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**The Protection of Ethnic Conflict-Induced IDPs  
in Ethiopia:  
A Case Study of Guraferda Woreda in Bench-  
Maji Zone**

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in Ethiopia: A Case Study of Guraferda Woreda  
in Bench-Maji Zone**

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**Submitted in Partial Fulfillment of the Requirements for the Master of  
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School of Law**

**Addis Ababa University**

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**April, 2017.**

**Approval Sheet by the Board of Examiners**

The Protection of Ethnic Conflict-Induced IDPs in Ethiopia: A Case Study of Guraferda Woreda  
in Bench-Maji Zone

**I hereby declare that this thesis is my original work and all source materials used in this  
work have been properly recognized.**

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## **Abstract**

*Apart from natural disasters Ethnic or Inter communal conflict, generalized violence and human rights violations have been identified as the major man-made causes of internal displacement in Ethiopia. Examining, on the basis of international standards, the adequacy of national laws, policies and strategies to properly respond to the plight of IDPs in general and ethnic conflict-induced IDPs in particular is the central subject of this study. To strength the facts a case study of Guraferda forced eviction and displacement is included. The justifications behind the forced evictions and the manner of displacement were assessed on the basis of international law. To this end both primary and secondary sources were employed. Semi-structured interview which detailed on legal standards was utilized to interview both government officials and some of the victims to get a significant primary data. Primarily thematic data analysis and in few occasions explanatory method was employed in data analysis. The study found out that the justifications for the forced evictions of the peasants from Guraferda woreda; holding land and building house without permit, committing deforestation and injuring the ecosystem are not in conformity with international law which specifically outlawed displacements that are not justified by the safety and wellbeing of the displaced or outweighing public interest. Even though the grounds alleged by the authorities could be said reasonable, the manner of the eviction significantly violated several human rights including the right to movement, the right to liberty, the right to life and physical integrity while at the same time it disregarded minimum due process guarantees such as voluntariness, prior information, and proper time to prepare themselves. IDPs in general and ethnic conflict-induced IDPs in particular are not protected in special law, policy, and strategy and or action plan in the country and the existing general policy and action plan do not accommodate the special needs of IDPs. Particularly ethnic conflict-induced IDPs, in addition to the lack of human rights respect and humanitarian assistance, have no guarantee for durable solutions as these sustainable solutions are at the discretionary palm of the concerned local or regional government.*

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## Acronyms

ACHPR:	African Commission on Human and Peoples' Rights (also stands for African Charter on Human and Peoples' Rights based on the context of its use)
ACRWC:	African Charter on the Rights and Welfare of Children
Art.:	Article
AU:	African Union
CEDAW:	Convention on the Elimination of Discrimination against Women
CERD:	Convention on the Elimination of Racial Discrimination
CESCR:	Committee on Economic Social and Cultural Rights
CPS:	Civil Peace Society
CRC:	Convention of the Rights of the Child
DPPC:	Disaster Prevention and Preparedness Commission
FDRE:	Federal Democratic Republic of Ethiopia
GA:	General Assembly
GIZ:	German Agency for International Cooperation
HOF:	House of Federation
IASC:	Inter-Agency Standing Committee
ICCPR:	International Covenant on Civil and Political Rights
ICESCR:	International Covenant on Economic, Social and Cultural Rights
IPA:	International Peace Advisors
IDMC:	Internal Displacement Monitoring Centre
IDPs:	Internally Displaced Persons
IOM:	International Organization for Migration
IZA:	Institute for the Study of Labor
NGOs:	Non-Governmental Organizations
NPA:	National Peace Advisors
NRC:	Norwegian Refugee Council
OCHA:	Office for the Coordination of Humanitarian Affairs
OHCHR:	Office of High Commissioner for Human Rights

PCI: Pastoral Communications Initiative Project  
SNNPR: South Nation Nationalities and Peoples of Ethiopia  
UDHR: Universal Declaration of Human Rights  
UN: United Nations  
UNDP: United Nations Development Program  
UNHCR: United Nations High Commissioner for Refugees

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## Chapter One

### Introduction

#### 1. Background

The increasing number of displacement and its grave impact on the human right protection of persons is undeniable but the concept of internal displacement as a distinct category that necessitates a separate protection and the definition of Internally Displaced Persons (herein after IDPs) is at the heart of the many debates that surround the concept of IDPs. Despite the different opinions of scholars on the definition of IDPs, the definition in the Guiding Principles on internal displacement which was devised by the former UN Secretary-General's Representative on IDPs, Francis Deng is usually used.<sup>1</sup> The Guiding Principles is a non-state negotiated compilation of existing International Human rights law and International Humanitarian Law that are relevant for the protection of the internally displaced.<sup>2</sup> There is no binding international legal instrument on IDPs except the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) and the Great Lakes regional Protocol on the Protection and Assistance to Internally Displaced Persons.

The UN Guiding Principles define internally displaced person as:-

*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.*<sup>3</sup>

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<sup>1</sup> Roberta Cohen: *Key Policy Debates in the Internal Displacement Field*, PP. 84-99, at 87, Available at <<http://www.mcrg.ac.in/rw%20files/RW32/5.RCohen.pdf>> accessed on February 28, 2016.

<sup>2</sup> David Turton: *The politics of internal displacement and options for institutional reform*, Deportate, esuli, Profughe (DEP), Venetiarum Universitas in Domo Foscari, No.17, (2011), available at < [www.unive.it](http://www.unive.it) > accessed on March 20, 2016.

<sup>3</sup> *The UN Guiding Principles on Internal Displacement* (herein after the Guiding Principles), U.N. Doc. E/CN.4/1998/53/Add 2 (1998), Introduction, Para. 2., available at < [www.brookings.edu/projects/idp/gp\\_page.aspx](http://www.brookings.edu/projects/idp/gp_page.aspx) > accessed on April 1, 2016.

The Kampala Convention and the Great Lakes protocol also adopt this same definition; reiterating that leaving habitual residence or home involuntarily and remaining in the territory of their own country marks the two definitional elements of IDPs. The involuntariness differentiates internally displaced person from those who leave out of will whereas not crossing internationally recognized border distinguishes internally displaced persons from refugees.<sup>4</sup> The fact that the IDP is far from his home or habitual residence but still within its own state denotes that the primary responsibility to provide protection and assistance for the IDP is the national obligation of such state and yet it may be difficult to impose such responsibility in the absence of a binding legal instrument. Furthermore in some instances the state itself could involve in creating the causes of displacement directly or indirectly<sup>5</sup> in which case international protection for internally displaced seems feasible but still the sovereignty of the state can be a hurdle for such protection.<sup>6</sup>

The international community is much more concerned with internal displacement as a result of inter-state or intra-state armed conflicts but the overlooked ethnic or inter-communal conflict which fall short of the armed conflict threshold has its own share in producing internal displacement. Africa is the first in line of continents that deal with the suffering of ethnic (Communal) conflicts.<sup>7</sup> In particular the Horn of Africa is characterized as a place of ongoing inter-state and intra-state conflicts ingrained in the 'economic, social, political and historical grounds' but the major reasons can be boiled down to 'border and territorial conflicts and ethnic and religious polarization'.<sup>8</sup> Inter communal conflicts is the major aspect of intra-state conflict

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<sup>4</sup> UNHCR: *Global Protection Cluster Working Group*, Handbook for the Protection of Internally Displaced Person, at 8, Available at < [www.unhcr.org](http://www.unhcr.org) >, accessed on February, 28, 2016.

<sup>5</sup> Internal displacement monitoring center (IDMC) and Norwegian Refugee Council (NRC): *Internal Displacement: Global Overview of Trends and Developments in 2006*, (2007), at 6., available at < [www.internal-displacement.org](http://www.internal-displacement.org) >, accessed on February 28, 2016.

<sup>6</sup> Katja Luopajarvi: *Is there an Obligation on State to Accept International Humanitarian Assistance to IDPs Under International Law?*, International Journal of Refugee law, Vol.15, No. 4, (2003), PP. 678-714, at 687., Available at < [www.ijrl.oxfordjournals.org](http://www.ijrl.oxfordjournals.org) >, accessed on March 20, 2016.

<sup>7</sup> Abraha Tesfay: *Dynamics of Inter-Communal Conflict in North-East Ethiopia: The Case of Wejerat People and Their Neighboring Afar*, Anthology of Peace & Security Research, Institute for Peace and Security Studies (IPSS), Addis Ababa University and Friedrich-Ebert-Stiftung (FES), Vol. 3 (2012), at 4.

<sup>8</sup> Muhabie Mekonnen: *The Root Causes of Conflicts in the Horn of Africa*, American Journal of Applied Psychology, Vol. 4, No. 2 (2015), pp. 28-34, at 28, available at < [www.ajap.com](http://www.ajap.com) > accessed on Dec 23, 2016.

in Africa.<sup>9</sup> The ethnic structure of the entire region of Sub-Saharan African countries is the most favorable setting for ethnic induced conflicts that generate a great number of internal displacements.<sup>10</sup>

Ethiopia is a home for a diversified multi ethnic people<sup>11</sup> and it's not a surprise to encounter ethnic hostilities every now and then. Ethiopia has experienced at numerous occasions inter-communal conflicts that are different in terms of magnitude, 'causes and actors in the communal conflicts'.<sup>12</sup> Historically there have been several conflicts amid pastoral communities since the 1890's and some of them are categorized as intense and hard whereas some are considered as near to the ground.<sup>13</sup> The root causes of these inter-communal conflicts were founded in the then traditional race over common natural resources such as water and or grazing land as well as over social values, economic and political issues.<sup>14</sup> Both the local community and the local government were involved in the conflicts.<sup>15</sup>

The Ethno centric federalism and its politics which created ethnic based regional boundaries along with natural resources and the competition among ethnic groups for 'economic resources and asset building'<sup>16</sup> has been identified as the causes of inter communal conflicts in today's Ethiopia. Other reasons such as Historical and Policy related Factors, Lack of Public Accountability and Good Governance also made it to the list as the major causes for ethnic

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<sup>9</sup> *Abraha Tesfay, supra note 7.*

<sup>10</sup> John Oucho: *The Ethnic factor in Internal Displacement of Populations in Sub-Saharan Africa*, Africa journal of political science, Vol. 2, No. 2 (1997), PP. 104-117 at 104.

<sup>11</sup> Mellese (2008); Abeje (2006) as cited by *Abraha Tesfay, supra note 7*, at 4.

<sup>12</sup> *Abraha Tesfay, Supra note 7.*

<sup>13</sup> *Id.*

<sup>14</sup> Buli (2001) as cited by *Abraha Tesfay, supra note 7*, at 4.

<sup>15</sup> *Abraha Tesfay, Supra note 7.*

<sup>16</sup> Sisay Gebre-Egziabher: *What Role Should Civil Society Organizations play to address Ethnic Conflicts in Ethiopia?*, Paper Presented at The Fourth International Conference on Ethiopian Development Studies (4<sup>th</sup> ICEDS) on the Challenges and Opportunities for Peace & Development in Ethiopia & Northeast Africa, August 2-4 (2007), Haworth College of Business, Western Michigan University, Kalamazoo, USA, at 12-17., available at <[www.homepages.wmich.edu/~asefa/.../Papers/2007%20papers/Sisay%20Gebre%20Paper.do](http://www.homepages.wmich.edu/~asefa/.../Papers/2007%20papers/Sisay%20Gebre%20Paper.do)> accessed on March 27, 2016.

conflicts in the country.<sup>17</sup> The vulnerability of Pastoral and agro-pastoral communities were heightened in such inter communal conflicts.<sup>18</sup> Some existing studies also put forward their concern on the recent increase of inter-ethnic conflicts.<sup>19</sup> It is no wonder that such conflicts lead to a loss of lives and destruction of properties<sup>20</sup> even though the studies are ignorant of the fact that the conflicts displace many people from their residence.

## 2. Statement of the Problem

Ethiopia experienced internal displacement as a result of ethnic conflicts such as the 2002-2003 ethnic clash in the Southern Nations Nationalities and Peoples Region, the 2003-2004 ethnic clash in Gambella, the 2002 conflicts in Somali region<sup>21</sup> and, deliberate policy or practice of arbitrary displacement, generalized violence, human rights violations<sup>22</sup> including development projects.

Somalia, Gambella, Oromia and Southern Nation Nationalities and Peoples Region (SNNPR) are the regions where there are a great number of IDPs as a result of ethnic conflict in Ethiopia.<sup>23</sup> However, the nature and magnitude of ethnic conflict induced internal displacement is not

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<sup>17</sup> *Id.*

<sup>18</sup> *Abraha Tesfay, Supra* note 7.

<sup>19</sup> *Id.*

<sup>20</sup> Getachew Kassa: *The Gari and Borana Conflict in Southern Ethiopia, Past and Current Attempts of Mediation and Settlement Efforts and the Strengths and Weakness of Conflict Mediation Strategies and Institutions*, Paper presented at the 7<sup>th</sup> Congress of the Organization for Social Science Research in Eastern and Southern Africa, Khartoum, Sudan, December 15-16 (2002)., available at <[https://uvhw.de/files/3\\_uvHW\\_PDF\\_Download/uvHW-105-2\\_FULL-TEXT.pdf](https://uvhw.de/files/3_uvHW_PDF_Download/uvHW-105-2_FULL-TEXT.pdf)> accessed on March 21, 2016.

<sup>21</sup> Norwegian Refugee Council (NRC): *Profile of Internal Displacement: Ethiopia*, Compilation of the Information available in the Global IDP database of the Norwegian Refugee Council (2004), at 18, available at <[www.idpproject.org](http://www.idpproject.org)>, accessed on March 20, 2016.

<sup>22</sup> Internal displacement monitoring center (IDMC) and Norwegian Refugee Council (NRC): *Internal Displacement: Global Overview of Trends and Developments in 2010* (2011), at 47, Available at <[www.internal-displacement.org](http://www.internal-displacement.org)>, accessed on March 28, 2016.

<sup>23</sup> Internal displacement monitoring center (IDMC) and Norwegian Refugee Council (NRC): *Ethiopia: Government recognition of conflict IDPs crucial to addressing their plight* (2006), at 1, available at <[www.internaldisplacement.org](http://www.internaldisplacement.org)>, accessed on April 24, 2016.

known in Ethiopia.<sup>24</sup> Bench Maji zone in the SNNPR which is the study area of this research is one of such places where ethnic conflict-induced internal displacement exists but their number and protection remains uncertain.<sup>25</sup> For those displacement situations which are relatively better documented, there is a discrepancy of interpretations made by the Ethiopian government and UN agencies about the number of internally displaced people as a result of ethnic conflict.<sup>26</sup>

The Guraferda displacement case involves the attempt of the woreda executives to forcibly evacuate around 30,000 people whose ethnic composition is Amhara, Tigray, Oromo and Kembata.<sup>27</sup> Due to their ethnic difference to the woreda population, this people claim being considered as outsiders.<sup>28</sup> The woreda executives instigated the local people to commit hostile acts against the resettles to force them to leave the woreda.<sup>29</sup> The police established check points on the road to control incoming people from the northern part of Ethiopia. They stopped public transportation cars to search for any outsiders from the north and force them to get off the car to send them back to where they come from.<sup>30</sup> The identity card, certificate of possession for land and other important documents of the victim was destroyed. As the victims claim the persons in the transport car were not necessarily new comers; they were coming back home. These persons were living in the Woreda for more than 8 and 7 years and they left the Woreda temporarily to visit family elsewhere, to attend medical care and/or; spiritual cure and other personal business.<sup>31</sup> In the processes of the evacuation, the police and Woreda administrators were forcefully

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<sup>24</sup> Internal displacement monitoring center (IDMC) and Norwegian Refugee Council (NRC): *Ethiopia: Addressing the rights and needs of people displaced by conflict* (2007), at 4, available at <[www.internal-displacement.org](http://www.internal-displacement.org)>, accessed on April 24, 2016.

<sup>25</sup> *Id.*, Map of Internal Displacement in Ethiopia, at 3.

<sup>26</sup> Internal displacement monitoring center (IDMC) and Norwegian Refugee Council (NRC): *People internally displaced by Conflict and Violence*, Global Overview (2015), at 29., available at <[www.internal-displacement.org](http://www.internal-displacement.org)>, accessed on April 24, 2016..

<sup>27</sup> See Annex A, B and D, Summary of the claim by the victims of the displacement in a letter from the Human Rights Commission to the SNNPR President Office, Written on July 1, 2007 and the second letter on December 19, 2008, and a letter from the Regional Security and Administration Office to the Woreda Justice and Security Office.

<sup>28</sup> Yonas Girma: *Implication of Ethiopian Federalism on the Right to Freedom of Movement and Residence: Critical Analysis of the Law and the Practice*, Master's Thesis, unpublished, Addis Ababa University, (2013), at 95.

<sup>29</sup> See Annex C, the Victims Petition to HOF, written on April 08, 2009.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

arresting without court order which threaten the life and physical integrity of the victims.<sup>32</sup> The act of arrest also extended to the family members and visitors who went to the prison to see the wellbeing of their relatives.<sup>33</sup> Some members of the victims were able to communicate this wrongful act to the Ethiopian Human Rights Commission twice. Nonetheless on March 2012, the regional government officially ordered the evacuation of those who settle in the woreda after the year 2008. The manner of the displacement with respect to human rights guarantees; the whereabouts of this displaced people and the durable solutions for their displacement remain uncertain.

### **3. Research Questions**

#### **3.1 Central research Question**

- a. Whether there is an adequate national framework for IDPs with a capacity to put up with the specificity of ethnic conflict-induced IDPs?
- b. Whether the justification and the manner of the Guraferda displacement are well founded in international human rights law?

#### **3.2. Specific Research Question**

- a. Is there a need to label IDPs as a specific category of concern?
- b. Whether the initiatives of the international community for the protection and assistance of IDPs are adequate?

### **4. Objectives**

Generally the study aspires to analyze how the government is working towards fulfilling its national responsibility for IDPs in general and the comprehensiveness of such measures to accommodate the specificity of ethnic conflict-induced IDPs; particularly the legal foundations of Guraferda displacement situation with respect to human right principles.

#### **4.1. Specific Objectives**

- To enlighten and weigh the arguments for and against the specific category of IDPs and to show the need for the label of IDPs;

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<sup>32</sup>See Annex B, Summary of the claim by the victims of the displacement in the second letter from the Human Rights Commission to the SNNPR President Office, Written on December 19, 2008.

<sup>33</sup> *The Victims Petition to HOF*, *supra* note 29.

- To study the international responses to the crisis of IDPs and to measure their adequacy in general and their relevancy to ethnic conflict induced IDPs in particular.;
- To identify the national responsibilities for the protection of IDPs and to measure the Ethiopian national framework towards IDPs in general and ethnic conflict-induced IDPs in particular;
- To assess the legality of the justifications and manner of Guraferda displacement against international human right values.

## **5. Significance of the study**

The study aspires to awake the conscious of the public as well as the concerned national authorities and international community to take a second look at the overlooked problem of 413,400<sup>34</sup> people internally displaced and to attract their attention to the inadequacy of the present national and international response. It will contribute for the better understanding of the causes and effects of ethnic conflict internal displacement in Ethiopia and hence support the establishment, development and enhancement of durable solutions. And if this aim is fulfilled, the study will provide a platform for scholars, legal practitioners, human right advocates and other like-minded organizations and individuals to join the effort to request for the establishment of comprehensive legal and institutional regime for the better protection of IDPs in Ethiopia. Considering the demanding situation of IDPs, there are major legal developments for the protection of IDPs in the African continent particularly the AU Kampala Convention, the protocol for the protection of IDPs by the Great Lakes region of East, Central and Southern Africa, the Khartoum Declaration on IDPs which is the result of the ministerial conference on IDPs in the IGAD sub region. This study will provide the impetus and show the pressing need why Ethiopia should be part of such legal developments, to craft a protection mechanism including policy and institutional framework for the protection of conflict induced IDPs.

## **6. Scope and Limitations of the Study**

The study is limited to exploring the national framework for the protection and assistance of IDPs in general and the capability of such framework to respond to ethnic conflict-induced IDPs

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<sup>34</sup> Available at internal displacement monitoring center<[www.internal-displacement.org](http://www.internal-displacement.org)>, accessed on June 20, 2016. As of July 2015, internal displacement monitoring center estimates the existence of 413,400 internally displaced people in Ethiopia as a result of border disputes and violence among communities.

effectively. For the purpose of this study the term ethnic conflict does not include conflicts related with state formation, succession or any other identity claims of a nation or group of people. Particularly the study focuses on questioning the legal basis of the justifications and the manner of Guraferda displacement in SNNPR, Bench Maji Zone Guraferda Woreda. The study confines itself on the quest to find out the legal and administrative reactions of the Federal as well as the Regional and Zonal level governments towards the conflict induced IDP situation which erupted following the 2000s unprompted and government sponsored resettlement schemes in the woreda.

The study utilized resources which are geographically limited to the capital city Addis Ababa and Wolkite town. Efforts have been made to include the perspectives of the then local authorities at the woreda and zonal level but locating the whereabouts of such authorities has been extremely difficult as these officials have left their office. Nonetheless sufficient data was obtained to conduct the research.

Though it was impossible to obtain information and secure documents involving the Guraferda displacement case from the Ethiopian Institution of Ombudsman; copy of the petitions of the displaced people from Guraferda woreda to the HOF and the Human Rights Commission have been obtained from the representatives of the displaced people. Due to the practical difficulty including time and financial constraint to contact more victims of the displacement, the study interviewed three victims one of which is representatives of the victims and made the analysis on the basis of such interview and petitions of the victims which contains signatures of more than 150 people.

## **7. Methodology**

**7.1. Study design:** The study is interested at finding the legal, policy and institutional framework for the protection of ethnic conflict induced IDPs based on a case study. Thus it is a non-doctrinal research advanced with a practical insight. It is not concerned in getting a representative sample of IDPs rather, the primary goal of the study is to explore and understand the legal schemes and policy regimes of the country in protecting ethnic conflict induced IDPs, particularly to evaluate the measures taken by governmental organizations in response to the displacement crisis in Guraferda Woreda and alienate the facts to construct a finding. Accordingly a Qualitative design will suit the study.

**7.2. Data collection:** The researcher gathered both primary and secondary data. A semi structured interview questions on the basis of legal standards and international practices was prepared and employed to collect primary data from the study area. Interview method is the tool to assess the IDP protection scheme and its triumph or otherwise on the basis of the victim's perspective and the relevant local as well as Federal government officials.

The secondary data was utilized mainly to discover the general contemporary issues surrounding the concept of IDPs, its causes and effects internationally, regionally and nationally. The study made use of the document analysis of the petitions the victim population have submitted to the HOF and the Human Rights Commission.

**7.3. Data Analysis:** The study analyzed the data collected based using primarily thematic method and occasionally utilizes explanatory method.

## **8. Literature Review**

Not many but different writers and international organizations have discussed the issue of IDPs and their human right protection in Ethiopia. While exploring ethnic conflict-induced displacement the literatures discovered that the country is lacking institutional development, policy and legal framework for their protection. Moreover, opinions differ in terms of placing a blame for the causes of ethnic conflict induced displacement.

IDMC<sup>35</sup> in its special report explained that due to the lack of countrywide definition of IDPs and a policy framework for their protection, the government of Ethiopia did not give official acknowledgment to all conflict induced internal displacement. It has also pointed out that though there is no country wide IDP assessment, the 2007 Humanitarian Appeal for Ethiopia which is prepared in association with the government comprises "*populations affected* by natural disasters such as prolonged drought, flooding and other shocks, as well as *by localized conflicts*, [as well as] women, children under five, youth, adolescents, the elderly and emergency induced displacements"<sup>36</sup> as vulnerable groups. The center believes that there is a difference between the

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<sup>35</sup> Internal displacement monitoring center and Norwegian refugee council: *Ethiopia: Human rights violations and conflicts continue to cause displacement*, A Profile of the internal displacement situation, (2009), available at [www.internal-displacement.org](http://www.internal-displacement.org), accessed on June 20, 2016.

<sup>36</sup> *Id.*, at 67

international community and the Ethiopian government and sometimes among national agencies in identifying an IDP and the lapse of IDP status.<sup>37</sup> Moreover IDMC confirmed that the government takes in to account facts such as displacement for more than five years and accessing emergency food aid as indication of either integration or fulfillment of any other needs.<sup>38</sup> The difficulty of identifying and numbering IDPs in Ethiopia is another uncertainty IDMC have revealed in its reports. The numbers provided in the reports are best obtainable estimates since there is no intensive data collection and record of return movements.<sup>39</sup> The center fears that the imprecision of IDPs number could also be attributed to the fact that local authorities might exaggerate the number of IDPs conveyed.<sup>40</sup>

On the other hand OCHA in its 2013 displaced person report concluded that the various ethnic and inter-communal conflicts are generated from the struggle to access resources, land and property. And the possibility of return for those displaced as a result of such conflicts seems unlikely due to insecurity in the areas.<sup>41</sup> Furthermore the OCHA based its proposition on IOMs finding that identifying durable solutions such as permanent reintegration for IDPs in Ethiopia is still intangible owing to the uncertainty of the tensions and the deficiency of socio-economic progress in the pretentious areas where the humanitarian situation remains dire.<sup>42</sup>

However the conflict induced internal displacement should also be considered from the perspective of wider population movement particularly economic migration and resettlement programs as these factors have the potential to effect the composition and interaction of people

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<sup>37</sup> *Id.*

<sup>38</sup> Internal displacement monitoring center (IDMC) and Norwegian Refugee Council (NRC): *Ethiopia: Government recognition of conflict IDPs crucial to addressing their plight* (2006), at 6, available at <[www.internaldisplacement.org](http://www.internaldisplacement.org)>, accessed on April 24, 2016.

<sup>39</sup> Internal displacement monitoring center and Norwegian refugee council: *Ethiopia: Human rights violations and conflicts continue to cause displacement*, A Profile of the internal displacement situation (2009), available at <[www.internal-displacemnt.org](http://www.internal-displacemnt.org)>, accessed on June 20, 2016.

<sup>40</sup> *IDMC and NRC, supra* note 38.

<sup>41</sup> United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA): *Eastern Africa: Displaced Populations*, Report, Issue 15, (2013), at 7, available at < [www.unocha.org](http://www.unocha.org) > accessed on April 11, 2016.

<sup>42</sup> *Id.*, at 8.

including stability of regions.<sup>43</sup> That is what Yonas<sup>44</sup> was pledging for the causes of ethnic conflict induced displacement. Yonas conducted his study based on the March 2012 incident in Guraferda woreda which led to the displacement of around 30,000 people. Though the people are there as a result of resettlement, Yonas contends that the resettles never consider themselves as outsiders and they were integrated with the local Me'enit community through marriage, culture and religion. However such social interaction was not accepted by the highest public officials of the woreda, the local leaders and regional state officials. Yonas claims that these officials have developed "a sense of ethnic segregation against"<sup>45</sup> the Amara settlers. Although the regional and woreda officials based the justification for the forced eviction of the resettled people on the unlawfulness of their settlement and possession of land as well as their illegal act of deforestation, Yonas claims that it is the resentment of the officials against the resettles that lead to the displacement of Amara ethnic groups from the woreda. He dwells this argument on the allegations of the victims of the displacement and their evidence for the lawful possession of the land and their settlement, and the fact that their resettlement was government sponsored and a result of invitation by the host community. He also argued that whether the allegations of the government about unlawful possession of land is truthful or not, it does not matter as the forced displacement of the people is a violation of the constitutional right to movement and the wrongful deforestation of the land is not a legal justification to deny such right.<sup>46</sup>

Others such as Siraw Megibaru<sup>47</sup> place the causes of the ethnic conflict induced internal displacement at the heart of the weaknesses of ethnic federalism. He argued that the ethnic federalism has announced a new structure in terms of a right to access resources and other prospects which is only guaranteed to those individuals who are living in their designated ethnic state. Those who are outside their ethnic homeland are not entitled to such rights and benefits

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<sup>43</sup> *IDMC and NRC supra* note 39, at 84.

<sup>44</sup> *Yonas Girma, supra* note 28.

<sup>45</sup> *Id.*, at 94.

<sup>46</sup> *Id.*, at 95-96.

