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Durable Solutions to internally Displaced Persons in Ethiopia: An Assessment of the Legal, Policy and Institutional Framework

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**Durable Solutions to internally Displaced Persons in
Ethiopia: An Assessment of the Legal, Policy and
Institutional Framework**

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the Degree of Masters of Laws (LL.M) in Human Rights
Law**

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Declaration

I, the undersigned, hereby declare that this research paper is original and has never been presented in any other institution. To the best of my knowledge and belief I also declare that any information used has been duly acknowledged.

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Contents

Acronyms	i
Abstract.....	iii
CHAPTER ONE	1
Introduction.....	1
1.1. Background of the study	1
1.2. Statement of the problem	4
1.3. Research questions	7
1.3.1. General research question.....	7
1.3.2. Specific research questions.....	7
1.4. Research objectives	7
1.4.1. General objective	7
1.4.2. Specific objectives	7
1.5. Research methodology	8
1.6. Significance of the study	9
1.7. Scope of the study	9
1.8. Limitation of the study.....	9
1.9. Literature review	9
1.10. Organization of the study.....	11
CHAPTER TWO	12
General Concepts of Durable Solutions for Internally Displaced Persons.....	12
2.1. Introduction	12
2.2. Durable solution for IDPs.....	13
2.3. Other Solutions for IDPs	14
2.4. When durable solution is achieved?	16
2.5. Modalities of durable solutions for IDPs	17
2.5.1. Return to the place of origin	18
2.5.2. Local integration	19
2.5.3. Resettlement	20
2.6. Basic principles of durable solutions	20
2.7. Why durable solution for IDPs is a critical issue?	22
CHAPTER THREE	24
International Standards and Experiences of Countries on Durable Solutions for IDPs	24
3.2. International standards on durable solutions for IDPs.....	26

3.2.1.	Legal frameworks	26
A.	International Human Rights Law	26
B.	International Humanitarian Law	26
C.	International Criminal Law	26
D.	Refugee Law	27
E.	The UN Guiding Principles on Internal Displacement.....	27
F.	Principles on Housing and Property Restitution for Refugees and Displaced Persons (The Pinheiro Principles)	29
G.	The Inter-Agency Standing Committee Framework for Durable Solution (The IASC Framework for Durable Solutions)	30
3.2.2.	Institutional frameworks	32
A.	Resident Coordinator/Humanitarian Coordinator (RC/HC)	33
B.	The Early Recovery Inter-Cluster Group and the Protection Cluster	33
C.	United Nations Development Programme (UNDP)	33
D.	United Nation High Commissioner for Refugee (UNHCR)	34
E.	The Global Cluster Working Group on Early Recovery (CWGER) and the Global Protection Cluster (GPC)	35
3.3.	African Regional and Sub-Regional Standards on Durable Solutions for IDPs...	35
3.3.1.	Legal frameworks	35
A.	The Kampala Convention	35
B.	The International Conference on the Great Lakes Region Pact on Security, Stability and Development in the Great Lakes Region (ICLG) Protocol on the Protection and Assistance to Internally Displaced Persons.....	37
C.	The International Conference on the Great Lakes Region Pact on Security, Stability and Development in the Great Lakes Region (ICLG) Protocol on the Property Rights of Returning Persons of the Great Lakes Region.....	38
3.3.2.	Institutional Frameworks	38
A.	African Union (AU).....	38
B.	The African Commission on Human and peoples' Rights (ACHPR) and the African Court of Human and Peoples' Rights (AfCHPR).....	39
C.	Regional Durable Solution Secretariat (ReDSS).....	40
3.4.	The Experiences of Other Countries.....	41
3.4.1.	Somalia's experiences with regard to Durable Solutions for IDPs	41
3.4.2.	Colombia's experiences with regard to Durable Solutions for IDPs	44
CHAPTER FOUR.....		47

Ethiopian policy, legislative and institutional frameworks on durable solutions to IDPs	47
4.1. Introduction.....	47
4.2. The Existing Domestic Legal, Policy and institutional Frameworks on Durable Solutions for IDPs in Ethiopia	48
4.2.1. Legal and policy frameworks	48
A. The Constitution of the Federal Democratic Republic of Ethiopia (FDRE Constitution).....	48
B. The Criminal Code of Federal Democratic Republic of Ethiopia, 2004.....	49
C. The National Policy and Strategy on Disaster Risk Management of 2013 (the DRM policy).	49
D. The Ethiopian Durable Solutions Initiative (DSI)	50
E. Somali Regional State Durable Solutions Strategy 2022-2025	51
4.2.2. Institutional frameworks	53
A. The Ethiopian Disaster Risk Management Commission (EDRMC).....	53
B. The Ministry of Peace (MoP)	55
C. The Ethiopian Human Rights Commission (EHRC).....	56
4.3. The status of implementation of durable solution for IDPs in Ethiopia.....	57
CHAPTER FIVE	58
Conclusion and Recommendations	59
5.1 . Conclusion.....	59
5.2. Recommendations	61

Acronyms

ACHPR	African Commission on Human and peoples' Rights
AfCHPR	African Court of Human and Peoples' Rights
AU	African Union
CWGER	Global Cluster Working Group on Early Recovery
DSI	Durable Solution Initiative
EDRMC	Ethiopian Disaster and Risk Management Commission
EHRC	Ethiopian Human Rights Commission
IDPs	Internally Displaced Persons
FDRE	Federal Democratic Republic of Ethiopia
FDSWG	Federal Durable Solutions Working Group
GPC	Global Protection Cluster
GRID	Global Report on Internal Displacement
HLP	Housing, Land and Property
IASC	Inter-Agency Standing Committee
ICL	International Criminal Law
ICLG	International Conference on the Great Lakes Region
IDMC	Internal Displacement Monitoring Centre
IHL	International Humanitarian Law
IHRL	International Human Rights Law
IDMC	Internal Displacement Monitoring Centre

IOM	International Organization for Migration
MOP	Ministry of Peace
NCRI	National Commission for Refugees and IDPs
NDP	National Development Plan
NGOs	Non-Governmental Organizations
OCHA	United Nations Office for the Coordination of Humanitarian Affairs
OHCHR	Office of High Commissioner for Human Rights
RC/HC	Resident Coordinator/Humanitarian Coordinator
RCO	UN Resident Coordinator's Office
ReDSS	Regional Durable Solution Secretariat
SDGs	Sustainable Development Goals
SNNP	Southern Nations, Nationalities, and Peoples
UN	United Nations
UNDP	United Nation Development Program
UNHCR	United Nation High Commissioner for Refugees

Abstract

Internally displaced persons are forced to live in a dire situation while being disproportionately vulnerable to variety of risks and human rights violations due to their displacement. They are no longer having specific assistance and protection needs that are linked to their displacement and can enjoy their human rights without discrimination resulting from their displacement if and only if the implementation of durable solutions is achieved.

This study was aimed to assess the adequacy of Ethiopian legal, policy and institutional frameworks to find and implement durable solutions for IDPs. The study also examines the steps taken by the government so far to implement durable solutions for IDPs. In doing so, the mixed methodology of both doctrinal and empirical legal research has been employed.

The study's key finding is that, the failure of Ethiopia to domesticate the Kampala Convention, the absence of specific national policy on durable solutions as well as institution responsible to find and implement durable solutions are impediments for the achievement of durable solutions for IDPs in Ethiopia. There has to be a comprehensive strategy on durable solution that aims at achieving durable solutions for IDPs through an integrated approach of ending the causes of the displacement, considering those factors affecting the return, resettlement and local integration of IDPs as well as assuring that the needs and vulnerabilities specific to IDPs no longer exist. Specific national institution designated for the task of finding and implementing durable solutions for IDPs is also necessary.

CHAPTER ONE

Introduction

1.1. Background of the study

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.¹

IDPs are citizens; no special status is awarded of being internally displaced. Therefore, the FDRE Constitution and other national laws, and regional and international human right instruments ratified by Ethiopia, are equally applicable to IDPs and other citizens. Nevertheless, IDPs are not in a conducive position to be able to utilize the human rights enumerated under these laws that are applicable to all individuals across the board without discrimination. Displacement increases the risk of vulnerability to violence, causes unemployment, and restricts access to land, education, food, shelter, health care, and other essential services. It affects all aspects of lives so that IDPs have the greatest mortality rates in humanitarian emergencies.²

Nowadays, the issue of internal displacement becomes critical in Ethiopia because of the highly increasing number of IDPs. Ethiopia was one of the three countries with the most IDPs in 2018 due to conflict, violence, and disaster, with 3,191,000 IDPs.³ Following government measures such as peace-building activities to promote voluntary returns and programs to

¹ UN High Commissioner for Refugees (UNHCR), *Guiding Principles on Internal Displacement* (UN Guiding Principles), 22 July 1998, ADM 1.1, PRL 12.1, PR00/98/109; African Union, *African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa ("Kampala Convention")*, 23 October 2009, article 1(k)

² UNHCR, 'The State of the World's Refugees 2006', Human displacement in the new millennium' <<https://www.unhcr.org/publications/sowr/4444afd2d/state-worlds-refugees-2006-human-displacement-new-millennium-preface-un.html>> (19 April 2006) accessed 07 Apr. 2022

³ Internal Displacement Monitoring Centre, 2019. Global Report on Internal Displacement (GRID) 2019 Report. Available at: <https://www.internal-displacement.org/sites/default/files/publications/documents/2019-IDMC-GRID.pdf>, accessed 07 Apr. 2022

support those who prefer to integrate into their host communities or settle elsewhere, internal displacement as a result of conflict and disasters decreased to 1,556,000 in 2019, a significant decrease from 2018, but still a significant number of displaced persons.⁴

In 2020, the conflict between the federal government and the Tigray region, which erupted after a military operation launched by the federal government in response to Tigray Regional Force attack on its forces, resulted in up to 539,000 new displacements, as well as reports of human rights violations and abuses, including sexual violence, and food insecurity.⁵ By the same year, violence had driven people to evacuate their homes in the Afar, Amhara, Beninshangul Gumuz, Oromia and Southern Nations, Nationalities, and Peoples (SNNP) regions, bringing the total number of newly displaced people in the country to 1.7 million, a 61 percent increase over the previous year.⁶

As of March 2022, an estimated 5,582,000 persons were displaced within the country due to armed conflict and natural disasters,⁷ three times the number in 2020 and the highest annual figure ever recorded for a single country.⁸ Drought, floods, ethnic/clan tensions and conflicts over resources and borders are the leading causes of internal displacement in Ethiopia.⁹ Ethnic-based violence/conflict is the prime factor, causing more than 80 percent of the displacement in Ethiopia, among the other causes of internal displacement.¹⁰

It is never been easy to identify whether IDPs have found a durable solution and are no longer in need of assistance, because whether the ultimate goal of durable solution is ‘when displacement ends’ or ‘when the displaced are no longer in need of protection or assistance’

⁴ Internal Displacement Monitoring Centre, ‘Global Report on Internal Displacement (GRID) 2020’, available at: <https://www.internal-displacement.org/global-report/grid2020/>, accessed 07 Apr. 2022

⁵ Internal Displacement Monitoring Centre, Global Report on Internal Displacement (GRID) 2021 Report. Available at https://www.internaldisplacement.org/sites/default/files/publications/documents/grid2021_idmc.pdf, accessed on 07 Apr. 2022

⁶ Ibid

⁷ UNHCR, ‘Response to Internal Displacement in Ethiopia Fact Sheet - January to March 2022’, <<https://reliefweb.int/report/ethiopia/response-internal-displacement-ethiopia-fact-sheet-january-march-2022>> accessed on 18 Jul. 22

⁸ Internal Displacement Monitoring Centre, *Country Profile: Ethiopian overview 2021*, available at <https://www.internal-displacement.org/countries/ethiopia>, last accessed on 07 Aug. 22

⁹ Habte Behigu and Yun Kweon, ‘Addressing internal displacement in Ethiopia’ [2015] Forced Migration Review 40-42 <<https://doi.org/https://www.fmreview.org/GuidingPrinciples20/habte-kweon>> accessed 7 April 2022.

¹⁰ ‘Ethiopia’ (IDMC) <www.internal-displacement.org/countries/ethiopia> accessed 07 April 2022

is not clear.¹¹ However, the Inter-Agency Standing Committee Framework on Durable Solutions for Internally Displaced Persons (IASC) provides that durable solutions could only be achieved when IDPs no longer have any specific assistance and protection needs that are linked to their displacement and can enjoy their human rights without discrimination on account of their displacement. Durable solution for IDPs refers to solutions achieved when IDPs no longer have any specific assistance and protection needs that are linked to their displacement and can enjoy their human rights without discrimination on account of their displacement.¹² Same is provided under the UN Guiding Principle on Internal Displacement and the Kampala Convention.

The UN Guiding Principles on Internal Displacement provides that:

IDPs should have access to durable solution to displacement, which would include the rights to return to their place of origin (return), integrate locally at the displacement site (reintegration), or resettle elsewhere in the country voluntarily, safely and in dignity (resettlement); participate in the planning associated with their return or settlement and reintegration; return of lost property or, where not possible, compensation and equal access to public services.¹³

Ethiopia ratified the Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) in February 2020, and this convention also urges state parties to provide durable solutions to problem of displacement and explicitly recognises IDPs' rights to voluntarily chose to return home, integrate locally in areas of displacement or relocate to another part of the country.¹⁴ The primary responsibility to optimize conditions

¹¹ Expert Seminar on Protracted IDP Situations: Hosted by United Nations High Commissioner For Refugees and the Brookings-Bern Project on Internal Displacement, 21-22 JUNE 2007, Geneva, available at https://www.brookings.edu/wp-content/uploads/2012/04/20070621_displacement.pdf, last accessed on 15 May 2022

¹² Inter-Agency Standing Committee, *IASC Framework on Durable Solutions for Internally Displaced Persons*, Brookings Institution Press, Washington, D.C., April 2010, available at: <https://www.unhcr.org/50f94cd49.pdf>, last accessed on 03 Sep. 22

¹³ UN Guiding Principles on Internal Displacement (n 1), Principle 28-30

¹⁴ African Union, *African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa ("Kampala Convention")*, 23 October 2009, article 11

and provide effective methods for durable solutions is on national authorities; other international actors and NGOs have complementary role in this regard.¹⁵

Officially launched in December 2019, The Ethiopian Durable Solutions Initiative (DSI) jointly developed by the Government of Ethiopia and the international community to establish an operational framework is intended to find durable solutions for both conflict and disaster-related internal displacements.¹⁶ The DSI is based on the UN Guiding principles on Internal Displacement and the IASC framework. Same as the IASC and the UN Guiding Principle on Internal Displacement, the DSI provides that durable solutions is achieved when IDPs no longer have any specific assistance and protection needs related to their displacement and can enjoy their human rights without discrimination as a result of their displacement.¹⁷ The DSI also aspires to accomplish its objectives through the free choices of IDPs either to voluntary return to the place of origin or to integrate locally in areas of displacement or to relocate in another part of the country.¹⁸

The mandate of implementation of the DSI is given to the Ministry of Peace (MoP), along with members of the Federal Durable Solutions Working Group (FDSWG), which is chaired by National Disaster and Risk Management (EDRMC) and co-chaired by the International Organization for Migration (IOM) and the UN Resident Coordinator's Office (RCO).¹⁹ There have been some attempts to implement the DSI in the Somali region of Ethiopia. However, they failed, according to reports, due to a lack of donor finance and the federal government's prioritization of individuals displaced by conflict.²⁰

1.2.Statement of the problem

IDPs in Ethiopia face challenges such as a lack of access to essential services including education, shelter, healthcare, food, potable water, and sanitation facilities, as well as registration and documentation, all of which have harmed their health, welfare, and personal

¹⁵ UN Guiding Principles on Internal Displacement (n 1), principle 28; Kampala Convention (n 1) article 5

¹⁶ 'Ethiopia: The Durable Solutions Initiative, GP20 Country example', <<https://www.globalprotectioncluster.org/wp-content/uploads/ethiopia.pdf>> accessed 07 Apr. 2022

¹⁷ Ethiopian Durable Solutions Initiative (DSI), 06 December 2019, available at <https://ethiopia.un.org/en/31882-durable-solutions-initiative>, last accessed on 07 Apr. 2022

¹⁸ Ibid

¹⁹ Ibid

²⁰ Pablo Cortes Ferrandez, 'Nothing to put in your mouth: Seeking durable solutions to drought displacement in Ethiopia' (IDMC, thematic series: No matter of choice: Displacement in a changing climate, December 2019) page 37, available at <<https://www.internal-displacement.org/publications/durable-solutions-drought-displacement-ethiopia>>, accessed 07 April 2022

development, and forced vulnerable groups, basically women and children, to resort to negative coping mechanisms such as human trafficking, irregular migration and labour and sexual exploitation.²¹ Moreover, official recognition of IDPs in Ethiopia is politically delicate, especially in cases of conflict-induced internal displacement, thus the government is hesitant to do so, putting IDPs at risk of being excluded from national food distribution programmes and essential protection.²² Nowadays, IDPs in Ethiopia especially people displaced by drought in the Somali region are in protracted displacement, living in camps for years, waiting for humanitarian aid from governmental or non-governmental institutions, with no effective return, reintegration, or relocation steps implemented by any organ.²³

IDPs assistance in Ethiopia has been confined to meeting their immediate humanitarian needs.²⁴ However, the government's concerns should not be restricted to IDPs to get registered and thereof receive adequate humanitarian assistance and other necessary services. For instance, ensuring that IDPs are getting something to eat or 15/20 kg of rice or wheat is provided monthly, having something to wear or finding some places to live (building IDP camps), or getting medical services when they feel sick, may be immediate solutions for IDPs who left their places leaving everything they had behind, with bare feet and empty hands, in order to save their lives. However, providing only humanitarian assistance to IDPs would never earn durable solutions. Finding and implementing durable solution for IDPs have to be of the primary agendas of the government activities.

