

THE INTER-RELATIONSHIP BETWEEN
VIOLENCE, DISPLACEMENT AND THE
TRANSITION TO STABILITY IN THE GREAT
LAKES REGION

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EXECUTIVE SUMMARY

This paper explores the relationship between violence that engenders displacement and the forms of violence that result from displacement. Focusing specifically on Africa's Great Lakes region, the analysis seeks to point to ways in which a transition to stability can break through the cycles of violence and displacement and, in turn, generate sustainable peace both in individual countries and throughout the region. Implicit throughout the discussion is the need for this discussion to take place not only in the context of the nation-state, but also at a regional level.

Displacement is one of the most widespread and tangible consequences of violence, not least in the Great Lakes region where it has uprooted millions from their homes. Displacement takes many forms and incorporates a plethora of different experiences. Not only are there significant distinctions between refugees and internally displaced persons (IDPs), but also within categories there is considerable discrepancy between realities of displacement. The implications of being a self-settled refugee who has fallen off the official radar, for instance, is critical in the context of repatriation exercises that often focus exclusively on those living in refugee settlements. Likewise, there needs to be a gendered understanding that takes into account how displacement affects men and women differently. Thus the need to find genuinely durable solutions for those who have been uprooted from their homes during conflict needs to be integral to any post-conflict reconstruction phase.

The presence of displaced persons, in turn, feeds into the dynamics of violence as significant numbers of people fleeing armed conflict can lead to considerable destabilisation well beyond the immediate zone of conflict. In this context, the paper considers some of the salient dynamics of violence in the context of forced displacement: while at one level there is nothing new about the forms of violence that force people from their homes, what is significant is the means and magnitude of more recent forms of violence and, in turn, the scale of forced displacement. In addition, institutional structures have engendered indirect but nonetheless significant forms of violence in many countries in the region, creating further instability. Whether direct or structural, such violence has often been directed at human beings irrespective of gender, age or civilian status, and has all too often followed refugees and IDPs into exile.

Although there are signs of hope that the myriad conflicts that have generated displacement and exile are reaching points of resolution such that people can begin to return home, new or renewed conflicts continue to emerge indicating that the cycle of violence and displacement in the region is only becoming more entrenched. Within this context, the paper highlights four specific issues that lie at the heart of the interrelationship between violence and displacement, and which therefore need attention in any transition to stability.

First, **socio-economic factors** – particularly in the form of access to livelihoods – are a major source of conflict in the region: the build up of socio-economic pressures often fuel or generate violence which, in turn, leads to forcible displacement. In particular, unjust policies and/or practice relating to access to land and other resources lead to processes of exclusion that force people to leave their homes and, in turn, prevent them from being able to return. It is critical that issues relating to people's ability to access resources are intrinsic to any potential transitional reconstruction processes, and that they are scrutinised simultaneously

at a local, national and regional level. The equitable distribution of resources is a major factor in generating conditions of stability that allow for durable solutions for those who are displaced and in preventing further displacement in the region.

Second, **antagonistic articulations of identity** – whether in national, ethnic, or other localised forms – have often played a significant role in the cycles of violence and displacement in the region. Indeed, issues of identity are seen by many to lie at the heart of many of the recent conflicts, not least in a context in which there has been widespread failure of the state's ability to protect its citizens and those living within its borders. This failure, which has all too often resulted in the manipulation of ethnic identities by power brokers and the promotion of exclusive notions of citizenship, has polarised communities and has had a profound effect on stability throughout the region. Whether real or imagined, these disjunctures – both localised and national – do not disappear with the laying down of arms or the signing of a peace agreement. Meanwhile refugees continue to move around the region with ever decreasing options. Thus political, ethnic and regional divisions that generated violence and displacement need to be understood and addressed in any transition in order to ensure that they do not resurface.

Third, there is a need for **processes of reconciliation** that are both relevant and effective with regard to the specific dynamics created by forced migration – both in terms of root causes of displacement and the consequences of eventual return. Specifically, reconciliation processes need to not only successfully re-absorb those who return, but also address the issues that generated their flight. Likewise in countries that absorb considerable numbers of refugees, the specific dynamics created by their presence need to be taken into consideration. Ultimately, it is important in any reconciliation initiative – whether at a local, national or regional level – that displaced persons are integrated into such processes: ignoring the specific needs of forced migrants can inadvertently lead to further conflict.

