hundreds thousands and forty six thousands and two hundred eighty two) Oromo people were arbitrarily displaced from Ethio-Somali regional state²³⁴ only for the mere fact that being an Oromo.²³⁵ From this population 55,743 of them were household and 190,539 of them were family. Therefore from this data more than half of the populations forcefully displaced from Somali region were children.²³⁶ Some of the Oromo people arbitrarily displaced from Somali region were not settled at one place but distributed in all Oromia zone²³⁷ where their original family live without any aid at that time. This by itself indicates how the displaced people including children did not get attention from the Federal and Regional government. The government has the duty avoiding displacement and has the duty to protect human rights which is provided by international human rights and humanitarian laws during emergency which is discussed under chapter two. National authorities; Federal Government, Ethio-Somali regional government and Oromia Regional Government have the primary duty to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction. Certain internally displaced persons, such as children, especially unaccompanied minors, expectant mothers, mothers with young children should be given especial protection by government. They have also the duty to be protected against being arbitrarily displaced from his or her home or place of habitual residence which bases on policy of apartheid. However in opposed to this international principles and FDRE constitution the Ethio- Somali regional state liyu police

²³¹Ibid

²³² Interview held with the senior officials, with the Disaster Risk Reduction and Early Warning Directorate at Oromia Disaster and Risk Management Commission on 16/05/2018.

²³³ Interview held with DR.Abera Dheresa the chair man of the Committee for the Rehabilitation of internally displaced Oromo Ethnic group on 3 may 2018. The committee was established by the initiation of Oromia National Regional State after many thousands of Oromo displaced from Somali regional state and border area. He is also expressed that all peoples displaced from Ethio-Somali regional state is resettled in 11 Oromia towns. those town are Burayyuu,Sabbata,Sululta,Gelan,Duukem,Bishoftu,Adama,Bishan Gurracha,Lega Xafo laga dadi,Mojo and shashamane. After the house were established for them by the aid of investor and people.

²³⁴Cited above at note 229

²³⁵ Interview held with the Anonymous, the senior officials of the Disaster Risk Reduction and Early Warning Directorate at Oromia Disaster and Risk Management Commission on 16/05/2018.

²³⁶ Cited above at note 229

²³⁷Cited above at note 228, the data indicates that in all zone of Oromia the displaced people were distributed.

arbitrarily displaced Oromo People from the region in violation of their human rights. Federal government did not prevent the displacement.

After forceful displacement of Oromo Ethnic group from Somali region and across the border conflict, subsequently it has generated major protection concerns (loss of life, child separation from family, GBV, access to assistance, interruption of education and health problem). Conflict induced emergency between Oromia and Somali led hundreds of thousands to be displaced from their original living place. Children and women were the most affected group in the crisis with significant number of children exposed to loss of life, violence, physical and psychological abuses, separation of children from their parents were occurred.²³⁸

One of the displaced woman expressed how to be displaced from Somali regional state in the following circumstance.

“I was living in Somali region Jijjiga town at Kebele 11. On the day I didn’t remember at the evening around 3:00pm, I was in my house with my husband and three years child. I’m the pregnant of 8 month at that time. At this time the kebele Administration who is called *Elkeas* and the 4 Somali regional state police so called *Jiyu hiyil Police,*’ with full of army come to my house and called me to leave the house and at the same time they told to my husband to carry his child and stay in the house. Just then I didn’t know anything and terrorized to their action. At the same time I refused to leave the house then by catching my ear they pulled me out. My husband was resisted to their action and they attempted to kill him by the weapons on their hands and continued hitting him with the iron metal which is called *ferro*’ and broken down his back bone and elbow. Following they pulled out me from my house they were strike me on my stomach, on my pregnancy and slapping me on my face.

After they hitting us they continued to take similar action on Oromo ethnic group who were our neighbor, at that time we all my family left the house and sleep under the tree for escaping from them. If we stay in the house they back to us and slaughter us like they take in our neighbors. Under the tree we mute our child mouth by our hand because if she speak or make any sound, by

²³⁸Interview held with Illilli Bekele on 19/03/2018, the department head of the Child protection in Emergency Program Coordinator at Oromia Women’s and Children’s Affairs Bureau.

following us they slaughter us. At the morning around 11.00pm we went to the kebel office to escape from the death. While we arrived at the kebele there is many Oromo ethnic group collected there arbitrarily displaced. At that place the Somali „Liyu police“ „said to us who prohibit us if we killed all of you at a time“? The federal army came at this place and goes back without taking any measure. We were stayed two days without any food including my three years child. When we told to the liyu police to give us permission for buying the food, they answered for us to „eat the soil.“ My child was indicated the sign of weakness in this two days. We get the food after two days when we come to Oromia regional state “*cinaksen*” woreda. The child in my stomach was died in my stomach after two days of, they stroked me. We were displaced from Somali region being an Oromo. They identified us from other ethnic group by observing our identity card. When we goes to the shelter place of kebele at the morning, as to our arrival of 07 kebel, we were observing that the Liyu police who were full of armed, after they killed a mother of two years child they were cutting the child in two places at her waist. I was shocking to their action at that time and cried. If the father of the child is Oromo Ethnic group and their mother is Somali Ethnic group children were displaced from Somali regional state with their father while the mother left to Somali regional state alone and in vice versa when the father is Somalia Ethnic group the mother were displaced alone by separating from her children while the children were left to the Somali regional state with their father.”²³⁹

From this interview it can be conclude that the displacements of Oromo people based on their identity from Somali regional state were arbitrary displacement made by the Liyu police of the region. According to art.61(3)(f) of the Somali regional state constitution every security organ is headed by the president of the regional state, the act taken by the liyu police against the Oromo people including the above action can be considered as the act of the regional government to make arbitrary displacing Oromo peoples from the region. In general even though the CRC, ICCPR, African charter on the rights and welfare of children, CAT and GC IV, AP.II protects the right to life, torture separation of child from their parent is prohibited, there are many children

²³⁹Interview held with Hamdiya Ahmad, one of Displaced Woman from Somali Regional State on Friday 4/05/2018 and with anonymous, one of displaced man from Somali Regional State on Friday 4/05/2018. Both of them said that “in our life we never seen such horrific action by the government force. They said that if the father of the child is Oromo Ethnic group and their mother is Somali Ethnic group the children’s were displaced from Somali regional state with their father while the mother left to Somali regional stat and vice versa.”

who were lost their life, separated from their family, tortured some of them lost their family by killing made by the Liyu police, some of them separated from their mother because of their father is Oromo ethnic group. The pregnant woman who needs especially protection was attacked in violation of international instrument and FDRE constitution.

4.2 Practical analysis of child rights protection in emergencies in the case of Oromo ethnic group arbitrarily Displaced from Somali regional state and border areas

During emergency situations children are exposed to many serious dangers and they need protection from different organs, whether it is government or non-governmental organization. However the government holds the primary responsibility for the protection of children's rights during emergencies. Through the arbitrarily displacement of Oromo ethnic group from Somali region and border areas many people's including children were displaced and exposed to danger which requires the protection from the state and different organization. Large numbers of children continued to be the victims of violations of the right to life and are also affected by abandonment, child labour, abuse, physical ill-treatment, separation from their parent. Under the following section the analysis of the protection of rights of children's in the cases of arbitrary displacement of Oromo peoples from Somali regional state and from the border to be made.

4.2.1 Analysis of protection of right to Life and survival and development during IDP and border conflict

The UNCRC provides that the right to life of the children as inherent right and compel the member States to ensure to the maximum extent possible the survival and development of the child. In a similar way the ACHCR repeats nearly exactly the wording of the convention under article 5. Under this article member states simply obliged to undertake all essential efforts and to use all means and available resources to secure the survival, protection and development of the child. This right is also protected under different international covenant like UDHR, ICCPR and domestic laws.