As stated under the background part, Ethiopia inaugurated the Durable Solutions Initiative in December 2019, and attempts to implement it in the Somali region. However, this trial is reported to be failed due to a lack of donor finance and the federal government's prioritization

²¹ Government of Ethiopia and OCHA, 'Humanitarian Need Overview, Ethiopia' (January 2020) p.5, available at

https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/ethiopia_2020_humanitarian_needs_overview.pdf, last accessed on 15 May 2022, and Ethiopian Human Rights Commission, *Annual report on the Human Rights Situation of Internally Displaced Persons in Ethiopia*, June 2021- June 2022, p 18, available at <https://ehrc.org>, last accessed on February 26, 2023.

²² Internal Displacement Monitoring Centre (IDMC), *Ethiopia: Government recognition of conflict IDPs crucial to addressing their plight* (26 April, 2006) page 7, available at <http://www.refworld.org/pdfid/4455beb64.pdf>, last accessed on 15 May 2022

²³ Ferrández, (n 20), pp 12

²⁴ Ethiopia, IOM - Durable Solutions, SDC Africa Division Humanitarian Aid and SHA, available at: <https://www.eda.admin.ch/countries/ethiopia/en/home/international-cooperation/projects.html/content/dezaproyects/SDC/en/2018/7F10148/phase1?oldPagePath=/content/countries/ethiopia/en/home/internationale-zusammenarbeit/projekte.html>

of individuals displaced by conflict.²⁵ Whatsoever, the government has not been effective in implementing the four-years-old durable solutions plans in even one area of displacement.

On the other hand, on 8 April, the Ministry of Peace (MoP) and the Ethiopian Disaster Risk Management Commission (EDRMC) presented a draft Strategic Plan to Address Internal Displacement in Ethiopia and a coasted Recovery/Rehabilitation Plan to donors and international agencies.²⁶ Consequently, IDP sites/camps were dismantled and mass government returns of IDPs to their original places have taken place.²⁷ However, Secondary displacements of returnees have been reported in most of the areas due to lack of assistance and insecurity in areas of return.²⁸

Finding and implementing durable solutions for IDPs is a government responsibility that should not be dependent on the government's choice or consent to do or not, nor should it be something done out of pity for IDPs. Nonetheless, the situations of IDPs in Ethiopia clearly indicate that the government is failing to meet its commitments under international and regional human rights treaties, to safeguard IDPs, and to find and implement durable solutions. Moreover, the decision on what durable solutions to provide, to whom, and how should not be made arbitrarily; there should be a legal and policy guide in place to decide on these and other issues related to durable solutions for IDPs in Ethiopia. On the other hand, there should be a specific institution in place that is responsible and accountable for all situations involving durable solutions.

Ethiopia has no domestically enacted legislation on the rights and protection of IDPs; the Kampala Convention is the only legally binding regional instrument to govern the issues. No single amendment to existing laws and efforts to mainstream issues of durable solutions in the legal and policy frameworks have made. There are also no specifically determined institutions and systems in place to address the administrative and physical obstacles in the realisation of durable solutions. As a result, it is critical to assess the adequacy of Ethiopia's existing legal, policy, and institutional frameworks to effectively implement durable solutions

²⁵ Ibid

²⁶ Humanitarian Bulletin Ethiopia, Issue #7| 1 – 14 April 2019, OCHA, pp 13, available at https://reliefweb.int/sites/reliefweb.int/files/resources/humanitarian_bulletin_1_-_14_april_2019.pdf, last accessed on 15 May 2022

²⁷ OCHA, Ethiopia IDP situation report, may 2019, page 1, available at <https://reliefweb.int/report/ethiopia/ethiopia-idp-situation-report-may-2019>, last accessed on 15 May 2022

²⁸ Ibid

for IDPs, and whether there is an enabling environment for the government to find and implement durable solutions for IDPs.

1.3. Research questions

1.3.1. General research question

The central question of the research is whether the existing legal and policy frameworks, and institutions established to oversee the implementation of durable solutions, are adequate to devise and implement durable solutions for IDPs.

1.3.2. Specific research questions

- ✓ What is the concept of durable solutions for IDPs?
- ✓ What are the international standards on durable solutions for IDPs?
- ✓ How adequate are the existing Ethiopian laws, policies and institutions to find and implement durable solutions for IDPs?
- ✓ What can Ethiopia learn from other countries with respect to finding and implementing durable solutions for IDPs?
- ✓ What kind of legislative, policy and institutional reform should Ethiopia introduce to effectively implement durable solutions for IDPs?

1.4. Research objectives

1.4.1. General objective

The main objective of this study is to make an assessment on the adequacy of the legal, policy, and institutional frameworks for the effective implementation of durable solutions for IDPs in Ethiopia.

1.4.2. Specific objectives

- ✓ To discuss the concept of durable solutions for IDPs.
- ✓ To discuss the international standards on durable solutions for IDPs?
- ✓ To assess the adequacy of Ethiopian laws, policies and institutions to find and implement durable solutions for IDPs.
- ✓ To take lessons from best experiences of selected countries in finding and implementing durable solutions for IDPs.
- ✓ To recommend legislative, policy and institutional reforms that Ethiopia should introduce to effectively implement durable solutions for IDPs.

1.5. Research methodology

This research is based on desk review and key informant interviews. The researcher has employed primary sources including international, regional and national legal documents mainly human right instruments, government policies, and press releases in order to get first-hand information on the legal, policy and institutional frameworks for durable solutions in Ethiopia. Interviews with officials and experts in the Ministry of Peace (MoP), Ethiopian Disaster and Risk Management Commission (EDRMC), IDPs and Refugees affairs Committee under the Inter Ministerial Task Force and Ethiopian Human Rights Commission (EHRC) has conducted in order to obtain first-hand information on how far the Ethiopian government has progressed in discovering and implementing durable solutions for IDPs, as well as the problems they faced during implementations.

All the research questions have entertained by using qualitative method in the process of data collection and analysis. The nature and types of questions provided under this research could not be valued or measured numerically. So, qualitative approach is the reliable and relevant way to achieve the above research objectives.

Secondary sources, including books, journal articles, magazines and researches on the area of study have employed.

As to the data collection methods, the researcher has employed semi-structured questions to the interviews in order to shape the questions as necessary and important to the paper.

Additionally, in order to incorporate best practises and standards for finding and implementing durable solutions for IDPs, the experiences of a few chosen countries were used in the research. As a result, the study examines Somalia's experience from a regional standpoint because Somalia, like Ethiopia, is a country in Africa with a wealth of laws and regulations relevant to implement durable solutions as well as coordinated and organised institutional structures to implement durable solutions. Colombia is also one of the most successful nations in the implementation of durable solutions for IDPs owing to its effective accountability mechanism, in addition to its suitable legal frameworks for the protection of their rights. IDPs in Colombia were able to protect their legal rights before a court of law and obtain durable solutions to their problems related to the displacement due to the accountability mechanism, which holds the government entities accountable for their failure to uphold their obligations set by the law. The study examines Colombia's experience hence

Ethiopia can take lessons mainly from its experience of effective accountability mechanism since absence of accountability is one of the potential problems in failure to achieve durable solutions for IDPs.

1.6. Significance of the study

This research specifically benefits IDPs in Ethiopia who are exposed to sophisticated problems related to their displacement through alerting the government to examine the adequacy of current legal, institutional and policy frameworks, and to find and effectively implement durable solutions. It also assists the legislators and policymakers in identifying gaps and taking them into account while making laws and policies. Furthermore, it would help them to understand the importance of durable solutions for IDPs and mainstream it within the administration system of the country.

1.7. Scope of the study

The study focuses on durable solutions for IDPs in Ethiopia. In doing so, it assesses the legal, policy and institutional frameworks in Ethiopia towards finding and implementing durable solutions for IDPs. It also explores the challenges of finding and implementing durable solutions, and recommends measures that would help in resolving these challenges.

1.8. Limitation of the study

Primarily, the researcher planned to conduct a research on a different topic, which would have taken some of the time allotted to complete the thesis; however the issue of durable solutions for IDPs in Ethiopia impressed her during a job vacation to visit IDPs in Ethiopia, prompting her to make a research on the area. As a result, time constraint was a limitation in completing this paper. On the other hand, internal displacement is a highly politicized issue in Ethiopia, hence maintaining the confidentiality of government offices in order to provide essential information as well as conducting interviews with some international organizations working on the area was difficult.

1.9. Literature review

According to the review made by the researcher, the research papers and articles on IDPs have concentrated on IDPs as a whole, or specific durable solution efforts to address difficulties in specific displacement area. Some of these researches make an assessment of the legal, policy and institutional frameworks for the protection of IDPs in Ethiopia. However, these researches do not give particular emphasis to durable solutions for IDPs as the

researcher planned to cover under this research. On the other hand, the researches specific to durable solutions in Ethiopia are too much specific; for instance, the researches made by Pablo Cortés Ferrández only cover the possible durable solution to disaster induced internal displacement mainly displacement by draught in the Somali region of Ethiopia. Similarly, the research made by Bereket Tsegaye emphasized on the resettlement measure taken by Ethiopian government in Metekel. There are no researches on durable solutions whose objectives include discussing the concepts of durable solutions for IDPs, and making an assessment on the adequacy of the legal, policy, and institutional frameworks specifically for the effective implementation of durable solutions for IDPs in Ethiopia.

Abdi Mohammed Adem, in his thesis entitled “the Protection of Internally Displaced Persons (IDPs) in Ethiopia: the Analysis of Legal and Institutional Frameworks” analyzed the extent of existing legal and institutional frameworks that are relevant for the protections of IDPs in Ethiopia. He employed desk research methodology, and found that the existing legal and institutional frameworks in Ethiopian are sufficient for the protection of IDPs. According to his research, the absence of implementation of existing legal frameworks is causing challenges in the protection of IDPs. As a result, he primarily recommended the government of Ethiopia to ensure the enforcements of the existing legal frameworks, or to adopt the specific and inclusive legal, policy and institutional frameworks for the protection of IDPs.

Bereket Tsegay by his paper entitled, “Re-displacing the Displaced: Rethinking the Dual Strategy of Large-scale Resettlement and Peaceful Coexistence in Metekel, Ethiopia”, examined the resettlement measures taken by the government of Ethiopia as a durable solution to those displaced by famine and underdevelopment in Metekel, and its long-term re-displacement and other disastrous effects to the society. Based on the history and experience from Metekel, he concludes that understanding resettlement as a technical solution to famine and underdevelopment is a narrow approach that threatens long-term societal co-existence and undermines the promotion of sustainable development in the host areas. So that the government should address the overriding socio-economic, environmental and political problems at the places of origin, which would avoid the creation, in the long term, of the death and re-displacement of the resettlers as well as retaliatory attacks against the host communities. The researcher has employed desk review and key informant interview with a qualitative data analysis approach.

Pablo Cortés Ferrández conducted two researches related to durable solutions which only focused on disaster induced internal displacement in the Somali region of Ethiopia. By the first paper, entitled “Nothing to put in your mouth: Seeking durable solutions to drought displacement in Ethiopia”, he examined the link between the causes and effects of drought-induced displacement in Somalia, as well as the current needs of those who have been displaced and possible durable solutions. He employed quantitative and qualitative research method, and found that IDPs in the Somali region of Ethiopia have been feeling abandoned hence the government prioritized conflict induced internal displacement. He also found that advancing livelihood resilience approach, maintaining coordination at all levels, and strengthening income generation and reinforcing social coercion are important to sustainable durable solutions.

The other paper by Ferrández, entitled “From Basic Needs to the Recovery of Livelihoods Local integration of people displaced by drought in Ethiopia”, examines local integration efforts carried out through livelihood projects and how these can serve as durable solutions to displacement. He recommended local integration as the only possible durable solution for people displaced by drought. The researcher has employed semi-structured qualitative interviews and focus group discussions.

1.10. Organization of the study

This paper has five chapters. Chapter one is the introduction part of the study which contains background of the study, statement of the problems, objectives of the study, research questions, significance of the study, literature review, and limitation of the study. Chapter two is about the general concept of durable solutions. Chapter three discusses the international standards and experience of selected countries from which Ethiopia can take lessons. In chapter four, the paper will go into great detail about Ethiopia's institutional, legal, and policy frameworks for finding and implementing durable solutions for IDPs, any gaps in these frameworks that might prevent the government from upholding its obligation under international laws as well as the status of implementation of durable solutions in Ethiopia. Chapter five will be devoted for the presentation of a precise conclusion and constructive recommendations.

CHAPTER TWO

General Concepts of Durable Solutions for Internally Displaced Persons

2.1. Introduction

The concept of durable solutions was first introduced in 1945, following World War Second, for the purpose of addressing refugee crises.²⁹ However, the term durable solution does not appear in the 1951 Convention, and Sadruddin Aga Khan was the first UNHCR High Commissioner to publicly mention durable solutions in his opening remarks to the 1967 meeting of the UNHCR Executive Committee.³⁰

The problem of internal displacement has been considered as only a humanitarian issue which only required massive amounts of food, medication, and shelter.³¹ The increasing and alarming number of IDPs has made the durable solutions a prevalent issue in internal displacement, and it also becomes a matter of international concern so that their situation, assistance, and protection are not only a humanitarian imperative but a question of human rights. Besides, when a conflict or natural disaster is over, the specific needs and human rights concerns of IDPs do not automatically disappear. Nor do they fade away when people initially find safety from on-going conflict, or disaster. Rather, the displaced whether they return to their homes, settle elsewhere in the country or try to integrate locally usually face continuing problems, requiring support until they achieve a durable solution to their displacement.

A durable solution is explained as a solution achieved when IDPs no longer have specific assistance and protection needs that are linked to their displacement and such persons can enjoy their human rights without discrimination resulting from their displacement.³² Since

²⁹ Fred Bidandi and Richard Meissner, 'Understanding refugee durable solutions by international players: Does dialogue form a missing link?' (2018) 4(1) Cogent Social Sciences 1510724, p 2 <<http://dx.doi.org/10.1080/23311886.2018.1510724>> accessed 30 Aug. 22

³⁰ Megan Bradley and others, 'Whither the Refugees? International Organisations and "Solutions" to Displacement, 1921–1960' [2022] Refugee Survey Quarterly <<http://dx.doi.org/10.1093/rsq/hdac003>> accessed 03 Sep. 22.

³¹ Roberta Cohen, 'Developing an International System for Internally Displaced Persons' (2006) 7(2) International Studies Perspectives 87, p 88 <<http://dx.doi.org/10.1111/j.1528-3585.2006.00233.x>> accessed 03 Sep. 22

³² IASC Framework on Durable Solutions for Internally Displaced Persons (n 12)

being an IDP, unlike that of refugee, does not confer any special status under international law, there is no consensus on when someone should no longer be considered an IDP.³³ Determining the point at which a durable solution has been found and displacement ceases has also been challenging.³⁴

2.2. Durable solution for IDPs

A durable solution is achieved when IDPs no longer have specific assistance and protection needs that are linked to their displacement and such persons can enjoy their human rights without discrimination resulting from their displacement.³⁵ This could only be accomplished by progressively reducing the needs and vulnerabilities of displacement affected communities while enhancing their capacities, competencies, and resilience.³⁶ “A durable solution for IDPs is one that lasts. If people return home but are not safe, IDPs have not found a solution. If an IDP camp is closed, but IDPs have nowhere to go, they have not found a durable solution.”³⁷

Basically, internal displacement consists of three phases namely, pre displacement, during displacement and post-displacement phases.³⁸ Traditionally, the post-displacement phase is where the state focused on finding and implementing durable solutions for the displaced people through providing development and humanitarian assistance and building sustainable means of subsistence.³⁹ But, it has to be noted that these phases are not clear cut boundaries in identifying the rights of IDPs and the responsibilities of the state; they are interdependent especially when it comes to a durable solution which is a complex process. The process of finding and implementing durable solutions is highly affected by the measures and steps taken before and during the displacement. The process of durable solution is not limited to delivering development and humanitarian assistance and building sustainable livelihoods for

³³ The Brookings Institution: University of Bern; Project on Internal Displacement, *When Displacement Ends, A Framework for Durable Solutions* (Brookings-Bern Project on Internal Displacement, June 2007), available at <https://www.brookings.edu/wp-content/uploads/2016/07/2007_durablesolutions_full.pdf> last accessed on 04 Sep. 22

³⁴ Ibid

³⁵ IASC Framework on Durable Solutions for Internally Displaced Persons (n 12)

³⁶ Caroline Blay and Sophie Crozet, ‘Durable Solutions in Practice’ (Manual and Guideline, September 2017) <https://www.globalprotectioncluster.org/assets/files/tools_and_guidance/essential-protection-guidance/durable_solutions_in_practice_-_handbook_sept_2017.en.pdf> accessed on 5 May 2022

³⁷ Elizabeth Ferris, ‘Durable Solutions for IDPs’ (Research Briefing Paper August 2020). <https://www.un.org/internal-displacement-panel/sites/www.un.org.internal-displacement-panel/files/durable-solutions-ferris_1_apr_2021.pdf> accessed on 5 May 2022

³⁸ Mr. Mike Asplet, ‘Internal Displacement: Responsibility and Action’ (Handbook for Parliamentarians No 20 - 2013) p 18, <<http://archive.ipu.org/PDF/publications/Displacement-e.pdf>> accessed on 20 Jul. 22

³⁹ Ibid

returned, locally reintegrated or resettled IDPs; it also includes the overall process of resolving the problem which is meant to be categorized under the second phase, during displacement. IDPs cannot wait until the root causes of their displacement are resolved, and prolonged displacement runs the risk of becoming a "wasted opportunity" if engagements do not begin straight away.⁴⁰ As such durable solutions should be implemented at the onset of displacement without waiting for the realization of return, local integration or resettlement.⁴¹ A long-term planning process is necessary for durable solutions, ranging from urgent humanitarian aid to long-term development initiatives and resilience building. Therefore, these three phases of internal displacement are complementary and interdependent.

