



**LEGAL AND POLICY FRAMEWORK ON GENDER BASED VIOLENCE  
AMONG WOMEN IN IDP CAMPS IN ETHIOPIA: COMPARATIVE  
ANALYSIS**

**BY**

**ABYSIA ABONEH ASHAGRIE**

**SUBMITTED TO ADDIS ABABA UNIVERSITY SCHOOL OF LAW AND  
GOVERNANCE STUDIES IN PARTIAL FULFILLMENT OF THE  
REQUIREMENT FOR THE DEGREE OF MASTER'S OF LAW IN  
HUMAN RIGHTS**

**ADDIS ABABA**

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**November 1, 2024**

## **Approval**

**Addis Ababa University Center for Human Rights School of Law and Governance Studies**

This is to certify that the study prepared by Abysia Aboneh titled “**Legal and Policy Framework on Gender Based Violence among Women in IDP Camps in Ethiopia: Comparative Analysis**” and submitted to Addis Ababa university Center for Human Rights School of Law and Governance Studies in partial fulfillment of the requirement for the Degree of Masters of Arts in Human Rights Law complies with the regulations of the University and meets the accepted standards with respect to originality and quality.

### **Examining Board**

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**Examiner 2** \_\_\_\_\_ **Signature** \_\_\_\_\_ **Date** \_\_\_\_\_

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**Chair of the Department or Graduate Program Coordinator**

## Declaration

I, Abysia Aboneh, declare that this study titled “**Legal and Policy Framework on Gender Based Violence among Women in IDP Camps in Ethiopia: Comparative Analysis**” is my original work and has not been presented for a MA and/or for other purpose in any university or College.

Name \_\_\_\_\_ Signature \_\_\_\_\_

## Abstract

This research investigates Gender-Based Violence (GBV) against women in Internally Displaced Persons (IDP) camps in Ethiopia, with a comparative analysis of legal frameworks and human rights principles. Ethiopia, with over 4.5 million IDPs, faces significant challenges in protecting displaced women from GBV due to weak legal implementation and inadequate services. Despite ratifying key international conventions, the country lacks specific policies to address the unique needs of IDP women. This study employs a qualitative methodology, including a comprehensive literature review of laws, conventions, reports, and scholarly articles, focusing on Ethiopia's context while also comparing it with the Central African Republic (CAR) and Nigeria. The research reveals that IDP women in Ethiopia are particularly vulnerable to GBV due to systemic issues such as the breakdown of community structures, limited access to services, and inadequate legal protections. The study examines the effectiveness of Ethiopia's existing legal frameworks, including its adherence to international human rights standards, and highlights the persistent gaps and barriers faced by women in IDP camps. By comparing Ethiopia's experience with that of CAR and Nigeria, the research identifies common challenges and successful strategies in addressing GBV. This comparative analysis provides insights into how different legal and socio-political contexts impact GBV protections and offers recommendations for improving Ethiopia's approach to safeguarding IDP women. The findings underscore the need for comprehensive, gender-sensitive policies and enhanced coordination among stakeholders to address GBV effectively. The study commends to inform policy improvements, raise awareness about the rights of IDP women, and contribute to the development of more effective legal and protective measures against GBV in displacement settings.



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## Acronyms

ACHPR	African Charter on Human and Peoples 'Rights
CEDAW Women	International Convention on the Elimination of All Forms of Discrimination against Women
CERD	International Convention on the Elimination of All Forms of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
CRC	International Convention on the Right of Child
FDRE	Federal Democratic Republic of Ethiopia
GBV	Gender Based Violence
HIV/AIDS	Human Immune Virus/Acquired Immune Deficiency Syndrome
HRC	Human Rights Committee
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IDP	Internally Displaced Person
NGO	Non-Governmental Organization
UDHR	Universal Declaration of Human Rights
UN	United Nations
WHO	World Health Organization

## Chapter One

### Introduction

#### *1. Background of the study*

As Internal Displacement Monitoring Centre (IDMC) reports in Ethiopia 3.46 million IDPs were in 2019 and this record was the highest in the world.<sup>1</sup>

The United Nations (UN) Guiding Principles states internally displaced persons (IDPs) are:<sup>2</sup>

*"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."*

Ethiopia is governed by the Kampala Convention, which it ratified on February 13, 2020, alongside other international, regional, and national laws.<sup>3</sup> World Health Organization (WHO) states: violence is the intentional use of physical force or power, threatened or actual, against oneself, another person, or a group or community, resulting in or having a high likelihood of injury, death, psychological harm, mal-development, or deprivation.<sup>4</sup> Violence can take various forms, including sustained attacks such as repeated punching, combined with tactics like name-calling, threats, or property damage. It can also manifest as a single act like a slap or a menacing gesture.

On the other hand, Gender-Based Violence (GBV) refers to harmful acts directed at an individual based on their gender. It is rooted in gender inequality, the abuse of power and harmful norms. It can include sexual, physical, mental and economic harm inflicted in public or

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<sup>1</sup> Internal Displacement Monitoring Centre (IDMC) 2019 report

<sup>2</sup> The United Nations (UN) Guiding Principles

<sup>3</sup> Kampala Convention 2020

<sup>4</sup> A. Rutherford, A.B. Zwi, N.J. Grove, A. Butchart. Definition of Violence. *Journal of Epidemiology Community Health*. Published 2007/08; 61(8): 676–680. DOI: 10.1136/jech.2005.043711

in private as well as threats of violence, coercion and manipulation. This can take many forms such as intimate partner violence, sexual violence, child marriage, female genital mutilation and so-called ‘honour crimes.’<sup>5</sup> When violence occurs due to gender, it is termed gender-based violence, particularly if women are targeted, reflecting cultural dependencies. GBV is violence that is directed at an individual based on his or her biological sex or gender identity.

The Universal Declaration of Human Rights (UDHR) guarantees fundamental rights, including an adequate standard of living and dignity through socio-economic and cultural rights.<sup>6</sup> Ethiopia, having ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)<sup>7</sup> and the Convention on the Rights of the Child (CRC),<sup>8</sup> is obliged to uphold these rights. Under the 1945 UN Charter, member states are empowered to promote human rights and freedoms universally, including for IDPs.<sup>9</sup>

According to a 2021 report by the International Organization for Migration, Ethiopia hosts over 3.46 million internally displaced people, with an estimated 2.85 million returnees. The data reflects prolonged displacements due to complex situations and varied reasons without a permanent solution with 50% of the displaced population comprising women and children.<sup>10</sup>

Despite these challenges, Ethiopia lacks specific policies, programs, or laws that ensure full and equal enjoyment of fundamental rights for all, including protection from GBV. Since internally displaced persons living in camps have historically been marginalized and neglected by both the state and society every one could imagine the prevalence of GBV and lack of protection to them.

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<sup>5</sup> [www.unhcr.org](http://www.unhcr.org)

<sup>6</sup> The Universal Declaration of Human Rights (UDHR)

<sup>7</sup> CEDAW

<sup>8</sup> CRC

<sup>9</sup> 1945 UN Charter

<sup>10</sup> International Organization for Migration 2021 report

## *2. Statement of the study*

In Ethiopia, more than 2.9 million people were internally displaced in 2019.<sup>11</sup> Studies and reports consistently document high levels of GBV among IDP women including cases of sexual violence, intimate partner violence, exploitation, and other forms of abuse in the country. These incidents are prevalent due to the breakdown of community structures, increased vulnerability in insecure environments, and limited access to protection services.<sup>12</sup>

IDP women face multiple barriers in accessing essential services such as healthcare, psychosocial support, and legal aid within displacement camps. These barriers include lack of legal documentation, fear of stigma, limited awareness of rights, and inadequate service provision.<sup>13</sup> In Ethiopia existing legal frameworks, including the Criminal Code and Family Code, offer some protections against violence but often fail to address the specific needs and vulnerabilities of IDP women. Implementation of these laws is weak and inconsistent, particularly in remote and insecure camp settings.<sup>14</sup>

GBV in IDP camps constitutes a violation of broader human rights, including economic, social, cultural, civil, and political rights, as outlined in international human rights declarations. The persistent nature of GBV undermines the dignity and security of IDP women, perpetuating cycles of trauma and vulnerability.<sup>15</sup>

There is an urgent need for comprehensive, gender-sensitive strategies and policies to address GBV among IDP women in Ethiopia. These strategies should integrate protection measures, enhance coordination among stakeholders, allocate adequate resources, and ensure meaningful participation of affected women in decision-making processes.<sup>16</sup> Addressing GBV among IDP

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<sup>11</sup> Internal Displacement Monitoring Centre (IDMC) report

<sup>12</sup> UNHCR, "Gender-based Violence Information Management System (GBVIMS) Reports on Ethiopia."

<sup>13</sup> International Rescue Committee (IRC), "Assessment Reports on Gender-based Violence in IDP Camps, Ethiopia."

<sup>14</sup> Amnesty International, "Human Rights Reports on Ethiopia."

<sup>15</sup> Human Rights Watch, "Reports on Human Rights Violations in Ethiopia."

<sup>16</sup> United Nations Population Fund (UNFPA), "Policy Recommendations on Gender-based Violence in Humanitarian Settings."

women in Ethiopia requires concerted efforts from government authorities, humanitarian organizations, and civil society to strengthen legal frameworks, improve service provision, and ensure the protection and empowerment of vulnerable populations. Failure to address these challenges perpetuates harm and impedes the realization of human rights for IDP women in Ethiopia.

Women in stable environments encounter various forms of GBV, but they generally benefit from well-established support systems and protective measures, making their vulnerabilities less severe compared to those of displaced populations. In contrast, internally displaced persons camps are often characterized by temporary and inadequate living conditions that lack the infrastructure and stability of permanent communities. This instability can worsen vulnerabilities and impede the implementation of comprehensive GBV protection strategies. The high density of inhabitants in IDP camps can increase violence due to overcrowding and insufficient facilities. The absence of privacy and limited access to basic services can further elevate the risk of GBV.

In IDP camps, women face increased risks due to their displacement, including violence within the camp or from external sources. Displacement often leads to the loss of traditional support networks and social structures, amplifying their vulnerability. Additionally, the economic hardship and social dislocation associated with displacement can restrict access to protective services and foster reliance on potentially exploitative relationships.

Effective GBV protection in IDP camps requires customized legal and policy measures that address the unique challenges of displacement. This includes ensuring access to emergency services, safe spaces, and specialized support tailored to the camp environment. Addressing GBV in IDP camps often necessitates coordination among various stakeholders, including humanitarian organizations, local authorities, and international bodies, which can be complex and may result in service gaps.

Accessing essential services such as healthcare, legal aid, and psycho-social support in IDP camps can be difficult due to logistical issues, lack of privacy, and insufficient service

availability. Emergency response services in these camps may not fully meet long-term needs or provide comprehensive care.

Enforcing legal protections and ensuring accountability for GBV in IDP camps is challenging due to the absence of formal legal systems and the often unstable security situation.

