FORCED
MIGRATION
review

States of fragility

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Cover image

Fragility: the state of being easily broken, damaged or destroyed. From Latin *fragilis*, formed from the root of *frangere* ("to break").

Fractured glass image over a photo of a family of Ivorian refugees walking along a forest track towards Zwedru, a town in south-eastern Liberia, following an eruption of violence in Côte d'Ivoire in 2011. In that year Côte d'Ivoire ranked 10th in the Failed States Index that measures the fragility of states worldwide.

Ivorian refugees photo: UNHCR/G Gordon

FORCED MIGRATION review

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From the editors

Fragile states are risky environments. Many states fail in their responsibilities to their citizens but those states which are fragile, failed or weak are particularly liable to render their citizens vulnerable. Failures of authority or legitimacy can lead to the emergence of significant organised violence; the impact of this can then be compounded by the failure of the state to protect its citizens, especially minorities. Thus conflict as a cause of displacement often correlates with state fragility, whether as a symptom or a cause of fragility, and the ability of fragile states and their neighbours to deal with displacement has become a key indicator of failure or progress.

This issue of FMR attempts to go behind the definitions, typologies and indicators to explore some of the concepts and realities. The articles that follow also look at a variety of cases where displacement and state fragility go together or where countries are emerging from conflict-related displacement and fragility. They also discuss some of the humanitarian and development responses.

State fragility may play a significant role in forced migration relating to natural disasters or environmental crises, as failures in governance affect the vulnerabilities of populations and their ability to adapt and be resilient. We will be following up on some of these issues in FMR 45, due out in December 2013, which will have 'Crisis migration' as its theme.

The full issue is online at **www.fmreview.org/fragilestates** in html, pdf and audio formats. It will be available online and in print in English, French, Spanish and Arabic.

FMR43 Listing (expanded contents listing for this issue) is available in print, and online at www.fmreview.org/fragilestates/FMR43listing.pdf

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The feature themes of our **forthcoming issues** are listed on page 83. See www.fmreview.org/forthcoming for full details, including calls for articles and submission deadlines.

To keep up to date on all FMR news and announcements, please sign up for our email alerts at www.fmreview.org/request/alerts or join us on Facebook or Twitter.

With our best wishes

Marion Couldrey and Maurice Herson
Editors, Forced Migration Review

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State fragility, refugee status and 'survival migration'

Alexander Betts

State fragility poses a challenge to the refugee regime. Rather than just placing the emphasis on the need to protect people fleeing the acts of states against their own populations, it also demands the protection of people fleeing the omissions of states, whether due to states' unwillingness or to their inability to provide for their citizens' fundamental rights.

The designation of states as 'fragile' or 'failed' is frequently criticised for lacking clarity, encompassing a disparate variety of situations and being an over-used political label that measures states against a range of idealised Western standards of governance.[1] Nevertheless, we can use the concept of state fragility to understand some important things about the changing nature of displacement and the adequacy or inadequacy of existing international protection responses when the assumed relationship between state and citizen breaks down and states are unable or unwilling to provide for the rights of their citizens.

The international society of states drew up the Refugee Convention in 1951 in the aftermath of the Second World War to address the reality that some states fail to provide for the fundamental human rights of their citizens. Yet, since the creation of the refugee regime in the 1950s, the circumstances that shape flight have changed. Although many of the current academic and policy debates focus on 'new drivers of displacement' (such as generalised violence, environmental change and food insecurity), what ultimately determines whether international protection is needed is the quality of governance in the country of origin. In states with weak governance, the only available means to acquire protection may be to leave the country.

From persecution to deprivation

While there are now fewer repressive or authoritarian states than in the Cold War era, there has been an increase in the number of fragile states since the end of the Cold War. This trend means fewer people are fleeing persecution resulting from the acts of states, while more are fleeing human rights deprivations resulting from the omissions of weak states that are unable or unwilling to ensure fundamental rights.

Although the creators of the refugee regime foresaw that the definition of a refugee would evolve over time – either through the jurisprudence of particular states or supplementary agreements – there is still little legal precision over states' obligations to people fleeing deprivations that fall outside the conventional understanding of persecution. The 1969 OAU Refugee Convention may be argued to cover aspects of state fragility as a cause of cross-border displacement (under the heading of 'events seriously disturbing public order'[2]); its patchy use and weak jurisprudence, however, continue to make its application to fragile states unreliable. Furthermore, although complementary protection standards have been developed through the application of international human rights law to extend international protection, jurisprudence is developing slowly and in a geographically uneven way. The result is that the protection of people fleeing deprivations that fall outside the conventional understanding of persecution is inconsistent and conditioned by politics rather than law.

The consequence is that, today, many people who are forced or who feel forced to cross international borders do not fit the categories laid out in 1951. Many people fleeing human rights deprivations in fragile or failed states such as Zimbabwe, Somalia, the Democratic Republic of Congo, Haiti, Afghanistan or Libya look very much like refugees and yet most fall outside the definition of a refugee, often being denied protection. They are not fleeing state persecution, though many are

fleeing state incompetence. They are not migrating for economic betterment, unless you call finding enough to eat an economic motive. Yet the protection they occasionally receive is patchy and inconsistent and unpredictable and at best terribly inadequate. They are more likely to be rounded-up, detained and deported than to receive protection.

From an individual's perspective, whether one's source of human rights deprivation comes from a persecuting state or another source makes no difference. If one cannot survive or maintain the fundamental conditions of human dignity without leaving a country, then distinguishing between persecution and other causes is meaningless.

The gaps in protection for people fleeing failed and fragile states matter for human rights. To take one prominent example, large numbers of Zimbabweans fled their country between 2000 and 2010 (with an estimated two million Zimbabweans entering South Africa alone during that period). They were fleeing a desperate situation characterised by economic and political collapse, in which there were almost no viable livelihood opportunities to sustain even the most basic conditions of life. Yet because only a tiny minority had faced individualised persecution on political grounds, the overwhelming majority have fallen outside the 1951 Convention's definition of a refugee. Rather than receiving protection, the majority have therefore received limited access to assistance in neighbouring countries; hundreds of thousands have been rounded up, detained and deported back to Zimbabwe.

These protection gaps also matter for international security. We know that there is a relationship between cross-border displacement and security, and that where international responses are inadequate, displacement can exacerbate conflict or create opportunities, for example for recruitment by armed groups. In the 1950s states' motivation for creating a refugee regime was not exclusively rights-focused. It was also based on the recognition that a collective failure to provide sanctuary to people whose own states were unwilling or unable to provide their most fundamental rights would have potentially destabilising effects. A similar logic applies to people fleeing serious rights deprivations. Without coherent collective action, forced population movements – not least from failed and fragile states – can have implications for regional security with the potential to create wider spill-over effects.

Survival migration

Beyond identifying people as refugees or voluntary economic migrants, we lack the terminology to clearly identify people who should have an entitlement not to be returned to their country of origin on human rights grounds. People who are outside their country of origin because of an existential threat for which they have no access to a domestic remedy or resolution – whether as a result of persecution, conflict or environmental degradation, for example – might be referred to as 'survival migrants'.[3] What matters is not the particular cause of movement but rather identifying a threshold of fundamental rights which, when unavailable in a country of origin, requires that the international

A displaced child helps his family to rebuild a shelter made of cardboard on the outskirts of Bossaso, Somalia.

community allow people to cross an international border and receive access to temporary or permanent sanctuary. The difference in rights and entitlements available to refugees compared with survival migrants fleeing serious deprivations is arbitrary. In theory, all survival migrants have rights under international human rights law. Yet, in contrast to refugees, the institutional mechanisms do not exist to ensure that such rights are made available in practice. No international organisation has formal responsibility for protecting people with a human rights-based entitlement not to be returned home if they fall outside the refugee definition. The arbitrariness of distinguishing between persecution and other serious human rights deprivations as a cause of displacement is implicitly recognised in other areas of the practice of the international community. For example, since the late 1990s states have developed a normative and institutional framework to protect internally displaced persons (IDPs). In the case of IDPs, rather than limiting the definition to those fleeing persecution, the international community chose a more inclusive approach.

In some cases, the refugee regime has 'stretched' to provide protection to survival migrants, and in other cases it has not. Despite host states having sometimes adopted, signed and ratified broadly similar refugee norms, there is nevertheless significant variation in what happens in practice. And in spite of sometimes common underlying causes of population movements, the response of different host states to those populations has varied radically. While all of the responses have been imperfect from a human rights perspective, some have been far more imperfect than others.

In Kenya, for example, all Somalis have been recognised as though they were refugees, irrespective of the immediate cause of flight. This was even the case during much of the famine and drought of 2011. In Tanzania, there has been resistance by the government and UNHCR to invoke the cessation clause for Congolese from South Kivu, not because of the

risk of persecution if they return but because of weak governance in DRC. Yet elsewhere the response has been far more restrictive. At the extreme, Angola has rounded up, detained and deported – often brutally – hundreds of thousands of Congolese. At the height of the crisis in Zimbabwe, Botswana continued to deport Zimbabwean migrants while South Africa at least instituted a belated temporary moratorium on the deportation of Zimbabweans.

In the absence of legal clarity, states have exercised significant discretion in their responses. Meanwhile, international organisations' roles have largely been determined by the willingness or otherwise of host governments to extend protection to populations fleeing forms of deprivation that are not defined as persecution.

These inconsistencies highlight important gaps in the normative and institutional framework that protects people fleeing fragile and failed states. The challenge is to make existing institutions work better rather than to create new ones. It needs to begin with better implementation of existing standards, which in turn requires better understanding of the local and national political incentives that shape implementation. However, there are still normative gaps, for which some kind of authoritative set of guiding principles might help to consolidate understanding of what existing human rights law standards imply for survival migrants who are at the margins of the refugee regime. At the moment, responses to people fleeing serious human rights deprivations in fragile and failed states are simply too arbitrary and too inconsistent.

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1. The Fund for Peace's Failed States Index, for example, ranks states according to a range of social, political and economic indicators. http://ffp.statesindex.org

2. Article I.2 www.unhcr.org/45dc1a682.html

3. See Alexander Betts, *Survival Migration: Failed Governance and the Crisis of Displacement*, Cornell University Press, 2013.

How to engage constructively with fragile states

Jon Bennett

Donors have allocated increasing resources in fragile states to the reform and/or rebuilding of the architecture of the state – such as justice systems, the police and army, and the management of ministries – in efforts to support stability. This has been important for all sectors of society, including displaced people.

Conflict invariably goes hand in hand with displacement. The protracted nature of conflicts in countries such as Afghanistan, the Democratic Republic of Congo and Sudan means that conflict-induced IDP settlements soon become semi-permanent and aid projects correspondingly move away from immediate relief towards basic service provision. Part of the 'stabilisation' and state-building agenda is the requirement that host governments should take increasing responsibility for these and associated activities. Success in post-conflict state-building largely depends on re-establishing effective governance and security structures. In the decade to 2010 the share of overseas development assistance (ODA) to fragile, conflict-afflicted countries doubled to US$50 billion and 39% of total available ODA.

At the same time there has been a growing interest in how best to evaluate and learn from experiences in conflict prevention and peace building, whether the intervention is **on** conflict (with specific objectives towards increasing peace through direct intervention) or **in** conflict (conventional sector-specific projects often 'tweaked' to be conflict sensitive). Among the techniques are thematic evaluations that attempt to capture common findings across geographically and historically diverse contexts. Evaluating aid in conflict settings has become something of a specialist skill, recognised by the recent publication of the OECD/DAC guidance on the topic.[1] Evaluators are aware of the challenges of the highly complex non-linear pattern of social change in conflict-affected countries which cannot be captured by simple cause-effect logic.

A recent thematic evaluation examines the performance of UNDP in 20 conflict-affected countries, focusing primarily on UNDP's contribution to enhancing governance in fragile settings.[2] UNDP is one of the few agencies with the capacity to operate 'at scale' across multiple programme areas, before, during and after the outbreak of conflict and especially during transitions to peacebuilding and post-conflict development.

The ten OECD Principles of Good International Engagement in Fragile States and Situations

1. Take context as the starting point.

2. Do no harm.

3. Focus on state-building as the central objective.

4. Prioritise prevention.

5. Recognise the links between political, security and development objectives.

6. Promote non-discrimination as a basis for inclusive and stable societies.

7. Align with local priorities in different ways in different contexts.

8. Agree on practical coordination mechanisms between international actors.

9. Act fast ... but stay engaged long enough to give success a chance.

10. Avoid pockets of exclusion.

See www.oecd.org/dac/incaf/38368714.pdf for details.

Yet one of the inherent problems is that this builds an historical expectation that the organisation can and will respond positively to the many wide-ranging requests for support it receives.

Development activities alone cannot stop or prevent violent conflict and the displacement that goes along with it but benefits from a

cross-sectoral approach. In Sierra Leone, following a brutal civil war from 1991 to 2002, the Lomé Peace Agreement provided for the establishment of a Truth and Reconciliation Commission. For those returning from IDP settlements an approach to community-based reconciliation included investigations into human rights violations during the civil war and organising research on traditional conflict resolution and reconciliation processes among the various ethnic groups. Likewise, in the aftermath of the 2006 crisis and ensuing displacement in Timor-Leste, UNDP supported the return of IDPs through three projects involving dialogue between communities and a government-run reconciliation process. Community mediators were trained by about 12 NGO partners.

Public sector support

UNDP often works in conflict settings through project support units, which are generally embedded in the public sector and operating parallel to it. While this method can enhance the pace and quality of service delivery, it also runs the risk of weakening institutions that countries must rely on in the long term. The international community as a whole has come under a lot of criticism for poorly coordinating the embedded international experts assigned to ministries. In South Sudan, for instance, there have been hundreds of foreign faces ostensibly 'advising' the government but effectively running whole departments of government. Even where national experts are employed, the wage and benefit incentives used to attract talented staff for these posts often create major distortions in the public service labour market. There is also often pressure to deliver services on the ground while knowing that the expansion of state capacities to deliver such services themselves can take years. The dilemma is particularly acute in places such as the Democratic Republic of the Congo, where a weak state government has not been able to address many of the underlying causes of the continuing conflict and certainly not to deal with the many IDPs generated by the conflict.

Returning refugees and IDPs frequently face problems over land and property ownership, particularly if they have been absent for a long time. In this context, it may be important to rehabilitate the basic legal infrastructure and expand access to legal aid. Often the challenge in post-conflict contexts is to bridge traditional dispute resolution and formal justice systems while furthering transitional justice. For this to work, it is essential to understand the political economy of a given country in conflict in order to approach legal reform in a coherent fashion. For instance, judicial training that allows judges to make better judgments is not likely to have much impact if there is no judicial independence, if corruption still dominates the legal system or if the police system has been destroyed or is biased. Overcoming these problems is of key importance to enabling sustainable return.

In Puntland (Somalia), as a result of the emergent formal legal system, customary structures – especially 'elders' groups' – felt threatened by the reduction in their authority and influence. This led to an alarming increase in assassinations of judicial officials in 2009 and 2010, and has sparked a debate over how to make rule-of-law programming more sensitive to conflict. By contrast, women in the autonomous Somaliland region of Somalia have increasingly turned to the UNDP-supported emergent formal structures since they provide a forum for women's voices to be heard, whereas traditional and customary mechanisms still exclude women.

Notable successes in supporting opportunities for women to participate more fully in the emerging political and legal landscape of post-conflict countries include the expansion of female access to justice in some countries, especially for survivors of sexual and gender-based violence. Gender-based violence almost always increases during civil war and generally among forced migrants. Despite the disproportionate impact of conflict on women, they are often not included in decision-making and planning processes. There is still little provision for women's voices in the

The local community in El Srief area, North Darfur, welcomes the disarmament, demobilisation and reintegration (DDR) outreach activity organised in 2011 by UNAMID, with the support of UNDP, UNICEF, North Sudan DDR Commission and the local NGO Friends of Peace and Development Organization.

post-war macroeconomic frameworks that determine how the economy grows, which sectors are prioritised for investments and what kinds of jobs and opportunities for employment will be created and for whom.

The disarmament, demobilisation and reintegration (DDR) of former combatants is a process that rarely works smoothly, not least because it is a highly politicised arena that involves the wider community as well as those who are demobilised. Despite some innovative approaches, there has been a tendency to concentrate on outputs – numbers demobilised and presented with reintegration packages – rather than longer-term improvement in livelihoods. The problem is that once the highly complex technical (and inter-agency) aspects of the exercise are complete, partner agencies close their projects, donor funding drops and follow-up work is consigned to a relatively small coterie of agencies (including UNDP) with reduced budgets. In some countries positive gains are then offset by the resumption of local conflicts, leading to secondary displacement. This was the case for DDR programming during the period of the Comprehensive Peace Agreement in Sudan, from early 2005 until South Sudan seceded in July 2011. The cumulative effect can be a return to arms and a resumption of displacement

after the attention of the international community has moved elsewhere.

Conflict analysis and change

Anticipating conflict and helping to prevent it requires detailed and operational conflict analyses to be carried out at the country level. A conflict analysis sets the stage for a theory of change. Once the problem is assessed and the triggers of violence are known, a theory of change suggests how an intervention in that context will change the conflict. But this must be preceded by a thorough understanding of context. The operational landscape in most conflict-affected countries is characterised by new and fluid forms of internal conflict, usually brought on by multiple 'triggers' and exacerbated by the resulting displacement.

The very nature of conflicts is that they are country-specific and there cannot be a formulaic response across the board. The effectiveness of programming support is always contingent upon events in the political and security realm, many of which are beyond external agency power to influence. Where the semblance of political reconciliation has been scant and violence ongoing (for example in southern Somalia), some interventions have had limited impact, and progress has been frequently reversed due to the resumption of conflict and the failure to resolve situations of displacement.

One clear conclusion is that in fragile states there is no substitute for a strong and continuous field presence. Yet even allowing for the difficulties of recruiting field staff for hostile environments, there is an alarming trend among some donors to increase funding while reducing the number of permanent staff on the ground. UNDP has to some extent bucked the trend but developing trust and demonstrating long-term commitment cannot be held hostage to 'cost efficiency' in countries where fragility is defined precisely by transitory relationships.

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published reports: 'Evaluation of UNDP Support to Conflict-Affected Countries in the Context of United Nations Peace Operations' (UNDP Evaluation Office, September 2012) *http://tinyurl.com/UNDP-eval-conflict-2013* and 'Aiding the Peace: a multi-donor evaluation of support to conflict prevention and peacebuilding activities in southern Sudan 2005-2010' (ITAD, December 2010). *http://tinyurl.com/OECD-southsudan*

1. 'Evaluating Peacebuilding Activities in Settings of Conflict and Fragility: Improving Learning for Results', DAC Guidelines and References Series, OECD Publishing (2012). http://dx.doi.org/10.1787/9789264106802-en

2. Bennett, J et al, 'Evaluation of UNDP Support to Conflict-Affected Countries in the Context of United Nations Peace Operations', UNDP Evaluation Office, September 2012.

Displaced populations and their effects on regional stability

Joe Landry

A better understanding of state fragility – combined with improvements in policy and funding for displaced populations – is necessary to prevent the proliferation of further regional conflicts.

State fragility, conflict and violence were central themes of the 2011 World Bank *World Development Report*, showing that the connection between the prevention of intra-state conflict and broader international security is becoming ever more accepted.[1] Academics are also paying a great deal of attention to issues such as how to strengthen those states poised on the brink of failure and how to restore the functionality of those that have failed. Empirical studies highlight the fact that conflicts in neighbouring states tend to spread outwards. Less well understood are the dynamic interdependencies found between forced migration and state fragility.

It is a fact that fragile and failed states produce the majority of the world's refugees, asylum seekers and IDPs. They are among the most at-risk people on the planet, and are often subjected to intolerable living conditions, human rights abuses and chronic uncertainty regarding their future well-being. A better understanding of both the causes

and consequences of state fragility is key in preventing such undesirable outcomes. Fragility-ranking indices and research on the causes of civil war are tools that must be promoted and utilised by policymakers, with the understanding that state fragility and state failure are useful concepts insofar as they inform positive, preventative policy decisions and early intervention strategies.

Displaced populations also have an effect on the host countries in which they are forced to reside – usually neighbouring countries – where they can exacerbate resource scarcity, leading to tensions and conflict. It has been demonstrated that one of the primary risk factors for civil war is neighbouring states being engulfed in civil conflict. The Political Instability Task Force (PITF), for example, has narrowed its global instability prediction model to four variables: regime type, infant mortality, state-led discrimination, and neighbouring states in conflict (also termed the 'bad neighbours'

variable).[2] Their findings indicate that states with four or more neighbouring conflicts have a much higher chance of entering conflict themselves. While PITF's measure of 'bad neighbours' is a structural variable that does not change easily over time, other research has illustrated that sudden large influxes of displaced populations can also have a negative effect on state stability. Hosting even ten thousand more refugees in a given year appears to have a significant effect on the chances of conflict erupting.

An increased drain on state resources is one mechanism for this phenomenon. An example of such a situation is Syria, where by 2007 approximately 1.2 million Iraqi refugees were registered. This resulted in massive increases in the prices of everything from basic foodstuffs to house rents. Water and electricity consumption ballooned. Skyrocketing unemployment, crowded schools, overrun hospitals and degradation of basic social service programmes were all symptoms of the influx of refugees. In turn, displeasure spread through both the host country and the refugee populations, leading to rising tensions and outbreaks of violence. Pressure mounted on the Syrian government to quell the various crises but, with few resources and mounting demands on basic services, not much could be done. In retrospect, there is a strong case to be made that the discontent created by this situation contributed to the later explosion of violence in Syria in 2012.

Another mechanism through which state fragility may increase due to neighbouring conflict is through the mass proliferation of small arms and other weapons, possibly along with the spread of radical ideologies. One recent example of such a situation is the 2012 conflict in Mali, which was arguably precipitated by the intervention of NATO forces in Libya, partially as a result of the provision of weapons to rebel fighters including Tuareg people. It is still too early to determine the long-term effects of this crisis on economic and social development in Mali. At the time of writing there are over 200,000 IDPs in Mali and over 200,000

refugees in neighbouring countries. This does not account for unregistered persons, for which there are no accurate estimates. A deeper understanding of the fragile situation in Mali and the impact of conflict in neighbouring Libya might have provided policymakers with practical options to prevent the subsequent rebellion and thus better protect the population of northern Mali.

These examples illustrate the policy implications for both the host country and the international community of humanitarian donors and aid organisations. For the host country, support must be given to incoming refugees, claims must be processed quickly and assistance should be provided in finding gainful employment and somewhere permanent to live. On the part of the international donors and NGOs, funding these positive outcomes is critical. However, long-term sustainable solutions for displaced populations will only be achieved through the exercise of political will and smart, evidence-based decision making. Without these, we will continue to see chain reactions of civil conflicts in fragile states spreading to their neighbours.

The broader message is that the more fragile a state is, the more assistance the authorities need in order to be able to predict and respond to such events through both political and macroeconomic reforms. In addition, global, regional and local conflict early-warning and response systems must incorporate this knowledge into their framework of indicators. Only through developing a more acute understanding of state fragility and its relationship to displacement can we better prevent and respond to crisis events such as those displacing millions of people around the world today.

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1. See article by Yonatan Araya in this issue pp63-5.
2. http://tinyurl.com/Systemicpeace-GlobalModel

Liberia: local politics, state building and reintegration of populations

Jairo Munive

Interventions aiming to assist IDPs and refugees returning home in fragile states would do well to take note of the local political and economic contexts in the aftermath of war, because these deeply affect the reintegration of war-affected populations.

Land disputes among returning war-affected population groups endanger peace efforts in many fragile post-conflict settings. During Liberia's 15-year civil war, around one million people fled as IDPs or refugees, abandoning their houses and land. When some of them returned to their properties in the post-conflict reconstruction phase, many found them occupied by others. This generated rising tensions, land disputes and a latent risk for outbreaks of violence.

The civil wars in Liberia ran from 1989 to 1996 and again from 1999 to 2003. Since 2003 Liberia has been the target of international efforts to build the capacity of the state and to reintegrate war-affected populations. Refugees, IDPs and ex-combatants – all of whom are perceived as groups who are disconnected from their communities of origin and therefore in need of support – face similar challenges. The interventions that aim to promote their sustainable reintegration into society are also strikingly similar. However, on the ground there might be opposing interests and even contradictory outcomes between the reintegration of ex-fighters and the reintegration of forced migrants in the context of state re-building. Therefore understanding local post-war politics is crucial to the success or failure of reintegration efforts of both ex-combatants and returnees.

Ganta city in northeastern Liberia is a main transit and commercial hub, attractive to traders and merchants, but the war altered access to and control over land and in the aftermath of war disputes have arisen between different groupings, in particular between ex-combatants and returning refugees. The dispute is exacerbated by the fact that ex-combatants and returning refugees belong to different ethnic groups, have different religions and supported rival factions during the war.

When the disarmament process began, a majority of ex-combatants opted for permanent settlement in Ganta due to their perception of enhanced security and better livelihood possibilities in the city, as well as the existing social infrastructure. They used the first instalment of the Transitional Safety Net Allowance (paid as part of disarmament, demobilisation and resettlement – DDR – programmes to provide ex-combatants with financial means during the period prior to reintegration) to reduce their dependence on former commanders and to start small informal businesses. There was an interest in taking over properties in the central parts of town because proximity to the market area and the town's main street were considered to be of crucial importance to the success of the informal businesses.

In 2004, under repatriation and reintegration programmes for the many refugees and IDPs, thousands returned from camps inside Liberia or from neighbouring Guinea to their abandoned homes in Ganta. UNHCR has undertaken extensive community-based reintegration projects throughout the areas of IDP return in Liberia and in almost all cases refugees have also returned to the same areas. There is therefore a strong degree of cohesion between the dual processes of refugee and IDP reintegration.