Finally, the paper considers **state violence** and its linkages to displacement. The presence of refugees or IDPs are a clear symptom of structural problems resulting in lack of protection – just as their voluntary return is an indication that such issues have been at least partially or temporarily resolved. In particular, the paper emphasises the role played by the state in both creating displacement and, in turn, resolving root issues in any subsequent transitional process. Indeed, many of the other issues discussed – competition over land, the role of competing identities and the need for relevant and effective mechanisms for reconciliation – refer directly or indirectly to structural components that drive the relationship between violence and displacement.

Thus, in the context of a discussion on the interaction between forced migration and violence, 'transition', at its most fundamental level, is seen as referring to the process by which a community, a country or a region moves from a period of instability and conflict to a sustainable level of peace and stability such that people are able to return to their homes. Embedded in this process are political, economic and judicial mechanisms that reflect substantive change whereby the return of refugees and IDPs to their country and/or home is seen as a clear indicator that such a transition is successfully taking place. Ultimately, a significant indicator of a successful process of transition is one in which not only displaced persons can return home, but in which future displacement is prevented. Therefore just as

displacement is a gauge of the intensity and impact of violence, the absence of ongoing or renewed displacement is an indicator of stability.

INTRODUCTION

Civil and international conflicts in the Great Lakes region have uprooted millions from their homes.¹ The presence of forced migrants, in turn, feeds into the dynamics of violence and instability: while the majority of asylum seekers and refugees do not ‘carry conflict’ with them as is often asserted by governments and other actors, the presence of significant numbers of people fleeing armed conflict can lead to considerable destabilisation well beyond the immediate zone of conflict. Perhaps the most visible example of this was the case of refugees fleeing Rwanda in 1994 and the ripple effect that was felt across the region. Less well known was the destabilising presence of members of the Sudan People’s Liberation Army (SPLA) in Uganda, which not only justified the government of Sudan’s ongoing support for the Lord’s Resistance Army but created fear among Sudanese refugees and their hosts in north-western Uganda.² Furthermore, not only can conflicts move with refugee flows, but also at the point of return, renewed and new conflicts can be generated as people return home and tensions begin to build once more.

This dynamic of inter-related conflict and displacement has created a vicious cycle of violence that has wreaked havoc in the lives of millions of people across the Great Lakes region and continues to do so. It is therefore critical to understand the factors that drive it in order to point towards mechanisms that might best help break it and allow for a genuine transition towards stability. Indeed, despite recent optimism regarding the possibility of refugees and IDPs returning home with the signing of a number of peace agreements in the region, events in Kenya point to the ongoing volatility of the situation: they suggest that many of the root causes that generated forced migration have not yet been dealt with in any substantive way, leaving the region vulnerable to relentless cycles of conflict and displacement. Indeed, in many instances conflicts are becoming increasingly entrenched along ethnic lines, not least in a context of increased competition over ever depleting resources.

In order to try to grapple with these issues and begin to work out strategies for meaningfully engaging with them, this paper suggests a number of significant factors that play a role in fuelling the relationship between violence and displacement. These include socio-economic dynamics, particularly with regard to access to land; issues of identity; the interaction between national reconciliation processes and the return of displaced persons; and a consideration of some of the state linkages with violence and consequent displacement, not least an ongoing failure to reform the colonial state through creating forms of leadership and governance that transcend ethnicity and other forms of partisanship.³ Throughout the paper,

¹ There were a total of 2,932,000 refugees in Africa at the beginning of 2007 (<http://www.refugees.org/article.aspx?id=1941&subm=179&area=Investigate>), of which 1,119,400 were in Central Africa and the Great Lakes region (<http://www.unhcr.org/cgi-bin/texis/vtx/home/opendoc.pdf?id=478ce0532&tbl=STATISTICS>). At the same time, recent estimates of the numbers of Internally Displaced Persons (IDPs) were estimated at 100,000 in Burundi, 300,000–350,000 in Kenya and 1,270,000 in Uganda (<http://www.internal-displacement.org>). Yet even these statistics only tell half the story: tens of thousands more displaced people have not been counted as they fall off the official radar.

² Hovil, L. (June 2001). ‘Refugees and the Security Situation in Adjumani District, Uganda’, Refugee Law Project, Working Paper No. 2.