### *3. Literature review*

Over 2000 sexual violence survivors had sought services in Tigray between November 2020 and June 2021 as per the One Stop Centres (OSCs) and mobile teams IRC report compiled at the end of July 2021 by the Tigray regional health bureau (TRHB): Mekelle 45%, Shire 8%, Adigrat 23%, Aksum 9%, Maichew 2%, Adwa 4%, Mekhoni 1%, Wukro 2% and Mobile clinics 6%.<sup>17</sup>

Information from the OSCs in Tigray indicated that majority of survivors sought services late, often while pregnant (Shire 40%, Adigrat 51%, and Axum 76%) and seeking safe abortion services (Shire 96% and Adigrat 99%).<sup>18</sup> In Shire 2% of survivors who sought services tested HIV+. Intimate partner violence, sexual harassment, assault, and rape which were already prevalent increased with the conflict.<sup>19</sup>

In Amhara, over 700 sexual violence cases were reported in different facilities including OSCs within the region during the conflict period.<sup>20</sup> In Afar, the two OSCs (Dubti and Aysaita) attended to close to 40 cases of sexual violence within the same period.<sup>21</sup>

No definition of "internally displaced persons" existed until the issue of internal displacement emerged to the international agenda in the early 1990s which was essential for identifying the populations of concern and their particular needs, compiling data, and creating laws and policies designed to assist. A starting point was the working definition that had been put forth in 1992 by the United Nations Secretary-General, which defined IDPs as:

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<sup>17</sup> IRC Tigray gender analysis

<sup>18</sup> *ibid*

<sup>19</sup> <https://www.ohchr.org/Documents/Countries/ET/OHCHR-EHRC-Tigray-Report.pdf>

<sup>20</sup> <https://www.amnesty.org/en/latest/news/2021/11/ethiopia-survivors-of-tplf-attack-in-amhara-describe-gang-rape-looting-and-physical-assaults/>

<sup>21</sup> <https://www.amnesty.org/en/documents/afr25/4569/2021/en/>

*“Persons or groups who have been forced to flee their homes suddenly or unexpectedly in large numbers, as a result of armed conflict, internal strife, systematic violations of human rights or natural or man-made disaster, and who are within the territory of their own country.”*<sup>22</sup>

This definition reflected a range of the core characteristics of internal displacement - involuntary movement within borders - could arise.<sup>23</sup> Also the causes listed were drawn from the broader refugee definitions used in Africa and Latin America that extend beyond the persecution criterion in the 1951 Refugee Convention also encompass persons fleeing from armed conflict, internal conflict and regular violation.<sup>24</sup>

As Walter Kalin described, 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 their own country.'<sup>25</sup>

IDPs have the same health needs as non-displaced people. Women are usually both the custodians of children and the providers of family income; their multiple responsibilities make it hard for them to access education or health services.<sup>26</sup> Adolescents in camps are visible to sexual activities, forced, without the use of contraceptives that result in unintended pregnancies, STIs, unsafe and spontaneous abortion and other reproductive health risks.<sup>27</sup>

#### **4. Research questions**

The research answers the following questions:

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<sup>22</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)

<sup>23</sup>United Nations, 'Guiding Principles on Internal Displacement' (UN, 1998) Principle

<sup>24</sup> The 1951 Refugee Convention

<sup>25</sup> W. Kälin, Annotations, p. 2

<sup>26</sup> Reproductive health for displaced people: investing in the future. Refugee Studies Center, 2004.

<sup>27</sup> Abiodun O, Olu-Abiodun O, Ani F, Sotunsa O. Sexual and reproductive health knowledge and service utilization among in-school rural adolescents in Nigeria. Journal of AIDS and Clinical Research. 2016;7(6):1-8

- What are the existing legal frameworks addressing gender-based violence against women in IDP camps in Ethiopia?
- How do human rights principles influence the rights of women living in IDP camps regarding GBV?
- What are the main challenges and barriers that hinder women from exercising their rights in IDP camps?
- What are the non-guaranteed rights of women in IDP camps concerning GBV?

## *5. Objective of the study*

### 5.1. General objectives

The general objective of the study is to develop fundamental understanding on the legal frameworks and human rights principles concerning GBV against women in IDP camps in Ethiopia and to give awareness on the challenges and barriers that women face in exercising their rights within these camps, particularly in relation to GBV and explore the non-guaranteed rights.

### 5.2. Specific objectives

The specific objectives of the study are the following.

- To analyse the legal framework, at international, regional and national level in particular prominence of women in IDP camps.
- To identify IDP women challenges and barriers in exercising their rights.
- To examine the harm on IDP women as result of lacking of laws, policies and programs about GBV.

## *6. Significance of the Study*

The prevalence of GBV against Women issues is the major problem that affect women in IDP camps psychologically and socially. This research result give a brief understanding of GBV against Women among IDPs.

The comparative study incorporated in the research from the Central African Republic and Nigeria, alongside Ethiopia, offers new perspectives on how different countries address GBV in IDP settings. This can reveal comparative strengths and weaknesses in legal frameworks and implementation practices. Highlighting successful strategies and common challenges across different contexts provides actionable insights that can inform policy improvements and adaptations in Ethiopia.

By analyzing how international and regional human rights instruments are incorporated into Ethiopian law and practice, this research assesses the degree of alignment with global standards and identifies discrepancies. This analysis can offer recommendations for Ethiopia to better align its legal frameworks with international norms, enhancing the protection of IDPs and ensuring compliance with human rights obligations.

An intensive review of the FDRE Constitution's provisions related to GBV and IDPs can reveal whether and how the constitution addresses the specific needs of displaced populations. This can highlight areas where constitutional amendments or new legislation are necessary, providing a foundation for legal reforms that more effectively address GBV among IDPs.

This research may delve into specific implementation challenges, such as logistical and security issues, that impact the enforcement of GBV laws in remote IDP camps. This focus can reveal barriers that hinder effective protection and intervention. Identifying these challenges can lead to the development of targeted solutions to improve the effectiveness of GBV protections in complex and constrained environments.

Therefore, this Study is expected to forward the following points.

- Give information to the concerned body which has not given enough attention to the GBV problem in IDP camps despite high prevalence in Ethiopia.
- Raise the awareness level of the community about GBV against women among IDPs.
- Give insight into protection of GBV needs of women found in IDP camps.
- Raise the awareness level of the community about women found in IDP camps that do not exercise their rights properly due to lack of knowledge and lack of confidence in emphasising their rights.

- Assist health authorities, health professionals and non-governmental organizations to effectively promote and adequately protect women found in IDP camps from GBV.

## *7. Research Area and Scope*

The study conducted based on various international treaties and conventions that Ethiopia is a party to, which address human rights issues, particularly those related to gender equality and protection of vulnerable populations like IDPs. The scope of this study delimited only to the legislatives that govern women found in IDP camps located in Ethiopia. Moreover, the study is limited to the elaboration and evaluation of the treaties, laws and policies pertaining GBV. While the research addresses as much relevant laws and policies governing or affecting rights as possible, it does not claim to be exhaustive in the sense of dealing with all such instruments. In addition, the research is limited to laws and policies adopted by the Ethiopian federal government. In addition to legal frameworks the study tries to show the experience of other countries. By conducting library-based research utilizing secondary sources such as legislations, international instruments, reports, and scholarly articles on GBV and IDPs in Ethiopia, the study tries to provide a comprehensive analysis of the legal framework governing these issues.

## *8. Limitation of the study*

The major limitation of this study is unavailability of sufficient publications on this particular subject matter except few works done by human right scholars especially on the case of Ethiopia. Data accessibility was another challenge. In addition, lack of sufficient domestic literatures, studies and research documents in the study area. Besides, due to the existing security challenges in Ethiopia, it is hard to get an interview from women in IDP camps in many parts of the country. Therefore, there was no choice other than relying on the few data that are available from different sources including the idea of few person that were willing to do so.

## *9. Methodology*

This research employs a qualitative methodology to explore the legal frameworks surrounding GBV among IDPs. The study is conducted through an in-depth review of existing literature, including laws, conventions, reports, and scholarly articles, with a particular focus on the experiences of the Central African Republic and Nigeria.

Intensive analysis of the international and regional human rights instruments, FDRE Constitution of 1995 and policy consideration pertaining to the subject matter at hand.

### *10. Organization of the study*

This study has attempted to explore whether the prevalence of gender based violence in IDP camps, with target of considering the experience around persons living in the camps of internally displaced person, challenges and barriers these women are facing as well as the remaining limitation in order to draw lessons learned aimed at informing key governmental and non-governmental stakeholder for future interventions. In doing so, the study aims in approaching the subject matter in the following sequences. The study has been divided in five chapters, each of which has its own sections and sub sections.

For that reason, the first chapter simply deals with general introduction to high light the statement of the problems, objectives of the study, methodology, scope as well as significance of the study and related issues. Chapter two deals with the background and definition. Chapter three deals with legal frameworks. It describes the international, regional and on IDPs and IDP camps under gender based violence and IDPs. In addition, it also discusses the link between gender based violence and persons living in the camps of internally displaced person. This chapter renders a brief explanation of legal frameworks on women gender based violence. We also describe the legal backgrounds of gender based violence against women under international, regional laws and policies. This chapter covers the human rights principles on GBV, principles which enable persons living in the camps of internally displaced person, to exercise in Ethiopia. Chapter Four deals with the national laws and analyses the analytical comparison with other countries. This chapter deals the challenges and barriers that women are facing in the camps of internally displaced person to exercise their right. Also in this chapter we will cover the non-guaranteed rights of women found in IDP camps in relation to gender based violence. It also shed light on the prevalence, socio-economic impact of GBV among person living in the camps of internally displaced person. The last chapter sets out conclusions and recommendations.

## *11. Hypothesis*

The study hypothesized that there is prevalence of GBV against Women IDPs both in camps and out of it. Also there is a gap between international instruments, Ethiopian law and policy which governs GBVs and female IDPs.

## Chapter Two

### 2. Gender Based Violence and Internal Displacement

#### 2.1. Gender based violence

Gender-based violence has emerged as a major concern within populations in conflict-affected settings over the past 20 years.<sup>28</sup> GBV has potentially severe implications for wellbeing, causing physical pain and disability, adverse mental health outcomes and increased risk of Sexually Transmitted Infections (STIs) and unintended pregnancies. Programming by non-governmental agencies to address the needs of survivors – and to prevent perpetration of such violence – is now established in the mainstream of humanitarian response, coordinated with the established inter agencies guidelines.<sup>29</sup>

##### 2.1.1. Types of Sexual and Gender-Based Violence

It describes some of the more common forms of sexual and gender-based violence. The list is neither exhaustive nor exclusive. It is a practical tool that can be used in each location to help identify the different forms of sexual and gender-based violence that exist.

One of the key regional legal instruments is the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, also known as the Maputo Protocol. The Maputo Protocol specifically addresses various forms of GBV and provides a comprehensive framework for member states to protect and promote the rights of women. Here are some of the types of GBV addressed in the Maputo Protocol.<sup>30</sup>

Under the international legal framework, acts of sexual and gender-based violence are typically categorized into five main categories:

1. **Sexual Violence:** Sexual violence refers to any non-consensual sexual act or behavior imposed on an individual. It includes rape, sexual assault, sexual harassment, forced

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<sup>28</sup> Stark L, Wessells M. Sexual violence as a weapon of war. JAMA. 2012;308 (7)

<sup>29</sup> IASC Guidelines for gender-based violence interventions in humanitarian settings: focusing on prevent of and response to sexual violence in emergencies. Geneva: Inter-Agency Standing Committee; 2005

<sup>30</sup> Maputo protocol

prostitution, and any other form of unwanted sexual contact or coercion. This category includes any act of physical harm or force inflicted on an individual based on their gender. It can involve hitting, punching, slapping, kicking, or any other form of physical aggression.<sup>31</sup>

Sexual violence encompasses a range of acts, including rape, sexual assault, sexual harassment, and forced marriage. Legal frameworks typically criminalize these acts and establish mechanisms for reporting, investigating, and prosecuting sexual violence cases. They may also provide support services for survivors and address issues such as consent, age of consent, and marital rape. The Maputo Protocol recognizes domestic violence as a violation of women's rights and calls on member states to enact and enforce laws criminalizing domestic violence.<sup>32</sup> It also emphasizes the need for protection orders, support services, and access to justice for survivors. The Protocol explicitly condemns all forms of sexual violence, including rape, sexual assault, and sexual harassment. It calls on member states to criminalize these acts, ensure survivors' access to medical and psychosocial support, and provide legal remedies and redress. It encompasses acts such as rape, attempted rape, sexual assault, and any other form of sexual violence involving physical force, coercion, or lack.