Local politics and the absence of the state
When the war ended in 2003, local elders in Ganta and commanders from particular

militias appointed a Mayor and re-established the City Council, thus setting up the political structure of civilian authority in Ganta. Several commanders took control over the local government apparatus as de facto power holders locally and continued as patrons and protectors for former combatants, while the international community engaged in the process of constructing functional state institutions, mostly in the capital Monrovia.

While the successful reintegration of fighters is a precondition for fostering the security needed for the successful reintegration of returnees and stabilisation of post-war countries and fragile states, in this case the international injection of cash to ex-combatants facilitated the creation of squatter communities on valuable urban land, and laid the ground for perpetuating land disputes between returnees and ex-combatants and their political patrons. So there are strong (if negative) linkages between the reintegration of returnees on the one hand, and the demobilisation and reintegration of fighters on the other.

In several areas there are overlapping roles and functions between local and national government in Liberia. One of these is the authority to lease out public land and grant 'squatters' rights'. It is generally agreed that the local city administration can grant such rights for land that is publicly owned. In Ganta after 2003 the Mayor and the City Council granted squatters' rights to people settled on privately owned land. From 2003 to 2006 the central Liberian state was more or less completely absent in the locality and intervened only sporadically in local affairs. It was not until 2008 – and after direct orders from the Minister of Internal Affairs – that

Ex-combatants and their extended family build a house on squatter land in Central Ganta.

the Mayor had to retract and revoke all squatters' rights granted, at least on paper. However, in spite of their squatters' rights being revoked, the ex-combatants were still squatting in central Ganta in 2010.

In the post-war nation-building process, land disputes are one of the most significant issues threatening national peace and security in the country. In 2006 a Land Commission was established by the president with the main task of investigating the various land disputes causing continued ethnic tension. The Commission carried out consultations and public hearings across the country with the intention of giving all parties an opportunity to express their grievances and concerns. Because of its economic importance, Ganta was one of the most disputed areas.

For Ganta, the Commission's recommendations led to the construction of new streets in order to attract or create more avenues for businesses, since most of the disputes were centred on the main street. However this did not solve the problem, nor did a late 2008

follow-up Commission. To this day a series of land disputes has yet to be resolved.

The disputes and social struggle over land in post-conflict Liberia are not only about land *per se* but about authority and legitimacy more generally. Returnees base their claims to land and property on pre-war ownership and a right to return to the way things 'used to be' prior to the war. The ex-combatant squatters ground their claims in their physical presence and de facto occupation of the land, threats of violence and moral claims to the land as a 'reward' for heroism and for defending it during the war. As things stand now, the return of refugees and IDPs and the reintegration of ex-combatants appear to be mutually exclusive processes. The result is a profound reshaping of social, political and economic relations between local populations and a delay in processes of genuine reconciliation. The international community has to date sought to stabilise the Liberian state centrally in Monrovia, only timidly addressing issues of, land access and political power at the local level.

Advice for external agencies

The findings above indicate a need for the international community to:

■ take note of local political and economic contexts when intervening to assist IDPs and refugees in fragile states

■ translate and adapt international standards and norms, such as the ones prescribed for the reintegration of ex-combatants and forced migrants, to the particular contexts of emerging local political orders in fragile states to secure real effects on the ground

■ base reintegration programmes – for ex-combatants and forced migrants alike – on evidence-based research on the actual political and economic situation in the aftermath of war in fragile states.

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Peace villages for repatriates to Burundi

Jean-Benoît Falisse and René Claude Niyonkuru

Burundi's peace villages, which are intended both as models for reintegration and as centres of economic development, have encountered a number of problems which are related to the country's continued fragility as a state.

Specially constructed villages have been built in Burundi since 2005 to welcome landless and 'rootless' repatriates returning from exile in Tanzania. Some had been refugees since 1972 and others since 1993. Although most refugees were able to return to their own land, some of them had nowhere to go. Some of the '1972 Hutu repatriates' had scarcely any remaining ties with their country of origin and no knowledge of their or their parents' land in Burundi.

Eventually this prompted the idea of building villages to house those who had resorted to occupying the offices of the administrative authorities, demanding a solution to their plight. Twa (the third official ethnic group in Burundi) with no land, internally displaced Tutsi and other categories of vulnerable people were also invited to move into the villages with the aim of reviving social diversity. This earned them the title of 'peace villages'. With the continuing influx of refugees, there was an increasingly urgent need to find a permanent solution for the repatriates. UNHCR therefore cooperated with the government to create a first generation of 19 villages across the country

between 2004 and 2007, despite the fact that the concept of a village is broadly unfamiliar in the Burundian landscape, where homes are generally scattered over the hillsides.

An assessment of the first generation of peace villages suggests that not only are the buildings deteriorating but also the villages were failing to provide any way for their inhabitants to reintegrate into the local socio-economic environment. It was then decided to construct a second generation of villages, no longer simply to provide accommodation but also water and decent sanitary conditions as well as means of subsistence, land suitable for cultivation, and income-generating activities for the inhabitants. Eight new villages known as Integrated Rural Peace Villages were built in the country's southern provinces between 2007 and 2010.

Five or even, in some cases, ten years after the peace villages were built, their success can be seen as at best partial. Reintegration is a geographical rather than a social reality and the risk is that, in many places, the inhabitants of the villages will be seen as second-class citizens for at least another generation. None of the villages seems to have driven reintegration to the extent that was promised. Many villages are still dependent on food aid from the World Food Programme or the Ministry of National Solidarity, and economic activity appears to have started in scarcely any of the villages. In practice, the villages are not economically viable entities, they are prey to property speculation and there are tensions emerging with local communities. Villages in areas of poor fertility are struggling to attract repatriates, who prefer to remain in UNHCR's temporary accommodation centres.

The vicious circle of fragility?

Whilst villagisation policies in the east and central African region are memorable for the fact that they often involved coercion (as in Ethiopia, Uganda, Tanzania, Rwanda and in the 1990s in Burundi itself), these villages are, technically, home only to those who live there voluntarily. Their 'voluntary' nature remains questionable, however, given the situation in which people found themselves before moving to a village, a move often made on the promise of a decent life.

The Burundian Peace Villages built between 2004 and 2010 are also marked by their twofold objective of being not only places of reintegration but also, in the official rhetoric, examples of development in one of the most rural countries in the world. The housing scattered across Burundi's hillsides is seen as unconducive to the country's economic development, insofar as it is easier to provide basic social services to a more densely concentrated population. The rhetoric is, in fact, quite similar to that used in the *ujamaa* villagisation programme in Tanzania and the *imidugudu* programme in Rwanda.

Fundamentally, the peace villages reintegration project is therefore incredibly ambitious. To succeed in the long term, it effectively requires the state (and not international aid) to be able to provide its inhabitants with an adequate level of basic social services and a degree of security – precisely two of the characteristics whose absence defines a fragile country.

While security in the villages is not always as good as it could be, it is less of a problem than the lack of basic social services tailored to the specific needs of the inhabitants of the villages. A typical example is primary education. As a result of their time in Tanzania, most of the children in the villages have learned Swahili rather than Kirundi, which is the national language of Burundi and the language of primary education. Unless they have the good fortune to benefit from one of the projects organised by international aid organisations to provide educational support, children in the villages therefore have little chance of succeeding in the Burundian education system. On the other hand, the state is not in a position to provide the same standard of basic social services for the surrounding areas as it is providing in the villages – as is sometimes the case for water – and this results in community disputes, which can go as far as the sabotage of infrastructure.

The state's lack of legitimacy can also be seen in the peace villages in the limited capacity of local institutions to maintain peaceful community relations. Repatriates do, however, represent a source of development potential. Most of them, for example, speak Swahili and have some knowledge of English, which are important assets for a country that has joined the East African Community despite not sharing the region's two linguae francae.

One cause of the fundamental fragility of Burundi and other countries in the region is land. The villages – because they take up land and make land available to their inhabitants for subsistence farming – add a further layer of problems in a situation where there is a limited number of conflict resolution mechanisms. Seventy per cent of the disputes brought before the local courts in Burundi concern land and the average size of plots has been reduced over successive generations to 0.3 hectare. Up to 18% of the country's land is thought to be subject to dispute. In spite of its recent efforts, the state itself struggles to clarify the status of numerous areas of land. At a local level, the authorities are routinely overwhelmed.

If the fragility of the state is a significant obstacle to the success of reintegration through the peace villages, the villages themselves also bring with them the risk of perpetuating that very fragility. They threaten to delegitimise the state, which seems incapable of managing the situation. At the same time, while the villages continue to be places where second-class citizens dependent on humanitarian assistance live, they represent a source of frustration. The situation seems impossible to resolve, given that the village 'solution' brings its own problems, creating a vicious cycle of fragility.

The villages are a thorny issue and it is too easy simply to dismiss outright all the efforts that have been made to date. The reintegration of over 5,000 rootless families who arrived almost in one go is a major challenge for any country, and all the more so for Burundi, a fragile nation that is only just recovering from a bloody civil war. A case-by-case approach, based on reintegration family-by-family, hillside-by-hillside, would seem less problematic but is a monumental task – even more so as another 35,200 Burundian citizens returned at the end of 2012 when Mtabila camp in Tanzania was closed. The mistake made with the villages as a solution for reintegration was perhaps a question of trying to think too big too quickly and of putting the cart before the horse. History seems to suggest that towns and villages do not drive economic development;
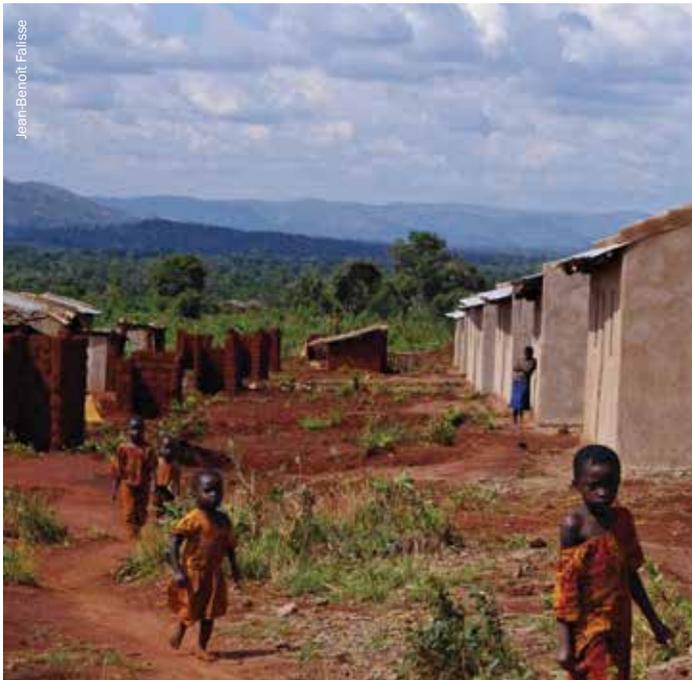
Peace village at Nkurye, South Burundi, in November 2010.

rather it is economic development that drives the creation of towns and villages.

Building the capacity of the state – which is a necessary part of lifting the country out of its fragility – requires the trust of its citizens but unfortunately the peace villages story as it has been unfolding for about ten years now continues to illustrate the system's inability to win their trust and thus emerge from fragility. We do not have a miraculous solution for the villages except the hope that economic activity eventually picks up and manages to transform the villages that are currently kept alive by aid into stable and sustainable communities where fundamental human rights are respected.

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Fragile states and protection under the 1969 African Refugee Convention

Tamara Wood

Current practice in African states highlights both the potential and the limitations of the 1969 African Refugee Convention in providing protection to persons displaced from fragile states.

In the most recent Failed States Index, 16 of the 20 most fragile states in the world are in Africa.[1] States such as Somalia, Sudan, Democratic Republic of Congo (DRC) and Zimbabwe consistently top the list. Perhaps unsurprisingly, these states are also major sources of refugee flows on the African continent. The protracted civil war in Somalia, for example, has resulted in the displacement of over a million people across international borders, to neighbouring Kenya and further afield. In South Africa, over half of the more than 100,000 asylum applications received each year are from Zimbabwe.

The legal status of individuals displaced from fragile states is often ambiguous. Those who can establish a "well-founded fear of persecution" for one of five reasons (race, religion, nationality, membership of a particular social group or political opinion) will be entitled to protection under the international 1951 Convention Governing the Specific Aspects of Refugees (1951 Convention). However, individuals fleeing the many other symptoms of state fragility, including poor governance, widespread insecurity, poverty and lack of basic services, will often fall outside the 1951 Convention as they are unable to establish either an individual risk of persecution or the requisite link between the risk and one of the five Convention reasons.

In Africa, this gap in the protection of the 1951 Convention might be expected to be filled by its regional counterpart, the 1969 Organisation of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa (1969 Convention), which expands refugee protection to cover persons who are compelled to leave their homes "owing to external aggression, occupation, foreign domination or events seriously disturbing public order".[2] The breadth of situations covered by the 1969 Convention has led to extensive praise for the Convention and it is generally thought to provide legal protection to persons fleeing the very kinds of widespread, generalised and indiscriminate forms of harm that typically characterise conditions in fragile states. What is less well known is the effect that the 1969 Convention has had on African refugee protection in practice.

Protection for persons fleeing fragile states
Experience in refugee-hosting states such as South Africa, Kenya and Uganda suggests

that, in certain circumstances, the 1969 Convention has played an important role in extending protection to persons displaced from fragile states across international borders. In Kenya, for example, persons fleeing continuing conflict and instability in central and southern Somalia are granted refugee status on a *prima facie* basis under the broader terms of the 1969 Convention. In 2011, when drought and famine forced many more thousands of Somalis across the Kenyan border, this practice continued, with both UNHCR and the Government of Kenya recognising the interrelationship between so-called 'natural' causes of displacement, such as drought, and the broader Somali context, including conflict, insecurity and lack of effective government.

The 1969 Convention has also played an important role in the protection of persons fleeing conflict between army and rebel groups in DRC, in particular in the eastern regions of North and South Kivu. In Uganda, persons displaced from these regions are granted refugee status under the 1969 Convention as a matter of course. In South Africa, a number of refugee status decision-makers also recognise that the situation in eastern DRC amounts to "events seriously disturbing public order" under the 1969 Convention. Even UNHCR, which has sometimes been cautious in its application of Africa's expanded refugee protection regime, has suggested that persons from eastern DRC are likely to meet the 1969 Convention's criteria for protection.

In relation to displacement from fragile states such as Somalia and DRC, therefore, the 1969 Convention has been instrumental in providing legal protection to persons who may not otherwise qualify for it under the 1951 Convention. In both cases, however, one of the defining features of state fragility has been the presence of armed conflict. The extension of protection to persons fleeing the many other symptoms of state fragility – including weak governance, food insecurity and lack of basic services – has not been so forthcoming.

In South Africa, applications for asylum by persons from Zimbabwe are almost universally rejected. The view taken by government, decision-makers and even many advocates is that most Zimbabweans crossing the border to South Africa, often with the stated intention of accessing better employment and education opportunities, are 'economic migrants'. According to the South African Refugee Appeal Board, despite ongoing and widespread deprivation of people's basic socio-economic rights in Zimbabwe the relative stability of law and order in the country means it falls outside the scope of the 1969 Convention.

Persons fleeing the new state of South Sudan also challenge the capacity of the 1969 Convention to protect persons fleeing non-conflict related symptoms of state fragility. While significant parts of South Sudan continue to be blighted by violence and insecurity, across the border in north-western Kenya, at Kakuma refugee camp, there is a widespread view that the majority of South Sudanese have come to Kenya primarily to access the education, health and food services that remain close to non-existent in their home country. To date, the 1969 Convention has not been applied to persons fleeing South Sudan at all, and several UNHCR officials have expressed doubt about whether such persons could really be considered refugees.

While the above examples do not provide a comprehensive assessment of the implementation of the 1969 Convention or its role in protecting persons fleeing fragile states across the whole of Africa, they are suggestive of both the potential and the limitations of the Convention in responding to displacement from fragile states. In particular, they suggest that states may be more willing to apply the 1969 Convention to persons in situations where the perceived cause of displacement is the existence of armed conflict and a breakdown in law and order. Where persons flee the many other symptoms of state fragility – including poor governance, food insecurity and lack of access to basic services – such application is less straightforward.

"Events seriously disturbing public order"
One of the reasons for ambiguity in state responses to the different aspects of state fragility is lack of clarity in the scope of the 1969 Convention itself. Unlike the 1951 Convention, which has been the subject of extensive interrogation by scholars, practitioners and international institutions, analyses of the 1969 Convention are few and guidance on the scope of its terms is simply not available. Of particular relevance to displacement from fragile states is the 1969 Convention's extension of protection also to persons fleeing "events seriously disturbing public order".

As the element of the 1969 Convention that most expands the scope of the term 'refugee', this phrase is also the most contested. It is generally accepted to cover human-caused events which undermine the existence of law and order, such as conflict or generalised violence. What is less clear is whether it also extends to so-called natural causes of displacement, such as drought, flood or earthquake, or to people fleeing deprivation of their human rights, including socio-economic rights such as the right to food, education and health care.

Regardless of the view one takes on these questions, neat conceptual distinctions between 'human' and 'natural' causes of displacement do not always reflect realities, as conditions in Somalia and South Sudan well demonstrate. For example, while the 2011 Horn of Africa drought forced hundreds of thousands of Somalis across international borders in search of safety, food and other assistance, the majority of similarly drought-affected Kenyans stayed put, aided by the relatively higher levels of security and assistance in the country. Likewise, the distinction between 'economic migrants' on the one hand and refugees or 'forced migrants' on the other is blurry at best. People's reasons for movement are complex and often multifarious, not least in the case of fragile states.

Against the legal and practical background of displacement from fragile African states, the concept of state fragility itself might provide a useful reference point for distinguishing between those who are deserving of international protection under the 1969 Convention and those who are not. Fragile states are by definition ones in which the government's capacity to fulfil its basic duties towards its citizens – including the duty of protection – is compromised. It is the citizen's concomitant inability to have those duties fulfilled that gives rise to his or her claim to the protection of the international community. This idea is not a new one. The concept of 'surrogate protection' has been used to describe and to justify the international refugee protection regime almost since its inception.

This is not to say that every person who leaves a fragile state is necessarily a refugee; for a start, symptoms of state fragility frequently have differential impacts on particular individuals and communities within a state. Rather, it is to suggest that the characteristic inability of fragile states to protect their citizens might provide a relevant and useful framework for giving content to the otherwise seemingly boundless phrase, "events seriously disturbing public order". Put another way, the incapacity of a state to fulfill its basic duties towards its citizens might be the determining factor in deciding whether or a not a particular set of circumstances – whether human or natural in cause – gives rise to other states' international protection obligations. Where an individual's home state is unable to provide the most basic protections, a legitimate claim to protection under the 1969 Convention Governing the Specific Aspects of Refugee Problems in Africa may be made.

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1. The Failed States Index is published each year by Fund for Peace and is available at: http://ffp.statesindex.org
2. http://tinyurl.com/AfrRefugeeConvention

Fragile states, collective identities and forced migration

Kelly Staples

There has been a worrying tendency for the international community to ignore questions of state capacity when enacting repatriations. Governance and the rule of law should be vital considerations in attempts to deal with forced migration in fragile states such as DRC.

States fail for a range of complex social, political and economic reasons. When they do, it causes serious problems for those within their borders. Citizens suffer the consequences of food and water insecurity, economic decline, increased corruption, poor or non-existent public services and increased violation of a range of human rights. Additionally, state failure can lead to governments deliberately pursuing exclusionary policies in an attempt to gain public support. Resident minorities become especially vulnerable to human rights violations, while relationships between ethnic groups are often stretched to breaking point, with state institutions becoming fragmented along ethnic lines.

Especially in post-colonial states it is often the case that there is not a good 'fit' between state borders and the peoples they contain. Even so, there are good reasons not to welcome the eventual collapse of existing states and their rebuilding as new states. First, history teaches us that the drive to create mono-ethnic states has itself been a major cause of forced migrations. Second, the processes of state dissolution and collapse are horrifically disruptive to individuals, both domestically and regionally. Third, seceding states and the remaining 'rumps' are likely to remain very fragile.

Congolese refugees build new shelters in Rwamwanja, Uganda, following new waves of fighting in North Kivu in 2012.

In addition, there is a strong international aversion to state failure and secession.

In general terms, we have to presume that the borders that dissect the world today are relatively stable, even when the national units they constitute are not. From a moral point of view, we may expect statehood to be conditional on governmental legitimacy and on the existence of domestic institutions that allow peoples to be self-determining. Practically speaking, however, states are granted recognition by other states for political or diplomatic reasons, or because they fear the implications of state collapse and uncontained migration. At the extreme, states such as Somalia, that in recent years has not met the international legal criteria for statehood (which include 'government' and 'capacity to enter into relations with other states'[1]), are often still recognised as states for, among other reasons, the purposes of controlling migration.

This tends to mean that the favoured response of the international community, including UNHCR, is the repatriation of refugees fleeing fragile states, with integration in the country of first asylum as the main alternative. States have a long-standing mutual interest in repatriation, seen as a vital component of the maintenance of order

and security. This interest has developed alongside the development of international relations; certainty about which state has responsibility for which citizens is now a central tenet in international relations. What is needed, therefore, is a set of solutions that embody genuine commitments to the strengthening of fragile states, as well as to the consideration, where appropriate, of regional and international solutions to the problems of forced migration.

State weakness and forced migration in DRC

The situation in the east of the Democratic Republic of Congo (DRC) provides an illustration of the many obstacles to dealing with the closely linked issues of forced migration and state fragility. DRC is widely acknowledged to be a failed state. In the 2012 Failed State Index, the country was in 2nd place. It was ranked 1st on the demographic pressures indicator, 3rd on refugees/IDPs, 4th on 'uneven development' and 2nd on human rights.[2] While there is a range of ways of measuring state fragility, or even failure, it is generally accepted that the absence of law and order and weak central government undermine states' abilities to respect their basic functions and resist insurgencies and the rise of mercenary groups that challenge the state's monopoly of the use of force.

Demographic pressures, uneven development and conflict over resources, coupled with the inability of the country's armed forces to halt violations by rebel groups in the east, continue to trigger displacement. There are estimated to be around 476,000 refugees in neighbouring countries, and around 1.57 million IDPs in DRC.

Eastern DRC has also hosted many refugees. The arrival of waves of 'Rwandophones', speakers of Kinyarwanda (the official language of Rwanda), before, during and after the Rwandan genocide of 1994 exacerbated the tensions that already existed between Congolese Rwandophones and other ethnic groups in North and South Kivu Provinces, where repeated waves of forced migrations from Rwanda have led to serious instability.

With the outbreak of war in Congo in 1996, many Kinyarwanda speakers, both Congolese and Rwandan, were forced across the border into Rwanda, where significant numbers remain. Armed battles manipulating ethnic tensions, as well as economic interests in gaining control over land and precious natural resources, have made eastern Congo one of the most deadly regions in the world.[3]

One of the favoured solutions of the international community in this case is repatriation. However, a major obstacle in the way of the repatriation of Congolese refugees from Rwanda is the suspicion that Rwanda will exploit the opportunity to 'return' non-Congolese Kinyarwanda-speakers in an attempt to alter the ethnic composition of the region and gain access to precious land and resources. Inter-group relations in eastern DRC are so bad that many refugees fear returning, and prefer to remain in refugee camps in Rwanda, in spite of dire conditions.

It is vitally important to avoid forced return, or the return of refugees to areas where their life or freedom are at risk. Questions about the best way of ensuring voluntary repatriation and effective citizenship are complicated by the extreme fragility of the Congolese state. Many would-be returnees recognise the special international status of formal citizenship, and seek comfort in the theoretical value of a Congolese state. There is an inescapable irony in this situation, given that these are the same people who have been the most obvious victims of the state's actual failure. Ironically, in DRC as in many fragile and failing states, effective access to the fruits of citizenship is either impossible or based on the same communal ties that aggravate state weakness and forced migration.

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1. The Montevideo Convention on the Rights and Duties of States, 1933 http://avalon.law.yale.edu/20th_century/intam03.asp

2. http://ffp.statesindex.org

3. See FMR 33 'Past. Present. Future? Democratic Republic of Congo' www.fmreview.org/DRCongo

Repeated displacement in eastern DRC

Fran Beytrison and Olivia Kalis

For the vast majority of those affected by conflict, displacement is often seen as the only option in an attempt to find safety. The provision of some basic assistance in places to which people flee makes this process slightly easier but in the absence of state-led protection multiple displacement has become a defining feature of the Kivu conflict. This has implications for both the humanitarian and the development response.

For most of the tens of thousands of Congolese who have been displaced by violence since November 2012, it was not the first time, and almost certainly not the last, that they have had to flee their homes. Most were already in IDP camps or hosted by family, friends and even strangers, and many of those who are acting as host communities have already themselves fled their homes at some stage.

In eastern DRC, the majority of an estimated 2.6 million IDPs have been in a state of protracted and multiple displacement for many years.[1] While some were displaced in the Masisi area in North Kivu as early as 1993, mass movements started as a spill-over from the Rwandan genocide in 1994 and the first Congo war in 1996. Today, almost 20 years after people in the Kivus started to flee conflict, the numbers of IDPs are rising across the east of the country. And without the state's ability to find or impose political solutions to address the causes of insecurity, civilians continue to suffer violence and abuse by armed perpetrators. Meanwhile, assistance needs to be delivered in a way that takes into account how multiple displacement during protracted conflict affects people's resilience and their ability to protect themselves as well as what particular vulnerabilities and needs arise from this situation.

Coping in the face of continued insecurity

A Norwegian Refugee Council assessment found in one place that nearly 65% of respondents had been displaced two or more times in the last seven months and 37% at least three times or more. Other data shows that displaced families can themselves become hosts; a 2008 UNICEF/CARE study found cases where, having taken refuge in abandoned settlements, IDPs subsequently became hosts themselves to IDPs arriving later.