³ For a critique of the colonial system and its ongoing political ramifications, see: Mamdani, M. (2004). *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism*. Fountain Publishers: Kampala, Uganda.

the primary focus is on the Great Lakes region, although many of the issues discussed have wider application within the wider sub-region. Furthermore, the analysis takes a *regional* approach: discussions that focus solely on conflict within the boundaries of the nation-state will miss critical regional dynamics and, furthermore, can potentially reinforce forms of power and violence that created those boundaries in the first place.

First, however, it is important to define the concepts of displacement and violence, and place them within the wider discussion on transition – focusing on the Great Lakes region, primarily on situations of transition from violence to non-violence. With regard to issues of displacement, the dynamics created by the presence of forced migrants, as well as by the debates surrounding durable solutions, is a critical issue to be addressed in the context of any transitional process.

Defining Displacement

The term ‘forced migration’ – or ‘displaced persons’ as used in the title – is a wide term that refers to a variety of individuals in divergent circumstances. In any discussion of displacement, therefore, it is critical to acknowledge the dangers associated with generalising about such a diverse group and to allow for different experiences of exile to shape processes of repatriation or integration in any transitional phase.

Not only are there significant differences between persons who, by definition, are refugees and those who have been displaced within the borders of their home country, there are numerous other factors that need to be taken into consideration. Within the refugee population, for instance, there are those who are recognised within official assistance structures in exile and are likely to be living in assigned refugee camps or settlements. The shortcomings of the settlement system – increasingly referred to as the ‘warehousing’ of refugees⁴ – have been highlighted by a wide body of literature that documents the extent to which settlements violate the rights of both refugees and their hosts, for instance through research carried out by the Refugee Law Project in Kampala.⁵ By contrast, tens of thousands of others have opted out of official structures and, instead, have self-settled among the host population. The latter are rarely reflected in official statistics due to their ambiguous status and are often excluded from public discourses on displacement. They are at considerable risk during any repatriation exercise as they have fallen off the official radar and typically receive no assistance for their return. It is critical, therefore, that this significant group of refugees are not overlooked in any post-conflict reconstruction scenario.

⁴ See: Smith, M. (2004). ‘Warehousing Refugees: A Denial of Rights, a Waster of Humanity’, US Committee for Refugees World Refugee Survey, p. 38.

⁵ See, for instance: Werker, E. (November 2002). ‘Refugees in Kyangwali Settlement: Constraints on Economic Freedom’, Refugee Law Project, Working Paper No. 7; Hovil, L. (May 2002). ‘Free to Stay, Free to Go? Movement, Seclusion and Integration of Refugees in Moyo District’, Refugee Law Project, Working Paper No. 4; Kaiser, T. et al. (February 2005). ‘“We Are All Stranded Here Together”: The Local Settlement System, Freedom of Movement, and Livelihood Opportunities in Arua and Moyo Districts’, Refugee Law Project, Working Paper No. 14; Refugee Law Project, Working Paper No. 16; and Okello, M. C. et al. (November 2005). ‘“There Are No Refugees In This Area”: The Situation of Self-Settled Refugees in Koboko’, Refugee Law Project, Working Paper No. 18.

Likewise while displaced persons share many similar experiences, those who have been displaced within their own country often have different priorities and concerns to refugees. These disparities need to be taken into consideration, not least in a context in which the recognition of IDPs as having specific needs distinct from refugees has often been overlooked. The refusal to recognise the fundamental difference between refugees and IDPs has only become more acute with the recent incorporation of IDPs within UNHCR's mandate: there is a danger that by grouping them together the distinctiveness between the different groups could collapse altogether. If this were to happen, international protection for refugees is likely to shrink further: it will become increasingly hard for civilians to flee to safety over an international border as countries barricade themselves under the guise that UNHCR has become responsible for the protection of all those displaced. In other words, if IDPs are being 'protected' by UNHCR, then there is no longer any need to become a refugee.