2.3. Other Solutions for IDPs

Solutions to IDPs, other than durable solutions, may include the provision of humanitarian assistance⁴² and transitional solutions or interim integration.⁴³

IDPs typically need humanitarian assistance including, housing, food, water, sanitation systems, healthcare, and protection in the initial emergency phase of displacement, and afterward, during the displacement phase, they typically need access to education, training, tools, microcredit, legal documents, trauma counselling, family tracing, agricultural inputs, protection from exploitation, and support to increase self-reliance.⁴⁴ There is no doubt that IDPs need humanitarian assistance to live normally. When considering humanitarian aid as an alternative to other solutions, the question of how long it should continue to be given emerged.

In 2019, the cost of providing essential services and covering temporary income losses due to internal displacement totalled around USD 20 billion worldwide, disregarding long-term and indirect costs, which indicate that the cost of protracted displacement is untenable for

⁴⁰ IDMC, 'Internally Displaced Persons: towards more effective international protection and durable solutions' (Wilton Park, 2019) <www.internal-displacement.org/events/internally-displaced-persons-towards-more-effective-international-protection-and-durable> accessed 29 Aug. 22

⁴¹ Ibid

⁴² UN Guiding principles on internal displacement (n 1), principle 24-27

⁴³ UNHCR, 'Unlocking Solutions for the Internally Displaced' (Additional Submission to the High-Level Panel on Internal Displacement, September 2020), p 5, available at <https://www.un.org/internal-displacement-panel/sites/www.un.org.internal-displacement-panel/files/unlocking_solutions_for_idps_additional_submission_to_the_high_level_panel_final_30.09.20.pdf>, accessed 28 Aug. 22

⁴⁴ U.S. Agency for International Development (USAID), 'Assistance to Internally Displaced Persons Policy' (October 2004), available at http://pdf.usaid.gov/pdf_docs/PDACA558.pdf, last accessed on 28 Aug. 22

countries and communities and prevents them from achieving the SDGs and fulfilling their commitment to leave no one behind.⁴⁵ Internal displacement could never be addressed by short-term humanitarian aid alone, which has proved to be insufficient, unsustainable, and inappropriate to the chronic nature of several IDP crises, and moreover, it fosters dependency.⁴⁶

On the other hand, the objective of a transitional solution is to fully integrate the needs of those who have been displaced into recovery and development programming, which will ultimately lead to the government, international development donors, and other actors giving priority to displacement needs on their development agenda.⁴⁷ In order to do this and maintain the sustainability of the solution, integrated strategies that enhance the self-reliance of both IDPs and host communities is required.⁴⁸

However, the Special Rapporteur on the Human Rights of IDPs made an appeal towards transitional solutions saying “Transitional solutions for IDPs in urban areas are too often mistaken for durable solutions.”⁴⁹ Therefore, the initiative for transitional solutions undertaken by the UNDP and UNHCR in partnership with the World Bank may be helpful to achieve durable solutions but could never in any way replace it. The ultimate aim of the protection of IDPs and the provision of humanitarian assistance should also be achieving durable solutions, by conducting it with a long-term vision and in a sustainable manner to ensure that the phenomenon of IDPs comes to an end at some point.⁵⁰

⁴⁵ UN High Commissioner for Refugees (UNHCR), ‘Unlocking Solutions For The Internally Displaced’ (Additional Submission to the High-Level Panel on Internal Displacement, September 2020), available at https://www.un.org/internaldisplacementpanel/sites/www.un.org.internaldisplacementpanel/files/unlocking_solutions_for_idps_additional_submission_to_the_high_level_panel_final_30.09.20.pdf, last accessed on 28 Aug. 22

⁴⁶ OCHA, ‘Internal displacement’, available at <https://www.unocha.org/es/themes/internal-displacement>, last accessed on 28 Aug. 22

⁴⁷ UN High Commissioner for Refugees, ‘Concept Note - Transitional Solutions Initiative UNDP and UNHCR in collaboration with the World Bank’ (October 2010), available at https://www.acnur.org/fileadmin/Documentos/RefugiadosAmericas/Colombia/EN/transitional_solutions_iniciativa_TSI.pdf, last accessed on 28 Aug. 22

⁴⁸ Ibid

⁴⁹ UNHCR, *IDPs: Transitional solutions in urban areas are too often mistaken for durable solutions* – UN expert (news and press release, 24 Oct 2014), available at <https://www.ohchr.org/en/press-releases/2014/10/idps-transitional-solutions-urban-areas-are-too-often-mistaken-durable> , last accessed on 04 September 2022

⁵⁰ Mehari Taddele Maru, ‘Causes, Dynamics, and Consequences of Internal Displacement in Ethiopia’ (*Academia.edu* Share research)

Moreover, a durable solution is a comprehensive one that addresses the integration of needs associated to displacement into development programs and policies as well as the provision of rapid and unimpeded access to humanitarian aid.⁵¹ Therefore, more attention should be given to durable solutions than temporary solutions and solutions that foster the dependency of IDPs on aids.

2.4. When a durable solution is achieved?

It has not always been evident when IDPs would find a durable solution and no longer require special attention, which has resulted in a variety of, or ad hoc, and even arbitrary approaches that represent significantly diverse conclusions among national and international actors.⁵² The lives of IDPs and the respect for their rights would be greatly affected by the answer to the question of when displacement ends, which goes beyond an academic or theoretical exercise.⁵³ For instance, if a certain state decided that displacement ends when the displaced people return to their original locations and acted accordingly, the state might overlook the fact that the special needs of the returned IDPs might continue even after they return to their original locations or they may need further protections and assistances as returnees. They could experience secondary displacements as a result of, for instance, having their homes set on fire or needing assistance to get their lives back to the way they were before the displacement.

To determine if the displacement has come to an end, three potential approaches, cause-oriented, needs-focused, and solutions-based were devised and put to use.⁵⁴ A cause-based approach is based on the causes of internal displacement and inquires whether such causes come to an end.⁵⁵ For instance, if the displacement is conflict-induced displacement, a durable solution is said to be achieved where there is a peace agreement, ceasefire or the conflict ended up by any other means. The solution-based criteria look at the factors, including the displaced person's return, integration into the community, or relocation to

<[www.academia.edu/35550486/Causes Dynamics and Consequences of Internal Displacement in Ethiopia](http://www.academia.edu/35550486/Causes_Dynamics_and_Consequences_of_Internal_Displacement_in_Ethiopia)> accessed 09 September 2022

⁵¹ IASC Framework on Durable Solutions for Internally Displaced Persons (n 12)

⁵² The Brookings Institution: University of Bern (n 33) p 3

⁵³ Erin Mooney, 'When does internal displacement end?' (Forced Migration Review, 17 May 2003). Page 4, available at <https://www.fmreview.org/sites/fmr/files/FMRdownloads/en/when-does-internal-displacement-end.pdf>

⁵⁴ Ibid

⁵⁵ Brookings-Bern Project on Internal Displacement, *Practitioner's Kit for Return, Resettlement, Rehabilitation and Development. An Agenda for a Call for Action* (November 2003) page 26, available at: <https://www.refworld.org/docid/469f778d2.html>, last accessed on 04 September 2022

another area of the nation.⁵⁶ In doing so, consideration must be given to factors such as inadequate reintegration aid, a lack of property compensation, access to services, self-sufficiency, and voluntary return.⁵⁷ A need-based criterion determines if IDPs still had needs resulting from their displacement.⁵⁸ The IDPs in this scenario might still be in need for reasons unrelated to their displacement and they do not necessarily need to have permanently resettled or returned, but they have no special protection, assistance, or reintegration needs that are distinct from those of the general population.⁵⁹

Making judgments only based on cause-based criteria might result in premature displacement ending or, as the original causes continue, it might result in an indefinite state of displacement, even to the harm of the displaced.⁶⁰ Relying solely on one of these three factors would not result in achieving a durable solution. Therefore, an integrated approach which is a combination of needs-based and solutions-based methods gets the special weight to ensure that IDPs have options, such as to return, resettle, or integrate locally, and that the specific needs and vulnerabilities created by displacement are addressed so that these solutions are effective and durable, while also recognising that cause-based criteria will often be an enabling factor.⁶¹ Accordingly, the durable solution framework for IDPs has been developed using the integrated approach, stated as, a durable solution is achieved when IDPs no longer have specific assistance and protection needs that are linked to their displacement and such persons can enjoy their human rights without discrimination resulting from their displacement.⁶²

The end of displacement, according to this notion of durable solution, is decided by how easily persons may exercise their human rights, not where they are located.⁶³

2.5. Modalities of durable solutions for IDPs

There are three major options of durable solutions for IDPs, namely return, local reintegration, and resettlement.⁶⁴

⁵⁶ The Brookings Institution: University of Bern (n 33) p 4

⁵⁷ Brookings-Bern Project on Internal Displacement (n 55) page 26

⁵⁸ The Brookings Institution: University of Bern (n 33) p 4

⁵⁹ Mooney (n 53) Page 6

⁶⁰ Ibid

⁶¹ Ibid

⁶² IASC Framework on Durable Solutions for Internally Displaced Persons (n 12)

⁶³ Expert Group on Refugee and Internally Displaced Persons Statistics (EGRIS), *International Recommendations on Internally Displaced Persons Statistics* (Luxembourg: Publications Office of the European Union, 2020) page 24

2.5.1. Return to the place of origin

Returning IDPs to their original places is the most preferable solution by the government and other non-governmental organizations since it has the potential to reverse much of the demographic impact of the displacement, and it does not necessarily require the allocation of new land.⁶⁵ The safe and voluntary return of IDPs to their original locations is extremely difficult, especially when their displacement was an intentional attempt to change a community's ethnic, political, or demographic composition permanently.⁶⁶ Nevertheless, returning IDPs to their original places must be voluntary, safe and dignified.⁶⁷

✓ Voluntary

IDPs must have the freedom to choose whether or not to return to their original location. Returning displaced persons to their original locations could be a durable solution, only if it is done with their free consent, free from both physical and non-physical forces. Non-physical forces are instances where the government manipulates assistance and threatens to revoke IDPs' access to benefits and food aids in order to pressure them to return.⁶⁸ The issue of voluntariness presumes the absence of any physical, psychological, or material pressure; as a result, it is frequently obscured by the reality that a decision to return is frequently driven by a combination of pressures resulting from political considerations, security concerns, or material needs.⁶⁹ Even if IDPs agree, returns that take place because no other option is available are not considered as voluntarily made. This requirement is more than just a matter of principle; a return that is voluntary incorporates freedom of choice and informed judgment, and is more likely to be permanent and sustainable.⁷⁰ It may also include facilitating some selected representatives of IDPs to safely visit the areas of return ahead of the return time.

✓ Safe

⁶⁴ IASC Framework on Durable Solutions for Internally Displaced Persons (n 12)

⁶⁵ Brookings, 'IDPs in protracted displacement: *Is local integration a solution?*' (Report from the Second Expert Seminar on Protracted Internal Displacement, 19-20 January 2011, Geneva) <<https://www.internal-displacement.org/sites/default/files/publications/documents/201106-IDPs-in-protracted-displacement-Is-local-integration-a-solution-thematic-en.pdf>> accessed on 07 Jul. 22, p 4

⁶⁶ Reilly, Rachael, and Gary Risser, 'Return, Resettlement and Reintegration: Application of the Guiding Principles on Internal Displacement An Asia Case Study' *Refugee Survey Quarterly*, vol. 19, no. 2, 2000, page 170–190, available at JSTOR, <http://www.jstor.org/stable/45053244>, last accessed on 6 Sep. 2022.

⁶⁷ Guiding Principles on Internal Displacement (n 12) Principle 28

⁶⁸ UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), Article 1

⁶⁹ UN High Commissioner for Refugees (UNHCR), *Handbook - Voluntary Repatriation: International Protection*, January 1996, available at: <https://www.unhcr.org/3bfe68d32.pdf>, accessed 6 September 2022

⁷⁰ Brookings-Bern Project on Internal Displacement (n 55), page 13

IDPs must not be forced to get back to their original places where security threats are still prevalent. When implementing durable solutions, it is important to maintain the physical, material, and legal safety of IDPs. Physical safety includes reducing violence and intimidation, taking action to rebuild police, judicial, and human rights institutions, clearing the area of mines and unexploded ordinances, and enhancing overall security.⁷¹ Legal safety associated with the absence of administrative and legal obstacles to return, the existence of enabling legal framework to guarantee things like citizenship, amnesty, property, registration, documentation, and return, as well as the presence of procedures to address violations of human rights.⁷² Material safety include access to shelter, water, health, and education in the early stage of return, and non-discriminate access to employment opportunities and other necessary services such as health care services and education, and promotion of economic self-reliance and income generating activities.⁷³

✓ **Dignified**

Human dignity is one of the core values of human rights which are inherent in every person regardless of their class, race, gender, religion, abilities, or IDP status.⁷⁴ Dignity implies that everyone is worthy of respect simply because they are human beings. It includes treating a person with respect, accepting them, and fully restoring their rights.⁷⁵ Therefore, ‘returning IDPs should not be mistreated in any way, that they should return unconditionally and spontaneously at their own pace, and that their families are not arbitrarily separated during the return process.’⁷⁶

2.5.2. Local integration

This refers to the settlement of IDPs in the area where they have taken refuge or within the host communities. Reintegration is used to describe the re-entry of formerly internally displaced people into the social, economic, cultural, and political fabric of their original

⁷¹ United Nations High Commissioner for Refugees (UNHCR), *Handbook for Repatriation and Reintegration Activities* (UNHCR may 2004) < <https://www.unhcr.org/411786694.pdf> >

⁷² Ibid

⁷³ Ibid

⁷⁴ UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), Article 1

⁷⁵ Brookings-Bern Project on Internal Displacement (n 43)

⁷⁶ United Nations High Commissioner for Refugees (UNHCR); Department of International Protection, *Handbook - Voluntary Repatriation: International Protection* (UNHCR January 1996) available at <https://www.unhcr.org/bg/wp-content/uploads/sites/18/2016/12/Handbook_Voluntary-Repatriation_1996.pdf> last accessed on 13 September 2022

community or a new community.⁷⁷ As such local integration is the reintegration of IDPs into the social, economic, cultural and political fabric of the host community.

Local integration, which is not just a policy objective but something that IDPs deal with on a daily basis, is closely related to the acceptance of IDPs by the host society without stigmatization or prejudice.⁷⁸ The decision of whether to accept and cohabit with the displaced people is an issue for both IDPs and the host communities as such it requires their involvement.⁷⁹ The voluntary, safe and dignified element that we have discussed previously is also equally important here, in cases of local integration.

2.5.3. Resettlement

The simple vocabulary definition of resettlement refers to ‘setting in a new place.’⁸⁰ In our case, resettlement implies to the relocation of IDPs to areas of the country other than where they took refuge and where originally came from.⁸¹ Basically, resettlement has to qualify the four core principles including principles of voluntariness, allocation of under-utilised land, host community consultation, and proper preparation.⁸² Resettlement is only a viable option for a durable solution if it is carried out while respecting individual choices, assuring protection and access to essential services, and taking into account the host communities' situation.⁸³

2.6. Basic principles of durable solutions

There are nine principles that guide the implementation of durable solutions for IDPs including:

the primary responsibility to provide durable solutions for IDPs lies on States;
states have to facilitate rapid and unimpeded access to humanitarian and

⁷⁷ Brookings-Bern Project on Internal Displacement (n 43) p 12

⁷⁸ Caroline Jacobs and others, ‘The Upward Spiral Towards Local Integration of IDPs: Agency and Economics in the Democratic Republic of the Congo’ (*Refugee Survey Quarterly*, Volume 39, Issue 4, December 2020, Pages 537–543) p 538, <<https://doi.org/10.1093/rsq/hdaa022>> accessed on 07 Jul. 22

⁷⁹ Ibid

⁸⁰ Definition of resettlement, Available at <https://www.vocabulary.com/dictionary/resettlement> , last accessed on 210 Jul. 22

⁸¹ Brookings-Bern Project on Internal Displacement (n 55) page 5

⁸² UN General Assembly, 2005 *World Summit Outcome : resolution / adopted by the General Assembly*, 24 October 2005, A/RES/60/1, paragraph 90, available at: https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_60_1.pdf , accessed on 20 Jul. 22

⁸³ Ibid

development actors that assist IDPs in achieving a durable solution; IDPs have the right to participate and make an informed and voluntary choice on what durable solutions they pursue; all policies and decisions on durable solutions have to be tailored towards the rights and interests of IDPs; an IDP's choice of one of the modalities of durable solutions must not be taken as a renunciation of the other options; IDPs should not be compelled in any way to return, relocate, or locally integrate to unsafe areas; avoiding any kind of discrimination against IDPs based on their displacement; a community-based approach that addresses the needs of both IDPs and host communities should be adopted, which in turn reduces the risk of tensions arising and facilitates (re)integration; and IDPs who have achieved a durable solution continue to be protected by international human rights and humanitarian law.⁸⁴

The government is responsible for addressing issues relating to IDPs and is in charge of developing and implementing durable solutions for IDPs hence they have the same rights and duties as other citizens.⁸⁵ On the other side, there is an argument saying IDPs are unfairly discriminated against because they are unable to cross a sovereign border in order to seek protection through asylum or refugee status and are so trapped by the sovereignty of their own repressive state.⁸⁶ The world basically stood by and watched when people displaced and exposed to grave human rights violations because of their own government during the Second World War, and even after.⁸⁷ Even if the primary obligation to find and implement durable solution lies on the state⁸⁸, there are definitely roles for national and international humanitarian and development actors, as well as civil society, to play in achieving these goals because most governments lack the capacity to guarantee that all the criteria to achieve

⁸⁴ United Nations General Assembly, A/HRC/13/21/Add.4, the Framework for Durable Solutions for Internally Displaced Persons, available at https://www2.ohchr.org/english/issues/idp/docs/a.hrc.13.21.add.4_framework.pdf last accessed on 07 August 2022.