The UDHR, adopted by the United Nations General Assembly in 1948, recognizes the right to life, liberty, and security of person, as well as the right to be free from torture, cruel, inhuman, or degrading treatment or punishment. These provisions encompass sexual violence as a violation of these rights.<sup>33</sup>

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) adopted by the United Nations in 1979, is a comprehensive international treaty that focuses on the elimination of discrimination against women. It recognizes that gender-

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<sup>31</sup> <https://www.unhcr.org/what-we-do/protect-human-rights/protection/gender-based-violence>

<sup>32</sup> The Protocol to the African Charter on the Rights of Women in Africa (Maputo Protocol)

<sup>33</sup> [www.unhcr.org](http://www.unhcr.org)

based violence, including sexual violence, is a form of discrimination and a violation of women's human rights.<sup>34</sup>

The Rome Statute of the International Criminal Court (ICC), established in 2002, is a permanent international criminal court that has jurisdiction over the most serious crimes of international concern, including sexual violence. The Rome Statute defines various forms of sexual violence, such as rape, sexual slavery, enforced prostitution, forced pregnancy, and sexual torture, as crimes against humanity and war crimes.<sup>35</sup>

Convention on the Rights of the Child (CRC) adopted by the United Nations in 1989, specifically addresses the rights of children. It recognizes that children have the right to protection from all forms of violence, including sexual violence.<sup>36</sup>

The UN Security Council has passed several resolutions that address sexual violence in conflict situations, such as Resolution 1820 (2008), which recognizes sexual violence as a tactic of war and a threat to international peace and security. These resolutions call for the prevention of sexual violence, the protection of survivors, and the prosecution of perpetrators.<sup>37</sup>

Various regional human rights instruments, such as the African Charter on Human and Peoples' Rights, the American Convention on Human Rights, and the European Convention on Human Rights, also recognize the right to be free from torture, inhuman or degrading treatment, and violence, including sexual violence.

2. Physical Violence: This category includes any act of physical harm or force inflicted on an individual based on their gender. It can involve hitting, punching, slapping, kicking, or any other form of physical aggression. The UDHR recognizes the right to life, liberty, and

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<sup>34</sup> CEDAW

<sup>35</sup>International Criminal Court (ICC)

<sup>36</sup>Convention on the Rights of the Child (CRC) adopted by the United Nations in 1989

<sup>37</sup>United Nations Security Council Resolutions 1820

security of person. It prohibits torture, cruel, inhuman, or degrading treatment or punishment, which encompasses physical violence.<sup>38</sup>

The ICCPR, also guarantees civil and political rights, including the right to life, freedom from torture and cruel, inhuman, or degrading treatment or punishment. It prohibits physical violence and establishes the obligation of states to protect individuals from such violence.<sup>39</sup>

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted by the United Nations in 1984, specifically addresses torture and other forms of cruel, inhuman, or degrading treatment or punishment. It establishes the obligation of states to prevent, investigate, and punish acts of torture or physical violence.<sup>40</sup>

Convention on the Rights of the Child recognizes that children have the right to be protected from all forms of violence, including physical violence.<sup>41</sup>

These international legal frameworks provide a foundation for addressing physical violence, establishing legal obligations for states to prevent, investigate, and punish perpetrators, as well as to provide support and justice for survivors. It is crucial for states to implement and enforce these instruments through domestic legislation and policies to effectively combat physical violence and ensure justice for survivors.

3. Emotional/Psychological Violence: Emotional or psychological violence encompasses acts that inflict emotional, verbal, or mental harm on an individual based on their gender. It can involve threats, humiliation, intimidation, gas lighting, isolation, or any other

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<sup>38</sup> UDHR

<sup>39</sup> ICCPR

<sup>40</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted by the United Nations in 1984

<sup>41</sup> CRC

behavior that undermines a person's self-worth and emotional well-being. As per ILO illustration, emotional and psychological violence, also known as psychological abuse or emotional abuse, refers to a form of violence that targets an individual's emotional well-being, mental health, and psychological integrity.<sup>42</sup>

While there is no specific international legal framework explicitly addressing emotional and psychological violence, several international instruments and conventions provide protection against various forms of violence, including those with psychological and emotional aspects. Here are some key international legal frameworks that are relevant to addressing emotional and psychological violence: the UDHR recognizes the inherent dignity and equal rights of all individuals. It establishes the right to live free from torture, cruel, inhuman, or degrading treatment or punishment, which encompasses emotional and psychological abuse.<sup>43</sup>

While emotional and psychological violence may not be explicitly mentioned in these legal frameworks, their provisions against torture, inhuman or degrading treatment, discrimination, and violence against women and children can be interpreted as encompassing such forms of abuse. It is important for states to implement and enforce these international legal instruments and develop comprehensive domestic legislation to address emotional and psychological violence effectively.

4. Economic Violence: Economic violence refers to acts that restrict or control an individual's access to economic resources or opportunities based on their gender. It can include denying financial support, limiting employment opportunities, controlling finances, or preventing access to education or healthcare. The Universal Declaration of Human Rights recognizes the right to life, liberty, and security of person, as well as the right to an adequate standard of living these provisions can be interpreted to encompass

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<sup>42</sup> International Labour Organization (ILO) Conventions

<sup>43</sup> Universal Declaration of Human Rights (UDHR)

economic violence, which undermines an individual's economic well-being and security.<sup>44</sup>

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) recognizes that gender-based violence, including economic violence, is a form of discrimination and a violation of women's human rights.<sup>45</sup> And Convention on the Rights of the Child emphasizes the right of children to protection from all forms of violence, including economic violence.<sup>46</sup> The ILO has developed several conventions that address labor rights and protection against exploitation.<sup>47</sup>

These conventions, such as the Forced Labor Convention and the Convention on Domestic Workers, aim to prevent and address economic exploitation and abuse.<sup>48</sup>

While economic violence may not be explicitly mentioned in these legal frameworks, their provisions against discrimination, exploitation, and the right to an adequate standard of living can be interpreted to encompass economic abuse. It is important for states to implement and enforce these international legal instruments and develop comprehensive domestic legislation to address economic violence effectively.

5. **Socio-cultural Violence:** Social and cultural violence, also known as sociocultural violence, refers to a form of violence that targets individuals or groups based on their social or cultural characteristics, such as their ethnicity, race, religion, or social status. While there is no specific international legal framework solely dedicated to social and cultural violence, several international instruments and conventions provide protection against various forms of violence, including those with social and cultural aspects.

Here are some key international legal frameworks that are relevant to addressing social and cultural violence. Socio-cultural violence encompasses acts that perpetuate harmful gender norms, stereotypes, and discriminatory practices. It can include practices such as female genital

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<sup>44</sup> *ibid*

<sup>45</sup> CEDAW

<sup>46</sup> Convention on the Rights of the Child

<sup>47</sup> International Labor Organization (ILO) Conventions

<sup>48</sup> *ibid*

mutilation/cutting (FGM/C), child marriage, honor killings, dowry-related violence, or any other form of violence rooted in societal beliefs and practices. FGM/C involves the partial or total removal of female genitalia for non-medical reasons. Many countries have enacted laws that explicitly criminalize FGM/C, aiming to prevent the practice, protect girls and women from harm, and provide support for survivors. Legal frameworks may also include provisions for education, awareness, and community engagement to eradicate FGM/C and Child Marriage.

Child marriage refers to the marriage of a child under the age of 18.<sup>49</sup> Legal frameworks often set a minimum age for marriage and criminalize child marriage to protect children from harmful practices and ensure their rights to education, health, and well-being and Female Genital Mutilation/Cutting (FGM/C)<sup>50</sup>.

The Maputo Protocol calls for the elimination of FGM/C and urges member states to enact legislation prohibiting this harmful practice. It emphasizes the need for awareness-raising, education, and support for survivors. The Protocol recognizes child marriage as a violation of children's rights and calls for the establishment of a minimum age for marriage. It urges member states to enact legislation to prevent and eliminate child marriage, protect child brides, and provide support for survivors.<sup>51</sup>

UDHR recognizes the inherent dignity and equal rights of all individuals. It establishes the right to be free from discrimination based on race, color, sex, language, religion, or social status. These provisions can be interpreted to encompass social and cultural violence.<sup>52</sup>

International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), adopted by the United Nations in 1965, is a comprehensive treaty that focuses on the elimination of racial discrimination. It recognizes that racial discrimination can lead to violence and requires states to take measures to prevent and combat such violence. Convention on the Rights of the

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<sup>49</sup> FDRE Revised Family Law

<sup>50</sup> The Maputo Protocol article v (b)

<sup>51</sup> *ibid*

<sup>52</sup> Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. GAOR, 3d Sess., 1st plen. mtg., U.N. Doc. A/810 (Dec. 10, 1948)

Child emphasizes the right of children to protection from all forms of violence, including social and cultural violence.<sup>53</sup>

Convention on the Elimination of All Forms of Discrimination against Women recognizes that gender-based violence, including violence rooted in social and cultural norms, is a form of discrimination and a violation of women's human rights.<sup>54</sup>

Various regional human rights instruments, such as the African Charter on Human and Peoples' Rights, the American Convention on Human Rights, and the European Convention on Human Rights, recognize the right to be free from discrimination and violence based on social and cultural characteristics. While social and cultural violence may not be explicitly mentioned in these legal frameworks, their provisions against discrimination, equality, and the right to be free from violence can be interpreted to encompass social and cultural violence. It is important for states to implement and enforce these international legal instruments and develop comprehensive domestic legislation to address social and cultural violence effectively.

## *2.2. What are Internally Displaced Persons?*

The Guiding Principles on Internal Displacement, developed by the United Nations (UN) in 1998, provide a comprehensive definition of IDPs. According to these principles, IDPs are individuals or groups of individuals who have been forced or obliged to flee or 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>55</sup> The UN Office for the Coordination of Humanitarian Affairs (OCHA) also uses a similar definition.<sup>56</sup>

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<sup>53</sup> International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), Adopted by the United Nations in 1965

<sup>55</sup>The Guiding Principles on Internal Displacement, developed by the United Nations (UN)

<sup>56</sup> OCHA, 'Introductory Note' (2) to Kampala Convention article 1 (k)

### 2.2.1. What is the difference between Internally Displaced Person, migrant, stateless and refugee?

It is important to note that these categories are not mutually exclusive, and an individual can fall into more than one category at different stages or under different circumstances. The legal definitions and protections for each category are established by international treaties, conventions, and domestic laws, and may vary in their application depending on the specific country or region.