The Guiding Principles explicitly reaffirm internally displaced persons' right to life under its principle 11 and their right to dignity and physical, mental and moral integration principle 12, and emphasize aspects of particular protection in the different phases of internal displacement. This right is also inferred from GC AP II art.17 which provides the explicit prohibition of

displacement, unless the security of the population or imperative military reasons so demand. Also the human right to freedom of movement and choice of residence which has got protection under ICCPR, Art.12 give protection. The GPIDP, Principle 8 adopts displacement must not be carried out in a way that violates the rights to life, dignity, liberty and security. Principle 10 of Guideline recognize the need to protect people from, “genocide; murder; summary or arbitrary executions; and enforced disappearances during displacement. The Guiding Principles also reaffirm IHL’s prohibition in all circumstances of attacks or other acts of violence against civilians. The Guiding Principles ensuring that internally displaced persons are protected against: Rape, mutilation, torture, cruel, inhuman or degrading treatment or punishment, and other outrages upon personal dignity.

Under FDRE constitution the right to life of the child is protected in general language under article 15 and specifically adopted under article 36 of the constitution. The assessment of the law concerning the right to life of the children indicates that there is no exception or limitation concerning this right. The government by using any means and all efforts protect it in any condition. Although the law provides in such manner the arbitrary displacement and the conflict resulted in the occurrence of physical and sexual violence to children and brings Deaths of several people including children and their parents which leaves significant number of children orphaned.²⁴⁰Only at the end of November 2017, for displacement started at the beginning of September 2017, “more than 247 children were might have been killed or moved away to unknown places.”²⁴¹

One of the displaced men expresses his displacement as “it is not to be taken as displacement rather it is ethnic cleansing.”²⁴² When he expresses the reason makes him to say that; on the

²⁴⁰Interview held with Anonymous on 19/03/2018 –at Oromia regional state women and children affairs bureaus with the director of child rights protection in emergencies.

²⁴¹ Data obtained from Oromia Women and Children Affairs Bureaus and also interview held with Anonymous on 19/03/2018 –at Oromia Regional State Women and Children Affairs Bureaus with the Director of Child Rights Protection in Emergencies.

²⁴²The term began to be used in the context of the 1990’s conflict in the former Yugoslavia, and is thought to be a literal translation of a Serbo-Croatian expression. A UN commission of experts defined it as “...a purposeful policy designed by one ethnic or religious group to remove by violent and terror-inspiring means the civilian population of another ethnic or religious group from certain geographic areas.” It could be a set of different actions, directly or indirectly related to military operations, committed by one group against members of other ethnic groups living in the same territory. Ethnic cleansing is perpetrated against particular groups of individuals, according to their ethnic, national, religious, or other characteristics

04/01/2010 in the evening around 6:00pm eight armed liyu police men comes to my house where I live in jijjiga town 05 kebele. Some of these men were liyu police; some were normal police and militia. They were took us away to 12 kebele office with my wife and two children. At this kebele; before reaching the office after they cut down two of my wife breast they slaughter in her neck by knife like animals and then they slaughter my 3 and 6 years children in the same manner. Finally they cut my tongue inside my mouth and stab me on my head and two of my legs. At that time the liyu police who killed by slaughtering my family in mass and wounded me was lead by police called Mahammad Yusuf. At the place this incident occurred I was observed by naked eyes when the liyu police were slaughtering 19 peoples at one place in addition to my family. Among them 8 children were slaughtered by liyu police led Yusuf Ibrahim. Similar to that of mine the three of Mahammad Adem"s children were slaughtered at the same time. Then by support of Oromo society my soul was runaway from death."²⁴³In the country where the governments exist hearing such kind of human rights violation which it has protection by different international instrument and domestic law is unknown.

"Mohammad Ibrahim had two wife"s the one is called Iftu Umar and from her, he has got 3 children and she escaped from death with 3 of her children and one of her husband child he got from other wife called Janno. From Janno Haji my husband has got two children. On the day of our displacement 02/01/2010 E.C only one week was passed after she gave birth the second child. Unlike me she didn"t escaped from killing. She was slaughtered on her bed nearby her child of one week aged. Unfortunately they didn"t kill this child. After three day of my displacement I made call phone to my former neighbor Amhara ethnic person and ask the situation. He told me that after he checked her in her house *Janno* was slaughtered but not her child. Then I asked him to bring this child to Oromia by expressing the child as an Amhara. The one week child was stayed for three days with her died body of mother without getting nothing."²⁴⁴ "When we went to find shelter place in the morning, for escaping from killing and

²⁴³ Interview held with Foad Yusuf, one of displaced man from Somali Regional State from Jijjiga town 05 kebele and left from death after his tongue cut and at this time he is distressed, not normal person needs more treatment from government on 10/05/2018. The interview was made by the help of his friends in some explanation. In other case he himself responded for my question.

²⁴⁴ Interview held with Anonymous, one of Displaced Women from Somali Regional State from Jijjiga town 16 Kebele escaped from death on Wednesday 10/05/2018. Her husband was the government employee and displaced from work place. Currently she is residing in Dukem town.

arrived at 07 kebele, we were observing that the Somali Liyu police were with their full of weapons after they kill the mother of two years child they were cutting the child and divided in two place at her waist. I was shocking to their action at that time and cry it.”²⁴⁵ These acts against the Oromo peoples are not less than Genocide crime.²⁴⁶

On the other hand one of my informants expressed what she was observed of miserable situation. “The the Somali Liyu police, the Somali Normal police and the Somali youth comes to my house and they are beating me and other Oromo peoples leaving in my neighbor and drag us from our house. They beaten me by the Iron metals on my right leg, on my head then, they leave me on the road by presuming died and now I’m mentally distressed.”²⁴⁷ On the other hand one of displaced woman from Somali region spoken about tragedy made against the Oromo people in the following circumstances. “When I was transported to Oromia region I” was viewed one woman was carrying her daughter of 10 years body whose head was cut down at the neck and lost. Only she was carried the body of her daughter below her neck. The body of her daughters above the neck was cut down by the Somali liyu police and it is unknown where it was lost. She buried her body of daughter after she inters Oromia regional state at Cinakse woreda. Many people including children were killed by the liyu police, by Somali region normal police, Militia and some of the youth who have relationship with the Authority of the region”²⁴⁸ this woman

²⁴⁵ Interview held with Hamdiya Ahmad, one of Displaced Woman from Somali Regional State on Friday 4/05/2018 and with anonymous, one of displaced man from Somali Regional State on Friday 4/05/2018. Both of them said that “in our life we never seen such horrific action by the government force. They said that if the father of the child is Oromo Ethnic group and their mother is Somali Ethnic group the children’s were displaced from Somali regional state with their father while the mother left to Somali regional stat and when the father is Somalia Ethnic group the mother were displaced alone by separating from her children while the children were left to the Somali regional state with their father”.

²⁴⁶ According to Genocide convention of 1948 art.2 genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such :

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (f) Forcibly transferring children of the group to another group.

²⁴⁷ Interview held with Halima Amiin, one of the Displaced Women from Somali Regional State on Monday 7 may 2018 currently residing at Gelan town.

²⁴⁸ Interview held with Halima Amiin, one of the Displaced woman from Somali Regional State on Monday 7 may 2018 at 4:30-5:00 currently residing in Gelan town .

stated how inhuman act was made against Oromo people during their displacement for the reason being an Oromo which only the God take responsibility contrary to international, regional and domestic laws assessed above.

One man who was displaced from Somali region was state their displacement in the subsequent manner “I was living in Somali region at the place called Dawalle prior to my displacement. On the date 04/01/2010 E.C in the evening at 3:00pm the Somali liyu police comes to my house and told me that to take my children and went to the meeting. Then I was going to the place they suggest me. At that place not only me there were many Oromo peoples. In the evening at 10:30pm they transport us with 7 car including many children to the place where they priory dig out the 5(five) big hole on the day time, to bury us after mass killing of all person with seven car including the children. The mass killing was planned by 25 Somali liyu police. The person who dig out the hole by the Dozer at the day was informed Ethiopia army force at nearby about the incident that the Somali Liyu police forced me to dig out five hole by Dozer to bury Oromo People in mass. From the Ethiopian army force heard the information 6 army who were Oromo by identity come to the hole and warned the Somali Liyu police to stop mass killing of Oromo people transported by Seven Car and told if they hate them make transport to Oromia. They were fighting each other at that time and ready to exchange gun fire. Finally the Somali Liyu police accept the warning of 6 army and start to transport all of us to Dire Dowa. We were prohibited from burying one of the old man died and leave on the field.”²⁴⁹ However, unfortunately this was unsuccessful by Ethiopian armies who have the love for their country and people.²⁵⁰This attempt is a serious crime against oromo People.