<sup>47</sup> Siraw Megibaru: *Weaknesses of Ethnic Federalism in Ethiopia*, International Journal of Humanities and Social Science Invention, Vol. 4. Issue 11. (2015), at 49-54, available at <[www.ijhssi.org](http://www.ijhssi.org)> accessed on May 1, 2016.

and such situation has instigated a competition between “the non-titular and titular groups” which resulted in hostility and conflict.<sup>48</sup>

However inter communal conflict as a result of the competition for resources were evident in the previous regimes as well. On this point Getachew and some others contend that the recent conflicts are different from previous ones on account of the rate of recurrence, the intensity and the foundations of the conflicts and their impact on the communities.<sup>49</sup> In Ethiopia, scholars allege that the changing aspect of the conflicts is grounded in the preceding and continuing ‘Complex process of political liberalization and ethnic federalism-based policies that have been taking place since the early 1990s.’<sup>50</sup> Similarly Hagmann and Alemaya blame the post 1991 decentralization of administrative power for the increment of conflicts among the marginalized regional states of the country over resources.<sup>51</sup> The 1990’s era changed the national politics of the country<sup>52</sup> and presented Ethnic federalism as a tool to put an end to the past conflict galloped ethnic relations of the country.<sup>53</sup> Nonetheless the political change which intended to rebuild the country has stumbled upon arrays of encounters and prospects in managing ethnic induced inter-communal conflicts and tensions.<sup>54</sup>

The studies have brought many issues to the light but did not include the political as well as the legal measures the government has been taking towards inter communal conflict; and how the claims of the victims Guraferda displacement was handled by the relevant government organs, the human right protection and the humanitarian assistance of such displaced people.

## 9. Review of Chapters

The paper contains five parts including this one. Following this chapter is Chapter Two: The internal displacement: why a special category? which seeks all the arguments for and against the

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<sup>48</sup> *Id.*, P. 51.

<sup>49</sup> *Getachew Kassa, supra note, 20.*

<sup>50</sup> *Abraha Tesfay, Supra note 7.*

<sup>51</sup> Hagmann, T., and A. Mulugeta: *Pastoral Conflicts and State-Building in the Ethiopian Lowlands*, Afrika Spectrum, Vol.43.No.1 (2008), PP.19-37.

<sup>52</sup> *Abraha Tesfay, Supra note 7.*

<sup>53</sup> Asnake Kefale: *Federalism: Some Trends of Ethnic Conflicts and their Management in Ethiopia* (2002), available at <[http://www.1.un1-hamburg.de/ice2003/politi cs.html](http://www.1.un1-hamburg.de/ice2003/politi_cs.html)> accessed on March 27, 2016.

<sup>54</sup> *Id.*

specific category of internal displacement. Scholarly debates over the issue including the definition of IDPs and the special necessities and concerns of IDPs in comparison with refugees are covered in the sections. The concern of the international community on the issue of IDPs and the legal development thereof regulate and respond to the plight of IDPs is also in the scope of the chapter.

Chapter Three: Human rights Protection and Humanitarian Assistance to IDPs is all about how inclusive is the international legal frameworks for the human rights protection and humanitarian assistance of IDPs. This chapter put forth the legal standards against which a state's practice is to be measured. This part of the paper devotes itself to exploring the substantive right of IDPs and the corresponding obligations of the states.

Chapter Four: The National Response to IDPs in Ethiopia contains two major parts where it analyzes the national response of Ethiopia to IDPs in general and ethnic conflict-induced IDPs in particular. The first part of the chapter considers the national response to IDPs in general and; the specificity of ethnic conflict-induced IDPs. Considering the absence of a parameter apart from the legal basis to measure state practical response to IDPs, the assessment and analysis of the Ethiopian national responses is made on the basis of the framework for national responsibility developed by the Bern Project on Internal Displacement. The second part is a case analysis focusing specifically on the Guraferda Displacement. The justifications behind and the manner of the displacement, the communications of the displaced to the concerned institution in an effort to get remedy for the human right will be evaluated on the basis of the legal standards set forth in chapter three of this study. What follow is the **conclusions** of the finding and forwarding **recommendations** for the proper handling of ethnic conflict-induced internal displacement in the country.

## Chapter Two

### The Separate Category of IDPs: International Recognition and Controversies

#### 2.1. Introduction

Though there is an international understanding about the plight of IDPs, in what form should the international community respond to such crisis is the issue that the international community is debating over. The discussion among the scholars and institutions are both theoretical and pragmatic. These arguments are sometimes made in relation and comparison to the legal and institutional arrangements provided for refugees. In a nutshell the various propositions and arguments involve the issue of IDPs being a separate category of concern to the international community, the definition of IDPs itself, the notion of sovereignty and a national responsibility against international assistance, the appropriateness and adequacy of the normative framework and institutional mechanism envisaged by UN for the protection of IDPs. This section of the chapter is devoted to see such discourses.

#### 2.2. When did the overlooked become the Apparent?

With the apparent increase of IDPs number, the 1990's is the era where the nonexistence of an international protection system for the IDPs was recognized<sup>55</sup>. While working on the field, international relief organizations, NGOs and UN agencies particularly the UNHCR and UNICEF start to provide assistance to IDPs but the absence of clarity on the definition and rights of IDPs became a hurdle; and these organizations began to plea for a document on IDPs.<sup>56</sup> Human right organizations and scholars were also pushing for an international system for the protection of IDPs rallying a support 'both for the appointment of a UN representative on IDPs and for the development of international standards to protect them'.<sup>57</sup> At the time when the effects of the Gulf war were intensified, the UN took its first stand for the protection of IDPs through its

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<sup>55</sup>Roberta Cohen: *The Guiding Principles on Internal Displacement: An Innovation in International Standard Setting*, Global Governance, Vol. 10 (2014), PP. 459-480 at 459.

<sup>56</sup> *Id.*, at 461.

<sup>57</sup> *Id.*, at 462.

Security Council resolution 688.<sup>58</sup> The resolution insisted that all people in need should be provided with humanitarian assistance irrespective of their status as refugees or IDPs.<sup>59</sup> In furtherance of this effort, the UN Commission on Human Rights call for the UN Secretary General to appoint a representative that has a mandate to prepare all inclusive study on measures to enhance the protection of IDPs in 1992.<sup>60</sup> In July that year the Secretary General designated Dr. Francis M. Deng to be the representative on IDPs.<sup>61</sup> Dr. Deng believes that it was due to the compelling reason of sensitivity for sovereignty that a representative on IDPs was assigned as opposed to a Rapporteur or Working Group to deal with the issues of IDPs.<sup>62</sup>

The mandate of the representative has been evolving since then and it became the advocator for the rights of IDPs which enlighten the world's consciousness about internal displacement crisis and promotes for international response.<sup>63</sup> The man who is the first UN Secretary General's Representative for IDPs summarized his mandate and it's growth in the following manner.

*Specifically, the activities of the mandate focus on four areas: developing an appropriate normative framework for responding to the protection and assistance needs of the internally displaced; fostering effective institutional arrangements at the international and regional levels to these same ends; focusing attention on specific situations through country missions; and undertaking further research to broaden and deepen our understanding of the problem in its various dimensions.*<sup>64</sup>

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<sup>58</sup> Astri Suhrke: *Reflections on Regime Change, Researching Internal Displacement: State of Art*, Conference Report, Trondheim, Norway, February 7-8 (2003), at 15, available at <[www.idp.ntnu.no](http://www.idp.ntnu.no)>, accessed on Dec, 16, 2016.

<sup>59</sup> *Id.*

<sup>60</sup> Adama Dieng: *Addressing the Root Causes of Forced Population Displacements in Africa: A Theoretical Model*, International Journal of Refugee Law, Vol. 119, (1995), PP. 119-129, at 120.

<sup>61</sup> *Id.*

<sup>62</sup> UN Commission on Human Rights, *Comprehensive study prepared by Mr. Francis M. Deng*, U.N. Doc. E/CN.4/1993/35 (1993).

<sup>63</sup> *Id.*, at 146.

<sup>64</sup> Francis M. Deng: *The Global Challenge of Internal Displacement*, *Journal of Law and Policy*, Vol. 5: 141, (2001), PP. 141-155, at 144 available at <[http://openscholarship.wustl.edu/law\\_journal\\_law\\_policy/vol5/iss1/12](http://openscholarship.wustl.edu/law_journal_law_policy/vol5/iss1/12)> accessed on Dec. 17, 2016.

The success and draw backs which are resultant of such mandates will be discovered incidentally within the discussion in the coming sections of the chapters.

## **2.3. The Guiding Principles and its Definition of IDPs**

### **2.3.1. The Origin of the Guiding Principles**

The Guiding Principles were the result of the UN Commission on Human Rights and the General Assembly request to the Secretary General's Representative to formulate an "appropriate framework" for the protection of IDPs.<sup>65</sup> In response to this request Dr. Deng along with a team of international experts started to study international laws<sup>66</sup> particularly human rights law, humanitarian law and refugee law to determine the magnitude of protection for IDPs in the existing laws.<sup>67</sup> The team engaged in a task of "Compilation and Analysis of Legal Norms" and discovered that though the existing laws shield various pertinent issues of the IDPs, there still remains a substantial gap that is outside the ambit of these laws.<sup>68</sup> In explaining the preparation of the Guiding Principles Dr. Deng wrote that:

*The team recommended compiling all the legal provisions relevant to internally displaced persons in one document to restate the law and to address the identified gaps and gray areas. The Commission on Human Rights and the General Assembly welcomed the compilation and, on that basis, requested that I develop an appropriate normative framework for the internally displaced. In response to that request, I continued to work with the legal team and we developed the Guiding Principles on Internal Displacement (Guiding Principles or Principles).<sup>69</sup>*

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<sup>65</sup>Bilgin Ayata, Deniz Yukseker: *A belated awakening: National and International Response to the Internal Displacement of Kurds in Turkey*, New Perspective in Turkey, No. 32, (2005), PP.5-42 at 11.

<sup>66</sup> Francis M. Deng, *Supra* note 64, at 146.

<sup>67</sup> Roberta Cohen, *Supra* note 55, at 462.

<sup>68</sup> Francis M. Deng, *Supra* note 64, at 146.

<sup>69</sup> Francis M. Deng: *Compilation and Analysis: Report of the Representative of the Secretary General*, U.N.Doc. E/CN.4/1996/52/add 2 (1996) (submitted pursuant to the Committee on Human Rights resolution 1995/57), as noted by Francis M. Deng, *supra* note 66, at 146.

Dr. Deng managed to present the “Compilation and Analysis of Legal Norms” to the Commission on Human Rights in 1996 for the first time and in 1998 with a supplement.<sup>70</sup> The development of a normative framework for the protection of IDPs in the form of Guiding Principles is the most prominent accomplishment of the mandate of the Representative.<sup>71</sup> The Guiding Principles are a restatement of existing norms that are analogues and pertinent to the needs and protection of IDPs. The principles set out standards for protection against arbitrary displacement, a protection during displacement which is mainly about the human right protection of the displaced and it also regulates finding durable solutions to the displaced.<sup>72</sup>

As opposed to “rights based approach” the team decided to adopt “needs based approach” which “means identifying the needs of the internally displaced and then examining the extent to which the law adequately addressed those needs.”<sup>73</sup> The idea is that any assessment of IDPs right depends on the particular and specific “needs of this distinct category of persons”.<sup>74</sup>

### **2.3.2. Who is an IDP?**

The guiding Principles are thirty in number and provide a wide range of protection to IDPs, covering all parts of displacement. The most important point here is which scenario of displacement and who is entitled to such protection. The definition in the Guiding Principles as opposed to the 1992’s definition of IDPs by the UN Secretary-General<sup>75</sup>, avoids the particular point in time where displacement occurred and also the requirement of fleeing in groups to be recognized within the category of IDPs. Let’s repeat the definition of IDPs provided in Guiding Principles here to start the discourse. The Guiding principle defined internally displaced person in its introduction part as:

*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*

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<sup>70</sup> Roberta Cohen, *Supra* note 55, at 463.

<sup>71</sup> Bilgin Ayata, Deniz Yukseker, *Supra* note 65, at 11.

<sup>72</sup> Roberta Cohen, *Supra* note 55, at 465.

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

<sup>75</sup> United Nations Commission on Human Rights: *Analytical Report of the Secretary-General on Internally Displaced Persons*, UN Doc. E/CN.4/1992/23 (14 February 1992), Para. 17.

*human-made disasters, and who have not crossed an internationally recognized state border.*<sup>76</sup>

In comparison to the definition by the Secretary General, the Guiding principles introduced many significant developments in its definition. In recognition of the fact that people flee not only because of the grief incurred due to displacement but “also in anticipation of such effects,”<sup>77</sup> the term “as a result of *or in order to avoid the effects of*”<sup>78</sup> was introduced among the causes of IDPs listed in the Guiding Principle. Furthermore reference to “habitual places of residence” is made to acknowledge the practical situation where a person could not essentially have a home.<sup>79</sup> Lastly the world have seen the change of territorial borders in its history and to avoid any confusions in the future if such thing happen again, the Guiding Principles made alteration of the statement “within the territory of their own country”, in to persons “who have not crossed an internationally recognized state border”.<sup>80</sup>

Furthermore Kälin and Mooney made it clear that the definition in the Guiding Principles does not award a legal status to the IDPs rather it is a description of circumstances of internal displacement. Erin Mooney explained this saying:

*The definition of “internally displaced person” is a descriptive, rather than legal, definition. It simply describes the factual situation of a person being displaced within one’s country of habitual residence. The term does not connote or confer a special legal status in the same way that recognition as a “refugee” does. This is not necessary for IDPs, Walter Kälin explains, because whereas refugees having lost the protection of their own country and being outside of their own state therefore require a special legal status, ‘the rights and guarantees to which IDPs are entitled stem from the fact that they are human beings and citizens or habitual residents of a particular state.’<sup>81</sup>*

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<sup>76</sup>*The Guiding principles, supra* note 3.

<sup>77</sup> Erin Mooney: *The Concept of Internal Displacement and The Case for Internally Displaced Persons as a Category of Concern*, Refugee Survey Quarterly, Vol. 24, Issue 3, UNHCR (2005), at 11.

<sup>78</sup> *The Guiding Principles, Supra* note 3.

<sup>79</sup> *Erin Mooney, Supra* note 77, at 11.

<sup>80</sup> *Id.*

<sup>81</sup> *Erin Mooney, Supra* note 77, at 7-14.

However several scholarly writings which contributed much to the gradual development of the IDPs regime have adopted the description of the Guiding Principles as a definition.<sup>82</sup>

#### **2.4. Recognized Causes of Displacement**

Nevertheless there are several weighing arguments against and for the causes of displacement recognized in the Guiding principles. There are some who argue for the recognition of persons who are only displaced due to violence and persecution which means in other words person who is qualified as refugee had the person crossed over internationally recognized border.<sup>83</sup> However various NGOs were against this proposition clarifying that limiting the definition of IDPs to those who are in “refugee like situations” creates a definition that does not accurately represent the diverse causes of displacement including development projects and natural disasters.<sup>84</sup>

In spite of this principle and the belief among international experts in the inclusive concept of IDPs definition, there is no uniformity among governments and NGOs including the UN because the entire world is much more concerned with internal displacement situations as a result of inter-state and intra-state conflicts. The publications on the global number and profile of IDPs only focus on IDPs who fled as a result of conflict and human right violations.<sup>85</sup> In particular, the global overviews on IDPs are usually reports of displacement as a result of armed conflict and grave human right violations. However there are conflict situations whereby the level and intensity of the conflict does not fulfill the armed conflict threshold required in the humanitarian law but which without no doubt displaces countless number of people and creates a great deal of suffering. For example, inter-communal tensions and conflicts that does not involve the government but members of the community deploying scattered use of weapons and other means of force against a particular racial, ethnic, political or religious group in the community. This act of hostility could also involve forwarding multiple threats against this group and segregating them not to participate in the economic, social and political activities of the community and people forced by this situation leave their residence. Clearly these acts are also

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<sup>82</sup> David Fisher: *Global Data base: Guiding Principles, Frequently asked questions*, The Brookings-Bern Project on Internal Displacement, Institute for the Study of International Migration at Georgetown University (2005), available at <[http://www.law.georgetown.edu/idp/english/id\\_faq.html](http://www.law.georgetown.edu/idp/english/id_faq.html)> accessed on April 24, 2017.

<sup>83</sup> *Roberta Cohen, Supra* note 55, at 87.

<sup>84</sup> *Erin Mooney, Supra* note 77, at 12.

<sup>85</sup> *Erin Mooney, Supra* note 77, at 12.

violations of human rights where the perpetrator of the act may or may not be the state itself. In some situations the government armed force involves to restore peace and keep the security of the community which could also led to or exacerbate displacement. This kind of displacement happens in Ethiopia every now and then.

## **2.5. The Need for IDPs Label as a Separate Category of Concern**

It is not only the definition of IDPs that is debatable in the IDPs regime. When the issues of IDPs gained international attention in the 1990's, arguments were going back and forth among academicians and humanitarian organizations on whether there should be the label of IDPs as special concern for the international community.<sup>86</sup>

### **2.5.1. Privilege and Discrimination among Vulnerable Groups**

What writers consider the most vital oppositions against the specific category of IDPs was the fear of creating a privileged group and a discrimination against “all actual and potential vulnerable groups”.<sup>87</sup> However, in answering this concern Roberta Cohen who was one of the members of the team clarified that the Compilation and Analysis revealed; the provision of special protection in particular for underprivileged groups whether ‘refugees, minorities, indigenous people, the disabled, women, or children’ has been a long standing practice in the international law.<sup>88</sup> The idea behind developing a legal regime for IDPs was not aimed at creating an advantaged prestige for IDPs rather it intends to make sure they get to enjoy protection like any other groups and that their distinctive needs are ‘acknowledged and addressed’.<sup>89</sup>

It is in fact true that IDPs have common protection risks with other categories but it is also true that internal displacement usually predisposes IDPs to a double vulnerability effect where there is additional threat of discrimination and human right violations that emanate from the very fact of being uprooted.<sup>90</sup> Furthermore subsequent studies have shown that IDPs have persistent and “heightened vulnerabilities” as a result of their involuntary displacement and their necessity for a

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<sup>86</sup> *Id.*, at 14.

<sup>87</sup> *Id.*, at 15.

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

<sup>90</sup> Nina Birkeland: *Internal Displacement: Global Trends in Conflict- induced Displacement*, International Review of the Red Cross, Vol. 91:875, (2009), at 498.

durable solution.<sup>91</sup> In support of this the director of operations for the ICRC stressed that IDPs ‘deprived of shelter and their habitual sources of food, water, medicine and money, they have different, and often more urgent, material needs’.<sup>92</sup>

It should also be noted that the effect of displacement goes beyond the IDPs themselves and endangers the local communities and the host communities of the IDPs. Sometimes the very act of displacement violates human rights of the displaced and eventually the ability to claim and enjoy a whole range of fundamental rights is threatened as a result of ‘the subsequent loss of access to homes, lands, livelihoods, personal documentation, family members, and social networks’.<sup>93</sup>

However these assertions do not imply that the needs of IDPs are to be lined up first over the concerns of others without any considerations or to say that refugees are more deserving to humanitarian assistance just like Hathaway did. The principle of impartiality which is the fundamental standard in humanitarian programming entails that the delivery of aid be solely based on need.<sup>94</sup> Who is more deserving in the humanitarian assistance arena should also be answered based on the individual on a case by case basis rather than based on the category to which the person belongs.

### **2.5.2. Sovereignty**

Due to the fact that the internally displaced remain within the territorial boundary of their own state, it is only natural that the state itself assumes responsibility for their protection.<sup>95</sup> And yet when the UN is questioned why it failed to provide more for the IDPs regime in 1997, the former UN High Commissioner for Refugees, Sadako Ogata, answered saying “the problem is

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<sup>91</sup> *Id.*, at 18.

<sup>92</sup> Jean-Daniel Tauxe: ‘*We Should Have Humanitarian Access to Displaced Civilians*’, International Herald Tribune (2000), at 10, as noted by Erin Mooney, *supra* note 130 at 16.

<sup>93</sup> *Protecting Internally Displaced Persons: A Manual for Law and Policymakers*, Brookings Institution-University of Bern: Project on Internal Displacement, (2008), at 2, available at <[www.brookings.edu/idp](http://www.brookings.edu/idp)>, accessed on Nov. 20/2016.

<sup>94</sup> Erin Mooney, *Supra* note 77, at 19.

<sup>95</sup> Susanne Schmeidl, Alexander D. Mundt and Nick Miszak: *Beyond the Blanket: Towards More Effective Protection for Internally Displaced Persons in Southern Afghanistan*, A Report of the Brookings-Bern Project on Internal Displacement and The Liaison Office (TLO) (2010), at xiii

sovereignty.”<sup>96</sup> Internal displacement not only occurs inside state borders but also in most circumstances under the authority of operative governments.<sup>97</sup> In another instance government identify IDPs as ‘migrants’ or ‘terrorist’, just so it can elude responsibility for their protection and assistance or it could fail to craft policies and laws to handle the IDPs situation systematically.<sup>98</sup> It is a fact that many states are unable or unwilling to afford protection and assistance to the displaced and the question arises as to when the international community have the right to jump in for assistance.<sup>99</sup> The international community could face a challenge in getting states to undertake their obligations properly towards the IDPs as the government authorities might consider humanitarian interference as an excuse for the dominant states to meddle in the affairs of feebler states.<sup>100</sup> On his article published in 2005 Roberta Cohen said that there is a considerable increase in the international involvement with the concerns of IDPs over the past fifteen years. Irrespective of such efforts, states still remain hostile to outside aid at the pretext of defending their sovereignty.<sup>101</sup>

The end of cold war and the growing culture of human rights have remolded the traditional concept of sovereignty and increased the space of interference for the international community in the national affairs of a state. The post-cold war human right movement has won to create the belief among international community that it is lawful to be concerned about people facing danger in their own state.<sup>102</sup> Following such developments, now humanitarian organizations claim international access to reach ‘people whose survival is at stake’<sup>103</sup>. In the 1990’s Dr. Deng introduced a new concept to the world “Sovereignty as a responsibility” and he explained that:

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<sup>96</sup> Korn, D. A.: *Exodus within Borders*, Brookings Institution Press, at 49 as cited by *Roberta Cohen, supra* note 47, at 85.

<sup>97</sup> *Roberta Cohen, Supra* note 1, at 85.

<sup>98</sup> The Office of the United Nations High Commissioner for Refugees (UNHCR): *The State of the World’s Refugees*, Oxford University Press (2006) at 160, available at <[www.unhcr.org/idps/protection](http://www.unhcr.org/idps/protection)> accessed on December 20, 2016.

<sup>99</sup> *Id.*

<sup>100</sup> *Roberta Cohen, Supra* note 1, at 85.

<sup>101</sup> *Id.*

<sup>102</sup> *Roberta Cohen, supra* note 55, at 461.

<sup>103</sup> *Id.*

*In carrying out my work under the mandate, however, I approach sovereignty not as a negative concept by which states barricade themselves against international scrutiny and involvement, but rather as a positive concept entailing responsibility for the protection and general welfare of the citizens and of those falling under state jurisdiction.*<sup>104</sup>

No government dared to explicitly challenge the concept but certain governments have implicitly challenged it through numerous different acts such as denying access for international aid.<sup>105</sup> On the other hand, there are many governments which allow access to the IDPs in their territory, accept and request international aid “and cooperate with the international community in providing assistance and protection as well as rehabilitation and reconstruction assistance.”<sup>106</sup> The international community has embraced this concept and Cohen showed the enhancement of the concept of sovereignty as responsibility stating:

*Building on the concept of sovereignty as responsibility, the international community in 2005 endorsed a new landmark concept – the ‘responsibility to protect’ (R2P). One hundred ninety-two governments in the World Summit Outcome document call upon states first and foremost to protect their own populations. But if they are unwilling or unable to protect them from genocide, ethnic cleansing, war crimes and crimes against humanity, the international community is expected to take collective action.*<sup>107</sup>

### **2.5.3. The IDPs and Refugee Regime**

No matter how the number of IDPs continues to overwhelm the world, they continue to get ‘second class’ humanitarian treatment during emergency reliefs.<sup>108</sup> Even though both refugees and IDPs are the result of humanitarian emergencies, their treatment remains to be different. Refugees have the proper legal<sup>109</sup> and institutional (UNHCR) framework for their protection and

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<sup>104</sup> Roberta Cohen and Francis M. Deng: *Masses in Plight: The Global Crisis of Internal Displacement*, Brookings Institution Press, Washington DC (1998), at 144, available at < [www.brookings.edu/fp/projects/idp/idp.htm](http://www.brookings.edu/fp/projects/idp/idp.htm)> accessed on June 21, 2016.

<sup>105</sup> *Roberta Cohen, Supra* note 1, at 86.

<sup>106</sup> *Id.*

<sup>107</sup> *Id.*

<sup>108</sup> Roberta Cohen: *Addressing Internal Displacement in Africa*, statement made at Annual Meeting of the Ethiopian Community Development Council, June 20, (2000)., available at <<https://www.brookings.edu/wp-content/uploads/2016/06/20000620.pdf>> accessed on April 24, 2017.

<sup>109</sup> *The International Convention Relating to the Status of Refugee*, Geneva, 28 July 1951.

this is due to the focus of the post Second World War era on persons who for fear of persecution crossed an international border.<sup>110</sup> Based on this reality various scholars attempted to put their thoughts together to find a solution for IDPs.

Scholars such as Luke Lee<sup>111</sup> and Roberta Cohen<sup>112</sup> propose a legal marriage between the category of IDPs and refugees by omitting the requirement of border crossing in the definition of refugees. The reason for opting for a comprehensive approach towards forced migration found itself in the fact that the border crossing element has become obsolete and insignificant after the end of the Cold War.<sup>113</sup> The bottom of this merger argument is the provision of standard human right protection for all forcibly migrated. The difference in the definitional elements of IDPs and refugees allows the creation of unequal values in the human right protection of these two groups.<sup>114</sup> Thus in order to avoid this inequality, Lee proposes the solution of merging the two categories of persons under one regime and form one legal status.<sup>115</sup>

However this proposition is not free of antagonist idea which wishes to keep the distinction between IDPs and refugees. Professor James Hathaway<sup>116</sup> is a representative of those who advocate for the distinct category of refugees. This group not only propagates for the distinct protection of refugees but also argue against the very existence of IDPs as category of concern. Hathaway believes that throwing the distinct refugee category back to the crowded and indistinct forest of forced migration could undermine the rights based protection system for refugees which

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<sup>110</sup> Roberta Cohen, *Supra* note 108.

<sup>111</sup> Luke T. Lee: *Internally displaced persons and refugees: Towards a legal synthesis?*, Journal of Refugee Studies, Vol. 9, 1, (1996), at 27 & 31.

<sup>112</sup> Roberta Cohen: *Response to Hathaway*, Journal of Refugee Studies, Vol. 20 (2007).

<sup>113</sup> Elias Lema: *Internally Displaced Persons: Towards an Effective International Legal Protection Regime*, Master's Thesis, Unpublished, University of Cape Town, at 8., available at <[https://open.uct.ac.za/bitstream/item/4600/thesis\\_law\\_nggeli001.pdf?sequence=1](https://open.uct.ac.za/bitstream/item/4600/thesis_law_nggeli001.pdf?sequence=1)> accessed on April 29, 2016.

<sup>114</sup> M. Zard :Towards a comprehensive approach to protecting refugees and internally displaced in Anne F. Bayefsky (ed) *Human rights and refugees, internally displaced persons and migrant workers* (2006), at 18, as noted by *Id.*, at 9.

<sup>115</sup> Luke T. Lee, *Supra* note 111, at 27-31.