Some community leaders have expressed concern over the presence of IDPs, claiming they were responsible for food insecurity and even for bringing instability and weapons to the community. Whereas traditionally in DRC IDPs have chosen to be hosted in communities rather than camps, recent years have seen a shift towards camp settlements for many reasons; among these are a simple lack of safe places to flee to as insecurity becomes more generalised and the de facto control of areas shifts from one armed actor to another. However, even camps can be unsafe and may become places to flee from; the fighting in November 2012 saw a camp of over 50,000 people on the outskirts of Goma town empty within a few hours as people fled in anticipation of attacks.

The lack of basic security in places of refuge frequently forces people to move again. This is apparent in statements by affected populations themselves who recognise that while flight is the only viable protection strategy available to them, it will not guarantee their safety. In the absence of physical security or rule of law provided by the state, further strains on social cohesion stem from the broader instability that has seen communities resort to using local defence militia which are typically established along village – and therefore frequently ethnic – lines.

Protecting and assisting where the state does not

The areas of the DRC affected by multiple displacement are those where a chronic absence of state institutions and services on the one hand and ongoing violence by

a multiplicity of actors on the other have coexisted for years. As a result, in DRC the provision of any sort of protection focuses overwhelmingly on physical protection through MONUSCO peacekeepers, with limited thinking about alternatives or complementary civilian action. This reflects the reality that the state is unable to provide this protection, leaving the necessity for assistance responses to the needs of IDPs also to external actors. This is unlikely to change for some time. In such conditions, aid is provided by humanitarian actors in a manner that fails to address the causes of people's vulnerabilities.

International human rights law provides a framework on durable solutions from the outset and highlights the importance of engaging with longer-term dynamics of resilience while responding to humanitarian 'peaks' in the case of prolonged insecurity such as that in eastern DRC. The issue is the extent to which the Congolese state is able to fulfill its obligations in this respect. DRC has ratified the African Charter on Human and Peoples' Rights (1981) which provides a comprehensive human rights framework applicable to situations of internal displacement.[2]

While DRC is not a signatory to the recently-ratified African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (the Kampala Convention)[3], it is a signatory to the 2006 Great Lakes Pact whose Protocol on the Protection and Assistance of Internally Displaced Persons requires the state to integrate the Guiding Principles into domestic legislation. This is intended to create a framework for state structures and external actors alike to, among other things, have greater respect for legally applicable principles on the part of the state – which in this case would, crucially, mean systematically promoting rule of law in the eastern provinces. It also provides a basis for a possible national IDP policy whose aim would be to draw together all relevant actors – government, humanitarian and development.

The IASC Framework for Durable Solutions for IDPs[4] provides some technical advice as to how this may be implemented and, at the political level, the New Deal for Engagement in Fragile States[5] includes a focus on new ways to support, country-led and -owned transitions based on one vision, one plan and inclusive and participatory dialogue that bridges the humanitarian/development divide. Yet there remains a gap in practical guidance – and no agreement amongst relevant actors – on how precisely such a duality of aid can be achieved safely in contexts of chronic state fragility and insecurity. Existing structures for coordination, funding and prioritisation of interventions do not lend themselves to supporting such an approach.

This, together with the fact that the Congolese state will not be able to play its part, leaves humanitarian actors confronted with a series of questions about the changing vulnerability of people with each wave of displacement, their mechanisms for coping with repeated displacement and how assistance can help to build, or at least maintain, individual and community resilience in the face of repeated displacement. We need to be asking ourselves how we can protect rights and provide aid according to needs throughout the various stages of displacement, and in a way that strengthens IDPs' ability to cope with the impact of displacement in the absence of state capacity. Similarly, development actors need to adapt their interventions in a context of extreme fragility to better connect with life-saving interventions over the long term.

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1. By multiple displacement, we refer to a type of protracted or long-term displacement during which people are forced to move repeatedly from successive sites of refuge.

2. http://tinyurl.com/AfricanCharter

3. http://tinyurl.com/Kampala-Convention-En

4. http://tinyurl.com/IASC-IDPs-Framework

5. www.g7plus.org/new-deal-document
For more information about g7plus, see back cover of this issue.

'*Everyone for themselves*' in DRC's North Kivu

Luisa Ryan and Dominic Keyzer

While the international donor community has been trying to engage with DRC by partnering with the government to implement the New Deal for Engagement in Fragile States, communities in DRC, especially those displaced in war-affected areas, continue to have to look out for themselves.

The Democratic Republic of Congo (DRC) will feature at the top of most lists for poor governance, political instability or insecurity, and at the bottom of those ranking social and economic development, social service coverage or transparent government. The distinction of 'fragile state' comes not only from hosting one of the world's deadliest conflicts and displaying relatively weakened state authority but also from the impact that the combination of these two factors has on preventing the country from managing conflict, meeting the resulting humanitarian needs and achieving a sustainable development trajectory.

Communities across DRC experience frequent and extreme disruptions to their individual physical integrity, their family livelihoods and their social cohesion. In spite of this, most communities display great resilience; in North Kivu, this resilience has been tested by prolonged outbursts of conflict and several waves of mass displacement. Mass population movement affects government services, including health, education and protection. Thus in North Kivu, the government has extremely limited capacity to take care of IDPs, resulting in local and international NGOs and UN agencies taking the bulk of the strain. While this may appear to be little different from how humanitarian operations are run in other disaster-affected countries, the Congolese government offers only limited provision of basic social services even when conditions are optimal.

The emergency in the Kivus has now stretched over two decades and the government has demonstrated little will to change. Many view the government as predatory and self-interested; indeed, aid organisations tend to operate around the government rather than with it. In communities unaffected by recent conflict, health staff, teachers and members of the security forces are unpaid. This obviously reduces the quality of service, with the recipient population expected to cover the salaries for which the government is – on paper – responsible. As the conflict in the Kivus continues, creating more IDPs, the humanitarian and development communities need to take into account the underlying weakness of the Congolese state. Meeting the short-term needs of IDPs cannot eclipse the need to strengthen the governance mechanisms that should be contributing to their long-term support, (re)integration and well-being.

In 2012 World Vision conducted field research in three sites in North Kivu, all of which host IDP camps.[1] Unsurprisingly, the presence of IDPs and their effect on host communities were frequently discussed by focus group participants who included both the displaced and locals. The main issues raised by IDPs included their inability to return home and difficulties of integrating into their new communities. None of the participants was housed in official IDP camps. Many IDPs in the focus groups had been displaced for many years but still identified themselves as displaced even when they have no intention of relocating again. Indeed, as we were conducting this research at a time of further displacement, many IDPs commented that they are tired of moving, either lacking the will to move their families once again or simply with nowhere else to go.

Access to and use of land

Thus land was also a key issue for IDPs. Their land in their home village had often been re-allocated to those with kinship ties to the

village elite, meaning they had nothing to return to, and – without traditional or kinship ties to the ruling family of their new village – they did not qualify for a plot to farm where they were. Although enforcing government policies securing land rights and access to justice would help, none of the participants reported any contact with elected government officials trying to resolve their displacement or support their integration into a new community. Traditional leaders appeared to have control of land regulation and some villagers reported their leaders selling their farmland without consultation. This practice, while linked to the immediate conflicts that cause mass displacement of communities, is symptomatic of longer-term weak governance.

Land rights were a concern for all participants, and some of the challenges articulated related directly to the violent unrest. Being displaced from their land removes communities from the traditional social and political structures that provide protection, and can place additional strain on the security and justice services in their host communities. Some communities reported that the deployment of the national armed forces to North Kivu had resulted in the army taking over their land. Rather than protecting the population, soldiers had commandeered farm plots and were working the fields themselves. Soldiers were preventing the population from accessing their own crops and were even selling produce back to the villagers. None of the participants reported any official intervention or advocacy on their behalf; indeed only one village had protested and was met with beatings by the soldiers.

The national armed forces themselves are sometimes implicated in displacement, as further evidence of the weak governance of the security sector institutions.

With the presence of armed groups villagers feared forced recruitment and sexual and other violence. Sexual and gender-based violence has been endemic in eastern Congo. When women are attacked, there is little recourse in a system where unpaid police and judiciary will find for the highest bidder. Participants reported not even attempting to get justice. This additional fear was preventing some women from farming whatever land was still accessible. This affected the food and money available to the family and is again the direct result of a fragile state unable to pay the salary of its security forces and judiciary.

When displaced families cannot farm, either because of insecurity in their home locations or inability to access land in their host communities, they begin to suffer from increased malnutrition and cannot earn money. Without money, they cannot pay for school or medical fees. When fewer people can pay, the price may go up so that teachers' and health workers' salaries can

UNHCR/L Beck

Congolese refugees return to DRC in March 2013 after fighting between rival M23 factions calms down. Years of experience have taught them to flee with as much as they can carry.

continue to be paid. When children are forced from school because their parents cannot afford to pay, they may be easy targets for recruitment into armed groups. While the immediate humanitarian needs of IDPs must be addressed, for aid to have a lasting impact the ability and interest of the Congolese state to provide basic services to its citizens, including IDPs, must be increased. Land inaccessibility, service provision and government fragility are interlinked.

Hosted or hosting

Those not identifying themselves as displaced said that hosting displaced people could be a major drain on communities which already have very little. Participants in this research reported little to no contact with elected officials, and corrupt and ineffective traditional systems. As local service-providers are rarely paid their government salaries, it is up to the communities to provide for them by paying informal fees. Some participants described themselves as "orphaned" by the state, a heavy indictment in this kinship identity-orientated society. While some IDP camps are located alongside established communities, those in the camps can get access to high-quality services through the international community that are not available to local villagers. This great imbalance between what the international community can provide to the displaced and what the government service providers routinely offer causes the local population to feel disadvantaged; some people reported pretending to be IDPs to access health and education.

Some IDPs hosted in communities rather than camps may receive preferential treatment from government services. For example, participants from some villages indicated that IDPs received free medical treatment, free education for the children or were even housed in the community school. It is not clear, however, whether the decision to provide IDPs with free care came from the service providers themselves or their international partners. Conversely, in other communities state health and education

staff know that IDPs, especially recent arrivals, cannot afford fees and so do not allow them access. There is no functional governance infrastructure for IDPs to appeal to when this occurs. Adding to the difficulties arising from this aspect of state fragility, the government had a very limited response to the latest humanitarian crisis, and even these distributions of assistance were further limited by a lack of government access to vulnerable areas.

Conclusions

The latest waves of IDPs cannot be seen in isolation. Indeed, they join countless numbers of their kin who have fled their villages only to be integrated, more or less, into existing communities. But increased competition for access to basic services, and aid directed solely to IDPs in very poor communities can then lead to intra-community tension. The local government seems incapable, and often unwilling, to lead and to provide solutions. A comment often repeated by focus group participants was "Chaqu'un pour soi" ('Everyone for themselves').

Displaced populations highlight the government's inability to provide services and leadership but can also draw focus away from the underlying gaps in governance when donors focus on emergency aid. Basic government services have been weak for a long time, deteriorating from a low starting point during the Mobutu regime. Political capital has been exhausted by the conflict, which means there is very little room left to focus on actual service delivery and improvements in governance. Due to ongoing insecurity, instability and fragility, Congolese citizens rarely look to their government for help or leadership. The international community's interventions in North Kivu must therefore take a two-pronged approach: both addressing the shorter-term humanitarian needs of displaced populations and improving governance mechanisms and accountability. The government and UN Stabilisation strategies have attempted to address these longer-term governance issues but have collectively failed to address the key

governance reforms necessary for successful stabilisation. Revisions of these strategies must reflect the principles of the New Deal, or they will continue to have little impact on the long-term situation of insecurity and displacement.

In a region where the population and international community both have very low expectations of government officials, and the government itself makes little effort to change this, consecutive periods of internal forced migration can set back meaningful state-building. The Congolese government already demonstrates limited accountability to its people, and successive waves of displaced people may have exacerbated this, as the focus of both the population and international donors is on shorter-term humanitarian relief.

Continuing displacement can magnify the international community's tendency to replicate, side-line or take over the responsibilities of fragile governments, effectively letting them off the hook. Addressing the development needs of the people of North Kivu will require a great deal of time, commitment and political capital. In the end, the Congolese state must show will and build capacity not only to resolve and manage conflict amongst its population and end the causes of displacement but also to consistently improve services and lead humanitarian interventions to reinforce these services when needed.

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1. The aim of the study was to determine if a project called Community Voice and Action (CVA), successful in other African countries, could also be applied in the Kivus. CVA works with communities and local service providers (health, education and protection) to jointly evaluate their social infrastructure and advocate to local government for improvement.

Can Refugee Cessation be seen as a proxy for the end of state fragility?

Georgia Cole

The cessation of refugee status results from a judgment that a sufficient change has occurred in the refugees' country of origin that they no longer require international protection. For individual refugees this may leave them in a precarious situation. For states hoping to dispel an image of being economically, politically or socially 'fragile', this judgment is clearly very helpful.

The voluntary repatriation of refugees to their country of origin is often interpreted by the international community as signalling the state's ability to resume responsibility for its citizens. The formal invocation of a 'ceased circumstances' Cessation Clause formalises this interpretation in international law.

It amounts to legal recognition, determined by Tripartite Agreements between countries of origin, countries of asylum and UNHCR, that 'fundamental changes' have occurred in the country of origin such that a refugee 'can no longer … continue to refuse to avail himself of the protection of the country of his nationality'.[1] A Cessation Clause is thus understood as proof that profound, stable and durable changes have occurred since the time of the refugees' departure such that the country of origin's capacity to protect its citizens' rights is once again restored.

A declaration of cessation is therefore of immense symbolic importance for fragile states. States recovering from conflict or civil strife can utilise the recognition of stability inherent within the invocation of a Cessation Clause to buttress the claim, for

example, that displaced people no longer have any continuing need for protection either inside, or outside, the country.

The case of Rwandan refugees

The 1994 genocide of Tutsi and moderate Hutu, and subsequent inter-communal and cross-border conflict, which purportedly reached its conclusion in 1998, resulted in over 3.2 million refugees fleeing the country.

In several respects, Rwanda has remained an extremely fragile state ever since, despite some remarkable improvements in basic political and economic indicators since 1994. The government nonetheless faces continuing criticism over its increasingly authoritarian style of governance, and concerns regularly focus on its restrictions on domestic freedom of speech and political association, its harassment and suppression of opposition parties, and the military's aggressive and exploitative conduct within the Democratic Republic of Congo.

Nevertheless, the possibility of invoking a Cessation Clause for Rwandan refugees has been under intense discussion since 2000. By 2010 several countries had decided, in conjunction with UNHCR and the Government of Rwanda, that the refugee status of all Rwandans should be terminated by a generalised Cessation Clause. Following further debate between the involved parties and a chorus of protesting non-governmental organisations, it was decided that Cessation would be invoked in June 2013. This would, however, only apply to those Rwandan refugees who had fled between 1959 and 31st December 1998, as it was felt that the generalised conditions of violence that had resulted in Rwandan refugees fleeing the country up until 1999 no longer posed a threat to these individuals.

These temporal limits have, however, been notably absent in the Government of Rwanda's statements concerning the Cessation Clause. The government has asserted that it must be conforming to certain normative standards required for a positive assessment of its resumed protective role and capacity, using the Cessation Clause as 'evidence' of this improvement. The President of Rwanda, Paul Kagame, has repeatedly asserted that "eventually no Rwandan shall be called a refugee since there is no longer any reason for this".

Rwandans in exile thus seem convinced that the Cessation Clause, rather than reflecting a desire on the part of the state to re-assimilate Rwandan refugees, is being instrumentalised to bolster Rwanda's international reputation. As the Rwandan state's economic, and thus political, stability rests to a large extent on fluctuating relationships with increasingly disenchanted donor states – who have provided between 50 and 75 per cent of Rwanda's national budget through foreign aid over the last fifteen years – the Government of Rwanda's portrayal of cessation as indicative of full international endorsement of its behaviour is thus unsurprising. As a result, Rwandan refugees have experienced increasing constraints to the international recognition of their continuing protection needs. This may result in them experiencing further displacement, including back to situations of potential persecution.

Despite the Government of Rwanda's assertions to the contrary, many Rwandans still face persecution and thus inevitably will continue to resist repatriation to a state that they do not trust to provide them with protection. Greater efforts therefore need to be made to prevent Cessation undermining the rights and on-going protection needs of Rwandan refugees. Through effective communication to clarify the exact details of the Cessation Clause, and the continuing accessibility of alternative durable solutions for those refugees who feel unable to return to Rwanda, Cessation could be invoked while minimising the negative outcomes.

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1. UNHCR, 'The Cessation Clauses: Guidelines on Their Application', 1999, www.refworld.org/docid/3c06138c4.html

The displaced claiming their rights in fragile states

Antonia Mulvey

To date, displaced persons in fragile and conflict-affected states have had little success in claiming their rights for housing, land and property violations. Creative legal thinking and strategic litigation has the potential to change this.

Although housing, land and property (HLP) violations are often triggers of conflict and obstacles to peace, there is very limited jurisprudence dealing with HLP abuses, and perpetrators of crimes against land and home are rarely held accountable. Over the last decade the world has seen a steady increase in the prosecution of international criminal cases with the establishment of the UN tribunals for the former Yugoslavia in 1993 and for Rwanda in 1994, and cemented by the establishment of the International Criminal Court (ICC) in 2002. While the extent to which more recent international tribunals have provided effective remedies for victims and their families is questionable, it cannot be denied that they have attempted to establish an international forum for criminal accountability.

Taking a lead from the UN tribunals, some domestic courts have held individuals accountable for their crimes by way of the concept of universal jurisdiction. This principle allows any state to bring to trial persons accused of an international crime, regardless of the place where the crime was committed, the nationality of the perpetrator or the nationality of the victim. Nonetheless, this positive progress in seeking international accountability has mainly ignored grave violations of HLP rights. This is despite the fact that the ICC includes a number of international crimes that encompass HLP rights violations, as do the jurisdiction and jurisprudence of the Tribunals of both Yugoslavia and Rwanda.

In fragile states, access to redress within the country where the violations took place often appears impossible. In these situations, foreign courts can be an important adjunct to everyone's right of access to justice. Apart from the legal challenges in litigating against human rights violations in the international arena and the more practical challenges, cases are often not clear-cut, they are politically sensitive, there is no legal precedent and it is difficult to predict the outcome. This paints a bleak picture, so what can be done to change the situation?

It should be a priority of the international community to deal with these injustices and increase displaced people's access to justice. The presumption often held is that litigation can only be undertaken where there is a functioning judicial system and some semblance of the rule of law. Fragile states generally have neither and litigation in HLP cases has therefore been presumed to be impossible. That presumption is incorrect. Every day the law is being challenged and creatively used by skilled lawyers around the globe. This is changing our ability to hold international and cross-border perpetrators accountable for their actions. International law is being used creatively to protect the powerful, namely the state and transnational corporations, and now it must be used to protect the powerless, the displaced. However, rarely does the legal action available for the well-placed become available for the displaced. There are obstacles. Few international lawyers have any contact with displaced persons and it is also the case that humanitarians, who do have contact with displaced persons, may perceive pursuing legal avenues for accountability as a possible obstacle to their ability to provide assistance to those most in need. A further fear is that the intervention of lawyers might make an already complex and difficult situation worse.

Development actors may have a different objection to the intervention of international lawyers in HLP cases. Their focus is to develop the institutional capabilities of a given state and related actors and to implement

longer-term institutional projects. These actors are working in tandem with the state and may be unwilling to contemplate cases against state actors and others associated with the state which could impede their ability to undertake their development work. Nevertheless, displaced people should be given all their legal options and it is for them to decide whether they wish to seek redress.

Where and how could perpetrators of HLP crimes be held accountable?

There are creative ways in which legal action could be used to address injustice for displaced persons in fragile states. These could range from the use of civil and administrative litigation in domestic courts and the use of regional courts such as the African Court of Human and People's Rights to the use of criminal prosecution using universal jurisdiction in foreign courts. In some fragile states, there may be perpetrators who hold dual nationalities, including European passports, and this could be a means to hold them accountable in European jurisdictions.

State expropriations of land in South Sudan, Afghanistan and the Democratic Republic of Congo (DRC) provide good examples of how international litigation might help locally displaced persons and victims of HLP abuses. In each instance, the state has expropriated land and leased it to multinational corporations or entities owned by other states such as China and Saudi Arabia. Land has been taken for resource extraction and agriculture without local consultation or compensation. The result has been that the people living on the appropriated land have been forcibly displaced.

In all three countries, there has been little regulation of the use of the land and minimal return to the state in royalties and taxes, although there have usually been substantial personal gains for state officials. Mining companies and other resource-extraction enterprises are taking advantage of weak governance to exploit the natural resources without having to comply with the more rigorous regulation that comes with stronger governance. Even where there are laws constraining the actions of mining companies, they often go unobserved.

One way to address such violations would be to target agribusinesses, mining and oil companies in their home countries. For example, their contracts with the South Sudanese government should be made public wherever possible, and they should be reminded of where they have signed up to voluntary codes, such as the 2003 Equator Principles.[1] Transnational corporations that rely on their good name among consumers may be especially susceptible to the impact that transnational litigation may have in the court of public opinion. Initial manoeuvres suggesting that litigation is being planned may also be a way to impose accountability on regulators by reminding them of the public's expectations that they will hold corporate entities to internationally accepted standards of conduct.[2]

The extent of rule of law in a fragile state is a key issue in determining which goals are achievable through domestic litigation and in which cases international litigation should be undertaken. Weak rule of law in countries such as DRC and South Sudan makes undertaking domestic litigation risky but should not rule it out as a strategy. There are gains to be made by challenging the state and using its formal institutions, even – or perhaps especially – where they are corrupt and underdeveloped. For example, could the state of South Sudan be challenged domestically for its role in land grabbing?

Equally, it might be possible to use regional conventions to challenge European states or agents of the state who have expropriated land unlawfully in fragile states. The European Convention on Human Rights (ECHR) was found to be applicable to actions taken by British troops in Basra (Iraq), where the UK assumed the exercise of some of the public powers normally exercised by a sovereign government. The ECHR may now apply when agents of a member state are exercising authority and control within other territories where that same member state is exercising some public powers; for example, there may

be cases of land expropriation in Afghanistan where the ruling would be applicable.

We can learn also from creative litigation and judgments from other regional courts in non-fragile states and should be inspired to create new precedents in fragile states that will provide access to justice and protection to the displaced. In Botswana, the case of the San people, forced off their land and into resettlement camps, was taken successfully before both domestic courts and the African Commission of Human and People's Rights. Both courts found in favour of the San and their judgments were mutually reinforcing. In Panama, the case of the displacement of tribal peoples resulting from construction of the Bayano Dam has been taken before the Inter-American Commission of Human Rights. The ruling there will hopefully provide the opportunity to articulate new arguments regarding the property rights of displaced and indigenous peoples.

The influence of external actors on fragile states could also be addressed through litigation cases over donor accountability and aid effectiveness. The hugely expensive Pergau Dam in Malaysia, for example, was financed with British taxpayers' money in order to secure a major arms deal; a landmark judgment found British aid for the dam unlawful.

Third-party states could also be held accountable for violations of international law in fragile states. It can be argued that states which have both signed and ratified the Geneva Conventions have a positive obligation to prevent the violation of international law. They also have a requirement (in the form of a negative obligation) not to support ongoing violations by another state. This obligation is reinforced in customary international law, as articulated in the ICRC guidelines on humanitarian law (Rule 144), the International Law Commission Articles on Third State Responsibility (Articles 16 and 41) and decisions by the International Court of Justice. This would lead us to conclude that strategic litigation could be conducted domestically in third states to ensure that a state complies with its legal obligations to take action against a state where it breaches the rights of displaced persons under the Geneva Conventions.

Strategic litigation is not just a tool of last resort and its audience often is not just a court. Litigating international humanitarian law obligations not to maintain or support violations of other states can be useful even where the court determines it does not have jurisdiction to rule in a case; the litigation can bring important facts to light, as in a case involving the health impacts of the attack by UK and US forces on the Iraqi city of Fallujah in 2004. Through litigation, documentation was obtained that enabled people to receive appropriate medical attention, even though the case was ultimately dismissed.

The way forward?

It is time that state actors, international organisations, transnational corporations and non-state actors are sent a strong signal that impunity for crimes against land and home will no longer be tolerated and that they will be held accountable for their actions, even in fragile states. Innovative impact litigation can be used to obtain redress for human rights violations and in doing so help displaced persons return home or even prevent them being displaced in the first place. Litigation can be used as a tool to protect, even where the rule of law is not functioning. If a court is not available locally then efforts should be directed towards courts abroad. The value of litigation is not (only) the chance of winning but in the litigation itself.

Risk-free litigation does not exist but international treaties give everyone whose human rights have been violated the right to a fair trial and impartial court. That is a right that we must all defend.

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1. www.equator-principles.com

2. See also 'Protect, Respect and Remedy' Framework for Business and Human Rights http://tinyurl.com/UN-BusinessHRFramework

3. LAW is a network of prominent human rights lawyers and advisors providing innovative legal assistance to the least represented in fragile and conflict-affected states.

The 'phantom state' of Haiti

Andreas E Feldmann

The fragile nature of the state had turned emigration into a major feature of Haitian life even before the earthquake displaced hundreds of thousands of people.

The January 2010 earthquake dealt Haiti – an already fragile state, which ordinary Haitians refer to as 'the phantom state' – a devastating blow. Public buildings, power plants, the electricity grid, the sewer system, roads, telephone lines, water treatment works, hospitals and schools were either destroyed or severely damaged.