⁸⁵ OHCHR, *About internally displaced persons* (Special Rapporteur on the human rights of internally displaced persons), available at <https://www.ohchr.org/en/special-procedures/sr-internally-displaced-persons/about-internally-displaced-persons>, last accessed on 29 Aug. 22

⁸⁶ Noam Schimmel, *Trapped By Sovereignty: The Fate of Internally Displaced Persons and Their Lack of Equal Human Rights Protection under International Law* (World Affairs, June 19, 2022), p 502, available at <https://doi.org/10.1177%2F00438200221104498>, last accessed on 03 Sep. 22

⁸⁷ Cohen (n 31)

⁸⁸ Guiding Principles on Internal Displacement (n 12), Principle 28(1)

durable solutions have met.⁸⁹ Collaboration between development, humanitarian, and peace building actors, including governments, donors, international organizations, and civil society participants, is required to achieve durable solutions to internal displacement.⁹⁰

2.7. Why durable solution for IDPs is a critical issue?

IDPs are people who were leading normal lives before they were forcibly displaced; they had jobs, schools, friends, families, and social life in the community where they were living. In the meantime, armed conflict, generalized violence, violations of human rights, or other natural or human-made disasters forced them to abandon the life they had been building throughout their ages. Due to displacement, those employees who were working and helping others started looking for assistance; those farmers who were feeding the masses got hungry and started looking for assistance to get something to eat for themselves and to feed their families; those who were renting out houses are forced to live on the streets; the vulnerability of women, children, disabled persons, and older persons become much more. A?

IDPs keep living in a dire situation, referring to the lack of food, water, sanitation, and health risks as well as a higher rate of HIV/AIDS, prostitution, and sexual exploitation that has been observed among IDP camps after being forced to flee their homes and lose access to their source of income.⁹¹ Generally, family separation, broken community ties, removal from habitual livelihood and income, loss of identity cards and other necessary documentations, disruption of schooling, physical insecurity beginning from flight to return, inhospitable environment, stigmatization, viewed with suspicion, and risk of forced return to the unsafe environment are some of the distinctive risks caused by displacement.⁹² As a result of these, the core values of human rights, equality, and human dignity, are threatened, and violations of the rights guaranteed under international human rights as well as humanitarian laws become prevalent. Millions of people are forced to leave their homes or places of habitual

⁸⁹ Laura Hammond, *Towards development solutions to internal displacement: a political economy approach* (June 2021) available at https://www.un.org/internal-displacement-panel/sites/www.un.org.internal-displacement-panel/files/undp-soas-towards_development_solutions_vfinal_0.pdf, last accessed on 27 Aug. 22

⁹⁰ Brookings Project on Internal Displacement, *Durable Solutions to Displacement: Development and Peace building Dimensions* (Auditorium, Dag Hammarskjöld Library, UN Headquarters, New York, October 25, 2013) available at <https://www.brookings.edu/wp-content/uploads/2013/11/Report-of-UNGA-event-on-durable-solutions-October-25-2013.pdf>, last accessed on 13 September 2022

⁹¹ Mooney (n 53) page 16

⁹² Kasim Balarabe, *Protection of internally displaced persons*, available at https://www.academia.edu/11441914/PROTECTION_OF_INTERNALLY_DISPLACED_PERSONS?sm=b accessed on 18 Jul. 22

residence each year, and millions more live in situations of protracted displacement or face these and other chronic displacement risks.⁹³

A durable solution is critical to IDPs because it is the only way the government and other non-government actors can help them to resume their normal lives in the places they previously called home or in other locations through return, local integration or resettlement.⁹⁴ Other temporary measures, such as ensuring the provision of rapid and unimpeded humanitarian assistance,⁹⁵ cannot take over durable solutions for these people. A durable solution is the kind of steps these people need to be able to resume their dignified lives. Moreover, securing durable solutions for IDPs is vital not just for IDPs, but also for states, because continuing to marginalize IDPs without a durable solution may constitute a barrier to long-term peace, stability, recovery, and reconstruction in post-crisis countries.⁹⁶

On the other hand, a durable solution is a complex process that incorporates a variety of issues, such as human rights, humanitarian, development, reconstruction, and peace building.⁹⁷ Addressing these issues necessitates the unwavering and sustained commitment, rooted in political will and leadership, and coordinated involvement of numerous organs.⁹⁸

In general, a durable solution is crucial because it is the only lasting solution for the plights of IDPs; at the same time, it is a complex process that necessitates substantial resources and collaboration between local and federal governments as well as other non-government organizations and international society.

⁹³ Internal Displacement Monitoring Centre (IDMC), *Internal displacement*, available at <<https://www.internal-displacement.org/internal-displacement>>, accessed on 16 Jul. 22

⁹⁴ Guiding Principles on Internal Displacement (n 1) principle 28

⁹⁵ Ibid, principle 24-27

⁹⁶ Norwegian Refugee Council (NRC), 'Durable Solutions for Internally Displaced People: in a nutshell'(Briefing Note, November 2019) < https://www.nrc.no/globalassets/pdf/briefing-notes/durable-solutions-for-internally-displaced-people/durable-solutions_briefer_eng.pdf> last accessed on 03 Aug. 22

⁹⁷ Ferris (n 37)

⁹⁸ Ibid

CHAPTER THREE

International Standards and Experiences of Countries on Durable Solutions for IDPs

3.1. Introduction

Despite the fact that IDPs are more prevalent than refugees and need the same protection of their human rights and humanitarian relief as refugees, they have received little attention for a long time.⁹⁹ States have not been interested in establishing new legally binding international human rights laws; they are concerned that granting of explicit rights to IDPs will put undue pressure on them to allow the UN and other countries to intervene in their internal affairs; they are concerned that granting explicit rights to IDPs will violate the rights of refugees through shifting the whole attention to IDPs; and they are concerned that by giving IDPs formal international human rights protections, they will be subjected to discrimination.¹⁰⁰ The issues of IDPs, those who had been forcibly moved within their own countries as a result of conflict and violations of human rights become a global concern during the last decades of the twentieth century.¹⁰¹

Following the Cold War, the world saw a dramatic increase in the number of internal armed conflicts which result in a mass displacement rate that affect not only their own societies but also destabilized entire countries, and regional and international security.¹⁰² As a result, the United Nations Commission on Human Rights appointed a Special Representative on IDPs in 1992 to study on the issue of internal displacement¹⁰³ which finally, on 17 April 1998, adopted the Guiding Principles on Internal Displacement with 30 principles that protect IDPs¹⁰⁴ and ultimately entails ensuring a durable solution to their plights.¹⁰⁵

⁹⁹ Crisp Jeff, 'Focus on Refugees Risks Neglecting the Internally Displaced', available at <https://www.chathamhouse.org/2017/05/focus-refugees-risks-neglecting-internally-displaced>, last accessed on 03 Sep. 22

¹⁰⁰ Schimmel (n 86) page 507

¹⁰¹ Cohen (n 31) Page 87

¹⁰² Martin Jornrud, 'International protection of internally displaced persons' (A field study of internal displacement and available protection in the Republic of South Sudan, 2012), available at <https://lup.lub.lu.se/luur/download?func=downloadFile&recordId=3159781&fileId=3224829>, last accessed on 05 Sep. 22

¹⁰³ Ibid

¹⁰⁴ IOM, *Guiding Principles On Internal Displacement*, available at <https://www.iom.int/guiding-principles-internaldisplacement#:~:text=On%2017%20April%201998%2C%20the,to%20and%20resolve%20internal%20isplacement>, last accessed on 03 Sep. 22

¹⁰⁵ The Brookings Institution (n 33) p 3

At the regional level, the Kampala Convention, adopted in 2009 and came into force on 6 December 2012,¹⁰⁶ is the first continental treaty to require AU States to provide protection and assistance to IDPs and reaffirm the Guiding Principles. It implements a holistic strategy that envisions numerous responders playing varied roles during all stages of displacement, including the realization of durable solutions.

Moreover, the complexity of determining when internal displacement ends, and the aim to differentiate IDPs' specific needs from those that are common to their host/return community led to the elaboration of the Inter-Agency Standing Committee Framework on Durable Solutions (IASC Framework).¹⁰⁷ The framework establishes that a durable solution is achieved when IDPs no longer require assistance or have any protection needs associated to forced displacement, and can enjoy human rights without discrimination. The Framework states durable solutions as a long-term process, requiring the coordinated intervention of national and international institutions to address humanitarian, development, peace building, and human rights challenges.¹⁰⁸

Furthermore, resolutions and instruments dealing specifically with finding and implementing durable solutions emerged, including the UN Secretary-General's Decision No. 2011/20 on Durable Solutions, the Great Lakes Region Protocol on the Protection and Assistance to Internally Displaced Persons, and the Protocol on the Property Rights of Returning Populations (2006) and the Pinheiro Principles. In addition, IDPs are *bona fide* citizens or habitual residents within their own countries, and as such, they are entitled to all existing rights and safeguards provided by international human rights law (IHRL), international humanitarian law (IHL), international criminal law (ICL), and other international laws that have been ratified by the state.¹⁰⁹ This chapter is going to assess the existing general and specific international legal frameworks as well as institutions that are relevant to find and implement durable solutions for IDPs.

¹⁰⁶ Kampala convention (n 14)

¹⁰⁷ UNHRC, *Framework on Durable Solutions for Internally Displaced Persons* (Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin, 29 December 2009, available at https://www.ohchr.org/english/issues/idp/docs/a.hrc.13.21.add.4_framework.pdf, last accessed on 03 Sep. 22

¹⁰⁸ Elizabeth Ferris and Nina M. Birkeland, *Local integration of internally displaced persons in protracted displacement: some observations* (Resolving internal displacement. Prospects for local integration, June 2011) 7-23) available at https://www.brookings.edu/wpcontent/uploads/2016/06/Resolving_ID_Prospects_for_Local_Integration_June2011.pdf, last accessed on 15 Sep. 22

¹⁰⁹ Adama Dieng, 'Protecting internally displaced persons: The value of the Kampala Convention as a regional example', *International Review of the Red Cross* (2017), 99 (1), 263–282, p 265-266, available at <https://library.icrc.org/library/docs/DOC/irrc-904-dieng.pdf>

3.2. International standards on durable solutions for IDPs

3.2.1. Legal frameworks

A. International Human Rights Law

International human rights law involves different treaties as well as customary laws consisting of rights that every human being is equally entitled to by virtue of his or her human dignity. Therefore, the International Bill of Human Rights and other regional and international human rights instruments are the general legal frameworks that applied to everyone including IDPs. Although none of these instruments particularly address internal displacement and issues of durable solutions, they do cover a variety of dangers that IDPs frequently encounter such as issues related to safety and security, property, equality, and non-discrimination.¹¹⁰ Especially the documents which are adopted to protect vulnerable groups (children, women, disabled persons, and older persons) are very important to the cases of IDPs since these people encounter the utmost human rights violations than others in the courses of displacement.¹¹¹ Furthermore, these international human rights agreements serve as the foundation for the guiding principles on internal displacement and other particular measures developed to protect the rights of IDPs.

B. International Humanitarian Law

Even though the Geneva Conventions and their protocols do not directly address internal displacement, the laws and principles they uphold are crucial for the protection of IDPs, especially in circumstances of conflict-induced internal displacement. In times of conflict, there are certain provisions in the 1949 and 1977 Protocols to the Geneva Conventions that apply to IDPs. However, these instruments are difficult to use in internal conflict situations because the States concerned are usually unwilling to recognize such conflicts as non-international armed conflicts and instead refer to them as internal disturbances or law and order problems.¹¹²

C. International Criminal Law

¹¹⁰ Global Protection Cluster Working Group, Handbook for the protection of Internally Displaced Persons (December 2007), page 17, available at <https://www.internal-displacement.org/sites/default/files/publications/documents/200712-idp-protection-handbook-thematic-en.pdf>, last accessed on 09 Sep. 22

¹¹¹ IDMC, *women and girls in internal displacement* (thematic series: hidden in plain sight) Available at, <https://www.internal-displacement.org/sites/default/files/publications/documents/202003-twice-invisible-internally-displaced-women.pdf>, last accessed on 09 Sep. 22

¹¹² Mridula Dhekiyal Phukan, *Internally displaced persons and their protection* <<http://www.ijsrp.org/research-paper-0713/ijsrp-p1946.pdf>> accessed on 18 July 21

One of the criteria used to determine whether a lasting solution has been achieved is access to just and effective remedies.¹¹³ Injustices may make people to displace again, hinder efforts at reconciliation, encourage a persistent sense of grievance or discrimination among IDPs, and ultimately undermine efforts made towards durable solutions.¹¹⁴ International Criminal Law may assist the process of durable solutions by offering IDPs with effective remedies for breaches they have experienced, particularly in cases of war crime, crimes against humanity, genocide and crime of aggression which are recognized as international crimes and can be investigated and prosecuted by the International Criminal Court. Furthermore, forced displacement committed as part of a widespread or systematic attack directed against any civilian population, o knowledge of the attack is considered crime against humanity.¹¹⁵

D. Refugee Law

The basic difference between IDPs and refugees is the fact that IDPs do not cross state borders that they flee within their own countries; as a result, they do have all the protections, rights, and responsibilities like other citizens. Therefore they are not provided with the assistance of international organizations unless requested by the state. In contrast, refugees cross international borders, and they are entitled to protection and support from the nations they arrive in as well as from the international community as a whole. On the other hand, both IDPs and refugees flee their homes for similar reasons and are unable to return out of fear for their lives. As a result, it is logical and useful to use the refugee law as a reference and guide to solve issues of internal displacement. The Guiding Principles stated that one of the laws used to develop the guidelines was the refugee law.¹¹⁶

E. The UN Guiding Principles on Internal Displacement

The Guiding Principles which states that “displacement shall last no longer than required by the circumstances,”¹¹⁷ emphasized the need for durable solutions for IDPs as soon as possible, and at the same time cautioned against acting prematurely. The primary responsibility for

¹¹³ Laura Kivela and others, *Durable Solutions Analysis Guide: A Tool to Measure Progress towards Durable Solutions for IDPs* (Joint IDP Profiling Service (JIPS), March 2020) page 54 < <https://inform-durablesolutions-idp.org/wp-content/uploads/2018/01/Interagency-Durable-Solutions-Analysis-Guide-March2020.pdf>

¹¹⁴ Ibid

¹¹⁵ UN General Assembly, *Rome Statute of the International Criminal Court (last amended 2010)*, 17 July 1998, ISBN No. 92-9227-227-6, Article 7(1)(d), available at <https://www.icc-cpi.int/sites/default/files/RS-Eng.pdf>, last accessed on 05 Sep. 22

¹¹⁶ Guiding Principles on internal displacement (n 12)

¹¹⁷ Ibid, Principle 6(3)

finding and implementing durable solutions for IDPs rests with the concerned state.¹¹⁸ The state should also take all necessary measures to ensure that the solution is sustainable.

The Guiding Principles outline the duties of national authorities, including taking the lead in establishing the conditions and supplying the means for durable solutions; facilitating the assistance of international humanitarian or other organizations in their effort to find durable solutions, assisting IDPs in reintegrating into society and recovering any property or possessions they lost during their displacement; and, if this is not possible, providing compensation or some other form of justifiable reparation.¹¹⁹ The state also owes it to IDPs to take special measures to ensure their full participation in the management and planning of durable solutions.¹²⁰

In general, the Guiding Principles offer IDPs two possibilities for durable solutions: either they can relocate to another area of the country or return to their home or habitual places.¹²¹ Returning IDPs to the places they have been before getting displaced has to be voluntary, safe and dignified. IDPs must be relocated to other areas of the country voluntarily as well. The Guiding Principles also provide the rights of IDPs to participate in the planning of their return or settlement and reintegration.¹²² In terms of access to public services and all other aspects of public life, IDPs who have relocated or returned must be treated equally with non-IDP society.

