

## Fragile states, collective identities and forced migration

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**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<sup>(1)</sup>), 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

May 2013

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.<sup>2</sup> 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.<sup>3</sup>

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](http://avalon.law.yale.edu/20th_century/intam03.asp)

2. <http://fp.statesindex.org>

3. See FMR 33 'Past. Present. Future? Democratic Republic of Congo' [www.fmreview.org/DR Congo](http://www.fmreview.org/DR Congo)