Haiti is one of the weakest states in the world and registers the lowest human development in the Western Hemisphere and among the lowest in the world. The Haitian state is unable to fulfill even the most rudimentary functions of a modern state including the delivery of core public services (security, health, housing sanitation, energy, education), the development of essential infrastructure and the administration of the rule of law. The state is unable to collect taxes and lacks a working bureaucracy. Most of the population works in the informal sector. The country also suffers from severe environmental degradation and resource depletion associated with vertiginous population growth.

The iconic images of desperate Haitians attempting to reach Florida in improvised boats to escape the reign of terror that followed the overthrow of President Aristide in 1991 raised awareness of the plight of Haitians. One million Haitians live in the Dominican Republic and there are sizeable Haitian communities in Canada, the US, France and Latin America. While most are considered economic migrants, repression and human rights abuses have resulted in significant migration flows. In addition, economic collapse and a seemingly endless litany of natural disasters have created existential threats for the population, forcing thousands to abandon their home communities.

The root sources of Haiti's dysfunctional state can be traced back through a complex historical process dating back to before even the 1804 revolution that made Haiti the first slave colony to achieve independence. More recently the dysfunctional process of state formation expressed itself in a chaotic pattern of urbanisation. Newcomers to the capital, Port au Prince, were mostly poor peasants forced to leave their communities as a result of the collapse of the agrarian economy, who settled on unclaimed land around the city. Huge, overcrowded slums characterised by sub-standard building conditions popped up around the city. Not surprisingly, the earthquake disproportionately affected these disadvantaged communities. The vulnerability of Haiti's population magnified the destruction of an earthquake of otherwise unremarkable power.

One manifestation of the relationship between state fragility and displacement was the total inability of the state to react to the crisis and assist and protect its population after the earthquake. The state was incapable of organising search and rescue operations; without clear leadership, survivors had to fend for themselves. Lacking a national army, Haiti did not have a unified force with even moderate technological capabilities, heavy equipment and a clear chain of command capable of leading the rescue effort. A frail health system cracked after being inundated by thousands upon thousands of victims seeking urgent help. Many people who could have survived did not as they did not receive medical

ACT/Paul Jeffrey

assistance. The state was not even capable of retrieving the bodies of victims, and assistance began in earnest only with the arrival of international help several days later.

How uprooting weakens the state

Uprooting of such proportions predictably had a crippling effect on Haitian society and on the state. In the capital alone a third of the population was rendered homeless. While many sought shelter with relatives and friends, many thousands of people spontaneously sought shelter in parks, squares, streets and open spaces. According to the Haitian Camp Coordination and Camp Management Cluster, at the peak of the crisis there were up to 1,555 camps of diverse sizes and shapes holding 1.5 million internally displaced people.

As of October 2012, almost three years after the disaster, 496 camps remained open and 358,000 people were still displaced. A fragile state has been incapable of fixing the problems. Most residents of the camps are without work and lack the means to support their families. The majority of children do not attend school because their families lack the means to send them there. Camps are overcrowded, lack electricity and running water, and have awful sanitary conditions. In Golgotha, a typical camp, there was one shower for every 1,200 people and one working latrine for every 77 people.

Security conditions inside the camps have also allowed women and young girls to be systematically beaten and raped by armed men. Victims neither have access to medical treatment nor to accessible, effective judicial recourse, something that has fostered more attacks and perpetuated general conditions of impunity. Many camp residents have also been threatened with eviction, lured to abandon camps in exchange for meagre payments or violently evicted by armed thugs sent in by landowners eager to reclaim their property, three quarters of camps and settlements having been set up on private land.

In addition, the disaster and the ensuing humanitarian crisis had a severe psychological

20-year-old Shirley [not real name] lost her mother and aunt in the 2010 earthquake in Haiti. With no place to go, she moved into one of the sprawling tent camps in the capital, Port-au-Prince. One night she came back to her tent to escape the rain. A man approached her and asked to go inside. She said he hit her and pushed her into the tent: "He threw me to the ground and raped me... The tents are not secure. Anyone with a razor or knife can cut the tent and come inside. There are no walls and no protection and before you know it someone is there in your tent."

impact on a significant part of the population; many Haitians, in particular the children, are severely traumatised from having experienced personal losses, endured terrible injuries and suffered the breakdown of their normal existence after losing their homes and belongings. Their predicament has been made worse by the systematic human rights violations and by the grim prospects for recovery.

Massive displacement has further debilitated the Haitian state in several other ways. Most obviously, the humanitarian catastrophe prompted the state to devote most of its limited material and human resources to addressing the immediate crisis, thus forcing it to postpone dealing with other urgent problems. More profoundly, displacement has had a negative impact on Haitian society by furthering marginality and promoting a culture of dependency. In his report to the UN Human Rights Council, Michel Forst, the UN's human rights expert in Haiti, warned that: "Although the camps were an appropriate response to an emergency situation, one can only wonder whether they have now contributed to the emergence of a new kind of social organization that might create more problems than it solves."

Displacement and state building
Displacement creates formidable challenges to state-building processes. In addition to distracting badly needed resources, massive displacement often pushes peacebuilding off the agenda as all efforts coalesce around tackling acute humanitarian needs. Public policies are often made in a haze and under great pressure in this context. The Haitian authorities have been obliged to channel resources to improving security in the camps and dealing with tensions created by violent evictions. This meant reassigning police away from communities afflicted by acute levels of violence. Uprooting also raised social tensions and resentment between the displaced and pauperised urban dwellers who were not directly affected by the disaster and therefore not eligible for special aid programmes. The critical housing situation

also forced the Haitian authorities to develop plans in a rush. The authorities opted for depopulating rather than revitalising urban areas, arguing that the emergency provided an opportunity for rural revitalisation and industrial de-centralisation. In the midst of the grave humanitarian crisis and mass displacement that the country was experiencing, no coherent plan emerged, only piecemeal efforts that were clearly not good enough and paid scant attention to people's needs and wishes. State fragility also undermined reconstruction efforts because, in the absence of reliable local state counterparts, programmes were almost exclusively channelled through non-governmental organisations which often lacked the resources and expertise to carry out such challenging tasks.

The destruction and misery brought about by the earthquake, in particular the uprooting of hundreds of thousands of people who continue to endure inhumane conditions, is a chilling reminder of the circular relationship between state fragility and forced migration. State fragility creates the conditions for uprooting, which in turn further undermines state capacity by sapping the state's few available resources. However resourceful the Haitian population proves itself to be, its chances of finding lasting solutions to its problems are slim against the backdrop of a 'phantom state'. It is therefore critical that all actors involved, whether in responses to displacement or in promoting the development of the country, work on ways to strengthen the capacity and legitimacy of the Haitian state.

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Post-disaster Haitian migration

Diana Thomaz

Those who left Haiti in the chaotic aftermath of the 2010 earthquake did not generally find the same posture of solidarity and humanitarianism overseas that was apparent in the significant international assistance that followed the disaster.

Haiti has endured over two centuries of complex political strife, successive coups d'état, authoritarian governments and international interventions that have left it with weak institutions, largely unresponsive to the needs of the population. Most Haitians have learned to depend on themselves and develop their own networks of support, not only in the urban and rural areas of the country but also across international borders, as a way to circumvent the vulnerabilities of originating from a fragile state.

When the earthquake hit in January 2010 the capital Port-au-Prince's infrastructure virtually collapsed and the international community responded with significant relief efforts and large donations aimed at reconstructing the country. Yet the thousands who fled the country in search of safety and survival at that time did not generally find similar solidarity and humanitarian response in potential countries of refuge.

To take two examples, France and the US – two major donor countries that are deeply connected to Haiti's past and present – opted not to accept these forced migrants within their borders on the grounds that they did not legally qualify as refugees under the 1951 Refugee Convention. Both of them took precautions to avoid the possibility of a mass migration of Haitians to their territories; the US imposed a naval blockade around its shores and France closed the borders of French Guiana, one of its overseas departments.

Fragility as the main driver

The migration of these Haitians was mainly generated by the fragility of the Haitian state and its consequent inability to secure its citizens' basic subsistence needs, a reality which was only aggravated by the natural disaster that, in that sense, acted as a trigger – and not as the main driver – for the displacement.

Although the international legal definition of refugees would not cover the post-disaster Haitian migration, the Cartagena Declaration on Refugees of 1984[1] had promoted an expansion of refugee protection in Latin America, recommending the inclusion of those who "have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order."

In spite of the non-binding nature of this document, many Latin American countries have applied this broad refugee definition in their national legislation. Brazil was the first country in the region to pass a specific law on refugees in 1977[2] and included in it the Cartagena Declaration's severe and widespread violations of human rights as one of the legitimate reasons for granting asylum.

As Brazil was also one of the destinations for displaced Haitians after the earthquake, one might expect that its broad national legislation on refuge could have assured Haitians protection and access to refugee status. However, the National Committee for Refugees (Comitê Nacional para Refugiados, CONARE) – the public body designated to determine the granting of refugee status in Brazil – reached the conclusion that the displaced Haitians could not be granted asylum. The reasons for the denial stated that they could not clearly demonstrate the existence of a threat to their lives, security or freedom.

Although CONARE determined that Haitians could not be granted refugee status, it simultaneously considered that they required some sort of special permit to stay in Brazil owing to the precarious situation they would face if returned to their home country. As a consequence, some Haitians were granted so-called 'humanitarian visas'. Some actors, including UNHCR, hailed this attitude as exemplary, while others, mainly faith-based organisations and human rights NGOs, criticised it for being too timid, not amounting to the same protection as refugee status.

In January 2012, owing to an increase in the number of Haitians arriving, the Brazilian authorities took the initiative to regularise the situation of approximately four thousand Haitians who had already entered the country, while also introducing a quota system for new migrants from Haiti. As a consequence, hundreds of these migrants have found themselves stuck at the border.

What the Brazilian case serves to illustrate is that, even in cases where a broad national and regional definition of the refugee condition exists, obtaining effective protection or achieving durable solutions for those fleeing from fragile states is more difficult and dependent on political will than with 'traditional refugees'. As these migrants do not fit the globally recognised definition of refugees, their claims for rights and protection are more easily subject to the receiving state's sovereign power in deciding who is granted asylum and who is not.

A practical way forward

Even though the post-disaster Haitian migrants theoretically do have rights in a broad human rights and humanitarian interpretation, they are not properly covered by international frameworks for refugee protection in practice. Cases of displacement related to state fragility are not rare at the present time. Given the significant international mobilisation in the relief and reconstruction efforts following the earthquake in Haiti but the less generous stance towards the Haitians who fled the

devastated country, we should seek ways to try to adjust the international community's handling of those displaced from fragile states.

One such way would be to stress the role that these migrants might play when out of the country in improving the situation of their compatriots back home. In that case they can, through the transnational links they create, help ameliorate the situation in their country of origin.

This rationale seems particularly appropriate in the Haitian case as Haiti's economy has been highly dependent on remittances for decades and in these circumstances would allow the displaced to send remittances back to their families.

An effective and low-cost strategy for helping to rebuild a fragile state devastated by a natural disaster might consist in the adoption by receiving countries of a migration policy that recognises those migrants most in need of protection and permits them to enter and be locally integrated. What the receiving countries would be doing is engaging in a complementary assistance approach.

To this end, receiving countries might either adopt broader interpretations of their existing laws on refuge or allow exceptions, creating special programmes or visas for those fleeing fragile states at particularly vulnerable moments. This is not a normative solution but one that appeals to the practices of humanitarianism in a broad sense, an expanded humanitarianism not only committed to sending aid abroad but also to allowing forced migrants in.

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1. Cartagena Declaration on Refugees. Colloquium on the International Protection of Refugees in Central America, Mexico and Panama, 1984, agreed upon in the Cold War context of authoritarian regimes and a proliferation of domestic political crises that created millions of refugees in the Latin American region www.unhcr.org/refworld/docid/3ae6b36ec.html

2. Law 9.474/97 of 22 July

Humanitarian responses in the protection gap

Aurélie Ponthieu and Katharine Derderian

Often a combination of factors pushes people to leave their country, and the voluntary character of their departure remains debatable, challenging humanitarians both to meet needs and to adapt to changing categories of forced displacement.

Today, the reality of forced displacement is characterised by mixed flows, restrictive migration policies and increasing connections between economic migration and political flight. As a result, assisting forcibly displaced populations already means intervening in different type of settings: camps, detention centres, transit locations and urban environments, increasingly with challenges for human dignity and access to basic services. At the same time, new vulnerable groups are arriving at the doors of Médecins Sans Frontières' clinics, including victims of human trafficking, environmental disasters or food insecurity. People's main reason for flight is often difficult to identify, yet remains key to the legal status they are deemed to have upon arrival.

While legal categories are often inadequate in the face of complex realities, vulnerabilities remain similar regardless of status. Neither qualifying as refugees nor being voluntary economic migrants, many people on the move face inadequate policies, lack of assistance and abuses of their human rights. In the countries of destination, their situation depends on fluctuating and politically motivated reception policies and the goodwill of international or local organisations and NGOs to assist them. Often, lack of assistance or incoherent policies only aggravate humanitarian needs, leading to a very real 'protection gap' for the people involved and challenges for aid organisations and states. States facing such influxes must adapt migration and refugee policies coherently to avoid increased vulnerability and to uphold people's rights and human dignity.

Recently, MSF has intervened in several situations where significant numbers of forced migrants – who share the same needs and vulnerabilities, if not the same profile or reason for flight – confront a dire medical and humanitarian situation. Among recent prominent examples are Zimbabweans crossing the border in large numbers to South Africa (2007-13) and Haitians stranded in the Amazon region of Brazil (2011). These two groups reflect some classic economic migration patterns – the search for economic opportunity, a high proportion of male migrants and/or the use of smuggling routes. Yet many of them point to reasons more complex than the simple will to improve their economic situation. While some fled as refugees, the majority fled as a survival strategy from the consequences of state fragility, including massive outbreaks of disease, natural disasters and extreme poverty. In these contexts, people's vulnerability arguably ended up equal to or greater than that of refugees in the same country of destination.

Haitians in Brazil

Brazil has faced an irregular flow of Haitians, with 3,814 people officially entering its Amazonian border with Peru between 2010 and 2012. Most of them had transited through Peru with the help of smugglers after travelling by plane to Panama or Ecuador. If Haitian emigration is hardly a new phenomenon – one out of six Haitians is estimated to live abroad – this was the first time Brazil was confronted with this phenomenon.

In 2011, MSF conducted a survey in the border town of Tabatinga where most Haitians remained stranded. 40% of those surveyed came from regions of Haiti affected by the January 2010 earthquake. Even though 84% declared that unemployment was their main reason to migrate, the earthquake represented

the second motivation (56%). 69% said they had been affected by the earthquake, with 51% having lost their house and 33% members of their family. Insecurity was also mentioned by 41% as a motivation to leave. Even if Haitians would not qualify as *prima facie* refugees, many acknowledged the humanitarian crisis in Haiti and the burden that forced returns would impose on the country in the context of the destruction and displacement caused by the earthquake. In February 2010, OHCHR[1] and UNHCR urged countries to stop returning undocumented migrants to Haiti and to grant them protection on humanitarian grounds, an appeal that was renewed in 2011 and 2012.

Following the UN call in 2010 at the time of the earthquake for temporary protection for Haitian migrants, Brazil regularised some 300 Haitians present on its territory, offering them 'humanitarian visas'. However, the federal authorities failed to define their policy framework as regards Haitian migration, hampering timely responses to new influxes of Haitians at Brazil's borders.

With no clear policy in force and despite the government decision not to count Haitians as refugees, Haitians in Tabatinga had no alternative other than the asylum system to obtain temporary documentation and the right to work and to be able to leave Tabatinga. With the asylum system overwhelmed by new applications, delays in processing them and the extreme isolation of Tabatinga resulted in an alarming increase in migrants' vulnerability and humanitarian needs. Stranded for two to four months in Tabatinga, Haitians remained unemployed, incurring debt to pay for poor, unhygienic housing. According to an MSF survey, a vast majority had only 1m² living space, slept on the floor, had limited access to potable water and sanitation and ate one meal a day provided by the local church. The federal government requested UNHCR not to assist Haitian migrants despite their asylum seeker status while municipal authorities designated the 'Haitian problem' a federal issue. In this context of blatant exclusion, MSF set up a short intervention aimed at improving basic living conditions

Stranded Haitians in the border town of Tabatinga, Brazil.

and advocated for the local authorities to grant access for Haitians to Brazilian basic services, resulting in complete registration of all migrants in the health care system.

On 13 January 2012, the Brazilian government adopted legislation regularising all Haitians present on its territory and allowing for family reunification. This decision ultimately facilitated legal immigration, with 100 visas per month being granted at the Brazilian Embassy in Haiti.

Zimbabweans in South Africa

In a similar case, some two million Zimbabweans crossed the border to South Africa to flee the consequences of their country's political and economic crisis in the 2000s. While the region has long known different types of labour migration across and within borders, as well as refugee flows, the migration of Zimbabweans in the last decade has been more complex. Food insecurity and the lack of access to basic services such as health care have been important triggers in the migration of Zimbabweans to South Africa. In 2009, Zimbabwe was the most food aid-dependent country in the world, with seven million out of the population of nine million considered food insecure. 15% of the adult population was HIV-positive and 94% of the population unemployed. At the same time, the country faced Africa's worst cholera outbreak in over fifteen years in an epidemic that affected all provinces. Zimbabwe's fragile public service systems were simply unable to cope. People fled these desperate conditions, with no question that their motive was simply to survive.

South Africa initially considered Zimbabweans arriving at its border as voluntary economic migrants. Many people had crossed the border irregularly and remained undocumented due to the lack of access to legal migration channels, refugee status or temporary protection measures. In mass deportations from January to June 2007 the South African authorities repatriated a total of 102,413 undocumented migrants to Zimbabwe. The deportation policy and its

effects pushed Zimbabweans 'underground', where many lived in appalling conditions. This government policy, coupled with a lack of legal status and a dysfunctional asylum procedure, hampered Zimbabweans from accessing health care and other assistance.

In April 2009, at the peak of electoral violence in Zimbabwe, the South African Department of Home Affairs, under heavy pressure from NGOs and human rights groups, offered Zimbabweans a 'special dispensation permit' under the Immigration Act, a moratorium on deportations, a regularisation process and a 90-day entry visa for passport holders. Although this new policy aimed to provide all Zimbabweans with a legal status, acknowledging their protection needs and the unfairness of forced returns, the special dispensation permit was never implemented. As a result, undocumented Zimbabweans turned once again to the asylum system to get access to employment and education. This strategy overburdened the asylum system and South Africa became the country with the highest number of pending asylum applications in the world.

The moratorium on deportations and the complex documentation process for Zimbabweans ended in 2011, once again exposing the vast majority of Zimbabweans to arrest and deportation. Access to asylum procedures became ever more restrictive, with undocumented individuals of all nationalities systematically denied access into the country and turned away, forced to cross clandestinely, so called 'under the bridge'.

'*Guma guma*' – criminal gangs present along the border – rob migrants of their belongings or sexually assault them; men are often forced to rape women accompanying them, or otherwise face rape themselves. From January 2010 to June 2011, MSF and the Thuthuzela Centre in Musina treated 481 people who were raped or forced to rape when crossing the Limpopo River between South Africa and Zimbabwe. Most victims also faced other types of violence including beating and abduction.[2]

Partial or temporary solutions

Several factors influenced the humanitarian needs of migrants in these contexts: access to a legal status, respect of human rights and the responsiveness of the asylum or migration regimes toward their specific situation. Each MSF intervention was initially driven by the lack of other responses to these migrants' needs.

State immigration and asylum policies define who is eligible to enter and remain on their territory but these policies are generally based on pre-existing, defined legal frameworks and categories that risk being too rigid in today's world. Given the situation in some countries, in fragile states such as Zimbabwe and Haiti, do populations have any other option than migration? Sadly, the fear of 'pull factors' may influence the provision of assistance and protection status more than the reality of people's needs and vulnerability.

After some time, Brazil and South Africa acknowledged the specificity of the causes of migration from Haiti and Zimbabwe and the need to adapt existing policies. In both cases, the use of asylum channels alone failed to address needs fairly and effectively. While these two countries granted permanent residence or humanitarian visas to foreign individuals in special circumstances, these mechanisms led to politically oriented, ad hoc and thus temporary solutions. Even though Brazil regularised several thousand Haitians in January 2012, this did nothing to resolve the situation of hundreds of later arrivals who face the same substandard living conditions. With continuing difficulties in Haiti, the most vulnerable of Haitian migrants are unlikely to obtain visas in Haiti and will continue to arrive in Brazil over various borders, yet face the same needs.

South Africa's proposed special immigration status for Zimbabweans aimed at providing stay and work permits failed to resolve the situation, mainly due to unclear requirements or applicants not having passports. Since the end of this process, arrests, detention and deportations have resumed in substandard conditions, during which people face health risks such as interruption in HIV or TB treatment, or exposure to communicable diseases. Today, South Africa faces new mixed flows of vulnerable individuals, including Somalis and Congolese from the war-torn Kivus. Instead of revising its policies in response to forced migration, South Africa is closing its borders, restricting access to international protection, risking *refoulement* and forcing people to enter by irregular and dangerous means.

New emerging concepts like 'survival migration'[3] have the merit of defining this category of forced migrants and challenging the adequacy of existing legal frameworks when, as in these cases, state fragility and humanitarian needs create substantial migrations.

MSF's experiences in Brazil, South Africa and elsewhere point to the humanitarian consequences of a protection gap. Ad hoc and temporary state policies have proven inadequate as answers to a continued and durable phenomenon. There is now an urgent need to develop coherent and needs-based mechanisms to adapt asylum and migration policies to displacement as one of the long-term consequences of state fragility. Otherwise, some of the world's most vulnerable people risk remaining caught up in a complex of state fragility, restrictive policies and inadequate assistance – with very real consequences for their health and human dignity.

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1. The UN Office of the High Commisssioner for Human Rights

2. See also 'South Africa's smugglers' borderland' by Tesfalem Araia and Tamlyn Monson, FMR 33
www.fmreview.org/en/FMRpdfs/FMR33/68-69.pdf

3. Survival migration refers to "persons who are outside their country of origin because of an existential threat to which they have no access to a domestic remedy or resolution". Betts, A 'Survival Migration: a New Protection Framework', *Global Governance*, Vol. 16, No. 3.
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Flight, fragility and furthering stability in Yemen

Erin Mooney

The existence of a large number of refugees or internally displaced persons in a country is considered a primary indicator of instability.[1] By this measure, and all others, Yemen is one of the world's most fragile states. Less well understood is how this context affects the vulnerability of refugees, IDPs and migrants themselves and what can be done to strengthen protection for them.

"When disorder threatens, seek refuge in Yemen." So counsels a hadith, or recounted saying of the prophet Mohammed. Since time immemorial, countless people have heeded this advice and come to Yemen in search of safety from violence and instability. Although by far the poorest country in the region, Yemen is the only state in the Arabian Peninsula that has signed either the 1951 Convention or its 1967 Protocol, and continues to uphold its long-standing reputation as a place of refuge.

Since 1991, most refugees to Yemen were fleeing the protracted conflict in Somalia; of the 242,000 refugees registered in Yemen at the end of March 2013, over 95% are Somalis, who are automatically recognised as *prima facie* refugees.[2] The others originate from Ethiopia, Iraq, Eritrea and other countries, including Syria, all of which also feature prominently in indexes of state fragility. As a sign of their desperation, refugees to Yemen therefore have fled one fragile state for another.

Most refugees and asylum seekers arriving in Yemen were not aware of the deterioration in the political, security and economic situation in the country. Nor have they been immune to its effects. Several hundred were uprooted anew, this time within Yemen, and some were killed in the violent clashes that rocked the capital, Sana'a, in 2011. In addition, they have faced sporadic harassment, in particular after unfounded rumours in 2011 that the government was recruiting refugees to help quell the anti-regime protests and in 2012 that "Somalis" were suspected to be behind some suicide bomb attacks on government officials. A Somali refugee woman who was arrested on her way home from work lamented: "We came here to run away from a war and now we are caught up in someone else's war."

The political crisis of 2011 also caused a worsening economic situation, resulting in particular repercussions for refugees. Many refugee women lost regular work as cleaners and domestic workers as well as ad hoc employment. Refugee men also lost job opportunities, particularly in construction, while those still working reported increased mistreatment at work. More refugee children were compelled to work to help support their families. The combination of insecurity and economic difficulties in Yemen even led several hundred refugees to make the return journey to Somalia.

The 'Gate of Grief'

For the most part, however, people – an unprecedented number, in fact – continue to come to Yemen in search of safety or economic opportunities in Yemen, or on their way further afield. In 2011, as famine ravaged the Horn of Africa while political crisis and violence engulfed Yemen, more than 103,000 persons (double the figure for 2010) arrived on Yemen's shores. Then 2012 brought the largest recorded influx to Yemen yet (107,500 persons). 2013 is set to see similar numbers, possibly even surpassing previous records. Ethiopians seeking work in the Persian Gulf, rather than asylum in Yemen, comprise the vast majority (80%) of maritime arrivals. In the first three months of 2013 alone, more than 25,000 Ethiopians travelled to Yemen by sea, either directly from Ethiopia or via Djibouti – an average of 277 people a day.

Most of this 'mixed flow' of regular and irregular migrants, refugees and asylum

seekers arrives via the Red Sea strait called *bab el-mandeb* in Arabic, meaning 'the gate of grief'. The fact that these sea crossings rely heavily on smugglers drives much of this migration into the shadows, beyond the reach of international or national monitoring efforts; the insecurity in Yemen often also impedes humanitarian patrol teams from reaching new arrivals before the smugglers. Some who set out on this journey to Yemen do not survive it. Since 2008, well over 1,000 people have not survived the hazards of the crossing. For those who do make it to Yemen, abuses are rampant and on the rise.

Considering the fragile political and security situation in Yemen, it may seem surprising that so many people continue to make this perilous journey. However, rather than deterring migrants, it appears that the insecurity in Yemen has made it easier to enter Yemen as it has constrained national and international efforts to monitor Yemen's vast coastline and to curtail trafficking.