“The Somali liyu police, the Somali woreda authority, Somali manager working at kebel with including normal police collect at one place all Oromo by beating, hitting, stabbing and torturing by the word from their house in Erer woreda and transport them with 6 car to the place where they dig the hole on the day time. However before they reached the place, from Ethiopian army force Oromo in ethnic by including some Amhara prevent them from mass killing at a time. Then they took all peoples with 6 car and make stayed in their camp in that evening, then at the

²⁴⁹ Interview held with Anonymous, one of the Displaced man from the Somali Region, on Friday 4/05/2018 ,This man was escaped from the death by the action of the 6 Oromo Ethiopian army force

²⁵⁰ Ibid

morning they took them at Dire Dowa camp. This incident was made against Oromo peoples not by terrorist organization like Alshebab, Alqaed or Bokoharam rather by the force of Ethiopia.”²⁵¹ What a tragedy I was observed during our displacement was when the Somali liyu police thrown one child from the car to the ground, immediately the child was died.²⁵² One of respondent said that “during our transportation there were, a one day gave birth women and children with us. I was observing the drama played with human beings life in Somali region. This drama shocked and distressed me. The drama was the Somali youth or liyu police were took the child from her mother and when one thrown the child to the sky the other were standing up the pointed knives to the sky under the child thrown to the sky and when thrown child back to the ground she got the pointed knives on the youth or liyu police and tear into two places before she /he landed. There were many children died in such drama.”²⁵³ Even though we didn’t know by numbers many Oromo peoples including children’s were died by the liyu police. ²⁵⁴The federal government, Ethio-Somali regional states have the duty to protect the rights to life, prevent arbitrarily displacement, violation of any other human rights. Protection is preventing human right violation from other person and their own police. However, what was observed in the case is indicates contrary to their obligation there is clear violation of international human rights instrument and humanitarian laws, FDRE constitution and other domestic laws by the regional police.

²⁵¹ Interview held with anonymous, one of the Displaced Woman from the Somali Regional State Erer woreda on Wednesday 10/05/2018, this woman was displaced on 10/01/2010EC after she was living in the region for twenty years. She also said that “My name was given to Liyu Police as exceptional woman to be killed because of I was one of the Oromo committee and instigates peoples to be included to administration of Oromia during referendum of 2004.” Presently she is residing in Dukem Town and with Abdi Ibrahim on the same day, currently residing in Dukem Town.

²⁵² Interview held with anonymous, one of the Displaced Man from the Somali Region on Wednesday 10/05/2018, currently residing in Dukem town.

²⁵³ Interview held with Anonymous, one of the Displaced Man from the Somali Region on 4/05/2018 This man was escaped from the death by the action of the 6 Oromo Ethiopian army force and interview held with Anonymous, one of the Displaced Man from the Somali Region on Friday 4/05/2018 at 9:00-9:30 currently residing in Dukem town.

²⁵⁴ Interview held with Anonymous, one of the Displaced Man from the Somali Region on Friday 4/05/2018, he said that “we were displaced by 1st by somali liyu police, 2nd some youth close to the Liyu police, and normal police of the region. I’m displaced from jijjiga kebele 05 the place called qoxxoba. They displaced us 1st to in Jijjiga 12 kebele then they were transporting us to Oromiya Cinaksen woreda during this time they were beating us by the stone on the Car, Many children were injured during this time. We were stayed without food including children for two days. There were people suffered and injured during this time and Chala Jamal displaced from Somali region in Jijjiga town 09 Kebele. His father was killed by liyu police and he left with 6 children without father.”

“The Somali liyu police were make displacement Oromo Ethnic group by the support of some of Ethiopian Federal armed force. On the date of 03/01/2010 E.C the Chief of liyu police so called Abdurahaman Lebegolle order the slaughtering of Oromo people in Somali region 11 Kebele. Then after, the slaughtering started at 3:00pm in Jijjiga town at kebele 11th where I was displaced. They were identified the Oromo and non-Oromo people living in that kebele based on identity card. When they suspect they counted up your species up to your grandfather or grand grandfather. If there is an Oromo name at grand father or grand grandfather the slaughter can be made. After they identified as Oromo and non- Oromo they collect Oromo people including women’s gave birth on that day and transport them to the place called toga where the big hole first prepared, then mass killing and buried in that hole all together. I was on the roof to hidden myself from danger and observe the incident. At the morning I was handed myself to the Ethiopia army force living in the camp. After they heard from me the Oromo in ethnic army in the Ethiopian army went to 11 and 12 Kebele to collect the Oromo people for save their life. My families were hidden in the house of Somali people. This indicates the conflict was not between the two ethnic group rather liyu police and the Oromo peoples. Not only that, after we sheltered in the hamaressa camp in September month the Ethiopian army force were killed 3 children and 6 other people. Again the Federal Army force killed 6 people including one child and wounded 26 people in the camp on February 2018. During this time a 1 year old child, who was carried by her mother were died on her mother’s hand.”²⁵⁵When many people killed at Jijjiga the people informed Ethiopian army force leaving in the camp around 07 Kebele that Oromo people killed in mass via armed Somali liyu police men and to save others who were still alive. The Ethiopian armies’ answer was in short, we haven’t any permission to do that.²⁵⁶This is not the answer expected from once calling itself Ethiopian army. Many Oromo were killed including children during force full displacement made by Liyu police.²⁵⁷The government has primary duty to protect the lives of IDP people in the camp. However what identified in the above case is the opposite.

²⁵⁵ Interview held with Anonymous, one of the Displaced Oromo People from Jijjiga on 10/05/2018 at 4:15 am currently residing in Dukem town.

²⁵⁶ Interview held with Anonymous, one of Displaced Woman from Jijjiga town 07 Kebele on 10/05/2018. Presently residing in Dukam town

²⁵⁷ Interview held with Anonymous, one of the Displaced Oromo People from Cinaksen on 10/05/2018 currently residing in Dukem town.

4.2.2 Analysis of the right to protection from all forms of sexual and gender-based violence

In emergencies, children are especially at danger of sexual violence and exploitation. UNCRC imposes obligation on state parties by imposing obligation under article 34 of CRC state Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. States Parties are also obliged to take all appropriate national, bilateral and multilateral measures to prevent sexual violence against children in all situations. Article 19 Of UNCRC more generally covers protection from “all forms of physical or mental violence” and specifically mentions sexual abuse. Contrary to this principle many women and children were raped by the Somali liyu police.²⁵⁸ As information obtained from Women and Children Affairs Bureaus indicates that it was reported children encountered physical and sexual violence's during displacement²⁵⁹ even though their identity hidden. More than 94 women including children known to be raped during arbitrary displacement²⁶⁰ the number is estimated to be more than this however, data is unknown because of fearing disclosing once identity. Child marriage at some woredas like Goro gutu and Arero was reported. More than 9 children were married.²⁶¹ Even though the CRC, guiding principle on IDP, African charter on welfare of children impose duty against the government to protect children against rape, torture, cruel treatment and other gender violence the federal government and Ethio-Somali regional state did not fulfill this obligation.