Competent authorities have a responsibility to help IDPs who have been resettled or who have returned home to recover, to the extent possible, the properties and belongings they have left behind or lost when they were displaced. If property restitution is not possible, these people must be given or assisted in obtaining appropriate compensation or another type of just reparation.¹²³ The voluntary, safe, and dignified return of IDPs to their homes and original residences frequently becomes impossible in the absence of housing and other property restitution, and the inadequate and weak formulation of provisions regulating

¹¹⁸ Ibid, Principle 28-30

¹¹⁹ Ibid

¹²⁰ Ibid Principle 29

¹²¹ Ibid Principle 28

¹²² Ibid

¹²³ Guiding principles, principle 29

property rights under the Guiding Principles as well as international human rights laws may impair IDP returnees from reclaiming their homes, apartments, farms, and other properties.¹²⁴

The Guiding Principles underlined the necessity of durable solutions for IDPs and the obligations of states in this regard. Nonetheless, it has no detailed regulations, procedures, and conditions on durable solutions other than the general principles. The Guiding Principles is a legally non-binding document as well. Nevertheless, as stated in resolutions of the United Nations General Assembly and Commission on Human Rights, they provide a normative framework for understanding what national responsibility should entail.¹²⁵ Furthermore, in 2005, world leaders adopted the World Summit document, which declared the Guiding Principles “an important international framework for the protection of internally displaced persons”.¹²⁶ Generally, they provide a normative framework that ought to be the foundation of both national and international responses to internal displacement, guidance for developing national laws and policies to address internal displacement and a framework for monitoring the conditions of IDPs in various countries.¹²⁷

F. Principles on Housing and Property Restitution for Refugees and Displaced Persons (The Pinheiro Principles)

The Pinheiro Principles is the first consolidated global standard exclusively focused on the housing, land, and property rights of the displaced, prepared by Paulo Sergio Pinheiro, the UN’s Special Rapporteur on Housing and Property Restitution.¹²⁸ It applies in all cases of involuntary displacement resulting from international or internal armed conflict, gross human rights violations such as ethnic cleansing, development projects, forced evictions, and natural and man-made disasters.¹²⁹

¹²⁴ Walter Kaelin, ‘*Internal Displacement and the Protection of Property*’, available at https://www.brookings.edu/wp-content/uploads/2016/06/Kap_11.pdf, page 182, last accessed on 07 Sep. 22

¹²⁴ Guiding principles, principle 29

¹²⁵ Brookings-Bern Project on Internal Displacement, *Addressing Internal Displacement: A Framework for National Responsibility* (Brookings-Bern Project on Internal Displacement, April 2005), p 7-8

<https://www.brookings.edu/wp-content/uploads/2016/06/04_national_responsibility_framework_Eng.pdf>, accessed on 12 Jul. 22

¹²⁶ UN General Assembly (n 74)

¹²⁷ Ibid

¹²⁸ Mridula Dhekiyal Phukan, *Internally displaced persons and their protection* (International Journal of Scientific and Research Publications, Volume 3, Issue 7, July 2013) <<http://www.ijsrp.org/research-paper-0713/ijsrp-p1946.pdf>> accessed on 18 July 21

¹²⁹ UN Sub-Commission on the Promotion and Protection of Human Rights, *Principles on Housing and Property Restitution for Refugees and Displaced Persons*, 28 June 2005, E/CN.4/Sub.2/2005/17

The principles outlined the overarching principles that should be applied in the HLP restitution processes, including the rights to non-discrimination, equality for men and women, protection from displacement, respect for one's privacy and one's home, the right to the peaceful enjoyment of one's possessions, adequate housing, and freedom of movement.¹³⁰ The Principles articulate the existing standards regarding protection from displacement, the legal, policy, procedural and institutional implementation mechanisms, and the role of the international community, including international organizations. States should establish and support equitable, prompt, independent, transparent, and non-discriminatory procedures, institutions, and mechanisms to solve HLP restitution claims.¹³¹

The principles are not legally binding but they are explicitly based on existing international, regional, and national law so that they have persuasive authority.¹³²

G. The Inter-Agency Standing Committee Framework for Durable Solutions (The IASC Framework for Durable Solutions)

The IASC Framework for Durable Solutions was endorsed by the IASC Working Group in December 2009 in response to requests from the UN Emergency Relief Coordinator, governments, and other actors for guidance on how to determine when people should no longer be considered to be IDPs.¹³³ The Framework is designed to help governments create national legislation, policies, and programs that encourage solutions to internal displacement, to give international organizations guidance to support their work in various country contexts, to allow civil society organizations to monitor the extent to which governments uphold their responsibility to find durable solutions for IDPs, and as a basis for their own work in promoting durable solutions for IDPs.¹³⁴

The essential components of the framework are the concept of durable solutions, core principles for durable solutions, a right-based approach to durable solutions, and criteria to determine whether durable solutions have been achieved.

¹³⁰ Ibid, Principle 3-9

¹³¹ Ibid, Principle 12

¹³² Handbook on Housing and Property Restitution for Refugees and Displaced Persons: Implementing the Pinheiro Principles, available at https://www.ohchr.org/Documents/Publications/pinheiro_principles.pdf, P 19, accessed on 18 Jul. 22

¹³³ The Brookings Institution (n 33)

¹³⁴ IASC Framework on durable solutions for Internally displaced persons (n 12), Page 5

When IDPs may exercise their human rights without facing prejudice due to their displacement and when they no longer need special protection and assistance related to their displacement, a durable solution has been accomplished.¹³⁵ The framework provides that durable solutions could be achieved through sustainable reintegration at the place of origin, sustainable local integration in areas where IDPs take refuge and sustainable integration in another part of the country. The framework identified the work on durable solutions as a long-term and complex process since it involves humanitarian, human rights, development and peace building challenges. Even though devising a durable solution is primarily the responsibility of the national and local authorities of the concerned state, a durable solution also necessitates the timely and coordinated involvement of numerous actors in the humanitarian, development, human rights, and international political spheres.

According to the framework, every action taken by national or international actors in search of durable solutions must be based on the rights-based approach. In order to do this, they must ensure that IDPs are in a position to make a free and informed decision about the durable solution they would like to pursue, and that IDPs are involved in the planning and management of durable solutions so that recovery and development strategies take into account their rights and needs, that IDPs have access to humanitarian and development actors, that IDPs have access to effective monitoring mechanisms, and that in situations of displacement brought on by conflict or violence, IDPs have involved in the peace building processes reinforcing durable solutions.¹³⁶

The fundamental principles of durable solutions that we addressed in chapter two which should serve as the basis for assessing the implementation of durable solutions, are comprehensively laid down under this framework.

It has been exceedingly challenging to determine whether a lasting solution has been found or internal displacement has come to an end.¹³⁷ This framework provided eight criteria including long-term safety and security, an adequate standard of living, access to livelihood and employment, restoration of housing, land, and property (HLP), access to personal and other documentation, family reunification, participation in public affairs and access to effective remedies and justice. Each of these criteria has its own indicators such as ensuring IDPs have

¹³⁵ Ibid

¹³⁶ Ibid , page 15

¹³⁷ The Brookings Institution (n 33)

full and non-discriminatory access to the police, courts, national human rights institution, national disaster management services; the availability, accessibility, acceptability, and adaptability of basic necessities like food, potable water, housing and medical care; the issuance of new documents or the replacement of documents lost during displacement, without imposing unreasonably strict requirements, like requiring the return to one's area; employment and livelihood opportunities that would enable them to meet their basic socioeconomic needs; effective remedies for violations and mechanisms for timely restitution of or compensation for their HLP; bring separated families back together especially where children, the elderly, or other vulnerable parties are involved; the freedom of IDPs' to form associations and take part equally in local activities and the ability to vote in elections and run for office, to work in any area of the public sector.¹³⁸

In each of the criteria, the authorities are urged to take action in order to guarantee that IDPs enjoy their human rights equally with other citizens and receive the same level of protection and access to services as the local population.

3.2.2. Institutional Frameworks

The United Nations Secretary-General outlines the structures and processes for developing and implementing respective strategies on durable solutions, following up its report on peace building in 2009.¹³⁹ In the immediate post-conflict period, efforts must be made to find durable solutions and the concerned state must take action to address the problems relating to human rights, humanitarian assistance, development, reconstruction, and peace building. Even though, the primary responsibility to find and implement durable solutions lies on the concerned state, realizing it needs the coordinated effort of the international society. Therefore, in October 2011, the UN Secretary-General adopted the concurrent preliminary framework, "Ending Displacement in the Aftermath of Conflict," that outlines priorities and responsibilities to ensure the predictable and effective role of the UN systems in the delivery of durable solutions for IDPs and refugees returning to their country of origin.

The secretary general's decision establish responsibilities towards the UN institutions to support the achievement of durable solutions for IDPs. Accordingly, the responsibility towards the achievement of durable solutions is attributed to the Resident

¹³⁸ Kivela and others (n 109)

¹³⁹ UN Secretary-General (UNSG), *Decision No.2011/20 - Durable Solutions: Follow up to the Secretary-General's 2009 report on peace building*, 4 October 2011,

Coordinator/Humanitarian Coordinator (RC/HC), Early Recovery Inter-Cluster Group and the Protection Cluster, UNDP, UNHCR, the Global Cluster Working Group on Early Recovery (CWGER) and Global Protection Cluster (GPC).

A. Resident Coordinator/Humanitarian Coordinator (RC/HC)

The United Nations RC/HC plays a significant role in coordinating inter-agency readiness to respond to potential crises in support of national preparedness efforts, and its ultimate goal is to foresee humanitarian problems rather than waiting for them to occur.¹⁴⁰

Particularly durable solutions for IDPs, the RC/HC will lead the development of a strategy for durable solutions for IDPs, in consultation with national authorities and partners, determining the most appropriate approach, at the national level.¹⁴¹ In this regard, the role of RC/HC include to foster humanitarian-development-peace collaboration to implement durable solutions strategies, work with the HCT, ICCG, and the protection, shelter and camp management clusters to ensure that IDP concerns are adequately reflected and addressed in cross-cluster coordination.¹⁴²

B. The Early Recovery Inter-Cluster Group and the Protection Cluster

Multi-sector, integrated, and coordinated Early Recovery programmatic interventions, such as those for justice, the rule of law, livelihoods, youth employment, and good governance, are essential to effective programming for solutions for the displaced.¹⁴³ Therefore, the Early Recovery supports durable solutions for IDPs by establishing the ground for post-crisis, nationally driven development strategies and offering guidance on the development of strategies for displaced individuals in emergency situations.¹⁴⁴ Moreover, the Secretary-General decided that the Early Recovery Inter-Cluster Group and the Protection Cluster serve as the coordination mechanism for durable solutions when they are present and appropriate.

C. United Nations Development Programme (UNDP)

¹⁴⁰ Inter-Agency Standing Committee (IASC), *Leadership in Humanitarian Action: Handbook for the UN Resident and Humanitarian Coordinator* (2021), Available at <https://www.preventionweb.net/publication/leadership-humanitarian-action-handbook-un-resident-and-humanitarian-coordinator>, last accessed on 30 November 2022

¹⁴¹ UN Secretary-General (n 139)

¹⁴² Inter-Agency Standing Committee (n 140), page 157

¹⁴³ Jahal Rabesahala de Meritens and others, *Guidance Note on Inter-Cluster Early Recovery* (Global Cluster for Early Recovery, January 2016) page 44, available at https://www.alnap.org/system/files/content/resource/files/main/guidance_note_-010816_0.pdf, last accessed on 29 November 2022

¹⁴⁴ Ibid

According to the Secretary General's Decision, UNDP provides necessary technical expertise to the RC through existing resources or surge capacity to support the development of the strategy for durable solutions.¹⁴⁵ Furthermore, as a development actor, UNDP has much to offer in the pursuit of developing solutions to internal displacement¹⁴⁶, as efforts to advance development are essential for the realization of durable solutions for IDPs. Accordingly, UNDP supported durable solutions for IDPs by building a sound developmental strategy that includes state actors, national ownership of displacement-related solutions, and a strong relationship to governance to hold States accountable and enable them to take the initiative.¹⁴⁷

D. United Nations High Commissioner for Refugees (UNHCR)

Traditionally, UNHCR has been supporting the sustainability of return and reintegration for the promotion of durable solutions only in relation to Refugees.¹⁴⁸ However, UNHCR has currently assumed an enhanced role in the inter-agency response to the challenges of internal displacement, and is equally committed to the task of finding durable solutions for IDPs.¹⁴⁹ For instance, UNHCR Support the ratification, domestication and implementation of relevant regional and sub-regional legal instruments on internal displacement, consistent with the IASC Framework for Durable Solutions, the Guiding Principles on Internal Displacement and other applicable international standards.¹⁵⁰ In realizing voluntary return, UNHCR ensure that IDPs have access to all necessary information to make an informed decision concerning return, the voluntary nature of all return movement and IDPs who are opting for return are provided with the necessary support and assistance to ensure the durable nature of the return.¹⁵¹ According to the secretary general's decision, UNHCR provides necessary technical expertise to the RC through existing resources or surge capacity to support the development of the strategy for durable solutions.¹⁵² UNHCR also leads the Global

¹⁴⁵ UN Secretary General Decision No.2011/20 - Durable Solutions (n 139)

¹⁴⁶ UNDP, *From Durable Solutions to Development Solutions: What Role for Development Actors in Addressing Internal Displacement?* (Submission for the UN Secretary-General's High-Level Panel on Internal Displacement, March 2021) available at https://www.un.org/internal-displacement-panel/sites/www.un.org.internal-displacement-panel/files/undp_hlp_submission_mar-2021.pdf, accessed on 29 November 2022

¹⁴⁷ Ibid

¹⁴⁸ UNHCR, *Policy Framework and Implementation Strategy UNHCR's Role in support of the return and reintegration of displaced populations* (August 2008) available at <https://www.unhcr.org/47ac2e3c2.pdf>, accessed on 28 November 2022

¹⁴⁹ Ibid

¹⁵⁰ UNHCR, *Guidance Package For UNHCR's Engagement in Situations of Internal Displacement* (September 2019, Version 1) available at <https://www.unhcr.org/5d9cab727>, accessed on 29 November 2022

¹⁵¹ Ibid

¹⁵² UN Secretary General Decision No.2011/20 - Durable Solutions (n 139)

Protection Cluster and co-leads with other international institutions the Global and CCM Shelter clusters when conflict causes the displacement.¹⁵³

E. The Global Cluster Working Group on Early Recovery (CWGER) and the Global Protection Cluster (GPC)

According to the Secretary-General Decision, at the global level, the CWGER and GPC will support the coordination mechanisms for durable solutions established at the country level, ensure that Early Recovery advisors deployed to support in-country crisis response have the necessary expertise on durable solutions, develop guidance for the development of durable solutions strategies, and act as a repository for the strategies and lessons learned.

3.3. African Regional and Sub-Regional Standards on Durable Solutions for IDPs

3.3.1. Legal frameworks

A. The Kampala Convention

The Guiding Principles were deemed insufficient at the moment the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) was adopted because they lacked binding force and did not address the challenges that IDPs on the continent faced in obtaining solutions and ensuring accountability.¹⁵⁴ Attempts to establish international protections for IDPs have been frequently thwarted by concerns over state sovereignty, which favours a soft law strategy.¹⁵⁵ However, the Kampala Convention converts what had been "soft law" for more than a decade into "hard law" by explicitly outlining the rights of IDPs rather than viewing them as merely victims of circumstances and the responsibility of states as primary duty bearers.¹⁵⁶ So the Kampala Convention is the world's first and only legally binding regional convention for the protection and assistance of IDPs.¹⁵⁷

¹⁵³ UNHCR emergency handbook, *cluster approach* (IASC), available at <https://emergency.unhcr.org/entry/61190/cluster-approach-iasc>, accessed on 05 Sep. 2022

¹⁵⁴ Dieng (n 109) p 272

¹⁵⁵ Allehone Mulugeta Abebe. *The African Union Convention on Internally Displaced Persons: Its Codification Background, Scope, and Enforcement Challenges* (Refugee Survey Quarterly, vol. 29, no. 3, 2010) 28–57. JSTOR, page 29, available at <http://www.jstor.org/stable/45054461>, accessed on 6 Sep. 2022.

¹⁵⁶ Won Kidane, 'Managing Forced Displacement by Law in Africa: The Role of the New African Union IDPs Convention', 44 VAND. J. TRANSNAT'L L. 1 (2011), p. 53

¹⁵⁷ UNHCR welcomes Ethiopia's ratification of Kampala Convention, (press release, 14 February 2020), available at <https://www.unhcr.org/news/press/2020/2/5e468f7d4/unhcr-welcomes-ethiopias-ratification-kampalaconvention.html#:~:text=The%20Kampala%20Convention%20is%20the.to%20access%20their%20basic%20rights>. Last accessed on 06 Sep. 22

The Convention approaches internal displacement issues from a State perspective and is intended as a tool for duty bearers, affirming the State's primary role in addressing IDPs issues and the complementary roles of other actors. This differs from the Guiding Principles, which approach displacement from the perspective of IDPs' rights.¹⁵⁸ The Convention outlines the general responsibilities of States for the protection and assistance of IDPs as well as the responsibilities of the AU, other international organizations, armed groups, non-State actors, and States Parties in all phases of displacement.¹⁵⁹ Moreover, the Convention aims at finding and implementing durable solutions to the problems of IDPs while also attempting to prevent arbitrary displacement and eradicate its underlying causes.¹⁶⁰

The Convention urges States to ensure durable solutions for IDPs through sustainable return, local integration or relocation, and to provide compensation as well as ensuring registration and access to personal documentation for all IDPs.¹⁶¹ It anticipated serving as a basis for solidarity and cooperation for the promotion of durable solutions, and promotes mutual support between the States Parties in order to prevent arbitrary displacement and address its consequences.¹⁶² Generally, States have the obligation to implement durable solutions for IDPs, and ensure that such implementations uphold safety and dignity.¹⁶³ States are also urged to establish procedures with domestic legislation for reparation and compensation for IDP.¹⁶⁴ The restitution in kind, the precise monetary recompense, the apologies, the public acknowledgment of wrongdoing, and the promises of non-recurrence could all be utilized as remedies to promote peace between those who have displaced and those who have returned.¹⁶⁵

IDPs' major problem when returning home is the loss or destruction of their property.¹⁶⁶ Regarding this, the provisions relating to durable solutions envisage five different scenarios, including the following: the property is available but ownership is disputed; the property is land and it is evicted; the property is not identified, but there is a general economic loss

¹⁵⁸ Kidane (n 156), page 56

¹⁵⁹ Dieng (n 109) p 273

¹⁶⁰ Allehone Mulugeta Abebe, *The Emerging Law of Forced Displacement in Africa: Development and implementation of the Kampala Convention on Internal Displacement*, (1st ed.) Routledge (2016) available at <https://www.taylorfrancis.com/books/mono/10.4324/9781315618227/emerging-law-forced-displacement-africa-allehone-abebe>, last accessed on 14 Sep. 22

¹⁶¹ Ibid

¹⁶² Kampala convention (n 14) Article 2(c)

¹⁶³ Ibid Article 11(1)

¹⁶⁴ Ibid article

¹⁶⁵ Mulugeta (n 155) page 107

¹⁶⁶ Kaelin (n 124) page 182

associated with the displacement; the property is identified, but had been lost or damaged; and the property is not identified, but there is a general economic loss associated with displacement, and this formulation is better than the Guiding Principles with its own **lacks** with the clarification on the remedies.¹⁶⁷

The end of displacement was traditionally considered to be a state of normal existence and belonging following integration or relocation, but the Convention omits this step because it is thought superfluous and unrealistic.¹⁶⁸ As such, there is no provision under the Convention that respond to the question when displacement ends. The Convention also omits to state returnees and their specific rights, but it urges states to ensure the safety and security of returned, resettled, or integrated IDPs.¹⁶⁹ Despite being a legally binding document, the Kampala Convention does not address the complex issues associated with durable solutions in enough details and sufficient clarity.