At the same time, the specific needs of IDPs are at risk of further erosion in a post-conflict phase when governments assert that they no longer have any displaced persons within their borders. In Rwanda, for instance, both the government and the UN recently declared there were no more IDPs in the country thus absolving them of responsibility for addressing their humanitarian and protection needs.⁶ Likewise, in Uganda's Bundibugyo district following the end of the conflict between the Ugandan army and the Allied Democratic Forces, government officials declared that there were no more IDPs in the district – only those who had chosen not to return.⁷ Clearly the motivation behind this was to assert that the region had now reached a point of stability such that displacement was no longer justified, despite the fact that many people continued to live in fear of further attacks. Indeed, for governments across the region the presence of displaced persons, whether inside the country or outside, is often interpreted as a challenge to their public image, not least to claims of stability and the respect for human rights.

In this context, there is a need to identify what it means for a displaced person to no longer be displaced in any post-conflict reconstruction process, whether through local integration, resettlement or repatriation, the three 'durable solutions'. It is important, for instance, to consider the extent to which people's identities have been shaped and altered by their experience of exile, not least where displacement has lasted for a considerable period of time, and to examine how this has a bearing on their ability to eventually return, which governments and UNHCR view as the most desirable durable solution in any refugee situation and promote accordingly. Likewise, it is important to acknowledge the different effects of displacement on men and women, not least in a context where displaced persons have suffered from gender-based violence. Northern Uganda presents a stark example in this regard, where women and girls in particular have suffered chronic levels of abuse both in the camps and through abduction by rebel forces.⁸

⁶ Huggins, C. (2007). 'Land in Return, Reintegration and Recovery Processes: Some Lessons from the Great Lakes Region of Africa', paper prepared for *Uncharted Territory: Land, Conflict and Humanitarian Action*, HPG-ODI Conference.

⁷ See: Hovil, L. (October 2003). 'Displacement in Bundibugyo: A Situation Analysis', Refugee Law Project, Working Paper no. 10.

⁸ See, for instance: Okello, M. C. & Hovil, L. (2007). 'Confronting the Reality of Gender-based Violence in Northern Uganda', *The International Journal of Transitional Justice*, Vol. 1.

Most significantly, any discussion of durable solutions needs to critically examine the extent to which those who are displaced are consulted regarding their future. All too often decisions are driven by factors other than the best interests of refugees themselves, not least in the case of the numerous repatriation exercises that UNHCR labels ‘voluntary’. The official mechanism governing repatriation is a tripartite agreement between the host country, the country of origin and UNHCR. In the region, such agreements have been signed in relation to specific caseloads of refugees from Rwanda, Burundi and Sudan. While these agreements might make political sense, it is critical to acknowledge the gaps between them and realities on the ground. All too often repatriation exercises have taken place without any consultation with refugees and are dictated by the priorities and political gains of governments and the international community. Consequently, refugees become pawns of international relations through tripartite agreements signed with little regard for protecting the basic rights of refugees⁹ who all too often are forced to return ‘home’ even though the circumstances that made them flee have not changed. In this context, an examination of the extent to which durable solutions really are durable is vital to ensuring that a genuine transition to stability takes place.

Violence and its Links with Displacement

Within this context, the term ‘violence’ needs some scrutiny. Needless to say, much has been written on the subject: there is considerable academic debate, for instance, regarding the anarchic or rational outcomes of violence and conflict. Likewise, there has been extensive discussion regarding the apparent changing nature of conflict and its increasing ‘everyday’ impact on civilians,¹⁰ both of which clearly resonate with any discussion of displacement. While it goes well beyond the scope of this paper to deal with such a complex and wide phenomenon in any substantive way, it is important to consider some of the salient dynamics of violence in the context of forced displacement.

At one level there is nothing new or unique about the violence that forces people to flee from their homes – killings, abductions, rape, domestic violence, torture in all its dimensions, and so on have taken place from time immemorial whether in a state of stability or in a context of forced migration. However, what has changed is the means and magnitude of more recent forms of violence and, in turn, the scale of forced displacement. The easy availability of small arms and light weapons, for instance, has certainly increased the possibility of mass violence. At the same time, wider reporting of violence has both increased awareness of conflicts and, at times, perpetuated it.¹¹ In addition, certain economic, social and political policies have led to the creation of institutional structures that engender indirect but nonetheless significant forms of violence such as exploitation and neglect. Whether direct or structural, such violence has often been directed at human beings

⁹ Harrell Bond, B. (April 1989). ‘Repatriation: Under What Conditions is it the Most Desirable Solution for Refugees? An Agenda for Research’, *African Studies Review*, Vol. 32, No. 1, pp. 41 – 69.