One of the displaced woman expressed how she was displaced and how her daughter of 12 years was raped. “The day was on Thursday, 03/01/2010 E.C. I was displaced from Somali regional state the place so called Bike. At first the woreda police by loud speaker called all Oromo People that there is a meeting at high school around our house. When all Oromo living at that place arrived the place the woreda police warn us in the existence of Somali Liyu police that all of us to leave their region on this day. Anyone who is not left the region is killed by the gun. Almost all Oromo people were leaving the region at the evening starting from 7:00pm. Some people were stayed up to Friday morning. On Friday morning at 2:00pm in the existence of police one of the youth was raped my daughter of 12 years called „A“. When I shouted the youth

²⁵⁸ Interview held with Anonymous, one of force fully displaced person from Jijijiga Kebele 11 and presently residing in Dukem town on Thursday 10/05/2018 at 3:00am. Even after they raped them they add small stone in the vagina of Oromo women.

²⁵⁹ Cited above at note 218

²⁶⁰ Cited above at note 229

²⁶¹ Ibid

himself had beaten me by the Iron metals. My daughter suffered as a result of this and she was sick for a long period of time. She didn't get any advice from concerned body. My father was killed because he resists the displacement."²⁶² From this case one can easily understand that the protection of children from sexual violence as a human being and vulnerable group which is coined under different international instrument and domestic laws not to be protected.

One of the IDP's whose sister was raped in the age of 8 years by 8 liyu police at a time was express his sadness in the subsequent manner.

"I was` displaced from Somali region jijjiga town 11 kebele the place called 1st zone. My sister Faxuma Ahimad who is 8 years living with me and she was learned before our displacement. On the day of displacement she was at school, when she returned to my house the Somali liyu police waiting on the road and they raped her with 8 liyu police and cut her breast and ears. Because of this now she cannot control her urine. Now she is psychologically distressed."²⁶³ One woman who had a 3 month pregnancy and was raped by the police expressed; "The liyu police came to her house at 2:00pm in the evening they told to her to go with them at the place where Oromo people collected at one place. At the middle before reaching the place, they thrown her from the car; because of this incident her pregnancy interrupted. Additionally they took her to certain place and raped her. At the place they raped her there were many children who were raped. She was observed when they raped two children below 15 years with 7 people each of them. Those children were called Agisha and Mariya. These two children who were raped by 7 liyu police at a time were died. When they were raped they release sound but no one ask them. Still now she` separated from her two children and from her father. Currently when this interview made she didn't know whether her husband is alive or not."²⁶⁴ One of the child below 17 years become mad, because of she was raped by many liyu police at time. After that time she was releasing urine which is mixed with blood."²⁶⁵ This fact indicates the government of Ethiopian did not discharge its duty regarding protection of children from violence which provided under different

²⁶² Interview held with Anonymous, one of the Displaced Woman from Ethio-Somali Regional State on Monday 7 may 2018 currently residing in Gelan town. She is a mother of the child who is raped.

²⁶³ Interview held with Anonymous, one of the Displaced Women from Jijjiga Kebele 11 now resettled in Dukem town with her two children on 10/05/2010. He also expresses that at their resettlement they have the problem of food because the problem of wood for preparation exist. His sister needs the additional support.

²⁶⁴ Interview held with Anonymous, one of the Displaced Women from Ethio-Somali regional state, now resettled in Dukem town on 10/05/2010.

²⁶⁵ Interview held with Anonymous, one of the Displaced Woman from Jijjiga Kebele 01 now re settled in Dukem town with her 4 children while her husband was died on 10/05/2010, she was health extension at Jijjiga.

international instrument like CRC, ICCPR, African charter on the rights and welfare of the child and FDRE constitution.

4.2.3 Protection of the right to Prevention of family separation and protection of Separated and unaccompanied children

Article 34(3) of the FDRE Constitution provides that the family is the natural and fundamental unit of the society and is entitled to protection by society and the State and article 36 of the same constitution provides that children should be cared by their parents and guardian. This protection includes non-separation of family. There were many children who were separated from their parent during arbitrary displacement from Somali region. One of my informants explains that he knows four children those who were separated from their parents.²⁶⁶ One of the child separated from both of her parent expressed how she was separated from her parent in the following manner. “Now I’m 10 years old my mother died when I was 3 years old by the natural death. I didn’t know where my father is. I was leaving with Somali family. Since I’m Oromo the Somali Liyu police took me from Somali family takes me to 12 kebele with other Oromo. At that time they were beating me by their leg, stick and their hand. Without any family protection I was transported to Oromia region by the Car. When the displaced person is residing in the Oromia region I was without any parents and family. However without knowing him I reside with the person called Yusufe who is residing in Gelan town. I didn’t have any blood relationship with him.”²⁶⁷ During forced displacement, Separation was made in that the parents or the children who were in the house transported together with the car to another place while the parent and children outside the house also transported by another car and to another place²⁶⁸ and they were separated in such way. There were many children separated from their parent and their parents

²⁶⁶Interview held with Anonymous, one of the Displaced Women from Ethio-Somali Regional State on Monday 7 may 2018 currently residing at Gelan town and interview held with Anonymous, one of the Displaced Woman presently residing in Galan Town on 07/05/2018. She also expressed that when they make displacement against them they were beating the Children and the Parents all together.

²⁶⁷Interview held with Anonymous, the child whose age is 10 years and displaced force fully from Jijjiga and separated from both of her parents and now living with a person she has not any blood relationship called Yusufe at Gelan town on Friday 3/05/2018. Interview was made in the existence of the person where this child lived after confirming their consent.

²⁶⁸Cited above at note 265

were slaughtered by the Somali liyu police.²⁶⁹ However under CRC, African charter on the welfare of the child and guiding principle such separation is prohibited.

As data obtained from Oromia BoWCA indicates that 247 of children whereabouts of considerable numbers of children who separated from their families before and during the conflict remained unknown.²⁷⁰ This indicates the stated number of children were separated and unaccompanied and left without support. As the higher officials of the Bureaus explained based on the information gained from the parents the “stated number of children might have been killed or moved away to unknown places or might be travel to different areas for search of job that involves child labour, sexual violence and child migration.”²⁷¹ As data obtained from Oromia BoWCA indicates that at the end of November 2017, one or both parental death during the forced displacement and conflict and natural death because of different factors left 892 children orphaned.²⁷² In general more than 527 children separated from their families were identified and documented including 54 unaccompanied minors.²⁷³ From this 176 children were reunified with their families, 60 children got community based care arrangement (non-formal adoption, foster care). Whereas, 291 were on the process of assessment and family tracing²⁷⁴ until this data was collected. The failarity of the government to discharge its duty left many children without parent.

One of the displaced woman separated from her niece who is 15 years old said that, “I was displaced from Jijjiga on the date of 04/01/2010 E.C on the morning around 3:00 four Somali „militia“ with holding gun comes to my house and told me that to leave the house. My ear didn’t hear properly and I return back to my house without understanding what they were saying. Then the Militia immediately prepared for killing me with the bullet; however one of my Somali neighbor stopped him from killing me by expressing that my ear does not properly heard. After that I was going to 10 kebele shelter for a time being. When I arrived at 10 kebele my niece who was living with me and learned sitting in my house whose age is 15 years was separated from

²⁶⁹ Interview held with Anonymous, one of the Displaced Women from Ethio-Somali Region Jijjiga town 07 Kebele on 10/05/2018.

²⁷⁰ Cited above at note, 239

²⁷¹ Ibid

²⁷² Cited above at note 239

²⁷³ Ibid

²⁷⁴ Ibid

me, since there were many people at that place I didn't get her. Still now I didn't know where she is. We stayed for one day at this kebele. When we were stayed at 10 kebele we were protected by the Somali liyu police with full of armed. We stayed one day with my children at 10 kebele without any food. No permission was given to go toilet rather everyone urinated on him or herself. It was raining on us in that evening."²⁷⁵ If the mother is an Oromo and her husband is Somali and they have children from each other during the displacement, when the mother transported to Oromia the child is left to Somali with father.²⁷⁶ "When the Oromo people displaced from the Somali region especially from Tullubule Woreda the place so called Hulluqo the Somali liyu police after they beaten the people ,they were taking away 6 Oromo women separating from their husband and their children including from 1 year old child. After they were raped by the liyu police and stayed for one week they were returned to Oromia."²⁷⁷

One of the 13 years children expressed what happened against him and how his father was killed by the Somali liyu police in the next case.