B. The International Conference on the Great Lakes Region Pact on Security, Stability, and Development in the Great Lakes Region (ICLG) Protocol on the Protection and Assistance to Internally Displaced Persons

The International Conference on the Great Lakes Region (ICGLR) was born of the recognition that a sustainable resolution of the persistent conflicts within the region demanded a comprehensive and shared response.¹⁷⁰ It adopted two protocols relevant to IDPs under the pact on security, stability, and development in the Great Lakes Region; namely: the Protocol on the Protection and Assistance to Internally Displaced Persons, and the Protocol on the Property Rights of Returning Persons of the Great Lakes Region.¹⁷¹

The Protocol on the Protection and Assistance to IDPs is the first legally binding instrument that carried out legal requirements for the domestication of the Guiding Principles on Internal Displacement in national legislation. This Protocol defines IDPs as in the Guiding

¹⁶⁷ Kidane (n 156), page 66

¹⁶⁸ Mulugeta (n 155) page 51

¹⁶⁹ Ibid

¹⁷⁰ The Great Lakes Pact and the rights of displaced people: A guide for civil society, September 2008, p 9, available at <https://www.internal-displacement.org/sites/default/files/publications/documents/2008-af-great-lake-guide-thematic-en.pdf>, accessed on 18 Jul. 22

¹⁷¹ International Conference on the Great Lakes Region (ICLG): Pact on Security, Stability and Development in the Great Lakes Region (14 and 15 December 2006) article 12 and 13, available at https://peacemaker.un.org/sites/peacemaker.un.org/files/061215_PactonSecurityStabilityDevelopmentGreatLakes.pdf, accessed on 28 Oct. 22

Principle.¹⁷² The Protocol similarly indicated that the state bears the primary duty for protecting IDPs.¹⁷³ The state shall also facilitate rapid humanitarian access in cases of lack of capacity or whenever needed.¹⁷⁴

Member states to this Protocol also have the responsibility to adopt and implement the Guiding Principles on Internal Displacement as a regional framework for dealing with IDP issues, enact national legislation to incorporate the Guiding Principles and provide a framework for their implementation within national legal systems, ensure that such legislation defines IDPs in accordance with the definition in the Protocol, and specify organs of government responsible for providing protection and assistance to IDPs.¹⁷⁵ Model national legislation is also provided with this protocol in order to guide the administrative and institutional measures taken by the state to implement the Protocol at the national level.

C. The International Conference on the Great Lakes Region Pact on Security, Stability, and Development in the Great Lakes Region (ICLG) Protocol on the Property Rights of Returning Persons of the Great Lakes Region

This Protocol is also adopted by the ICLG that particularly addressed Durable solutions for IDPs. It acknowledges that disputes over land and property in the context of displacement are a source of recurrent conflict in the region that hinders the attainment of durable solutions for the displaced. The main objectives of this Protocol include the establishment of the legal principles which govern the recovery of property by displaced people, the creation of a legal basis for resolving disputes relating to property including the identification of both judicial and local traditional mechanisms, guaranteeing special protection for returning women, children and communities with special attachment to land in the region, and assuring legal remedies for loss or destruction of property of the forcibly displaced.¹⁷⁶

3.3.2. Institutional Frameworks

A. African Union (AU)

The AU is established in 2002 with 55 member states in the African Continent with the vision: *“An Integrated, Prosperous and Peaceful Africa, driven by its own citizens and*

¹⁷² The Great Lakes Pact and the rights of displaced people: A guide for civil society (n 166) Article 1(4) (5)

¹⁷³ Ibid. Article 3(3))

¹⁷⁴ Ibid. Article 3(6))

¹⁷⁵ Ibid. Article 6

¹⁷⁶ Ibid. Article 2

representing a dynamic force in the global arena."¹⁷⁷ With this vision in mind, the AU aims to advance and attain lasting peace, security, stability, development, and coordination among African States as well as enhanced human rights protection.¹⁷⁸ The Kampala Convention makes it clear that states that are parties to the African Union may request the Union's assistance to restore the state's peace and security in order to foster the establishment of favourable conditions for finding durable solutions to the issue of internal displacement.¹⁷⁹

The AU should also collaborate with African States, International Organizations, humanitarian agencies, civil society organizations, the Special Rapporteur of the African Commission on Human and Peoples' Rights for Refugees, Returnees, IDPs and Asylum Seekers, and the African Commission on Human and Peoples' Rights to support measures to protect and assist IDPs.¹⁸⁰

B. The African Commission on Human and Peoples' Rights (ACHPR) and the African Court of Human and Peoples' Rights (AfCHPR)

These institutions have a complementary mandate for the protection and promotion of human and peoples' rights and interpretation of the African Charter on Human and Peoples' Rights and other regional human rights instruments. They decide cases, give advisory opinions, and adopt thematic reports for the promotion and protection of human rights. In order to guide its operations, the ACHR established a Special Rapporteur on Refugees, Asylum Seekers, IDPs and Migrants in Africa with some mandates relating to their rights including:

To seek, receive, examine, and act upon the situation of these people; to undertake studies, research and other related activities to examine appropriate ways to enhance the protection of these people; to carry out fact-finding missions, investigations, and visits to refugee and IDPs camps; to assist member States of the AU in their development of appropriate policies, regulations and laws for the effective protection of these people, to submit reports as every ordinary session of the African Commission on the situation of these people; to cooperate and engage in dialogue with Member States, NHRIs, relevant intergovernmental and nongovernmental bodies, international

¹⁷⁷ African Union, 'about the African Union', available at <https://au.int/en/overview>, last accessed on 30 Nov 2022

¹⁷⁸ Ibid

¹⁷⁹ The Kampala Convention (n 14), article 8(2)

¹⁸⁰ Ibid article (3)

and regional mechanisms; to develop and recommend effective strategies to better protect rights; to submit reports as every ordinary session of the African Commission on the situation of these people.¹⁸¹

C. Regional Durable Solution Secretariat (ReDSS)

The Regional Durable Solutions Secretariat (ReDSS) was established in 2015 with the aim of maintaining focused momentum and stakeholder engagement towards durable solutions for displacement-affected communities in East Africa and the Horn of Africa.¹⁸² ReDSS is not an implementing organ of durable solutions for IDPs; it rather is a coordination and information hub for the realization of durable solutions for IDPs in the East and Horn of Africa.¹⁸³

The overall goal of ReDSS is to improve programming and policy to support durable solutions for displacement-affected communities in East and Horn of Africa. In order to realize such a goal ReDSS works to support a collective research agenda and increase the use of research and analysis to inform durable solutions policy and programming, to strengthen capacity, collective monitoring and learning on durable solutions, and leverage members' expertise, to bring members and partners together to learn and coordinate on research, policy, and practice on durable solutions, and to bring members and partners together to learn and coordinate on research, policy, and practice on durable solutions.¹⁸⁴

To this effect, ReDSS and its partners formulated the Durable Solutions Programming Principles in 2018, drawing from experiences and learning in durable solutions initiatives.¹⁸⁵ These principles state that durable solutions should be government-led, area-based, collective and comprehensive, participatory, and community-based, rights and needs-based, sensitive to gender, age, disabilities and marginalisation, and sustainable.¹⁸⁶

¹⁸¹ United Nations High Commissioner for Refugees (UNHCR) and three other institutions, *Protecting Internally Displaced Persons: a Handbook for National Human Rights Institutions*, available at <https://www.unhcr.org/61fd4a4a4>, accessed on 30 November 2022

¹⁸² ReDSS, 'about ReDSS', available at <https://www.regionaldss.org/index.php/who-we-are/about-redss/>, accessed on 29 Nov. 22

¹⁸³ ReDSS, 'ReDSS strategy and programing principles', available at <https://regionaldss.org/wp-content/uploads/2019/08/About-ReDSS-and-DS-definition.pptx>, last accessed on 29 November 2022

¹⁸⁴ ReDSS (n 177)

¹⁸⁵ IGAD, 'experience in supporting resilience and durable solutions to internal displacement in the IGAD region' (7-8 October 2019, Addis Ababa: Ethiopia) page 19, available at <https://www.ohchr.org/sites/default/files/Documents/Issues/IDPs/International-Regional/igad-idp-climate-2.pdf>, last accessed on 29 Nov. 22

¹⁸⁶ United Nation Somalia and ReDSS, 'Durable Solutions Programming Principles', available at <https://regionaldss.org/wp-content/uploads/2019/04/Endorsed-DS-Programming-Principles-FINAL.pdf>, last accessed on 29 Nov. 22

3.4. The Experiences of Other Countries

3.4.1. Somalia's experiences with regard to Durable Solutions for IDPs

Despite the fact that forced displacement is a global challenge, it is particularly prominent in Africa. It is therefore desirable to share Somalia's experiences with other African nations like Ethiopia because Somalia is an African nation with rich laws and regulations pertaining to durable solutions as well as coordinated and organized institutional structures to implement durable solutions.

After providing years of humanitarian aid, the government of Somalia and the rest of the world have turned their focus to finding durable solutions for IDPs.¹⁸⁷ The process of finding and implementing durable solutions in Somalia is formally recognized as a priority by all levels of government, and the government has been taking the political commitment to adopt twenty-four different federal and state-level policies and guidelines to address Durable Solutions.¹⁸⁸ Thus, donors are supporting the durable solutions agenda in Somalia by funding implementing partners, working with the government and engaging directly with displacement-affected communities.¹⁸⁹

There are mainly five policies and guidelines in Somalia including the National Policies on Refugee Returnees and IDPs, the National Durable Solutions Strategy, the Interim Protocol on the Distribution of Lands to IDPs and Refugee Returnees, the National Eviction Guidelines, and the Disaster Management Policy.¹⁹⁰ Somalia also ratified the Kampala Convention.

The Government of Somalia pledges through the National Policy on Refugee Returnees and IDPs to find durable solutions to IDPs, mitigate the factors that lead to new displacement, and support the voluntary return, relocation, and local integration of IDPs. The policy provides physical, material, and legal safety of IDPs with detailed criteria to measure the achievement

¹⁸⁷ GP20, 'Somalia: Data and Analysis to Inform Collaborative Approaches to Finding Durable Solutions' (country example, 2019) page 161, available at https://www.globalprotectioncluster.org/wp-content/uploads/somalia_DA.pdf, last accessed on 15 September 2022.

¹⁸⁸ ReDSS, 'solutions analysis update 2019: case study on lessons learnt and practices to support (re)integration programming – mogadishu, baidoa and kismayo' (ReDSS 2019), page 8, available at <https://returnandreintegration.iom.int/en/resources/report/solutions-analysis-update-2019-case-study-lessons-learnt-and-practices-support>, last accessed on 01 March 2023

¹⁸⁹ Ibid

¹⁹⁰ Samundra Acharya, 'Durable Solutions for Internally Displaced Persons in Sudan and Somalia' (Researching Internal Displacement Working Paper No. 7, November 2021) p 13, available at <https://researchinginternaldisplacement.org/working-papers/durable-solutions-for-internally-displaced-persons-in-sudan-and-somalia/>, last accessed on 27 Aug. 22

of durable solutions. Moreover, this policy identifies institutions and their responsibilities towards the protection and assistance of IDPs, and provides a common basis and policy guidance for the federal government, member states, and other partners facilitating the implementation of durable solutions for IDPs. Furthermore, the National Evictions Guidelines enacted alongside this policy, outline the prerequisites, protections, and procedure for legitimate evictions in accordance with international standards, allowing landowners to reclaim their land.¹⁹¹

The government of Somalia develops durable solutions policies underlined the government's responsibility for facilitating durable solutions for IDPs and the need to prevent forced evictions.¹⁹² More importantly, Somalia utilizes the IASC indicators in poverty assessments to inform micro data analysis and incorporates these displacement indicators in the Somalia National Development Plan (NDP).¹⁹³ "The inclusion of solution indicators in the National Development Plan helped mainstream the way solutions are measured in the country."¹⁹⁴ As a result, efforts to advance the development and reduce poverty must target IDPs for their voluntary, safe and dignified return, resettlement, or integration. These enhance the government's commitment to the achievement of durable solutions for IDPs.

The National Commission for Refugees and IDPs (NCRI) is an independent Federal Government organ responsible to monitor and evaluate the achievement of a durable solution led by the Ministry of Interior, Federal Affairs and Reconciliation.¹⁹⁵ Further, the Federal Government of Somalia established a Durable Solutions Unit within the Ministry of Planning, Investment, and Economic Development in 2018, formed and implemented data collection, analysis, and monitoring in order to provide evidence of what was necessary and forge consensus.¹⁹⁶ The government also establish a National Durable Solutions Secretariat

¹⁹¹ National Eviction Guidelines, Federal Government of Somalia, 2019, available at: <https://www.refworld.org/docid/5d8333ae4.html>, last accessed on 25 Nov. 22

¹⁹² Mark Yarnell, 'Durable Solutions in Somalia: Moving From Policies to Practice For IDPs In Mogadishu' (Field Report, December 2019) <<https://www.refugeesinternational.org/reports/2019/12/13/durable-solutions-somalia-moving-from-policies-practice-for-idps-mogadishu>> last accessed on 07 Aug. 22

¹⁹³ The Ministry of Planning, Investment and Economic Development, Somalia National Development Plan 2020 to 2024 (NDP9)

¹⁹⁴ Patience Kiara, a senior research and capacity development officer for the Regional Durable Solutions Secretariat (ReDSS), from practitioners to practitioners: durable solutions analysis webinar | lessons from Iraq, Sudan & Somalia, available at, <https://www.jips.org/news/from-practitioners-to-practitioners-durable-solutions-analysis-webinar-lessons-from-iraq-sudan-somalia/>, last accessed on 25 Nov. 22

¹⁹⁵ Federal Government of Somalia, "National Policy on Refugee Returnees and Internally Displaced Persons," November 2019, accessed on 25 Nov. 22, available at <https://www.refworld.org/pdfid/5d8332c64.pdf>

¹⁹⁶ UN Secretary General, *Shining a Light on Internal Displacement: A Vision for the Future*, available at https://www.un.org/internal-displacement-panel/sites/www.un.org.internal-displacement-panel/files/idp_report_web.pdf, accessed on 09 Jul. p 14

(DSS) in October 2019 to ensure a whole of government approach through facilitating coordination across 14 Government entities, including the Office of the Prime Minister.¹⁹⁷ The DSS encompasses 14 government institutions or ministerial organs to provide technical expertise and oversight whether durable solution initiatives are prioritized, implemented and aligned with other government policies.¹⁹⁸ The Deputy Special Representative of the Secretary-General, Resident and Humanitarian Coordinator (DSRSG/RC/HC), and the Deputy Prime Minister were the main supporters of the Somalia Durable Solution Initiative, which is now evolving into a fully-owned national movement with the guidance of the DSS.¹⁹⁹ These demonstrate that Somalia's greatest accomplishment is not only in devising effective IDP laws and policies, but also putting in place a coordinated system that encompasses all pertinent ministries, government agencies, local governments, and the humanitarian and development sectors.²⁰⁰

Although implementation remains to be challenging,²⁰¹ the adoption of relevant laws that create enabling environment for durable solutions, the allocation of powers and responsibilities towards government entities, the establishment of the DSS to facilitate the coordination among 14 government entities and to oversee the implementation of durable solutions, the setting up of a coordinated system from federal to local levels for the implementation of durable solutions, and the inclusion of solution indicators in the National Development Plan refers to the political will and dedication of the government of Somalia to find and implement durable solutions for IDPs. The laws and policies provide a common basis and policy guidance for the effective implantation of durable solutions by which every other country should take a lesson. The problems of IDPs are multidimensional therefore the achievement of durable solutions necessitates the coordinated effort of all relevant government sectors. As a result, the whole of government approach that the government of Somalia adapted is the best practice for other countries like Ethiopia that have not yet adopt the system. Furthermore, the absence of specific IDP law and policy as well as institution responsible to solve problems related to internal displacement are the major challenges in

¹⁹⁷ Ibid

¹⁹⁸ GP20, 'Comparative Experiences on Preventing, Addressing and Resolving Internal Displacement' (a Regional Exchange Series, 2019) p 15 <<https://www.ohchr.org/sites/default/files/Documents/Issues/IDPs/International-Regional/igad-idp-climate-3.pdf>>

¹⁹⁹ Hannah Entwisle Chapuisat, *Working Together Better to Prevent, Address and Find Durable Solutions to Internal Displacement* (GP20 Compilation Of National Practices), available at https://www.globalprotectioncluster.org/wp-content/uploads/GP20_web.pdf, last accessed on 27 Aug. 22

²⁰⁰ Acharya (n 190)

²⁰¹ Yarnell (n 192)

Ethiopia in finding and implementing durable solutions for IDPs.²⁰² Ethiopia, which lacks all of these systems and structures, can therefore learn valuable lessons from Somalia's experiences by adopting specific IDP laws, policies, and protocols relevant to achieving durable solutions, integrating durable solution in national development plan and other policy documents and working guidelines, outlining the roles of government organs in detail, setting up specific institutions to oversee their implementation, and establishing a whole-of-government approach.