¹⁰ See, for instance: Nordstrom, C. (1997). *A Different Kind of War Story*. University of Pennsylvania Press: Philadelphia.

¹¹ For a substantive critique of the role of the media in such conflicts, see: Allen, T. & Seaton, J. (eds.) (1999). *The Media of Conflict: War Reporting and Representations of Ethnic Violence*. Zed Books: London and New York, pp. 4 – 5. The book critiques, in particular, the extent to which much war reporting has relied on labels of ‘ethnicity’ or ‘tribalism’, thus emptying them of any political content and, at times perpetuates conflict.

irrespective of gender, age or civilian status, and has all too often followed refugees and IDPs into exile.¹²

Sudanese refugees living in Uganda, for instance, have repeatedly suffered attacks from the Lord's Resistance Army (LRA), just as Ugandans displaced by the same war have continued to be attacked in their so-called 'protected villages'. The situation of a group of Sudanese refugees who fled to Uganda and were settled in Achol-Pii refugee camp in Pader district (northern Uganda) vividly illustrates this interrelationship between violence and displacement. Testimonies collected in the camp in 2002 showed how this group of refugees (over 20,000 at the time¹³) had fled from violence perpetrated not only by the government of Sudan but also from the Sudan People's Liberation Army (SPLA), with many suffering multiple displacements within Sudan before finally fleeing to Uganda.¹⁴ However, upon arrival in Uganda these refugees became caught up in the war between the LRA and the government of Uganda. In July 1996, the rebels attacked the camp over a two-day period, and an estimated 76 refugees were rounded up and systematically shot, hacked or clubbed to death. An additional 22 were seriously wounded.

Following this attack, the refugees remained in the camp, unable to return to Sudan due to the ongoing war, and unable to move elsewhere in Uganda due to the government's policy of forced encampment. Despite continual warnings from civil society organisations, inadequate protection was provided to the camp, and the rebels attacked again in August 2002 leading to the death of over one hundred refugees and the final closing down of the settlement. The majority of refugees fled south of the Nile into Kiryandongo refugee settlement, before being forcibly relocated by the government the following year to West Nile where, once again, refugees felt vulnerable to attack from the LRA; hence the use of force in their relocation.

Although the case of the Acholi-Pii refugees may seem particularly violent and extreme, the maintenance of refugees in a chronic state of displacement or 'uprootedness' as a result of ongoing threats of violence is something that is repeated across the region, whether as a deliberate policy by state actors or as the result of an inability on the part of the state to protect those living within its borders. It creates additional dynamics that need to be taken into consideration in any post-conflict discussion: it is important to understand the experiences of conflict in exile for those displaced as well as the root causes that generated their flight.

As this story illustrates, therefore, the reality of displacement across the region is all too often a story of violence at every stage of displacement – violence that reflects scant regard for the protection of displaced persons enshrined in international law. But whether this is 'new' or 'old' is not the point: the question is how to deal with past violence in such a way as

¹² A most extreme case, perhaps, is the death of tens of thousands of refugees in the then Zaire during the 1996 – 1997 war. See Newbury, C. (December 2005). 'Suffering and Survival in Central Africa', *African Studies Review*, Vol. 48, No. 5, pp. 121 – 132.

¹³ UNHCR refugee population statistics for Uganda, April 2002.

¹⁴ The findings of this research are published in: Hovil, L. & Moorehead, A. (June 2002). 'War as Normal: The Impact of Violence on the Lives of Displaced Communities in Pader District', Refugee Law Project, Working Paper No. 5.

to prevent future violence and, more specifically, to end forced displacement, which is both a consequence and, at times, a cause of violence.

Processes of Transition

In the context of a discussion on the interaction between forced migration and violence, 'transition', at its most fundamental level, is seen as referring to the process in which a community, a country or a region moves from a period of instability and conflict to a sustainable level of peace and stability such that people are able to return to their homes. Embedded in this process are political, economic and judicial mechanisms that reflect substantive change whereby the return of refugees and IDPs to their countries and/or homes is seen as a clear indicator that such a transition is successfully taking place. Ultimately, a significant indicator of a successful process of transition is one in which not only displaced persons can return home, but in which future displacement is prevented. Therefore just as displacement is a vivid gauge of the intensity and impact of violence, the absence of ongoing or renewed displacement is a clear indicator of stability.