1. Internally Displaced Person (IDP): An IDP is someone who has been forced to flee their home or place of habitual residence due to conflict, violence, human rights violations, natural disasters, or other similar causes. However, unlike refugees, IDPs have not crossed an international border and remain within their own country. They are protected under international humanitarian law and are entitled to certain rights and assistance, although the specific legal framework for IDPs may vary depending on the country or region.<sup>57</sup>

2. Migrant: There is no universally agreed-upon definition for the term "migrant." A migrant is a broad term that refers to any person who chooses to move or is compelled to move across an international border or within a country for various reasons, including seeking employment, education, family reunification, or better living conditions. Unlike refugees and IDPs, migrants are not necessarily fleeing persecution or violence. The legal status and rights of migrants can vary depending on the specific circumstances, including the purpose of migration, the country of origin, and the immigration laws of the destination country.<sup>58</sup>

3. Stateless Person: A stateless person is an individual who is not considered a citizen by any country and lacks legal recognition and protection. They do not have a nationality and may face significant challenges in accessing basic rights and services. Statelessness

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<sup>57</sup> United Nations, 'Guiding Principles on Internal Displacement (UN, 1998)

<sup>58</sup> International Organization for Migration (IOM), 'International Migration Law' (IOM, 2022)

can occur due to various reasons, such as gaps in nationality laws, conflicts between countries, or arbitrary deprivation of nationality.<sup>59</sup>

4. Refugee: A refugee is a person who has fled their country of origin due to a well-founded fear of persecution based on factors such as race, religion, nationality, political opinion, or membership in a particular social group. Refugees are protected under international refugee law, primarily the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. They have the right to seek asylum in another country and are entitled to certain rights and protections, including non-refoulement (not being forcibly returned to a place where their life or freedom is at risk).<sup>60</sup>

5. "Asylum-seeker" means any person or group of persons who presents himself or themselves at the border or frontier or within the territory of Ethiopia seeking refugee status and wait for decision of the Authority.<sup>61</sup> Also by comparison, an individual who has left the country of origin in order to seek international protection who may have formally applied for status as a refugee but has yet to be recognized as such by the applicable national asylum body, or it may be sufficient that she has left her country for international protection reasons.<sup>62</sup>

6. 'Returnee' refers to a refugee who has returned to her country of origin or former habitual residence, whether by means of spontaneous return, facilitated voluntary repatriation programs, or under operation of the cessation clauses of the 1951 Convention.<sup>63</sup>

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<sup>59</sup> United Nations, Convention on the Reduction of Statelessness (adopted 30 August 1961, entered into force 13 December 1975)

<sup>60</sup> Protocol relating to the Status of Refugees (adopted 31 January 1967, entered into force 4 October 1967)

<sup>61</sup> Federal Negarit Gazette No. 38, 27 February 2019, Proclamation No. 1110/2019

<sup>62</sup> D. Weissbrodt, *The Human Rights of Non-Citizens* (Oxford University Press, 2008) 110-111

<sup>63</sup> UNHCR, Guidelines on International Protection: Cessation of Refugee Status under Article 1C (5) and (6) of the 1951 Convention relating to the Status of Refugees (UN Doc. HCR/GIP/02/01, 7 May 2002)

### 2.2.2. Protecting IDPs against Sexual and Gender-Based Violence

The Kampala Convention sets out the responsibilities of states regarding internal displacement, the rights of IDPs and the rights and duties of other relevant stakeholders such as armed groups, CSOs, international organizations and the AU. States undertake to prevent arbitrary displacement, to protect IDPs' fundamental human rights during displacement, and to find durable solutions. States also commit to identify a national authority or body responsible for responding to internal displacement.<sup>64</sup>

GBV is a human right violence by a perpetrator against a person because of his/her gender or sex that results in physical, sexual, or psychological harm or suffering to a person.<sup>65</sup>

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<sup>64</sup> The Kampala Convention: Articles 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13

<sup>65</sup> Committee on the Elimination of Discrimination against Women (CEDAW), General Recommendation No. 19: Violence against women, UN Doc. A/47/38 (1992)

## Chapter Three

### Gender-based Violence and IDP Rights; International Legal Framework

#### *3.1. Women and Gender-based violence*

Besides, instruments like the IRC and CEDAW, GBV is included in regional human rights instruments like the African Charter on Human and Peoples' Rights, the European Social Charter, and the Additional Protocol of the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights. All of these human rights instruments define the content of the gender-based violence.

#### *3.2. International Legal Framework on Gender-Based Violence and IDP*

There are international legal frameworks that obligate to prevent and respond to GBV in international and regional human rights laws. Among others the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social, and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of the Child (CRC), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and other soft laws such as Beijing Platform for Action (BPA) Universal Declaration of Human Rights (1948). Besides, it is included in the regional human rights instrument in Protocol to the Africa Charter on Human and People right on the right of Women in Africa. All of these human rights instruments define the content of GBV and impose obligations on member states to prevent it.

IDPs due to their forced displacement, on the other hand, are inherently vulnerable to deprivation, further displacement, and other protection risks, such as lack of access to basic services, family separation, sexual and gender-based violence, trafficking, discrimination, and harassment.<sup>66</sup>

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<sup>66</sup> Guiding Principles on Internal Displacement, introductory para. 2

### 3.2.1. The Universal Declaration of Human Rights

The universal declaration of human rights which was adopted in 1948 included a right to, the first human rights legal document, that does confer all human beings [men and women] as having an equal and the same status based on that human beings are born free with equal dignity and rights. The preamble of UDHR begins with its recognition of human rights without any gender difference. It stated under UDHR that "the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice, and peace in the world. "Human family" indicates that there will be no discrimination based on sex. It also brings to mind objectives stated under the charter on the endorsement and enforcement of human rights based on the equality of men and women. Article 2 of UDHR stated that "Everyone is entitled to all the rights and freedoms outlined in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."<sup>67</sup> Both men and women can equally claim these rights and freedoms protected under the declaration.

### 3.2.2. Convention on the Elimination of All Forms of Discrimination against (CEDAW)

Convention on the Elimination of All Forms of Discrimination against Women Adopted on December 1979 and entering into force on 3 September 1981, obliges States to take all proper measures to eliminate discrimination against women on all grounds and to ensure their effective right to work consisting of equality between men and women access to health care services, including those related to free from gender based violence.<sup>68</sup> Legal Obligations states that have ratified CEDAW are legally bound to take measures to eliminate discrimination against women, including gender-based violence. They are required to enact and enforce laws that criminalize and address GBV effectively.

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<sup>67</sup> Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. GAOR, 3d Sess., 1st plen. mtg., U.N. Doc. A/810 (Dec. 10, 1948) [hereinafter UDHR] art. 2 and 25

<sup>68</sup>Convention on the Elimination of All Forms of Discrimination Against Women, opened for signature 1 March 1980, 1249 U.N.T.S. 13 (entered into force 3 September 1981)

Displaced women, like all women are entitled to benefit from the rights contained in the CEDAW and they should not be discriminated against in any scope of life. Articles 3 and 15 of the CEDAW require that women shall be equal before the law and shall enjoy equality in all fields.<sup>69</sup> As per CEDAW Access to identity documentation and legal document, status must be ensured as a prerequisite to equal access and enjoyment of many rights.

### 3.2.3. The International Covenant on Civil and Political Rights (ICCPR)

The International Covenant on Civil and Political Rights (ICCPR) come into enforcement in 1966 which is another treaty that Ethiopia has ratified that emphasizes its dedication to combating and eradicating gender-based violence. ICCPR's Article 26 forbids discrimination on any grounds by stating that everyone is entitled to equal protection of the law and is equal before the law regardless of any form of discrimination.<sup>70</sup> In this regard, the law must forbid all forms of discrimination and ensure that everyone has access to equitable and effective protection from discrimination on any basis, including race, color, sex, language, religion, political or other opinions, national or social origin, property, birth, and other status.

### 3.2.4. Convention to the Rights of the Child (CRC)

CRC Article 19 states: “Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child. It also includes different rights such as the right to non-discrimination in the area of life and reproductive health the practices and traditions that harm women's and girls’, the right to privacy, right to life and international protection, and to be free from Gender-Based Crimes. CRC is the most widely ratified human rights convention. Importantly, in the context of internal displacement, it does not allow for any derogation in times of emergency.<sup>71</sup>

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<sup>69</sup> CEDAW, General Recommendation No. 26: Women Migrant Workers (2008), para. 1 article 3 and 15

<sup>70</sup> International Covenant on Civil and Political Rights, adopted 16 December 1966, 999 U.N.T.S. 171 (entered into force 23 March 1976) [hereinafter ICCPR Article 26]

<sup>71</sup> Convention on the Rights of the Child, adopted 20 November 1989, 1577 U.N.T.S. 3 (entered into force 2 September 1990) article 19

The 1998 Guiding Principles on Internal Displacement, which reflect international human rights law and international humanitarian law, include explicit guarantees to protect internally displaced persons, focusing specifically on internally displaced children. In particular, they address the right of families wishing to remain together to do so or to be reunited rapidly; the right to dignity and physical, mental and moral integrity, including the protection and to be rapidly reunified.<sup>72</sup>

Protection of children from sale into marriage, exploitation and forced labor. Protection of children from recruitment or from taking part in hostilities. The right to documentation in their own names, including birth certificates. The right to education, including the equal participation of girls.<sup>73</sup>

### 3.2.5. Vienna Declaration on Human Rights

As per Vienna Declaration on human rights Gender-based violence and all types of sexual harassment and exploitation, including those brought on by cultural prejudice, is incompatible with the dignity and worth of the human person and must be eliminated.<sup>74</sup>

### 3.2.6. Geneva conventions

Article 3 of the four Geneva Conventions states that persons not taking part in the hostilities shall be treated humanely, without any adverse distinction founded on race, color, religion or faith, sex, birth, wealth, or any other similar criteria. The Convention's preamble recognizes children who live in exceptionally difficult conditions and that such children need special consideration. Similar provisions are found in Article 27(3) Women shall be especially protected against any attack on their honor, in particular against rape, enforced prostitution, or any form of indecent assault. Without prejudice to the provisions relating to their state of health, age, and sex, all

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<sup>72</sup> Guiding Principles on Internal Displacement, adopted 1998, Principle 7, 12 and 17)

<sup>73</sup> *ibid*, Principle 22 and 23

<sup>74</sup> Vienna Declaration on human rights

protected persons shall be treated with the same consideration by the Party to the conflict in whose power they are, without any adverse distinction based, in particular, on race, religion or political opinion. From this article, we can understand the internally displaced person should be included.<sup>75</sup>

### 3.2.7. The International Covenant on Economic, Social, and Cultural Rights (ICESCR)

Article 13 of ICESCR also guarantees the equal rights of girls and boys to education and the highest attainable standard of physical and mental health. States must provide free and compulsory education at the primary level and make secondary and higher education equally available to all persons. There is no particular article that provides a right to IDPs.

### 3.2.8. The Beijing Platform

The Beijing Platform for Action also urges States to play a larger role in eradicating violence against women, putting an end to discrimination, and advancing women's access to economic, educational, and health opportunities.

## 3.3. *Regional Legal Framework*

### 3.3.1. African Charter on Human and Peoples' Rights

African Charter on Human and Peoples' Rights or Banjul charter which was adopted by the Assembly of Heads of States and Government of the Organization of African Unity at Nairobi on 27 June 1981. ACHR Article 3 and 24 set forth the principle of equality and prohibit discrimination on account of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status. Humanitarian law addresses the issue of equal treatment in several provisions.<sup>75</sup> Thus, common Article 3 of the four Geneva Conventions states that persons not taking part in the hostilities shall be treated humanely, without any adverse distinction founded on race, color, religion or faith, sex, birth, wealth, or any other similar criteria. Similar provisions are found in Article 27(3) Geneva Convention IV, Article 75 Protocol

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<sup>75</sup> Geneva Conventions Article 3 and 27 (3)

I, and Articles 2(1) and 4(1) Protocol II Contains general as well as specific provisions dealing with. It includes rights that protect women.