<sup>116</sup> James C. Hathaway: *The Rights of Refugees under International Law*, Cambridge University Press, New York (2005), available at < [www.cambridge.org/9780521834940](http://www.cambridge.org/9780521834940) > accessed on Nov. 24, 2016.

the world including himself have fought for during the past decades.<sup>117</sup> Though he understands that the categories are delineated arbitrarily and could not place an accurate substantial difference between the two, he still claims for separate treatment of the categories and even more consider refugees to be “double deserving” of protection.<sup>118</sup> Won Kidane in examining the thoughts of Hathaway summarized it as: Hathaway is convinced with the idea that refugees are worthy of more protection because they face a significant danger of harm on grounds the person cannot or must not be obliged to change. The characteristics form part of who the person is or what she/he believes. Furthermore the separate protection of refugees is logical since the international community is in a position to provide them with a guaranteed relief ‘as refugees are by definition outside of the country where they are persecuted’. In plain terms Hathaway believes a refugee is a person who deserves protection and who practically earns a certain international protection in lieu of the national one.<sup>119</sup>

Hathaway contends that IDPs are more likely similar to the ‘non-displaced persons’<sup>120</sup> who incur human right violations in their own country rather than refugees who are strangers in the country of refuge.<sup>121</sup> The only factual similarity between IDPs and refugee is the loss of property which also distinguishes the displaced from those non-displaced vulnerable persons.<sup>122</sup> According to Hathaway this sole reason of losing a property likewise to the refugees and distinct to the plight of the non-displaced human right violation victims, could not sculpt ‘a scholarly, legal or operational niche for the internally displaced (much less to justify the merged ‘forced migrant category’).’<sup>123</sup> Denying the Guiding Principles any authority as a law saying it’s no more than a repetition of existing law, Hathaway concludes:

*The fact that neither new law nor new institutions have evolved despite the massive investment in reorienting away from refugees and towards forced migration in general*

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<sup>117</sup> *Id.*, at 349-350.

<sup>118</sup> *Id.*, at 351-352.

<sup>119</sup> Won Kidane: *Managing Forced Displacement by Law in Africa: The Role of the New African Union IDPs Convention*, *Vanderbilt Journal of Transnational Law*, Vol. 44:1 (2011), at. 36.

<sup>120</sup> *Id.*

<sup>121</sup> *James C. Hathaway*, *Supra* note 116, at 351-358.

<sup>122</sup> *Id.*, at 360.

<sup>123</sup> *Id.*, at 362.

*should give us a pause. . . . My own view is that the paucity of concrete progress in achieving rights and remedies to forced migration suggests the non-viability of the forced migration label. It groups together two sets of persons—refugees and the internally displaced—who in fact share little other than the shared symptoms of involuntary movement.*<sup>124</sup>

Roberta Cohen does not accept any of Hathaway's propositions and she claims that Hathaway's argument is devoid of the world's reality and ignorant of the contemporary developments for IDPs jurisprudence.<sup>125</sup> In a nutshell, the arguments of Hathaway and the replies of Cohen evolve around the issue of who is more deserving of humanitarian aid, sovereignty as a hurdle in the international community concern for protection, "political pragmatism, and doctrinal viability."<sup>126</sup> In today's world, people are forcibly moving out from their residence due to human rights violations, violence and armed conflicts and individualized persecution has lost its value.<sup>127</sup> Providing different treatment on the basis of political borders for people who are facing similar plight appears to be absurd for Cohen.<sup>128</sup> Hathaway could not see the special vulnerability of IDPs from the general population who is also a victim of the generalized violence but not displaced. However Cohen argued that just like that of refugees IDPs also left their home and loses their property which separates them from their family, community and the mainstream social services particularly education and health. There is similarity of the plight between these two categories of displaced people and there is heightened vulnerability of IDPs over the general non-displaced population which made the argument IDPs deserve no less treatment than refugees sound.

The occurrence of internal displacement exposes the affected population to a set of different threats. Obviously displacement forces people to flee their home which take away their shelter and a whole variety of basic protection enshrined in it. IDPs also lose their means to survive because they are separated from their land, traditional way of life and means of earning an income. By the same token it results in cutting of family ties and 'community support system';

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<sup>124</sup> *Id.*, at 359.

<sup>125</sup> *Roberta Cohen, Supra* note 112, at 372.

<sup>126</sup> *Won Kidane, Supra* note 119, at 42.

<sup>127</sup> *Roberta Cohen, Supra* note 112, at 370.

<sup>128</sup> *Id.*

which goes beyond the destruction of the tangible possessions of human beings and includes the loss of ‘symbolic goods, such as cultural heritage, friendship and a sense of belonging to a particular place.’<sup>129</sup> The displaced are also exposed to aggravated vulnerability owing to the lack of or the hurdles to access health care, education, employment, economic activities as well as electoral politics in their areas of displacement.<sup>130</sup> The longer the displacement lasts, the more it disposes the displaced to be reliant on outside aid and susceptible to economic and sexual exploitation. On the other hand such dependency decreases the likelihood of durable solutions and sustainable reintegration into society when and if circumstances allow applying such solutions.<sup>131</sup>

On another point Hathaway argues that the international community has no authority to offer protection for IDPs who are in fact are citizens of and within a sovereign state.<sup>132</sup> Cohen responds to this argument explained that though the international community has no equal right to come to IDPs aid as it does for refugees, ‘counter-insurgency or ethnic cleansing campaigns carried out by governments or non-state actors often require an international response. So too do situations in which IDPs are perishing in camps, deprived of the necessities of life and basic security’.<sup>133</sup>

The discussion made earlier on sovereignty about the erosion of the traditional notion of sovereignty and the development of new sovereignty concepts widely accepted by the international community are also evidences for Cohen contentions. However Won Kidane supports the idea of Hathaway on this point and connotes the legal and practical experiences of UN demonstrates that humanitarian intervention for the protection of IDPs is not a feasible option at this time.<sup>134</sup> Nonetheless Dr. Deng reaffirms that when a state is unable to perform its

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<sup>129</sup> Erin Mooney, *Supra* note 77, at 15.

<sup>130</sup> *Protecting Internally Displaced Persons: A Manual for Law and Policymakers*, Brookings Institution-University of Bern: Project on Internal Displacement (2008), at 2, available at <[www.brookings.edu/idp](http://www.brookings.edu/idp)>, accessed on Nov. 20/2016.

<sup>131</sup> *Id.*

<sup>132</sup> Roberta Cohen, *Supra* note 112, at 371.

<sup>133</sup> *Id.*

<sup>134</sup> Won Kidane, *Supra* note 119, at 47.

national responsibility towards IDPs, it has to demand and receive outside help.<sup>135</sup> The act of rejecting and intentional blockade of access to the displaced on the part of the state gives the international community a right, even an obligation to take an action.<sup>136</sup> There is no one and verbatim course of action the international community takes but it could range from ‘diplomatic dialogue and negotiation of access for relief supplies to political pressure’<sup>137</sup>; the application of which is determined on a case by case basis.

Furthermore Hathaway believes the main reason for the powerful states to insist the idea of a comprehensive regime for IDPs and refugees may be an evil intention to evade responsibility towards both categories particularly refugees.<sup>138</sup> Whereas Cohen believes the major motivation of the states towards IDPs regime is based on genuine and legitimate consideration of the reality of the world, i.e. an emerging concept of sovereignty and the increasing number of IDPs<sup>139</sup> which is usually twice or more to the number of refugees. Nevertheless the fear of Hathaway could also be well founded because some states could intentionally focus on IDPs to decrease the refugee flows in to their territory. It is not only Hathaway who believes in the ulterior motive behind states urgency to respond to IDPs plight. In studying the political sphere of the world in the post-cold war era, other scholars such as Goodwin believe that the rationale behind the international community’s involvement in the concern of IDPs is to curtail their obligation to receive asylum claims of refugees.<sup>140</sup> Moreover in 2006 UNHCR accounted IDPs to be 28.3% out of the total ‘population of concern’ and identified two factors for such increment: the increasing global recognition of IDPs as a category and the fact that several asylum claims were unsuccessful due to state restrictions across the borders.<sup>141</sup> The UNHCR reaction to IDPs as a

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<sup>135</sup> The Office of the United Nations High Commissioner for Refugees (UNHCR): *The State of the World’s Refugees*, Oxford University Press (2006) at 161, available at <[www.unhcr.org/idps/protection](http://www.unhcr.org/idps/protection)> accessed on December 20, 2016.

<sup>136</sup> *Id.*

<sup>137</sup> *Id.*

<sup>138</sup> *Roberta Cohen, Supra* note 112, at 373.

<sup>139</sup> *Id.*, at 371-372

<sup>140</sup> Goodwin-Gill: *International Protection and Assistance for Refugees and the Displaced: Institutional Challenges and United Nations Reform*, Paper presented at the Refugee Studies Centre Workshop, ‘Refugee Protection in International Law: Contemporary Challenges’, Oxford, 24 April (2006), at 7.

<sup>141</sup> *UNHCR, supra* note 135, at 18

‘person of concern’ and operating in the country of origin is an effort to contain the refugee flows within the borders.<sup>142</sup>

Cohen remarks that the recent lack of cordiality on the part of states to accept refugees in to their territory is related to security threats and other reasons but definitely not to the growing attention towards IDPs.<sup>143</sup> This view is also shared by another scholar Jack Mangala; the forced migration crisis has been considered a humanitarian problem of the international community produced by war and interstate conflicts ‘throughout the most of the 20<sup>th</sup> century’.<sup>144</sup> However since the end of the cold war the forcibly displaced particularly refugees has been gradually seen with ‘security prism’ and states are engaging in new practices and policies sometimes even contrary to established legal standards to contain such security threats.<sup>145</sup> Mangala articulated that humanitarian assistance for IDPs is the major containment measure for refugee related security threats.<sup>146</sup>

On the other hand Cohen thinks merging the two categories of displaced people is a win-win situation.<sup>147</sup> The merger would create a system where a person in need of humanitarian assistance is eligible for standard protection irrespective of their location and citizenship and in fact “the political reality is different from the legal reality because humanitarian attention is given to problems based on their gravity.”<sup>148</sup>

Finally, Hathaway debates that the absence of an authoritative legal and institutional framework for IDPs in the international arena insinuates the infeasibility and impracticality of the doctrine of IDPs category let alone merging the two categories of displaced person.<sup>149</sup> Cohen finds this

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<sup>142</sup> The United Nations High Commissioner for Refugees (UNHCR): *The Politics and Practice of Refugee Protection into the Twenty-first Century* with Alexander Betts, Gil Loescher and James Milner (eds), Global Institutions Series, Routledge (2008), at 48.

<sup>143</sup> *Roberta Cohen, Supra* note 112, at 372.

<sup>144</sup> Jack Mangala: Refugees and Internally Displaced Persons: From Humanitarian to Security Paradigm, in Jack Mangala (ed), *New Security Threats and Crises in Africa, Regional and International Perspective* (2010), at 40., available at <[www.palgraveconnect.com](http://www.palgraveconnect.com)>, accessed on Oct. 20/2016.

<sup>145</sup> *Id.*, at 41.

<sup>146</sup> *Id.*

<sup>147</sup> *Id.*, at 373.

<sup>148</sup> *Won Kidane, Supra* note 119, at 50.

<sup>149</sup> *Roberta Cohen, Supra* note 112, at 373.

thought to be incorrect as it disregards the reality of the development of new principles in the internal displacement field and the establishment of designated institutions to respond to IDPs.<sup>150</sup> Hathaway's contention did not also take in to account the corrections made to human rights and humanitarian law and formulation of new principles pertinent to the protection of IDPs while preparing the Guiding Principles.<sup>151</sup>

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<sup>150</sup> *Id.*, at 372-373.

<sup>151</sup> *Id.*, at 373.

## Chapter Three

### The Human Right Protection and Humanitarian Assistance to IDPs

#### 3.1. Introduction

The protection and humanitarian assistance for IDPs is more complex due to the fact that the people are still within the territorial boundaries of the state in spite of its reluctance or incapability to assure the security of its citizens.<sup>152</sup> The human right protection and humanitarian assistance of IDPs comprehends all phases of displacement for it to be effective. There are guarantees for protection and humanitarian needs of IDPs in the international law but no distinct and comprehensive definition as to what protection and humanitarian assistance entails. One of the findings of the 2005 Humanitarian Response Review was ‘a conspicuous lack of recognition of a generally accepted definition of the meaning and requirements of protection.’<sup>153</sup> Thus it came up with a broad definition of protection embracing ‘a wide range of activities, including physical presence, bilateral negotiations, multilateral diplomacy, training, education, data collection, dissemination, and advocacy and gaining access to victims.’<sup>154</sup>

#### 3.2. What does Protection of IDPs Entail?

The IASC defines protection as a function that comprehends ‘all activities aimed at obtaining full respect for the rights of the individual, in accordance with the letter and the spirit of relevant bodies of law, including human rights, humanitarian and refugee law, and without discrimination of any kind.’<sup>155</sup>

UNHCR defined protection as a ‘responsibility entailing the restoration of the most basic rights to the people, not least the right to life, to not suffer torture or discrimination, to respect for one’s dignity and the preservation of one’s family. Protection is also about creating an enabling environment so that these and other rights have a reasonable chance of being enjoyed, pending a

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<sup>152</sup> UNHCR, *supra* note 135.

<sup>153</sup> See OCHA: *Humanitarian Response Review*, (2005)., available at < [www.unocha.org](http://www.unocha.org) > accessed on April 11, 2016

<sup>154</sup> *Id.*

<sup>155</sup> Inter-Agency Standing Committee: *Protection of Internally Displaced Persons – Inter-Agency Standing Committee (IASC) Policy Paper Series, No.2*, (2000) at 4., available at <[www.humanitarianinfo.org/iasc/content/default.asp](http://www.humanitarianinfo.org/iasc/content/default.asp)> accessed on Oct, 24, 2016.

durable solution to the problems at issue.’<sup>156</sup> On the other hand the UNHCR handbook for the protection of IDPs proclaims that protection is an objective, a legal responsibility and an activity. In relation to the concept of protection as an activity the IASC policy paper has outlined three comprehensive categories of protection activities: *Environment building*-activities aimed at creating or consolidating an enabling environment to full respect for the rights of individuals; *Responsive action*-activities undertaken in the context of an emerging or established pattern of abuse and aimed at preventing or alleviating its immediate effects; and *Remedial action*-activities aimed at restoring dignified living conditions through rehabilitation, restitution and reparation.<sup>157</sup> However the responsibility is not only to the national government but humanitarian and human rights actors play an important role as well, in particular when States and other authorities are unable or unwilling to fulfill their protection obligations.<sup>158</sup>

According to the established principles of international law, the responsibility to meet protection and assistance needs of IDPs primarily resides at the palm of the concerned governments. This principle is also reiterated in the Guiding Principles.<sup>159</sup> The IASC policy paper also affirms that the role of international agencies and NGOs in the protection of IDPS should involve ‘reinforcing national responsibility and supporting, not substituting for, the protection responsibilities of competent authorities.’<sup>160</sup>

Recent developments in the UN system which is the result of the Secretary General’s Program for UN Reform, initiated a significant progress in which addressing human rights concerns is the responsibility of the entire UN system and it’s not to be limited to the human right machineries alone.<sup>161</sup> In any case pragmatic approach to protection should be considered in assessing states obligation to protect IDPs. Those rights of citizens or IDPs recognized in the national legislation will have no value ‘unless those people are able to enjoy and exercise those rights in a practical

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<sup>156</sup> Erika Feller: *UNHCR’s role in IDP protection: Opportunities and Challenges*, Forced Migration Review, Special Issue (2006) at 11.

<sup>157</sup> *IASC Policy Paper*, supra note 155, at 5.

<sup>158</sup> *Renewing the United Nations: A Program for Reform*, Report of the Secretary-General to the United Nations General Assembly, UN doc. A/51/950, 14<sup>th</sup> July (1997).

<sup>159</sup> *The Guiding Principles*, supra note 3, Art. 3(1)

<sup>160</sup> *IASC Policy Paper*, supra note 155, at 11.

<sup>161</sup> Erin Mooney: Towards a Protection regime for IDPs, in Edward Newman and Joanne Van-Selm (ed.), *Refugees and Forced Displacement: International Security, Human Vulnerability, and the State* (2003), at 173.

manner'.<sup>162</sup> The approach is developed by UNHCR and continuing on this point Erika Feller said that, 'UNHCR considers that the rights and entitlements enjoyed by citizens must be effectively institutionalized in a country's legal and judicial system, rather than being granted at the whim of the state and its local representatives.'<sup>163</sup>

### **3.2.1. Protection from Arbitrary Displacement**

The Guiding Principles<sup>164</sup> under Article 6 and the Kampala Convention<sup>165</sup> under Article 4 guaranteed the protection from arbitrary displacement for every human being. These two instruments do not define the term arbitrary rather provide two major parameters where the displacement could be regarded as arbitrary. It is not only due to the justification that a displacement could be rendered arbitrary; though the ground is justified the manner in which it is carried out could lead the displacement to be regarded as arbitrary. In recognition of the fact that legal foundation for the prohibition of displacement is located in the existing international law<sup>166</sup> the first yardstick for arbitrariness is compliance with international human rights and humanitarian law.<sup>167</sup> This criterion questions the reasons behind or the justifications of the displacement itself. A displacement is not arbitrary if it's justified in the following reasons; in armed conflict situations where displacement is undertaken for the safety of the civilian or justified by the exigencies of the military operation<sup>168</sup>; in cases of large-scale development

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<sup>162</sup> Erika Feller, *supra* note 156, at 13.

<sup>163</sup> *Id.*

<sup>164</sup> *The Guiding Principles, supra* note 3.

<sup>165</sup> *The African Union Convention for the Protection and Assistance of IDPs in Africa*, Ext/Assembly/AU/PA/Draft/Decl. (I) Rev. 123 October (2009).

<sup>166</sup> The international law instruments include the UDHR Art. 12 (protection from arbitrary interference with a person's privacy or home); ICCPR, Arts. 12(1), 17 (freedom of movement); ACHPR, Art. 12(1) (granting the freedom of movement and prohibiting mass expulsion). Geneva Convention IV, Arts. 49, 147 (prohibition against deportation of civilians in situations of armed conflict); Convention Concerning Indigenous and Tribal Peoples in Independent Countries (I.L.O. No. 169), Art. 16, June 27, 1989, 28 I.L.M. 1382 (1989) [hereinafter ILO Convention No. 169] (prohibiting the forcible displacement of indigenous people);

<sup>167</sup> *Compilation and Analysis of Legal norms: Legal Aspects relating to the Protection against Arbitrary Displacement*, Report of the Representative of the Secretary General on IDPs, UN Doc. E/CN.4/1998/53/Add.2, (1998) at Para. 56-64.

<sup>168</sup> *The Guiding Principles, supra* note 3, at Art. 6(2)(b), see also *The Kampala Convention supra* note 165, at Art. 4(4)(b).

projects where the displacement is for the purpose of realizing a compelling and overriding public interest and need<sup>169</sup>; and a displacement justified by safety and health in situations of natural or man-made disasters<sup>170</sup>. However there are displacement situations which cannot be justified in any ground; the Guiding Principles and the Kampala Convention provides absolute prohibition on displacement as collective punishment<sup>171</sup>, displacement on the basis of policies of racial discrimination, apartheid, “ethnic cleansing” or similar practices.<sup>172</sup>

### **3.2.2. Protection during Displacement**

The second way of determining arbitrariness is the due process guarantees or the ‘minimum procedural requirements’ which the displacement has to adhere. The requirement of due process questions the legality of the manner in which the displacement is undertaken and considers those rights proclaimed under principles relating to protection during displacement. First, the availability of other alternatives in any situation of displacement should be considered prior to taking the decision to displace the people.<sup>173</sup> Second in situations where there are no feasible alternatives to the displacement, devising schemes to minimize displacement and to circumvent its adverse effects is mandatory.<sup>174</sup> In order to avoid or minimize adverse effects of displacement prior and continuous assessment for signs of tensions and strife in conflict prone areas for ethnic conflict-induced internal displacement are relevant. Particularly in Ethiopia where resettlement of population is undertaken frequently, assessment should be made with respect to the likelihood of conflict between the new settlers and the host community which results in displacement of populations. On this point the Kampala Convention specifically mentions what a state should do to prevent or minimize internal displacement such as disaster risk reduction strategies, emergency and disaster preparedness and management measures.<sup>175</sup>

Thirdly, while conducting the displacement, proper accommodation of the displaced particularly the displacement situation should uphold the safety, nutrition, health and hygiene needs of the

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<sup>169</sup> *The Guiding Principles*, *supra* note 3, at Art. 6(2)(c).

<sup>170</sup> *Id*, at Art. 6(2)(d), see also *The Kampala Convention* *supra* note 165, at Art. 4(4)(f)

<sup>171</sup> *The Kampala Convention*, *supra* note 165, at Art. 4(4) (g).

<sup>172</sup> *Id*, at Art. 4(4)(a), see also *The Guiding Principles*, *supra* note 3, at Art. 6(2)(a),

<sup>173</sup> *The Guiding Principles*, *supra* note 3, at Art. 7(1).

<sup>174</sup> *Id*, at Art. 7(1), see also *The Kampala Convention* *supra* note 165, at Art. 4(2).

<sup>175</sup> *The Kampala Convention*, *supra* note 165, at Art. 4(2).

displaced.<sup>176</sup> The accommodation is expected to be given in satisfactory condition to the greatest extent considering the practical circumstances.<sup>177</sup> The Principle further requires that family members are not separated while the displacement is carried out.<sup>178</sup>

Fourthly, providing adequate information prior to the displacement to the concerned people is indispensable to prevent arbitrary displacement and it's integrated in Art. 7(3) of the Guiding Principles. Pursuant to this provision, the decision to displace should only be made by an authority which is mandated by a law to order such measures<sup>179</sup> and the person to be displaced must be informed of displacement prior to its undertaking, the reasons and procedures thereof.<sup>180</sup>

The free, prior and informed consent of the displaced should be secured for any displacement except for emergency stages of armed conflicts and disasters.<sup>181</sup> In cases where the displacement involves compensation and relocation, the information should include such issues as well<sup>182</sup> and consultation and participation with 'those affected particularly women in the planning and management of relocation' should be there.<sup>183</sup>

Fifth and most notably, the displacement should uphold the human rights of those to be displaced. Basically the Principles enshrined in the Guiding Principles with respect to human rights protection are a restatement of human rights principles in the international human rights instruments more specifically the UDHR<sup>184</sup>, ICCPR<sup>185</sup> and ICESCR<sup>186</sup>. The Guiding Principles envisages that displacement should not be embarking on in a manner that violates the rights to

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<sup>176</sup> *The Guiding Principles*, supra note 3, at Art. 7(2), see also *The Kampala Convention* supra note 165, at Art. 5(6) first phrase and Art. 5(4).

<sup>177</sup> *The Guiding Principles*, supra note 3, at Art. 7(2)

<sup>178</sup> *Id.*

<sup>179</sup> *Id.*, at Art. 7(3)(a)

<sup>180</sup> *Id.*, at Art. 7(3)(b)

<sup>181</sup> *Id.*, at Art. 7(3) and sub Art. (c)

<sup>182</sup> *Id.*, at Art. 7(3)(b)

<sup>183</sup> *Id.*, at Art. 7(3)(d)

<sup>184</sup> *The Universal Declaration of Human Rights*, UN GA Res 217 (III) on 10 December 1948, UN Doc A/810 (herein after UNDHR).

<sup>185</sup> *The International Covenant on Civil and Political Rights*, adopted by UN GA Res 2200 A (XXI) 999 UNTS 171(1966)

<sup>186</sup> *The International Convention on Economic, Social and Cultural Rights*, adopted by UN GA Res 2200A (XXI) (1966).

life, dignity, liberty and security of the displaced.<sup>187</sup> With respect to the right to life; IDPs are protected from arbitrary deprivation of the right to life, specifically from ‘genocide; murder; summary or arbitrary executions; and enforced disappearances which extends to abduction or unacknowledged detention, threatening or resulting in death and threats to commit any of these.’<sup>188</sup> The right to dignity apart from being a fundamental element underlying in several rights, it’s an independent right itself, which is inherently rooted in the nature of human being. In recognition of this fact the Guiding Principles under Art. 11(1) sets out the right to dignity as well as protection against the physical, mental and moral integrity of the IDPs while at the same time proscribing some acts which are essential for the protection of this right. Some of these acts include torture, rape, slavery, sexual abuse and acts aimed at or orchestrated terror.<sup>189</sup> With regard to liberty and security of the person, protection from arbitrary arrest or detention<sup>190</sup>, freedom of movement<sup>191</sup>, the right to know the whereabouts of relatives<sup>192</sup> and respect for family life<sup>193</sup>, equal recognition before the law<sup>194</sup>, freedom of expression; assembly and political participation; freedom of thought and religion<sup>195</sup>; and the right against arbitrary deprivation of property<sup>196</sup> are some of the rights reiterated in the Guiding Principles. Moreover the Principles include the right to education<sup>197</sup>, the right to adequate standard of living<sup>198</sup>, the right to work<sup>199</sup> and the right to health<sup>200</sup>. These rights are framed from the perspective of state and other organizations responsibility towards IDPs in the Kampala Convention under Articles 5 to 9.

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<sup>187</sup> *The Guiding Principles, supra* note 3, at Art. 8.

<sup>188</sup> *Id.*, at Art. 10.

<sup>189</sup> *Id.*, at Art. 11(2)

<sup>190</sup> *Id.*, at Art. 12.

<sup>191</sup> *Id.*, at Art. 14.

<sup>192</sup> *Id.*, at Art. 16.

<sup>193</sup> *Id.*, at Art. 17.

<sup>194</sup> *Id.*, at Art. 20.

<sup>195</sup> *Id.*, at Art. 22.

<sup>196</sup> *Id.*, at Art. 21.

<sup>197</sup> *Id.*, at Art. 23.

<sup>198</sup> *Id.*, at Art. 18.

<sup>199</sup> *Id.*, at Art., 22(1)(b)

<sup>200</sup> *Id.*, at Art. 19.

The sixth and the last due process requirement relate itself with the presence of sufficient safeguard processes for the protection of IDPs. The core idea of these measures is to make sure that effective responses for issues emanating from displacements are made in accordance with international standards so as to preclude the adverse impact of displacement on the enjoyments of other human rights.<sup>201</sup> State obligation to recognize the right of IDPs to receive protection in the country<sup>202</sup>, law enforcement measures by the competent legal authorities<sup>203</sup>, the right to remedy, including the right to review of the decision of the displacement through an appropriate judiciary<sup>204</sup>, and the proper participation of IDPs in the planning process and co-ordination of durable solutions<sup>205</sup> form part of the safeguard measures from arbitrary displacement.

### **3.2.3. The Right to Housing and Protection against Forced Evictions**

The UDHR was the first human rights instrument which guarantees the protection against forced eviction by prohibiting ‘arbitrary interference with the privacy, family, home or correspondence’<sup>206</sup> of the individual and this same principle was adopted in ICCPR under Article 17. The protection against forced evictions is not only founded in the civil and political rights but also inculcated in the right to housing under ICESCR. The Committee on ICESCR while looking in to reports of contracting states has been condemning the practice of forced evictions as human rights violations since the 1990’s.<sup>207</sup> The Committee’s General Comment No. 4 on the Right to Adequate Housing declares the obligation of member state to make sure that ‘all persons possess a degree of security of tenure which guarantees legal protection against forced eviction,

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<sup>201</sup> R Adeola: The right not to be arbitrarily displaced under the United Nations Guiding Principles on Internal Displacement, *African Human Rights Law Journal*, No. 16 (2016), PP. 83-98 at 96., Available at <<http://dx.doi.org/10.17159/19962096/2016/v16n1a4>> accessed on Dec, 2016.

<sup>202</sup> *The Guiding Principles*, supra note 3, at Art. 3(1).

<sup>203</sup> *Id.*, at Art. 7(3)(e)

<sup>204</sup> *Id.*, at Art. 7(3)(f)

<sup>205</sup> *Id.*, at Art. 28(2).

<sup>206</sup> *UDHR*, supra note 184, at Art. 12.