A number of countries in the region could currently be considered to be in something of a period of transition from conflict to stability with a subsequent move towards encouraging refugees and IDPs to return home. Burundi, Sudan and the Democratic Republic of Congo (DRC), for instance, have all recently signed peace agreements, which have signalled the possibility of the return of refugees who fled during conflicts. Rwanda is actively promoting its image as a country recovering from genocide and is aggressively promoting the return of all Rwandans currently in exile. Uganda is in an advanced stage of negotiation with the LRA and there is a growing impetus for IDPs to return to their homes, and for a national transitional mechanism to be put in place.¹⁵ Even in Kenya, following the post-election violence and subsequent power sharing agreement, there is a growing call for a formal reconciliation process not only to deal with the recent violence but, more importantly, to address issues such as access to land and land ownership, access to economic opportunities, endemic corruption and the perceived or real dominance of one or other ethnic group over economic opportunities and resources, which have been simmering beneath the surface for decades.

In light of this discussion, the paper now considers some of the significant factors that lie at the heart of the inter-relationship between violence and displacement, each of which is discussed briefly below. In each case consideration will be given to the different stages of exile: from root causes of displacement, to the experience of exile, and finally to the specific dynamics associated with finding durable solutions that prevent future displacement. While a discussion of transition might naturally focus on the return of forced migrants, it is important that both the wider regional context and the different chronologies of displacement are taken into consideration, reflecting the cyclical nature of the interaction between violence and displacement. In particular, it is important that this discussion is realistic and continues to consider the many simmering and ongoing conflicts in the region. Furthermore, through looking at this process in its different stages, each section points to issues that need to be investigated in order to break this relentless cycle and generate the conditions for genuine long-term stability.

¹⁵ See www.beyondjuba.org

SOCIO-ECONOMIC FACTORS

Addressing socio-economic factors – particularly in the form of access to livelihoods – is a critical factor in the interrelationship between violence and forced migration. While poverty per se is more likely to be a source of economically induced migration than forced migration, where socio-economic pressures build up they can easily fuel or generate violence which, in turn, leads to forcible displacement. Likewise, unjust policies and/or practices relating to access to land and other resources can also lead to processes of exclusion that force people to leave their homes. For instance, such pressures are viewed by many to have played a role in creating the conditions that eventually led to genocide in Rwanda.¹⁶ At the same time, struggles over land and access to resources in eastern DRC – in this case minerals and other commodities that are of considerable value – are inextricably intertwined with the myriad conflicts in the area.

These pressures often continue into exile as those who are displaced struggle to meet their basic needs. Refugees in Uganda, for instance, who are forced to live in camps lack freedom of movement and despite the rhetoric surrounding the local settlement policy – which is supposed to allow for the self-reliance of refugees – there is ample research to show that such restrictions make it impossible for refugees to attain any degree of self-reliance. At the same time, self-settled refugees are heavily reliant on the host population for land or other means by which to generate a living, having not received any assistance by virtue of refusing to live in a settlement.¹⁷ In both cases, instead of removing obstacles to refugees' access to livelihoods, governments too often limit their choices and movement such that their skills and economic potential cannot be realised. This, in turn, impedes longer-term development and has a direct effect on the ability of refugees to realise quality of life in exile. In many instances, it also puts pressure on refugees to return home before it is safe to do so as they are left with no alternative.

For those who do eventually return to their country of origin – whether through an official repatriation exercise or 'spontaneously' going home – refugees' ability to (re)claim their land or possessions is clearly critical to both their future prospects and to the future stability of the area. This is inevitably a source of considerable tension throughout the region, where increasing pressure on limited land is generating new conflicts over the legitimacy of such claims.¹⁸ Indeed, in the majority of instances those who are returning are doing so within a legal context that is often in a state of flux, in which mechanisms of customary law that often prevail during a period of conflict often take precedence over state legal systems that

¹⁶ See, for instance: Prunier, G. (1995). *The Rwanda Crisis 1959 – 1994: History of a Genocide*. Hurst & Company: London.

¹⁷ See, for example: Hovil, L. (1997). 'Self-settled refugees in Uganda: An Alternative Approach to Displacement?', *Journal of Refugee Studies*, Vol. 20, pp. 599 – 620.

