



# The Protection of Internally Displaced Persons in Ethiopia: Leave No One Behind

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## Abstract

*The plight of persons who are forced to flee their homes and stay within their home state has taken an unfortunate back seat in the policy debates in Ethiopia. Although an attempt has been made to protect internally displaced persons (IDPs), the concerns of such persons have not been fully addressed. This article doctrinally examines the adequacy of domestic legal and institutional frameworks for the protection of IDPs in the light of international and regional instruments. It finds that Ethiopia has not adopted adequate legal and institutional frameworks for the protection of displaced persons and that this hampers the country's move towards sustainable development. Ultimately, it acknowledges that Ethiopia's crisis of internal displacement is overwhelmingly a political crisis that requires a political solution.*

## Keywords

Ethiopia, internal displacement, internally displaced persons, sustainable development

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## Introduction

The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (the Kampala Convention) defines internal displacement as ‘the involuntary or forced movement, evacuation or relocation of persons or groups of persons within internationally recognized state borders’.<sup>1</sup> Internally displaced persons (IDPs) are, according to the United Nations (UN) Guiding Principles, ‘persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border’.<sup>2</sup>

According to the foregoing definitions, internal displacement may be attributable to international or non-international armed conflicts, situations of violence falling short of armed conflicts, gross violations of human rights, natural or human-made disasters, among others. What is more, IDPs stay within their own country and remain under the protection of their own government, even if that government is responsible for or complicit in their displacement.<sup>3</sup> At this juncture, it is vital to highlight that the expression ‘in particular’ in the Guiding Principles definition indicates that the list of displacement causes is not exhaustive. Other possible causes of internal displacement can include, for instance, large-scale development projects such as dams built without any government attempt to resettle or compensate those displaced.<sup>4</sup>

IDPs face severe deprivation of fundamental human rights. The acute challenges faced by IDPs both within and outside camps include, among others, psychological trauma from the loss of family, friends and property; security risks and the responsibility to protect themselves; and, above all, humanitarian needs and response.<sup>5</sup> Living conditions in these settlements are in many cases appalling. Settlements are crowded and unsanitary, food and water are in short supply, insecurity is high, and livelihood opportunities are lacking.<sup>6</sup> This places social and financial burdens on host communities, especially given that many IDPs find shelter in urban areas among the urban poor.

<sup>1</sup> African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), adopted by the Special Summit of the African Union held in Kampala, Uganda, on 22<sup>nd</sup> October 2009, Article 1(1). Available at [www.unhcr.org/4ae9bede9.html](http://www.unhcr.org/4ae9bede9.html). Ethiopia has signed, but not ratified, the Kampala Convention.

<sup>2</sup> United Nations Guiding Principles on Internal Displacement, 1998, introduction (second paragraph). The Guiding Principles cover numerous different situations in which internal displacement can occur, including tensions and disturbances (to which human rights law applies), and non-international and interstate armed conflict (to which fundamental humanitarian and human rights guarantees apply). The first situation persists in Ethiopia and hence forms the focus of this article.

<sup>3</sup> United Nations High Commissioner for Refugees (UNHCR), ‘Internally Displaced People’. Available at [www.unhcr.org/en-us/internally-displaced-people.html](http://www.unhcr.org/en-us/internally-displaced-people.html). Accessed on 29<sup>th</sup> October 2018.

<sup>4</sup> Internal Displacement Monitoring Centre (IDMC), ‘Who is an Internally Displaced Person? Training on the Protection of IDPs’, Norwegian Refugee Council, at 2.

<sup>5</sup> Nsemba Edward Lenshie, ‘Boko Haram Insurgency, Internally Displaced Persons and Humanitarian Response in Northeast Nigeria’, *The International Journal of Humanities & Social Studies*, Vol. 4 Issue 8, 141-150, 2016, at 143.

<sup>6</sup> United Nations Environment Programme (UNEP), ‘Population Displacement and the Environment, Sudan: Post-Conflict Environmental Assessment’, at 100.

Displacement deprives IDPs of other basic necessities of life, such as medicine and access to education; they face discrimination, and often find their family and communal ties shattered.<sup>7</sup> This puts IDPs in a state of acute humanitarian need.

It is important to reiterate that internal displacement is characterized by its coercive or otherwise involuntary nature, and that such movement takes place within national borders. The Internal Displacement Monitoring Centre (IDMC) has considered the ‘special’ vulnerability of IDPs. To summarize the view of the IDMC, IDPs may be especially vulnerable because of any or all of the following:

- IDPs may be in transit from one place to another, may be in hiding, or may be residing in unhealthy or inhospitable environments.
- Displacement to areas where local communities are of different groups and/or are inhospitable to the IDP population could increase the risk of harm.
- IDPs may be viewed suspiciously, which can lead to abuse by parties to a conflict.
- The social organization of displaced communities may have been destroyed or damaged.
- Family groups may have been separated.
- IDPs (especially children, the elderly and pregnant women) may experience profound psychosocial distress.
- Removal from sources of income and livelihood may exacerbate physical and psychosocial vulnerabilities.
- Schooling for children and adolescents may be disrupted.
- IDPs may face language barriers.
- IDPs may lack identity documents.<sup>8</sup>