<sup>207</sup> For instance See UN Committee on Economic, Social and Cultural Rights, *Concluding Observations on the Dominican Republic*, E/C.12/1990/8 (1990), at Para. 249.; *Conclusions and recommendations of the on Kenya*, U.N. Doc. E/C.12/1993/6 (1993), at Para. 16.; *Conclusions and recommendations of the on United Kingdom of Great Britain and Northern Ireland*, U.N. Doc. E/C.12/1994/19 (1994), at part 1(C).

harassment and other threats.<sup>208</sup> More significantly the General Comment proclaimed that ‘instances of forced eviction are *prima facie* incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law.’<sup>209</sup> However with the increasing reports of forced evictions the Committee adopted General Comment No. 7 on forced evictions and the right to adequate housing.<sup>210</sup> The Committee understood the lack of consensus in using the term forced evictions and it defined it as ‘the permanent or temporary removal against the will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.’<sup>211</sup> However those evictions conducted in accordance with the law and in conformed to international human rights instruments are not prohibited.<sup>212</sup> Confirming the interrelatedness and interdependence of human rights, it declares that forced evictions result in violation of other socio-economic rights such as the right to housing, right to food and the right to health as well as a whole set of civil and political rights such as ‘the right to life, the right to security of the person, the right to non-interference with privacy, family and home and the right to the peaceful enjoyment of possessions.’<sup>213</sup>

In any situations which leads to forced eviction, the right to adequate housing and the protection against forced evictions should be endorsed and even in situations where there is a necessity to impose restrictions on such right, complete adherence to Article 4 of the Covenant is required.<sup>214</sup> Article 4 of ICESCR reads any limitation of rights should be provided by law; such limitation should be compatible with the nature of other rights enshrined in the Covenant and exclusively

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<sup>208</sup> UN Office of the High Commissioner for Human Rights: *ICESCR General Comment 4: The right to adequate housing*, (Art.11) adopted by Committee on ICESCR in 1992, U.N. Doc. E/1992/23 (herein after General Comment 4).

<sup>209</sup> *Id.*, at Para. 18.

<sup>210</sup> UN Office of the High Commissioner for Human Rights: *ICESCR General Comment 7: Forced evictions, and the right to adequate housing*, (Art.11) adopted by Committee on ICESCR in 1997, U.N. Doc. E/1998/22,(herein after General Comment 7) at Para. 1.

<sup>211</sup> *Id.*, at Para. 3.

<sup>212</sup> *Id.*

<sup>213</sup> *Id.*, Para. 4.

<sup>214</sup> *Id.*, at Para. 5.

for the purpose of serving ‘the general welfare in a democratic society.’<sup>215</sup> In cases where the forced evictions is justified, it cannot be carried out in the absence of prior considerations such as exploring alternatives ‘in consultation with the affected persons, adequate compensation for any property, both personal and real, which is affected, legal remedies or procedures should also be provided to those who are affected by eviction orders’ and most importantly <sup>216</sup> there has to be a stringent ‘compliance with the relevant provisions of international human rights law and in accordance with general principles of reasonableness and proportionality.’<sup>217</sup>

The Human Rights Committee in elaborating the protection from arbitrary interference envisages that intrusion with a person's home can only commence in cases determined by the law and such law is expected to specify the exact circumstances where such interferences may be acceptable; even so the law should be ‘in accordance with the provisions, aims and objectives of the Covenant and should be, in any event, reasonable in the particular circumstances.’<sup>218</sup>

#### **3.2.4. Guarantees of Durable Solutions**

The category of IDPs is considered as a mere description of a person’s situation and its identification does not grant a special status to the IDPs as opposed to the category of refugees. Consequently there is no consensus in the international community ‘as to when to stop considering someone as an internally displaced person (IDP).’<sup>219</sup> Both the Guiding Principles and the Kampala Convention stipulate three possibilities of durable solutions for IDPs.<sup>220</sup> The

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<sup>215</sup> *The ICESCR, supra* note 186 at Art. 4.

<sup>216</sup> *General Comment 7, supra* note 210, at Para. 13. Under Paragraph 15 there are other due process guarantees similar with the due process guarantees against arbitrary displacement.

<sup>217</sup> *Id.*, at Para. 14.

<sup>218</sup> UN Office of the High Commissioner for Human Rights: *CCPR General Comment No. 16: The Right to Respect of Privacy, Family, Home and Correspondence, and Protection of Honor and Reputation (Article 17)*, adopted by the UN Human Rights Committee on ICCPR, in 1988, HRI/GEN/1/Rev.9 (Vol. I) (herein after General Comment 16).

<sup>219</sup> *When Displacement Ends: Framework for Durable Solutions for IDPs*, The Brookings Institution-University of Bern Project on Internal Displacement in Cooperation with Georgetown University’s Institute for the Study of International Migration (2007), at 8. Available at < [www.brookings.edu/idp](http://www.brookings.edu/idp) >, accessed on Oct, 2016.

<sup>220</sup> See in the *Guiding Principles supra* note 3 at Articles 28-30 and *Kampala Convention supra* note 165, at Article 11. Both the UN Guiding Principles and the Kampala Convention vouch for guarantees of durable solutions for IDPs in terms of state obligation as opposed to rights of IDPs. On this point the Kampala Convention contains more amplified list of obligations relatively to the UN Guiding Principles.

first one is return where the displaced are moved back to their place of origin. This is always a desirable but usually not feasible solution particularly when the causes of displacement remain unresolved. In certain situations though the causes of the displacement are resolved the displaced could be in a constant fear of threat against their life, physical integrity or property due to the insecurity in their place of origin and such instances usually exist in ethnic conflict-induced IDPs. The other two solutions termed as resettlement in the Guiding Principles are reintegration in a place where the displaced took refuge initially following their displacement and the third alternative is settlement in another location in the country.<sup>221</sup> These solutions in order to be considered as sustainable, they have to be crafted on the basis of, ‘long-term safety and security, restitution of or compensation for lost property and an environment that sustains the life of the former IDPs under normal economic and social conditions.’<sup>222</sup> So displacement ends when one of such solutions takes place and the IDPs are not experiencing any needs specifically associated with their displacement.<sup>223</sup> The need for protection and assistance may still continue but it just means such need is no different from other citizens which are in similar situations. Once they set up a durable solution those who were displaced continue to avail protection from international human rights law and international humanitarian law in cases where it’s applicable and consequently the displaced enjoy the rights available for all citizens.<sup>224</sup> The processes through which the durable solutions are secured and the actual conditions of the displaced following the durable solution also have an impact on the sustainability and extent of the durable solutions. In terms of the process the IDPs should be able to make an informed decision on the available durable solutions;<sup>225</sup> full participation of IDPs including women, minorities and others in the planning and management of durable solutions;<sup>226</sup> visitation and assessment of the situations for the durable solutions by the representatives of IDPs;<sup>227</sup> no compulsion of any kind including physical force or any other illegal activity against the IDPs to talk in to or to avert durable

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<sup>221</sup> *When Displacement Ends*, *supra* note 219, at 8.

<sup>222</sup> *Id.*

<sup>223</sup> *Id.*

<sup>224</sup> *Id.*, at 9.

<sup>225</sup> The *Guiding Principles*, *supra* note 3, at Art. 7(3) (b) last phrase.

<sup>226</sup> *Id.*, at Art. 28(2) cumulatively with 7(3) (d).

<sup>227</sup> *When Displacement Ends*, *supra* note 219, at 12.

solution;<sup>228</sup> national authorities where applicable with the help of international assistance are under obligation to devise proper measures to establish conditions and provide the means to allow IDPs avail themselves durable solutions in safety and dignity;<sup>229</sup> and the obligations of the authorities extend to granting permission and expedite safe, unhindered and timely access for humanitarian organizations and other pertinent actors to support IDPs in securing durable solutions<sup>230</sup>. With respect to the conditions of the durable solutions, formerly displaced persons should not undergo attacks, harassment, intimidation, persecution or any other punishment; and discrimination on the basis of their displacement up on revealing durable solutions.<sup>231</sup> Furthermore ‘formerly displaced persons have full and non-discriminatory access to national and sub-national protection mechanisms, including police and courts’<sup>232</sup>; access to personal documentation particularly those required to get ‘public services, to vote and for administrative purposes’<sup>233</sup>; access to property restitution or compensation setups irrespective of the type of the durable solution sought;<sup>234</sup> and to enjoy an adequate standard of living which includes shelter, health care, food, water and other necessities for survival on the basis of non-discrimination.<sup>235</sup> More specifically accessing employment opportunities and income earning, basic public services as well as reuniting with family members voluntarily and participating fully and equally in public affairs on non-discriminatory basis is indispensable to the sustainability of the durable solutions.<sup>236</sup>

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<sup>228</sup> *The Guiding Principles*, *supra* note 3, at Art. 28 (1) explicitly notes the voluntary nature of durable solutions.

<sup>229</sup> *Id.*, at Art. 28(1)

<sup>230</sup> *Id.*, at Art. 30.

<sup>231</sup> *When Displacement Ends*, *supra* note 219, at 14.

<sup>232</sup> *Id.*

<sup>233</sup> *Id.* See also the *Guiding Principles supra* note 3, at Art. 20 which expressly provides for the obligation of the state to issue documents necessary for the enjoyment and exercise of legal rights which is indispensable for the right of IDPs to be recognized as person before the law.

<sup>234</sup> *The Guiding Principles*, *supra* note 3, at Art. 29(2)

<sup>235</sup> The cumulative reading of Articles 28 and 29 (1) in the *Guiding Principles supra* note 3, insists on the state to *facilitate* the return, reintegration or resettlement of IDPs and ensure the returnees and resettled persons have the right to equally access public services.

<sup>236</sup> *When Displacement Ends*, *supra* note 219, at 16.

### 3.3. The Right to Humanitarian Assistance

It is principle 3(2) in the Guiding Principles which spells out the humanitarian assistance guarantee for IDPs. It reads that IDPs have the right to request and receive humanitarian assistance from national authorities without being punished or persecuted for making such a request. However, the Guiding Principles and other human rights and humanitarian law instruments do not provide for the definition of humanitarian assistance. David Fisher in one of his writings explains it to include:

*Items essential to survival such as food, water, medical supplies, clothing, and related “non-food items” (e.g., water containers, cooking utensils, soap, etc.) or the means to immediately obtain any such items (e.g., cash assistance). It will also apply to essential services such as emergency medical care.*<sup>237</sup>

Internationally the right is barely acknowledged in the existing treaty laws except for the Geneva Conventions and their respective protocols whose authority is confined to situations of armed conflict. Developing on this fact quite a few legal scholars have drawn cynical conclusions about the existence of the general right to humanitarian assistance.<sup>238</sup> Nationally it is unusual to find a state which has an all-inclusive legal framework on humanitarian assistance either for all citizens in general or for IDPs in particular.<sup>239</sup> Nevertheless the guiding Principles enshrine a number of provisions that directly refer to humanitarian assistance. The provisions can be reduced here in categories: on the existence and scope of the right to humanitarian assistance, on facilitation and

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<sup>237</sup> David Fisher: The Right to Humanitarian Assistance, in Walter Kalin, Rhodri C. Williams, Khalid Koser, and Andrew Solomon (ed.), *Incorporating the Guiding Principles on Internal Displacement in to Domestic Law: Issues and Challenges*, Brookings-Bern Project on Internal Displacement, the American Society of International Law, Studies in Transnational Legal Policy, No. 41, PP. 47-128, at 47.

<sup>238</sup> Yoram Dinstein: *The Right to Humanitarian Assistance*, Naval War College Review, Vol.53 (2000); Peter Mac and Allister Smith: *The Right to Humanitarian Assistance in International Law*, Revue de Droit International de Sciences Diplomatiques et Politiques, Vol.66 (1998); Rohan Hardcastle & Adrian T. L. Chua: *Humanitarian Assistance: Towards a Right of Access to Victims of Natural Disasters*, International Review of the Red Cross (1998).

<sup>239</sup> David Fisher, *supra* note 237, at 48.

regulation of humanitarian assistance and those concerning assistance for vulnerable groups<sup>240</sup> in particular.

With respect to regulating and facilitating the humanitarian assistance the concerned authorities are under obligation not to divert humanitarian assistance for non-humanitarian purposes (Principle 24(2)), not to withhold consent for international humanitarian assistance, and to grant and facilitate free passage of humanitarian assistance, including associated personnel (Principle 25(2-3)). On the other hand the international humanitarian organizations have the right to offer their assistance to IDPs, under the obligation to carry out humanitarian assistance based on the principles of humanity and impartiality (Principle 24(1)), to provide it with 'due regard' to the protection needs and human rights of IDPs, and respect 'relevant international standards and codes of conduct' (Principle 27(1)).

With respect to the existence and extent of the right the Guiding Principles more specifically stipulates that the authorities (whether state or non-state actors)<sup>241</sup> who are undertaking a displacement have an obligation to make sure 'proper accommodation' to the displaced and that such displacement is made 'in satisfactory conditions of safety, nutrition, health and hygiene'.<sup>242</sup>

The Principles go on and states that the primary duty to provide humanitarian assistance for IDPs vests on the shoulders of the national authorities.<sup>243</sup> The Principles proclaim the right of IDPs to an adequate standard of living including the right to essential food and potable water; basic shelter and housing; appropriate clothing; and essential medical services and sanitation which are guaranteed irrespective of the circumstances and on the basis of non-discrimination.<sup>244</sup>

However, by now we all know that the Guiding Principles is not a binding instrument and it's a restatement of maxims in the existing international law. The legal basis of humanitarian assistance is explicitly guaranteed in the international humanitarian law which only applies in internal or international armed conflict. In other situations of internal strife and turbulences that does not fulfill the armed conflict threshold; IDPs could not get protection from the international

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<sup>240</sup> *The Guiding Principle supra* note 3, at Art. 4.

<sup>241</sup> *David Fisher, supra* note 237, at 50.

<sup>242</sup> *The Guiding Principles supra* note 3, at Art. 7(2).

<sup>243</sup> *Id.*, at 3(1) and 25(1)

<sup>244</sup> *Id.*, at Art. 18(2), See also the *Kampala Convention supra* note 165, at Art.9 (2) which provides for such guarantees in the form of government obligation.

humanitarian law. In such situations the option is to turn our face to the human right laws to see if such area of law encompasses protection and puts an obligation on the part of the state to receive assistance for IDPs.<sup>245</sup> The problem with human rights law is that most of its treaties provide for restrictions and derogations to be made from the provisions in emergency situations.<sup>246</sup> However this does not mean the state is free in restricting/derogating the rights. There are well founded international principles for restricting/derogating the rights and the ICCPR explicitly provides for those rights that cannot be derogated at any situation.<sup>247</sup> Furthermore the Human Rights Committee, the monitoring organ for the ICCPR, stated that just because some rights are specified as non-derogable, such connotations should not be understood as granting the state a license to derogate other rights at their whim.<sup>248</sup>

The African Charter on the Rights and Welfare of the Child is the only human rights treaty that explicitly provides for the IDPs right to receive humanitarian assistance. The Charter under Art. 23 imposes an obligation on state parties to take ‘all appropriate measures’ to guarantee that refugee children as well as internally displaced children “receive appropriate protection and humanitarian assistance in the enjoyment of the rights set out in the Charter and other international human rights and humanitarian instruments to which the States are Parties.”<sup>249</sup> It also provides for the obligation to seek the cooperation of ‘existing international organization in their efforts to protect and assist such a child’.<sup>250</sup> There is a similar provision in the international Convention for the Rights of the Child but it only refers to refugee children and does not include IDPs explicitly.<sup>251</sup>

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<sup>245</sup> *Katja Luopajarvi, supra note 6, at 686.*

<sup>246</sup> *Id.*

<sup>247</sup> The ICCPR renders rights such as the right to life, freedom from torture, cruel and inhumane or degrading treatment or punishment, freedom from slavery and servitude, protection against retroactive criminal legislation, freedom from imprisonment for debt, right to recognition as a person before the law, and the freedom of thought, conscience and religion as non-derogable rights.

<sup>248</sup> UN Office of the High Commissioner for Human Rights: *CCPR General Comment No. 29: Derogations during a State of Emergency (Article 4)*, adopted by the UN Human Rights Committee on ICCPR in 2001, UN Doc. CCPR/C/21/Rev.1/Add.11, 30 Aug. 2001, (herein after General Comment 29), at Para. 6.

<sup>249</sup> *The African Charter on the Rights and Welfare of the Child*, O.A.U. Doc. CAB/LEG/24.9/49 (1990).

<sup>250</sup> *Id.*

<sup>251</sup> See *The Convention for the Rights of the Child*, G.A. res. 44/25, U.N. Doc. A/44/49 (1989), 1577 U.N.T.S. 3, 28 I.L.M. 1456 (1989). (herein after CRC), at Art. 22

However, further than these relief specific provisions, a number of other human rights treaties enshrine rights which are considered as components of the right to humanitarian assistance. These rights are the right to life from civil and political rights category and the right to food and water, housing, clothing and medical care from the economic, social and cultural rights category.

### **3.3.1. The Right to Life**

The inherent right to life could also be used to derive the right to humanitarian assistance. The right is guaranteed in a number human right treaties and instruments including UDHR Article 3, the ICCPR Article 6(1), CRC Article 6(1) and the African Charter on Human and Peoples Rights under Article 4. The UN Human Rights Committee affirmed that the concept of the ‘inherent right to life’ ‘cannot properly be understood in a restrictive manner, and the protection of this rights requires that states adopt positive measures,’ and that state parties are bound to take all possible measures to decrease infant mortality and to increase life expectancy, particularly by taking measures to eliminate malnutrition and epidemics.<sup>252</sup> Thus this interpretation can be used to argue that governments are under obligation to provide any item such as food and non-food items, medicine and medical services which are necessary to sustain the life of ethnic conflict-induced IDPs. On the basis of such arguments it could be argued that the government obligation to take ‘all possible measures’ includes the duty to accept humanitarian aid in order to respond to the plight of IDPs. More importantly it can be construed to impose a duty to accept outside assistance when the resources of the country are drained in protecting the people in need.<sup>253</sup>

### **3.3.2. The Right to Food and Water**

As a component of the economic, social and cultural rights the right to food is guaranteed in several human right treaties and instruments including the UDHR Article 25(1), Article 11(1) of the ICESCR, and as an element of the right to an adequate standard of living in Article 27(1) of the CRC. The CRC particularly requests states to battle child malnutrition, ‘through, inter alia...the provision of adequate nutritious foods and clean drinking-water.’<sup>254</sup> The obligation to ensure ‘adequate nutrition during pregnancy and lactation’ and the right to ‘enjoy adequate living

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<sup>252</sup> UN Office of the High Commissioner for Human Rights: *CCPR General Comment No. 6: The Right to Life (Article 6)*, adopted by UN Human Rights Committee on ICCPR in 1982, U.N. Doc. No. HRI/GEN/1/Rev.7 (herein after General Comment 6).

<sup>253</sup> *Katja Luopajarvi, supra* note 6, at 694.

<sup>254</sup> *The CRC, supra* note 251, at Article 24(2)(c)

conditions, particularly in relation...to water supply' is also enshrined in CEDAW.<sup>255</sup> The right to health under Art. 14(2) (C) of the African Children's Charter explicitly provides for the right to food and water. The right to food in the ICESCR imposes on the government a minimum core obligation to guarantee 'essential foodstuffs',<sup>256</sup> which oblige state parties to provide food for those who do not have the means to avail it and such situation can be claimed for IDPs as well. Moreover the Committee on ICESCR in elaborating the right to adequate standard of living provides the right to water as an intrinsic element of the right to food and health which is impliedly included in the component of the right to adequate standard of living.<sup>257</sup> The most notable and specifically IDPs relevant regulations in this General Comment is that it explicitly obliges state parties to consider the special need of 'individuals and groups who have traditionally faced difficulties in exercising this right including IDPs'.<sup>258</sup>

### **3.3.3. The Right to Essential Medications, Medical Care and Sanitation**

The right to health guaranteed in several human rights instruments<sup>259</sup> can be construed to include right to essential medications, medical care and sanitation. The ICESCR explicitly refers to medical care in Article 12(2) calling for states to take steps for the 'prevention, treatment and control of epidemic, endemic, occupational and other diseases',<sup>260</sup> as well as 'the creation of conditions which would assure to all medical service and medical attention in the event of sickness.'<sup>261</sup>

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<sup>255</sup> *The Convention on the Elimination of All Forms of Discrimination against Women*, UN GA Res 34/180 on 18 December 1979 (herein after CEDAW) at Art. 12(2) and Art. 14(2).

<sup>256</sup> UN Office of the High Commissioner for the Human Rights: *ICESCR General Comment No. 3: The nature of state Parties' Obligations (Art. 2, Para. 1, of the Covenant)*, adopted by UN Committee on ICESCR, in 1990, UN Doc E/1991/23, at Para. 10 available at <[www.un.org/doc/UNDOC](http://www.un.org/doc/UNDOC)> accessed on April 16, 2016.

<sup>257</sup> UN Office of the High Commissioner for the Human Rights: *ICESCR General Comment No 15: The Right to Water, (Arts. 11 and 12)*, adopted by UN Committee on ICESCR, in 2002, U.N. Doc. E/C.12/2002/11 (2002), available at <[www.un.org/doc/UNDOC](http://www.un.org/doc/UNDOC)> accessed on April 16, 2016.

<sup>258</sup> *Id.*, at Para. 16.

<sup>259</sup> *UDHR*, *supra* note 184, at Article 25(1), *ICESCR supra* note 186, at Article 12, *CRC, supra* note 251, at Article 24(1), and the African Charter on Human and Peoples Rights adopted on 27 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M.58 (1982), (herein after ACHPR), at Article 16(1).

<sup>260</sup> *ICESCR, supra* note 186, at Art. 12 (2).

<sup>261</sup> *Id.*

The Committee in interpreting the right to health under Article 12 of the ICESCR expressly addresses the provision of humanitarian assistance to IDPs in the following manner:

*States parties have a joint and individual responsibility, in accordance with the Charter of the United Nations and relevant resolutions of the United Nations General Assembly and of the World Health Assembly, to cooperate in providing disaster relief and humanitarian assistance in times of emergency, including assistance to refugees and internally displaced persons.*<sup>262</sup>

Each state in the international community has an obligation to an extent of its maximum available capacity to provide the assistance.<sup>263</sup> This expressly binds member states not only to seek and accept international cooperation but also to provide one.

### **3.3.4. The Rights to Adequate Clothing and other Necessities**

The right to adequate clothing, though it's an element of adequate standard of living, has not been interpreted widely. The African Charter on Human and Peoples' Rights considers the right to adequate clothing as an element of the right to health and protection of the family and requests signatory states to include the right to adequate clothing in the periodic reports.<sup>264</sup>

Other human right instruments including UDHR Article 25(1), ICESCR Article 11(1) and CRC Article 27(3) expressly guarantees the right to adequate clothing as an element of the right to adequate standard of living. The Committee on ICESCR on this point declares that the rights enshrined in Article 11(1) are inclusive enumerations and it can be used to encompass other components of rights.<sup>265</sup> For the purpose of IDPs necessary items such as blankets, equipment

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<sup>262</sup> UN Office of the High Commissioner for Human Rights: *ICESCR General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12)*, adopted by the UN Committee on ICESCR in 2000 UN Doc. E/C.12/2000/4 (here after General Comment 14), at Para. 4, available at <[www.un.org/doc/UNDOC](http://www.un.org/doc/UNDOC)> accessed on April 16, 2016.

<sup>263</sup> *Id.*

<sup>264</sup> *Guidelines for Periodic Reports under the African Charter* adopted by African Commission on Human and Peoples' Rights, (1998), at Para. 33, available at <[www.achpr.org/communications/decisions/publications](http://www.achpr.org/communications/decisions/publications)> (accessed on 10/04/15)...

<sup>265</sup> *General Comment No.15, supra* note 257, at Para 3.

and materials needed for cooking and carrying water can also be construed to include in this provision.<sup>266</sup>

### **3.4. State Obligation to accept International Assistance to IDPs**

No doubt that non-availability of resources could be claimed by the government to fulfill the above discussed rights for ethnic conflict-induced IDPs. The Kampala Convention with this regard took the lead and explicitly obliges states to provide adequate protection and assistance for IDPs and in cases where the available resources are inadequate to do as such, states are under obligation to seek ‘the assistance of international organizations, and humanitarian agencies, civil society organizations and other relevant actors.’<sup>267</sup>

Article 2(1) of ICESCR is also relevant which explicitly prescribes the duty of the party states to ‘take steps, individually and through international assistance and cooperation...to the maximum of its available resources, with a view to achieving progressively the full realization of the rights’<sup>268</sup>. The Committee on ICESCR explained that the phrase ‘maximum available resources’ includes the international resource available through assistance and cooperation; justifications for failure to fulfill an obligation with respect to any right need to ‘demonstrate that it has made a maximum effort to use all the resources at its disposal’<sup>269</sup> including the international one. Particularly the covenant envisages the obligation and importance of international cooperation based on the free consent of state parties in an effort to seek the full realization of the right to ‘adequate standard of living’ under Article 11(1).<sup>270</sup> More particularly this could be a ground to allege preventive state practices, where the state does not allow international human right organizations including UN human right agencies to involve in ethnic conflict-induced IDPs, contrary to the convention. The state in reserving the prevention and resolution of the ethnic conflict to selected government institutions only could be justified on the basis of the political nature of the issue and the national interest of the country. However with respect to the victims of the conflict particularly the IDPs, the state should provide the human right protection and

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<sup>266</sup> *David Fisher, supra* note 237, at 61.

<sup>267</sup> *The Kampala Convention, supra* note 165, at Art. 5(6).

<sup>268</sup> *ICESCR, supra* note 186.

<sup>269</sup> *Id.*, at Para. 13.

<sup>270</sup> *Id.*, at 11(2).

humanitarian assistance considering the heightened vulnerability of IDPs, and forward the opportunity for international assistance in case of inability. Of course differentiating unwillingness from inability on the part of the state is crucial to determine the nature and extent of state liability.<sup>271</sup> In elaborating the right to health the Committee has held that the argument of non-availability of resources cannot be a justification for failing to fulfill the minimum core obligations of the right to health which includes the obligation to ‘ensure the right of access to health facilities, goods and services on a non-discriminatory basis.’<sup>272</sup> The same argument can be made with respect to the minimum core of obligations of other rights including the right to water<sup>273</sup>, food and clothing. Moreover the Committee while commenting on Article 11(1) has held that ‘the prevention of access to humanitarian food aid in internal conflicts or other emergency situations’ could be against the right to food.<sup>274</sup>

With respect states obligation Deng contended that:

*State parties to the ICESCR have a duty to at least refrain from unreasonably denying offers of international assistance in cases of imminent humanitarian problems seriously affecting the subsistence needs of IDPs and, perhaps, an obligation to accept reasonable offers.’...‘[A] refusal to accept an offer of international co-operation and assistance where necessary to realizing subsistence rights recognized under the treaty could be considered to constitute, at the least, “a deliberately retrogressive measure”.*<sup>275</sup>

In a more general connotation one of the three pillars of state obligations in human rights is the duty to fulfill which entails the provision of the right itself i.e. the right to food, water, clothing, housing and other necessities directly whenever an individual or groups is not capable to reveal in the right by the resources at their disposal particularly where such person is a victim of natural or other disasters which also includes IDPs.<sup>276</sup> Thus failing to provide the right itself for such persons is non-compliance with the duty to fulfill.

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<sup>271</sup> Katja Luopajarvi, *supra* note 6, at 686.

<sup>272</sup> UN Office of the High Commissioner for Human Rights: *ICESCR General Comment No.12: The Right to Adequate Standard of Living including the Right to Food* (Article. 11) adopted by the UN Committee on ICESCR in 1999 UN Doc. E/C.12/1999/5, at Para 19., available at <[www.un.org/doc/UNDOC](http://www.un.org/doc/UNDOC)> accessed on Dec.7, 2016.

<sup>273</sup> *General Comment 15*, *supra* note 257, at Para. 37.

<sup>274</sup> *General Comment No.12*, *supra* note 272, at Para. 19.

<sup>275</sup> *Compilation and Analysis of Legal Norms*, *supra* note 167, at Para. 365.

<sup>276</sup> *General Comment No.12*, *supra* note 272, at Para 15.

## Chapter Four

### The National Response to Ethnic Conflict- Induced IDPs in Ethiopia

#### 4.1. Introduction

The number and the magnitude of IDPs plight remain indefinite in Ethiopia due to the fact that there are numerous factors that result in displacement including inter-ethnic conflict.<sup>277</sup> The existence of multiple causes coupled with the challenges of identifying pastoral migrants whose movement is seasonal from the forcible displaced population and economic migrants have also worsened the difficulty of defining who is an IDP in the country.<sup>278</sup> Nonetheless the lack of food security, potable water, and severe living conditions within host communities who do not have much to give, the lack of education and self-reliance opportunity, and the need for peace and security for the ethnic conflict-induced IDPs are identified as the major problems IDPs in Ethiopia are experiencing.<sup>279</sup> Recently it has become apparent that Africa IDPs do not settle in camps rather disseminated within host communities both in rural and urban settlements.<sup>280</sup> This is also the reality of Ethiopian IDPs where the majority of the displaced stayed within ‘the region of origin and few have reached the capital.’<sup>281</sup> In comparison to other victims of a disaster, the heightened vulnerability of IDPs population specifically women and children as a result of their

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<sup>277</sup> United Nations High Commissioner for Refugees (UNHCR): Submission for the Office of the High Commissioner for Human Rights’ Compilation Report – Universal Periodic Review: Ethiopia, (2013) at 3.,available at < <http://www.refworld.org/docid/5283488c4.html> > accessed on June 10, 2016.