¹⁸ In 2005, the UN Principles on Housing and Property Restitution for Refugees and Displaced Persons, known as the Pinheiro Principles, were established by the UN Sub-Commission for the Promotion and Protection of Human Rights and its Special Rapporteur on Housing and Property Restitution, Paulo Sergio Pinheiro. Principle 2.1 provides, 'all refugees and displaced persons have the right to have restored to them any housing, land and/or property of which they were arbitrarily or unlawfully deprived, or to be compensated for any housing, land and/or property that is factually impossible to restore as determined by an independent, impartial tribunal.'

are still dysfunctional at the point of return.¹⁹ The consequent vacuum of accountability is exacerbated by the fact that monitoring of the return process by those mandated to protect returnees – in particular the UN – is notoriously weak, thus making individuals and groups more vulnerable to exploitation in cases where, for instance, someone else has claimed their land.²⁰

In Burundi, for instance, there are often multiple claims on the same piece of land. For many returnees, particularly in the case of refugees who fled in 1972, land they once owned has been allocated to others by the government of Burundi, while in other instances relatives who remained have sold the land or redistributed it. The numerous problems associated with reclaiming such land are exacerbated by the lack of resources and capacity amongst local authorities to resolve problems.²¹ The plight of many Burundians returning home is further jeopardised by push factors in the country of exile, forcing them to leave regardless of the situation into which they return. With nowhere else to go, such returnees have increasingly diminished options.

In this context, it is critical that linkages between transitional justice mechanisms and the specific dynamics created by the return of significant numbers of refugees and IDPs are taken into consideration. While it is an issue often raised in peace agreements, for instance in the case of Burundi, the implementation of recommendations is far harder due to limited resources and lack of political will. Thus in an environment such as Burundi, further conflict is inevitable unless land disputes are addressed and resolved.

For those who cannot or are unwilling to return home, dynamics with the host population become critical, particularly with regard to the issue of access to livelihood opportunities. Research in Uganda has shown the extent to which self-settled refugees have been accepted by the local population as the benefits of their presence are recognised, whether through paying taxes or through the diversification of the local economy.²² However, this symbiotic relationship generally takes place within a context in which their presence is assumed to be temporary (even if ‘temporary’ lasts for decades). The critical issue is what happens when refugees, unable or unwilling to return home, seek permanent status within the country of exile, and their acquisition of land and other resources are seen as something more permanent (discussed below in relation to the issue of citizenship). If such issues are not adequately and equitably dealt with, then there is potential for conflict to develop between ‘stayees’ and hosts.

Thus at all stages of displacement it is critical that issues of access to resources are intrinsic to any potential transitional reconstruction processes. In particular, it is an issue that needs to be scrutinised simultaneously at local, national and regional levels in order to take account of the numerous cross-cutting issues relating to the equitable distribution of what are all too often limited resources.

¹⁹ For an in-depth discussion on this issue, see Huggins, *op. cit.* note 7.

²⁰ See Pottier, J. (July 1996). ‘Relief and Repatriation: Views by Rwandan Refugees; Lessons for Humanitarian Aid Workers’, *African Affairs*, Vol. 95, No. 380, pp. 403 – 429.

²¹ Huggins, *op. cit.* note 7, p. 9.

²² See, for example, Hovil, *op. cit.* note 9.

DYNAMICS OF IDENTITY AND ASSOCIATION

Closely related to issues of access to livelihoods – in particular in relation to land and other natural resources – are the specific dynamics created by different expressions of identity. Whether in national, ethnic, or other localised forms, antagonistic articulations of identity have often played a significant role in the cycles of violence and displacement in the region. Indeed, issues of identity are seen by many to lie at the heart of many of the recent conflicts, not least in a context in which there has been widespread failure in the nation-state building exercise.²³ The vacuum created by varying degrees of failure in the state's ability to protect its citizens and those living within its borders have all too often resulted in the manipulation of identities, in particular ethnic identities, by locally based power brokers such as 'traditional' authorities or warlords. This has polarised communities and has had a profound effect on stability throughout the region. The recent violence in Kenya following the flawed elections is a clear example of this politicisation of ethnic identity – or ethnicisation of political identities – exacerbated by a media that has relentlessly seized upon 'tribalism' as a complete explanation for the conflict. Likewise, the genocides in Burundi and Rwanda have demonstrated such manipulations of identity by those in positions of power at their most extreme. Whether real or imagined, these disjunctures – both local and national – do not disappear with the laying down of arms or the signing of a peace agreement. Political, ethnic and regional divisions that generated violence and displacement need to be addressed in any transition in order to ensure that they do not reappear.