"My displacement was from jijjiga town 09 kebele on the date of 02/01/2010 at 8:00pm in the evening. At this time 7 liyu police with fully armed were comes to my family house and called my father Jamal Abdalla then they started gunfire to him at the same time and killed by four bulletin. After killing my father they started to hit my mother, Safiya Aliyi and slap on her face and strike by their leg on her stomach and brought all of us at their camp in 09 kebele. At this camp they cut the breast of women and make them to eat. I was observed with my eyes when they cut the breast of around 10 women. When Ethiopian army Oromo in ethnic comes to that place other Ethiopian armies comes following them and blame their coming and they started to

²⁷⁵ Interview held with Anonymous, one of the displaced woman from Ethio-Somali Regional State on Monday 07/05/2018 at 5:00am now residing in Gelan town and Interview held with Anonymous, one of Displaced Man from Somali Regional state resettled in Oromia Regional State at Gelan town on Friday 4/05/2018 at 11:00-11:30 and also explicit that if the father of the child is Oromo ethnic group and their mother is Somali ethnic group the Children's were displaced from Somali regional state with their father while the mother left to Somali regional stat and when the father is Somalia Ethnic group the mother were displaced alone by separating from her children while the children were left to the Somali regional state with their father. Also he said that we were displaced from the region only for the mere fact that we are Oromo. He knows that children separating from their mother left to Ayisha woreda in Somali Region.

²⁷⁶ Interview held with Anonymous, one of the Displaced Man from Somali Regional State on Monday 07/05/2018 at 5:00am clock.

²⁷⁷ Interview held with Anonymous, one of the Displaced Man from the border between Oromia and Ethio-Somali Regional State forcefully on Monday 10/05/2018 at 2:30am and now residing in Dukem town

fight each other by word. Then they transport us to hamaressa camp. My father was killed leaving 6 children orphan. Currently because of the incident sometimes I'm abnormal"²⁷⁸One of the health extensions who displaced from the region articulate her displacement. Her displacement was On 04/01/2010 EC at 6:00am 4 Somali liyu police and 3 youth comes to her house. At that time they kill her husband. They also strike her 4 years children by "*fero*" or iron metals.²⁷⁹One was separated from his two children of 1 and 4 years. Still now it is not known where he is.²⁸⁰Therefore even though international human and humanitarian laws, regional laws and domestic laws by FFDRE constitution impose obligation against the federal government and Ethio-Somali regional state to protect children not to separate from their parent and when separation made tries to do the best for reunification, during arbitrary displacement of Oromo people from Somali many children were separated from their parents through unlawful manner. The Oromia regional state reunified 176 children with their parents and this is appreciable even though it was not enough and non- reunified children gets nothing special treatment.

4.2.4The right to physical security and the provision of safe spaces

Among the displaced people of 731,216²⁸¹ physical injuries were made against 8,299 peoples including children.²⁸² The majority of this people were children. "The injury was cutting breast, cutting leg, breaking different part of bone and stabbing with knives and iron metals or ,fero, burning all body of persons and rape. When the treatment was given to the injured people they expressed that all the injury was made against them especially by Somali liyu police."²⁸³ Health center for this purpose was established by the government and where the injury were serious and requires further treatment refer paper were given for the injured persons to higher hospital.²⁸⁴

²⁷⁸ Interview held with Chala Jamal, one of the displaced boy from Ethio-Somali Regional State forcefully on Wednesday 10/05/2018 and now residing in Dukem town.

²⁷⁹ Interview held with Caaltuu Ahimad, one of the Displaced Woman from Jijjiga Kebele 01 now re settled in Dukem town on 10/05/2010.She resettled with her 4 children while her husband was died. She is an health extension at Jijjiga.

²⁸⁰ Interview held with Zara Usman, one of the Displaced Women from Ethio-Somali Regional State on 10/05/2018. Her husband was separated from her and 2 of his children.

²⁸¹ Interview held with DR.Abera Dheresa, the Chair Man of the Committee for the Rehabilitation of internally displaced Oromo Ethnic group on 3 may 2018. The committee was established by the initiation of Oromia National Regional State after many thousands of Oromo displaced from Ethio-Somali Regional State and border conflict.

²⁸²Data obtained from Oromia Health Bureaus and interview held with anonymous ,one of the Higher Official at Oromia Health Bureaus at the department of Public Health Emergency Management Officers on 26.03/2018.

²⁸³ Ibid

²⁸⁴ Ibid

The neglect of the government to discharge its obligation entered under national and international law brings serious violation of human rights and humanitarian law. What happened in Somali regional state is not different from this idea. One of my IDP informant answered to me during interview by explaining in the subsequent manner “I was seriously injured by the police at my work place after I had got the treatment from hospital, when I back to my house my wife and two of my children who are below 3 years not around. Still now I didn’t know where they are or whether they are died or alive. I was observed by naked eyes while the Somali youth those have relation with the Somali liyu police set fire to the house after locking the house from outside leaving three children and their mother in the house and all of them were fired with the house. The police took nothing to stop this horrific incident”²⁸⁵The injury made against children can uttered be physical and psychological one.²⁸⁶ The liyu police of Somali like they beat other children they also beaten my child by the stone and injured him on his head.²⁸⁷

4.2.5 The right to education and Protection of attacking on school

The children’s right to education is seriously affected by the internal conflict between two regions. Many school closed due to the conflict. According data obtained from Oromia Bureaus of Administration and security around more than 109 schools at the border were damaged, looted and closed in general during the study period.²⁸⁸ This damage was made by the Somali liyu police who were fully armed and well trained.²⁸⁹ Until this data was collected, more than 96,548 of children interrupted their education.²⁹⁰ Among this number more than 35,237 of children

²⁸⁵ Interview held with Anonymous, one of the Displaced Woman from Somali Region now residing in Gelan town on Monday 04/05/2018,. He was observing when he was in Hospital that 28 Oromo People including Children were treated in Hospital.

²⁸⁶ Interview held with Abdulselm Ahmad Baker, one of the Displaced Man from Ethio-Somali Region currently residing in Gelan town on Monday 04/05/2018. He was observing the injury made against his Children and during that time he himself was injured.

²⁸⁷ Interview held with Kamiya Mussa,one of the Displaced Woman from Jijjiga 07 Kebele currently residing in Dukem town on 10/05/2018.

²⁸⁸ Data Obtained from the Oromia Bureaus of Administration and Security and interview held with anonymous with the Senior Expert of Conflict Early Warning and Response on 15/05/2018.

²⁸⁹ Interview held with Anonymous with the Senior Expert of Conflict Early Warning and Response at Oromia Bureaus of Administration and Security on 15/05/2018 and with anonymous with Senior Expert of Education at Oromia Education Bureau On 23/03/2018

²⁹⁰ Interview held with Anonymous, with Senior Expert of Education at Oromia Education Bureau on 23/03/2018 and Interview held with Anonymous with the Senior Expert at Oromia Risky Prevention Preparedness Management Commission on Nutrition Information Analyst on 21/03/2018.

interrupt their education, were those who were displaced from the Border due to conflict.²⁹¹ There were many children interrupting their education as a result of conflict.²⁹² One of my interviewees answered me that “he was learning prior to his displacement. However, now on the date of this interview he interrupted his education.”²⁹³ After displacement the federal government and Oromia regional state was tries to provide emergency feeding at school to avoid interruption of education. They were provides the food estimated around 107,000,000 birr .However this was by itself not given timely, this increases school absenteeism.²⁹⁴

One of the displaced child uttered why she interrupt her education as follow;“Before her displacement she was learned in grade 6 with Somali language but after her displacement she interrupt her education because of many reasons, like absence of uniform and other material. The other reason for her interruption was when she was in Somali region she was learned with Somali language but after her displacement to Oromia, since there is no Somali language she is obliged to start from grade 1 by Afan Oromo language in the coming year. Four of her brothers and sisters were interrupted their education like her because of similar reason.”²⁹⁵ Even though the international criminal court states that all intentional attacks on buildings dedicated to education is considered as war crime as it can be observed from the above data during Oromia and Ethio-Somali border conflict the school was highly targeted and attacked.