<sup>278</sup> The Office for the Coordination of Humanitarian Affairs (OCHA), The Disaster Prevention and Preparedness Commission (DPPC), The International Organization for Migration(IOM), Pastoral Communication Initiative Project (PCI) and the Norwegian Refugee Council (NRC): Workshop and Policy Forum on *The UN Guiding Principles on Internal Displacement* , May 24-25, 27 (2004), Addis Ababa, Ethiopia, Summary of Findings, at 4.,available at < <http://www.internal-displacement.org/publications/2016/workshop-report/>> accessed on June 10, 2016.

<sup>279</sup> *Id.*

<sup>280</sup> Elizabeth Ferris: *Internal Displacement in Africa: An Overview of Trends and Opportunities*, Presentation at the Ethiopian Community Development Council Annual Conference on ‘African Refugee and Immigrant Lives: Conflict, Consequences, and Contribution’, May 2-4 (2012), at 2.

<sup>281</sup> *Id.*

displacement and the absence of traditional coping mechanisms is definitely another reality of IDPs in Ethiopia.

The ‘Voluntary Resettlement Programs’ of the country also have a prominent share in the internal displacement which the Committee on Economic, Social and Cultural Rights condemned as:

*The Voluntary Resettlement Program, as described in the State party report, entails the forced eviction of thousands of people in various regions of the State party, who are relocated to villages that lack basic infrastructure, such as health clinics, clean water supplies and schools, as well as agricultural assistance or food assistance (art.11).*<sup>282</sup>

The other overlooked effect of the resettlement programs is the welcoming gesture of the host communities. Host communities usually do not oppose resettlement of other population in their neighborhood but when scarcity of resource gets worse and conflicts over resources intensify, the host community becomes hostile to the newly resettled population. The resentment could be serious involving use of force, threats and scattered use of weapons in cases where the resettled population have different ethnic composition from the host community. This is what happened in Guraferda woreda where the resettled population whose ethnic composition is different from the host community, faced constant attacks, harassments and threats against their life, physical integrity, family and property. In relation to inter-ethnic conflict and internal displacement, the contribution of the new regional arrangements as a result of ethnic based federalism should not be denied. Though the government has believed that it has adopted a political system that perfectly suits the multi ethnic composition of the country, it's not as such flawless. In terms of a right to accessing resources and other prospects, the system has developed a sense of belonging to those individuals who are living in their designated ethnic state. Those who are outside their ethnic homeland are not entitled to such rights and benefits and such situation has instigated a competition between those in the designated ethnic state (entitled) and those who are from outside (not entitled).<sup>283</sup> As witnessed from several events, eventually such competitions change their texture and develop in to an inter-ethnic conflict resulting in the displacement of those who are considered as outsiders. An expert on conflict prevention, resolution and peace building at

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<sup>282</sup> Committee on Economic, Social and Cultural Rights: *Concluding Observation on Ethiopia*, E/C.12/ETH/CO/1-3, 48th Session 31 May (2012), at Para 21.

<sup>283</sup> *Siraw Megibaru*, *supra* note 47.

the Ministry of Federal Affairs confirmed that the problem with ethnic conflict lies not on the people rather the root causes are associated with problems on administrative border, utilization and scarcity of resources and identity claims which are concrete particles of the federal system.<sup>284</sup>

#### **4.2. Characteristics of the National Response**

In April 2005, the Brookings Institution-University of Bern, Project on Internal displacement, has developed a framework on national responsibility of a state towards IDPs<sup>285</sup> and this study found it reliable, persuasive and relevant to use it as a parameter to go through the Ethiopian national response to IDPs. The framework contains twelve yardsticks as benchmarks of national responsibility against which a national response to IDPs can be measured. The framework also sets that the fundamental characteristics of a national response is being inclusive of all cause, all groups including displaced women and children, all needs including protection and assistance, all phases which encompasses prevention, protection during displacement and ensuring durable solutions, all affected areas which should include efforts to access, protect and assist those IDPs outside the effective control of the government and lastly but not the least the national responses of the state should be mainstreamed at all levels of government.<sup>286</sup>

The comprehensive nature of the Ethiopian national response to disasters can be grasped from the new Ethiopian National Policy and Strategy on Disaster Risk Management. The policy, being at the center of disaster prevention, response and sustainable solutions, sets out its objective which includes: to reduce and eventually prevent disaster risk and vulnerability; to focusing on and implementing activities to be carried out before, during, and after the disaster period; to mainstream disaster risk management into development plans and programs across all sectorial institutions and implemented at all levels; to ensure all disaster affected population are provided with recovery and rehabilitation assistances; to reduce dependency on and expectations for relief

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<sup>284</sup> Interview with Ato Haileab Getachew

; *Conflict Early Warning and Emergency Response Directorate*, expert, Ministry of Federal Affairs, on March 21, 2017.

<sup>285</sup> The Brookings Institution-University of Bern, Project on Internal displacement: *Addressing Internal Displacement: A Framework for National Responsibility*, (2005), available at [www.brookings.edu/fp/projects/idp/idp.htm](http://www.brookings.edu/fp/projects/idp/idp.htm) accessed on Oct, 2016.

<sup>286</sup> *Id.*, at 9-11.

aid by bringing attitudinal change and building resilience of vulnerable people.<sup>287</sup> However the policy is not defect free; while putting forth category of persons such as women, children, elderly, people with disability, and people living with HIV/AIDS as vulnerable groups requiring special attention,<sup>288</sup> the policy does not expressly provide its concern on the vulnerability of IDPs population. Nonetheless the last phrase of the paragraph tells that the list is not exhaustive rather the term ‘other social issues’ could be inferred to be inclusive of IDPs and their vulnerability. But then again the legibility of IDPs for humanitarian assistance could be in question as the Policy reiterates ‘*Free emergency relief assistance* and recovery and rehabilitation support will only be provided to those labor poor elderly, infirm, pregnant and lactating women, people with disability as well as to those people confirmed unfit for work due to illness.’<sup>289</sup> Those who are able and fit to work are legible for humanitarian assistance on the basis of early warning and disaster assessment only if ‘it is linked to development activity.’<sup>290</sup> Clearly the policy while putting the strategies is ignorant as to the heightened vulnerability of IDPs from the other sections of victims and it marginalizes displaced persons due to the causes of natural or man-made disasters including ethnic conflict-induced IDPs from humanitarian assistance. On the other hand the overall focus of the policy is humanitarian assistance to victims of disasters and does not mention a concern on the wellbeing, security and human rights protection of the victims except to proclaim in its principle that ‘no human life shall be lost due to lack or shortage of provision of relief assistance in times of disaster.’<sup>291</sup>

#### **4.2.1. A National Legal Framework Upholding the Rights of IDPs**

Protection is a legal concept and it cannot be secured in the absence of a national legal framework. Thus a national legal framework safeguarding the rights of IDPs is a significant manifestation of national responsibility and a means of its realization.<sup>292</sup> Whatever approach the country may adopt, having a national legislation on internal displacement has proved to be vital

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<sup>287</sup>*The Ethiopian National Policy and Strategy on Disaster Risk Management* (2013) (herein after the National Policy), Specific Objectives, at 4-5.

<sup>288</sup> *Id.*, at 12.

<sup>289</sup> *The National Policy*, *supra* note 287, at 7

<sup>290</sup> *Id.*

<sup>291</sup> *Id.*, at 13.

<sup>292</sup> *A Framework for National Responsibility*, *supra* note 285, at 16.

in defining IDPs, spelling out their rights and the respective duty of governments.<sup>293</sup> There is no country in the world with a perfect policy on internal displacement but quite a few African countries have taken inspiring steps in response to the problem; Uganda is the best example to adopt a good policy<sup>294</sup> whereas Kenya has adopted a comprehensive law on IDPs.<sup>295</sup> Ethiopia has neither a separate national policy nor a specific law to regulate internal displacement. Even so with respect to human rights guarantees the general human right provisions under chapter three of the constitution are equally available for IDPs and apart from this the IDPs gets to benefit from international human right instruments ratified by Ethiopia.<sup>296</sup> The UDHR, ICCPR, ICESCR, CRC, CEDAW, ACHPR and ACRWC are the major international human rights instruments ratified by Ethiopia<sup>297</sup> which are pertinent for IDPs protection.

#### **4.2.2. A National Policy or Plan of Action on Internal Displacement**

Adopting a national policy or plan of action is a separate, though supplementary, ‘measure to the enactment of national legislation.’<sup>298</sup> A policy on IDPs allows the state to stipulate a comprehensive response to internal displacement; and to put forth responsibilities of national and local institutions, the roles and responsibilities of different branches of the government and the mechanisms of coordination.<sup>299</sup> Though there is no IDPs specific national policy or plan of action, the national policy on disaster risk management somehow recognizes the issue of internal displacement in Ethiopia. The 2013 National Policy and Strategy on Disaster Risk Management acknowledge the existence of a disaster risk posed by conflicts in the country.<sup>300</sup> The Policy is an amendment of the 1993 National Policy on Disaster Prevention and Management with the

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<sup>293</sup> *Id.*

<sup>294</sup> Elizabeth Ferris, *supra* note 280, at 5.

<sup>295</sup> *Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities*, Act, NO. 56 (2012), the National Council for Law Reporting with the Authority of the Attorney-General, available at < [www.kenyalaw.org](http://www.kenyalaw.org) > accessed on Oct, 2016.

<sup>296</sup> *FDRE Constitution*, Proclamation No 1/1995, FEDERAL NEGARIT GAZETTA, 1<sup>st</sup> Year No.1, 1995,(herein after the FDRE Constitution), under Art. 9(4) envisage all international agreements ratified by Ethiopia essentially forming part of the law of the country.

<sup>297</sup> *The Second Ethiopian National Human Rights Action Plan*, (2016).

<sup>298</sup> *A Framework for National Responsibility*, *supra* note 285, at 17.

<sup>299</sup> *Id.*

<sup>300</sup> *The National Policy* *supra* note 287, at 3.

objective of ‘establishing a comprehensive and coordinated disaster risk management system in the context of sustainable development.’<sup>301</sup> The policy only provides for the definition of internal displacement as ‘the process of people being forced to move from their homes to other places because of a natural hazard, war/conflict, or other human-made action.’<sup>302</sup> Apart from such recognitions and derivations, the policy has no deliberate and tangible principles or strategies directed towards IDPs in general or ethnic conflict-induced IDPs in particular.

Though the first National Human Rights Action Plan (2013-2015) and the second (December 2016) explains the human rights and fundamental freedoms enshrined in the FDRE Constitution; and in the international human right instruments validated by Ethiopia and the respective institutional arrangements which are there to enforce and oversee the implementation of the action plan; it does not mention the rights of IDPs.

#### **4.2.3. National Institutional Focal Point for IDPs**

Establishing a national institution designated for IDPs is crucial to secure sustained responsiveness to the problem and to benefit from an effective coordination among the government organizations as well as domestic and international partners.<sup>303</sup> However there is no specific institution established in response to IDPs plight in the country.

In spite of the fact that the number of IDPs is great and escalating, there is no specific government agency or ministry responding to IDPs<sup>304</sup> which hinder the IDPs to benefit from a coordinated and comprehensive national or international protection. The FDRE Constitution under Article 89 (3) provides for the responsibility of the Federal government to prevent and response to disasters including establishing a disaster preparedness and response system in the country. Notwithstanding such provision, due to practical impossibility and in the interest of providing timely and appropriate response to disasters, the policy introduces a decentralized disaster risk management system where the government at the Regional, Zonal, and Woreda level ‘undertake activities ranging from prevention to rehabilitation using their own capacities

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<sup>301</sup> *Id.*, at 4.

<sup>302</sup> *Id.*, at 20.

<sup>303</sup> *A Framework for National Responsibility*, *supra* note 285, at 18.

<sup>304</sup> *IDMC and NRC*, *supra* note 35, at 8 and 153.

and response operation that exceeds the capacity available at any level of government is undertaken by the next higher level of government.’<sup>305</sup> On the basis of this, any undertaking which aims at the prevention of ethnic conflict-induced internal displacement; being prepared for response and providing as such when the conflict materializes and displacement occurs; devising durable solutions that are tenable to the situation is the responsibility of every level of the government.

At the Federal level, the Disaster Risk Management Commission responds to any sort of IDPs situation upon the request of the local or regional government.<sup>306</sup> The Commission has no department specifically endowed with the task of responding to IDPs plight and response to IDPs is incidental to the disaster response for affected population as a whole. The commission has now established a Disaster Response and Rehabilitation Directorate within its internal work departments and this directorate aspires to work on the quest for durable solutions and rehabilitation for IDPs, but for now the commission is working on Humanitarian Assistance only.

Furthermore the National Policy lists lead sector agency which also includes the Ministry of Federal Affairs to undertake operations ranging from monitoring to response for disasters relevant to their respective sectors.<sup>307</sup> It is the mandate of the commission to mobilize and coordinate relevant sectorial offices while responding to any disaster.<sup>308</sup> The Ministry of Federal Affairs is the ‘lead institution with respect to conflict related hazards and associated disasters.’<sup>309</sup> The intervention of the Ministry is warranted in cases where the disasters occurs in or it affects more than one region and responding to such situation is beyond the capacity of the affected region/s; or when there is a high tendency for the disaster to spread rapidly and cover massive areas.<sup>310</sup> Pursuant to such arrangements the Ministry of Federal Affairs works on pre-involvement in conflict prone areas, quick response to conflicts and searching durable solutions

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<sup>305</sup> *The National Policy*, *supra* note 287, at 14.

<sup>306</sup> Interview with W/ro Zenit Ahmed: Disaster Response and Rehabilitation expert, Disaster Risk Management Commission., conducted on March 21, 2017.

<sup>307</sup> *The National Policy*, *supra* note 287, at 16.

<sup>308</sup> *W/ro Zenit Ahmed*, *supra* note 306.

<sup>309</sup> *The National Policy*, *supra* note 287, at 16.

<sup>310</sup> *Id.*

for the conflicts.<sup>311</sup> With regard to the response, the ministry does not have a special department for the IDPs rather the response to IDPs plight is conducted through the general response mechanism for the conflict and affected population.<sup>312</sup>

The role of the Ministry is primarily to remind the responsibilities of the concerned authorities and to influence such authorities to respond to IDPs plight expeditiously. For the humanitarian response as well as human right respect for the affected populations, the Ministry office will influence mainly the disaster risk management authorities at the woreda/zonal/regional/federal level; one poking the other for intervention based on the exigencies of the conflict and their capacity to respond.<sup>313</sup>

#### **4.2.4. Prevention**

Prevention of internal displacement is the first and foremost responsibility of the government. The reading of the Guiding Principles (Principles 5-9) connotes the national responsibility to prevent and avoid conditions that might lead to displacement of population, to explore alternatives and to reduce inevitable displacement and alleviate its adverse effects, and to ensure any displacement lasts no longer than required by the circumstances.<sup>314</sup> Particularly based on prior discussion on the protection from arbitrary displacement, the national authorities should give the utmost attention to arbitrary displacement. For national authorities to understand arbitrary displacement coping with the legal parameters on restriction of freedom of movement<sup>315</sup> should also be considered.<sup>316</sup>

The National Policy on disaster risk management is inclusive of prevention and reduction of disaster risks<sup>317</sup> which supposedly includes by interpretation ethnic conflict disasters. Nonetheless the prevention and mitigation of internal displacement should be included in the

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<sup>311</sup> *Ato. Haileab Getachew, supra* note 284.

<sup>312</sup> *Id.*

<sup>313</sup> *Id.*

<sup>314</sup> *The Guiding Principles, supra* note 3, at Art. 5-9.

<sup>315</sup> *The ICCPR, supra* note 185.

<sup>316</sup> NRC, IDMC and AU: *The National Responsibility to Protect IDP: The Kampala Convention*, Workshop Report, 8-10 December, Addis Ababa, Ethiopia (2014), at 6, available at <<http://www.internal-displacement.org/publications/2016/workshop-report/>> accessed on December 21, 2016.

<sup>317</sup> *The National Policy, supra* note 287, at 4.

prevention and mitigation strategies of disasters at every level of government. The prevention and reduction are more practical for natural disasters such as drought and flooding and yet not always feasible for man-made disasters including ethnic conflict.

In order for the Ministry of Federal Affairs to prevent internal displacement that could occur due to ethnic conflict, the timing when the request for intervention was received, is vital.<sup>318</sup> If the request for intervention or the information on the conflict reaches the office too late i.e. after the conflict have already commenced then, it is difficult to prevent the displacement. Thus the strategy is to intervene in advance to prevent ethnic conflict, so that ultimately to prevent people from leaving their home or residence. The Ministry has a specific directorate working on the prevention, responding and finding durable solutions to conflicts including ethnic conflict. There are offices at the regional and zonal levels which are established for the purpose of accepting and collecting status about conflict or the likelihood of it happening. This is a mechanism to get information on conflict signs and/or incidents that could lead to a conflict among the neighboring woredas. These offices report to the nearby authority about the occurrence of conflict and or the likelihood of it and through the next hierarchy in line of authority the Ministry gets to involve at last. There are also peace committees in conflict prone areas where there is a persistent threat to peace such as Oromia, Somalia, Gambella, Benshangul, Afar and SNNPR. The members of the peace committee are from neighboring woredas which are located in different regional states. The committees hold a regular meeting to discuss any issue that could lead to conflict and the Ministry provides supervision and support including training on conflict management and peace building every three month. These arrangements not always succeed in preventing ethnic conflict due to the differences in conflict context as well as the cultural, political, social, economic and other aspects of the neighboring woredas. The best example to show the effectiveness of such arrangement in some areas is the relative peace witnessed in Moyale following the 2011-2012 conflict among the neighboring pastoralists and semi pastoralists.<sup>319</sup>

#### **4.2.4.1. Is there an Overlap of Mandate?**

While undertaking these actions the Ministry is always confronting the mandate of the House of Federation. On the basis of the FDRE constitution, the House is entitled to resolve border

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<sup>318</sup> *Ato Haileab Getachew, supra* note 284.

<sup>319</sup> *Id.*

disputes<sup>320</sup>, self-determination right of Nation Nationalities and Peoples including the right to succession<sup>321</sup> and to find solutions to disputes and misunderstandings between or among regional states<sup>322</sup>. Apart from deciding on identity claims such as self-determination and state formation the mandates of the House includes to provide for a binding decision to border disputes and other disputes and misunderstandings not pertaining to border issues, where negotiations fail between the contested parties.<sup>323</sup> Strictly speaking the mandate to pass a binding solution in resolving any of the above disputes solely vests on the House and not on the Ministry of Federal Affairs. The Ministry is mandated with facilitation role in resolving disputes arising between or among regional states.<sup>324</sup> It is also entitled to develop and implement sustainable political solutions for disputes and conflicts that arise within regional states but this cannot be exercised in contrary to any other relevant law and the consent of the concerned regional states. The ‘other relevant law’ with respect to ethnic conflict resolution is the constitution and the proclamation on the powers and responsibilities of the House of the Federation. Thus the Ministry is expected to conduct its activities in a manner it could not snatch the powers of the House, though this is practically challenging. In fact these days while resolving ethnic conflicts which arise due to misunderstandings on administrative borders the Ministry conducts border demarcation though such power is legally reserved for the House. The House on the other hand accepts grievances which arise from the border demarcations conducted by the Ministry.<sup>325</sup> The silver lining from this overlap of mandate is the forum shopping opportunity it provides for the victims to choose from the alternatives.

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<sup>320</sup> *FDRE Constitution*, *Supra* note 296, at Art. 48.

<sup>321</sup> *Id.*, at Art.62(3)

<sup>322</sup> *Id.*, at Art.62(6)

<sup>323</sup> *The Proclamation on Consolidation of the House of Federation and Definitions of its powers and responsibilities*, Proclamation NO. 251/2001, FEDERAL NEGARIT GAZETTA, 7<sup>th</sup> Year No. 41, Addis Ababa, 6<sup>th</sup>, July 2001 at Art. 19 and the following provisions on self-determination and state formation; Art. 27 and the following on border disputes; and Art. 32 on other disputes and misunderstandings.

<sup>324</sup> *The Proclamation on Definition of Powers and Duties of the Executive Organs of the Federal Democratic Republic of Ethiopia*, Proclamation No. 691/2010, FEDERAL NEGARIT GAZETTA, 17<sup>th</sup> Year No.1, Addis Ababa, 27<sup>th</sup>, October, 2010 at Art. 14 (b) and (c).

<sup>325</sup> Interview with Ato Girma Zewde: Conflict Resolution and Peace Building Directorate, expert, HOF, on March 28, 2017.

#### **4.2.5. Raising National Awareness of the Problem**

Government recognition of the existence of IDPs problem and its obligation to respond is the stepping stone to have operational national response. This can be accomplished by announcement through the media and formulating strategies to address the problem of IDPs or government recognition and usage of the UN Guiding Principles.<sup>326</sup> In Ethiopia this characteristics of national responsibility is pint-sized for natural disasters whereas never realized in cases of ethnic conflict-induced IDPs. The contribution of the Ministry of Federal Affairs for the protection and assistance of the ethnic conflict induced IDPs comprises collecting information on the number, location and situation of IDPs; recognizing the IDPs and their plight; and informing as well as influencing the concerned authority to undertake its responsibility towards the displaced.<sup>327</sup> Nonetheless there is no means where any of such information is recorded properly and communicated or made available for the knowledge and scrutiny of the general population. But still the National Policy on Disaster Risk Management specifically insists on dissemination of ‘information to the public through media regularly regarding the condition of the disaster and measures being taken.’<sup>328</sup>

#### **4.2.6. Data Collection**

Designing an actual policies and programs directed towards realizing the needs and protection of IDPs rights for all intents and purposes is contingent on reliable information about the numbers, locations and conditions of the internally displaced.<sup>329</sup> The lack of dependable data on the overall situation of internal displacement affects other responsive measures a state has to take including raising national awareness of IDPs problem which cannot be undertaken without having reliable information about the causes, extent and magnitude of the IDPs problem in the first place.

The National Policy also reaffirms this reality and states ‘effective disaster risk management system requires an efficient, dependable and technology supported information management and vertical and horizontal information exchange between different bodies involved in disaster risk

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<sup>326</sup> *A Framework for National Responsibility, supra* note 285, at 13.

<sup>327</sup> *Ato Haileab Getachew, supra* note 284.

<sup>328</sup> *The National Policy, supra* note 287, at .8.

<sup>329</sup> *A Framework for National Responsibility, supra* note 285, at 14.

management at all levels.’<sup>330</sup> Furthermore in recognition of the deficiency of data collection, recording and exchange of information in the country, the policy looking at the practice so far concluded that ‘in addition to the lack of dependable, uniform and technology supported information management system, the information exchange has been inefficient and not supported by technology.’<sup>331</sup>

In practice it is the regional or local government or the Woreda Disaster Risk Management Authority which engages in recording and keeping information about the number, the whereabouts and situations of disaster victims in general including IDPs.<sup>332</sup> There is no data comprising the overall number, condition and location of IDPs in the country collected by the Federal government at the national level. In 2006 though the federal government has not given any estimates of internal displacement in the country with the exception of Tigray region, estimations of the international organizations denoting to some 200,000 conflict-induced IDPs all over the country are generally in conformity with the estimates of the regional government.<sup>333</sup> Reaffirming the harsh repercussions emanating from the lack of official recognition of IDPs and the absence of credible data on the protection of IDPs in general IDMC and NRC mentioned the concern that ‘there is no official line on who is an IDP and official recognition of IDPs is politically sensitive; and the absence of recognition puts them in danger of being excluded from national food distribution schemes and the required protection’.<sup>334</sup> The restrictions from the government constrain humanitarian and human right agencies to obtain dependable information as to the number and conditions of IDPs life.<sup>335</sup>

The practice is not different for Ethnic conflict generated internal displacement, as mentioned earlier; the Ministry itself collects information on the conflict or receives it from the concerned authority in the locality where the conflict has occurred. However the officers believe that such information is not always credible as the authorities might present the data in an increased or

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<sup>330</sup> *The National Policy*, *supra* note 287, at 10.

<sup>331</sup> *Id.*

<sup>332</sup> *W/ro Zenit Ahmed*, *supra* note 306.

<sup>333</sup> *Id.*

<sup>334</sup> *IDMC and NRC*, *supra* note 35.

<sup>335</sup> IOM Humanitarian Compendium, Ethiopia, Available at < [www.humanitariancompendium.iom.int](http://www.humanitariancompendium.iom.int) > accessed on April 10, 2016.

decreased manner; whichever serves their interest.<sup>336</sup> The primary concern of the data collection is the fundamental details of the conflict such as incident that lead to the displacement and facts such as when, where, among whom, the type and amount of damage on human life; physical integrity and properties. The number, and location and situation of conflict induced IDPs is recorded within the consequences of the conflict. The collection of the data is not accompanied by a reliable and modern data recording system.

#### **4.2.7. Training on the Rights of IDPs**

Training on the rights of IDPs to the concerned government officials (at the Legislative, Executive and Judiciary) is critical for the protection and assistance of IDPs as the training allow the officials to be aware of their responsibilities, builds government response capacity and ‘accountability to effectively fulfill these responsibilities.’<sup>337</sup> The training is expected to encompass national human rights institutions and civil organizations and it should include both the rights of IDPs and the corresponding obligations of the state; towards all stages of displacement ranging from prevention to emergency response and securing durable solutions.<sup>338</sup>

An officer at the Disaster Risk Management Commission, an organization responsible to provide humanitarian assistance to any disaster victims including ethnic conflicts, stated that there was no training that focused on the rights of IDPs and the specific institutional responsibility.<sup>339</sup> The same goes to the officer in the Ministry of Federal Affairs.<sup>340</sup> The Human Rights Commission undertakes awareness creation activities such as training to different branches of the government particularly the executive on human rights in general but not specifically on the rights of IDPs.<sup>341</sup>

However international workshops such as the 2004 workshop and policy forum on the UN Guiding Principles which participated the then Disaster Prevention and Preparedness Commission (DPPC), representatives of national and regional governments<sup>342</sup>; and the 2014

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<sup>336</sup> *Ato Haileab Getachew, supra* note 284.

<sup>337</sup> *A Framework for National Responsibility, supra* note 293, at 15.

<sup>338</sup> *Id.*

<sup>339</sup> *W/ro Zenit Ahmed, supra* note 306.

<sup>340</sup> *Ato Haileab Getachew, supra* note 284.

<sup>341</sup> Interview with Ato. Wubshet Girma: *Human Rights Violation Investigation Directorate*, expert, Human Rights Commission, on March 28, 2017.

<sup>342</sup> *OCHA, DPPC, IOM, PCI, and NRC, supra* note 278.

workshop on the national responsibility to protect IDPs based on the Kampala Convention where representatives of Foreign Ministry have participated<sup>343</sup> are the major international IDPs concerned events conducted in the country though their result is minimal. There were also two trainings conducted by UNHCR based on its advocacy role in 2012 and 2013 on the Kampala Convention to reinforce capacity building and awareness on the protection of IDPs.<sup>344</sup>

#### **4.2.8. The Role for National Human Rights Institutions<sup>345</sup>**

The UN Commission on Human Rights, in recognition of the significant contribution national human rights institutions provide for the promotion of human rights including that of IDPs in a given country, recommends states to establish such institutions.<sup>346</sup>

The Ethiopian Human Rights Commission (herein after the Commission) is an independent and impartial institution established by proclamation no. 210/2000 on the basis of Article 55(14) of the FDRE constitution. The most relevant mandates of the commissions with this discussion are ensuring human right respect, testing the validity of laws and administrative decisions against human right principles, investigation of human right violations and forwarding recommendations.<sup>347</sup> There is also Ombudsman office<sup>348</sup> established simultaneously with the Commission; and has the mandate to accept complaints of maladministration from victims or their representative.