Forced displacement has been on the increase worldwide. At the end of 2014, it was estimated that there were 38.2 million IDPs globally; the highest level since 1989.<sup>9</sup> As of 2015, the number of IDPs was three times higher than the number of those who had crossed an international border in search of refuge.<sup>10</sup> During 2016, 12.5 million people in sub-Saharan Africa were forced out of their homes as a result of violent conflicts.<sup>11</sup> At the end of 2017, some 40 million people worldwide were internally displaced due to armed conflict, generalized violence or human rights violations.<sup>12</sup> Recent figures reveal that, during the first half of 2018, the ten worst-affected countries hosted a total of 5.2 million new internal displacements associated with conflict and violence.<sup>13</sup> During that same period, in Ethiopia, 1.4 million new internal displacements were recorded, a figure that surpassed both Syria and the Democratic Republic of the Congo.

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<sup>7</sup> Francis Mading Deng, ‘The Global Challenge of Internal Displacement’, *Journal of Law & Policy*, Vol. 5, 141-155, 2001, at 142.

<sup>8</sup> IDMC, *supra* note 4, at 3.

<sup>9</sup> This was the first year for which global IDP statistics were available.

<sup>10</sup> Heidrun Bohnet and Marcus Rudolf, ‘Voluntary Return of Refugees: Chances for Peace and Sustainable Development?’, Bonn International Center for Conversion (BICC) Policy Brief, 3, 2015, at 3-4.

<sup>11</sup> Lenshie, *supra* note 5, at 141.

<sup>12</sup> UNHCR, *supra* note 3. Also see European Commission’s European Civil Protection and Humanitarian Aid Operations, ‘Forced Displacement: Refugees, Asylum-Seekers and Internally Displaced Persons (IDPs) ECHO Factsheet’, June 2018, at 2.

<sup>13</sup> IDMC, ‘East Africa Worst Hit by Internal Displacement in First Half of 2018’, 12 September 2018. Available at [www.internal-displacement.org/media-centres/east-africa-worst-hit-by-internal-displacement-in-first-half-of-2018](http://www.internal-displacement.org/media-centres/east-africa-worst-hit-by-internal-displacement-in-first-half-of-2018). Accessed on 30<sup>th</sup> October 2018.

Internal displacement is indeed rapidly increasing in Ethiopia, meaning it is now one of the worst-affected states by total IDP numbers. In the first half of 2018, a new conflict broke out in West Guji and Gedeo, along the border between the Oromia and Southern Nations, Peoples and Nationalities (SNNPR) regions, triggering more than a million new displacements.<sup>14</sup> Intercommunal violence also continued along border areas of the Oromia and Somali regions. Similar to global trends, the causes of internal displacement in Ethiopia are multifarious. According to Mehari, three principal factors contribute to the causes and consequences of internal displacement in Ethiopia: the ethnic federal structure, the persistent threat of famine, and ethnic conflicts.<sup>15</sup> Both famine and ethnic federalism (as the outcome and aggravating factors of ethnic conflicts) often result in population displacement.<sup>16</sup> Another cause of internal displacement in Ethiopia has been planned resettlement programmes and relocations due to government-backed development projects.<sup>17</sup>

It is against this backdrop that this article investigates the plight of IDPs in Ethiopia. It examines the scope of existing international and domestic legal and institutional frameworks for the protection of displaced persons, with its main objective being to highlight the extent of legal and institutional protection available to IDPs in Ethiopia. It also explores the available protections under international law. In order to meet its aims, the article relies upon domestic and international law as primary sources of data, while also reviewing and incorporating insights from relevant academic literature, policy and media reports.

## International Legal and Institutional Frameworks on the Protection of IDP Rights

### *Protection under Human Rights and Humanitarian Law Instruments*

Where national authorities are unable or unwilling to protect potential or actual victims of massive atrocities, responsibility may shift to international actors to assist, either through diplomatic, humanitarian and/or enforcement actions. Many international legal instruments, including international human rights treaties and international humanitarian law treaties, contain clauses that could provide protection and assistance to IDPs. Moreover, instruments oriented towards internal displacement that oblige states to respect their commitments under international human rights and humanitarian law do now exist.<sup>18</sup> However, before discussing the relevant provisions, it is important to first look at what constitutes ‘protection’. For IDPs, protection generally involves creating an environment conducive to respect for human rights, to preventing and/or alleviating the immediate effects of a specific pattern of abuse, and to restoring dignified living conditions through either reparation, restitution and/or rehabilitation. Pursuant to the 1999 Inter-Agency Standing Committee (IASC) Internally Displaced Persons Protection Policy, protection is defined as ‘... all activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law (i.e. human rights law and international

<sup>14</sup> IDMC Mid-Year Report on Internal Displacement, 12 September 2018. Available at [www.internal-displacement.org/sites/default/files/publications/documents/201809-mid-year-figures.pdf](http://www.internal-displacement.org/sites/default/files/publications/documents/201809-mid-year-figures.pdf). Accessed on 30<sup>th</sup> October 2018.