### 3.3.2. The Protocol to the African Charter on the Rights of Women in Africa (Maputo Protocol)

The Protocol to the African Charter on the Rights of Women in Africa was adopted in Maputo on July 11, 2003. It came into enforcement on November 25, 2005, after getting the required 15 ratifications. The Protocol guarantees extensive rights to women, including the right to take part in the political processes, to social and political equality with men, improved autonomy in their reproductive health decisions, and an end to harmful traditional practices such as female genital mutilation, among others.<sup>76</sup>

In Ethiopia, the Maputo Protocol plays a crucial role in promoting and protecting the rights of women, including those who are internally displaced. IDPs in Ethiopia face specific challenges, including GBV, limited access to healthcare and education, and economic vulnerabilities. In terms of education and economic empowerment, the Protocol calls for equal access to education and economic resources for women in IDP situations. It recognizes the importance of education in empowering women and promoting their full participation in society. It also emphasizes the need to address economic disparities and provide opportunities for income generation and livelihood support. The Protocol recognizes these challenges and provides a framework for addressing them.<sup>77</sup>

The Ethiopian government, as a signatory to the Maputo Protocol, is expected to implement the provisions outlined in the Protocol to protect and promote the rights of women, including those who are internally displaced. This includes ensuring access to justice, healthcare, education, and economic opportunities for women in IDP situations. The Protocol serves as a critical framework for promoting and protecting the rights of women, including those who are internally displaced. It addresses various challenges faced by displaced women, such as violence, reproductive health,

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<sup>76</sup>Banjul Charter Article 3 and 24

<sup>77</sup>Maputo Protocol Articles v, xii, xiii and xiv

education, and economic empowerment. Implementing the provisions of the Protocol is essential for ensuring the rights and well-being of women in IDP situations in Ethiopia.<sup>78</sup>

### 3.3.3. Kampala Protocol

As per Kampala Protocol definition of “Internally Displaced Persons” means 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. “Internal displacement” means the involuntary or forced movement, evacuation or relocation of persons or groups of persons within internationally recognized state borders. In line with international humanitarian law (the “laws of war”), the Kampala Convention recognizes that, in situations of armed conflict, non-state armed groups have obligations to respect the rights of IDPs. For example, armed groups are prohibited from carrying out arbitrary displacement, separating family members, restricting IDPs’ freedom of movement, recruiting children or permitting them to take part in hostilities and impeding humanitarian assistance and passage of relief aid. Equally, and in accordance with states’ duties to prevent interference with the enjoyment of human rights by non-state actors, states must hold members of armed groups criminally responsible for human rights abuses and violations of international humanitarian law.<sup>79</sup>

### *3.4. The link between women's Rights of IDPs and other Human Rights*

The 1993 Vienna Declaration and Program of Action underline the basic interrelatedness of political and civil human rights and economic social and cultural human rights. It reads: “All human rights are universal, indivisible, interdependent, and interrelated. The international community must treat human rights globally in a fair and equal manner on the same footing and with the same emphasis. While the significance of national and regional particularities and various historical, cultural, and religious backgrounds must be borne in mind, it is the duty of

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<sup>78</sup> *ibid*

<sup>79</sup> Kampala Convention, Preamble (I), Article 4 and 7(4)(k)

states, regardless of their political, economic, and cultural systems, to promote and protect all human rights and fundamental freedoms.”<sup>80</sup>

Human rights are interdependent, indivisible, and interrelated. This means infringe women's rights and practicing gender-based violence is violating other human rights, such as the rights to education or work, health, and vice versa. These links highlight the interdependence and indivisibility of human rights.

IDP Women have the right to live free from violence and insecurity. Ensuring their safety and security is essential to protecting their right to life and physical integrity. Women, as IDPs, have the right to be free from discrimination based on their gender, as well as other grounds such as race, ethnicity, religion, or social status. Discrimination can hinder their access to resources, services, and opportunities. Women have the right to access quality healthcare, including sexual and reproductive health services, during displacement. Adequate healthcare services are crucial to addressing gender-specific health needs and preventing and responding to GBV.<sup>81</sup>

### *3.5. Three Types of Obligations of the state*

States have multifaceted obligations with respect to the right to health. These are the duty to respect, the duty to protect, and the duty to fulfill guarantees to the right of women internally displaced person.<sup>82</sup>

#### **3.5.1. Duty to Respect**

The duty to respect induces the state to refrain from interfering in the enjoyment of fundamental rights and to abstain from discriminatory practices, preventing and impairing access to human rights.<sup>83</sup> According to Liebenberg the expression preventing and impairing ‘access is broad enough to include policies that result in denial of access to poor communities of the right, rather than simply an interference with the existing access to the right.’<sup>84</sup>

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<sup>80</sup> The Vienna Declaration 1993

<sup>81</sup> Maputo Protocol

<sup>82</sup> www.ohchr.org

<sup>83</sup> Maputo Protocol

<sup>84</sup> 1 S Liebenberg—Socio-Economic Rights| in M Chaskalson et al Constitutional Law of South Africa (2004)

According to new FDRE constitution, the government has a duty to respect the rights of IDPs, including their right to live free from gender-based violence.<sup>85</sup> This means that the government must refrain from engaging in any actions or policies that may directly or indirectly contribute to or perpetuate gender-based violence against IDPs. It includes respecting the dignity, integrity, and autonomy of IDPs, and ensuring that their human rights are not violated.

In international laws, the Duty to Respect in relation to GBV on IDPs refers to the obligation of the government to uphold and respect the human rights of IDPs, including their right to live free from GBV.

The UDHR recognizes the inherent dignity and equal rights of all individuals. The Duty to Respect requires states to respect the rights of IDPs, including their right to be free from gender-based violence.<sup>86</sup> The ICCPR protects the rights to life, liberty, and security of person, and prohibits torture, cruel, inhuman, or degrading treatment or punishment.<sup>87</sup> The Duty to Respect requires states to refrain from engaging in or condoning gender-based violence against IDPs.<sup>88</sup> CEDAW obliges states to eliminate discrimination against women, including gender-based violence. The Duty to Respect requires states to respect the rights of IDP women and girls and ensure that they are protected from gender-based violence.<sup>89</sup> The Guiding Principles on Internal Displacement affirm the rights of IDPs, including the right to be protected from violence, including gender-based violence. The Duty to Respect requires states to respect the rights of IDPs and take measures to prevent and address gender-based violence.<sup>90</sup>

Several UN Security Council resolutions, such as Resolution 1325 on Women, Peace, and Security, emphasize the importance of respecting the rights of women and girls in conflict and displacement situations. The Duty to Respect requires states to respect and protect the rights of IDP women and girls, including their right to be free from gender-based violence.<sup>91</sup>

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<sup>85</sup> FDRE Constitution

<sup>86</sup> Universal Declaration of Human Rights (UDHR)

<sup>87</sup> ICCPR

<sup>88</sup> *ibid*

<sup>89</sup> CEDAW

<sup>90</sup> Guiding Principles on Internal Displacement

<sup>91</sup> United Nations Security Council Resolutions

The Duty to Respect in international laws requires governments to respect and uphold the rights of IDPs, including their right to live free from gender-based violence. This duty entails refraining from engaging in or condoning such violence, and ensuring that appropriate measures are in place to prevent and address gender-based violence on IDPs.

### 3.5.2. Duty to Protect

The FDRE government has a duty to protect IDPs from gender-based violence. This obligation requires the government to take measures to prevent gender-based violence, investigate and punish perpetrators, and provide effective remedies to victims.<sup>92</sup> The government should establish and enforce laws and policies that criminalize gender-based violence, provide protection mechanisms, and ensure access to justice for IDPs who have experienced such violence. The Duty to protect in international laws mandates that governments take proactive measures to prevent, investigate, and respond to gender-based violence on IDPs, ensuring their safety, security, and well-being. It includes establishing legal frameworks, implementing policies, conducting awareness campaigns, and providing access to justice and support services for victims of gender-based violence.

In international laws, the Duty to Protect in relation to GBV on IDPs refers to the obligation of the government to take measures to prevent, investigate, and respond to gender-based violence, and to ensure the safety and security of IDPs. This duty is derived from various international human rights instruments and frameworks, including: The UDHR affirms the right to life, liberty, and security of person, and prohibits torture, cruel, inhuman, or degrading treatment or punishment. The Duty to Protect requires states to take proactive measures to prevent and address gender-based violence against IDPs.<sup>93</sup> The ICCPR guarantees the right to life, freedom from torture and cruel, inhuman, or degrading treatment, and the right to security of person. States have a Duty to Protect IDPs from gender-based violence by implementing laws, policies, and programs to prevent such violence, investigate and hold perpetrators accountable, and

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<sup>92</sup> FDRE constitution

<sup>93</sup> Universal Declaration of Human Rights (UDHR)

provide effective remedies to victims.<sup>94</sup> CEDAW obliges states to take all appropriate measures to eliminate discrimination against women, including gender-based violence. The Duty to Protect requires states to adopt legislative and other measures to prevent and address gender-based violence against IDPs, and to provide protection and support services to victims.<sup>95</sup> The Guiding Principles on Internal Displacement emphasize the responsibility of states to protect IDPs from human rights abuses, including gender-based violence. The Duty to Protect requires states to provide physical and legal protection to IDPs, ensure access to justice, and establish mechanisms for reporting and responding to gender-based violence incidents.<sup>96</sup> Several UN Security Council resolutions, such as Resolution 1325 on Women, Peace, and Security, highlight the duty of states to protect women and girls from gender-based violence in situations of conflict and displacement.<sup>97</sup> These resolutions call for the prevention of violence, accountability for perpetrators, and the provision of protection and support services to survivors.

### 3.5.3. Duty to Fulfill

These obligations are derived from the Ethiopian Constitution's commitment to human rights, equality, and non-discrimination. They reflect the government's responsibility to ensure the safety, well-being, and dignity of IDPs, particularly with regard to gender-based violence.

The duty to fulfill includes the duty to promote. The FDRE government has a duty to fulfill the rights of IDPs, including their right to protection from gender-based violence. This means that the government should take proactive steps to address the underlying causes of gender-based violence on IDPs and provide necessary support and services to prevent and respond to such violence. This may include providing safe shelters, medical and psychosocial support, legal aid, and other forms of assistance to IDPs who have experienced gender-based violence.

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<sup>94</sup> International Covenant on Civil and Political Rights (ICCPR)

<sup>95</sup> CEDAW

<sup>96</sup> Guiding Principles on Internal Displacement

<sup>97</sup> United Nations Security Council Resolutions

In international law, the Duty to fulfill in relation to GBV on (IDPs) refers to the obligation of the government to take positive measures to address and prevent gender-based violence, provide support and assistance to victims, and ensure access to justice and remedies.

CEDAW obliges states to take all appropriate measures to eliminate discrimination against women, including gender-based violence. This includes implementing laws and policies, providing support services, and ensuring access to justice for victims of GBV.<sup>98</sup>

Several UN Security Council resolutions, such as Resolution 1325 on Women, Peace, and Security, highlight the responsibility of states to protect women and girls from gender-based violence in situations of conflict and displacement. These resolutions call for the prevention of violence, accountability for perpetrators, and the provision of support and services to survivors.<sup>99</sup>

The Guiding Principles on Internal Displacement, developed by the UN Commission on Human Rights, emphasize the obligation of states to protect and assist internally displaced persons, including addressing gender-based violence.<sup>100</sup> This includes measures to prevent violence, provide safe and accessible shelters, ensure access to healthcare and psychosocial support, and facilitate access to justice. IHL applies during armed conflicts and includes provisions that protect civilians, including IDPs, from gender-based violence.<sup>101</sup> It prohibits acts of sexual violence, exploitation, and abuse, and requires states to investigate and prosecute perpetrators.

These international legal frameworks establish the Duty to fulfill, which requires states to actively take measures to prevent, respond to, and provide support for victims of gender-based violence on IDPs. It encompasses a range of actions, including legislative reforms, capacity-

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<sup>98</sup> CEDAW

<sup>99</sup> United Nations Security Council Resolutions

<sup>100</sup> Guiding Principles on Internal Displacement: UN Commission on Human Rights, Addendum, *Report of the Representative of the Secretary-General, Mr. Francis M. Deng, submitted pursuant to Commission on Human Rights resolution 1997/39*, UN Doc. E/CN.4/1998/53/Add.2 (11 February 1998)

<sup>101</sup> International Humanitarian Law (IHL): UN Commission on Human Rights, Guiding Principles on Internal Displacement, 11 February 1998, E/CN.4/1998/53/Add.2, <<https://www.refworld.org/docid/3d4f95e11.html>> accessed 10 December 2023

building, awareness-raising, service provision, and ensuring access to justice and remedies for survivors.

### *3.6. Nondiscrimination rights and gender based violence in relation to IDPs*

According to The UN General Comment 20 on Economic, Social and Cultural Rights has published which defines discrimination as any distinction, exclusion, restriction or preference or other differential treatment that is directly or indirectly based on the prohibited grounds of discrimination and which has the intention or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing of ICSCCE rights.<sup>102</sup>

As per different human right instruments Non-discrimination and equality are fundamental human rights principles are the major components of women rights. Race, color, sex, language, religion, political or other opinion, national or social origin, property, disability, birth or other status are the grounds of non-discrimination on different international instruments like ICSCR, CRC and CEDAW.<sup>103</sup>

Article 2 of the Maputo Protocol obliges Ethiopia to combat all forms of discrimination against women through legislative, institutional and other measures.<sup>104</sup> Article 35(1) of Ethiopia's Constitution recognizes that women shall enjoy equal rights and protections as men.<sup>105</sup> The article elaborates equal rights under the Constitution as, equal rights with men in marriage, entitlement to affirmative measures, protection from harmful traditional practices, the right to maternity pay, the right to consultation, property rights (including acquiring and controlling and transferring property), employment rights, and access to family planning education.