As an institution entrusted with the task of ensuring human rights respect for all citizens, the Commission is not included in the lead agency lists of the National Policy on Disaster Risk Management. Nonetheless the Commission usually receives complaints of human rights violations during ethnic conflicts that involve internal displacement. In reality, like any other

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<sup>343</sup> *NRC, IDMC and AU, supra* note 316.

<sup>344</sup> *UNHCR, supra* note 277.

<sup>345</sup> *A Framework for National Responsibility, supra* note 285, at 19.

<sup>346</sup> United Nations Commission on Human Rights, Resolution 2004/55 (20 April 2004), at Para. 18 and 21; and Resolution 2003/51 (23 April 2003), Para. 18 and 21.

<sup>347</sup> *The Proclamation for the Establishment of Ethiopian Human Rights Commission*, Proclamation No.210/2000, FEDERAL NEGARIT GAZZETA, 6<sup>th</sup> Year No. 40, ADDIS ABABA, 4<sup>th</sup> July, 2000, at Art. 6.

<sup>348</sup> *The Proclamation to Provide for the Establishment Of the Institution Of the Ombudsman*, Proclamation No. 211 /2000, FEDERAL NEGARIT GAZZETA, 6<sup>th</sup> Year No. 40, ADDIS ABABA, 4<sup>th</sup> July, 2000.

human right institution in a developing country<sup>349</sup>, the Commission lacks capacity in terms of financial constraints, enforcement of its recommendations and the actual power to influence government organizations and the officials.<sup>350</sup>

The Commission has no meaningful and direct undertakings designed for the human rights protection of IDPs. In areas where ethnic conflict and gross human rights violation is recurring, the commission takes an investigation upon receiving complaint or of its own initiation and reports its finding to the House of Peoples Representative along with its recommendation.<sup>351</sup> The contribution of the commission to provide redress to victims of ethnic-conflict induced internal displacement is limited.<sup>352</sup> The fact that ethnic conflict-induced displacement is considered as politically sensitive is a hindrance for the commission to: recognize ethnic conflict-induced IDPs, to inform the public about their situation and influencing the concerned government to take responsibility with respect to the IDPs.<sup>353</sup>

#### **4.2.9. Participation by IDPs in Decision Making**

The inclusion of such standard in the national framework of IDPs protection entails a situation susceptible for IDPs to forward their views to influence the authorities which are mandated with task of decision making without the fear of being punished or the risk of harm.<sup>354</sup> The discussion on guarantees of prior information and consultation for IDPs in the Guiding Principles should also be reminded here. Informing and consulting IDPs on any response either international or national can considerably enhance its effectiveness.<sup>355</sup>

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<sup>349</sup> Mario Gomez: *National Human Rights Institutions and Internally Displaced Persons: Illustrated by the Sri Lankan Experience*, Brookings Institution-SAIS Project on Internal Displacement, (2002), available at [www.brookings.edu/fp/projects/idp/idp.htm](http://www.brookings.edu/fp/projects/idp/idp.htm)> accessed on June 21, 2016.

<sup>350</sup> *Ato. Wubshet Girma, supra* note 335.

<sup>351</sup> *Id.*

<sup>352</sup> *A Framework for National Responsibility, supra* note 285 at 19-20; Read for the ideal activities which a national human right institution can undertake.

<sup>353</sup> *Ato. Wubshet Girma, supra* note 335.

<sup>354</sup> *A Framework for National Responsibility, supra* note 285 at 20-21.

<sup>355</sup> *Id.*

Though the Ministry does not devise IDPs specific response, the conflict management directorate believes in the consultation and participation of the affected population in framing successful solutions to the conflict; the displaced and members of the affected populations in making decisions.<sup>356</sup> In fact the officer firmly stated that any solution devised to resolve a conflict and its consequences cannot be effective without the participation of those affected and who are concerned.<sup>357</sup>

#### **4.2.10. Durable Solutions**

National authorities are under obligation to institute the conditions and provide the means in order to ensure that IDPs found durable solutions to their problem. Safety and dignity are indispensable elements of durable solutions and particularly conflict-induced displacement calls for ‘an end to the conflict or fundamental change in the circumstances’<sup>358</sup> that initially triggered the displacement. According to IOM “permanent reintegration and identification of durable solutions for IDPs in Ethiopia remains elusive due to insecurity and lack of socio-economic development in affected areas, where the majority remain in dire need of humanitarian assistance”.<sup>359</sup>

The 2004 workshop revealed that, of all the alternatives to durable solutions, IDPs in Ethiopia prefer to return to their original settlement due to difficulties of establishing comfortable residence elsewhere. The major obstacles to return are insecurity particularly in conflict-induced displacements and the lack of livelihood opportunities.<sup>360</sup>

The Human Rights Commission admitted that it has no meaningful contribution to finding durable solutions; as such solution depends on the political willingness and the availability of resources in the concerned level of government.<sup>361</sup> The Commission struggles for the victims to find durable solutions but in some particularly in conflict cases the issue takes a long time to calm down and devise a solution. The result of such delay is that the victims find a solution by

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<sup>356</sup> *Ato Haileab Getachew, supra* note 284.

<sup>357</sup> *Id.*

<sup>358</sup> *A Framework for National Responsibility, supra* note 285, at 22.

<sup>359</sup> *Id.*

<sup>360</sup> *OCHA, DPPC, IOM, PCI and NRC, supra* note 287, at 5.

<sup>361</sup> *Ato. Wubshet Girma, supra* note 335.

themselves. The recent displacement scenario in Oromia regional state, West Shoa Zone in Nono Woreda, where the displaced were not able to find an immediate solution and some of whom were resettling in another place by themselves whereas some are still in dire situations; depicts that finding durable solutions for ethnic conflict-induced IDPs remains challenging in Ethiopia.<sup>362</sup>

The obligation to devise and facilitate durable solution for ethnic conflict-induced IDPs resides on every level of government authorities depending on the availability of the solution and the capacity of the concerned authority. Based on the experiences of the Ministry, those people who left their home/residence usually return to their place of origin even in the long term.<sup>363</sup> The best example here is the 2015-2016, Bench-Maji zone Yeki woreda displaced people who were hosted at Sheko woreda but found their way back home several months later after the conflict was resolved. Though the Ministry imposes its influence on every concerned authority to find durable solutions in any of its forms for the displaced, reintegration in the host community/woreda or resettlement in another woreda is not a guaranteed option. This is due to the fact that most of the time the displaced are farmers, pastoralists and/or semi pastoralists who are dependent necessarily on land and cattle for their survival. More importantly return and resettlement usually cannot take place without 'some transitional assistance, such as food to tide the IDPs over while crops are replanted and tended.'<sup>364</sup> The host community/woreda which provided a temporal residence for the displaced could be unable or unwilling to arrange such resources and the same hindrance is there for resettlement. Resettlement in another location is usually the responsibility of the regional government whose nationalities are displaced. Depending on the contemporary practices of the country, such regional government at least may provide land where the displaced can settle and build their life and a transportation service for the displaced to travel to such resettlement area. The lack of basic infrastructure, such as health clinics, clean water supplies and schools, as well as agricultural assistance or food assistance in the resettlement areas is also another barrier for resettlement to be effective and feasible durable solution in Ethiopia. Nonetheless there is no guarantee for the displaced to enjoy the solution of reintegration and resettlement; since their application is dependent at the whim of the concerned

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<sup>362</sup> *Id.*

<sup>363</sup> *Ato Haileab Getachew, supra note 284.*

<sup>364</sup> *David Fisher, supra note 237, at 115.*

regional government and the Ministry of Federal Affairs has no mandate to force such authorities to undertake any of these solutions.<sup>365</sup>

#### **4.2.11. Cooperation with International and Regional Organizations**

When states are under inadequate capacity to provide protection, assistance and durable solutions to IDPs, they should ‘as an exercise of responsible sovereignty’, request and receive international assistance and work in collaboration with international and regional organizations.<sup>366</sup>

The Disaster Risk Management Commission reaffirmed that it does utilize every penny at its disposal in response to any situation leading to displacement of citizens. However it prefers to mobilize resources inside Ethiopia rather than opting request for assistance from outside the country. Such practice is in line with the National Policy on Disaster Risk Management which spells that domestic capacity should be the main source of funding in order to have an effective and sustainable disaster risk management and looking outside the country for support can be made ‘only when there is a proof that the requirement cannot be covered through available capacity in the country.’<sup>367</sup>

International cooperation and assistance either financial or technical is not a problem for natural disasters such as drought and flooding but for ethnic conflict-induced IDPs. International organizations including IOM which regrettably responded saying ‘unfortunately we are not at liberty to comment on this topic’ to the interview questions of this study, are not at liberty at all to come to the rescue and support of ethnic conflict induced-IDPs. Even though there is a great need for humanitarian assistance in the displacement areas, the government limited the access to the affected areas for international humanitarian agencies.<sup>368</sup> The enactment of the Civil Societies Proclamation No. 621/2009 have rigorously limited the activities of other national and international human right organizations; ‘thus it was not possible for such organizations...to

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<sup>365</sup> *Ato Haileab Getachew, supra* note 284.

<sup>366</sup> *A Framework for National Responsibility, supra* note 285, at 24.

<sup>367</sup> *The National Policy, supra* note 287, at 11.

<sup>368</sup> *IOM Humanitarian Compendium, supra* note 329.

assess the profile and needs of people displaced by conflict, violence or human rights violations’.<sup>369</sup>

The relationship of the Ministry of Federal Affairs with international organizations is limited.<sup>370</sup> It is only through capacity building undertakings; the office gets to benefit from international governmental or NGOs. The capacity building undertakings usually by the UNDP, involves a training and experience sharing initiatives on prevention and resolution of conflict, providing material/technical assistance for new offices established for such purposes.<sup>371</sup>

The House of Federation gets a technical support from GIZ/CPS i.e. Civil Peace Society in prevention, resolving and finding sustainable solutions to ethnic conflicts.<sup>372</sup> The society have international and national peace advisors (IPA/NPA) working on resolution of conflict and peace building who provide professional assistance to the House on conflict matters regularly.<sup>373</sup>

UN agencies particularly UNDP used to provide, though trivial, financial assistance to the Human Rights Commission whereas OCHA, the humanitarian coordinator in Ethiopia provides capacity building and technical assistance to the Commission through trainings on human right protection, international principles and experiences.<sup>374</sup> Even though international human rights organizations and or agencies including UNHCR through its Protection Cluster works independently for the protection and assistance of IDPs in the country ‘the lack of a government counterpart and a national strategic framework for IDPs hampers targeted protection interventions and well-tailored technical support.’<sup>375</sup>

#### **4.2.12. Adequate Resources**

National authorities should devote to the extent possible resources (both human and financial) to fulfill the protection needs and assistance of IDPs.<sup>376</sup> This can be accompanied by the possibility

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<sup>369</sup> *Id.*

<sup>370</sup> *Ato Haileab Getachew, supra note 284.*

<sup>371</sup> *Id.*

<sup>372</sup> *Ato Girma Zewde, supra note 325.*

<sup>373</sup> *Id.*

<sup>374</sup> *Ato. Wubshet Girma, supra note 335.*

<sup>375</sup> *UNHCR, supra note 277.*

<sup>376</sup> *A Framework for National Responsibility, supra note 285, at 24.*

of international assistance in cases of shortage.<sup>377</sup> In Ethiopia, there is neither special IDPs fund nor a budget for IDPs program in the national budget stream. Thus our focus directs to the Disaster Commission and the Ministry of Federal Affairs. The Ministry always falls short of resources both financial and human capacity to run its mandates and there are no contingency funds reserved and even in such circumstances it does not accept any form of international financial assistance from governmental or NGOs.<sup>378</sup> When the humanitarian appeal is beyond its capacity, the Disaster Commission mobilizes support from organizations located in the country including governmental sectorial institutions and international organizations such as OCHA and UNDP.<sup>379</sup>

### **4.3. The GuraFerda Displacement**

#### **4.3.1. How Did It All Begin?**

Before the official order for the mass expulsion was undertaken, there were human rights violations and harassments prompting displacement by the local government and community in Guraferda woreda. The displaced people find themselves in the woreda through the massive resettlement which started in 1980s (during the prior and the current regime) to relocate drought affected families from northern Ethiopia.<sup>380</sup> As a result of invitation by the local authorities; people living close by to the community also resettled in the area.<sup>381</sup> Once the local community attained woreda status, the then woreda authorities announced through mass media, the natural endowments including fertile land which is conducive for investment and resettlement.<sup>382</sup> Following such announcement there is also another resettlement occurred until the year 2005 in

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<sup>377</sup> *Id.*

<sup>378</sup> Ato Haileab Getachew, *supra* note 284.

<sup>379</sup> *W/ro. Zinet supra* note 306.

<sup>380</sup> Ethiopian Human Rights Council, *Democracy, Rule of Law and Human Rights in Ethiopia: Rhetoric and Practice* (1995), at 128.

<sup>381</sup> See ፍትህ ጋዜጣ (መጋቢት 14፣ ቅጽ5፣ ቁጥር 180፣ 2004 ዓ.ም and ሪፖርተር ጋዜጣ፣ መጋቢት 26፣ 2004 ዓ.ም. for details of the reasons behind such invitations.

<sup>382</sup> Interview with Ato. Degnet Mersha: *One of the Victims representatives to launch a complaint to the HOF*, on April 22, 2017.

the woreda.<sup>383</sup> These peoples have resettled in 18 kebele administrations and have been utilizing the natural resources including land which they claim to have possessed legally.<sup>384</sup> However the resettled people faced hostile actions such as arrest and property confiscation without court order and good cause, involuntary transportation to return them to where they come from by the woreda and zonal authorities.<sup>385</sup> The authorities also instigated the local communities to participate in the hostile acts and they were taking properties of the resettled people and reporting them for police custody.<sup>386</sup> These acts of hostility continued for more than two years<sup>387</sup> and at last in the year 2009 they were told that there is an official decision from the regional government, ordering those people who settle after the year 2005, to leave the woreda immediately.<sup>388</sup> Based on such decision, the people were evicted by the local government with the support of the Amhara regional government providing transportation and a new resettlement area around Quara and Mettema.<sup>389</sup>

#### **4.3.2. Summary of the Violation**

##### **4.3.2.1. Which Institutions were involved?**

Before the official decision for the mass expulsion, representatives from some of the victims of the human rights violations, launched their first complaints to the Human Rights Commission (herein after the Commission) in 2007 and the commission wrote a recommendation letter to influence the president office of the SNNPR stating ‘if the alleged acts in the victims complaint occurred, for the office to give an immediate response to resolve the issue, to stop the human rights violating acts and to bring legal action against those who were violating the rights’.<sup>390</sup> The

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<sup>383</sup> Interview with Ato Degu Teshale, Ato Mebratu Banche and Ato Alemu Hailu: they are some of the displaced persons from Gurafarda Woreda, as cited by *Yonas Girma*, *supra* note 28, at 96.

<sup>384</sup> *The Victims Petition to HOF*, *supra* note 29.

<sup>385</sup> *Summary of the claim by the victims*, *supra* note 27.

<sup>386</sup> *Id.*

<sup>387</sup> *Id.*

<sup>388</sup> *Ato Degnet Mersha*, *supra* note 382.

<sup>389</sup> Interview with Ato. Sisay Hailu; and Ato. Alayu Alemayehu, who are *forcibly evicted and* now reside in Walge, a rural town neighboring Wolkite City, April 15, 2017.

<sup>390</sup> See Annex A, Summary of the claim by the victims of the displacement in the first letter from the Human Rights Commission to the SNNPR President Office, Written on July 1, 2007.

recommendation was not successful that the local government specifically the woreda administration failed to refrain from the human rights violating actions and the victims submit their second complaint to the commission claiming the continuance of the human rights violations including the unlawful punishments and harassments followed their first complaint to the commission.<sup>391</sup> Similarly the commission forwarded a recommendation to the regional government through a letter for the second time.<sup>392</sup> The regional security and administration office, up on receiving a complaint from the victims, also wrote a letter to the zonal justice and security office to provide for the alleged violations and the victims immediate response and to report on the execution of such measures thereof.<sup>393</sup> Unfortunately the study could not verify the implementation of the letter and to include the views of the then zonal officials on the allegations of the victims due to the impossibility encountered to contact them. In spite of all these positive measures the regional government officially ordered the forced eviction and continued the displacement of thousands of people from not only the woreda but also the region.<sup>394</sup>

Furthermore the Human Rights Commission also failed to commence further investigation in to the allegations of the victims which contain facts that constitute human rights violations or to verify the subsequent order of the regional government for the mass evictions and the manner of its undertaking with human right guarantees. For a commission which was waiting for the matter to get a political resolution first, such failure is justified considering the political sensitivity of the issue.<sup>395</sup> Whatever justification there is for the commission, its failure to properly address the issue contravenes the very essence of establishing the institution.<sup>396</sup> Mohammed Abdo regrettably criticizes the commission saying:

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<sup>391</sup> *Second Letter of the Commission, supra* note 32.

<sup>392</sup> *First Letter of the Commission, supra* note 384.

<sup>393</sup> See Annex D, The Letters of the Regional Security and Administration Bureau to the Zonal Justice and Security Office about the allegations of the victims and requesting an immediate measure to resolve the issue, wrote on Dec. 23/2008.

<sup>394</sup> Circular written by Shiferaw Shigutie, President of SNNPR, *A Circular written to Benchi Maji Zone*, Sene 11, 2001 E.C as cited in *Yonas Girma, supra* note 28, at 96.

<sup>395</sup> *Ato. Wubshet Girma, supra* note 335.

<sup>396</sup> Mohammed Abdo: *The Ethiopian Human Rights Commission and Its Contribution to the Protection of Human Rights and Building of Good Governance: Challenges and Prospects* in Wolfgang Benedek, Christian Pippan and

*The basic rationale for its establishment is to achieve a permanent shift from the autocratic polities of the past to a just and democratic political arrangement in which the supremacy of law and good governance flourishes. The institution is thus meant to serve as the frontline mainstay for ensuring that the new status quo does not slide back to the human rights abuses of the past by seeing to it that the fundamental human rights and freedoms of citizens remain the constant centre of all developmental endeavors being made. Quite contrary to its inherent objective, the failure of the commission to investigate such cases means that it failed to test whether the development policy of the government is in line with the human rights ethos espoused by the constitution.*<sup>397</sup>

Following such confusions the Commission referred the case to the ombudsman alleging to have no jurisdiction over the matter.<sup>398</sup> The victims have also launched a complaint to the Ombudsman and the office could not provide any prospective relief to the victims. According to prior studies the Ombudsman rejected the petition of the victims alleging acts of human rights violations prompting displacement by the local government; conceding with the fact that the people are illegal settlers.<sup>399</sup> Unfortunately this study could not access any document to determine how the Ombudsman office handled the case.

Both the federal and regional governments justified the official order for the mass expulsion claiming that the displaced people were those who settle in the area after 2005 unlawfully without the necessary permits to hold a land and those who settled before that year have already been allowed to stay.<sup>400</sup> However the interview with victims of the displacement<sup>401</sup> and their petition to the House of Federation<sup>402</sup> reveals that even those who have settled there legally

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Tadesse Kassa (eds), *Ethiopian and Wider African Perspectives on Human Rights and Good Governance Research Outcome* (2014), PP.19-40, at 33.

<sup>397</sup> *Id.*

<sup>398</sup> *Mohammed Abdo, supra note 396.*

<sup>399</sup> Interview with Ato Petros W/senbet: *maladministration offences investigation and correction directorate director*, Ethiopian Institute of Ombudsman, conducted on January 21<sup>st</sup>, 2013; as cited by *Yonas Girma supra note 28*, at 121.

<sup>400</sup> *Mohammed Abdo, supra note 396.*

<sup>401</sup> *Ato Degnet Mersha, supra note 382.*

<sup>402</sup> *The Victims Petition to HOF, supra note 29.*

before the year 2005 were also included in the mass expulsion. The local authorities established temporary checking points at the gates of the woreda to control movements and those who were out of the town temporarily for personal reasons such as seeking medical and spiritual healing and or visiting a relative, were denied entry in to the woreda and they were told to return to where they came from.<sup>403</sup> Although the local communities were helping the authorities in determining the identities of the so called ‘outsiders’, the fact that the identity card in our country mentions the nation or the racial group which the person belongs to, has made it easier for the authorities to differ who is who and to expel individuals belonging to Amhara nation. The forced evacuation also displaced people who settle legally and lived for more than seven and eight years in the woreda but whose documents attesting their legal settlement were destroyed during the human rights violations perpetrated by the local authorities and communities.<sup>404</sup>

#### **4.3.2.2. Is there a Rights Violation?**

The most important question that should be raised is whether the act of displacement in mass expulsion could be justified for illegal settlement, possessing a land without permit and engaging in deforestation activities. The question whether the manner of the displacement upheld the human rights of the displaced is also not any less important. With respect to the first question Yonas in his study said:

*Whether the arguments of government or other bodies accurate or inaccurate the right to freedom of movement and residence of such Amhara peasants was violated. The justification for the forced displacement of such people was their illegal deforestation. There is no any legal provision in Ethiopian legal framework that provides violating the right to freedom of movement and residence of individuals through forced displacement could be a penalty for deforestation. It was possible to punish the identified persons who have committed deforestation based on the relevant legal provision.*<sup>405</sup>

As discussed in the previous chapter, on the basis of International Human rights and Humanitarian Law, a displacement is only justified on the safety and health of the displaced or an overriding public interest. The FDRE Constitution on the other hand guarantees the freedom

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<sup>403</sup> *Id.*

<sup>404</sup> *Id.*

<sup>405</sup> Yonas Girma, *supra* note 28, at 120.

to choose residence under Art. 32 and provides for the protection of those displaced or whose lives have been adversely affected due to state programs under Art. 44 (2). Although the term state programs requires a distinct detail analysis, to the least it refers to government resettlement schemes and development projects in the interest of the public. The Constitution specifically stipulates for the right to proportionate ‘monetary or alternative means of compensation, including relocation with adequate state assistance.’<sup>406</sup> However it is obvious to say that the Constitution is only referring to government sponsored displacements related with development and does not include ethnic conflict-induced IDPs or any other victims of internal displacement due to man-made or natural disasters. The Ethiopian expropriation law also provides for the possibility of evicting individuals or peoples from their residence for the purpose of huge development projects which are believed to benefit the general public.<sup>407</sup> Up on reading these two legal standards and recalling the practice of government sponsored resettlement for drought affected population, it can be inferred that the only justification for displacement of an individual from residence in Ethiopia, is the wellbeing of the displaced and or a public interest.

Considering the circumstances of the Guraferda case, the displacement is neither justified in the safety and health of the displaced nor on a compelling and overriding public interest which in effect renders it an arbitrary displacement.<sup>408</sup> The fact that the woreda in collaboration with the regional government was resettling people from Sidama and Gedeo Zones in the year 2003 and 2004; and people from Hadiya, Guragie and Sidama in the year 2005, 2006, and 2007 in seven kebeles within Guraferda woreda<sup>409</sup> shows the interest of the regional government to settle people from its own region only<sup>410</sup> whereas for some the forced evacuation and such subsequent

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<sup>406</sup> *FDRE Constitution Supra* note 296, Art. 44 (2).

<sup>407</sup> *The Proclamation on Expropriation of Land holdings for Public Purpose and Payment of Compensation*, Proclamation No. 455/2005, FEDERAL NEGARIT GAZETTA , 11<sup>th</sup> year No.43, ADDIS ABABA , 15th July, 2005, Article 4(1).

<sup>408</sup> See the discussion on *The Guiding Principles supra* note 3, at Art. 6 and *The Kampala Convention supra* note 165, at Art. 4.

<sup>409</sup> Watts Ronald, *The Relevance Today of the Federal Idea*, the background paper written for the International Conference on Federalism, Saint Gallen, Switzerland (2002), at 56., available at <http://www.forumfed.org/federalism/watts.asp?lang=en> > accessed on Oct. 11, 2012.

<sup>410</sup> *Yonas Girma, supra* note 28, at 96.

actions of the regional government is considered as ethnic cleansing<sup>411</sup>, a ground on which there is absolute prohibition of displacement in the International Law.

Without prejudice to the displacement of those who have legal permit to possess the land and build their home, the government still could argue that the displacement have reasonable ground i.e. possession of land and building home without legal permit; and acts of deforestation. However even in the presence of reasonable or justifiable causes, 'it is incumbent upon the relevant authorities to ensure that they are carried out in a manner warranted by a law and compatible with the Covenant (ICESCR) and that all the legal recourses and remedies are available to those affected.'<sup>412</sup>

With respect to the manner of the displacement, there are two issues that raise a concerned attention. Firstly, the official decision to forcefully evacuate concerns only certain people specifically those who supposedly have no legal permit to settle but there was no investigation made on individual basis to differ those who do have the permit. Secondly, the evacuation was carried out forcefully in mass expulsion which does not consider the risk of evacuating individuals who do have the permit. Particularly those individuals who settle legally and lived for more than seven and eight years in the woreda but the documents attesting their legal settlement was destroyed during the human rights violations perpetrated by the local authorities and communities. Nonetheless the victims of the displacement still claim for the legality of their settlement. According to the victims the people who settle there before the area attained woreda status get to hold of land from the kebele administration for free and or with a one Birr payment for a land of 1m\*500m size. Whereas those people who settle after Guraferda became woreda, possessed land from the woreda administration paying none and or paying a varied range of prices. There were also other who settle in the woreda, living and working on a contractual land. Particularly those who settle there after the year 2005, in addition to the above methods, hold land due to a contractual agreement as a tenant to farm for themselves for a certain year of period or to share the benefits of the farming equally with the land holders.<sup>413</sup> And according to the land laws of the country, specifically the rural land laws, all this alternatives of possessing rural land

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<sup>411</sup> *Mohammed Abdo, supra* note 396.

<sup>412</sup> *General Comment 7, supra* note 214, at Para.11

<sup>413</sup> *Ato Degnet Mersha, Supra* note 382.

are legal.<sup>414</sup> Whether the people have legal basis for their settlement or not, it still does not justify why they are forced to evacuate not only the land but also the region entirely.

Moreover the manner in which the Guraferda displacement was carried out not only contravenes freedom of movement but comprehends a wide range of human rights. The victims were not given advance notice and proper time to prepare themselves, collect their personal belongings and to manage their immovable and movable properties including agricultural products.<sup>415</sup> Since the displacement was carried out under normal circumstances as opposed to emergency situations the free and informed consent of the displaced should have been sought. The fact that there is no law in Ethiopia on internal displacement which regulates issues such as who should be making the decision to displace, the requirement of prior information, duration of time to prepare, reasons and procedures of displacement, puts the displaced at the discretion of local, regional or even the federal government. And arbitrariness is always presumed in the absence of a law and exercise of a discretionary power.

The displacement was also ignorant of human rights guarantees of the displaced such as freedom of movement and the right to choose a residence freely (Art. 32 of FDRE Constitution, Art. 12 of ICCPR, Art. 12(1) of ACHPR, Art. 13 of UDHR) since some of the displaced were imprisoned and forced to leave the place without their desire to do so.<sup>416</sup> Some members of the displaced were imprisoned unlawfully and some incurred bodily harm which is a violation of the right to liberty and security of the person (Art. 16 and 17 of the FDRE Constitution, Art. 9 of ICCPR, Art. 6 of ACHPR, and Art. 3 of UDHR). The victims of the displacement also claim that few members were killed and while the imprisonment and forcible return was carried out, there was a use of force against the right to life and physical integrity (Art. 15 of the FDRE Constitution, Art.

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<sup>414</sup> The Proclamation on Rural Land Administration and Land Use, Proclamation No. 456/2005, FEDERAL NEGARIT GAZZETA, 11<sup>th</sup> Year No.44, ADDIS ABABA, 15<sup>h</sup> July, 2005 and The Proclamation on Rural Land Administration, Proclamation No. 86/1997, FEDERAL NEGARIT GAZZETA, 3<sup>th</sup> Year No.54, ADDIS ABABA, 7<sup>th</sup> July, 2005.