<sup>15</sup> For instance, see Mehari Taddele Maru, ‘Causes, Dynamics, and Consequences of Internal Displacement in Ethiopia’, *Stiftung Wissenschaft und Politik German Institute for International and Security Affairs*, SWP Working Paper FG 8, 2017, at 6.

<sup>16</sup> *Id.*

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

<sup>18</sup> For example, Article 4(1) of the Kampala Convention reads as follows: ‘States Parties shall respect and ensure respect for *their obligations under international law, including human rights and humanitarian law*, so as to prevent and avoid conditions that might lead to the arbitrary displacement of persons’ (emphasis added).

humanitarian law)'.<sup>19</sup> In sum, laws and policies addressing the protection and assistance needs of IDPs emanate from two sources, on the one hand, from the rules of international human rights law and international humanitarian law, and on the other hand, from an increasing body of IDP specific laws and policies, many of which have been enacted and are now being implemented by national authorities in countries across the world.

Turning to international human rights law, which, as already stated, can apply for the purpose of IDP protection, relevant provisions include, for example, the right to freedom of movement and residence as recognized in Article 13 of the Universal Declaration of Human Rights (UDHR)<sup>20</sup> and Article 12(1) of the International Covenant on Civil and Political Rights (ICCPR).<sup>21</sup> The UDHR also contains provisions concerning the prohibition of arbitrary deprivation of property and possessions,<sup>22</sup> provisions that are violated regularly in the internal displacement context. Furthermore, the UDHR grants fundamental rights to an adequate standard of living and to dignity brought about by socio-economic and cultural rights.<sup>23</sup> This is supplemented by, for instance, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)<sup>24</sup> and the Convention on the Rights of the Child (CRC).<sup>25</sup> The latter two instruments underscore the equal rights of women and children, including to education.<sup>26</sup> Under the 1945 UN Charter, UN Member States are empowered to take action to promote basic human rights.<sup>27</sup>

When the cause of internal displacement is armed conflict, international humanitarian law is of particular relevance. Common Article 3 of the 1949 Geneva Conventions applies, as does the 1977 Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II). Likewise, Part II of the Fourth Geneva Convention may apply for the protection of civilians in situations of interstate armed conflict.<sup>28</sup>

However, despite the existence of such international legal frameworks, it is often not easy to exploit the protection afforded by such laws for the benefit of IDPs. For instance, there is no

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<sup>19</sup> Federal Republic of Nigeria, National Policy on Internally Displaced Persons (IDPs) in Nigeria, August 2012, at 17.

<sup>20</sup> Universal Declaration of Human Rights (UDHR) GA Res 217(III) of 10 December 1948, UN Doc A/810, Article 13.

<sup>21</sup> International Covenant on Civil and Political Rights (ICCPR), adopted on 16 December 1966, NY, USA, GA Res 2200A (XXI) 999 UNTS 171, Article 12. Similarly, Article 1 of the UDHR and Article 6(1) of the CRC also recognize children's right to life.

<sup>22</sup> UDHR, *supra* note 20, Article 17.

<sup>23</sup> *Id.* Articles 22 and 25(1).

<sup>24</sup> The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was opened for signature in New York on 18 December 1979 and entered into force on 3 September 1981; see Articles 12 and 14(2). Ethiopia signed and ratified CEDAW on 10 July 1980 and 10 September 1981 respectively.

<sup>25</sup> The Convention on the Rights of the Child (CRC) was adopted in New York on 20 November 1989 and entered into force on 2 September 1990; see Article 24(1). Ethiopia ratified the CRC on 14 May 1991.

<sup>26</sup> *Id.* Article 28(1). CEDAW, *supra* note 23, Article 10. It has to be noted that, in Ethiopia, a significant number of students were forced to leave school as a consequence of displacement from the Somali and Benishangul Gumuz regions of the country during the 2017/18 and 2018/19 academic years.

<sup>27</sup> UN Charter, Articles 55 and 56. The former provision, while setting the objectives of the Organization, provides that 'The United Nations shall promote higher standards of living, full employment, and conditions of economic and social progress and development; it shall provide solutions of international economic, social health and related problems ... ; it shall promote universal respect for, and observance of, human rights and fundamental freedoms for all without distinction.' The latter provision calls upon all Member States to take joint and separate action in cooperation with the UN for the furtherance of the Organization's objectives.

<sup>28</sup> For example, see Articles 13, 14, 15, 16, 17, 18-22, 24 and 25.

absolute protection to the right to freedom of movement in human rights law. Specifically, in the case of internal displacement induced by armed conflict, Common Article 3 makes no reference to the protection of freedom of movement, and Article 17 of Additional Protocol II grants protection only from arbitrary displacement. In sum, the challenges faced can generally be attributed to two factors. First, some states might not have even ratified the relevant treaties, or have only done so with notable limitations and/or reservations attached. Second, as is common to most international law, mechanisms for implementation are ineffective.