Canaries in the coal mine

In addition to Yemen being a refugee-hosting state and a major transit hub for migrants, some half a million Yemenis have been internally displaced in recent years as a result of three distinct IDP crises.

First, since 2004, six successive wars in Sa'ada Governorate have created more than 356,000 IDPs. Although a February 2010 ceasefire remains in place, localised armed clashes in surrounding governorates caused new displacement in 2011 and 2012. Meanwhile, most IDPs thus far have been reluctant to return in the absence of a political solution to the conflict, guarantees of safety for all civilians, extensive de-mining, and reconstruction of heavily war-damaged personal property and public infrastructure.

Second, violence associated with political unrest in the country in 2011 caused internal displacement, particularly in and around the capital, Sana'a. Those uprooted by the violence include refugees, IDPs who previously had fled the conflict in Sa'ada, and civilians

displaced for the first time. Over the course of 2012, most people uprooted by the unrest managed to return, although they still need support to secure a durable solution.

Third, conflict in Abyan Governorate beginning in May 2011 displaced some 167,000 people across five southern governorates. In June 2012, after the government declared it had rooted out anti-government armed groups from Abyan, IDPs could begin to consider the possibility of returning. Initially, returns were tentative and limited due to the widespread presence of landmines and unexploded ordnance, general security concerns and extensive damage to infrastructure. Yet, by the end of April 2013, 95% of these IDPs had returned and begun to rebuild their lives in Abyan.

A recent analysis by the government of factors of instability in Yemen highlights that IDPs, returnees and the communities hosting them were among those most affected by

UNHCR/Yasser Nasser

the nationwide political crisis of 2011 and made more vulnerable by the humanitarian crisis. Finding durable solutions to internal displacement in Yemen is critically important not only for IDPs themselves but also for promoting stability in the country as a whole. Indeed, in Yemen, as elsewhere, IDPs can be considered the proverbial 'canaries in the coal mine' – their conditions and prospects are key barometers of whether peace will take root and development will occur, or whether conflicts will re-emerge and another spiral of violence will ensue.[3]

Key to the transitional process and thus future stability of Yemen is the National Dialogue Conference, which began in March 2013 and will run for six months. In addition to revising the Constitution, the agreed aims of the process include taking "the necessary legal and other means to enhance the protection of vulnerable groups and their rights." The extent to which the voices and views of IDPs as being among the people most affected by instability in Yemen are heard and taken into account will be critical to the inclusiveness and legitimacy of the process.

Feasibility amidst fragility?
As Yemen seeks to advance down the path from fragility to stability, the Government of Yemen's Transitional Program for Stabilization and Development, 2012-2014 (TPSD) defines four top priorities and urgent actions for promoting stability in Yemen: (i) finalising the peaceful transfer of power; (ii) restoring political and security stability; (iii) meeting urgent humanitarian needs; and (iv) achieving economic stability. Among the urgent actions to be taken towards achieving security, stability and enhancing the rule of law is to "[r]eview and further develop national legislation pertaining to addressing issues of vulnerable groups such as women, IDPs, asylum seekers, and refugees in addition to issues relating to trafficking and migration management." Stability also requires "urgent action" to "meet urgent humanitarian

Migrants arriving on the coast of Yemen from the Horn of Africa.

needs", including by assisting IDPs and other vulnerable groups and compensating individuals for private property damaged during conflict. To promote economic growth, reduce unemployment and alleviate poverty, the TPSD includes a medium-term economic recovery programme, which recognises the need to expand social protection including through specific provisions "to deal with crisis issues such as providing shelter to IDPs."

International support for these and other stabilisation efforts is essential. For refugees, UNHCR is working with the transitional government to develop national refugee legislation and to strengthen the national asylum system. Mixed migration flows from the Horn of Africa to Yemen, by contrast, must be recognised as an issue affecting not only Yemen but the region as a whole. To this end, the Government of Yemen is playing a leadership role and taking the initiative to convene, with support from UNHCR and IOM, a regional conference in Yemen in 2013 to develop a strategy for managing the flow of mixed migrants and combatting smuggling and trafficking in the region.

The IDP situation, meanwhile, has begun to see positive developments, most notably the recent mass IDP returns to Abyan. The challenge now is to support the sustainability of returns, in particular through reconstruction of infrastructure ensuring access to basic services, rebuilding livelihoods and re-establishing governance and the rule of law. Meanwhile, greater national and international attention and resources also must be devoted to facilitating similar progress towards durable solutions for the protracted and larger IDP situation from the conflict in Sa'ada.

Indeed, the breakthrough towards durable solutions for IDPs from the Abyan conflict gave new impetus to efforts to address and resolve internal displacement throughout Yemen. In November 2012, the Prime Minister commissioned the development of a national IDP policy. UNHCR is supporting the government in this endeavour. The policy has now been finalised through a broad-based consultative process and it is to be hoped it will be adopted by the government without delay in 2013. When it does so, Yemen will be among the still relatively few albeit growing number of countries in the world to adopt a national IDP policy. Doing so is a key benchmark of national responsibility for addressing internal displacement, with the emphasis being not only on adoption but implementation.[4]

In conclusion, in addition to general instability, the current situation in Yemen engenders specific fragilities for refugees, asylum seekers, migrants and IDPs. Yet the case of Yemen also shows that even in the most fragile of states it is possible to undertake national and international efforts towards enhancing protection for these groups, and that doing so is an imperative in order to promote national stability. Stability is closely linked to effective governance, which in turn can be gauged by how well a society protects its most vulnerable. Efforts currently underway in Yemen by the transitional government to strengthen its national asylum system, address mixed migration (including efforts to tackle smuggling and trafficking) and resolve internal displacement all are important steps in this direction.

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The Failed States Index, 2012, Fund for Peace, available at: http://ffp.statesindex.org/indicators.

2. For all figures cited, see http://tinyurl.com/YemenUNHCR

3. William O'Neill, 'Internal Displacement and Peace building: Institutional Responses,' *Refugee Survey Quarterly*, Vol. 28, Issue 1.

4. See Erin Mooney, 'National Responsibility and Internal Displacement: A Framework for Action,' *Forced Migration Review* supplement October 2005
www.fmreview.org/en/FMRpdfs/FMR24/IDP%20Supplement/05.pdf
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Surviving the odds: education, commerce and development among displaced Somalis

Abdirashid Duale

Private entrepreneurship and the disapora play important roles in supporting displaced people in fragile ungoverned situations. They are also valuable in helping those situations emerge from fragility.

The Somali territories are beginning to emerge from arguably the most difficult period in their history. For two decades large areas of the region have struggled in the absence of any recognisable state infrastructure, and periodic droughts like the one of 2011 have left millions facing food and water shortages. But another story has also emerged, one of resilience and resourcefulness in the face of these hardships. Remittances from the Somali diaspora have helped to sustain an economy that in many sectors, such as livestock, construction and telecoms, is surprisingly buoyant.

Encouraging as these developments are, there is still some way to go. The UN estimates that there are currently 1.4 million internally displaced people (IDPs) across the Somali territories and hundreds of thousands of Somali refugees in Kenya, Ethiopia and beyond. As conditions for more established communities begin to improve, the fear is that these vulnerable groups could be left behind.

Barring inevitable cases of tension and resentment, resident communities have generally received these displaced groups with compassion and helped them to settle. Such charity is deeply ingrained in Somali culture and crosses regional and other divides. Smoothing the integration of IDPs is vital for a sustainable solution to the problem, and reinforcing common culture and values is an important part of that process.

The story of my family and the business we established, Dahabshiil, is closely associated with the story of migration in the Somali territories and with the growth of the remittance industry that accompanied the mass movement of millions of people. Amid the unrest of the 1980s my family was among the hundreds of thousands who fled to Ethiopia leaving everything behind. Over time, we began using our existing network of contacts to offer much-needed money transfer and other services to refugees.

There are many examples of this kind in today's displaced communities. Time and again, refugees and IDPs have proved that they do not simply have to be passive actors waiting for aid. Business people arriving in the camps often begin trading again; in Dadaab refugee camp in Kenya's North Eastern Province there are blacksmiths, tailors, fruit vendors and many others earning a living despite the challenges. In some of the more stable and prosperous regions within the Somali territories, many IDPs have successfully integrated with host communities by becoming part of the productive economy. Now that the political and security situation is improving elsewhere, better coordination of aid efforts along with stronger governance and a more active business environment should help displaced people in those regions as well. These advances constitute the principal difference between past and present in terms of the status and prospects of the mobile population.

Aid agencies have in some cases implemented programmes that are specifically aimed at rehabilitating and integrating IDPs – employing vulnerable people and training them to tackle community needs such as rebuilding roads, collecting refuse and improving irrigation systems. Other initiatives have involved allocations of livestock, offering a source of income as well as food to the

recipients, some of whom have gone on to make successful applications for micro-grants, enabling them to start small businesses. Other schemes have focused entirely on training and vocational courses. In many efforts of these kinds, Dahabshiil has partnered with and supported NGOs and UN agencies by acting as a bank and a conduit for remittances, and in some cases – particularly in health and education – directly funding projects.

Perhaps the most powerful way to improve the situation of displaced people is through education. It is very often the poorest in society who are the most vulnerable to displacement and, once displaced, their chances of achieving a basic level of literacy and numeracy are diminished even further. Projects like that of the Africa Educational Trust (AET), which schooled women and children IDPs in 16 camps, aim to break this cycle. In Dadaab, a Canadian-Kenyan partnership is opening an onsite campus of Kenyatta University, making it the first higher education institution to serve a refugee camp. The project aims to bridge the gap between the outside world and the inhabitants of the world's largest refugee settlement, and to prepare them for returning to their places of origin.

Better connected students, both at Dadaab and in educational initiatives within the Somali territories, have been able to draw on help from relatives abroad; support for education has been one of the principal ways in which the diaspora has played a role in wider developmental efforts beyond straight commerce. Somalis of the diaspora feel a strong connection to their homeland and are driven by this and Somali custom to send remittances back to family members who find themselves displaced.

Remittances

We have witnessed at close quarters how the evolution of remittance patterns has mirrored the various phases of migration the region has seen over the years. Early Somali migrants working in the Gulf were often comparatively well connected and educated, and the majority

of capital inflows in those days were invested. A trade-based system of remittance transfer, known as *franco valuta*, bypassed strict foreign exchange controls and allowed for imports of raw materials that fed industrial growth. Later on, the civil war prompted a much larger and more far-flung migration involving a fuller cross-section of Somali society. Remittances for family support began to overtake those for commercial objectives and were soon far greater than development and humanitarian aid combined. The recent improvement in the business climate has meant that the proportion of funding being used for investment is once again on the rise.

Remittance income has been crucial to sustaining consumption and thus maintaining the conditions in which the economy can grow, creating opportunities for the poorest to earn a living. As the remittance industry has expanded it has assimilated the latest information and communication technology (ICT). The East African mobile banking revolution is well documented, and in the current environment the volume of remittances transferred to a particular region now depends in large part on the quality of telecommunications there. Fortuitously, the Somali telecoms sector underwent a spectacular boom in the years following the collapse of central government, when a newly competitive marketplace (aided considerably, it must be said, by the lack of regulation in the absence of a functioning state) allowed for the proliferation of what are now some of the cheapest and most reliable mobile services in Africa.

The number of mobile subscriptions in the Somali territories is now in the millions. Landline connections, by comparison, are relatively few. Internet access is also spreading. Abandoning copper wire and moving straight into mobile and wireless is one of the best-known examples of the developing-world phenomenon of 'leapfrog' technology, by which obsolete phases of industrial development are bypassed altogether. While there clearly remains a pressing need for stronger formal institutions

and governance, these advances seem bound to set the development of our financial infrastructure on a different trajectory. Realising the growing synergies between the two sectors, many money transfer operators in the Horn of Africa have, like us, made strategic acquisitions in the ICT industries, enabling them to expand services to those people who have traditionally lacked access to financial services but who now own or share a mobile phone.

There are many different shades of displacement within the Somali territories and different groups have distinct needs and priorities. With stability now returning across the region, collaborative efforts should be redoubled to boost literacy, training and employment, and to give not just IDPs but poor communities in general the tools they will need to contribute to the recovery.

By working with NGOs and local government, diaspora groups can play an important part in that process. The sheer size and spread of its diaspora have made modern-day Somali society one of the most globally-minded in Africa. The steady inflow of financial and human capital has been hugely significant to private sector development. The rehabilitation of Mogadishu – with a diaspora-funded construction boom, a rash of new start-ups and the introduction of wireless internet by young entrepreneurs arriving from Europe and the US – is perhaps the best current example of this. Until that recovery was underway there was a fear that the next generation of Somalis abroad would forget their roots but migrants are now returning and are bringing their children with them, reinforcing a growing sense of renewed hope and confidence. There are many challenges still to face but if we can maintain the advantage, the last two years may well be remembered as the moment the tide finally turned.

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Networked governance in Ecuador's border regions

Lana Balyk and Jeff Pugh

In order to improve security for both Colombian forced migrants and Ecuadorians in the communities where they live, an approach that takes advantage of governance networks can allow residents to negotiate access to resources and rights that they otherwise would not be able to enjoy. It can also improve relations between the two groups.

Ecuador's population of some 135,000 Colombian forced migrants who have fled their country of origin since 2000 makes it the largest recipient of refugees and asylum seekers in Latin America. In the cities, the state is strong and has the resources to protect these people. In the border areas, however, the state presence is very weak.

Despite Ecuador's progressive Constitution, which guarantees foreigners the same basic rights as Ecuadorians, many Colombians face difficulties in practice in accessing the rights guaranteed them by the Constitution and by international refugee law. Many have encountered a hostile reception in their new country; even local officials charged with the protection of law, order and human rights sometimes mirror discriminatory attitudes and behaviour toward Colombians. A UN official in Esmeraldas province, in Ecuador's coastal region near the Colombian border, explained the political calculation that local officials in the provinces often have to make: "When the revenue for a local government does not add up to the projected levels, naturally they are not going to be able to adequately serve the needs of the entire population, so they

prioritise those who are going to give votes and political support – meaning Ecuadorians."

Undocumented migrants' lack of legal documentation reduces their ability to get assistance either from the state or from other potential allies. In fact, while the greatest fears of Colombians with documentation is being harmed by illegal armed groups and not having sufficient economic resources, undocumented migrants' fears were directed more toward the state, with deportation and incarceration being their biggest worries.

The role of networks

Since the government acts both as enforcer of immigration and deportation laws and as the protector of rights and source of dispute resolution, migrants frequently feel afraid to seek help from the state. In response to such practical gaps in the security protection guaranteed by the Constitution and Ecuadorian legislation, many Colombian forced migrants in Ecuador have turned to informal contacts and non-state actors for help in accessing protection, negotiating resources and resolving conflicts with each other and with Ecuadorians. The networks of personal contacts that forced migrants tap into can be key to their survival and success when they are fearful or do not know how to access rights and resources from the state.

Since local power brokers and NGOs gain authority by organising and representing migrants' interests to the state while providing resources and protection for migrants, their connections to government and international actors form a governance network that is often more responsive and accessible to non-citizens than government agencies alone. The ability to leverage the full spectrum of non-state, informal and state resources available through the migrant-related governance networks in Ecuador often represents a key factor in Colombians' success in Ecuador, as illustrated by two contrasting experiences.

Eduardo arrived in Quito in 2009 with his two daughters after his wife was a casualty of the conflict in Colombia. His sister had

UNHCR/S Aguilar

already been in Quito for nine years, and upon his arrival she initially assisted him and his family with food, shelter and, even more importantly, good advice. He immediately met with UNHCR to request asylum, and he and his family were granted refugee status. Over the coming months he networked with new friends and other refugees, and heard about various organisations that assist refugees. From these he received food and assistance with living costs. Eduardo worked in various odd jobs that he discovered through his networks. In early 2011 he and his family were selected for resettlement to Canada.

By contrast Maria arrived in Quito with her husband and three children in 2011 not knowing anyone there, and they have not encountered any helpful networks. They are fearful to make any contacts, and they avoid leaving home because of continued threats from Colombian FARC members who attacked them shortly after their arrival in Quito and continue to pursue them. Maria is clearly traumatised by the encounter and does not trust anyone in their host community, especially not other Colombians, as she cannot be sure if they are friendly or not. Maria is concerned for her family's survival; their search for peace and stability is an even more distant aspiration.

If organisations that work in cooperation with (or sometimes in place of) the state as part of a governance network play a key role in providing human security and building peace in migrant-receiving communities, what types of interventions have been most successful? And how can the state, the UN system and the NGO sector incorporate these lessons into their programme strategies? The experience of Ecuador shows that cooperative working relationships among NGOs, UN agencies and state institutions that deal with migrant-related issues can provide informal or unofficial

A Colombian refugee in northern Ecuador shows his new refugee visa. In the province of Sucumbios, mobile government registration teams (part of the Enhanced Registration initiative) are completing in a single day an asylum process that used to take months.

channels to access basic rights and economic resources for migrants who may not directly be able to access them from the state. These governance networks also have the potential to open up institutional spaces to foster tolerance between Ecuadorians and Colombians.

Negotiating rights and recognition
The Enhanced Registration initiative, a joint programme of the Ecuadorian Ministry of Foreign Relations and UNHCR, carried out mobile registration throughout the border provinces in 2009 and 2010, streamlining the lengthy refugee status determination process and bringing it closer to where many forced migrants actually live. This resulted in a doubling of the number of registered refugees with legal documentation in one year. The Enhanced Registration has been praised internationally as an example of governance networks producing concrete benefits for forced migrants while also strengthening the capacity of the state. In addition to increasing the number of permanent government refugee registration offices in the border provinces, the initiative also forged close and productive working relationships between Ministry officials, UNHCR officers and NGOs that accompanied and ensured the accountability of the process. These NGOs continue to advocate for greater refugee protection and to provide legal assistance to forced migrants going into status determination hearings.

NGO and international actors can complement the state by providing spaces for common action across nationality lines, reducing power inequalities and fear. Network building through personal relationships is important in the Latin American context. Of those Colombians who reported having no interaction at all with Ecuadorians in a survey by CEMPROC, an Ecuadorian NGO, more than two thirds reported having a negative perception of Ecuadorians, and none reported a positive perception. In contrast, more than half of those Colombians who had meaningful interaction with Ecuadorians (through family, in the workplace or at school) reported having positive perceptions of their citizen counterparts.

If governments, UN agencies and NGOs actively seek to strengthen governance networks and carry out adequate public campaigns of diffusion and awareness raising, it could lead to more experiences like Eduardo's and fewer like Maria's, which would increase human security for everyone in fragile migrant-receiving regions.

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Refugees from Central American gangs

Elizabeth G Kennedy

El Salvador, Guatemala and Honduras are among the world's most fragile nations, yet they are largely ignored by refugee agencies who underestimate transnational criminal organisations' abuses and powers of control, while overestimating national governments' ability and willingness to protect their citizens.

Despite the steady stream of thousands fleeing into neighbouring nations, UNHCR's 2011 data show no internal displacement in the Central American region and only a few thousand refugees. Courts in the United States, where most seek asylum, rely on outdated, inaccurate or politically motivated reports that document greater ability or willingness of the state to protect its citizens than exists. 74,449 people from El Salvador, Guatemala and Honduras have applied for asylum in the US since 2007 but only 2,250 applications were granted. Furthermore, the US deported between 22,000 and 41,000 migrants from each of these three nations in 2012 alone.

Recognition of the Central American crisis could impose fewer burdens on receiving nations like Mexico and the US. Overloaded immigration courts spend countless hours on their cases and then their appeals, hundreds of new detention centres have been opened to house them while they await their verdict[1] and millions of dollars are spent on their deportation. Alternatively, if the crisis were acknowledged, resettlement programmes could be offered to those in need and receiving nations could plan for refugees' arrival, introduction into society and productive citizenship, as was done in the 1980s. More importantly, recognising institutional factors in the region that contribute to state fragility would strengthen Central American asylum applications.

In 1996, the US began deporting both citizens and residents who were born elsewhere and convicted of a crime, many of whom had joined gangs in the US's roughest urban neighbourhoods; from 2000 to 2004 alone, more than 20,000 of these were repatriated to Central American nations. This influx

of gang members who often spoke limited Spanish and possessed limited skills arrived in unstable countries barely recovered from the civil wars of the 1970s and 80s. Crime, drug sale and use, and violence increased quickly, and the street gangs spread their network throughout the region.

Today, all three nations are severely challenged by these transnational criminal organisations (TCOs), which wield considerably more arms, money and power than each nation's military. Estimates of government officials who are also on TCOs' payrolls in these three countries are between 40 and 70%. Whole municipalities – and pockets of the federal governments – are controlled by TCOs who mete out education and justice through bribery, bullets, forced recruitment of children as young as nine, rape and torture. The state, compromised as it is with corruption and outnumbered in arms as it is by the TCOs, is critically limited in its ability to protect citizens from TCO terror.

TCOs seek to instil fear of serious and harmful persecution in order to achieve their desired control. Individuals who express fear of such persecution are highly likely to be well-founded in doing so, especially because the state's ability or willingness to protect is severely compromised. Surprisingly then, Central Americans are forcibly repatriated to their countries where they face TCO persecution – a violation of the principle of *non-refoulement*.

To correct current failures and recognise that people are being returned to persecution, four facts must be acknowledged:

Fragility can lead to state inability or unwillingness to protect:[2] Using arms

and money, TCOs may exert significant control over such governments through threats and bribery, with the effect that a government may be unable to protect its citizens because of comparatively limited resources; where a government is able, it may be unwilling because of widespread corruption. Nonetheless, asylum courts have been generally remiss in not acknowledging TCOs as non-state actors capable of inflicting actions rising to the level of persecution. Greater weight must be given to the persecution that non-state actors like TCOs inflict, especially in fragile states, where they may with impunity wield significantly greater ability and willingness to punish and protect than the state itself. Some TCOs operate throughout these nations and the region, meaning that internal flight alternatives rarely exist, even though courts sometimes wrongly speculate or assume otherwise.

Persons fleeing crises that have not received international recognition have a right to have their asylum cases taken seriously: The flight abroad of citizens of these nations may be the best indicator of the extreme risks or persecution they have encountered, despite lack of international recognition of the crises they face. Such large-scale flight may also be considered to be an indicator of state fragility. Yet the refugee regime instead punishes them and allows courts to deem them simply economic migrants in denying their asylum claims. Cases of applicants from as yet unrecognised crisis situations should be considered just as seriously as those with a large humanitarian presence or recognised instability.

Children targeted by TCOs are at risk because of their membership of a 'particular social group' or their political opinion:[3] TCOs in Central America specifically prey on children to join their ranks or be killed if they refuse, facilitated by the fact that some 100,000 youth in the region are already gang members. The median age of gang members is just 19. In only the first three months of 2012, 920 children were killed in Honduras and girls as young as nine were gang-raped

in all three nations. Most children regularly see murder being committed, some have lost their parents to gang violence and some no longer attend school because gangs actively recruit from school grounds. Former child soldiers in other contexts, forced to join national and guerilla armies, have been recognised as a particular social group; forced conscription into transnational gangs is no different. Those who flee to avoid conscription into gangs exercise a political opinion and would be likely to face immediate persecution if they were returned. Returned or not, their family may face reprisals.

Temporary protection status can be used to uphold non-refoulement principles when persecution for reasons of accepted grounds cannot be established: Asylum courts have repeatedly found that fear of generalised violence does not meet the standard of persecution or return to torture, even though such violence may have targeted detrimental effects on certain groups, especially children whose entire courses of life are likely to shift. TCOs target returnees because of their perceived increase in wealth or knowledge of gang operations in the US and Mexico. The effect is that those repatriated are not safe and frequently find themselves persecuted by state and non-state actors. The US has created Temporary Protection Status for Central Americans fleeing natural disasters like earthquakes, floods and hurricanes in the past two decades but the more pressing issue they face may in fact be targeted violence at gangs' and governments' hands upon return.

UNHCR/M Echandi

Honduran family driven out of Honduras by gang persecution, applying for refugee status in the southern Mexican city of Tapachula.

Unacknowledged fragile states like El Salvador, Guatemala or Honduras highlight at best the lag in response time in refugee and humanitarian circles and at worst the geopolitical influences determining who is allowed to flee and to where. TCOs specifically choose weakened national bases where they can exert greater control. Arguably nations which contribute to situations creating flight – for example through large consumer demand for drugs – should be responsible for receiving the fleeing citizens.

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1. http://tinyurl.com/USimmigration-detention

2. Importantly for this region, legal definitions of 'persecution' and 'refugee' are expanded and already recognise this point in the 1984 Cartagena Declaration, 1994 San Jose Declaration, and 2004 Mexico Declaration and Plan of Action.

3. The act of refusing to join a gang, despite mounting pressure, is at the very least neutrality and often a radical act of support for peace.

Data quality and information management in DRC

Janet Ousley and Lara Ho

Forced migration creates special challenges to collecting data and monitoring responses in fragile states where infrastructure and systems are weak or non-existent. These states often lack the statistics registries needed to measure the basic demographic information that is essential to planning when emergencies happen. As key building blocks in the process of state reconstruction, valid demographic data are required to conduct robust needs assessments and to measure and demonstrate progress. When migration takes place, whether forced or otherwise, the poor data from weak state systems can become almost unusable, necessitating the need for costly external assessments.

In the Democratic Republic of Congo (DRC), the data problems resulting from poor state information management have been a persistent issue for years. The last nationwide population census in the country took place in 1984, before the major conflicts of the 1990s and 2000s, and today's population figures are often calculated by multiplying this 1984 baseline by a 3% growth rate regardless of changes in fertility, mortality (conflict-related and otherwise) or displacement, resulting in sometimes wildly inaccurate population estimates, and making it extremely difficult to prepare for or respond to the actual needs of both displaced and stable populations.