Age, religion, income, ethnic or racial background, and nationality are the factors to discriminations of women and violation of rights. Gender based violence occur more often in rural areas than urban areas. Reproductive rights ignored in rural areas. CEDAW states must

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<sup>102</sup> ICSCCE

<sup>103</sup> ICSCR, CRC and CEDAW

<sup>104</sup> Maputo Protocol

<sup>105</sup> FDRE Constitution

work for the elimination of discriminations and to promote equality by ensuring that vulnerable groups have access to information and services.<sup>106</sup>

Having to survive two years of armed conflict in the northern part of the country, and intermittent conflict and violence in other parts of the country; and facing a rapidly changing humanitarian crisis including internal displacement and drought, Ethiopian women are disproportionately affected and need a comprehensive national gender policy now more than ever.

Articles 3 and 4 of the Maputo Protocol obligates Ethiopia to adopt and implement appropriate measures to prohibit the exploitation and degradation of women, and to protect women from all forms of violence, particularly sexual and verbal violence. Ethiopia is also under obligation to prevent the trafficking of women.<sup>107</sup> The FDRE Constitution has general stipulations on human rights that equally apply to women including the right to life, security of the person and liberty under Art 14 to 17.<sup>108</sup> Additionally Art. 18 provide protection from torture, cruel, inhumane and degrading treatment; and Art. 26 about rights to privacy. Most significantly, the constitution explicitly imposes an obligation and accountability on the state to protect women from violence on Art. 35. “The State shall enforce the right of women to eliminate the influences of harmful customs. Laws, customs and practices that oppress or cause bodily or mental harm to women are prohibited.”<sup>109</sup>

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<sup>106</sup> CEDAW

<sup>107</sup> Maputo protocol

<sup>108</sup> FDRE constitution

<sup>109</sup> CEDAW

## Chapter Four

# Gender-based Violence and IDP Rights; Comparative and Legal framework in Ethiopia

### 4.1. Comparative Analysis

The selection of the Central African Republic and Nigeria for this comparative analysis is guided by several key criteria that ensure the relevance and effectiveness of the comparative approach. These criteria are designed to align with the objectives of understanding how different legal frameworks and socio-political contexts affect the protection of internally displaced persons (IDPs) from GBV.

CAR is selected due to its prolonged internal conflict, resulting in a significant IDP population and a complex environment for implementing GBV protections. The legal and practical challenges faced in CAR provide critical insights into how ongoing instability affects GBV interventions. Nigeria is chosen for its large IDP population, particularly affected by the Boko Haram insurgency. Nigeria's experience with GBV among IDPs offers a contrasting context with substantial international involvement and varying levels of state capacity. Both countries represent different socio-political contexts. CAR's experience is shaped by a prolonged and complex conflict, while Nigeria's context includes both an insurgency and a significant international presence. This diversity allows for a comprehensive comparison of how different types of instability and conflict impact GBV protections.

The legal frameworks and policies in CAR and Nigeria differ significantly, providing an opportunity to analyze the effectiveness of various approaches to GBV protection. CAR's frameworks are influenced by a fragile state structure, while Nigeria's policies are shaped by both national and international actors.

Both CAR and Nigeria have substantial documentation available, including laws, conventions, reports, and scholarly articles. This availability allows for a thorough and comparative analysis

of the legal frameworks and their implementation. The richness of data from these countries supports a robust qualitative analysis.

The comparative methodology involves examining and contrasting the experiences of CAR and Nigeria to identify patterns, differences, and best practices in addressing GBV among IDPs. By analyzing how each country's legal frameworks and socio-political conditions impact GBV protections, the research aims to uncover insights into effective approaches and challenges.

#### 4.1.1. Central African Republic

UNICEF reports that the Central African Republic ranks as the third largest humanitarian crisis globally, following Yemen and Syria, based on the percentage of the entire population requiring humanitarian aid.<sup>110</sup> The country has experienced prolonged instability and hindered development for several decades, but it was the crisis that began in 2013, intensifying in 2017, that resulted in the displacement of approximately a quarter of its population.<sup>111</sup> In May 2017, the clashes between armed groups escalated, driving more people to flee from their various communities.<sup>112</sup> The unrest in Central African Republic has led to an estimated 601,994 internally displaced and Fifty-two per cent are women.<sup>113</sup>

Women and girls are the most affected by the conflict in Central African Republic. The ongoing crisis compounds their already fragile socioeconomic status, coupled with discriminatory legal norms and violent sociocultural practices.<sup>114</sup>

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<sup>110</sup> United Nations Children's Fund, UNICEF Central African Republic Humanitarian Situation Report, December 2018, available at: <https://reliefweb.int/sites/reliefweb.int/files/resources/UNICEF%20Central%20African%20Republic%20Humanitarian%20Situation%20Report%20-%20December%202018.pdf>

<sup>111</sup> IDMC, "Central African Republic Overview," available at: [http://www.internal\\_displacement.org/countries/central-African-republic](http://www.internal_displacement.org/countries/central-African-republic)

<sup>112</sup> Project Ploughshares, "Central African Republic (2014 – first combat deaths)", [https://ploughshares.ca/pl\\_armed\\_conflict/central-african-republic-update-ofstatus-2014/](https://ploughshares.ca/pl_armed_conflict/central-african-republic-update-ofstatus-2014/)

<sup>113</sup> Central African Republic Refugee Response, <https://data2.unhcr.org/en/situations/car>

<sup>114</sup> Office of the United Nations High Commissioner for Human Rights (OHCHR), "Joint Study on the Status of Women in Africa," March 2022, available at: <https://www.ohchr.org/sites/default/files/2022-03/Joint-IDP-study-status-women-africa-EN.pdf>

The Gender-Based Violence Information Management System (GBVIMS) recorded 7,243 cases of gender based violence between January and July 2019, of which 31 per cent were cases of physical violence.<sup>115</sup>

Many instances of violence against women and girls occur during their journeys to and from school, while they search for livelihood opportunities. These incidents involve harmful practices such as child, early, and forced marriage (CEFM), female genital mutilation (FGM), domestic violence, and sexual violence perpetrated by armed groups.<sup>116</sup>

#### 4.1.2. Nigeria

The most recent statistics put the total number of internally displaced persons in Nigeria at just over two million, making Nigeria host to the third highest number of IDPs in Africa, most of who are from the northern part of the country, specifically Borno, Adamawa and Yobe.<sup>117</sup> Reasons lie behind this unfortunate situation, the Boko Haram insurgency remains the single greatest cause of forced displacement in Nigeria and neighbors Cameroon, Niger and Chad with over 2.4 million IDPs and refugees in the Lake Chad region.<sup>118</sup> Floods, drought and oil pollution, real estate development projects, violence between farmers and pastoralists, ethno-religious conflicts, postelection violence, banditry and boundary/ communal disputes, and extended military operations in the fight against insurgents are additional causes for displacements in Nigeria.<sup>119</sup>

In 2012, Nigeria adopted a National Policy on IDPs as part of ratifying the Kampala Convention. With the support of UNHCR and the Internal Displacement Monitoring Centre, a technical

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<sup>115</sup> UNHCR, “Gender-Based Violence Information Management System (GBVIMS) report”, July 2019

<sup>116</sup> Office of the United Nations High Commissioner for Human Rights (OHCHR), "Joint Study on the Status of Women in Africa," March 2022, available at: <https://www.ohchr.org/sites/default/files/2022-03/Joint-IDP-study--status-women-africa-EN.pdf>

<sup>117</sup> UNHCR website on the Nigeria Emergency, September 2019, <https://www.unhcr.org/nigeriaemergency.html>

<sup>118</sup> Anna Knoll and Lidet Tadesse Shiferaw, “Tackling the triggers of violence-induced displacement: The contribution of the African Peace and Security Architecture and African Governance Architecture”, European Centre for Development Policy Management Discussion Paper 228, 2018, [www.ecdpm.org/dp228](http://www.ecdpm.org/dp228).

<sup>119</sup> IDP Movement Intentions in North-Eastern Nigeria (September 2017) , p.3, <https://www.nrc.no/globalassets/pdf/reports/Nigeria/not-ready-to-return-report-summary.pdf>

committee was formed after the ratification of the Convention to incorporate its standards into the draft policy but the committee lost momentum after the validation of the policy in 2012.<sup>120</sup>

The National Policy on IDPs in Nigeria meant that the statutory mandates of the National Commission for Refugees (NCR), established in 1989, were extended to become the National Commission for Refugees, Migrants and Internally Displaced Persons and its objective is a durable solution to internal displacement which means working with neighboring countries that share the burden of the displaced population with Nigeria.<sup>121</sup>

Women and children constitute 79 per cent of the entire population in IDP camps<sup>122</sup> reports indicated that SGBV is a major problem faced by female IDPs, it is often downplayed, even by the survivors themselves because of little or no justice from the customary legal system, especially where existing traditional norms and practices in these areas already discriminate against women and girls.<sup>123</sup>

Section 55 of the Penal Code of Northern Nigeria legalizes “corrective wife beating” as long as it does not cause grievous harm.<sup>124</sup> Camps created temporary and learning shelters that could not meet the number of children requiring education and girls become susceptible to early marriage, sexual violence or even recruitment by armed groups, such as suicide bombers.<sup>125</sup>

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<sup>120</sup> Global Protection Cluster, Regulatory Frameworks on Internal Displacement Global, regional and national developments, <https://www.internal-displacement.org/sites/default/files/publications/documents/UNHCRGPC-Reg-Framework-IDP.pdf>

<sup>121</sup>Office of the United Nations High Commissioner for Human Rights (OHCHR), "Joint Study on the Status of Women in Africa," March 2022, available at: <https://www.ohchr.org/sites/default/files/2022-03/Joint-IDP-study--status-women-africa-EN.pdf>

<sup>122</sup> Biola Adimula, “Opinion: The plight of women and children in Nigeria’s IDP camps”, Operational Portal - Refugee Situations, 8 March 2016. <https://data2.unhcr.org/en/news/12180>

<sup>123</sup> CARE Rapid Gender and GBV Assessment, [https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/maiduguri\\_jere\\_january\\_2018.pdf](https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/maiduguri_jere_january_2018.pdf),

<sup>124</sup> The 1960 Penal Code Of Northern Nigeria, 53 LFN (Abuja), [http://oceansbeyondpiracy.org/sites/default/files/Nigeria\\_Penal\\_Code\\_Act\\_1960.pdf](http://oceansbeyondpiracy.org/sites/default/files/Nigeria_Penal_Code_Act_1960.pdf)

<sup>125</sup> Office of the United Nations High Commissioner for Human Rights (OHCHR), "Joint Study on the Status of Women in Africa," March 2022, available at: <https://www.ohchr.org/sites/default/files/2022-03/Joint-IDP-study--status-women-africa-EN.pdf>

## *4.2. Domestic laws and policies*

### 4.2.1. The 1995 Ethiopian constitution

As per Article 9 of the Ethiopian Constitution, treaties are an integral part of the law of the land. Article 13 of the constitution declares that treaties should be interpreted on the bases of the constitution. These tell as the constitution will be the supreme law of the land.

The FDRE Constitution stated that all international agreements ratified by Ethiopia are an integral part of the law of the land. Therefore, international treaties and conventions have to be ratified by the House of Peoples Representatives to become an integral part of the law of the country. Moreover, the Constitution states that fundamental rights and freedoms that are stated under the constitution shall be interpreted in a manner conforming to principles of the Universal Declaration of Human Rights, International Covenants on Human Rights and International Instruments adopted by Ethiopia.<sup>126</sup>

Ethiopia has ratified different international and regional human rights instruments which give recognition to the reproductive rights including the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC), International convention on Civil and Political Rights (ICCPR), Universal Declaration of Human Rights (UDHR), Regional (Protocol to the Africa Charter on Human and people right on the right of women in Africa.