4.2.6 The right to psychosocial support and Protection from emotional distress

There are an increased number of children who faced psychosocial distress and trauma due to slaughtering, amputation, cutting of breast, beating, shooting, and other inhuman actions against

²⁹¹ Interview held with anonymous with senior expert of education at Oromia Education Bureau On 23/03/2018.

²⁹² Interview held with three Xaher Adem mahammad , Abdi Oromo, and Kaamiya Muusa, one of those Displaced Men from the border between Oromia and Ethio-Somali Regional State from the border on Monday 10/05/2018 and now they are residing in Dukem Town and Interview held with anonymous, one of the Displaced Man from the border between Oromia and Somali regional state and currently residing in Dukem town on Monday 10/05/2018 at and interview held with Kamiya Husen one of the Displaced from Jijjiga 07 kebele on 10/05/2018

²⁹³ Interview held with Anonymous, one of the Displaced Child from Ethio-Somali Region and separated from her parent on 03/05/2018. During Arbitrary Displacement she was beaten seriously and distressed.

²⁹⁴ Interview held with Anonymous, one of the Senior Expert of Education at Oromia Education Bureau on 23/03/2018.

²⁹⁵ Interview held with Muna Mamammad, one of the displaced child of 15 years currently residing in Dukem town with her family on 10/05/2018.

their parents and their relatives in front of them.²⁹⁶ From displaced people in general around 6,381 people including children were psychologically distressed.²⁹⁷ For those people health treatment by psychiatrist and psychological treatment by the spiritual father, psychiatrist and other concerned body were given to them.²⁹⁸ One of the three years children was psychologically distressed and indicated the behavior of abnormality after she was observed that the Somali liyu police was slaughtered many children and women nearby her. ²⁹⁹Even though CRC article 39 states that the state parties to promote physical and psychological recovery and social integration of child victims of any form, what the federal and Oromia Regional state did towards this was not sufficient. Because currently many children are suffered from psychological distress they met during their arbitrary displacement.

4.2.7The right to freedom from torture

This right violated during arbitrary displacement of Oromo people from Somali regional state in all measures taken by the liyu police. One interviewee answered me “Seven Somali liyu police was comes to my house when I was with my five children. They took my five years child from me and throw to the sky before me. At that time I was terrorised however from them one stretches his hand under my children before she landed and saves her life. For 3 days we were without any food including our children in 09 kebele where Oromo people collected in one place.”³⁰⁰Therefore even though the law prohibits the torture, and the right to freedom from torture has got the status of customary international law in which no permission is given even during emergency what my informant states are opposite. Under FDRE and Oromia constitution this right is protected as absolute right. Therefore as expressed by interviewee there were torture against the arbitrary displaced children and their family in different ways during displacement which is clear violation of International law principles and FDRE constitution.

²⁹⁶ Interview held with Anonymous, one of the Senior Expert on Public Health Emergency Management Officers at Oromia Health Bureaus on 26/03/2018 and Interview held with Anonymous, one of Displaced Man from Ethio-Somali Regional State currently resettled in Oromia Regional state at Gelan town on Friday 4/05/2018.

²⁹⁷ Data Obtained from Oromia Health Bureau on 26/03/2018 and Interview held with Anonymous, one of the Senior Expert on Public Health Emergency Management Officers at Oromia Health Bureaus on 26/03/2018.

²⁹⁸ and Interview held with senior expert on public health emergency management officers on 26/03/2018

²⁹⁹ Interview held with Anonymous, one of the Displaced Man from Somali regional State on 10/05/2018. He is the father of the child.

³⁰⁰ Interview held with anonymous, one of the Displaced Women from Ethio- Somali Regional State on 10/05/2018. She was displaced from Jijjiga Town 01 Kebele at 5:00pm in the evening.

4.2.8 The right to protection of Community Infrastructures and access to public health service.

More than 275 women gave birth on the way of displacement and in the camp. This has its own side effect on the women as well as on their newly born children. The side effect were release of many blood towards mother, lack of sufficient nutrition towards mother and children, suffocation were some of them.³⁰¹ Even though the government tries to provide different kinds of soap and sanitary pad it was insufficient. As a result of displacement changes of place and the climate in which they were living were resulted deases like cough, nemonia, acquit febrile illness (AFI) and diarrhea.³⁰² More than 1,980 of pregnant women are treated by concerned health professionals.³⁰³ They met lack of sufficient nutrition. Among children below 5 years more than 70,399 of them have got lack of nutrition service treatment. Among these 12,732 have got moderate acquit malnutrition and 766 children have got sever acquit mal-nutrition.³⁰⁴ More than 80 health center and health post were damaged. Five of health centers were damaged with their material by liyu police. Even though the attempt by the government and different organization to treat children and women's were good step there is a problem like scarcity of drug and medical equipment were problem during the treatment of IDP.³⁰⁵ It was well understood from my analysis and observation in the resettlement, food preference and dietary diversity is challenging particularly for children, elderly and mothers. Children were psychologically and physically not in good position³⁰⁶ at that time. Even though international humanitarian laws especially GC IV and AP II prohibit the attacking of hospitals and health institution the liyu police were attacking the hospital and health institution.

4.2.9 Right to movement

Article 32 of the FDRE and Oromia regional state constitution provides that any Ethiopian or foreign national lawfully in Ethiopia has, within the national territory, the right to liberty of

³⁰¹ Data Obtained from Oromia Health Bureau on 26/03/2018 and Interview held with senior expert on public health emergency management officers on 26/03/2018

³⁰² Interview held with Anonymous, Senior Expert on Public Health Emergency Management Officers on 26/03/2018

³⁰³ Ibid

³⁰⁴ Data Obtained from Oromia Health Bureau on 26/03/2018 and Interview held with senior Expert on Public Health Emergency Management Officers on 26/03/2018

³⁰⁵ Ibid

³⁰⁶ Interview held with Anonymous Amme Ali, one of the Displaced Woman from Somali Region on 10/05/2018.

movement and freedom to choose his residence, as well as the freedom to leave the country at any time he wishes to. Contrary to this constitutional rule more than 246,282 of Oromo people were displaced from Somali region. Shame Isma“el displaced from Somali regional state in the following manner; “At the time of my displacement in the evening the police so called Inspector Nuguse with the kebele administration Mohammad Husen and with his deputy Mohammad Ahmad comes to my house and beaten me and other Oromo and told them at that time „leave our land you came without any property and should leave without property this land is Somali land“. He took them to the place where the hole prior prepared to bury them in mass and immediately from member of Ethiopian army whose family is in the displacement come to save our life.”³⁰⁷This is the response clearly indicates the displacement made based on identity which is against the constitution.

4.3 Practical analysis on the Role of National Human Rights Institutions in IDP case between Oromia and Somali regional state

4.3.1 The role of Ministry of Women and Children affairs and Oromia Bureau of Women and children affairs during the crisis

Pursuant to proclamation no.916/2015 art.9 (24) and art 36 of the proclamation the main executive body mandated to implement the CRC at federal level is MoWCA. This organ is empowered implementation of treaties relating to children independently and in cooperation with other state and non-state actors.³⁰⁸It also obliged to collect, compile and disseminate information on the objective realities faced by children and coordinate the stake holder to protect the rights and well being of children in any time.³⁰⁹ However interview held with one of the senior expert of the MWCA indicates contrary to this. “The MWCA have no any quantitative data of the children displaced from Somali region and border areas. He continually expresses that there were many children who were killed, raped, physical injury however there is no data concerning this. The Ministry of women and children have no duty to participate in the reunification of children separated from their parent and also MWCA didn“t participate in the case on our hand. The duty to do this is upheld on the regional government, zonal administration and woreda administration.