In the late 1990s and early 2000s, the International Rescue Committee (IRC) conducted a series of nationwide mortality surveys to better understand the impact of the wars, which was at that point grossly underestimated.[1] Though at the time these surveys were key to bringing attention to the conflict's devastating impact, they were also demanding in terms of the time, logistics and the technical and financial resources required to conduct them. Nevertheless, the mortality surveys did little to directly reinforce the Congolese state's ability to measure mortality.

As a result, since 2008, IRC has been helping the Congolese state improve its ability to collect valid demographic information and to measure and respond to displacement and emergencies. IRC is also supporting community-based solutions to strengthen data quality. Yet, as conflict again erupted in North Kivu in early 2012, many of the Community Health Workers included in the data-strengthening project were displaced themselves or had the cell phones they used to send data stolen or lost. Months of lost data show the weakness of even innovative solutions to improving data collection in fragile states.

If states are to escape fragility through the establishment of functional institutions capable of delivering services, good quality data and monitoring can help measure changes that result from displacement and are therefore important parts of the process.

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1. www.rescue.org/special-reports/congo-forgotten-crisis

The curious case of North Korea

Courtland Robinson

Displacement and distress migration within and outside North Korea may be an indicator of state fragility but a reduction in numbers should not necessarily be read as a sign of improving conditions there. In fact, increased movements might be considered as positive, if they are accompanied by increased protection for refugees, survivors of trafficking, stateless children and other vulnerable populations.

In 2011 the Fund for Peace's Failed State Index ranked the Democratic People's Republic of Korea (DPRK or North Korea) 22nd out of 177 countries, giving it a score of 95.5 out of a maximally worst score of 120. This was actually an improvement over the DPRK's previous rankings; indeed, it was the first time the country had dropped out of the top twenty since the index was begun in 2005. This was not due to enhanced state legitimacy, an indicator on which North Korea scored a 9.9 out of 10 (worst in the world), nor a better human rights record (9.5 out of 10). The 'improvements' were noted in the indicators of 'refugees and IDPs' and 'human flight', where North Korea was grouped among states with 'moderate' records.

Though both North Korean refugees and IDPs are quite challenging to count, it is not numbers alone that should be used to convey improvement or decline in their situation, as opposed to the fragility of the North Korean state. The unique physical and political geography of North Korea is shaped within by a regime bent on checking internal and external migration, as it is shaped externally by China to the north, that seeks to suppress cross-border movement and deny refugee protection to those who flee, and by South Korea to the south, whose cautious commitments stem in equal parts from a desire to help its suffering kin to the north and a fear of a dangerous, destabilising exodus. The result is a curious case where the ordinary measures of increased internal or external exodus are no longer reliable as indicators of greater fragility or propensity to fail. In North Korea, when seeking to interpret the meaning of displacement, the problem of absence does not mean the absence of problem.

While census data and official documents from the DPRK suggest limited movement internationally and internally, the unofficial picture is one of a great deal more mobility, most of it without authorisation. A study in 1998-99 that included nearly 3,000 North Korean refugees and migrants in China suggested a net migration rate of 18.7%, with much of the internal movement characterised as 'distress migration'. The study retrospectively covered a four-year period including 1996-97, when the DPRK experienced a severe famine with significant malnutrition, a rise in infectious disease and a dramatic spike in mortality among all age groups. In the study, more than 30% of respondents said their main reason for moving out of the household was to "search for food". Large numbers of children displaced by the famine and economic hardship were placed in so-called '9/27 centres' (named after the date of their establishment by government decree to aid those "wandering for food").

This displacement occurred within the territory of a state that has displayed a long-standing disregard for human rights and the international relief agencies currently involved had no clear mandate (or means) to address such concerns. Natural disaster seems to be the only form of displacement that may be discussed openly.

International migration

While migration of Koreans into north-east China dates back to at least the 1880s, the more recent surge in cross-border movements began in the mid-1990s but did not peak until 1998. Since then, North Koreans have been crossing into China, seeking to escape food shortages, economic

States of fragility

hardship and state repression in their own country. Most of these North Koreans have left without documentation or travel authorisation. Given their undocumented status and the repressive nature of the DPRK, these North Koreans have been labelled as refugees and asylum seekers by those who seek their protection. Conversely, they are called illegal migrants by both the Chinese and the North Korean governments.

From 1999 to 2008, we worked with local and international partners to monitor movements of North Koreans crossing into China. Key trends over the years included an obvious seasonal spike in arrivals during the winter months when food and fuel were scarce in North Korea and security might have been relatively more relaxed on both sides of the border, and an overall (nearly ten-fold) decline in the number of arrivals over the period from 1998 to 2008.

It is fairly clear that there was a dramatic decline in the North Korean population in north-east China, from around 75,000 refugees and migrants in 1998 to around 10,000 by 2009. Reasons for the declining refugee population have little to do with improved circumstances in North Korea. More than a decade after the famine, hardships continue for the North Korean people in the form of continued human rights abuse, chronic food insecurity, a moribund economy and periodic natural disasters. The declining refugee population has instead much more to do with tightened border security, increased migration to South Korea and other countries, and a growing knowledge that there are clear limits to protection and livelihood opportunities in China. China is signatory to the 1951 Convention but has introduced no implementing legislation nor do its policies acknowledge North Koreans as entitled to refugee protection under either national or international law.

In the leadership transition following the death of Kim Jung-il in December 2011, tightened security on both sides of the border contributed to reducing cross-border arrivals of North Koreans into China to a trickle for several months in 2012. North Korean entries into South Korea totalled only 1,500 in 2012, down from 2,700 in 2011. Since movements to South Korea began in earnest in 2002, about 24,500 North Koreans have settled in the South. It would be a sign of improving North-South relations and – with the exception of a massive exodus in the context of war, natural disaster or regime collapse – might be a possible sign of improved conditions inside North Korea if there were an increase in the outflow of North Koreans to South Korea and other countries.

Conclusions and recommendations

The declining numbers of North Korean refugees, migrants and asylum seekers in China cannot be interpreted as a sign of improving conditions in the DPRK but, at best, as evidence of constrained migration options and, at worst, as a cynical effort by both states to suppress the right to leave one's country and to seek and enjoy asylum in another. The growing proportion of women among the remaining North Koreans and the growing number of children born to these women and their Chinese husbands or partners point to a need to broaden the protection focus for displaced North Koreans to include measures to protect against human trafficking and promote durable solutions for stateless children.

UNHCR has declared all North Koreans in China to be 'persons of concern', although China does not recognise North Koreans' claims to asylum as valid. Indeed, in March 2012, a Chinese official reiterated that "these North Koreans are not refugees but rather they have entered China illegally for economic reasons… China is opposed to the attempt to turn the issue into a political and international subject."

North Korea might be encouraged to initiate something like an Orderly Departure Program (ODP), similar to the multilateral programme begun in Vietnam in 1979 to permit safe and orderly exodus of populations seeking to leave. It would be in North Korea's interests

to permit households with motives of family reunification, labour and economic betterment, or simply survival, to leave without risk of penalty to themselves or their family members left behind.

A practical, and perhaps even productive, approach to North Korean migration must begin by framing an understanding of population mobility within and outside the country as something more than a simple threat to stability. The migration of North Koreans in the last two decades has always encompassed a mix of motives: food, health, shelter, asylum, family formation, family reunification, labour/livelihood and more. The problem is that the discussion of this migration – and the policy/programme options that either are or should be available – has been dominated almost exclusively by the question whether they are or are not refugees.

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Was establishing new institutions in Iraq to deal with displacement a good idea?

Peter Van der Auweraert

The humanitarian, developmental and political consequences of decades of mass forced migration are part of the legacy that the current political leaders of Iraq need to address. For this they need the right institutions if they are to be successful in guiding their country towards a more peaceful and stable future.

Iraq has had a long and painful history of forced migration. In the past decade alone, it has been the scene of at least four distinct waves of displacement and return. The first wave occurred shortly after the Ba'ath party's fall from power with the return of an estimated 500,000 Iraqis in the period between March 2003 and December 2005. While this return movement was, in essence, a largely positive 'regime-change dividend', it did create a set of challenges that Iraq continues to struggle with today. The second wave of the post-Saddam Hussein population movement was mostly made up of those who feared that their real or perceived association with his regime would cause them harm and those who were forced to flee by the returnees and, in some cases, their armed backers.

The largest displacement crisis, however, occurred between February 2006 and late 2007 when out-of-control sectarian violence caused 1.6 million Iraqis to become internally displaced and a similar number to flee the country, mostly to neighbouring states. This third wave subsided alongside the diminishing threat of an all-out civil war in Iraq but even today members of Iraq's small minorities reportedly continue to feel the urge to leave a country where they feel less and less at home. Currently the Syrian conflict is pushing Iraqi refugees to return to Iraq where they often have few or no assets left and thus, in essence, become displaced in their own country.

Taken together, these large-scale population movements posed, and continue to pose, considerable strains on Iraqi state institutions responsible for the provision of basic services such as health, education, water, sanitation and electricity. They also raised a set of particular issues that, at the time, existing institutions and legal and policy frameworks were not well equipped to deal with. These included, for example, the widespread occupation of public buildings and land, largely by those with nowhere else to go; the

emergence of a large number of land and property conflicts related to displacement and return; and the need to integrate new populations in both national and local development plans and policies to upgrade and to expand Iraq's insufficient housing stock. Critically, these new demands came at a moment in Iraq's history when decades of neglect, mis-management, sanctions and conflict had turned its state institutions from being a model for quality and effectiveness in the Middle East to being deeply flawed and structurally deficient. This decline commenced in the 1980s as a direct consequence of the Iran-Iraq war and became further pronounced in the 1990s following Iraq's invasion of Kuwait, the ensuing imposition of international sanctions and Saddam Hussein's continued diversion of state funds.

The initial period following the US-led invasion of the country in 2003 further accelerated the decline, with waves of unchecked looting that gutted much of the already decaying physical infrastructure of public administration, the flight of the Ba'ath Party cadres that created a leadership vacuum in many institutions and the departure from Iraq of many professionals in the period between 2005 and 2007. The sweeping and often ill-thought-out interventions of the Coalition Provisional Authority (CPA) that cost the Iraqi state its monopoly on the use of violence further contributed to a context where even ordinary governance was becoming a massive challenge, let alone dealing with the fall-out of multiple, ongoing waves of displacement and return.

New state institutions

It is against this background of prevailing state fragility that the CPA decided to establish two new institutions to deal with mass displacement and its consequences. Both institutions were endorsed and further developed by subsequent Iraqi governments. In Iraq there is now a dedicated Ministry of Displacement and Migration (MoDM) with a broad mandate to deal with all matters pertaining to Iraqi refugees and IDPs and to develop and implement appropriate policies to assist the affected persons.

The second new institution was the national Property Claims Commission (PCC) to resolve claims from displaced Iraqis whose properties had been seized or confiscated under the Ba'ath party regime. Both institutions have developed a sizeable presence across the country and are now an established part of the institutional landscape in Iraq. The MoDM's principal roles include the national registration of IDPs and the provision of assistance and cash grants to displaced and returning families, most recently to Iraqi refugees forced to return to Iraq by the violence in Syria. To date, the PCC has resolved well over half of the 160,000 claims it has received, although with resolution rates strongly differing around the country.

Throughout their existence, both of these institutions have been subject to considerable criticism inside and outside Iraq, usually focusing on shortcomings in effectiveness,

UNHCR/H Caux

A young IDP feeds his pigeons in Resafa district of Baghdad.
"I don't go to school and there is no job for me here."

efficiency and, ultimately, sensitivity and responsiveness towards the needs of the displaced and returnee populations alike. It is clear with hindsight that some at least of the complaints of beneficiaries and decision-makers were directly connected to the newness of both institutions.

The initial real and perceived failures to deliver were largely due to the time and energy that both institutions needed to spend on becoming fully operational. Inevitably for institutions that try to establish themselves in the midst of political instability and turmoil, significant staff resources were initially allocated to internal administrative issues, like securing office space, hiring and training staff, developing standard operating rules and procedures and, indeed, simply figuring out how best to operationalise the mandates they had received. From the outside these efforts often remained invisible, and soon incomprehension and frustration about the lack of progress started to mount amongst beneficiaries and politicians alike. Already struggling under unrealistic expectations, the PCC, for example, suffered a serious legitimacy crisis a few years into its existence. Eventually, this led to an amendment to the law which in reality changed little but caused the institution to lose further time and energy adapting internal practices to the new legal framework.

Another element that very much hindered both institutions in their first years of existence was the reaction from other much longer-established governmental agencies and authorities that the MoDM and especially the PCC needed to rely on for their work. Concerned about the national and international resources and attention these new institutions were getting, and convinced that those resources would have been better spent on reinforcing existing institutions to do the same work, they tended at best to be reluctant to cooperate and at worst to behave in a downright obstructionist manner. A lack of understanding about what the MoDM and the PCC were supposed to achieve and the mundane absence of specific rules,

protocols or focal points for collaboration between new and existing institutions further complicated the integration of the MoDM and the PCC into the ordinary Iraqi state apparatus. Finally, the fact that decision-makers had under-estimated the extent to which pre-existing state institutions would also have to deal with displacement and its consequences, and hence at least initially failed to provide those institutions with additional resources for this purpose, further contributed to their reluctance to engage with the issue of displacement and, by extension, the MoMD and the PCC.

To what extent the Iraqi response to displacement and return would have been different if the CPA and the subsequent Iraqi governments had not chosen to create new institutions is of course speculation. The experience of the MoDM and the PCC is, however, useful also beyond Iraq in that it can provide policymakers with valuable lessons about the advantages and disadvantages that come with addressing large-scale forced migration and its aftermath through new rather than existing institutions. It brings home the point that attempting to bypass fragility and governance issues in existing state agencies through the establishment of new ones invariably also entails costs and downsides. As much as possible, both the benefits and the costs that can come from investing in new institutions need to be weighed up before implementation and integrated in decision-making about the best way forward.

An additional notoriously complex issue is sustainability and whether a new institution dedicated to displacement is likely to remain alive until it has effectively completed its work for all those affected by displacement. In Iraq the jury is still out.

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Displacement in a fragile Iraq

Ali A K Ali

The post-Saddam Iraqi state enjoys only limited support from the population, excludes significant sections of its people from power, suppresses the opposition and does not protect citizens from arbitrary arrests, and corruption is rampant. There is a direct relationship between these failures and displacement in Iraq.

It was no surprise that the 'new' Iraqi state that emerged from the wreckage after the invasion of 2003 was fragile, with serious implications for human security and displacement which are still felt today by Iraqi society. Obvious drivers of displacement in Iraq are the threats to life and health which come from general insecurity, arbitrary detention and poor service provision. Life becomes unbearably difficult and dangerous in such environments, resulting in decisions to leave. Less obvious a driver of displacement are actions intended to strengthen the state but which target vulnerable groups in society in such a way that those targetted experience a process of increasing constraint upon their daily lives and sometimes threats to their physical safety. These pressures forced many Iraqis to migrate.

Early victims of such predatory actions were those perceived – rightly or wrongly – to be associated with the old order. Some Iraqis with ID cards identifying them as residents of sites of resistance to the new order were punished. An Iraqi student I interviewed said that students in his school had their grades docked because their family names identified them as originating from such areas. The effects of a fragile state exercising collective punishment threatened the educational and livelihood opportunities of specific sections of Iraqi youth.

Palestinian refugees who had been living in Iraq for decades had their residency revoked and were re-categorised as foreigners. The idea was spread that Palestinian refugees were responsible for terrorism against the Iraqi people and attacks on Palestinians increased, compelling many of them to leave Iraq. The campaign against the Palestinians was an example of a fragile state attempting to show its strength by targetting a group that could not fight back.

Fragile states are more prone to the fracturing effects of the privatisation of violence and these have serious repercussions for human security and displacement. With the fragmentation of the instruments of coercion the state lost both physical control over territory and the allegiance of the population.[1] Paramilitary groups flourished in the absence of legitimate state authority and a disintegrative cycle set in, further weakening the state in relation to private military groups. Some of these groups infiltrated state institutions and aspired to seize control of the state. Their activities transformed the spaces in people's daily lives in threatening ways, prompting decisions to leave.

For example, members of the Mehdi Army militia infiltrated the newly formed Iraqi police. The militia forced many Baghdadis from their residences with the threat of violence, it housed families displaced by opposing militias in the forcibly vacated homes, it attacked grocers and bakers in order to force target populations to flee to other neighbourhoods – so that militia members could pillage homes and re-populate areas with people loyal to them. These were manifestations of the fragility of the state in Iraqis' daily lives. They threatened human security and prompted displacement.

There are further effects of these dynamics with significance for displacement. Migration affects the context in which future migration decisions are made.[2] When members of kinship and other networks leave, this depletes the psychological and social

resources of those left behind. The depletion of kinship networks contributes to the process of displacement as it reduces the support and coping capabilities available to those who remain. In a society in which the integrity of the family unit is so highly valued, those who are left behind are in turn then more likely to migrate. Many Iraqis who had not initially decided to leave were soon compelled to do so in order to rejoin other family members. The burden of living in isolation from them in a failing state was too high a price to pay.

The Mandaeans – an ancient monotheistic sect – found that they could no longer practise in public the distinctive rituals essential to their identity as a community for fear of being shot at. Their priests were attacked, as were members of their community more generally. The fragile Iraqi state failed to protect them. Some believed it was unwilling to do so because they were not Muslims. The scattering of Iraq's Mandaeans across the world has intensified since 2003; their faith forbids them from marrying and procreating outside their community and thus displacement and dispersal represent an existential threat to this ancient community.[3]

A Mandaean priest performs a baptism.

Too many governments perceive – or rather present – refugees as threats to their sovereignty. These governments should remember that fragile states will almost certainly produce refugees and IDPs and that states do not exist in a vacuum. The weakest of states can survive with the support of the international community and strong states can crumble if the international community invites destructive processes.[4] Governments should avoid imposing destructive processes on states if they wish to reduce the production of refugees which they uniformly seem to fear.

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1. See also Mary Kaldor *New and Old Wars: Organized Violence in a Global Era*, Cambridge: Polity Press 2012.

2. See also Douglas Massey 'Social Structure, Household Strategies, and the Cumulative Causation of Migration' *Population Index* Vol 56, No 1 (Spring, 1990) www.jstor.org/stable/10.2307/3644186

3. See Ali A K Ali 'Displacement and statecraft in Iraq: Recent trends, older roots', *International Journal of Contemporary Iraqi Studies* Vol 5, No 2, 2011 http://tinyurl.com/AliAKAli-IJCIS2011

4. See also Zolberg et al *Escape from Violence: Conflict and the Refugee Crisis in the Developing World*, New York: OUP 1989.

Ali Ali

Psychiatric treatment with people displaced in or from fragile states

Verity Buckley

A fragile state is not an ideal environment for any professional to work within – psychiatric, medical or otherwise. Psychiatrists working to assess psychological distress and mental health in fragile states, or with refugees from fragile states, need to adopt flexible approaches.

The instability and uncertainty usually found in fragile states create a breeding ground for psychological problems and mental health issues, as well as risk of physical harm. Individuals that live in such environments are more likely to experience trauma on a scale not otherwise known by the rest of the world. When deciding how best to adjust practice and treatment when working with those from fragile states, the psychiatric community must be able to examine many aspects of the environment surrounding that particular social group.

The circumstances under which the psychiatrist is operating may well dictate what work can be delivered. Teams of researchers and psychiatrists often descend to determine the levels of psychological distress and look at mental health issues and can be faced with a range of restrictions including general health treatment limitations, inability to adopt a multidisciplinary approach and reduced access to psychotropic medication and other drugs. Traditional methodologies therefore need to be adjusted in this environment, first of all by taking into consideration which treatment plans can realistically be considered.

Within refugee camps or safety zones with basic living conditions and little apparent governance or control, violence can occur without warning, services may be attacked or cut off from outside assistance, political and economic disruption may occur and governmental policy could change at any time. Although short-term and intensive cognitive behavioural therapy sessions – usually used once the immediate distress of the patient has been alleviated – have been successful within Western and refugee populations, it is unknown whether the same success rates can be repeated elsewhere. In spite of this, short-term interventions may be the best way forward as they will empower the individual and give them tools to help themselves if psychiatrists are no longer present.

Many attempts have been made to design psychiatric assessment questionnaires and scales that are sensitive to different cultures and that include colloquial terminology and phrasing. Unfortunately, when a team is dispatched in an emergency situation, the likelihood of obtaining an already validated set of assessment tools is low. This is a considerable barrier for psychiatric professionals to overcome. Bringing an additional person into the assessment or treatment stages to act as translator may cause confidentiality issues but alternative options are limited. The use of local bilingual professionals and volunteers may help psychiatrists assess which diagnostic tools will be efficient, and they may even be involved in the treatment process.

Every psychiatrist must be able to provide care that is free from discrimination of any kind; the psychiatric community may, however, hold preconceptions about certain social groups. It has been noted, for example, that the role of women during times of conflict has been described almost exclusively in relation to victim status. Although women are at a higher risk of being the targets of persecution and acts of violence, the psychiatrist could be at risk of viewing all female patients as victims, and not, as was the case during the 1994 Rwandan genocide for example, as perpetrators, instigators or bystanders.

Cultural interpretation and understanding
Psychiatrists may not be able to view such vulnerable groups outside their own, traditional and often Western points of view. The structure of family units, gender roles and class systems differ with every culture, and are also more likely to be going through a state of flux within fragile states. All these factors may lead psychiatrists to misinterpret symptoms or make incorrect assumptions regarding their causes. Traditional treatment methods should be adapted; for example, children and adolescents may not benefit from therapy designed for their age groups as they face living situations that are drastically different from those of Western children and children living in stable environments.

People in fragile states may have their own, often supernatural, explanations for common symptoms. These may be similar to those experienced by Western civilian populations (e.g. headaches, chest pain or disturbed sleep patterns) but are instead associated with illnesses not formally recognised by psychiatric professionals. Patients should not be discouraged from using more holistic and local traditional methods if they so wish, as long as they do not clash with the treatment provided by the psychiatrist; this will help preserve their identity and cultural attachments as well as boosting morale.

Psychiatrists may also have to refer back to basic psychological theories such as Maslow's Hierarchy of Needs which requires that, before the psychiatrist begins to treat problems such as depression, anxiety and possible post-traumatic stress disorder, they must first be able to ensure that the patient's basic needs are being met.[1]

The psychiatric community must be sensitive to the difficult working conditions; traditional ways of operating and conducting treatment may not be efficient. Emphasis should be placed on multidisciplinary approaches even although achieving this within fragmented societies will be difficult. Following up on patients could be rendered impossible, and individuals could be left with limited or a complete lack of professional psychiatric support.

Rather than simply delivering treatment, the psychiatric community should look at alternative approaches. While current research is calling for more long-term treatment approaches in these settings, it perhaps should not be delivered by international psychiatrists; local NGOs and professionals could instead be trained in psychological care. This way, when external organisations leave, treatment and psychiatric care can continue where needed.

Working with people displaced from fragile states
Although many of the above factors are still relevant issues for psychiatrists operating outside a fragile state, new obstacles arise when those who are displaced seek refuge and psychiatric treatment in a different country.

Having experienced maybe long and often dangerous journeys to a place of refuge, individuals are then likely to enter the asylum process where they face further anxiety and uncertainty regarding their future. The psychiatrist who treats patients at this stage faces many practical issues even before assessment can begin. Medical histories may either be inaccessible or non-existent. There are likely to be social barriers between the psychiatrist and the patient, even more so than if the psychiatrist were operating within the fragile state itself. The psychiatrist is less likely to speak the language of the patient, and may have a limited understanding about – and no easy way to find out about – the history and culture of the fragile state from which the patient has fled. This will cause difficulty when trying to build a picture of the patient's history and past experiences, as well as when analysing symptoms and making formal diagnoses.

This period of uncertainty for the patient may coincide with difficulty in meeting basic physical needs that are higher up in Maslow's Hierarchy and thus are still a priority. The patient may also be experiencing psychological disturbances as a result of

external events which the psychiatrist has little awareness of or understanding about, and that may not be easily addressed in the course of treatment that is delivered. For example, some asylum seekers and refugees are uncertain about the fate of their loved ones, and may fear that harm or injury has befallen their family in their home country. They may have pressure on them to provide for those that have been left behind, and may be unaware of current events in the country that they came from. The fact that they have no control over their return to their home country, whether it is wanted or not, can make the person feel as though they are in a state of limbo, with no control over their fate.

The psychiatrist may not be given a definite period of time to work with their patients, and instead may have to adopt more intensive treatment models. Although it is difficult to prepare for such changes, better communication across multiple disciplines and organisations handling each case could reduce the risk of increasing psychological distress in the future. If a psychiatrist working with a refugee during the asylum process, for example, is able to build up an extensive medical history of the patient, as well as making a formal diagnosis and treatment plan, and if the patient's application is successful, these notes could be passed on to the appropriate authorities such as general and mental health service providers, as well as local housing authorities or social services.

Once the displaced individual has found a stable form of refuge and has begun resettlement, psychiatric care can move into a different stage. Problems that affect the general population will now begin to affect the displaced individual. These will be on top of other problems such as integration into society, learning a new language, dealing with past traumatic events, uncertainty about the safety of loved ones back home and regaining a social status similar to that they achieved in their home country; all of these issues have been found to cause additional psychological distress in refugee populations.

Not every psychiatrist will have the social or practical tools readily available to deal with such problems; they should instead be encouraged to signpost the patient to partnering organisations and service providers such as social services, community centres and help groups. What the wider psychiatric community can provide, however, is basic training and skills that can be used when assessing and treating individuals from backgrounds such as these. People coming from fragile states are more likely to have experienced or witnessed an act of violence or traumatic event. Patients may be reluctant to divulge information regarding events such as these; therefore extensive notes formed by other professionals as part of a multidisciplinary and collaborative approach could be extremely useful.