<sup>415</sup> Assefa Negash, *Why Have the Amaras Once Again Become Victims of Ethnic Cleansing by TPLF?* April 2012, available at <[www.tassew.files.wordpress.com/2012/04/amaras\\_ethnic\\_cleansing\\_by\\_tplf\\_dr\\_assefa\\_negash.pdf](http://www.tassew.files.wordpress.com/2012/04/amaras_ethnic_cleansing_by_tplf_dr_assefa_negash.pdf)>, accessed on December 27, 2105.

<sup>416</sup> *Second Letter of the Commission*, *supra* note 32.

6 of ICCPR, Art. 4 of ACHPR and Art. of 3 UDHR) of the displaced.<sup>417</sup> Though not all, a significant number of displaced people's property were destroyed whereas others were taken away illegally and without their consent<sup>418</sup> which is a fact showing a violation of the right to property (Art. 40(1), (2) and (7) of the FDRE Constitution and Art. 14 of ACHPR) and the fact that some family members were separated during the displacement<sup>419</sup> is against the legal protection provided for the family (Art. 34(3) of the FDRE Constitution, Art. 23(1) of ICCPR, Art. 10(1) of ICESCR), Art. 18 of ACHPR and Art. 16(3) of UDHR). Lastly, there was no proper accommodation during the displacement<sup>420</sup> and the durable solution pursued was a resettlement in another area where there is no and limited infrastructure and those who resettled there were having difficulty in accessing health and other basic facilities.<sup>421</sup>

Most importantly the right to available<sup>422</sup> and effective<sup>423</sup> remedy as an essential element of the due process guarantees for the displaced should not be forgotten. Representatives of the displaced brought allegations on the human rights violations to the Human Rights Commission before the official decision to the displacement took place and the Commission's recommendations failed to stop the human rights violation let alone to redress the damage caused by such violations. The same representatives launched a complaint to the House of Federation attaching the remedies the Human Rights Commission provided. The House did not open a file to the issue for reason of failing to exhaust available local remedies on the part of the victims within their local administration.<sup>424</sup> However the fact that the local administration itself is involved in the human rights violations which prompt displacement is a *prima facie* proof that the local remedy is unavailable. Even if the presumed unavailability of the remedy could be contested, the complaint of the victims about the violation to organizations/personnel who were initially violating the rights could not bring any successful relief to the victims. One of the

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<sup>417</sup> *Id.*

<sup>418</sup> *The Victims Petition to HOF, supra* note 29.

<sup>419</sup> *Id.*

<sup>420</sup> *Ato. Sisay Hailu; and Ato. Alayu Alemayehu, Supra* note 389.

<sup>421</sup> *Id.*

<sup>422</sup> *General Comment 7, supra* note 210, at Para 11.

<sup>423</sup> *ICCPR, supra* note 185, at Art. 2(3) (a).

<sup>424</sup> Interview with Ato Kifle Tsegaye, *Junior expert on Constitutional Interpretation*, HOF, on March 28, 2107.

representatives of the victims said that there were two reasons why they did not opt to apply for a court about the acts of the violations. The first one is that the judges, including the president of the court, are under the influence of the woreda cabinet and due to this fact they did not trust the judicial system to be impartial enough to put an end to their plight. Secondly, the violation is a gross one which they did not believe a decision from a court could rectify it. So instead of the court they have applied to every other quasi-judicial organ in the country and yet failed to get any relief. With respect to the availability of remedies the jurisprudence of African Commission on Human and Peoples' Rights elaborates that the availability of local remedies should be measured in its availability, effectiveness and sufficiency.<sup>425</sup> A remedy is said to be available 'if the petitioner can pursue it without impediment'<sup>426</sup> or in other words if it is 'readily obtainable and or accessible.'<sup>427</sup> The effective requirement of a remedy is fulfilled 'if it offers a prospect of success'<sup>428</sup> or if its 'adequate to accomplish a purpose; producing the intended or expected result'.<sup>429</sup> And the sufficiency of a remedy emanates from its capacity to 'redressing the complaint'<sup>430</sup>, i.e. 'if it is adequate for the purpose of redressing the injury caused by the violation'.<sup>431</sup> If any of the three requirements are absent, then it defies the rule of exhausting local remedies and the exception to non-exhaustion comes to play in a given case. Thus the House should have accepted the Guraferda complaint considering the non-availability of local remedy to the victims due to the circumstances of case.

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<sup>425</sup> ACHPR Communications 147/95 and 149/96 (Joined), *Sir Dawada K Jawara v The Gambia*, 13<sup>th</sup> Annual Activity Report (2000), at Para 31. Available at <[www.achpr.org/communications/decisions](http://www.achpr.org/communications/decisions)> (accessed on 10/04/16).

<sup>426</sup> *Id.*, Para. 32.

<sup>427</sup> ACHPR Communication 299/05, *Anuak Justice Council v Ethiopia*, 20<sup>th</sup> Annual Activity Report, at Para. 51. Available at: [www.achpr.org/communications/decisions](http://www.achpr.org/communications/decisions) (accessed on 10/04/16).

<sup>428</sup> See *Jawara*, *supra* note 425, at Para. 32 and *Anuak Justice Council*, *supra* note 427, at Para. 52.

<sup>429</sup> See *Jawara*, *supra* note 425, at Para. 32.

<sup>430</sup> *Id.*

<sup>431</sup> *Anuak Justice Council*, *supra* note 427, at Para. 52

## **Chapter Five**

### **Conclusion and Recommendations**

#### **5.1. Conclusion**

Starting at the end of the 1980's, the international communities have struggled for many years for the recognition of IDPs as separate category of person. There are major scholarly debates against the need for separation of IDPs as a category of international concern. The most tenable was the argument that singling out IDPs from the general affected population could create privilege and discrimination among vulnerable groups. However this argument is refuted when Kälin and Mooney pursue that the purpose of the recognizing IDPs separately is not to provide privilege rather to accommodate the specific needs of IDPs. Furthermore the heightened vulnerability of IDPs than the general affected population has been established by pragmatic studies. On the other hand some scholars attribute the international response for IDPs to humanitarian containment of the security threat posed by refugee flows. In spite of strong scholarly debates against the separate category of IDPs, the international community has responded to the plight of IDPs by assigning a representative on the rights of IDPs and by adopting a guiding principle as a normative framework for the protection and assistance of IDPs. The Principles are restatement of existing values in the international human right and humanitarian law. The Principles puts forth the forced uprooting of the displaced from their residence or home and not crossing an internationally recognized border as the two defining elements of an Internally Displaced Person. Though the causes of displacement provided in the Principles are said to be comprehensive, in reality the international community avails much more attention to displacement due to war either international or internal, natural disasters and even development induced displacement while overlooking displacement due to inter-communal conflict.

IDPs have the right to protection from arbitrary displacement which is well founded in the international human rights and humanitarian law. Principles of such laws provide standards both substantively and procedurally to avoid arbitrary displacement. A displacement that is not justified in the grounds as well as in disregard of due process guarantees in the international human rights and humanitarian law is an arbitrary one. The right to housing and the protection from forced evictions is the other legal base against which the right not to be arbitrarily displaced

is grounded. The human right guarantees during the displacement needs to be upheld to avoid arbitrary displacement. There is an international understanding (as provided in the UN Guiding Principles) that displacement shall no longer lasts than required by the exigencies of the situation and the displaced people are entitled to durable solutions; return or resettlement. Here the responsibility of the government is glared as it pertains to the positive involvement to guarantee, provide and facilitate the durable solutions. The due process guarantees for protection against arbitrary displacement such as informed and prior consent should also be there on the part of the displaced while securing the durable solution sought. Though the right is not spelled out expressly in ICESCR, humanitarian assistance is a right imprinted in other civil and political rights such as the right to life; and in economic social and cultural rights such as the right to food, clothing, water, and the right to health. However regional human right instruments such as the African Charter on the Rights and Welfare of the Child and the Kampala Convention on the protection and rights of IDPs specifically address the right to humanitarian assistance for IDPs. In respecting, protecting and providing such guarantees for IDPs, the national responsibility to accept international assistance plays a vital role; as states usually tend to escape responsibility claiming non-availability of resources in the country.

In Ethiopia, there is no comprehensive response and coordination system to address the problem of IDPs despite the escalating number of internal displacement due to flooding and drought; generalized violence and human right violation; and internal strife such as inter-communal conflict. The resettlement schemes and their consequential effect in the inter-ethnic composition and relationship of nations is also another factor in the Ethiopian internal displacement. Though there is no IDPs specific law to guarantee the human rights and humanitarian assistance to IDPs, the existing Constitutional human rights principles and those enshrined in the international human right instruments ratified by Ethiopia are available for IDPs like any other individual in the country. The existing national policy is significant and yet the policy neither accommodates the protection and assistance needs of IDPs in general nor the specificity of ethnic conflict-induced IDPs. The Disaster Risk Management Commission is an establishment for disaster risk management at the federal level and involvement in regional disasters depends up on the lack of capacity and invitation from the concerned level of government. It is mandated to monitor and coordinate other institutions and stakeholders; to prevent, to provide timely response and sustainable solution for any sort of disaster including ethnic conflict. The Commission only

engages in humanitarian assistance and the human right protection of the affected people including IDPs remains at the power of the concerned level of government. The human rights protection here at least pertains to the tasks of respecting and defending the human rights of the affected population including IDPs; to put an end to human right violation acts and engaging in the investigation, apprehension and prosecution of those involved in the violation. This could have been easily handled effectively had the National Policy on Disaster Risk Management provide such role to governmental or non-governmental national as well as international human right organizations; Ethiopian Human Rights Commission and Institution of Ombudsman could be a good candidate. However considering their defective actions with respect to gross human rights violations in the country, it could be argued that designating a role to a non-functioning institution is no different to not having any at all. With respect to humanitarian assistance needs of IDPs, the policy does not explicitly provide for the heightened vulnerability of IDPs which emanates from the fact of being displaced in comparison to the general affected population in any disaster. Finding durable solution for IDPs plight particularly for ethnic conflict-induced IDPs remains uncertain as it depends at the will and capacity of the concerned local or regional government.

There is also no institutional focal point for IDPs, even in those lead institutions which are mandated to monitor and coordinate response and prevention schemes on disasters that are pertinent to their field. The Ministry of Federal Affairs as an institution authorized to involve in conflict related disasters, have no focal department on IDPs but generally on conflict prevention, resolution and sustainable solution. Mainly it reminds and influences the concerned authorities to act on their responsibility and nothing more.

Nonetheless Data collection, raising national awareness, training on the rights of IDPs, a role for national human rights institutions, cooperation with international and regional organizations, durable solutions for ethnic conflict-induced IDPs, allocating adequate resources are the major practical problematic areas where the national response framework needs to readdress.

On the basis of the constitutionally; and internationally guaranteed human rights and humanitarian instruments the country has ratified, the forced eviction in Guraferda is an arbitrary displacement. The displacement disregarded due process guarantees of human rights which resulted in violation of other several human rights including, freedom of movement and the right

to choose residence freely, the right to housing and the protection from forced evictions, the right to privacy, home, family and protection against unlawful interference, the right to life and physical integrity, the right to liberty and security of the person, the right to property and lastly but not the least the right to an effective and available remedy. The prepared area for the resettlement of the evicted people lacks essential infrastructure including water for drinking and sanitation, electricity, and adequate facilities including schools and health-care centers which is against the IDPs right to proper accommodation.

## **5.2. Recommendations**

On the basis of the above finding and conclusions, the study proposes the following recommendations:-

- The government seems to be ignorant about the defects of the system and reluctant to devise a persistent counter measure to handle the prevention of ethnic conflicts which are recurring every now and then in the country resulting in instability and displacement of people. The concluding observation of the Committee on CERD provides that the decentralized system of ‘ethnic federalism’ adopted by Ethiopia through its Constitution possibly will lead to the forced displacement of persons and intensify tensions between ethnic groups.<sup>432</sup> Thus the government should accept the imperfections of the systems and develop mechanisms such as intertwining the conflicting communities through communal development projects to drain the root causes of ethnic conflict.
- The adoption of a law to regulate internal displacement is a must for the protection of people from arbitrary displacement.
- Restating the recommendations of the Human Rights Committee, the government should ratify the African Union Convention for the Protection and Assistance of Internally Displaced Persons (2009).<sup>433</sup>

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<sup>432</sup> Committee on the Elimination of Racial Discrimination: *Consideration of Reports Submitted by State Parties under Article 9 of the Convention: Ethiopia*, CERD/C/ETH/CO/15, March (2007), Para 16.

<sup>433</sup> Human Rights Committee (HRC), *concluding observations on Ethiopia*, CCPR/C/ETH/CO/.1102nd session, 19 August (2011), at Para. 14. The Committee sites the lack of a comprehensive protection system to address the protection needs of internally displaced persons, and in particular for those who are displaced as a result of conflict

- Conduct a study of context and the likelihood of inter-communal conflict for any resettlement schemes; regulate the resettlement itself through a law.
- Reiterating the concern of the Human Rights Committee, the relocation of people should be conducted seeking the willingness of the people concerned following prior consultation, provide adequate compensation or alternative accommodation to those people that have been forcibly evicted, and to guarantee that people living in relocation sites are provided with basic services.<sup>434</sup>
- Develop a national policy, strategy and action plan particular on IDPs that accommodates the specific needs of ethnic conflict-induced IDPs such as difficulty to get a durable solution.
- Just like the Disaster Risk Management Commission, establish an institution specific to IDPs with a comprehensive mandate and allocate adequate resource to it.
- Create an opportunity where international and national NGOs which particularly work on human right protection, humanitarian assistance and development programs provide technical and capacity building support to governmental institutions that work with IDPs.
- Regular training on the Right of IDPs should be conducted for all institutions of the government.
- Develop a nation-wide data collection and recording where the causes of displacement, the number, location and conditions of the IDPs are included.

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(arts. 2, 3, 12 and 24) as area of concern for the state. The Committee also recommended Ethiopia to (a) increase protection for displaced persons; (b) formulate and adopt a legal framework and a national strategy covering all phases of displacement; (c) create conditions that offer lasting solutions to displaced persons, including their voluntary and safe return.

<sup>434</sup> *Concluding Observation on Ethiopia, supra* note 282.

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Interview with Ato. Haileab Getachew, *Conflict Early Warning and Emergency Response Directorate*, expert, Ministry of Federal Affairs.

Interview with Ato Kifle Tsegaye, *Constitutional Interpretation Junior expert*, HOF.

Interview with Ato. Sisay Hailu; and Ato. Alayu Alemayehu, *forced eviction and arbitrary displacement victims*, now residing in Walge, a rural town neighboring Wolkite City.

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**ለፌዴራሽን ምክር ቤት  
አዲስ አበባ**

ለመልካቸው እኛ የደቡብ ክልል የቤንች ማጂ ዞን የጉራ ፋርዳ ወረዳ ሕዝቦች በ18 ቀበሌዎች ውስጥ የምንገኝ አልሚ አርሶአደሮች ስንሆን አቤቱታችን ለመጠቀም የምናቀርበው የመኖር ያለመኖር አቤቱታ ነው። እንሆ ቀደም ሲል በዞኑ ማለት አሁን ባለንበት ክልልና ወረዳ በልማት ጠንካራ የሆነ ሕዝብ በመግባቱ ከራሱ አልፎ ትርፍ አምራች የሆነ እና አሁን ለአድገት መንግስት እየተራረበት ያለውን ራብን እስከ መጨረሻ ለማጥፋት እየታገለ ባለበት ሁኔታ ላይ እያለ የወረዳው ባለ ሥልጣን እኛን እንደ ሌላ ባዕድ ዜጋ በማየት በእኛ ባለንበት ተደጋጋሚ አቤቱታ እያቀረብን ችግሩ ወዲያው እየተባባሰ ነው። አሁንም በከፍተኛ ሁኔታ ውጤት እየተባለን ነው። ከሰሜን የመጣችሁ ተመልሳቹ እዛው እደረቅ ሀገራቸው ትገባላቸው የማንን መሬት ታርሳላቸው በማለት በቀን 19/06/2001 ዓ.ም ከ 60 በላይ በሬዎች ገበሬው ገዝቶ ልማት ቦታው ወደ ቤቱ ለመግባት በ5 አይዙሲ መኪና አስጭነው ሊያልፉ ሲሉ የወረዳው አስተዳደር ያሉትን የፖሊስ ሰራዊት በለው በማለት በዱላና እርግጫ ከነ ሹራሮቹና መኪናው ከነ በሬዎቹ ከነ ሰዎቹ ለ 24 ሰዓት ያህል ከገበያ ውለው ሲጓዙ ከብቶቹ ሳርና ውሃ ሳያገኙ ካሰረ በኋላ በእግርም እየተጓዙ የሚመጡትን በሬዎችና አውሲደሮች አዲስ የገመድ ኬላ በመዘርጋት በፖሊስ ኃይል እያጠራቀመ በማሰር ሰዎችን ከቤተሰብ ስንቅ አቀባዪችንም ግቡ እያለ በማሰር ሀፃናቶች ካለ እናት እና አባት እያለያዩ ባልና ሚስትም ሳይተያዩ ወደ ጅም ፖሊስ አጃቢ ይላካሉ የአይን የቲቪ ሌሎችም ለሕክምና የወጡ ታክመው ሲመለሱ ቤት ንብረት ፣ልጅ፣ሚስት፣ቤተሰብ ከቤተሰብ ሳይገናኙ ገበያ የወጣው እንደ ወጣ ህክምናም የወጣው እንደወጣ ወደ ሰሜን ለቅሶና ዘመድ ለመጠየቅ የወጣውም እንደ ወጣ አዲስ ገቢ በማስመሰል መታወቂያውን በመቀማት 8 ቀን ድረስ በጣቢያ ገቢ አስሮ መስደብ መዝለፍ ብሎም ገንዘብ ኪሣቸው ካለ መንጠቅ የሌለውን በዱላ መደበደብና በወረዳው አስተዳደር ወደ ዞን መላክ ዞኑ ለአዲስ አበባ አሳፍሮ ፖሊስ እስከ ጅም ድረስ መድቦ በአጃቢ እየተገፉ ሕዝብ እንባ በእንባ በመሆን ላይ ይገኛል። ይህ እንባ በእንባ እየተንቆረቆረ ያለው የሕዝብ አቤቱታ ቀደም ሲል ለደቡብ ብሔር ብሔረሰብ የደረሰውንና እና ነገሩን በማቃለል ችላ በማለቱ ለአገራችን ሰባዊ መብት ከአንድም ሁለት ጊዜ አቤት ብለን ይህንን የህዝብ መብት ጥሰት ያደረገውን ለሕግ ይቆረብና ችግሩ እንዲቆም ተብሎ በአድራሻ ቢፃፍም ችግሩ ግን አሁንም በጣም እየባለ እንገባል። ችግር ላይ

እየደረሰ በመሆኑ ማሳደዳቸውን የቀጠሉ ሀሳባቸው ከጉራ ፈረዳ ወረዳ ያለ አማራ ወውጣት አለበት በማለት 8 አመት ፣ 7 አመት ቆይታ ያለንን የተሻለ ድንጋይ ቤትና ቆርቆሮ ቤት ንብረት ያላቸውን ወጣ ብለው ሲገቡ እየጠለፉ በማስገደድ ንብረታቸውን እየተው እንዲባረሩ አድርገዋል። ስለዚህ ሰፊው ሀዘብም የኢትዮጵያ ዜግነት መብትን በተሟላ ሁኔታ የተሰጠንን የመዘዋወር መብት በአስተዳደር በደል እየደረሰብን ያለው

1ኛ/ በመደብደብ ለፖሊስ አባሎቹ የወረዳው አስተዳደር በለው የያሰከው መሣሪያ ለምንድነው በማለት አስተዳደሩ ጋላፊነቱን እኔ አለው እያለ እያስገፈተረንና በዱላ እያስደበደበን ይገኛል

2ኛ/ የእናንተ ለፌደራል/ለክልል/ ማመልከት ምንም አታመጡም እንደውም እንደ ውሻ ነው ያስቆጠራችሁ እያለ በደረቅ ጣቢያ አስሮ እያጉላላ መዝለፍ በረሃብና በውሃ ጥም ማሰቃየት

3ኛ/ ንብረት ጠፋብን ብሎ አለት ሁኔታ ሊያስመዘግብ ጣቢያ የገባን አማራ ማሰርና ማባረር ተያይዘውታል

4ኛ/ ተወላጆቹም ለብቻ መሰብሰብ መጀመር በተለይ በሰመርታ፣ ሁጃ ቀበሌ ላይ አማራ ይውጣ ብላቸው ወስኑ ማለት ተወላጆቹ ደግሞ እኛን አማራ ልማት ፈጠረ እንጂ የተፈጠረው ችግር ስለሌለ ለምን ወጣ እንላለን እንፈርምም ያሉ ቢሆንም የወረዳው አስተሳሰብ የተሰወረ ችግር ያለበት መሆኑን የሚያሳይ ባህሪ ይታያል የጉሳ ልዩነት ፈጣሪ የሆነበትን ምክንያት ምን እንደሆነ የመንግስት አጣሪ ጋይል ተመድቦልን የህይወት አደጋ ሳይገጥመን መፍትሄ ይሰጥልን ስንል አቤቱታችን ከመቼውም በበለጠ የአስተዳደር በደል እየደረሰብን የምንገኝ አቤት አቤት ባይ ከ30ሺህ በላይ የወረዳው ነዋሪዎች አቤቱታ ነው። ቀደም ሲል ከቀበሌ ስንመራ የተሰጠንን የመሬት ማረጋገጫ ቪርባላችንን በወረዳው ትዕዛዝ እየተሰበሰበ ተወስዶብናል ስለዚህ የወረዳው አስተዳደር አላማ በልማት ላይ የተመሰረተ ሳይሆን በፀታ ማናጋት ሕዝብን ሰላም መንላት በመሆኑ ልማት እየተደናቀፈ በመቆም ላይ ይገኛል።

5ኛ/ ከቤትና ንብረታቸው ላይ ህፃናቶች ትተው የተባረሩ በ100ዎች የሚቆጠሩ ሲሆን ለዚህም ማረጋገጥ እንደ አብነት የምንጠቅላቸው 1ኛ አሳቦች ነጋ ሶስት ልጆችንና ቤት ንብረት ትታ የተባረረች 2ኛ ሙልጌታ መንግስቱ ሚስት ፣ ንብረት፣ ልጅ እያለው ከአዲስ አበባ አይነን እኝሬሽን ሆኖ ሲመለስ መታወቂያውን በመቀማት የተባረረ 3ኛ ጋሻው አበበ ሁለት ህፃናቶችን ትቶ ከነ ሚስቱ የተባረረ ከኩጃ ቀበሌ 4ኛ አርቀው ዋሴ 3ህፃናትን ትቶ ከነ ሚስቱ የተባረረ ከኩጃ ቀበሌ 5ኛ ማብሬ አስማማው ከነ ሚስቱ ልጅና ቤት ትተው የተባረረ 6ኛ አባ አደም አ.መር ቤትና ንብረቱን ትቶ የተባረረ 7ኛ ኡመር ዳምጠው ከነ ሚስቱ ቤትና ንብረታቸውን ትተው የተባረሩ 8ኛ በለጠ መንገሻ ልጅና ሚስቱን ንብረቱን ትቶ ገበያ ውሎ ሲመለስ ተይዞ የተባረረ 9ኛ ገበያው ይመር ከነ

ሚስት ቤት ንብረት የተባረሩ 10ኛ ማሙሽት ተከተል ሚስትና ልጆቹን ንብረቱን ትቶ የተባረረ  
 ፣ትብልጥ አሳልፍ ፣ጋሻው ተሰማ፣አንበርብር በላይ፣ይጥና ዘመድኩን፣ሹሜ ደረጀ፣አውላቸው  
 ደርብ፣ጥላሁን ዘውገ፣ጌታመሳይ አስማማው፣ምትኩ ደምሴ፣ አበበ ገልምጤ፣ ጠጉ እጅግሰማው፣  
 ጀንበሬ ወርቅነህ፣አካሉ ተጫነ፣ግርማው በኃሉ፣ ታደሰ አሰግደው፣ ወንደሰን ጉሴ፣ ከበደ ንዳው፣  
 አግዜ ፣ፍርዱ አግዜ፣ድንበሩ ይታፈር፣ወንድአፈረው ስነ ጊዬርጊስ፣ለሀሳብ መለሰ፣አድማስ  
 አራጌ፣ገበየው አያልቅበት፣ፋንታው ተሾመ፣ዳምጠው ካስዬ፣የማታው ፈለቀ፣አዳነ ተፈራ፣ደስታው  
 ተሾመ፣ከንዱ አድማሱ፣ደርበው አድማሱ እነዚህ እስከ አሁን የተዘረዘሩት ከገበያ በሬ ገዝተው  
 ሲመለሱ ፣ከህክምና ታክመው ሲመለሱ እየታሰሩ እስረኞችን ሊጠይቁ የመጡ ተይዘው እንዲወጡ  
 መታወቂያቸውን በመቀማት ከ 8 እስከ 10 አመት ቆጥታ ያላቸውን ነዋሪዎች አዲስ ናቸው ተብሎ  
 በሀፈሩ ቤት ንብረት ልጅ ሀብት አፍርተው የኖሩበት መደዳቸው ብቃት ያለው ማስረጃ ስለሚሆን  
 በማለት ላይ እንገኛለን ስንል አቤቱታችን የምናሰማው የኢትዮጵያ ህገ መንግስት የሰጠንን  
 በኢትዮጵያ ምድር ላይ ሰርቶ የማፍራት እና የመኖር የመዘዋወር መብት በወረዳችን አስተዳደር  
 ተጥሶብን ይገኛል። ስለዚህ የከፋ ሁኔታ ላይ የአስተዳደር በደል እየደረሰብን ያለው እንዲገታልን  
 ስንል አቤት አቤት በማለት አቤቱታችንን ስናቀርብ በትህትና ነው።

ግብርና ገዢ መሆኑን  
 ለሰጠው ገንዘብ  
 ለማግኘት ጥረት  
 እንደሚያደርግ መሆኑን

ከሰላምታ ጋር

||



Ref. No. 18-ሰጅ-1999

Date 18-ሰጅ-1999

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Addis Ababa

የኢትዮጵያ ፌዴራላዊ ዲሞክራሲያዊ ሪፐብሊክ  
Federal Democratic Republic of Ethiopia

የኢትዮጵያ ሰብአዊ መብት ኮሚሽን  
ETHIOPIAN HUMAN RIGHTS COMMISSION

ለደብ-ብ ክርክር ብሔራዊ አድ-ህዝቦች ክልላዊ ኮሚሽን/ሥነ-  
ርዕስ መስተዳድር-ደ/ቤት

በቤንት ማጺ ዞን በጉራ ፈርዳ ወረዳ የአቶ ቀበሌ 550 አገጣሪ ሰፋሪዎች የቤንት ማጺ ዞን እና ጉራ ፈርዳ ወረዳ በሕጋዊ መንገድ ስርሻ አገኝተን በማለት ላይ እንዳለን፡-

በዚህ ሰብአዊ መብት ኮሚሽን ለመሆን ወይም ቤተሰቦቻችን ከተሰደዱ አካባቢዎች ሊጠይቁን ሲመጡ ከሌላ ላይ በመጠበቅ ምንም ወንጀል ሳንሠራ በነፃ በመዘዋወራችን እና በአካባቢው ኑሮ መሥርተን በመኖራችን ያለ ፍ/ቤት መያዣ ትዕዛዝ ያስረዳል፤ በመስሪያ ቤታችን ያለፍላጎታችን ወይ መጣንበት በመመለስ ቤተሰብ እንዲለያይ እና እንዲበተን አድርገዋል።

የአካባቢው ተወላጆች ከፀበል ከሕክምና ወይ መኖሪያ ቤታችን ስንመለስ ነዋሪውን እንሰጥው ገንዘባችን እና ንብረታችን ቀምተው ለፖሊስ ያስረክቡናል ፖሊስም ይሰጠናል ወይም ሌላ ሌላ ለመሆን አይቻልም አትርጎም።