³⁰⁷ Interview held with Anonymous, one of Displaced Person from Ethio-Somali Region the place called Dawwalle on 10/05/2018 currently residing in Gelan town.

³⁰⁸ Cited above at note 198

³⁰⁹ Ibid

The Ministry confirmed that many children were interrupting their education but it did nothing to make continue their education. Our institution did nothing for women gave birth during displacement under uncomfortable condition or without shelter. Children's those parents died during conflict and arbitrary displacements were living with the community. Our Ministry did nothing for them. We didn't know whether children were reunified or not."³¹⁰Therefore the answerer given by this senior expert is not good when it assessed in light of CRC and the mandate given to them that discussed under chapter three. Because according to CRC it obliges the state parties to make reunification of children who are separated from their parents. The proclamation provides one of the duties of the ministry as implementing the treaty concerning children rights. One of the main treaty concerning children is the CRC which adopts the reunification of children with their family when separation made. Not to have the data concerning children in emergency on our hand also indicates their ignorance to do their duty. The Oromia National Regional state did better to collect all data concerning children's in general on the case on hand. However they only register all data concerning children rights in emergency for September month of 2017. Since the displacement was continued after September 2017 month the data on their hand is not full data. In other ways the institution in cooperation with other institution they reunited 176 children separated from their parents. This is appreciable steps they take to protect children rights in emergency. Still now there are many children in need because they lost their parents. Therefore the MWCA should improve their data collection and participate in reunification of child separated from their parent and all other issues concerning the issues related to their ministry.

4.3.3 Federal and Oromia disaster prevention and preparedness commission response during the arbitrary displacement of Oromo and Border conflict.

As explained under chapter three both organ have the duty to provide reliefs for saving the lives during the situation wherein a segment of the community or the population of a locality cannot any longer meet the need for food and other basic necessities, due to natural or man-made calamities. When we analysis the roles of this organs in relation to the case on at issues the federal government through NDRMC gives aid for those arbitrarily displaced from Ethio-somali

³¹⁰Interview held with Anonymous, one of the Senior Expert on Child Protection at the Ministry of Women and Children Affairs on 15/05/2018

region and from border due to conflict. Those aids were food items like grain, pulse, oil and non-food items. In general just about 1,420,777,480birr given by the federal government as aid for those displaced³¹¹ until this data was collected. This is good step taken by the federal government. However this is nothing when it compared with the displaced population from their original place. The Federal government started to give aid on mid-October for those population displaced before September which was increased by large on the beginning of September month.³¹² The federal government makes less effort to prevent the conflict and was suspected that as hidden actor or participator for arbitrary displacement and border conflict.³¹³ This indicates neglect of Federal government in such emergencies and non-fulfillment of obligation it entered under international and national level.³¹⁴The Oromia regional government gives aid for displaced people more than 1,268,395,478birr and coordinates the aid given by citizen to citizen which is estimated 1,377,893,808.18 and NGO estimated to 50,305,804birr.³¹⁵ The Oromia risk management commission gave different kind of support to the displaced people in different manner and tries to do its best.³¹⁶ In general although different actors gave more than 4,117,372,570.18 aid was given for displaced Oromo people until the date on which this data collected.³¹⁷ This aid is insufficient when compared with 731,216 displaced people.

³¹¹Cited above at note 228

³¹²Interview held with Anonymous, the Senior Officials, Disaster Risk Reduction and Early Warning Directorate at Oromia Disaster and Risk Management on 16/05/2018.

³¹³Interview held with Anonymous, the Senior Officials of Disaster Risk Reduction and Early Warning Expert at Oromia Disaster and Risk Management on 16/05/2018, interview held with anonymous, the Senior Expert of Conflict Early Warning and Response at Oromia Regional State Bureaus Administration and Security on 15/05/2018 and interview held with anonymous, one of the Displaced Person Currently Residing in Dukem Town on 10/05/2018, interview held with anonymous ,Senior Expert of Nutrition Information Analyst at Oromia Disaster and Risk Management on 21/03/2018 And interview held with anonymous with Child Protection in Emergency Program Coordinator at Oromia Women's and Children's Affairs Bureau.

³¹⁴ Ibid

³¹⁵Cited above at note 229

³¹⁶ Interview held with Anonymous, the Senior Expert of Conflict Early Warning and Response at Oromia Regional State Bureaus Administration and Security on 15/05/2018 and Interview held with anonymous, the Senior Expert of Nutrition Information Analyst at Oromia Disaster and Risk Management on 21/03/2018 and interview held with anonymous with Child Protection in Emergency Program Coordinator at Oromia Women's and Children's Affairs Bureau.

³¹⁷Cited above at note 229

CHAPTER FIVE

5. CONCLUSION AND RECOMMENDATION

5.1 Conclusion

A Child right protection in emergencies refers to protection from the conduct of hostilities death, disability, and emotional distress as well as from other misfortunes brought on them by conflict induced displacement, poverty, drought, educational disruption, and separation from family and includes all other related rights. This is because they are the most vulnerable part of the population both in time of peace and in time of conflict. The IHL has specific measures of protection of children's rights in time of armed conflict. While the human rights law (HRL) has built up on the rights of the child applicable in all time. Related to the protection of children's rights during conflict CRC Articles 38 and 39, art 22 of African Charter on the Rights and Welfare of the Child, GC IV, and AP II have the main principles. IDP is one case of emergency circumstances. Internally displaced children are beneficiaries of special assistance and protection due to the specificity of their needs require reproducing the contents of CRC through preparing the Guideline for the protection of IDP. Some country of the world enacted IDP laws domestically taking the content of guiding principle as it is. The notion of protecting the rights of children has got birth from 1924 and successive development was made in different times. The Kampala convention obliges States Parties to respect and ensure respect for their obligations under international law, including human rights and humanitarian law, so as to prevent and avoid conditions that might lead to the arbitrary displacement of persons. The prohibited categories of arbitrary displacement include but are not limited to displacement based on policies of racial discrimination or other similar practices aimed at violation of human rights. Ethiopia signed the convention but not ratified it. The landmark of children's rights are the ratification of the 1989 CRC that gave further impetus to the development of the notion among states of the world. Ethiopia is not an exception from this reality. Thus, the notion of protecting the rights of children has also developed further in Ethiopia since her ratification of the Convention in 1991. Due to her ratification Ethiopia is supposed to take legislative as well as administrative and other measures in order to implement and subsequently enhance protection of the rights of children. With regard to the legislative measures-first, in line with the four key principle of the Convention

Ethiopia has granted Constitutional protection to the rights of children per art.36 because of its Constitutional inclusion of guarantee of rights for “everyone”. Ethiopia has also given protection to the rights of children under the revised Family Law, Criminal Code and Labor Proclamation and Under Oromia regional state constitution similar protection given in compliance with CRC. The government has the responsibility to protect, respect the children’s rights in any time as adopted by the human right principles and protection during emergency as provided on humanitarian laws. The government has the duty to protect its citizen from arbitrary displacement as adopted by the Guiding principle, AU Kampala convention, and FDRE constitution, Somali Regional State constitution. However, arbitrary displacement identity based was made against 246,282 of Oromo people living in Somali regional state. In the arbitrary displacement many human rights violation made against Oromo people in general, children rights in particular. Their right to life violated through slaughtering, burned in the house, they unlawfully separated from their parent through forcefully because of their identity, they psychologically disturbed, their rights protection from freedom of torture violated by the act of Somali liyu police through raping them, killing their parent, slaughtering their parent before them. Additionally many children interrupted their education because of arbitrary displacement and border conflict. Even though, the law provides the protection of this rights without exception in any condition those rights violated during arbitrary displacement of Oromo people from Somali region and border conflict by the neglect of federal government and intentional act of Somali regional state which they have to protect..

In another way the international IHL protects institution dedicated to Education and hospitals during the conflict. However, during the border conflict 109 schools attacked by liyu police and stop its normal function. This violation is contributed to Federal government not stop the conflict timely, Somali regional state makes the attack by their force and Oromia regional state failed to stop defend from attack.