### *Protection under Internal Displacement Legal Frameworks*

**United Nations Guiding Principles on Internal Displacement:** As citizens in their own country, IDPs are entitled to the full range of rights enjoyed by other citizens and habitual residents of their country. The UN Guiding Principles on Internal Displacement, in which these rights are reflected, are a set of consolidated, legally non-binding principles that provide guidance to national and international actors in responding to the acute human rights and humanitarian needs of IDPs. They are benchmarked against international humanitarian law, international human rights law, and international refugee law by analogy. Although not a treaty, the Guiding Principles may be seen to reflect customary international law, or be contributing towards its emergence, due to their endorsement by a great many states.<sup>29</sup> A number of governments have already developed national laws and policies that are based on the Guiding Principles, making them directly enforceable at the domestic level.<sup>30</sup> Although legally non-binding, the Guiding Principles illustrate how international norms apply in displacement situations and provide the foundation for a comprehensive framework on IDP protection.

**Great Lakes Protocol on the Protection and Assistance to Internally Displaced Persons:** The Great Lakes Protocol<sup>31</sup> was adopted in 2006 by the eleven Member States of the International Conference on the Great Lakes Region. It was the first binding multilateral instrument in the world to adopt and implement the UN Guiding Principles.<sup>32</sup> The Great Lakes Protocol provides that ‘member States shall ratify the present Protocol and shall also enact national legislation to domesticate the Guiding Principles fully and to provide a legal framework for their implementation within national legal systems’.<sup>33</sup> Accordingly, the Great Lakes Protocol gives the Guiding Principles a legal basis in the region and, additionally, it encourages the implementation of national measures to ensure the minimum standard of protection for IDPs as provided for by the Guiding Principles.<sup>34</sup>

<sup>29</sup> Sara Brooks, ‘What Protection for the Internally Displaced in Burma/Myanmar?’, *Australian Journal of Human Rights*, Vol. 12 Issue 2, 2007, 27-62, at 32.

<sup>30</sup> *Id.* These include Angola, Peru, Colombia, Georgia, Burundi, Sri Lanka, Liberia, the Philippines and Uganda.

<sup>31</sup> Protocol on the Protection and Assistance to Internally Displaced Persons (Great Lakes Protocol), in the Pact on Security, Stability and Development in the Great Lakes Region (Great Lakes Pact), 15 December 2006, Nairobi, [www.refworld.org/pdfid/52384fe44.pdf](http://www.refworld.org/pdfid/52384fe44.pdf).

<sup>32</sup> NRC, IDMC and the International Refugee Rights Initiative (IRRI), ‘The Great Lakes Pact and the Rights of Displaced People: A Guide for Civil Society’, 2008, [www.refugee-rights.org/Publications/2008/GLReport.Sep2008.pdf](http://www.refugee-rights.org/Publications/2008/GLReport.Sep2008.pdf), at 7 and 11-14.

<sup>33</sup> Great Lakes Protocol, *supra* note 31, Article 6.3.

<sup>34</sup> Ruth Delbaere, ‘Internally Displaced Persons in the African Human Rights System: An Analysis of the Kampala Convention’, Ghent University Faculty of Law (Master’s Thesis), 2016/17, at 34.

***The Kampala Convention:*** The Kampala Convention is the first legally binding, continent-wide instrument dedicated to internal displacement in Africa. It has set five overall objectives aimed at addressing IDP concerns. These are to:

- a. Promote and strengthen regional and national measures to prevent or mitigate, prohibit and eliminate root causes of internal displacement as well as provide for durable solutions;
- b. Establish a legal framework for preventing displacement, and protecting and assisting internally displaced persons in Africa;
- c. Establish a legal framework for solidarity, cooperation, promotion of durable solutions and mutual support between the States Parties in order to combat displacement and address its consequences;
- d. Provide for the obligations and responsibilities of States Parties, with respect to the prevention of internal displacement and protection of, and assistance to, internally displaced persons;
- e. Provide for the respective obligations, responsibilities and roles of armed groups, non-state actors and other relevant actors, including civil society organizations, with respect to the prevention of internal displacement and protection of, and assistance to, internally displaced persons.<sup>35</sup>

The Kampala Convention takes an innovative approach because it formulates responses tailored to the specific nature of internal displacement in Africa. For instance, it asserts the vital role of host communities as providers of protection and assistance, and recognizes their needs both at the height of a crisis and during protracted displacement.<sup>36</sup> According to the Kampala Convention, the factors that trigger internal displacement in Africa include racial discrimination and equivalent practices; forcible population transfers incompatible with international humanitarian law; conflict and generalized violence; forced evacuations associated with disasters when not justified by safety or health concerns; human rights abuses, including gender-based violence and other harmful practices and inhuman or degrading treatment; and ‘any other act, event, factor or phenomenon of comparable gravity and which is not justified by international law’.<sup>37</sup> It also acknowledges that development projects can be a cause of internal displacement, devoting an entire Article to the issue in which it emphasizes the responsibilities of the development sector.<sup>38</sup>

The Kampala Convention imposes various obligations on a range of stakeholders. For instance, States Parties, as the primary duty bearers in respect to IDP protection, undertake to prevent arbitrary displacement,<sup>39</sup> to protect IDPs’ fundamental human rights during displacement,<sup>40</sup> and to find durable solutions.<sup>41</sup> States Parties also commit to identifying a national authority or body responsible for responding to internal displacement,<sup>42</sup> plus they are required to work in cooperation with civil society organizations for ensuring effective IDP protection and assistance. Other than States Parties, the Kampala Convention also places obligations on the African Union, international

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<sup>35</sup> Kampala Convention, *supra* note 1, Article 2.