In addition, under chapter three of the Constitution, a number of fundamental human rights, such as the right to life, human dignity, freedom from discrimination, right to privacy, marital, personal and family rights, women rights which are important in protection of IDP rights is assured. As per article 35(4) of the constitution made the state to be responsible to protect women from any act of violence and obligate the state to eliminate the influences of harmful customs, laws, and practices that oppress or cause bodily or mental harm to women.<sup>127</sup>

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<sup>126</sup> FDRE article 9(4), 55(12) and 13 (12)

<sup>127</sup> Ibid, 35(4)

Article 35 of Ethiopian Constitution states that “women have the right to protection by the state from harmful customs. Laws, customs and practices that oppress women or cause bodily or mental harm to them are prohibited.” Female genital mutilation is prohibited this constitution.

One of the objectives of The Ethiopian Constitution of 1995 is to promote gender equality in the social, legal, economic, and political spheres. As per the preamble of The Ethiopian Constitution, under its chapter on fundamental freedoms and rights, it declared various rights relating women's rights and the protection of women from gender-based violence. The Constitution legally recognizes men and women's equal citizenship status. All things that apply to the masculine gender equally apply to the feminine gender. The Constitution ensures equality before the law and forbids sex based discrimination. The constitution include, equal protection under the law, equality in marital affairs, protection from harmful traditional practices, maternity rights in the workplace, the right to consult, property rights, employment rights, and access to family planning information and services.<sup>128</sup>

When we came to IDP In this respect, the FDRE Constitution asserts that ‘all persons who have been displaced or whose livelihoods have been adversely affected as a result of State programs have the right to commensurate monetary or alternative means of compensation, including relocation with adequate State assistance. Apart from such protections, the FDRE Constitution does not contain an adequate general mechanism for the protection of persons displaced due to internal displacement. Even in respect to displacement induced by state programs to which the FDRE Constitution refers, no specific law has been enacted for its implementation.

As per article 32(2) of Every Ethiopian national has the right to the enjoyment of all rights, protection and benefits derived from Ethiopian nationality as prescribed by law.<sup>129</sup>

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<sup>128</sup> Article 35 of the constitution FDRE constitution preamble, article 6,7,15, 18, 25, 26, 34 and 35

<sup>129</sup> *ibid*, Article 44(2) and 32(2)

#### 4.2.2. The Ethiopian Federal Revised Family Code

The 2000 revised family law of Ethiopia placed the legal age of marriage at 18 years or older. The law also grants equal rights for women to select their family residence and family administration including decisions related to family property.<sup>130</sup>

#### 4.2.3. The criminal code of Ethiopia

The Criminal Code is another instrument that can be referred to make judicial measures and corrective justice on perpetrators in Ethiopia. The Criminal Code has been revised in line with the constitutional provisions and essences in a way to confirm that those articles deal with women's rights and their protection against any form of violence.<sup>131</sup> Disparate the 1957 Penal Code, the revised Code incorporated explicit provisions tackling violence against women. It elaborated the ambiguous conceptions and provisions of gender based violence, incorporating new offenses, redefining the elements of these offenses, and revising the penalties applicable in cases of violation. The whole Chapter III of the Criminal Code of Ethiopia is dedicated to criminalizing harmful traditional practices that cause injuries, health problems, and the deaths of human lives. Though the Chapter is of general application to men and women, it is particularly relevant to violence against girls and women. And the Criminal Code, therefore, has criminalized those forms of violence against women including rape, trafficking women, prostitution of another for gain, and physical violence within marriage or in an irregular union and abduction. Traditional practices including Female Genital Mutilation, and early marriage, are also considered as harmful traditional practices and lead to a penalty for contraventions. The Ethiopian government has recently amended its legislation by excluding rape crimes from pardon and amnesty laws as it lengthened jail terms for sex offenders.<sup>132</sup>

Art. 654 of the Revised Criminal Code recognizes and penalizes the infliction of bodily harm on a domestic partner limiting the protection against grave or common injury that are included in other provisions. Nevertheless, the code fails to define domestic violence, limits the protection to

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<sup>130</sup> FDRE, The Revised Family Code, in Federal Negarit Gazetta Extra Ordinary Issue No. 1/2000 The Revised Family Code Proclamation No. 213/2000. Available online

<sup>131</sup> The 1957 Criminal Code

<sup>132</sup> Revised Criminal Code Article 564, 565-6, 587-590, 597, 620-28, 634, 649

physical violence and does not cover other forms of domestic violence. Article 3 of the code shall affect regulations and special laws of a criminal nature: Provided that the general principles embodied in this Code are applicable to those regulations and laws except as otherwise expressly provided therein.<sup>133</sup> So we can conclude these provisions will protect IDPs tacitly.

### *4.3. National Policies and Other Specific Laws Combating Gender-Based Violence among IDPs*

#### **4.3.1. Proclamation on the Rights of Refugees and Asylum Seekers (2019)**

The Proclamation on the Rights of Refugees and Asylum Seekers (2019) in Ethiopia recognizes and protects the rights of refugees and asylum seekers, including those who are internally displaced. This proclamation not only addresses specific rights related to refugee and asylum seeker status but also encompasses broader human rights principles. While primarily focused on refugees and asylum seekers, this law also provides protection to IDPs who may be affected by GBV. It ensures the rights of IDPs to access services and support, including healthcare, education, and legal assistance<sup>134</sup>

- Here are some of the links between women's rights of IDPs and other human rights within the context of this proclamation: Right to non-discrimination: The proclamation prohibits discrimination based on gender, race, nationality, religion, or any other grounds. This includes protecting women from discrimination and ensuring equal access to rights and services.
- Right to life and security: The proclamation guarantees the right to life and security for all individuals, including women. It emphasizes the obligation to protect IDPs from violence, harassment, and any form of harm.
- Right to health: The proclamation recognizes the right to access healthcare services without discrimination. It includes provisions for ensuring IDP women's access to reproductive health services, including maternal healthcare, family planning, and HIV/AIDS prevention and treatment.

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<sup>133</sup> Ibid, Article 654 and 3

<sup>134</sup> FDRE Proclamation on the Rights of Refugees and Asylum Seekers, 2019

- **Right to education:** The proclamation affirms the right to education for all, including IDP women and girls. It emphasizes the importance of providing equal educational opportunities, including access to primary and secondary education.
- **Right to work:** The proclamation recognizes the right to work and access to employment without discrimination. It emphasizes the need to protect IDP women's right to work and ensure equal opportunities for economic empowerment.
- **Right to freedom of movement:** The proclamation acknowledges the right to freedom of movement for refugees and asylum seekers, including IDPs. It emphasizes the need to protect IDP women's right to move freely and seek safety.
- **Right to access justice:** The proclamation guarantees the right to access justice and fair treatment for all individuals, including IDP women. It emphasizes the importance of providing legal assistance and support to survivors of GBV.

#### 4.3.2. National policy on the Rights and Benefits of Women (1993)

This law promotes gender equality and prohibits discrimination against women, including in cases of GBV. It provides legal protection for IDP women against GBV and ensures their access to justice and support services. These are some of the ways in which the Proclamation on the Rights and Benefits of Women (1993) in Ethiopia links women's rights of IDPs with other human rights. The proclamation serves as a legal framework to protect and promote the rights of women, including those who are internally displaced, and aims to eliminate discrimination and ensure gender equality in all aspects of life. However, this policy is now outdated to strategically respond to the needs of the Ethiopian women and guide public policy development and implementation priorities.<sup>135</sup>

#### 4.3.3. The labor proclamation No.1156/2019

Labor Proclamation No.1156/2019 does not specifically define GBV, however, it addresses various forms of harassment and discrimination in the workplace, which can be considered as components of GBV. According to the proclamation, harassment is defined as any unwanted

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<sup>135</sup> FDRE National policy on the Rights and Benefits of Women, 1993

conduct related to a person's sex, gender, or pregnancy that violates their dignity or creates an intimidating, hostile, degrading, humiliating, or offensive working environment. This can include unwelcome sexual advances, requests for sexual favors, or any other verbal, non-verbal, or physical conduct of a sexual nature. Discrimination, on the other hand, is defined as any distinction, exclusion, restriction, or preference made on the basis of sex, gender, or pregnancy that impairs or nullifies equal opportunities or treatment in employment or occupation. This can involve unequal pay, denial of promotions, or any other unfair treatment based on gender. This proclamation defines sexual harassment means to persuade another through utterances, signs or any other manner, to submit for sexual favor without his/her consent. And sexual violence means sexual harassment accompanied by force or an attempt thereof.<sup>136</sup>

It will be considered as unlawful for an employer where any of the following acts are committed by employer or a managerial employee or a worker to commit sexual harassment or sexual assault/violence at workplace. In addition, it contains allows that such acts to lead to termination of contract employment without prior notice. If the worker resigned due to sexual harassment /violence committed by the employer or a coworker and the incident was reported to the employer, but the latter failed to take appropriate measure in due time; the survivor shall have the right to receive severance pay from the employer.<sup>137</sup>

#### 4.3.4. The Federal Civil Servants Proclamation No.1064/2017

According to Article 1(13) of the Federal Civil Servants Proclamation No.1064/2017, sexual harassment means unwelcome sexual advance or request or other verbal or physical conduct of a sexual nature and includes: a) unwelcome kissing, patting, pinching, or making other similar bodily contacts; b) following the victim or blocking the path of the victim in a manner of sexual nature; and c) putting sexual favor as a prerequisite for employment, promotion, transfer, redeployment, training, education, benefits or for executing or authorizing any human resource management act.<sup>138</sup>

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<sup>136</sup> FDRE Labor Proclamation No.1156/2019, General: Nos 1 & 2

<sup>137</sup> *ibid*, Article 14(2), 27(1), 32 (1:B) and 39(1:d)

<sup>138</sup> The Federal Civil Servants Proclamation, 2017, Federal Negarit Gazzeta, Proc. No. 1064/2017, No. 12, Art 1(13) a, b, c, d

#### *4.4. Gaps in Domestic Law, Policy, Strategy and Plan Affecting GBV among IDP camps*

Many countries lack comprehensive legal frameworks specifically addressing GBV in IDP camps, leading to gaps in protection and accountability mechanisms. Ethiopia, like many other countries affected by internal displacement due to conflict, natural disasters, or other crises, faces significant challenges in addressing gender-based violence (GBV) within IDP camps.<sup>139</sup> Even where laws exist, their implementation may be weak or inconsistent, resulting in limited access to justice for survivors of GBV in IDP camps.<sup>140</sup> Ethiopia has general laws and policies related to GBV and human rights, such as the Criminal Code and the Family Code, which offer some protections against violence. However, these laws do not specifically address the unique circumstances and vulnerabilities faced by IDPs, particularly in the context of displacement camps.<sup>141</sup>

Even when laws and policies exist, their implementation may be inconsistent or inadequate. This could be due to factors such as limited resources, capacity constraints, and challenges in monitoring and enforcement, particularly in remote and insecure IDP camp settings.<sup>142</sup> Policies and strategies related to IDP camps often fail to incorporate gender-sensitive approaches that address the specific vulnerabilities and needs of women, girls, men, and boys.<sup>143</sup> There may be inadequate coordination among government agencies, humanitarian organizations, and civil society actors involved in GBV prevention and response in IDP camps, resulting in fragmented services and gaps in protection.<sup>144</sup> Resources allocated to GBV prevention and response efforts

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<sup>139</sup> The Norwegian Refugee Council's report on "Legal Frameworks and GBV Prevention and Response in Conflict-affected Settings" provides insights into global legal gaps and recommendations for strengthening legal protections (NRC, 2020)

<sup>140</sup> The UNHCR's publication "Global Trends: Forced Displacement in 2020" discusses challenges in implementing legal protections for IDPs, including gaps in access to justice and remedies (UNHCR, 2021)

<sup>141</sup> Women's Refugee Commission's report "Legal Gaps and Recommendations for GBV Prevention and Response in Conflict-affected Settings", 2020

<sup>142</sup> UNHCR, IRC, and CARE International Reports on GBV prevention and response mechanisms

<sup>143</sup> Women's Refugee Commission's report "Gender-Based Violence in IDP Camps: Challenges and Recommendations" highlights the need for gender-responsive policies and strategies to address GBV in displacement settings (WRC, 2019)

<sup>144</sup> The International Rescue Committee's publication "Protecting People in Conflict: Recommendations for Law and Policy Reform" discusses the importance of coordinated efforts to address GBV in displacement contexts, 2020

in IDP camps may be inadequate, hindering the provision of essential services such as healthcare, psychosocial support, and legal aid.<sup>145</sup> Limited resources and funding allocated to GBV prevention and response efforts in Ethiopia further hinder the establishment of comprehensive protection mechanisms within IDP camps. This includes inadequate staffing, training, and infrastructure for service delivery.