3.4.2. Colombia's experiences with regard to Durable Solutions for IDPs

Armed conflict breaks out and lasted for decades within the state of Colombia as a result of the economic marginalization of low-income farmers which caused a widespread internal displacement.²⁰³ Colombia is also highly vulnerable to a variety of natural disasters, especially floods and landslides, which evict thousands of people every year.²⁰⁴ Colombia is rich in IDP laws, and it passed its first internal displacement law in 1997 (Law 387), even before the finalization of the Guiding Principles on Internal Displacement.²⁰⁵ This law is one of the most progressive and comprehensive internal displacement laws which gave judicial basis of subsequent actions towards internal displacement and consists of institutional framework for the implementation of the law.²⁰⁶ The National System for Comprehensive Assistance to Populations Displaced by Violence is created with the responsibility to ensure the implementation of Law 387 including assisting displaced people to successfully reincorporate into Colombian society, voluntarily return or resettle.²⁰⁷ The problem with this institution is that it only works on issues of IDPs displaced by violence disregarding those displaced by draught and natural disaster.

²⁰² Interview with Enguday Meskele, Director, Refugees, Internally displaced persons (IDPs) and Migrants' Rights, Ethiopian Human Rights Commission

²⁰³ Norwegian Refugee Council/Internal Displacement Monitoring Centre (NRC/IDMC), *Searching for Solutions: Lessons for Syria*, page 9, April 2018, Available at <https://www.refworld.org/country/COI.IDMC.,COL....0.html>, last accessed on 26 Nov. 22

²⁰⁴ Internal Displacement Monitoring Centre (IDMC), *Country Profile 2021: Colombia*, Available at <https://www.internal-displacement.org/countries/colombia>, last accessed on 26 Nov. 22

²⁰⁵ Brookings, *Changing Times: The International Response to Internal Displacement in Colombia*, 2014, page 18, available at <https://www.brookings.edu/wp-content/uploads/2016/06/Changing-Timesthe-Intl-Response-to-Internal-Displacement-in-Colombia-December-2014.pdf>, last accessed on 26 Nov. 22

²⁰⁶ Ellen Fadnes and Cindy Horst, 'Response to internal displacement in Colombia: Guided by what principles?' (2010), *Refuge: Canada's Journal on Refugees*, 26(1), 111–120, page 113 <https://doi.org/10.25071/1920-7336.30613> accessed 26 Nov. 22

²⁰⁷ Congress of Colombia (COC), *Colombia: Law 387 on Internal Displacement of 1997* [Colombia], 24 July 1997, article 4, available at: <https://www.refworld.org/docid/5a255b374.html>, last accessed 26 Nov. 22

Law 387 addressed each stage of internal displacement, namely the pre, during, and post displacement stages. Specific to durable solutions for IDPs, Law 387 states that “the Colombian Institute for Agrarian Reform (INCORA) shall adopt special procedures and programs for the transfer, adjudication, and titling of land in the expulsion and reception zones of populations affected by forced displacement, as well as special lines of credit giving priority to displaced populations.”²⁰⁸ It is exceedingly challenging to resolve issues relating to internal displacement using the regular systems and procedures of law. To this effect, Law 387 is suited to the unique demands and circumstances of IDPs.

Furthermore, the 1991 new Colombian Constitution which guarantees the human rights of every individual come up with an important petition procedure, *tutela*, with the right to get the decision of the court within ten days of the petition.²⁰⁹ “*Tutela*” is a complaint that any citizen can bring before any judge in order to seek an immediate judicial injunction against actions or omissions of any public authority that they claim violate their constitutional fundamental rights.”²¹⁰ Following the adoption of this petition procedure, number of complaints provided before Colombian Courts from IDPs in Colombia, and the Court passed a significant number of decisions on issues of internal displacement.²¹¹

The court's rulings against specific *tutellas* helped to strengthen the IDP rights protection system and pave the way for the development of durable solutions for IDPs in Colombia. Since the legal system in Colombia greatly benefited from the court activities in achieving durable solutions for IDPs, Ethiopia can learn a lot from such an experience. The government is more committed to addressing IDP issues as a result of subsequent court rulings against the petition from Colombian IDPs.²¹² These rulings significantly increase IDP funding, legitimize and protect organizations working to protect IDPs' rights, and pave the way for the establishment of permanent evaluation mechanisms with a set of targeted result indicators to gauge progress in realizing IDP rights.²¹³ Accountability is the basic requirement for effective implementation of laws and policies. One of the main obstacles to achieving durable solutions in Ethiopia is the lack of a designated government organ accountable for its actions

²⁰⁸ Ibid article 19(1)

²⁰⁹ Fadnes E. and Horst C. (n 206)

²¹⁰ Manuel José Cepeda-Espinosa, ‘How far may Colombia’s Constitutional Court go to protect IDP rights?’ (2006), *Forced Migration Review*, ISSN 1460-9819, 21-23 available at <https://www.fmreview.org/brookings/cepedaespinosa>, last accessed on 26 Nov. 22

²¹¹ Fadnes E. and Horst C. (n 206)

²¹² Manuel José Cepeda-Espinosa (n 210)

²¹³ Ibid

or omissions towards IDPs as prescribed under the law.²¹⁴ Therefore, Ethiopia should take a lesson from Colombia's experience and set up an accountability system for the government's failure to safeguard IDPs and achieve durable solutions.

²¹⁴ Interview Manyazewal Kasa, Director, legal Directorate, Ethiopian Disaster Risk Management Commission

CHAPTER FOUR

Ethiopian policy, legislative and institutional frameworks on durable solutions to IDPs

4.1. Introduction

As discussed in chapter two, there are certain fundamental rules and standards of durable solutions; however, since every circumstance is different, there is no such thing as a "one size fits all" solution.²¹⁵ Domestic laws and policies on internal displacement are essential for effective implementation of durable solutions, clarifying government responsibilities, defining responder's role, and increasing predictability of humanitarian action by institutionalizing collaborative arrangements.²¹⁶ Additionally, the revision of IDP-unfriendly legislation and policies is a requirement for achieving durable solutions.²¹⁷

Particularly to achieve durable solutions on the government side, a number of prerequisites must be met including a government-led process with strong political will, a whole-of-government approach with backing from the highest levels, inter-ministerial coordination, and budget support to sub-national authorities, an environment that is conducive to long-lasting solutions with peace-building and reconciliation initiatives, and the restoration of law and order with adequate normative frameworks in laws, policies, and strategies, and measures to stop, deal with, and end internal displacement should be included in development plans and policies.²¹⁸ There is no specific IDP law or policy in Ethiopia, and other relevant policies

²¹⁵ Ferris (n 37)

²¹⁶ Global Protection Cluster, 'Regulatory Frameworks on Internal Displacement: Global, Regional and National Development', Page 19 available at https://www.globalprotectioncluster.org/assets/files/tools_and_guidance/Internal%20Displacement/unhcr-gpc_reg_framework_idp.pdf, accessed on 18 July 22

²¹⁷ The InterAction Forced Displacement Working Group, *Roadmap to Durable Solutions for the Internally Displaced* (The InterAction Forced Displacement Working Group's Second Recommendations Paper for Consideration by the High-Level Panel on Internal Displacement) available at https://www.un.org/internal-displacementpanel/sites/www.un.org.internaldisplacementpanel/files/published_interaction_submission_roadmap_to_durable_solutions_for_the_idps.pdf

²¹⁸ Comparative Experiences On Preventing, Addressing and Resolving Internal Displacement (experiences in supporting resilience and durable solutions to internal displacement in the IGAD Region, 7-8 October 2019, Addis Ababa, Ethiopia) P 10, <<https://www.ohchr.org/sites/default/files/Documents/Issues/IDPs/International-Regional/igad-idp-climate-3.pdf>> accessed on 03 Aug. 22

such as the Ten Years Perspective Development Plan (2021 – 2030)²¹⁹ failed to mainstream issues of internal displacement and durable solutions. IDPs who lost their documents while being displaced are not specifically addressed in the civil code or any other domestic laws safeguarding property rights.

4.2. The Existing Domestic Legal, Policy, and Institutional Frameworks on Durable Solutions for IDPs in Ethiopia

4.2.1. Legal and policy frameworks

A. The Constitution of the Federal Democratic Republic of Ethiopia (FDRE Constitution)

The Constitution entitled persons who have been displaced due to state-initiated development projects with the right to seek monetary or alternative means of compensation, including relocation and adequate assistance from the state.²²⁰ These involve issues of durable solutions for IDPs since it calls for the government to provide compensation, relocation, or other assistance to those who have been forcibly displaced. However, the causes of displacement have to be state-initiated development projects/programs which exclude people displaced due to conflict or natural disaster. On the other hand, since pastoralists are deemed to be most exposed to internal displacement in the country at that time, the FDRE Constitution gives them the right to free land for grazing and cultivation as well as the right not to be displaced from their own lands.²²¹

In addition to these specific provisions which are devoted to IDPs, chapter three of the Constitution, fundamental rights and freedoms, entitles everyone, which in effect includes IDPs, to the enjoyment of human rights. These rights mainly include the right to life, liberty, privacy, property, equality, and other socio-economic, and civil and political rights included through articles 14-44 of the FDRE Constitution which are applied to IDPs like every other citizen.

Furthermore, “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.”²²² This

²¹⁹ Ethiopia 2030: The Pathway to Prosperity (Ten Years Perspective Development Plan (2021 – 2030) <<https://europa.eu/capacity4dev/file/109230/download?token=rxippQKh>> last accessed on 07 Aug. 22

²²⁰ The Constitution of the Federal Democratic Republic of Ethiopian, Proclamation No. 1/1995 (21 August 1995), Neg. Gaz. 1st Year No. 1, Article 44 (2)

²²¹ Ibid. Article 40(5)

²²² Ibid. Article 89(3)

article limits governments' responsibilities to the prevention of displacement and the timely provision of aid to IDPs when applied to scenarios of displacement caused by natural and man-made disasters. The major obligation of the government to find and implement durable solution is missed.

The Constitution is a general legal framework that needs another legal or policy guide to address specific issues. As such, there is no domestic law or policy to help translate these provisions into actual guidance or tools for the better assistance of IDPs and the achievement of durable solutions.

B. The Criminal Code of Federal Democratic Republic of Ethiopia, 2004

Internal displacement as defined in relevant instruments is not included and criminalized under the Criminal Code. The code just mentions the compulsory movement of the civilian population in times of war as a war crime, while listing war crimes against civilian population. Therefore, arbitrarily displacing persons in peaceful times is not criminalized under national criminal law. As ensuring accountability is one of the criteria to measure the achievement of durable solutions, the absence of criminal accountability of those who arbitrarily displace persons even in peaceful times becomes an impediment to the achievement of durable solutions. Moreover, the absence of criminal accountability in this regard leads to secondary displacements and recurrent displacement in other places.

C. The National Policy and Strategy on Disaster Risk Management of 2013 (the DRM policy).

The DRM policy is an amendment to the 1993 National policy on disaster prevention and management. This policy is the major Policy document in Ethiopia for the protection of victims of man-made and natural disasters. The main objective of the DRM Policy is to reduce disaster risks and potential damage caused by disasters through establishing a comprehensive and coordinated disaster risk management system in the context of sustainable development.²²³ The DRM policy set down measures that should be taken to prevent natural and man-made disasters before the disaster happened, to take necessary measures during the disaster and to support victims after the commencement of the disasters, in order to reduce the potential damage and risk caused by the disaster.²²⁴ The DRM

²²³ The Federal Democratic Republic of Ethiopia National Policy and Strategy on Disaster Risk Management (July 2013), available at <https://www.refworld.org/pdfid/5a2689ea4.pdf>, accessed on 01 May 2021

²²⁴ Ibid

activities implemented at the post-disaster phase include the provision of recovery and rehabilitation support to the victims.²²⁵

Ethiopia's most relevant policy framework in finding and implementing durable solutions for IDPs was supposed to be the Disaster Risk Management policy. But it does not specifically address the special needs of IDPs; it simply aims to reduce risks associated with disasters.

D. The Ethiopian Durable Solutions Initiative (DSI) ²²⁶

Ethiopia adopted the DSI in 2019 which provides a principled operational framework and platform to design and implement durable solutions in support of IDPs in Ethiopia and host communities at locations of return, relocation, or local integration. The main objective of the DSI is to facilitate collective action and cooperation between the Ethiopian government authorities at national, regional, and local levels and the international community.

The DSI defines durable solutions as defined under the Guiding Principles and IASC Framework on Durable Solutions for IDPs, stating that it is achieved when IDPs no longer have any specific assistance and protection needs that are linked to their displacement and can enjoy their human rights without being subjected to discrimination because of their displacement. Similarly, it provides sustainable reintegration at the place of origin (voluntary return), local integration in areas where displaced persons take refuge, and settlement in another part of the country based on their choice (relocation) as modalities of durable solutions. IDPs should be placed on an equal footing with the communities that are hosting them in order for them to exercise both their constitutional rights and basic human rights.

Principles that guide the planning and implementation of durable solutions under the initiative include:

Rights and needs-based interventions guided by the needs, rights, legitimate interests, resources and capacities of displacement-affected communities; Government-led interventions that support government offices in planning, coordinating, delivering and monitoring services and programmes; participatory and community-based intervention that enable IDPs, returnees, and host communities/communities of return, relocation to actively participate in the selection, planning, implementation and monitoring of activities; area-

²²⁵ Ibid

²²⁶ Ethiopian Durable Solutions Initiative (n 17)

based intervention that target IDPs, returnees, and those relocated or locally integrated, host populations and communities of origin, in a defined area and respond to the specific living conditions, risks and opportunities of the local context; recognizing unmet humanitarian needs and working to balance them with durable solutions by demanding attention and funding; collective and comprehensive intervention, intervention must be sustainable as well as sensitive to social inequalities caused by sex, age, disabilities and marginalization.²²⁷

With regard to the national policy framework, the initiative anticipates mainstreaming durable solutions which is the major issue of internal displacement within the Growth Development Plan and Peace building and resilience strategies. Concerning the legislative framework, the initiative planned the development of implementing legislation and/or policy for durable solutions. Nevertheless, neither the legislation nor the policies that promote the implementation of durable solutions have yet to be developed. Institutionally, the initiative outlines improving the coordination and operation of working groups on durable solutions at the federal and regional levels as well as enhancing a whole-of-government approach to durable solutions.

However, the initiative is neither a legal nor policy document with the potential to be binding on the government. It just serves as a guide to help the government in adopting implementing legislations and mainstreaming the issues of durable solutions in pertinent legal and policy documents as well as strengthening the institutional setup.

E. Somali Regional State Durable Solutions Strategy 2022-2025

This strategy is a revision of the 2017-2020 Somali Region Durable Solution Strategy considering recent displacement realities and giving attention to both conflict and climate-induced displacement equally. The Strategy has been developed by the Somali Regional Government of Ethiopia, the UN, and development partners as part of efforts to address the massive internal displacement in the Region. It provides a roadmap for advancing the region's internal displacement resolution and ensuring that IDPs, returnees, host communities, and other groups affected by displacement are given access to solutions for displacement and its effects. It also supports coordination and collaboration between the government at regional, zonal, woreda, and kebele levels and across the international, national, and local aid sector by

²²⁷ Ibid

providing a framework for joint action. It attributed the primary responsibility to find and implement durable solutions for IDPs in the region to Somali Regional government.

The strategy contains three major objectives namely return to rural and urban areas, relocation to rural and urban areas and local integration in order to maintain the rights of IDPs guaranteed under International Human Rights and Humanitarian Laws. In doing so, area-based and community-wide initiatives are utilized to prevent discrimination based on host status or displacement. Therefore, both the displaced and the host communities, which have been severely impacted, have equitable access to humanitarian aid and longer-term support.

Plans and interventions must be conflict-sensitive thus conflict analyses and risk assessments will be carried out for each target area in order to properly understand how interventions will interact with the local context, including conflict drivers, sources of tension, power structures, etc. and the implementation of mitigation measures from the beginning of activities. Moreover, IDP settlements shall be in areas where the physical, legal or material safety of IDPs would not be at risk, and all the processes have to be transparent, participatory, non-discriminatory and voluntary.

The strategy also identified priority areas for the Somali Region to achieve the strategic objectives include: nexus based interventions, climate resilience, community participation, standard of living and basic services, Housing, Land, and Property (HLP), livelihoods and economic recovery, access, protection, legal safety, documentation, and justice, safety and security, peace-building and social cohesion, and dignified assisted movement.

Durable solutions operational methodologies are also provided under the strategy to be achieved in phases during the pre-departure and post-settlement of IDPs. Phase one is the community planning to facilitate solutions which involves activities including community-based planning community action plans, intentions surveys, spatial Planning, labor market assessments, climate and natural resource assessments, conflict, protection, and gender analysis, risk Assessments, household needs and vulnerability profiling and camp closure/exit strategies. Phase two is operationalizing a safe departure nexus-based community action plan which involves activities of facilitated departures from informal and formal camps/settlement, multi-sectorial nexus-based interventions, post-settlement monitoring, case management, referrals and phase out sustainability. Phase three is institutional strengthening

to reinstate government capacity which involve durable solution coordination mechanisms, training of government and partners, development of durable solution markers, development of solutions monitoring mechanisms, tools, procedures, and curriculum development, strategies to localize durable solution framework and funding mechanisms. Phase four is policy development to mainstream solutions which involve activities of advocacy, multi-level plans, localized frameworks, and mainstreaming displacement in developmental plans.