በዚህ ሰብአዊ መብት ኮሚሽን ለመሆን ወይም ቤተሰቦቻችን ከተሰደዱ አካባቢዎች ሊጠይቁን ሲመጡ ከሌላ ላይ በመጠበቅ ምንም ወንጀል ሳንሠራ በነፃ በመዘዋወራችን እና በመስሪያ ቤታችን ያለፍላጎታችን ወይ መጣንበት በመመለስ ቤተሰብ እንዲለያይ እና እንዲበተን አድርገዋል።

በሆሃም የተባለው ተፈጽሞ ከሆነ በሕገ-መንግሥቱ የተደነገገ መሠረታዊ ሰብአዊ መብቶች እና ነፃነቶች መጣሰ በመሆኑ ከሌላ አካባቢ የመጡ በመሆናቸው ብቻ በወረዳው አመራርና በዞን ፖሊስ ይህ ግዴታ በደልና እድል በአቤት ባዮች ላይ መድረስ ተጣርቶ በአስቸኳይ ችግር የሚፈታበትን መንገድ መስተዳድሩ እንዲሰጠን።



ከሠላምታ ጋር

*[Signature]*

ደመወዝ ማሚ

የሰብአዊ መብት ኮሚሽን ማኅተም ጥያቄ

ገልጻል፡

- > ለደብ-ብ ክርክር ፍትህ ሪፖርት ስር
- > ለቤንት ማጺ ዞን መስተዳድር ማዘን ተፈሪ
- ለአቤቱታ አቅራቢዎች ባሉበት

10

ክብር-ሰውነት/ገጽ/ገጽ

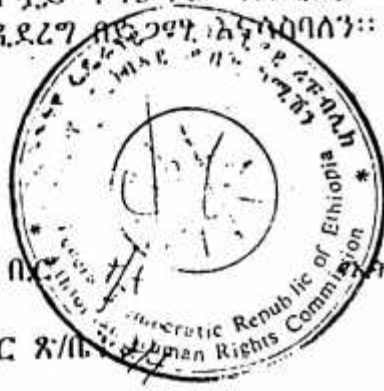
10 ታኅሣ 2001



ለደቡብ ብ/ብ/ሕ/ክ መንግሥት  
ርዕሰ መስተዳድር ጽ/ቤት  
ሀዋዳ

በክልሉ በቤንቸ ማጂ ዞን በጉራ ፈረዳ ወረዳ አተዎ ቀበሌ በግብርና ስለሚተዳደሩ 550 ሰፋሪዎች ጉዳይ የካቲት 22 ቀን 1999 ዓ.ም. ያቀረቡትን አቤቱታ መሠረት በማድረግ ችግራቸው ተጣርቶ መፍትሔ እንዲሰጣቸው በቁጥር ሰመኮ/24/99 በሰኔ 18 ቀን 1999 ዓ.ም. የተጻፈላቸውን ደብዳቤ ይጠቅሳል። የቀበሌው አርሶ አደሮች በተወካዮቻቸው አማካኝነት በድጋሚ ታህሣሥ 8 ቀን 2001 ዓ.ም. ባቀረቡት አቤቱታ ቀደም ሲል ይፈጸም የነበረው የሰብአዊ መብት ጥሰት በአስከፊ ሁኔታ ከመቀጠሉም በተጨማሪ በወረዳው አስተዳደር፣ ፍትህና ፀጥታ ፖሊስ በወቅቱ ለአቤቱታ የመጡትን ሰዎች ከፍ/ቤት ትዕዛዝ ውጭ በማሰር፣ ማንኛውንም ማህበራዊ እንቅስቃሴዎቻቸውን በመግታት ከአካባቢያቸው ወደ ውጭ የሚወጡትንም ሆነ እነሱን ለመጠየቅ ወደ ቀበሌው የሚመጡ ዘመዶቻቸውን ከመኪና አስወርደው በመመለስ ህክምና እንኳን እንዳያገኙ ማድረግ፣ ይህን ለማስፈጸም በቀበሌው ነዋሪ ላይ ባካሄዱት ድብደባ እስከ የሰው ህይወት ማለፍና ሌሎች ስብዕናቸውን የሚነኩ ድርጊቶችን እየፈፀሙባቸው መሆኑን በመግለጽ በድጋሚ ኮሚሽኑ መብታቸውን እንዲያስከብርላቸው ጠይቀዋል።

በህገ መንግሥቱ አንቀጽ 9/2/ መሠረት ማንኛውም ዜጋ የፖለቲካም ሆነ የሌሎች ማህበራት ኃላፊዎች ይኼን ህገ-መንግሥታዊ መብት እንዲያከብርና እንዲያስከብር ግዴታ ተጥሏል። በመሆኑም እንደ አቤቱታ አቅራቢዎቹ አባባል ትፈጽሞ ከሆነ በህገ-መንግሥቱ ዕውቅና የተሰጣቸው የዜጎች መሠረታዊ መብቶችና ነፃነቶች መጣስ ስለሆነ ጉዳዩ በናንተ በክል ተጣርቶ በአስቸኳይ ችግራቸው እንዲፈታ፣ ድርጊቱም እንዲገታና አጥፊዎቹም ለሕግ እንዲቀርቡ እንዲደረግ በድጋሚ እንዲሰጧልን።



ከሠላምታ ጋር

*[Handwritten signature]*

ደመወዜ ማሚ

የኢትዮጵያ ሰብአዊ መብት ኮሚሽን ምክትል ጥና ኮሚሽነር

ግልባጭ

- ለደቡብ ብ/ብ/ሕ/ክ/መ/ፀጥታ በ.አ. አዋሣ
- ለቤንቸ ማጂ ዞን መስተዳድር ጽ/ቤት ማዘን ተፈሪ
- ለአቤቱታ አቅራቢዎች ባሉበት

9



በደቡብ ብሔሮች ብሔረሰቦች እና ሕዝቦች ክልል መንግሥት  
ፀጥታና አስተዳደር ቢሮ

The South Nation, Nationalities & People's Region  
Security & Administration Baureu

\*T.C. 02/አ/ሲ.ኪ.ሲ-244/1678  
Ref. No  
\*7 14/04/2001  
Date

በቤንች ማጂ ዞን ፍትህና ፀጥታ መምሪያ  
ሚዛን ተፈሪ

ጉዳይ: በጉራፈርዶ የሚገኙ የአማራ፣ የትግራይ፣ የአሮሞ፣ የከንባታ ሕዝቦች አቤቱታ  
ይመለከታል።

አቤቱታ አቅራቢዎች እኛ በደቡብ ብሔር ብሔረሰቦች ሕዝቦች ክልላዊ መንግሥት በቤንች ማጂ ዞን በጉራ ፈርዶ ወረዳ የምንገኝ የአማራ፣ የትግራይ፣ የአሮሞ፣ የከንባታ ሕዝቦች ስንሆን ቀደም ሲል ከላይ የተጠቀሰው የጉራ ፈርዶ ወረዳ የህግ አካላት አከባቢው እንዲለማለት በማድረግ ከ1991 ዓ.ም ጀምሮ እኛ ከሰሜኑ ክፍል አንድንገባ ያደረጉን አርሶ አደሮች በቦታው ገብተን ነጻ ነቅለን አከባቢው እንዲለማለት በማድረግ ከ1991 ዓ.ም ጀምሮ እኛ ከሰሜኑ ክፍል አንድንገባ ያደረጉን አርሶ አደሮች በቦታው ገብተን ነጻ ነቅለን አከባቢውን ካለማን በኋላ ወረዳው በማናውቀው ምክንያት ከ30,000 ሕዝብ በላይ ተፈናቅለን እንድንወጣ ባደረጉብን ሙከራ ለኢትዮጵያ ሰብሃዊ ሙብት ኮሚሽን አላቅርበን በቀጥር ሠመክ/24/1999 በቀን 18/10/1999 ዓ.ም በተፃፈ ደብዳቤ ለደ/ብ/ብ/ሕ/ክ/ መስተዳደር ተላልፎልን በሰላም በልማት ሥራችን ላይ ስንሣተፍ መቆየታችን ይታወቃል።

ይሁን እንጂ የወረዳው አስተዳደር ፍትህና ፀጥታ ፖሊስ ጽ/ቤት በመሆን በአሁኑ ሰዓት የውጪ ዜጋ ሀገራችን ላይ ገብቶ በሚያለማበት ሰዓት እኛን እንደሻሸቢያ በመቀጠር በዘረኝነትና በጎሰኝነት ላይ የተመሰረተ አቋሙን በማራመድ አሁን እየተፈጠመብን ያለው

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ጸ ኤች ለይ.ቪ/ኢድብን በ.ጋራ እንከላክል ጸ

1. ቀደም ሲል በደረሰብን በደል አቤቱታ ለማቅረብ ወደ ዚህ መሥሪያ ቤት መጥተን የነበርን ተበዳዮች ባልሠራነው ወንጀል ከአርሻ ሥራችን ላይ በማፈናቀል እያሳደዱን በቁጥር ከ5 በላይ በወረዳው ፖሊስ ጽ/ቤት ታሰረው ስለሚገኙ
2. በተለያዩ ምክንያት ለምናደርጋቸው ማህበራዊ እንቅስቃሴዎች እንቅፋት በመሆን በተለይም ወደሰሜኑ ክፍል ሄዶ የሚመጣውን ነዋሪ ጉራ ፈርዳ ወረዳ ላይ ከመኪና በማስወረድ በሌላ መኪና በመጫን በማስገደድ ወዴት እንደሚሰዱት የማይታወቅ በመሆኑ
3. እነ ነዋሪ የሆነ ሕዝብ ወደ ተለያዩ ፀበልና ሕክምና ለመሄድ ከቤቱ የወጣውን ሕዝብ ታከሞ እንዳይድን የወጣበትንም ጉዳይ ፈፅሞ እንዳይመለስ በማድረግ ወደነበረበት ታሰሮ እንዲመለስ በማድረግ ብዙ ሕፃናትን የሞት አደጋ ያጋጠማቸው በመሆኑ
4. መንግሥት በሕጋዊ መንገድ ለንብረታችን መጠባበቂያ በገንዘባችን ገዝተን ተፈቅዶልን እንድንታጠቅ ያደረገንን የጦር መሣሪያዎች በጉልበት በማስፈታት ለፖሊስ ጣቢያ ገቢ እንዲሆን ያደረጉ በመሆናቸው።
5. ፖሊስ በሚያደርገው ድብደባና ሰብዓዊ መብት ረገጣ የአንድ ጉልማሳ ሕይወት እንዲያልፍ ያደረጉ በመሆናቸው በማለት መንግሥት ባስቀመጠልን ሕገ መንግሥታዊ መብታችን እንዳንጠቀምና ተንቀሳቅሶ የመሰራተ መብትን የሚገድብ፤ መንግሥት የሚፈልገውን የመልካም አስተዳደር መንገድ የሚያጣምም እንቅስቃሴ እየተደረገብን ስለሆነ ለእኛም ሆነ ለሕዝባችን አስቸኳይ መፍትሄ እንድናገኝ እንዲደረግልን በማለት ታህሳስ 8/2001 ዓ.ም 3 ተወካዮች አመልክተዋል።

በመሆኑም ከላይ ያመለከቱት አመልካቾች ሕገ መንግሥታዊ መብታቸው እንዲከበርና ዜጎች ሠርተው የመኖር መብታቸው እንዲረጋገጥና ከላይ በቀረበው አቤቱታ መሰረት ለአቤቱታ አቅራቢዎችና ለሕዝቡ አፋጣኝ መፍትሄ እንዲሠጣቸውና አፈፃፀሙ እንዲገለፅ እናሳስባለን።

**ገልጻል**

- › ለቢሮ ኃላፊ ጽ/ቤት
- › ለአገራዊ ግድብ ዘርፍ ም/ቢሮ ኃላፊ
- › ለሚኒስቴር ዘርፍ ም/ቢሮ ኃላፊ
- › ፀጥታና አስተዳደር ቢሮ



ከሠላምታ ጋር  
 አብይ ሄይለማርያም  
 አብይ ሄይለማርያም  
 የፀጥታና አስተዳደር ቢሮ ኃላፊ

**ለደቡብ ክልል ርዕሰ መስተዳድር ጽ/ቤት  
አዋሳ**

አመልካቾች እኛ የደቡብ ክልል የቤንች ማጂ ዞን የጉራ ፋርዳ ወረዳ ሕዝቦች በ18 ቀበሌዎች ውስጥ የምንገኝ አልሚ አርሶአደሮች ስንሆን አቤቱታችን ለ 3ኛ ጊዜ የምናቀርበው የመኖር ያለመኖር አቤቱታ ነው። እንሆ ቀደም ሲል በዞኑ ማለት አሁን ባለንበት ክልልና ወረዳ በልማት ጠንካራ የሆነ ሕዝብ በመግባቱ ከራሱ አልፎ ትርፍ አምራች የሆነ እና አሁን ለአድገት መንግስት እየተረባረበበት ያለውን ርሀብን እስከ መጨረሻ ለማጥፋት እየታገለ ባለበት ሁኔታ ላይ እያለ የወረዳው ባለ ሥልጣን እኛን እንደ ሌላ ባዕድ ዜጋ በማየት በእኛ ባለንበት ተደጋጋሚ አቤቱታ እያቀረብን ችግሩ ወዲያው እየተባባሰ ነው። አሁንም በከፍተኛ ሁኔታ ውጤት እየተባለን ነው። ከሰሜን የመጣችሁ ተመልሳቹ አዛው እደረቅ ሀገራችሁ ትገባላችሁ የማንን መሬት ታርሳላቹ በማለት በቀን 19/06/2001 ዓ.ም ከ 60 በላይ በሬዎች ገበሬው ገዝቶ ልማት ቦታው ወደ ቤቱ ለመግባት በ5 አይዘሱ መኪና አስጭነው ሊያልፉ ሲሉ የወረዳው አስተዳደር ያሉትን የፖሊስ ሰራዊት በለው በማለት በዱላና አርገሜ ከነ ሹሬሮቹና መኪናው ከነ በሬዎቹ ከነ ሰዎቹ ለ 24 ሰዓት ያህል ከገበያ ውለው ሲጓዙ ከብቶቹ ሳርና ውሃ ሳያጉኙ ካሰረ በኋላ በእግርም እየተጓዙ የሚመጡትን በሬዎችና አርሶአደሮች አዲስ የገመድ ኬላ በመዘርጋት በፖሊስ ኃይል እያጠራቀመ በማሰር ሰዎችን ከቤተሰብ ስንቅ አቀባዬችንም ግቡ እያለ በማሰር ህፃናቶች ካለ እናት እና አባት እያለያዩ ባልና ሚስትም ሳይተያዩ ወደ ጅማ በፖሊስ አጃቢ ይላካሉ የአይን የተሺ ሌሎችም ለሕክምና የወጡ ታክመው ሲመለሱ ቤት ንብረት ፣ልጅ፣ሚስት፣ቤተሰብ ከቤተሰብ ሳይገናኙ ገበያ የወጣው እንደ ወጣ ህክምናም የወጣው እንደወጣ ወደ ሰሜን ለቅሶና ዘመድ ለመጠየቅ የወጣውም እንደ ወጣ አዲስ ገቢ በማስመሰል መታወቂያውን በመቀማት 8 ቀን ድረስ በጣቢያ ግቢ አስሮ መስደብ መዝለፍ ብሎም ገንዘብ ኪሣቸው ካለ መንጠቅ የሌለውን በዱላ መደበደብና በወረዳው አስተዳደር ወደ ዞን መላክ ዞኑ ለአዲስ አበባ አሳፍሮ ፖሊስ አስከ ጅማ ድረስ መድቦ በአጃቢ እየተገፉ ሕዝብ እንባ በእንባ በመሆን ላይ ይገኛል። ይህ እንባ በእንባ እያንቆረቆረ ያለው የሕዝብ አቤቱታ ቀደም ሲል ለደቡብ ብሔር ብሔረሰብ የደረሰውንና እና ነገሩን በማቃለል ችላ በማለቱ ለኢትዮጵያ ሰባዊ መብት ከአንድም ሁለት ጊዜ አቤት ብለን ይህንን የህዝብ መብት ጥሰት ያደረገውን ለሕግ ይቅረብና ችግሩ እንዲቆም ተብሎ በአድራሻ ቢጻፍም ችግሩ ግን አሁንም በጣም

እየባሰ እንገብጋቢ ችግር ላይ እየደረሰ በመሆኑ ማሳደጃቸውን የቀጠሉ ሀሳባቸው ከጉራ ፈረዳ ወረዳ ያለ አማራ ወውጣት አለበት በማለት 8 አመት ፣ 7 አመት ቆይታ ያለንን የተሻለ ድንጋይ ቤትና ቆርቆሮ ቤት ንብረት ያላቸውን ወጣ ብለው ሲገቡ እየጠለፉ በአፈ.ሙዝ በማስገደድ ንብረታቸውን እየተው እንዲባረሩ አድርገዋል። ስለዚህ ሰፊው ህዝብም የኢትዮጵያ ዜግነት መብትን በተሟላ ሁኔታ የተሰጠንን የመዘዋወር መብት በአስተዳደር በደል እየደረሰብን ያለው

1ኛ/ በመደብደብ ለፖሊስ አባሎች የወረዳው አስተዳደር በለው የያሰከው መሣሪያ ለምንድነው በማለት አስተዳደሩ ኃላፊነቱን እኔ አለው እያለ እያስገፈተረንና በዱላ እያስደበደበን ይገኛል

2ኛ/ የእናንተ ለፌደራል/ለክልል/ ማመልከት ምንም አታመጡም እንደውም እንደ ውሻ ነው ያስቆጠራችሁ እያለ በደረቅ ጣቢያ አስር እያጉላላ መዘለፍ በረሃብና በውሃ ጥም ማሰቃየት

3ኛ/ ንብረት ጠፋብን ብሎ አለት ሁኔታ ሊያስመዘገብ ጣቢያ የገባን አማራ ማሰርና ማባረር ተያይዘውታል ይኸውም ወርባ ተወላጅ የሆኑትን በመተላለፊያ መገድ አማራ እንዳይተላለፍ ጉሣን ከጉሣ ነጣጥሎ በማደራጀት የሀይወት ማጣትን አስከትሏል

4ኛ/ ተወላጆቹም ለብቻ መሰብሰብ መጀመር በተለይ በሰመርታ፣ ሁጃ ቀበሌ ላይ አማራ ይውጣ ብላቸው ወስኑ ማለት ተወላጆቹ ደግሞ እኛን አማራ ልማት ፈጠረ እንጂ የተፈጠረው ችግር ስለሌለ ለምን ወጣ እንላለን አንፈርምም ያሉ ቢሆንም የወረዳው አስተሳሰብ ተጣጥሞ ተሳስቦ በፍቅር እየኖረ ያለውን ህዝብ ለማቃረን እና ሰላምም ለማናጋት ባለው ስውር አላማና አስተሳሰብ የተሰወረ ችግር ያለበት መሆኑን የሚያሳይ ባህሪ ይታያል የጉሳ ልዩነት ፈጣሪና ሠላም ነሺ የሆነበትን ምክንያት ምን እንደሆነ የመንግስት አጣሪ ኃይል ተመድቦልን የሀይወት አደጋ እያጋጠመን ስለሆነ መፍትሄ ይሰጥልን ስንል አቤቱታችን ከመቼውም በበለጠ የአስተዳደር በደል እየደረሰብን የምንገኝ አቤት አቤት ባይ ከ30ሺህ በላይ የወረዳው ነዋሪዎች አቤቱታ ነው። ቀደም ሲል ከቀበሌ ስንመራ የተሰጠንን የመሬት ማረጋገጫ ቬርባላችንን በወረዳው ትዕዛዝ እየተሰበሰበ ተወስዶብናል ስለዚህ የወረዳው አስተዳደር አላማ በልማት ላይ የተመሰረተ ሳይሆን በፀታ ማናጋት ሕዝብን ሰላም መንላት በመሆኑ ልማት እየተደናቀፈ በመቆም ላይ ይገኛል።

5ኛ/ ከቤትና ንብረታቸው ላይ ህፃናቶች ትተው የተባረሩ በ100ዎች የሚቆጠሩ ሲሆን ለዚህም ማረጋገጥ እንደ አብነት የምንጠቅላቸው 1ኛ አሳቦች ነጋ ሶስት ልጆችንና ቤት ንብረት ትታ የተባረረች 2ኛ ሙልጌታ መንግስቱ ሚስት ፣ ንብረት፣ ልጅ እያለው ከአዲስ አበባ አይኑን አኘሬሽን ሆኖ ሲመለስ መታወቂያውን በመቀማት የተባረረ 3ኛ ጋሻው አበበ ሁለት ህፃናቶችን ትቶ ከነ ሚስቱ የተባረረ ከኩጃ ቀበሌ 4ኛ አርቀው ዋሴ 3ህፃናትን ትቶ ከነ ሚስቱ የተባረረ ከኩጃ ቀበሌ 5ኛ ማብሬ አስማማው ከነ ሚስቱ ልጅና ቤት ትተው የተባረረ 6ኛ አባ አደም ኢመር ቤትና ንብረቱን

ትቶ የተባረረ 7ኛ ስመር ዳምጠው ከነ ሚስቱ ቤትና ንብረታቸውን ትተው የተባረሩ 8ኛ በለጠ መንገሻ ልጅና ሚስቱን ንብረቱን ትቶ ገበያ ውሎ ሲመለስ ተይዞ የተባረረ 9ኛ ገበየው ደመር ከነ ሚስት ቤት ንብረት የተባረሩ 10ኛ ማሙሽት ተከተል ሚስትና ልጆቹን ንብረቱን ትቶ የተባረረ ፣ትበልጥ አሳልፍ ፣ጋሻው ተሰማ፣አንበርብር በላይ፣ይጥና ዘመድኩን፣ሹሜ ደረጀ፣አውላቸው ደርብ፣ጥላሁን ዘውገ፣ጌታመሳይ አስማማው፣ምትኩ ደምሴ፣ አበበ ገልምጤ፣ ጠጉ እጅግሰማው፣ ጀንበሬ ወርቅነህ፣አካሉ ተጫነ፣ግርማው በጋሉ፣ ታደሰ አሰግደው፣ ወንደሰን ጉሌ፣ ከበደ ንዳው፣ ታለ ማሞ፣ ቁስ ገብሬ ሙልጌታ፣ሳህለማርያም መስፍን፣ይርጋ ጌትዬ፣አባተ ወልደአረጋይ፣ከበደ አግዜ ፣ፍርዱ አግዜ፣ድንበሩ ይታፈር፣ወንድአፈረው ስነ ጊዩርጊስ፣ለሀሳብ መለሰ፣አድማስ አራጌ፣ገበየው አያልቅበት፣ፋንታው ተሾመ፣ዳምጠው ካስዬ፣የማታው ፈለቀ፣አዳነ ተፈራ፣ደስታው ተሾመ፣ክንዱ አድማሱ፣ደርበው አድማሱ እነዚህ እስከ አሁን የተዘረዘሩት ከገበያ በሬ ገዝተው ሲመለሱ ፣ከህክምና ታክመው ሲመለሱ እየታሰሩ እስረኞችን ሊጠይቁ የመጡ ተይዘው እንዲወጡ መታወቂያቸውን በመቀማት ከ 8 እስከ 10 አመት ቆጥታ ያላቸውን ነዋሪዎች አዲስ ናቸው ተብሎ ቢሳፈሩ ቤት ንብረት ልጅ ሀብት አፍርተው የኖሩበት መደዳቸው ብቃት ያለው ማስረጃ ስለሚሆን በቦታው የሚያጣራልን የመንግስት አካል አይቶ ዘለቁታ ያለው መፍትሄ እንዲሰጠን አቤት አቤት በማለት ላይ እንገኛለን ስንል አቤቱታችን የምናሰማው የኢትዮጵያ ህገ መንግስት የሰጠንን በኢትዮጵያ ምድር ላይ ሰርቶ የማፍራት እና የመኖር የመዘዋወር መብት በወረዳችን አስተዳደር ተጥሶብን ይገኛል። ስለዚህ የክፉ ሁኔታ ላይ የአስተዳደር በደል እየደረሰብን ያለው እንዲገታልን ስንል አቤት አቤት በማለት አቤቱታችንን ስናቀርብ በትህትና ነው።

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**Addis Ababa University**

**School of Law and Governance Studies**

**Post-Graduate Program**

**Human Rights Studies**

First of all I would like to thank you for taking your precious time to have this interview with me. My name is Rabel Desalegn and I am a second year L.L.M student in Addis Ababa University. I have been studying Human Rights for the past two years in the Post Graduate Program of the University and now I am conducting a thesis titled *The Protection of Ethnic Conflict-Induced IDPs in Ethiopia: A case Study on Guraferda Woreda in Bech-Maji Zone*.

As an Organization whose authority is providing protection for all individuals as a whole including IDPs, information on the activities and experiences of your organization with regard to the protection and assistance of IDPs is a very fundamental input for the findings of the study. Thus please give your consent to answer the following questions herein under.

Consent

**Part I: Questions related with the Fundamental Framework of a National Response to the Protection and Assistance of IDPs in General and for Ethnic Conflict Induced IDPs in particular.**

- 1. What are the Advocacy activities undertaken by this organization towards the government to have a national policy, to establish a legal and institutional framework for the protection of IDPs?**

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**2. Does the organization participate in preventing internal displacement in the event of Ethnic/Inter-Communal Conflict?**

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**3. Please explain the role this organization plays in IDPs situation in any disaster generally? Any special activity in the event of Ethnic/Inter-Communal Conflict?**

**a. Influencing the government to acknowledge the existence of IDPs and to take its national responsibility seriously, raising national awareness about the situation of the IDPs?**

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**b. Collecting credible information on the numbers, locations and conditions of IDPs?**

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**c. Provision of training on the rights of IDPs (Based on the UN Guiding Principles or the Kampala Convention or any other human right instrument) to the concerned government and non-government organizations?**

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**4. How does this institution works with regional and international human right and humanitarian institutions, and civil society organizations in response to the plight of IDPs?**

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**5. Is there a guarantee for durable solutions to Ethnic/Inter-Communal conflict-Induced IDPs in Ethiopia? (Considering the security threats to the safety and human rights protection of IDPs, finding durable solutions such as return to Ethnic/Inter-Communal conflict-Induced IDPs is a concern in Ethiopia.) What are the activities carried out by this organization to find durable solutions to IDPs in general?**

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**6. How does your organization accommodate participation of IDPs in decisions that concerns them?**

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**7. Does this organization have adequate resources to be able to provide human right protection, humanitarian assistance and durable solutions to ethnic conflict-induced IDPs?**

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**Part II: Questions specifically related with the IDPs situation in Guraferda Woreda Bench-Maji Zone. The questions pertain to the Ethnic conflict displacement situation which was also characterized as government (local) sponsored that occurred in this area in 2007-2009.**

**1. What was the then role of this organization for the humanitarian assistance and human right protection of the Guraferda IDPs?**

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**2. How was the Forced Evictions carried out?**

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**3. Does the organization know the now situation of the IDPs? Their numbers, location and conditions...such as how many have found durable solutions?; any departed families?**

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As an Organization whose authority is providing protection for all individuals as a whole including IDPs, information on the activities and experiences of your organization with regard to the protection and assistance of IDPs is a very fundamental input for the findings of the study. Thus please give your consent to answer the following questions herein under.

Consent

**Part I: Questions relate to the manner how the human right violations prompting the displacement and the official forced eviction is carried out.**

**1. Why do you leave your home in Guraferda Woreda?**

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**2. Any effort towards petitioning to concerned authority to stop such actions?**

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**3. Do the displaced were informed in advance about the reasons and processes of the displacement and consented to it?**

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**4. After the official decision for the forced evictions were undertaken, whether the victims petition to change such decision attained a remedy?**

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**5. Does the process of the forced eviction respect the human dignity, life and liberty of the displaced?**

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**6. Does any institution inquire and follow up the whereabouts and the now conditions of the displaced?**

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**7. Does the new area prepared for the resettlement of the forcibly evicted, is conducive to the wellbeing and security?, Adequate standard of living (For. e.g. Food, Shelter, Drinking Water and sanitation)?**

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**8. Any efforts not to apart families during the eviction and working on rejoining separated family members?**

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**9. Was there protection of human rights during the forced eviction, Any incidents of Murder/threat to murder, arrest without court order, freedom of liberty and the right to choose residence, protection against property destruction, illegal possession and utilization?**

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**10. Humanitarian assistance during displacement and in the resettlement area?**

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