#### *4.5. The Vulnerability of Internally Displaced Women in GBV*

IDP are extremely vulnerable to sexual violence perpetrated by combatants in addition to sexual exploitation, domestic violence and other such violence during and after the conflict.<sup>146</sup> Girl and boy child laborers, are often characterized by verbal abuse, sexual harassment, physical brutality and in some cases rape or murder.<sup>147</sup> Sex workers of whom women make up the great majority are highly vulnerable to many forms of GBV.

Sex workers are also more vulnerable to violence from their intimate partners, their families, neighbors, and other sex Adolescents and younger girls and boys exposed to the sex industry and who are trapped in this, considered one of the worst forms of child labor, are even more vulnerable to such violence.<sup>148</sup> Sex workers' high risk for HIV-infection is linked with, among other things, their increased exposure to coerced sex and rape as well as their weak ability to negotiate safer sex with clients through condom use especially in contexts where sex work is illegal or on the margins of the law.<sup>149</sup>

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<sup>145</sup> The UN Office for the Coordination of Humanitarian Affairs (OCHA) report "Global Humanitarian Overview" provides data on funding gaps and resource needs for humanitarian responses, including GBV prevention and response, 2021

<sup>146</sup> Vann, B., Gender-Based Violence: Emerging Issues in Programs Serving Displaced Populations, Reproductive Health for Refugees Consortium, Arlington, 2002

<sup>147</sup> The end of child labour: within reach – Global report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, Report of the Director-General, ILO, Geneva, 2006

<sup>148</sup> UNAIDS Terminology Guidelines (January 2011), Joint United Nations Programme on HIV/AIDS, Geneva, 2011, page 21

<sup>149</sup> UNAIDS Guidance Note on HIV and Sex Work, Joint United Nations Programme on HIV/AIDS, Geneva, 2009

The right to education is categorized under socio-economic rights. The International Covenant on Economic, Social, and Cultural Rights obliges member states to recognize the right to education of everyone.<sup>150</sup> Violation of this right hinders the protection of other human right.

#### *4.6. Non-guaranteed rights of women in IDP camps concerning gender-based violence*

IDP women often lack adequate protection from various forms of GBV, including sexual violence, intimate partner violence, and exploitation. The insecurity in displacement camps and settlements increases their vulnerability.

Internally displaced women face several challenges related to gender-based violence (GBV) due to their displacement status and the complex socio-political context. Here are some non-guaranteed rights specific to IDP women in Ethiopia related to GBV.

- **Access to Justice:** Barriers such as lack of legal documentation, fear of stigma, and limited awareness of their rights prevent many IDP women from accessing justice and legal remedies for GBV incidents.<sup>151</sup>
- **Healthcare Services:** IDP women may have limited access to healthcare services essential for addressing GBV, including medical treatment, counseling, and access to emergency contraception and post-exposure prophylaxis (PEP) for HIV.<sup>152</sup>
- **Psychosocial Support:** Displaced women often experience trauma and psychological distress due to GBV, but access to adequate psychosocial support services such as counseling and mental health care is often insufficient.<sup>153</sup>
- **Safe Living Conditions:** Inadequate housing, overcrowded shelters, lack of lighting, and poor security measures in displacement camps increase the risk of GBV for women.<sup>154</sup>

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<sup>150</sup> ICESCR Art. 13(1)

<sup>151</sup> Human Rights Watch (HRW) and Amnesty International have documented challenges faced by IDP women in Ethiopia in accessing justice systems to seek redress for GBV

<sup>152</sup> Reports from UN agencies such as UNFPA and WHO outline gaps in healthcare provision for IDP women in Ethiopia, particularly concerning GBV-related services

<sup>153</sup> The International Rescue Committee (IRC) and Médecins Sans Frontières (MSF) provide insights into the psychosocial needs of IDP women in Ethiopia and the gaps in service provision for addressing GBV-related trauma

#### *4.7. Violation of Other Rights of women living in IDP camps*

Gender-based violence is a common human right violence in conflict-affected communities. Survivors of IDP in Ethiopia face significant risks of violation of other human rights like Economic, social, cultural rights, Civil and political rights those are given in Vienna declaration of human rights and other human right declarations. In Ethiopia there has been a large-scale internal displacement following internal conflicts in Ethiopia, particularly since 2018. As the 2019 Internal Displacement Monitoring Centre (IDMC) report, more than 2.9 million people were internally displaced in Ethiopia and this record was the highest in the world.<sup>155</sup> The consequences of GBV are devastating that could have life-long traumatic on a person's life. Women who experienced physical trauma could acquire sexually transmitted diseases and unwanted pregnancies. GBV could also have psychological trauma that exposes the affected person to mental health problems such as anxiety, depression, and post-traumatic stress disorder.<sup>156</sup>

#### *4.8. Barriers to Implement GBV laws among IDP camps*

Implementing laws to address GBV within IDP camps in Ethiopia faces several significant barriers. These challenges hinder effective protection and support for vulnerable populations, particularly women and children.

Ethiopia lacks specific legal provisions tailored to address GBV within IDP camps, leading to inadequate protection and redress mechanisms.<sup>157</sup> Existing policies often fail to integrate gender-sensitive approaches, resulting in fragmented services and gaps in protection for women and girls.<sup>158</sup>

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<sup>154</sup> Reports from humanitarian organizations like CARE International and Oxfam highlight the unsafe living conditions that exacerbate vulnerability to GBV among IDP women in Ethiopia.

<sup>155</sup> Internal Displacement Monitoring Centre (IDMC) report

<sup>156</sup> N. Abrahams, K. Devries, C. Watts, C. Pallitto, M. Petzold, S. Shamu & C. García-Moreno, 'The psychological impact of sexual violence: A prospective study of its impact on psychiatric morbidity in two African towns' (2009)

<sup>157</sup> WRC, 2020

<sup>158</sup> UNHCR, 2021

Despite existing laws, enforcement remains inconsistent due to capacity constraints, resource limitations, and difficulties in monitoring.<sup>159</sup> Limited funding, staffing, and infrastructure undermine efforts to deliver essential services such as healthcare, psychosocial support, and legal aid to GBV.<sup>160</sup>

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<sup>159</sup> Amnesty International, 2021

<sup>160</sup> Survivor: IRC, 2020

## Chapter 5

### Conclusion and Recommendations

#### *5.1. Conclusion*

Based on this research the writer concludes that there is a lack of comprehensive Legal Frameworks and lack specific legal frameworks addressing GBV within IDP camps. Existing laws such as the Criminal Code and Family Code offer some protections against violence but do not cater adequately to the unique vulnerabilities of IDPs. There is a lack of targeted legislation that addresses the specific vulnerabilities and challenges faced by IDPs. While existing laws provide some protection against violence, they are not sufficiently detailed or comprehensive to address the complex dynamics of displacement. IDPs often face different kinds of violence and exploitation that existing laws do not fully encompass. Even where laws exist, implementation is weak and inconsistent. Factors such as limited resources, capacity constraints, and difficulties in monitoring and enforcement exacerbate these challenges, particularly in remote and insecure IDP camp settings. The enforcement of existing legal protections is often weak. In IDP camps, the implementation of laws can be hindered by inadequate resources, insufficient training of law enforcement personnel, and limited administrative capacity. IDP camps are frequently situated in remote or conflict-affected areas where security and logistical challenges hinder the enforcement of legal protections. These conditions complicate efforts to monitor and intervene effectively, leading to significant gaps in oversight and response. The difficulties in accessing and securing these camps can prevent law enforcement and aid agencies from implementing protective measures, exacerbating the risks faced by IDPs and undermining the effectiveness of existing legal frameworks.

In addition in Ethiopia gender-insensitive approaches should be aligned in all legislations. Policies and strategies related to IDP camps often fail to integrate gender-sensitive approaches that address the distinct vulnerabilities of women, girls, men, and boys. This lack of tailored strategies contributes to fragmented services and gaps in protection.

Furthermore there is Inadequate Coordination among different stakeholders. There is often insufficient union among government agencies, humanitarian organizations, and civil society actors involved in GBV prevention and response within IDP camps. This leads to disjointed efforts and hinders the effectiveness of protection measures.

Resources allocated to GBV prevention and response efforts in IDP camps are frequently inadequate. This inadequacy includes insufficient funding, staffing, training, and infrastructure, which are essential for delivering essential services like healthcare, psychosocial support, and legal aid.

IDP women in Ethiopia face heightened risks of various forms of GBV, including sexual violence, intimate partner violence, and exploitation, exacerbated by the insecurity within displacement camps. IDP women encounter significant barriers to accessing justice, healthcare services, psychosocial support, and safe living conditions. These barriers include lack of legal documentation, fear of stigma, limited awareness of rights, and inadequate service provision within IDP settings.

Finally, the researcher concluded that GBV in IDP camps constitutes a violation of broader human rights, including economic, social, cultural, civil, and political rights as outlined in international human rights declarations.

The researcher would like to emphasize that, unless the government introduces favorable policies, strategies and plans for protection of women in IDP camps from GBV millions of people will continue to be affected because of the current situation of Ethiopia.

## *5.2. Recommendations*

Based on the conclusions mentioned earlier, the following recommendations are outlined:

- The government should develop and implement comprehensive legal frameworks specifically addressing GBV within IDP camps. These frameworks should be tailored to the unique vulnerabilities and needs of IDPs, ensuring robust protections and mechanisms

for accountability. This includes amending existing laws such as the Criminal Code and Family Code to explicitly cover situations in IDP camps.

- There is a need to improve the implementation of existing laws and policies through enhanced monitoring and enforcement mechanisms. Allocate adequate resources and build capacity within governmental and non-governmental entities responsible for GBV prevention and response in IDP settings.
- It is mandatory to integrate gender-sensitive approaches into policies and strategies related to IDP camps. This involves ensuring that interventions address the specific vulnerabilities of women, girls, men, and boys, and promote equality in access to services and protection measures.
- There should be coordination among government agencies, humanitarian organizations, and civil society actors involved in GBV prevention and response. Foster partnerships to streamline efforts, share resources, and maximize impact in protecting IDP populations from GBV.
- Allocate sufficient resources, including funding, staffing, training, and infrastructure, to GBV prevention and response efforts in IDP camps. Ensure these resources are targeted towards essential services such as healthcare, psychosocial support, legal aid, and safe living conditions.
- Address the specific barriers that IDP women face in accessing justice, healthcare, psychosocial support, and safe living conditions. This includes initiatives to provide legal documentation, reduce stigma, raise awareness of rights, and enhance service provision within IDP settings.
- Uphold broader human rights standards, including economic, social, cultural, civil, and political rights, as outlined in international declarations. Ensure that efforts to combat GBV in IDP camps are aligned with these rights frameworks.
- Civil society, including professional groups, NGOs, private societies, the media, the academic and research organizations are expected to play key roles in addressing the GBV among IDPs.

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