<sup>36</sup> *Id.* Preamble and Articles 3(2c), 5(5) and 9(2b).

<sup>37</sup> *Id.* Article 4(4).

<sup>38</sup> *Id.* Articles 10 and 3(1)(i).

<sup>39</sup> *Id.* Articles 4 and 10.

<sup>40</sup> *Id.* Articles 3, 5 and 9.

<sup>41</sup> *Id.* Article 11.

<sup>42</sup> *Id.* Article 3(2)(b).

organizations, humanitarian agencies, civil society, and non-state armed groups, in line with other international legal frameworks.<sup>43</sup>

### *International Institutional Frameworks*

No single international institution is solely responsible for the protection of IDPs. Instead, numerous international agencies play a role. These include, among others, the United Nations High Commissioner for Refugees (UNHCR), the United Nations Development Programme (UNDP), the United Nations Children's Fund (UNICEF), the World Food Programme (WFP), the World Health Organization (WHO), the International Committee of the Red Cross (ICRC), and the International Organization for Migration (IOM). Moreover, several initiatives are working to improve statistics on internal displacement. This includes the work being undertaken by the IDMC, the Joint IDP Profiling Service (JIPS), and the IASC Information Management Working Group.

### **Internal Displacement vis-à-vis Sustainable Development: How are they related?**

The relationship between sustainable development and displacement is multifarious, with various viewpoints, political approaches and terminology. The pursuit of sustainable development is a global challenge that needs to be tackled at the local level. It was not until 2015 that IDPs were recognized in this connection, specifically in the 2030 Agenda for Sustainable Development. This marked the first time that an international framework had acknowledged the importance of including IDPs within country development plans.<sup>44</sup> Accordingly, meeting the needs of IDPs, who are still within their national borders, is now considered essential to the successful achievement of the UN Sustainable Development Goals (SDGs).<sup>45</sup> The problem, however, is that the SDGs do not include sufficiently specific targets on IDPs; they only acknowledge displaced people as a vulnerable group in need of particular attention. The UN is supporting governments to implement the SDGs by providing technical support and expert missions.<sup>46</sup> For instance, in El Salvador and Ukraine, the UN has provided the national authorities with specific advice on how to include IDPs in their SDG roadmaps.<sup>47</sup>

Among the identified SDG pillars, the following are of particular importance to IDPs. Poverty (SDG 1), and hunger and food security (SDG 2) often result from, or are exacerbated by, internal displacement. Healthcare and education (SDGs 3 and 4) are, in many cases, not accessible to IDPs or are insufficient to meet their needs. Employment and decent work (SDG 8) are especially relevant, as IDPs often need assistance in accessing employment, and they may face discrimination (which is the subject of SDG 10). Housing is also of critical importance, especially given that greater numbers of IDPs are now residing in urban areas in need of (re-)development (SDG 11), and increasingly people are being displaced by climate change (SDG 13). As already mentioned, conflict and violence are common causes of internal displacement, and the SDGs seek to promote peaceful and inclusive societies (SDG 16).<sup>48</sup> Accordingly, it is through using the SDGs as a

<sup>43</sup> *Id.* Article 7(5).

<sup>44</sup> Greta Zeender, 'The Sustainable Development Goals and IDPs, Twenty Years of the Guiding Principles on Internal Displacement', October 2018, at 24. Available at [www.fmreview.org/GuidingPrinciples20](http://www.fmreview.org/GuidingPrinciples20). Accessed on 27<sup>th</sup> October 2018.

<sup>45</sup> International Peace Institute (IPI), 'Reaching Internally Displaced Persons to Achieve the 2030 Agenda for Sustainable Development', July 17<sup>th</sup> 2018. Available at [www.ipinst.org/2018/07/internally-displaced-persons-2030-agenda-sustainable-development#9](http://www.ipinst.org/2018/07/internally-displaced-persons-2030-agenda-sustainable-development#9). Accessed on 3<sup>rd</sup> November 2018.

<sup>46</sup> Zeender, *supra* note 44, at 25.

<sup>47</sup> *Id.*

<sup>48</sup> IPI, *supra* note 45.

framework that humanitarian and development actors will be able to achieve sustainable solutions for IDPs.<sup>49</sup>

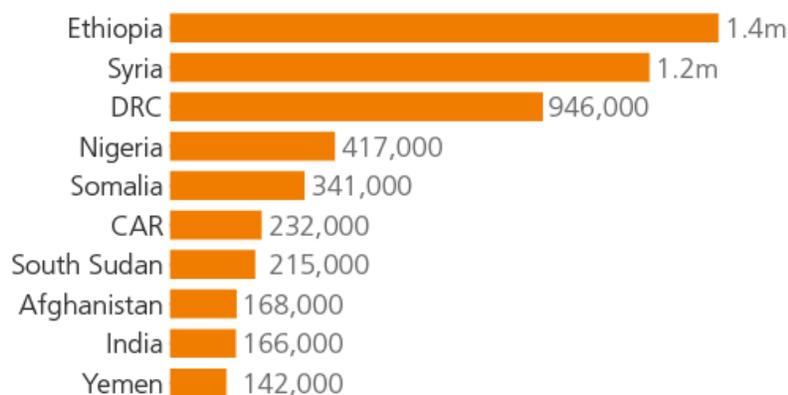
### Legal and Institutional Protection of IDPs in Ethiopia