The scope of this strategy is limited to the Somali Region of Ethiopia, and it is tailored to the problems and contexts of IDPs in the Somali region. As we have discussed above, internal displacement problems are widespread almost throughout the country. As such, adopting a strategic plan which is only applicable to IDPs in the Somali region would never solve the widespread displacement problems in the country. Moreover, the provision of durable solutions should not depend on the government's inclination or decision to act or not; rather, it is the government's duty and the displaced people's right to get them as soon as possible. Therefore, something greater than an initiative that has authoritative and binding effect accompanied by accountability should be adopted for the achievement of durable solutions.

4.2.2. Institutional Frameworks

A. The Ethiopian Disaster Risk Management Commission (EDRMC)

The Ethiopian Disaster Risk Management Commission (EDRMC) is established as an autonomous Federal Government office having its own legal personality for the comprehensive implementation and realization of the objectives of the National Disaster Risk Management Policy and Strategy.²²⁸ The powers and duties of the Commission listed under this regulation are related to disaster risk prevention and reduction, and disaster response and rehabilitation programs of victim.²²⁹ EDRMC is established to handle disaster-related issues, and disaster has been presumed to include the only climate and other natural factors induced crises. The legal directorate of the EDRMC also explains the same thing saying that the Commission has been working only on those displacements caused by climate changes and other natural disasters disregarding conflict-induced displacements.²³⁰ The law that determines the power and function of the Commission was also adopted based on these facts

²²⁸ National Disaster Risk Management Commission Establishment Council of Ministers Regulation No 363/2015, Federal Negarit Gazette No. 15 le December, 2015, article 4, available at <<https://chilot.me/wp-content/uploads/2017/04/regulation-no-363-2015-national-disaster-risk-management-commission-establishment.pdf>>

²²⁹ Ibid, Article 6

²³⁰ Interview Manyazewal Kasa (n 214)

hence conflict-induced displacements begun to occur later. Recently, conflict becomes the major cause of internal displacement in Ethiopia, leaving millions of people to endure in dire situations of protracted displacement. Thus, the EDRMC is currently working on both natural disaster and conflict-induced internal displacement issues but is limited to the provision of humanitarian assistance.²³¹

Finding and implementing a durable solution for IDPs is not specifically attributed to EDRMC under the law that determines the powers and functions of the Commission. However, the Ethiopian DSI assigned the EDRMC to chair the activities on the implementation of the Initiative.²³² The Commission does not, however, have the resources mainly budget and expertise essential to work on durable solutions for IDPs.²³³ Furthermore, the mandate of the Commission under the establishment proclamation is limited to providing necessary assistance for disaster victims, IDPs and IDP returnees in our cases, for limited period of time.²³⁴ Practically, the procedures of return or any other durable solution options are not undertaken by the Commission.²³⁵ While other government agencies handled the return processes, the Commission only provides some of the things that IDPs might need to survive in return places, for a limited period of time.²³⁶ On the other hand the draft IDPs proclamation is going to authorize the EDRMC to take the responsibilities to coordinate and oversee the protection of the rights of IDPs that include the right to get durable solutions.²³⁷ The MoP, RRS and EDRMC has been provided as policy options to these responsibilities, and the EDRMC has selected out of them hence its accountability is to the political entity or the Prime Minister rather than one Ministry, it has regional offices to the kebele level, and it has rich experience on IDPs issues while working the protection and provision of assistances to IDPs for longer.²³⁸

However, the tasks of the institution appointed at this level include voluntarily returning, resettling, or locally integrating IDPs in accordance with international and national standards in addition to coordinating and overseeing the performance of other stakeholders with regard to the rights of IDPs. Particularly, finding and implementing durable solutions for IDPs is

²³¹ Ibid

²³² Ethiopian Durable Solutions Initiative (n 17)

²³³ Ibid

²³⁴ Ibid

²³⁵ Ibid

²³⁶ Interview Manyazewal Kasa (n 214)

²³⁷ Interview with Alemayehu Begna, executive member, IDPs and Refugees affairs committee established under the Inter Ministerial Task Force

²³⁸ Ibid

composed of complicated issues that require specialized engagements, subject-matter expertise, and significant resources. As a result, the EDRMC, the institution that was not originally established with the intention of doing so, and is already overburdened with other tasks and responsibilities, is likely to be incompatible to carry out the responsibilities relating to finding and implementing durable solutions for IDPs in Ethiopia. Moreover, the tasks of returning, locally integrating, and resettling IDPs by themselves require a full-time engagement for long periods of time until a durable solution is achieved based on the requirements set by international as well as national laws. Furthermore, there is a need for further legislative amendment if the proclamation attributes such powers to the EDRMC.

B. The Ministry of Peace (MoP)

The Ministry of Peace is a government organization established in 2018 to prevent and resolve conflicts and ensure peace and security in the country.²³⁹ The MoP together with the Federal level durable solutions working group was responsible for supporting the implementation of the DSI.²⁴⁰ The Ministry was also an implementing organ of the rights of IDPs enshrined under Kampala Convention.²⁴¹ The MoP launched the DSI for IDPs in Ethiopia in December 2018, and since then, it has assessed the situations of IDPs and made some further advancement to put the initiative into action.²⁴² The Ministry's powers and functions are, however, limited to dealing with peace-related matters as a result of the recent rearrangement of the Federal Government's authority and responsibilities.²⁴³ The Ministry is given the authority to foster an atmosphere that is conducive to public peace, ensure public peace, and promote tolerance and mutual respect among various groups of people.²⁴⁴ Given that the Ministry's current mandate is only on peace related issues, the only way it can help IDPs who have been displaced by conflict and violence return, resettle, or integrate locally is by initiating and implementing peace agreements.²⁴⁵ The Ministry does not handle the

²³⁹ Proclamation No 1097/2011, Definition of Powers and Duties of the Executive Organs of the Federal Democratic Republic of Ethiopia, article 13

²⁴⁰ Ethiopian Durable Solutions Initiative (n 17)

²⁴¹ Proclamation No. 1187/2020, African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa Ratification Proclamation, article 4

²⁴² Interview with Girma Cheru, Director, the Inter-Governmental Relation Department, Ministry of Peace

²⁴³ Ibid

²⁴⁴ Proclamation No.1263/2021, Definition of Powers and Duties of the Executive Organs of the Federal Democratic Republic of Ethiopia, article 41

²⁴⁵ Interview with Girma Cheru (n 242)

coordination work as well as other aspects of the process of implementing durable solutions for IDPs.²⁴⁶

C. The Ethiopian Human Rights Commission (EHRC)

EHRC is an independent national human rights institution established according to the FDRE constitution²⁴⁷ by Proclamation No. 210/2000, as amended by Proclamation No. 1224/2020 with a mandate to protect and promote human rights. Following the legal and institutional reform that the Commission made in 2021, it established a department of IDPs, refugees, and Migrant rights.²⁴⁸ This department works for the promotion and protection of the rights of IDPs through monitoring the compliance of IDPs' service providers and duty bearers with national and international standards, investigating human rights violations of IDPs based on individual complaint or its own initiation, and researching and awareness raisings on the rights of IDPs.²⁴⁹ The Commission also engaged in advocacy works through organizing workshops with stakeholders, reporting and other mechanisms in order to fill the legal and institutional gaps on the promotion and protection of the rights of IDPs.²⁵⁰

In relation to the implementation of durable solutions for IDPs, the Commission has been and is currently advocating the establishment of specific government institutions responsible for the issues of internal displacement as well as the domestication of the Kampala Convention, both of which have been the major challenges in achieving durable solutions for IDPs.²⁵¹ Following its monitoring and investigation work on the protection of IDPs' rights, the Commission also provides recommendations specific to finding and implementing durable solutions for IDPs at various points in time. For instance, in its annual human rights situation report, the Commission identified major problems and impediments in achieving durable solutions for IDPs in Ethiopia, and recommends the need to ensure IDPs' and host communities' participation in the planning and management of the durable solutions, to resolve the immediate causes of displacement and consider the fulfillment of conditions for

²⁴⁶ Ibid

²⁴⁷ The FDRE Constitution (n 220) Article 55(14)

²⁴⁸ Interview with Enguday Meskel (n 202)

²⁴⁹ Ibid

²⁵⁰ Ibid

²⁵¹ Ibid

lasting integration before taking durable solution measures, and to promote accountability by facilitating IDPs' access to justice and effective remedies.²⁵²

4.3. The status of implementation of a durable solution for IDPs in Ethiopia

The response to IDPs in Ethiopia is basically focused on temporary humanitarian assistance than long-lasting or durable solutions.²⁵³ With regard to the necessary legal frameworks, there is a step taken by the government to adopt a proclamation for the protection of the rights of IDPs in Ethiopia. However, the IDPs situation in Ethiopia is becoming worsened and protracted²⁵⁴ while the government is not going at the required pace to adopt such a law. Moreover, as we have discussed in the above section, the existing legal provisions are not tailored to the specific situations and needs of IDPs in order to find and implement durable solutions. There are also some attempts to implement the Somali Regional State Durable Solution Strategy (2022-2025) that is tailored to the problems and contexts of IDPs in the Somali region. If effectively implemented, these might only end the problem of IDPs in the Somali region while displacement problems drastically increase throughout the country.

In order to implement durable solutions for IDPs in Ethiopia, the MoP in collaboration with EDRMC took some measures to return IDPs to their original places.²⁵⁵ However, these actions resulted in secondary displacements and additional human rights violations.²⁵⁶ These refer to the fact that the decision made to return IDPs to their places of displacement is premature that have taken without consulting IDPs themselves, and ensuring peace and security and means of survival at the place of return.²⁵⁷ Return has to be voluntary, safe and dignified; however, the return actions took by these institutions failed to qualify any of such requirements. The return currently taking place failed to meet the standards hence they are not based on the free and informed will of the displaced people; they forcibly exposed individuals to situations where their basic human rights may be violated; exposed IDPs to direct coercion including physical force harassment or intimidation, and indirect coercion including erroneous information, inducements, denial of basic services or closure of IDP sites

²⁵² Ethiopian Human Rights Commission, *Annual report on the Human Rights Situation of Internally Displaced Persons in Ethiopia*, June 2021- June 2022, available at <https://ehrc.org> , last accessed on February 26, 2023.

²⁵³ Interview Manyazewal Kasa (n 214)

²⁵⁴ Ethiopian Human Rights Commission (n 252) page 13

²⁵⁵ OCHA (n 27)

²⁵⁶ Ibid

²⁵⁷ Ethiopian Human Rights Commission (n 252)

without the provision of an acceptable alternative.²⁵⁸ The contemporary return measures that are taken by the government also failed to ensure the security, dignity, access to basic services and livelihood, and full participation and involvement of IDPs, particularly women, children, youth, persons with disabilities in the decision-making processes.²⁵⁹

Government measures to return or relocate IDPs failed to secure the informed choice of IDPs, taking into account IDP's former livelihood or ability, safety and security at the place of return or relocation, and fulfilment of basic infrastructures and services at the place of return.

²⁶⁰ According to the global standard on durable solutions, the government's durable solution measure, whether return or resettlement or local integration, has to ensure long-term safety and security, an adequate standard of living, access to livelihood and employment, restoration of housing, land, and property (HLP), access to personal and other documentation, family reunification, participation in public affairs and access to effective remedies and justice for IDPs. However, most of these criteria for the achievement of durable solutions for IDPs failed to be met in the measures taken by the government so far. The existing legal frameworks particularly laws on property rights, access to an identification cards, birth, death, and marriage certificate, and other necessary civil documentation and access to public institutions such as schools and health centers failed to consider the special circumstances and needs of IDPs.²⁶¹

²⁵⁸ Protection cluster: Ethiopia, *Returns of Internally Displaced Persons in Ethiopia*, available at https://www.globalprotectioncluster.org/sites/default/files/2022-12/position-paper-returns-of-internally-displaced-persons-in-ethiopia_25-mar-2019.pdf, last accessed 06 May 2023

²⁵⁹ Ibid

²⁶⁰ Ethiopian Human Rights Commission (n 252)

²⁶¹ Ibid

CHAPTER FIVE

Conclusion and Recommendations

5.1. Conclusion

Durable solutions for IDPs must be achieved to ensure that IDPs can enjoy their human rights without discrimination, as Ethiopia is facing a protracted displacement. The achievement of durable solutions for IDPs in Ethiopia is hampered by the lack of a distinct policy framework for durable solutions that directs institutions on how to address IDP-related issues and integrate them into their own policies and working guidelines. Currently, the drafting of the IDPs Proclamation is underway by the Refugees and IDPs affairs committee which is a step forward for the problems of IDPs. However, special attention should be given to durable solutions in order to keep it from being overshadowed by the protection, assistance, and other issues of IDPs.

Moreover, no single institution is legally established with its own budget to respond to issues of durable solutions for IDPs. Finding and implementing durable solutions for IDPs is a complex task that is made even more difficult and unattainable in the absence of specific and responsible institution. IDP issues in Ethiopia, in particular issues of durable solutions, call for extra dedication and attention of the government though it is left ownerless yet. Institutions currently involving in IDP issues have their own powers and responsibilities legally and officially attributed to them; therefore, if finding and implementing durable solutions for IDPs become their issue, it is obviously secondary.²⁶² Also, institutions so far striving to find and implement durable solutions for IDPs are not even doing it in accordance with their legal obligations but rather out of sympathy or a desire to help IDPs. As a result, the fate of IDPs to find durable solutions is left the will of individuals.

Another issue with finding durable solutions for IDPs in Ethiopia is the lack of collaboration and working toward a common objective. Institutions involved in the implementation of durable solutions for IDPs respond to the problems of IDPs in fragments that are solely customized to their particular interests, ignoring the overall goal of achieving durable solutions for IDPs. For instance, the Ministry of Peace has the power related to the maintenance of peace and order of the public and it also works the same in the cases of IDPs,

²⁶² Interview with Girma Cheru (n 242)

trying to restore the peace between the displaced and other communities in the areas of displacement.²⁶³ Similarly the EDRMC works in providing the necessary humanitarian assistance to IDPs. This allows each institution to make a small contribution toward the achievement of durable solutions for IDPs, but not in a coordinated and integrated manner since there is no shared objective for the institutions to work towards the achievement of durable solutions.

Lack of resource is also the major problem in protecting the rights of IDPs in Ethiopia. The issue of resource scarcity is more severe when it comes to durable solutions because of three main reasons. One, durable solution is a progressive work that require a large amount of resource for a continuous long period of time. Two, the government **lacks the political will** to allocate reasonable budget for displacement problems in the country. Three, almost all donors on internal displacement funds humanitarian assistance than durable solutions; they are not willing to donate on long term projects that include durable solutions for IDPs.²⁶⁴

In general, the process of finding and implementing durable solutions for IDPs has not been successful and has been arbitrarily performed without specific guideline so long. Absence of specific legal, policy and institutional frameworks, resource scarcity, lack of political will and coordinated effort to achieve durable solutions are the major problems behind these failures.

²⁶³ Ibid

²⁶⁴ Interview with Enguday Meskel (n 202).

5.2. Recommendations

Protracted displacement made IDPs to live in a dire situation while they lost their human dignity and their basic human rights violated. Therefore, the government has to give emphasis and work on durable solution in addition to the efforts made to provide humanitarian aids and domesticate the Kampala Convention.

To this effect, the following recommendations are put forwarded:

1. Extraordinary effort and attention of the government is required to adopt the IDPs proclamation which is currently in its draft form;
2. The IDPs proclamation that is in the process to be drafted should give emphasis to durable solutions for IDPs. Basically, it should:
 - ✓ Provide the criteria for the achievement of durable solutions for IDPs with their detailed indicators aligned with international standards mainly the IASC Framework for durable solutions.
 - ✓ Identify the power and functions of the Federal and State government as well as the host State and the State where the displacement occurred in finding and implementing durable solutions.
 - ✓ Identify the roles and responsibilities of concerned government actors in finding and implementing durable solutions.
 - ✓ Establish one specific independent institution with relevant resources to safely and voluntarily returning, resettling or integrating IDPs in accordance with the international standards.
 - ✓ Adopt a whole of government approach for coordinated and comprehensive responses to durable solutions for IDPs in accordance with the international standards.
 - ✓ Establish and provide permanent budget sources required to achieve durable solutions for IDPs.
 - ✓ Establish judicial accountability mechanisms for failures in implementing the responsibilities attributed by law. The accountability mechanism has to be strong as well as speedy.
3. The government should have a comprehensive durable solution policy framework tailored to the context and issues of IDPs in Ethiopia. This policy supports and enables each of the relevant institutions to integrate issues of durable solutions with

in their respective policies, regulations or working guidelines.

4. The EHRC should advocate for special attention to durable solutions in the newly drafted IDP proclamation and for the adoption of comprehensive durable solution policy framework.
5. International Organizations, humanitarian agencies, NGOs, donors and other appropriate actors should assist the government in finding and implementing durable solutions for IDPs since durable solution is the only way to end the problems with regards to internal displacement.

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Interviews

- ✓ Interview with Alemayehu Begna, executive member, IDPs and Refugees affairs committee established under the Inter Ministerial Task Force
- ✓ Interview with Enguday Meskele, Director, Refugees, Internally displaced persons (IDPs) and Migrants' Rights, Ethiopian Human Rights Commission
- ✓ Interview with Girma Cheru, Director, the Inter-Governmental Relation Department, Ministry of Peace
- ✓ Interview Manyazewal Kasa, Director, legal Directorate, Ethiopian Disaster Risk Management Commission