With regard to Institutional frame work Ethiopia has established self-monitoring mechanism i.e. MOWCA the power and duties of this institution provided under Proclamation No.916/2015, art.9 (24) and art.36. The institution empowered to follow up the implementation of treaties relating to Women and Children and submit reports to the concerned bodies and protect the

rights of children independently and also in cooperation with other state and non-state actors. MOWCA's empowered to compile data. At regional level BoWCA holds the mandate to organize data's regarding women and children's affairs make known by the concerned authority in any condition. Therefore the Ministry empowered to make visible follow up the implementation of the Convention hand in hand with state and non-state actors. In General 731,216 of Oromo peoples from Somali and border areas were displaced from which around 68% children have impacted. In addition to the violation children rights protected by different international covenant and principle like rights to life, Education, family, health and movement were violated by the act of the Somali regional state especially by the measurement of liyu police of the region well trained and fully armed to combat ONLF. One child was raped with 7 or 8 liyu police at a time and two children were known to be died in such condition.

The federal Government choose silence rather than preventing this violation or to halt the forcefully displacement. In the contrary Federal government army, participated in armed conflict at the border in support of liyu police. Lawful displacement is non-arguable; however the problem is the displacement against internal and international laws. In general during their arbitrary displacement crime against humanity and other crime were made against Oromo Peoples including their children. After displacement of more than seven hundred thousands Oromo peoples the federal government support the IDP through providing food and non-food item and deploy the military at the border but still now conflict continued. However this is by itself insufficient.

5.2 Recommendation

In general analysis of the data implies as measures should be taken in order to avoid such kind of violation indicated above and enhance the protection of children's rights during emergencies in Ethiopia and to make responsible the perpetrators of the crime and recover the victims from the violation made against their rights. In view of this, this paper suggests the following legal and institutional measures to be taken in order to make the protection successful.

1. Arbitrary displacement, which violates international human rights, is prohibited by the international law principles and similar rules found under Ethiopian laws like the FDRE and Oromia regional state constitution and other laws. Since the assessment of the displacement of Oromo Ethnic group from Ethio-Somali is proved to be arbitrary in which many

children's human rights were violated, the Ethiopian government should bring all perpetrators of the crime especially liyu police members and their order giver including master minds from regional or federal higher officials who gave them order of arbitrary displacement before the law and make lessons for the others in the future and additionally make people –to- people relationships and create peace between the two peoples.

2. Since there are many peoples who were injured and psychologically distressed during the displacement including children, and they didn't get sufficient treatment the government should give due attention and rehabilitate them and when needed in collaboration with the non-governmental organizations and since the assessment of the data obtained from different organ indicates government didn't fulfill its obligation provided under different international treaties and FDRE constitution and other laws, the federal government should compensate those victims of unlawful internal displacement which bright the violation of their human rights in exceptional cases.
3. The arbitrarily displaced people left their home and property they acquire by their effort and currently without any job and property, therefore the Oromia regional government and Federal government should enable all of them to get access to micro finance and create job opportunity.
4. Since all of my informants resisted the idea to return to Ethio-Somali region the government should ask their consent or make a discussion with them before making them return to their original place. When they refused to return creating favorable condition at the place they are chosen to live. Additionally given that the starting point of the disputes were non- marking of the administrative boundary which was identified by the referendum of 2004 as per the constitution the federal government should act immediately to demarcate the boundary to avoid similar humanitarian crisis in the area. To avoid such kind of crisis the federal government should hold referendum for the planed 18 kebele.
5. From assessment of the concerned data many children were interrupted their education because of many reasons. Therefore the governments especially the Ministry of education and Oromia education bureau by making collaboration make the children in next year to return their education they were interrupt. Additionally all appropriate steps shall be taken to facilitate the reunion of families temporarily separated contrary to the international law, and

make protection for children orphaned by the death of their parent during arbitrary displacement and border conflict.

6. Since the displacement is unlawful and supported by the liyu police the Ethio-Somali regional state should return of property looted, taken and ask apology all Oromo people.
7. The analysis of the data collected from informant indicates that MoWCA and Oromia BoWCA do not have enough information or data like children's loss their life, children separated from their parents, children psychologically distressed, children's raped the government should build their capacity to capture information on time which is useful for early response in the future.

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- ❖ https://www1.essex.ac.uk/armedcon/story_id/000577.html ,accessed on 9 February 2018
- ❖ <http://www.globalprotectioncluster.org/en/areas-of-responsibility/child-protection.html> accessed on February 15 2018

- ❖ <http://www.globalprotectioncluster.org/en/areas-of-responsibility/child-protection.html> accessed on February 15 2018
- ❖ http://www.edu.gov.mb.ca/k12/cur/socstud/foundation_gr9/blms/9-1-2e.pdf, accessed on 9 February 2018
- ❖ <http://www.brookings.edu/projects/idp.aspx> ,accessed on 28 February 2018
- ❖ <http://www.internal-displacement.org/> ,accessed 28,February 2018
- ❖ <http://www.unhcr.org/cgi-bin/texis/vtx/home>, www.unog.ch/library, accessed 28,February 2018

IV Other sources

- ✓ Oromia regional Bureau of women and children affairs (BoWCA), child protection rapid assessment report, November 2017,

IV) Interviews

- Interview held with the anonymous at Oromia regional state Bureaus Administration and security with the senior expert of conflict early warning and response on 15/05/2018.
- Interview held with DR.Abera Dheresa the chair man of the committee for the rehabilitation of internally displaced Oromo Ethnic group on 3 may 2018.
- Interview held with Anonymous, senior expert on public health emergency management officers on 26/03/2018 at Oromia health Bureau.
- Interview held with Anonymous on 16/05/2018 –at Oromia regional state disaster prevention and preparedness commission directorate of risky reduction and early warning.
- Interview held with Illili Bekele on 19/03/2018, the department head of the child protection In emergency program coordinator at Oromia Women’s and Children’s affairs Bureau.
- Interview held with anonymous on 10/05/2018, one of the displaced from border as a result of conflict at the border. Now residing in Dukem town
- Interview held with anonymous on 10/05/2018, one of the displaced from border as a result of conflict at the border. Now residing in Dukem Town
- Interview held with Badir Ibrahim, on 10/10/2018, now residing in Dukem town.
- Interview held with Muheeddiin Umer on 10/05/2018, one of the displaced from border as a result of conflict at the border. Now residing in Dukem Town
- Interview held with Abdi Muhammad) 10/05/2010, one of the displaced from border.
- Interview held with Hasan Nuur Mohammad on 10/05/2018, one of the displaced man from Somali regional state on 03/01/2010.
- Interview held with anonymous, one of the displaced man from the border between Oromia and Somali regional state , on Monday 10/05/2018 and now residing in Dukem Town.
- Interview held with Hamdiya Ahmad, one of displaced woman from Somali Regional state on Friday 4/05/2018 at 9:00-9:30 and

- Interview held with Foad Yusuf, on 10/05/2018
- Interview held with Iftu Umar, 10/05/2018
- Interview held with Hamdiya Ahmad, one of displaced woman from Somali Regional state on Friday 4/05/2018 at 9:00-9:30
- Interview held with Halima Amiin one of the displaced women from Somali regional state on Monday 7 may 2018 residing at Gelan town.
- Interview held with Halima Amiin,one of the displaced women from Somali regional state on Monday 7 may 2018 at 4:30-5:00 residing at Gelan town.
- Interview held with Abdusalam Taddasa, one of the displaced man from the Somali Region, on Friday 4/05/2018
- Interview held with with Abdi Oromo), one of the displaced oromo people from jijjiga on 10/05/2018 at 4:15 am currently residing in Dukem town.
- Interview held with Anonymous,3/05/2018
- Interview held with Anonymous, senior expert on public health emergency management officers on 26/03/2018
- Interview held with the Abbas Kadir nutrition information analyst at Oromia Disaster prevention and preparedness commission on 21/03/2018