As already introduced, the number of IDPs in Ethiopia has rapidly increased over the last few years. The International Federation of Red Cross and Red Crescent Societies reported the following in its recent situation analysis:

Since September 2017, over 1.2 million people have been internally displaced mainly along the Somali-Oromia borders, due to conflict. Since 18<sup>th</sup> April 2018, there has been growing tension and conflict in the region following a significant political, social and economic reform the Federal government is implementing all over the country. Since 4<sup>th</sup> August 2018, there have been ethnic clashes between Somali and non-Somali ethnic groups in the Somali region of Ethiopia. The clashes have turned into widespread violence causing at least 52,000 people being internally displaced in Jijiga, Kebri Dehar, Degehabur and Gode towns.<sup>50</sup>

Figures 1 and 2 (below) illustrate the extent to which internal displacement has been increasing in Ethiopia.

**Figure 1: Countries with the Highest Numbers of New Displacements associated with Conflict and Violence (January to June 2018)**

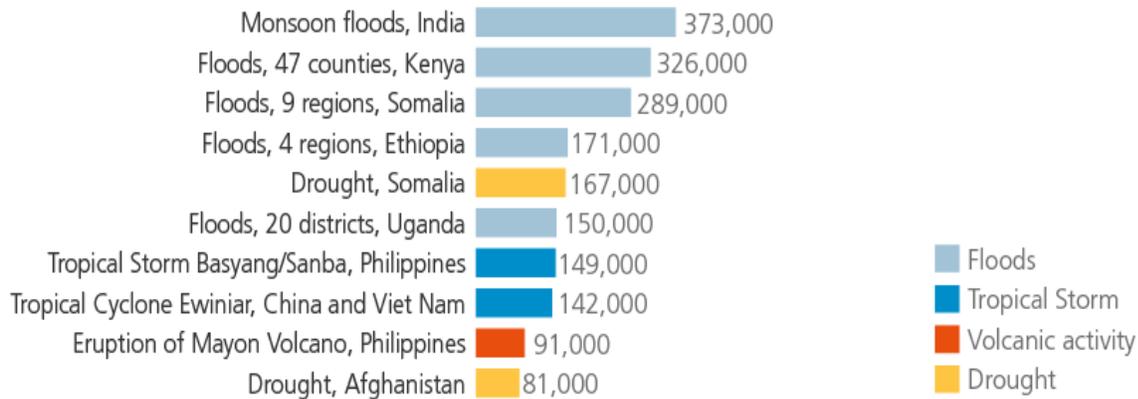


**Source:** IDMC Mid-Year Report on Internal Displacement, 12 September 2018.

**Figure 2: Ten Largest Disaster-induced Displacement Events (January to June 2018)**

<sup>49</sup> *Id.*

<sup>50</sup> International Federation of Red Cross and Red Crescent Societies, 'Emergency Plan of Action (EPoA) Ethiopia: IDP Population Movement', 2018. Available at [www.ifrc.org](http://www.ifrc.org). Accessed on 2<sup>nd</sup> November 2018.



**Source:** IDMC Mid-Year Report on Internal Displacement, 12 September 2018.

As Figures 1 and 2 show, ethnic conflict and violence, as well as disasters, have caused the displacement of millions of people in Ethiopia. This is in addition to displacement induced by development projects linked to industrialization and urbanization.

Ethiopia, as a sovereign state, is duty bound to protect its citizens from the scourge of internal displacement. As a party to the aforementioned international human rights treaties and other instruments, Ethiopia is mandated to take measures that ensure the protection of the rights of IDPs. This is also supported by the Guiding Principles, according to which it is the national authorities that have ‘the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction’.<sup>51</sup> Moreover, Ethiopia has the obligation to devise domestic legal and institutional frameworks that support the implementation of protection measures. Yet, Ethiopia has not adopted a comprehensive policy or legal framework for the protection of IDPs, nor has it established an independent institution mandated with the task. Accordingly, it is necessary to examine the adequacy of general legal protections available to all persons under Ethiopian law at addressing the challenges IDPs are facing in the country.

It is first vital to examine the provisions of the Constitution of the Federal Democratic Republic of Ethiopia (FDRE Constitution)<sup>52</sup> as the superior legislative framework applicable across the country. Pursuant to the FDRE Constitution, ‘any Ethiopian or foreign national lawfully in Ethiopia has, *within the national territory*, the right to liberty of movement and freedom *to choose his residence*, as well as the freedom to leave the country at any time he wishes to’.<sup>53</sup> The FDRE Constitution establishes Ethiopia as a federal state comprising nine regional states,<sup>54</sup> and ‘the territorial jurisdiction of Ethiopia shall comprise the territory of the *nine* members of the Federation and its boundaries shall be as determined by international agreements’.<sup>55</sup> Yet, contrary to this explicit constitutional provision, Ethiopian nationals have repeatedly suffered displacement from one part of the country to another because of their ethnicity. Not surprisingly, there have been

<sup>51</sup> Guiding Principles, *supra* note 2, Principle 3(1).