Conclusion

Whatever the context, the decision over whether to address short-term or long-term needs of those from or displaced within fragile states may prove the most difficult for the individual psychiatrist. While organisations both within low- to middle-income countries and developed Western contexts roll out psychological care on a mass scale, a more structured and tailored approach is essential when working with patients from fragile states.

Amidst the instability there is a great opportunity for the wider international psychiatric community to learn and grow. Western-based psychiatric research is very limited in its scope and may only be applicable to those living within the contexts from which theories were derived. By working with individuals outside these contexts, psychiatrists are able to develop a view on how robust these theories really are and whether or not they can be generalised to other communities.

Knowledge is being gained about folk illnesses, differences in symptomatology, treatment methods and the effects that culture has on the way psychiatric illness is perceived. This knowledge is allowing the field of

psychiatry to become more relevant and reliable; it is also highlighting the malleability of current models and commonly held beliefs about the nature of the human psyche. By taking on a more collaborative approach, the international psychiatric community will be able to take these developments further and be enabled to provide assistance to those affected by the realities of living in or coming from fragile states in conflict.

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1. See http://en.wikipedia.org/wiki/Maslow's_hierarchy_of_needs

State fragility, displacement and development interventions

Yonatan Araya

The development approach to displacement brings advantages not only in addressing the needs of refugees, IDPs and host communities but also in helping societies tackle the underlying aspects of fragility that may have caused the displacement.

The absence of capable and legitimate institutions in a country exposes citizens to human rights abuses, criminal violence and persecution, all of which are recognised, explicitly or implicitly, both as direct causes of displacement and as signs of fragility.[1] The combination of exposure to internal and external stresses and the strength of a country's 'immune system' (the social capability for coping with stress embodied in legitimate institutions) will determine how fragile the country is. The stresses could be either security-related – legacies of violence and trauma, external invasion, external support for domestic rebels, cross-border conflict spillovers, transnational terrorism and international criminal networks; or justice-related – human rights abuses, real or perceived discrimination, and ethnic, religious or regional competition; or economic in nature – youth unemployment, corruption, rapid urbanisation, price shocks and climate change. Some of these stresses (such as youth unemployment, price shocks, poorly managed natural resource wealth and corruption) could indirectly lead to people becoming refugees or IDPs.

The existence of such stresses alone does not lead to violence or conflict. Countries or regions with the weakest institutions are the least able to withstand and respond to internal and external stresses and are the most vulnerable to violence and instability. In fragile situations, however, the state is not the only actor; in some cases it may not even be the most powerful actor. Although some elements of fragility emanate from the state, others are deeply rooted in societal dynamics — the way individuals and groups interact, including the relationships between groups in society and the state. Therefore, fragility should not be viewed as only a problem of state capacity.

The areas hosting the displaced are often affected by conflict and displacement, and host communities and areas often do not have the institutional capacity to deliver or manage the delivery of the necessary protection and assistance to the displaced. For instance, in Mogadishu, Somalia, the failure of state institutions to work with the various national and international actors that are providing assistance to IDPs has led to IDP camps being controlled by 'gatekeepers' connected to local powerbrokers who regularly demand as 'rent' a portion of the international aid the IDPs receive.

Conflict and fragility also hinder the pursuit of durable solutions for displaced populations. Fragility undermines durable solutions, in particular voluntary repatriation, in various ways. First, the fragility of areas of origin, the main cause of displacement

in the first place, makes the whole idea of return unattractive to the displaced and to the institutions providing assistance. Even if the areas of return are considered to be safe and free of conflict or violence, the absence of capable and legitimate institutions still makes it harder for the returnees to be self-dependent. If the institutions in the areas to which people may return fail to properly manage land and property disputes, the returnees will find it difficult to restore their livelihoods or find shelter. And the absence of strong and capable institutions that address issues of discrimination and marginalisation prevents the returnees from effectively pursuing income-generating activities and getting access to the services they need.

How does displacement affect state fragility?

Neglected or poorly managed displacement, particularly protracted displacement, can exacerbate situations of conflict and fragility. Cross-border conflict spillovers – with accompanying refugee flows – are among the security-related stress factors that lead to fragility. The influx of refugees into the Democratic Republic of Congo (Zaire, as it then was) after the 1994 genocide in Rwanda is often cited as one of the factors that has contributed to the conflict there. The influx of displaced persons often overwhelms the institutional capacity of host communities. In addition to putting a strain on weak institutions, displacement can cause or exacerbate difficult relations between the displaced and the host communities.

It should be noted, however, that the presence of refugees and IDPs does not necessarily lead to negative outcomes; it could also lead to positive outcomes. For instance, the presence of Rwandan refugees in Tanzania has led to increased demand for agricultural products produced by Tanzanian farmers. Anecdotal evidence suggests that, on average, farmers doubled the size of their cultivated land and their production of bananas and beans during the period 1993-96. In Kenya, the presence of a large number of refugees in the Dadaab area has increased economic opportunities for the local communities.

What determines the impact of the presence of displaced people is how displacement is managed to mitigate the negative impacts and build on the positive impacts.

These dimensions of the fragility-displacement nexus underscore the strong need for better synergies between efforts to address fragility and the international responses to forced migration. To break cycles of insecurity and to reduce the risk of their recurrence, national reformers and their international partners should build legitimate institutions that can provide sustained levels of citizen security, justice and jobs. The process of building institutions is commonly subject to setbacks, and in any case building institutions is a slow process. Even the fastest-transforming countries have taken between 15 and 30 years to raise their institutional performance from that of a fragile state to that of a state with functioning institutions.

The difficulty and the slow pace of transforming institutions mean that there is a need to restore local confidence in collective action before embarking on a wider institutional transformation. Confidence building is essential because low trust means that stakeholders who need to contribute political, financial or technical support will not collaborate until they believe that a positive outcome is possible. Confidence building includes signalling a real break with the past – for example, ending political or economic exclusion of marginalised groups, corruption or human rights abuses, all of which are causes of displacement. Just as violence begets violence, so efforts to build confidence and transform institutions typically follow a positive spiral. In this regard, carefully tailored development interventions addressing displacement have been useful. For instance, the provision of housing services to Rwandan IDPs and cash transfer payments for IDPs in Timor-Leste have been used to signify the state's concern for the victims of violence or those previously excluded from state services. Such interventions foster the participation of excluded groups or areas in economic

and political decision-making, enabling them to benefit from development assistance and signaling a real break with the past.

A development approach to displacement

The international response to displacement has predominantly been humanitarian in nature. Humanitarian interventions, while extremely useful in saving lives during emergencies, are not tailored to the needs of the majority of the world's refugees and IDPs, who are in protracted displacement situations which have moved beyond the initial emergency phase but for whom solutions do not exist in the foreseeable future. Too often, international attention begins to fade after the initial emergency phase, and long-term support becomes less predictable as displacement situations become protracted. In these situations, the challenge is often developmental rather than humanitarian in nature. The development challenges of protracted displacement situations include the re-establishment of livelihoods, the equitable delivery of services and accountable and responsive governance, which is critical to ensuring that issues affecting the displaced are resolved in ways that are viewed as legitimate both by the displaced and by host communities. In situations of return, the restoration of land, housing and property is also a major challenge that requires immediate attention if the return of the displaced is to lead to a durable solution to displacement.

By creating better synergies between efforts to address fragility and efforts to address displacement, the development approach is better suited to addressing the spillover effects – including refugee flows – from neighbouring countries' conflicts, one of the external stress factors overwhelming weak institutions. A development approach to displacement means contributing to building institutions that help mitigate the stresses caused by large-scale displacement and is useful in building on or taking advantage of the positive impacts.

Compared to humanitarian interventions, the development approach to displacement is better suited to building institutions that deliver citizen security, justice and jobs in areas affected by displacement. If designed and implemented properly, development interventions designed to improve the livelihoods of the displaced and the host communities could contribute to building institutions by addressing for example discriminatory laws that restrict the right to work and the freedom of movement of the displaced. Similarly, efforts to restore land, housing and property that belonged to the displaced are useful in building institutions delivering justice. Efforts to improve service delivery invariably contribute to improving the institutions that deliver citizen security and rule of law.

Efforts to address marginalisation and human rights abuses will not only improve the lives of refugees and IDPs but also contribute to addressing fragility by building confidence. Taking a development approach to displacement will improve the lives of the displaced and host communities and facilitate the pursuit of durable solutions. It will also allow societies to mitigate the negative impacts of displacement and capitalise on the positive impacts. The utility of a development approach to forced displacement goes beyond addressing the needs of the displaced. It is also useful in addressing conflict and fragility by contributing to efforts to build the institutions that provide citizen security, justice and jobs and by building confidence. The focus on building institutions will also contribute to preventing future incidences of displacement.

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The discussion on fragility is informed by two recent World Bank publications on the topic: *The World Development Report: Conflict, Security and Development* (2011) and *Societal Dynamics and Fragility* (2013).

1. For example in the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, and the 1984 Cartagena Declaration on Refugees.

Crisis in Lebanon: camps for Syrian refugees?

Jeremy Loveless

Lebanon has absorbed the enormous Syrian influx but at a high cost to both refugees and Lebanese populations. Current humanitarian programmes can no longer cope and new approaches are needed.

At the end of April 2013, according to UNHCR data, there were 445,000 Syrian refugees in Lebanon, including both those who are registered and those waiting to be registered. There are also many thousands of refugees who have not tried to register. Government of Lebanon and UN projections estimate that there will be one million Syrian refugees in Lebanon by the end of 2013. Lebanon's population is approximately 4.2 million. Based on the official numbers alone, Syrian refugees make up 10% of the population already and by the end of the year this will rise to 20%.

The Government of Lebanon has, in many respects, pursued an admirable policy. Borders have remained open. Refugees have been allowed to settle where they like and they are allowed to work. Camps have been prohibited and refugees have settled within communities. The approach has been applauded by the international community.

However, it comes at a cost. Refugees are concentrated in some of the poorest parts of the country. Sudden expansion of the labour pool has pushed down wages for Lebanese and Syrians alike. Education and health services that were inadequate before are now further stretched. All available housing is full or over-full and refugees are setting up unsanitary shanty settlements. There is a perception that international assistance is going only to refugees. Tension between refugees and Lebanese communities is rising.

On arrival in Lebanon most refugees rent private dwellings (paid from their savings or, for the lucky few, by relatives or charities). Thousands live in unfinished buildings. These buildings accord minimum protection against the elements: a roof and walls but frequently no windows, doors or sanitary facilities. In many of these areas temperatures fall well below freezing in the winter. Some aid agencies are running programmes to seal these dwellings by covering windows, fixing doors, etc. This takes time and is expensive, as each building must be identified and renovated individually.

There are very few opportunities for employment, so many refugees resort to desperate measures to cover their costs. These include prostitution, early marriage, begging and working for exploitative wages. The World Food Programme is implementing a large-scale food voucher programme and other organisations are providing household items and cash support. Some agencies manage work creation and training schemes. However, even before the crisis, employment in the refugee-hosting areas was hard to

Tents in the grounds of a mosque provide shelter for Syrian refugee families in Lebanon.

come by. Now business opportunities have decreased and the number of residents has increased massively; in some areas it is estimated that there are more refugees than residents. With the best will (and practice) in the world, it is inconceivable that income-generation programmes will help more than a tiny proportion of the refugees.

Many people's savings are exhausted. They move onto the streets in the towns or into the shanty settlements that are springing up all over the Beka'a Valley and the north. UNHCR has estimated that there are 240 informal settlements in the Beka'a alone, ranging in size from less than 10 tents to more than 100. The settlements receive little aid (because of lack of capacity rather than lack of will). They are unsanitary. With summer approaching (and temperatures possibly nearing 40°C) health problems are inevitable and there is a real danger of epidemic disease.

If the system is unable to cope with the current refugee in-flows, what will happen if the feared and much talked-about "mass influx" occurs? This is a scenario in which hundreds of thousands of people arrive in Lebanon over the course of a few days. Such a scenario is entirely plausible. It could occur if fighting in Damascus intensifies, forcing whole sectors of the city to evacuate, or if Jordan were to close its borders, reducing people's options for escape.

The current approach – renovating individual shelters, subsidising households' expenditure, etc – would not be able to respond quickly enough to this scenario, even if there were the capacity (which there is not). We must consider alternative options and at this point it is hard to avoid the idea of camps.

UNHCR/S Malkawi

Camps: forbidden but inevitable

It is important to state that none of the policymakers in Lebanon favours camps as a first or even a second resort. The government has forbidden camps, a policy strongly supported by UNHCR. All agree that, given the choice, it is better for refugees to be integrated within communities.

One of the most compelling arguments against camps is that they take away refugees' opportunity to manage their own lives. However, it is inconceivable that enough jobs could be generated to provide sustainable livelihoods for a meaningful proportion of the refugee population and in these circumstances refugees have little opportunity to control their lives. Inevitably refugees will be dependent on some form of welfare support for the duration of their stay in Lebanon. There is little social connection between the shanty settlements and local communities.

The fact is that camps – in some guise or other – are inevitable. This has been recognised by some government ministers, who have made public personal pronouncements to that effect. Camps can accommodate large numbers of people and can be constructed relatively quickly once land has been identified. This last point is important as Lebanon is a small country and there is not much vacant land. Land-owners must agree to lease their land and communities have opinions about the establishment of camps in their vicinity.

There is also the issue of cost. We often hear that it is more expensive to accommodate refugees in camps than in the community but the current approach is expensive. The direct costs of rent, food, heating, health care and all the other essential living expenses must be covered. It is extremely expensive to provide health care to such a dispersed population. Then there are the costs to refugees' dignity and safety that come from the coping strategies that they cannot avoid. Finally (and very significantly) there are the costs to the host communities – lost income due to lower wages, more competition for jobs and the deterioration of services due to over-demand.

Actually the aid community, and the refugees, have no choice in the matter. De facto camps are springing up all over the country (the shanty settlements mentioned above). These are expanding in size and number. We will see more aid going to these settlements, as informal settlements have been prioritised in government and UN planning. But it will be impossible to intervene in so many small settlements, spread over such a large area. Aid agencies will focus on the largest settlements and those with the most extreme needs, drawing people to these settlements. This is a reality that we need to address systematically; it will not go away.

A shift in government policy to allow a certain number of properly planned camps is essential. This will enable aid organisations and municipalities to plan and construct camps properly, avoiding the chaotic expansion that we are currently seeing. It is also crucial that aid is shared across refugee and host populations. This is only fair; needs within Lebanese communities are similar to those faced by refugees. If carefully targeted, it will also reduce local inter-communal tension.

The camps issue has polarised debate within Lebanon and outside. But it is not an either/or situation. In order to address such enormous needs we need to combine approaches. This entails continuing with the existing approach but enhancing it with camps and other alternatives. With existing options saturated, more refugees arriving, and tensions within communities growing, we must be creative.

What next?
Lebanon is inextricably caught up in Syrian affairs. The country is not merely mopping up the mess caused by the war in Syria but it is also moving rapidly into its own internal crisis. Unless we see decisive action by Lebanese politicians and international donors it is hard to see how we can avoid this. The population figures quoted above speak for themselves. Add to this the shelling of northern Lebanon from within Syria, the proxy war intermittently waged in Tripoli and political paralysis at the central level, and it is easy to see why many Lebanese fear for their country.

The severity and urgency of the situation must be recognised. Lebanese ministers need to take tough decisions (among other things, about camps) and re-organise the priorities within their ministries. The refugee crisis cuts across political blocs and politicians of all persuasions have to recognise this.

At the practical level, ministries, UN agencies and NGOs could all be more efficient and pragmatic. They must work together towards an agreed (but flexible) set of objectives. They must be creative, continually looking for ways to address problems as they emerge and change.

There is an enormous need for funds. The Government of Lebanon and the UN estimate costs of the existing operation (even without a sudden influx) as over one billion dollars up to the end of 2013. It is highly unlikely that anything close to the amount that is needed will be forthcoming. Overt recognition of this fact and careful targeting of funds could at least address the most severe needs and reduce tension within communities. Recent government and UN plans emphasise the need to help host as well as refugee communities; this policy needs to be endorsed and funded by donors.

The crisis in Lebanon cannot be solved with humanitarian assistance. But flexible and well-targeted aid can reduce the impact of the political crisis. The government and aid agencies must respond to the ever-changing environment with carefully considered policy shifts of the sort suggested here.

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The arts in refugee camps: ten good reasons

Awet Andemicael

Refugees' involvement in artistic activity – music, theatre, poetry, painting, etc – often plays a powerful positive role in their ability to survive physically and even emotionally and spiritually.

Clearly, artistic activity is neither a solution for every problem, nor can it provide quick fixes. Some artistic endeavours require equipment and training that are difficult to obtain in camps, although many artistic activities require little more than time and the inspiration. But even if you are not a trained or professional artist, if you live in a refugee camp there are many good reasons to get involved in the arts, whether music, poetry, dance, painting, drawing or any other creative activity. Here are ten reasons why I believe refugees in camps should participate in artistic activity.

1. Artistic activity helps you use your time creatively and productively. One resource many refugees in camps have in abundance is time. When opportunities for employment are limited, artistic activity is one way to use time productively and creatively, focusing energy and talent toward meaningful ends. In addition, celebrating festivals – such as World Refugee Day or religious and secular holidays – with artistic presentations can keep you engaged in the cycles of time from which you can be easily disconnected in camp life.

2. Artistic activity can help you cope with the psychological and emotional stresses of living in a refugee camp. Given the prevalence of trauma among refugees in camps, coping and healing mechanisms are a major priority for refugees' individual and communal well-being. Although artistic activity cannot substitute for psychiatric therapy and care, participating in such activity – whether private or public, formal or informal – can help provide a means to express both painful and pleasant emotions, to confront difficult memories and sometimes to find an escape from burdens.

3. Involvement in artistic activity can help reinforce your sense of power and agency. This is especially so when you initiate or lead it yourselves. Moreover, the element of play that the arts engage can contribute to the overall flourishing of adults and children alike, affirming the possibility of joy even within the context of camp life, and undermining your acceptance of poverty, forced migration and injustice as normative.

4. Artistic activity can connect you with your spiritual community. Taking part in religious observance and rituals can be an important part of your spiritual life, and the artistic components of such rituals – religious songs, poetic prayers, spiritual dances, decorated religious implements, etc – play a key role in engaging the senses in worship and contemplation. Celebrating religious festivals with creative expression and festive processions can

UNHCR/G Brust

A trio of Iraqi refugee musicians who met in Damascus after fleeing the violence in Iraq released their first album in 2011; profits will help compatriots in exile who are in financial need. *Transitions* comprises 15 tracks put together by (from left to right) Abdel Mounem Ahmad on the qanun, Fadi Fares Aziz on the ney and Salim Salem on the oud.

help connect you to the religious tradition of which you are part and the religious community you may have left behind.

5. Artistic activity can help you preserve your traditional culture while away from your native land. Singing traditional songs, making traditional handicrafts and using traditional languages to compose poetry and other literature can help preserve your cultural practices. It can also help you pass on your cultural heritage to your children or other children in the camp, even if they have never seen or no longer remember their homeland.

6. Artistic activity can help you create a sense of community with other refugees. While over-emphasising differences between groups in a refugee camp may cause strife and division, artistic activity can provide opportunities to share your culture with others in gestures of friendship. Participating in cultural and artistic activities from other cultures can help you learn about your neighbours in the camp, and help you appreciate their contributions to the life of the camp.

In addition, artistic activity can help community members discuss difficult, awkward or taboo subjects. Rather than tell people what to do and what not to do, one can, for example, put on a drama showing a certain harmful practice and its effects on the people involved. This may invite conversation about the issue, giving community members the freedom to discuss the issue indirectly through the drama. Once the silence around the issue has been broken, then the issue may be addressed more directly. Artists can use stories, songs, dances, visual arts and other means to bring up sensitive issues and open them up for public consideration and discussion.

7. Artistic activity could help create bridges between refugee and host communities. Relations between refugee and host communities are complex and often tense. Sharing your cultural and traditional artistic practices with members of the host community, and learning about their artistic activities and cultural life, may contribute to building bridges. Such personal and cultural interactions may play a role in engendering mutual respect, challenging stereotypes held by both sides, and fostering cooperative ventures.

8. Artistic activity can help children learn. The use of songs, pictures and other artistic devices may help children learn their lessons more effectively, by enabling them to use their imaginations and their senses more completely than is possible with less creative learning methods. It is also easier to learn and remember information when it is presented in the form of poems and songs. Participatory practices, such as acting out sketches and dramas, can help students experience their lessons more vividly and engage them as active agents in their own learning. Since artistic and creative learning is fun, it can hold children's attention for longer periods of time than other types of educational activities. In addition, children whose lives have been interrupted by the traumas of forced migration may have developed special learning challenges which need addressing, for which the arts are well-suited as educational and therapeutic tools.

9. Artistic activity can help adults learn and develop behaviours that foster physical, psycho-social and community health and well-being. Learning is not limited to academic subjects, nor is education only for children. For many of the same reasons that artistic activity can provide effective ways for children to learn, the arts present many opportunities for adult education and development. Refugees can share important information about social or health concerns effectively through the arts (music, street drama, poetry, posters, etc). Especially in refugee communities in which literacy levels are low, other means of communicating information may be more effective than pamphlets and other text-based methods.

Arts can be especially helpful in addressing concerns that would ordinarily seem impolite

Congolese refugee with a drum in Kiziba refugee camp, Rwanda. Many refugees in African refugee camps make their own instruments out of whatever materials they can scavenge.

or embarrassing to discuss in public. Issues such as ethnic conflict, domestic abuse or high-risk sexual behaviour can be examined through street drama, for example, with less risk of putting people on the defensive. Community discussion may lead to the development of new social norms and the promotion of more socially-beneficial behaviours. Because songs, poems and visual images remain in the memory, the dissemination and this new social norm may remain longer in people's memory if reinforced through artistic means. The longer and more deeply you remember, the more likely your individual behaviour and collective social standards will change accordingly, enabling you to experience a positive transformation in your habits and attitudes.

10. Artistic activity may help you prepare for life beyond the camp. Even if you do not end up working as a professional in the literary, visual or performing arts, the skills you learn from engaging in artistic activity – such as self-discipline, creativity and patience – may serve you well once you leave the camp and begin building a new life.

The guidelines of many international NGOs point to the arts as a potential and desirable vehicle for promoting humanitarian goals essential for humans to flourish. Artistic and cultural expression is even a right protected by the Universal Declaration of Human Rights and the Convention on the Rights of the Child. With the freedom to enjoy this right, and so many reasons to exercise it, the benefits of artistic activity and creative expression are within your grasp, even in the limited context of a refugee camp.

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Trails of Tears: raising awareness of displacement

Ken Whalen

Trails of Tears have arisen to draw attention and give legitimacy to multiple movements for fairness and justice, hoping to create a community of support strong enough to rectify a past injustice or prevent a future one.

Twenty-five years ago, the federal government of the United States agreed to establish the Trail of Tears National Historic Trail which commemorates the forced migration of thousands of Native Americans from the south-eastern US to 'Indian Territory' west of the Mississippi River during the early part of the nineteenth century. The Trail also promotes public awareness of the broader history of American Indian dispossession and displacement carried out by the US government and large numbers of Euro-American settlers moving west.

The trail, which links over 1,300 kilometres of concrete and asphalt roadways, follows the land route taken by most Cherokee Indians who suffered the migration. The name – Trail of Tears – nevertheless has transcended the historical event and its American landscape by becoming a metaphor used by local and international news media and NGOs to represent contemporary instances of displacement. The representation of this difficult heritage has the potential to influence people to reflect on their own sense of place and on their relationship with the past, both of which can foster concern for those in other regions of the world on the verge of suffering the same plight in the present.

Several countries are beginning to assume the moral obligation to uncover and preserve landscapes of forced migration, which they envisage as gestures of reconciliation, venues of learning and sanctums of remembrance.

Some have nominated landscapes for designation as UNESCO World Heritage Sites, following UNESCO's recent acknowledgement of the relevance of preserving historical landscapes of displacement. In 2010, UNESCO assigned World Heritage Site status to Australia's archipelago of convict prisons because they represent a moment in human history that silenced tens of thousands of men, women and children. And the African Slave Route heritage has become a focus of historical preservation for countries such as Senegal, Kenya and Malawi, which have nominated various landscapes of displacement for World Heritage status, including auction houses, stockades, ports, passages and plantations built between the 16th and 19th centuries to serve mainly the Atlantic slave trade.

Of the 53,112 kilometres of National Historic Trails in the US, over 7,000 are now dedicated to dispossession and displacement, reminders of the often violent relationship between Euro-American settlers and Native Americans. Today, the country is home to over two million Native Americans, only a remnant of the population when the first Europeans arrived.

Needless to say, preserving landscapes of difficult heritage is no panacea for preventing forced displacement. And it is no easy matter to rename and recategorise a public space – nor to darken a family's sense of place by signalling a history of atrocity outside their front door. Nevertheless, the steel trail markers which are the most prominent

signatures of the Trail of Tears have arisen to draw attention and give legitimacy to multiple movements for fairness and justice in the US and around the world, all hoping to create a community of support strong enough to rectify a past or prevent a future injustice.