<sup>52</sup> The Constitution of the Federal Democratic Republic of Ethiopia (FDRE Constitution), Proclamation No. 1/1995, Fed. Negarit Gazette, 1<sup>st</sup> Year No. 1, 1995.

<sup>53</sup> *Id.* Article 32(1) (emphases added).

<sup>54</sup> *Id.* Article 47(1). The nine regional states are the State of Tigray; the State of Afar; the State of Amhara; the State of Oromia; the State of Somali; the State of Benishangul Gumuz; the State of the Southern Nations, Nationalities and Peoples; the State of the Gambella Peoples; and the State of the Harari People.

<sup>55</sup> *Id.* Article 2 (emphasis added).

occasions when ethnic-based displacement of citizens has allegedly been sponsored by government organs of the members of the Federation.<sup>56</sup> This is despite the duties of all federal and state legislative, executive and judicial organs at all levels to respect and enforce the fundamental rights and freedoms of citizens that are guaranteed by the FDRE Constitution.<sup>57</sup>

Returning to the Guiding Principles, Principle 6 explicitly mentions large-scale development projects as a potential cause of arbitrary displacement. 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 programmes have the right to commensurate monetary or alternative means of compensation, including relocation with adequate State assistance’.<sup>58</sup> Aside 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 programmes to which the FDRE Constitution refers, no specific law has been enacted for its implementation.

Even though attempts have been made to regulate disaster risk management in Ethiopia, no such attempts have resulted in explicit references being made to IDPs. For instance, the National Disaster Risk Management Commission Establishment Council of Ministers Regulation states that ‘disaster means a serious disruption of the functioning of a community causing a wide range of human, material, economic or environmental loss and impact, which is beyond the capacity of the affected community to cope using its own resources’.<sup>59</sup> Disaster management involves the coordination and integration of all activities necessary to build, sustain and improve the capability to prepare for, protect against, respond to, and recover from, the threat of or actual natural or human-induced disasters.<sup>60</sup> Although the Commission established by virtue of this Regulation follows up on issues related to IDPs in practice, the Regulation contains no reference to such persons. With respect to the causes of disaster, the same Regulation provides that ‘disaster grounds means anything that is either a natural or manmade hazardous occurrence, matter, human movement or condition that can cause serious disaster, death, bodily injury or basic health influence to humans or that may cause loss of basic income source and service, or cause impediment of social and economy development or environmental damage’.<sup>61</sup> Once more, although it may be expected that this definition include persons affected by internal displacement, the IDP situation demands a comprehensive legal and policy framework that is particular to the needs of such persons. It is worth ending by noting that, pursuant to the Regulation, the Commission is mandated to pursue two main objectives:

- to conduct appropriate activities for the comprehensive implementation and realization of the objectives of the National Disaster Risk Management Policy and Strategy; and
- to coordinate, monitor and provide appropriate support with respect to activities carried out by the lead sector institution.<sup>62</sup>

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<sup>56</sup> For instance, the former President of the regional State of Somali is suspected of being involved in the displacement of nearly a million Oromos from the State of Somali; he is currently under investigation.

<sup>57</sup> FDRE Constitution, *supra* note 52, Article 13(1).

<sup>58</sup> *Id.* Article 44(2).

<sup>59</sup> National Disaster Risk Management Commission Establishment Council of Ministers Regulation, No. 363/2015, Federal Negarit Gazette No. 15, 14<sup>th</sup> December 2015, Article 2(1).

<sup>60</sup> Federal Republic of Nigeria, *supra* note 19, at 17.

<sup>61</sup> National Disaster Risk Management Commission Establishment Council of Ministers Regulation, *supra* note 59, Article 2(5).

<sup>62</sup> *Id.* Articles 4(1) and 4(2).

Internal displacement negates the most fundamental of human rights as are recognized under international as well as domestic laws. In addition to the right to freedom of movement and residence, discussed above, internal displacement threatens the rights to, among others, life, livelihood, health, education, property and the freedom to remain in a place of one's choosing.<sup>63</sup> This is because the rights and guarantees to which IDPs are entitled stem from the fact that they are human beings and citizens or habitual residents of a particular state.<sup>64</sup>

The 2013 National Policy and Strategy on Disaster Risk Management of Ethiopia, which amends the 1993 National Policy on Disaster Prevention and Management, provides for a comprehensive policy framework for disaster risk management measures. The main objective of the 2013 National Policy and Strategy is to reduce disaster risks and the potential damage caused by disasters through establishing a comprehensive and coordinated disaster risk management system in the context of sustainable development.<sup>65</sup> More specifically, the Policy aims to:

- reduce and prevent disaster risk and vulnerability, which pose challenges to development, through enhancing the culture of integrating disaster risk reduction into development plans and programmes, as well as by focusing on and implementing activities to be carried out before, during and after the disaster period to address underlying factors of recurrent disasters;
- save lives, protect livelihoods and ensure that all disaster affected populations are provided with recovery and rehabilitation assistance;
- reduce dependency on, and expectations for, relief aid by bringing about a change in attitudes and building the resilience of vulnerable people; and
- ensure that disaster risk management is mainstreamed into development plans and programs across all sector institutions and implemented at all levels.<sup>66</sup>

In respect to institutional protection of IDPs in Ethiopia, the National Disaster Risk Management Commission (NDRMC) is the leading organ for managing hazards and related disasters, and for reducing the impact on victims of damage caused by disasters. The NDRMC often provides assistance to people affected by disasters, including IDPs.<sup>67</sup> According to the 2013 National Policy and Strategy, in respect to conflict-related hazards and associated disasters, the Ministry of Federal Affairs acts as a leading institution.<sup>68</sup> The NDRMC is entrusted with the powers and duties, among others, to 'ensure that disaster risk management is mainstreamed into Government development policies, strategies, development plans and programs, and in the plans of the private sector as well as in the school curricula; and provide support, as may be necessary, to concerned bodies in relation to such issues'.<sup>69</sup> However, other country-wide policies and strategies have not recognized the need to protect IDPs.<sup>70</sup>

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<sup>63</sup> Mehari, *supra* note 15, at 6.

<sup>64</sup> IDMC, *supra* note 4, at 2. In particular, those rights and guarantees emanate from the peculiar vulnerability and special needs that flow from being displaced.

<sup>65</sup> The National Policy and Strategy on Disaster Risk Management, the Federal Democratic Republic of Ethiopia, July 2013, Addis Ababa, Article 2.3.1.

<sup>66</sup> *Id.* Article 2.3.2.

<sup>67</sup> Mehari, *supra* note 15.

<sup>68</sup> The National Policy and Strategy on Disaster Risk Management, *supra* note 65, Article 5.3.2.e.

<sup>69</sup> National Disaster Risk Management Commission Establishment Council of Ministers Regulation, *supra* note 59, Article 6(1).

<sup>70</sup> For example, see the National Planning Commission, The Second Growth and Transformation Plan (GTP II) (2015/16-2019/20) (Draft), the Federal Democratic Republic of Ethiopia, Addis Ababa, September 2015.

In the aim of enabling the forcibly displaced in Ethiopia to lead their lives, a variety of actions have been taken. On the part of the Government, measures were taken to resettle displaced persons to places of relative safety. It also provided basic services, including food and drink. Various sections of the society also play a prominent role in supporting the displaced through donating basic goods, clothing, and other similar items. Community support from both within the country and abroad has entailed, among other things, the giving of financial donations and the provision of assistance in constructing shelters for IDP resettlement.

In some cases, displaced persons are coerced into returning to their homes after post-conflict peace building, as arranged with stakeholders. Generally, policymakers expect displaced persons to return to their home communities when conflict ends.<sup>71</sup> However, conflict situations are not typically characterized by clear-cut boundaries, but instead a period of transition during which violent confrontation often reignites. The ‘right to return’ is frequently referred to in situations of ongoing conflict, yet this exposes such returnees to further risk.<sup>72</sup> As such, calls to realize the right to return must only be acted upon once vital pre-conditions have been achieved. As stipulated by the United Nations Environment Programme (UNEP), these are namely that:

- *first*, the original cause of displacement has ceased, and physical security restored;
- *second*, livelihood prospects in the homeland should be better than in the displaced location;
- *third*, essential or important services (such as water, medical aid and schooling) should be available in the homeland and ideally equivalent to those services available in the displaced location;
- *fourth*, a practical means to travel (with possessions) back to the homeland safely should be available; and
- *finally*, the return process must be sponsored or otherwise affordable to the displaced.<sup>73</sup>

### Conclusion and the Way Forward

The number of IDPs in Ethiopia is skyrocketing. However, the country has devised neither adequate policies nor sufficient legal and institutional frameworks for the protection of displaced persons. As a result, displaced persons in Ethiopia suffer from the most acute humanitarian needs. This situation necessitates that the Ethiopian Government establish an effective framework for IDP protection, and ensure the development of a comprehensive, gender responsive framework for national responsibility, coordination and collaboration that respects protection, assistance and other humanitarian interventions. Such a framework must also provide for the respective obligations, responsibilities and roles of various agencies and institutions of government, as well as non-state actors (including communities, civil society organizations, international humanitarian and development partners, and any other relevant actors), in the prevention of internal displacement, and the protection of, and assistance to, IDPs in Ethiopia. The Ethiopian Government must promote the fundamental human rights of all IDPs in Ethiopia and ensure IDPs have full access to protection and assistance without any form of discrimination whatsoever. The situation demands urgent attention. In the light of the several ongoing internal conflicts within the country, it is essential that Ethiopia ratifies, without delay, instruments such as the Kampala Convention that guarantee protection for the victims of internal displacement. Finally, the

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<sup>71</sup> Bohnet and Rudolf, *supra* note 10, at 2.

<sup>72</sup> *Id.*

<sup>73</sup> UNEP, *supra* note 6, at 102.

Government must ensure the accountability of state and non-state actors, including individuals and groups, whose actions, or lack thereof, (in)directly result in the arbitrary displacement of vulnerable populations in Ethiopia.

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