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Ken Whalen
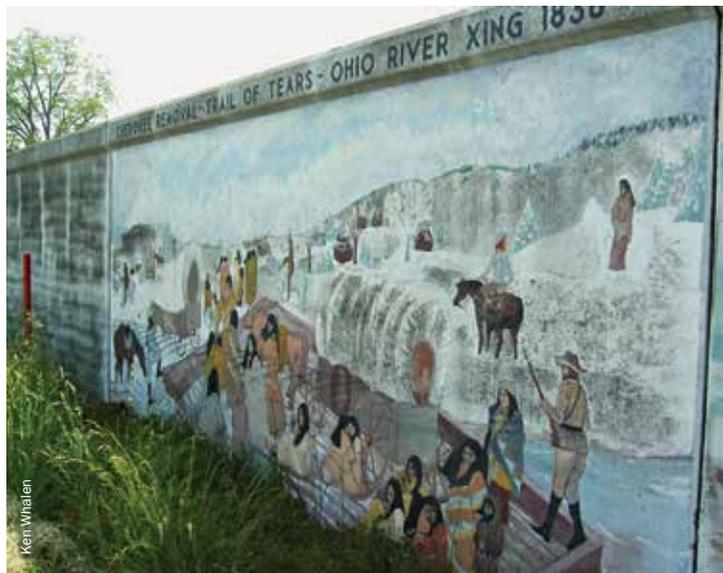
Ken Whalen

Harming asylum seekers' chances through poor use of human rights treaties

Stephen Meili

Over the past decade, UK courts and administrative tribunals have become increasingly comfortable relying on international human rights treaties in cases where non-citizens claim asylum or other means of protection from persecution. However, this trend does not mean that these treaties have always been deployed by refugee lawyers in ways which benefit their clients.

One could argue that the UK is experiencing a golden age of human rights jurisprudence on refugee matters. Ever since the European Convention on Human Rights (ECHR) became part of British domestic law in 2000 through the Human Rights Act (HRA), judges have become increasing receptive toward human-rights-based arguments asserted by lawyers for refugees. Previously, lawyers representing refugees in UK domestic courts rarely invoked human rights treaties other than the 1951 Convention Relating to the Status of Refugees. As one barrister told me, doing so would incur the judge's scorn: "If you had gone to an immigration tribunal pre-2000 and tried to bring up the ECHR, they'd have looked at you like you were wasting their time."

When the HRA was passed, refugee lawyers litigating in domestic courts suddenly had options beyond the 1951 Convention and no longer needed to demonstrate that their clients would face persecution "for reasons of race, religion, nationality, political opinion or membership of a particular social group". For example, ECHR Article 3 prevents countries from returning refugees to home countries where they risk torture or inhuman or degrading treatment or punishment, regardless of the reason or whether they have been personally targeted. And Article 8 prevents public authorities from interfering with an individual's right to family life, which has enabled many non-citizens to remain in the UK even when they cannot meet the 1951 Convention requirement of a well-founded fear of persecution.[1]

As a result, it has become commonplace for UK lawyers to cite the ECHR in UK domestic courts. According to two barristers: "The ECHR … is just a part of your day-to-day vocabulary. It is directly applicable in almost all of the work that you do" and "When I started [in the early 1990s] …[e]verything was the Refugee Convention. [The] European Convention was virtually never raised…"

Lawyers sometimes invoke other human rights treaties as well, especially the Convention on the Rights of the Child, which has effectively now been incorporated into British law.

Nevertheless, when I asked lawyers about situations where invoking human rights treaties in domestic courts might be detrimental to the interests of individual claimants, nearly all of them came up with at least one example:

When the judge is opposed to, or sceptical about, human rights law: There is not much a lawyer can do in this situation, given that it may be difficult to raise a human rights argument on appeal if it has not been raised (and rejected) at an earlier stage of the proceedings.

When the treaty argument complicates matters: Several lawyers noted that judges, particularly at the first tier of the immigration tribunal, like to keep things simple. One barrister said: "It could be distracting. If you can get what you need from incorporated treaties or domestic law, then you may just overcomplicate and confuse,

particularly in the tribunal … by referring to treaties that they don't know about."

When lawyers assert human rights arguments indiscriminately: In the process, they obscure their strongest points and damage their credibility with the court. "People feel they have to throw everything in. ... I've sat at the back of the court lots of times and watched judges say 'What does this add to your argument?' Why be put in that position?"

When the judge sees human rights-based arguments as a sign of desperation: "I think the sense is, if you've got a proper legal argument you don't need to use the Human Rights Act outside of [when it's] strictly [a matter of] torture… You are only using it because you are desperate and therefore you must have a weak case."

The common risk in all of these situations is that they can result in bad law.

A desperate and ill-prepared lawyer who includes a specious or unnecessary treaty-based argument may create legal precedent which adversely affects not only the current client but also other claimants in the future. This risk is likely to escalate soon, given the consensus view among refugee lawyers that cuts to legal aid in the UK will drive some of the best lawyers from refugee law practice, leaving it wide open for less skilled practitioners. In addition, several lawyers expressed a fear that those who remain will adopt an assembly-line or factory mentality to their work. This approach is likely to result in one of two outcomes for human rights arguments: some lawyers not familiar with such arguments will omit them, even though they might have assisted their clients, and other lawyers will include them in all of their arguments with little thought as to whether they really apply to the facts or might instead alienate a particular judge.

While recognising the risks of making human rights-based arguments under these conditions, lawyers identified two principal ways of maintaining and even expanding

the positive impact of human rights treaties in UK jurisprudence. The first is by appealing to the increasingly internationalist perspective of many judges, particular in the higher courts. Lawyers feel that many judges see themselves operating on a global stage where their decisions are scrutinised by courts, lawyers and academics around the world. If this is true then refugee lawyers would perhaps be wise to consciously appeal to the judge's desire to be at the forefront of – or at least in line with – global legal developments.

A second strategy was explained by some lawyers as "going on and on about it long enough [until] eventually things begin to change. The change you see in the courts is slow... We've been banging on about the rights of the child for decades. It's really only in the last few years that it has made a real difference."

Indeed, several lawyers emphasised the value of continuing to assert human rights-based arguments in a creative, but not desperate, way until a judge in a higher court accepts them.

In the end, most lawyers see the future role of human rights treaties in refugee practice either as a constant struggle against the tightening up of the rules somewhere else every time an advance is made, or as a matter of recognising that the struggle over a broad interpretation of human rights treaties and their applicability to individual cases will not be won overnight: "You win these battles slowly, with incremental development. And eventually you find that the world has moved on, and the things that were controversial ten years ago actually come to be the standard."

In conclusion, human rights treaties have been increasingly accepted by UK tribunals and courts over the past decade. While this is undoubtedly good news for human rights advocates, it is tempered by the consensus among refugee lawyers that treaty-based arguments sometimes can hurt asylum

claimants and the overall cause of the diffusion of human rights law. These lawyers stress the importance of carefully crafting such arguments rather than adopting a one-size-fits-all approach. The wiser practice, they assert, takes into account the presiding judge, the strength (and number) of other available arguments, and the extent to which courts in other jurisdictions have adopted the proposed argument.

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1. Refugee lawyers also frequently utilise Articles 15 and 23 of the 2004 E.U. Qualification Directive, which offer protection from "serious harm" and require member states to ensure the maintenance of family life, respectively.

Older people and displacement

Piero Calvi-Parisetti

At all phases of the displacement cycle – flight, displacement and return – older people are exposed to specific challenges and risks which are not sufficiently taken into account.

As the world population is ageing at an unprecedented rate and displacement is on the rise, increasing numbers of older people are forced from their homes. Whether they remain in their own country or cross an international border, they face a range of specific and very significant risks. The fact that it is virtually impossible to say how many is a manifestation of the first of such risks – invisibility. Often already marginalised before a crisis, older people are often not factored into assessments of need and fall between the cracks of registration systems. Of the 50 countries reviewed by the Internal Displacement Monitoring Centre (IDMC) for its 2011 global IDP survey, only 11 had up-to-date sex- and age-disaggregated data; in only six of the 50 countries did national policies make specific reference to older people; and only three of these six had gathered any information on older people.

Failure to understand the socio-cultural dimensions of the definition of 'older person' (which in many countries does not only depend on physical age) and the fact that older persons have quite different levels of vulnerability and capacity may further exacerbate invisibility, and often exclusion, during displacement.

At the onset of a crisis, older people are often left behind when the rest of their community is displaced. One major reason is the physical incapacity of many older persons to move, whether real or perceived by their family. Also, older people may have personal reasons for remaining at home. They may feel particularly tied to their home and lands, or they may have resisted pre-emptive disaster evacuations and thus experienced and managed similar situations before – that is, 'ridden out' previous disasters. Moreover, the prospect of starting again elsewhere may be too overwhelming for an older person. Lastly, the older person or the family may decide that it is important for someone to remain at home to secure their assets.

Older people who stay behind may be subject to violence, intimidation or secondary impacts of natural hazards, such as aftershocks or rising flood waters. In Darfur, for example, older people who did not leave were terrorised and then killed by Janjaweed militia; and during the 2008 crisis in Georgia, militias

Mania, 70, with her daughter and four grandchildren in the Zugdidi Hospital Collective Centre for IDPs in Zugdidi, Georgia. All four children, their mother and their grandmother sleep in this one small room.

looted the houses and tried to extort money from older people who had been left behind, beating up some of them severely. Furthermore, those who do not leave their area of origin often lose assistance and support mechanisms they rely on. In the wake of Hurricane Katrina in the US, for example, older people who were unable to leave residential homes were exposed to grave risk as their carers left New Orleans, abandoning them to their fate. Seventy per cent of those who died as a result of the disaster were over 70 years old.

Support in displacement
During displacement itself, the support that older people receive from governments and international or national organisations can be minimal or non-existent as it is frequently merged into programmes targeting displaced people as one homogeneous group. This results in assistance programmes which are not adapted for and/or are inaccessible to older people. For instance, while the known consequences of displacement on

the health of the general population can be devastating, an almost exclusive focus on communicable diseases misses the fact that much excess morbidity and mortality among older people result from exacerbation of existing non-infectious conditions such as hypertension, diabetes and cancer.

Similarly, access to adequate food is often a major problem for older displaced people. The way humanitarian operations are generally organised, focusing on bulk distribution of undifferentiated dry rations, may suit the needs of aid organisations better than the needs of the population, particularly those with special needs. Older people often have problems with the way the food rations are distributed as much as with the nature of the food itself. In a nutrition survey undertaken by HelpAge in Dadaab refugee camp in Kenya in 2011, more than 500 older persons were found to be in need of nutritional support. This need was attributed to exclusion from or lack of access to the general food distribution, low diversity in their diet and infrequent meals.

Contrary to common belief, often older people in displacement cannot count on a safety network, as they find themselves marginalised – and at times excluded – by their own families and communities in a situation of competition for scarce resources. Following the devastating 2010 floods in Pakistan, for example, and in stark contrast with the prevailing religious and cultural values, older people were simply abandoned. Pakistan's Ministry of Social Welfare estimated the numbers of older people living without family support at as much as 10% of the older population.

Displacement often brings about devastating loss of social status for older people as well, with the huge contribution they normally make to society being ignored. This is particularly apparent in the case of their support role vis-à-vis children being replaced by some of the very practices of the humanitarian community. Older persons in the developing world tend to work into their late seventies, whether in formal or informal employment. As with younger generations, the lack of employment brought about through displacement can be extremely demoralising. In an extreme example, in Lira district of northern Uganda, in the absence of an alternative strategy to support older people's needs, the local government declared Fridays begging days for older persons living in IDP camps. Yet older people do really suffer from the transition from a rural to an urban environment that is often associated with displacement. Many of the skills they have may not appear relevant in the new situation, and aid agencies rarely consider them as part of programme planning for livelihood work – a form of age-related discrimination, even if unintentional.

Return

Many older persons are among the most willing to return home to their places of origin because of their strong historical ties to their land. Yet, regardless of whether they are particularly vulnerable, older people may require assistance to be able to get back home or to carry return packages or assets with them. These challenges are especially difficult for older people who are without family support or who are caring for dependent children whom they are reluctant to take away from where they can receive services.

The prospect of having to build or reconstruct housing can also be a great obstacle to older people's return after displacement. Many older people, especially the very oldest, are physically unable to rebuild their houses. Furthermore, access to land for return is often fraught with complex land tenure and ownership issues. Population growth in many developing countries is placing ever-greater pressure on good land and priority will most likely be given to younger people, even when many older persons are capable and willing to resume agricultural activities.

As the ageing dimension of displacement becomes ever more relevant, development and humanitarian agencies, local and national governments and human rights organisations need to pay much greater attention to the needs and rights of older persons at all stages of the displacement cycle. Every effort should be made to ensure that vulnerable older people are identified and that all actors with protection responsibilities have the capacity to fulfil these responsibilities.

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See also the 2011 report online at *http://tinyurl.com/HAI-NeglectedGeneration* published by HelpAge International and IDMC entitled *The neglected generation: The impact of displacement on older people*. See also FMR 14 (2002) on 'Older displaced people: at the back of the queue?' online at *www.fmreview.org/older-displaced-people*

Poetry as women's resistance to the consequences of Bedouin displacement in Jordan

Maira Seeley

Despite the significant displacement that Jordanian Bedouin families have undergone in recent generations, Bedouin women are able to mitigate some of the consequences of that displacement through the opportunities and influence they have gained as Nabati poets.

Bedouin populations in the Middle East have experienced significant displacement through loss of assets or of access to assets, leading to a loss of livelihood during the past six decades. Bedouin in rural Aqaba and Ma'an governorates in southern Jordan have been prevented from following migratory routes because of a reinforced border with Saudi Arabia and government initiatives that sought to induce Bedouin settlement. Very few Jordanian Bedouin today rely on herding for subsistence, and most families' survival depends on male wage labour (for example in the tourist industry), military pensions and state benefits.

This displacement from a migratory lifestyle has significantly affected Bedouin women's social and family roles. The transition to sedentary life and greater geographic and spatial proximity to non-relatives has required women to take measures to avoid contact with unrelated males. In the densely settled contexts into which Bedouin have been displaced, this has serious consequences for women's mobility, restricting their ability to contribute economically to their families and limiting their participation in public activities and decision making. Women's labour was formerly critical to family survival in a herding context, as women were responsible for caring for animals, milking and processing dairy products, as well as for the care, mobility and erection of tents. Women's activities also occupied a larger spatial range in herding contexts, with fewer restrictions on movement.

Because most families no longer depend on domestic animals and the vast majority of wage earners in Bedouin households today are male, women have been largely sidelined as economic contributors and their influence in their own household's economic decisions has consequently been reduced. Political activity is also difficult for Bedouin women due to restrictions on their public movement and interaction with unrelated men.

The traditional art form of Nabati poetry (*al-sha'r al-Nabati*), a genre of oral poetry composed throughout the Arabian Peninsula by both men and women, has proved to be an acceptable means of resistance. Nabati poetry creates an avenue of resistance in several ways: by increasing women's spatial and geographic mobility, by providing opportunities to voice political and social criticism, and by allowing some women to establish careers as poets and thus garner respect, influence and financial benefits.

Unlike many rural Bedouin women, a female poet (*shā'irah*) may travel many driving hours from home to participate in a poetry evening (*umsiyyah*) or contest (*mahrajān*), accompanied by her husband or another trusted individual. This contrasts strongly with the restrictions on many non-poet Bedouin women's movement which prevent them from appearing even in the village outside their home. A female poet, however, can recite her work before an audience of as many as 500 men without attracting criticism of her morals. The most successful female poets may even, if they have the resources, travel abroad to participate in international poetry events such as the Emirati televised competition '*Shā'r al-Million*' ('Millions' Poet'). During and after such events women poets may converse and eat with unrelated men and in the context of a poetry evening this does not usually generate social disapproval.

Nabati poetry events also enable such displaced Bedouin women to participate in public political and social debate. Much of the poetry women compose addresses contentious issues such as political corruption and perceived disloyalty, the Arab Spring movements and the nature of being Jordanians. Bedouin women's limited opportunities for higher education often bar them from political leadership but not from composing influential poetry. One female poet's family strongly opposed her official participation in politics but they supported her political action through a widely disseminated and controversial poem criticising political figures. Renown as an accomplished poet is also a means for women to establish a position of social prestige as contributors to family honour and reputation and as savvy intellectuals who may join in men's political discussions.

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Emergency need for telecommunications support

Marianne Donven and Mariko Hall

Of the biggest emergencies needing emergency telecommunications support through the cluster system at the moment, two stand out. The first is Mali, where the lack of infrastructure in the areas where the humanitarian operations are taking place is stark, and where humanitarian agencies do not have a long history which would have allowed time and opportunity to build up their own communications infrastructure. The other, South Sudan, by contrast, has had a humanitarian presence for decades. Yet the physical environment is difficult and the areas of need and operations change so frequently that there is constant demand for emergency infrastructure to be set up.

UNHCR/K Mahoney

Both countries have thus been sites for the deployment of the 'Emergency Telecommunications Cluster (ETC) response solution' to provide internet connectivity and voice telephony services to the relief community. In fact the first deployment of the ETC response solution was in Bentiu, South Sudan, in January 2012. Since then, over 3,000 humanitarian workers across the country have used its services. A recent deployment has been to Yida in South Sudan where the population has swelled from 20,000 to over 70,000 with the great majority of the inhabitants now being refugees. Located close to the border with Sudan,

Yida is susceptible to conflict and violence; in March 2013 security incidents caused over 300 children to be displaced from the camp there.

Services provided by the ETC response solution enable coordination and communication both locally and internationally for responders. The ETC response solution consists of technologies from 'emergency.lu', Ericsson Response and the World Food Programme. 'emergency.lu' is a satellite-based mobile telecommunication service, developed by a public-private partnership between the Luxembourg government and private companies which was set up after the Haiti earthquake.[1] The Haiti experience of course challenged the international humanitarian community both to take advantage of the possibilities of increasingly available and common communications technologies and networks, and to ensure that it has access to the technological infrastructure enabling it to do so.

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1. www.emergency.lu/

Understanding refugees' concepts of sexual and gender-based violence

Carrie Hough

Sexual and gender-based violence prevention campaigns that incorporate culturally sensitive understanding will stand a better chance of breaking down barriers to accessing services.

The number of refugees in Kenya has grown from approximately 12,000 registered refugees in 1988 to 616,555 in 2012, the great majority originating from neighbouring countries in the Horn of Africa. Expecting a safe haven in their country of asylum, many have instead found themselves vulnerable to an array of new risks in the refugee context, including the very real threat of sexual and gender-based violence (SGBV).

In 2011 the international NGO RefugePoint conducted a study among some randomly selected male and female refugees living in Nairobi to explore refugee understandings and attitudes towards behaviour that is termed 'SGBV' by humanitarian actors.

UNHCR defines SGBV as "violence that is directed against a person on the basis of gender or sex. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty."[1] This study explored how such official definitions translate into local cultures which contain their own ideas about gender norms and acceptable behaviour.

The study documented that single refugee women between the ages of 20 and 35 years are particularly vulnerable to SGBV. Without a traditional male protector and provider, the limited livelihood options available to refugee women heighten their risk of experiencing SGBV. Many who report incidents are employed as domestic workers or street-sellers and are assaulted during their work or in the evening when returning home. SGBV incidents were more prevalent during the first two years in Nairobi when asylum seekers and refugees were less familiar with the area and had established fewer support mechanisms.

Most survivors interviewed had not sought medical treatment after being attacked. The majority of women interviewed did not speak English or the official local language, Kiswahili, and explained that stigma left them wary of asking another member of the community to interpret. Women repeatedly highlighted the negative social consequences if a woman is known to have been raped, including being labelled a sex worker, presumed to be infected with HIV/AIDS, and being considered unsuitable for marriage. Acknowledging an incident of SGBV is considered shameful and several survivors described wearing the *niqab* (face-veil) so that they could not be identified and ridiculed. The taboo on openly discussing anything related to sexual relations also inhibits some women from seeking help.

Direct translations of SGBV terminology do not necessarily exist within the lexicons of refugee communities. If there are no equivalent words to describe a particular form of SGBV, to what extent can it be conceptualised by the community to exist as a violation?

Consent was revealed to be a key concept which defied any clear-cut direct translation. Sexual passivity (Oromo male: "Some will not resist you in everything that you do, which means they have consented"), modest refusal of sex to appear 'proper' (Oromo male: "Men think she is just cheap if she says okay at a glance.... she will never say yes, so I need to use some force... because this is normal"), and especially marital partnership (Somali female: "There is nothing like being forced –

it's just part of an agreement between wife and husband") were all denoted as markers of consent among these communities.

The assumption of a wife's consent within marriage has implications for the reporting of physical and sexual violence by a spouse. This was found to be widely occurring but largely surrounded by silence, as it is not regarded as violations. The findings suggest that the normalised nature of such violence combined with cultural expectations of wifely obedience and loyalty to husbands also contribute to low reporting rates (Oromo female: "Beating is something that has come from our ancestors... it is normal for a husband to beat his wife"). Intimate partner violence may even be viewed positively by the victim – for some women, being beaten is perceived as evidence of a husband's love for his wife.

Although refusal of a spouse's sexual advances is permissible in theory, emotional pressure and cultural norms appear to undermine an individual's ability to refuse in practice. Marriage is commonly equated with life-long sexual consent among these communities, the wife's will being considered as indistinguishable from that of her husband's, suggesting that local conceptions of SGBV do not generally include the possibility of a husband as perpetrator. This raises the question of how consistent translations of terms such as 'rape' are between cultures where a husband is considered to have almost unlimited sexual entitlement to his wife, and the meanings intended by outsider humanitarian actors.

By gaining a sense of culturally normalised behaviour, service providers can better understand low reporting and care-seeking habits among refugee SGBV survivors. They can then in turn create more culturally sensitive interventions which stand a better chance of achieving improved primary prevention.

Among refugees, there is a lack of information on the benefits of health services for sexual violence survivors, despite confidence among humanitarian actors in Nairobi that this issue has been appropriately addressed in community education campaigns. This may be an indication that the concepts and language of campaigns have not been as effective as hoped for.

Police and health clinic staff should also be aware of the fear of speaking out that refugee women experience and ensure that refugee women seeking care are asked direct questions and given time to disclose their experiences. The availability of trusted and well-trained translators at both police stations and health clinics is critical. Police officers, clinicians and translators need to be aware that people in these communities may not be comfortable using explicit terms to communicate their experience and should pay attention to the nuances of a patient's narrative. Ensuring that police stations and health clinics provide safe spaces to report incidents, that translators are trained in confidentiality, and that the communities are well informed are also critical to improving reporting rates. These lessons can also be applied in many Western societies, where incidents of SGBV continue to be under-reported.

The study documented a high prevalence and ongoing tolerance for SGBV within the Horn of Africa refugee communities in Nairobi. Given the varying understandings of SGBV within the refugee communities, great care should be taken by humanitarian actors when designing and facilitating information and prevention campaigns on this topic. It should not be assumed that humanitarian language around SGBV can translate directly into local languages and cultural belief systems; and the use of jargon and foreign terminology should be avoided.

RefugePoint has shared the findings of this research with a wide network of humanitarian actors and organisations, and has incorporated them into the design of recent SGBV and reproductive health community campaigns. By engaging the

communities (including religious leaders and other community opinion leaders) in the implementation of behavioural change campaigns and in the participatory production of communication materials, humanitarian actors can help ensure that language, images and themes are clearly understood and have cultural resonance.

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RefugePoint. *www.refugepoint.org* This article is based on a longer report entitled '*A man who does not beat his wife is not a man': Risk factors and cultural conceptions of sexual and gender based violence among Horn of Africa refugees in Nairobi*, available at *http://tinyurl.com/RefugePoint-sgbv2012*

1. UN High Commissioner for Refugees, *Sexual and Gender-Based Violence Against Refugees, Returnees and Internally Displaced Persons. Guidelines for Prevention and Response*, available at: www.refworld.org/docid/3edcd0661.html

Forthcoming issues of FMR

Feature themes in 2013

Detention and deportation (FMR 44)
Due out September 2013.
Details at www.fmreview.org/detention

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Due out December 2013.
Call for articles online at www.fmreview.org/crisis
Submission deadline for articles is 2nd September.

25th Anniversary issue
See www.fmreview.org/25th-anniversary

Proposed feature themes in 2014-15

- **Afghanistan**
- **Dayton+20/The Balkans**
- **Environmental migration**
- **Faith-based humanitarianism**
- **Transitional justice**
- **Transitional solutions**

See www.fmreview.org/forthcoming for more information.

"We, the member countries of the g7+, believe fragile states are characterized and classified through the lens of the developed rather than through the eyes of the developing."

g7+

Eighteen countries recognised as fragile states and clustering around the high end of the Failed States Index convene under the name g7+, with the motto 'Goodbye conflict, welcome development'. They all struggle with poverty, instability and the threat of violent conflict, and in most cases with extensive displacement now or in the recent past. Few of them have been expected to meet any of the Millennium Development Goals.[1]

g7+ is a "country-owned and country-led mechanism to monitor, report and draw attention to the particular challenges faced by fragile states". The group made a collective approach to the international community on the sidelines of the OECD's fourth High-level Forum on Aid Effectiveness in Busan in 2011 and has since both continued to meet as

a group and to meet with the international community about the members' needs and circumstances. Their stance is that they should take leadership and express a strong, long-term vision to assist their development partners, the donors, in designing their assistance to fragile states. The 'New Deal for engagement in fragile states' has become the framework for this engagement.[2]

Effective assistance to fragile states to support them to become less fragile should lead to opportunities to reduce internal displacement, allow refugees to return and settle issues of rights, in a virtuous circle hopefully breaking the cycle of displacement as cause and symptom of fragility.

www.g7plus.org

1. A World Bank analysis published in April 2013 indicates, however, that 20 fragile and conflict-affected countries are meeting one or more MDG targets. They are Afghanistan, Angola, Bosnia and Herzegovina, Comoros, Guinea, Guinea-Bissau, Iraq, Kiribati, Liberia, Libya, Marshall Islands, Federated States of Micronesia, Myanmar, Nepal, Sudan, Syria, Timor-Leste, Togo, Tuvalu, and West Bank and Gaza. http://tinyurl.com/FragileStates-MDGprogress

2. http://tinyurl.com/NewDeal4peace