In particular, there has been a growing discourse on issues of 'autochthony' or 'indigenusness' as people increasingly define themselves in relation to 'allochthons' or strangers.²⁴ This discourse is being heavily exploited by politicians for their own gain, for instance through limiting political competition by using the label 'foreigner'.²⁵ It is a discussion that is intimately connected to processes of forced migration, as a cause of displacement, as a dynamic in the experience of exile, and as a determining factor in whether or not a displaced person is able to return home.

Linked to this, ethnicity has been used as a veneer for expressing numerous underlying tensions, for instance access to resources such as land, water or grazing pasture, or opportunities such as jobs and business. Too often, one group is perceived to be monopolising these vital resources and opportunities, and ethnicity has become the clarion call for mobilisation in order to fight such perceived or actual injustices and inequalities. Thus conflict articulated along ethnic lines has played a substantive part in generating forced migration in the region, with the genocide in Rwanda presenting perhaps the most extreme example.

In particular, exclusive notions of citizenship that delimit people's access to their rights by virtue of belonging to a certain group – demarcated either along politico-cultural or politico-

²³ See, for instance: Holsti, K. J. (1996). *The State, War and the State of War*, Cambridge University Press.

²⁴ See, for instance: Geschiere, P. & Nyamnjoh, F. (December 1998). 'Witchcraft as an Issue in the "Politics of Belonging": Democratization and Urban Migrants' Involvement with the Home Village', *African Studies Review*, Vol. 41, No. 3, pp. 69 – 91.

²⁵ For examples of this, see the Citizenship Rights in Africa Initiative (CRAI), at www.citizenshiprightsinafrica.org

geographic lines²⁶ – are a root cause of conflict in a region that continues to bear the impact of a colonial venture that created or emphasised particular ethnic and territorial power structures.²⁷ This has led to the exile, en masse, of specific groups of people by virtue of their membership of a particular group.

These antagonisms and tensions often follow the displaced as they flee – whether within their country or outside of it – as tensions between those exiled, as well as between the displaced and host communities, are often played out in exile. In the case of the latter, for instance, antagonisms between Tutsi and Hutu refugees, or Dinka and other Sudanese ethnic groups, have been a cause of ongoing tension and violent confrontation amongst displaced groups. Likewise, friction between refugees and host communities can occur as a result of the widely held belief, often based on xenophobic sentiments, that refugees carry conflict with them. This perception has been exacerbated by a subtle shift in the discourse on refugees particularly since 1994 whereby refugees are seen less as victims and more as perpetrators of conflict. Such comments are clearly prejudiced and unsubstantiated in the majority of cases,²⁸ showing the need for a more nuanced understanding of the difference between the broader dynamic of conflict that moves with displaced populations and the specific issues generated by the presence of combatants within displaced groups.

In Uganda, for instance, government officials repeatedly used this argument to justify the ongoing warehousing of refugees in settlements: by separating them off from the local population, they argued, their violent influence is minimised. To the contrary, however, research demonstrates that it is the refugees living in settlements, isolated from the rest of the country, who are the most likely to generate further conflict: there is increasing evidence to suggest that settlements, rather than ‘containing’ the security threat of refugees, allow rebel groups to re-group and operate within such isolated rural ghettos.²⁹ Furthermore, the presence of large camps set apart from the surrounding population inevitably generates rumour and suspicion amongst the host population. Such ongoing tensions, whether manifest in violence or not, ensure that root causes of violence are kept alive, further jeopardising protection for those who are already vulnerable.

Likewise, the return of large groups of displaced persons – often associated with or identified within the rubric of specific identity markers – can once again open up fault lines that first generated violence. In this context, it is critical that any transitional processes seek to diffuse tensions rather than inadvertently entrench divisions. In order to do this, transitional mechanisms must reflect the need to consider and integrate the realities of multiple identities and be alert to factors that will prevent localities from resorting to violence over identity-aligned sources of competition.

Regional mechanisms that allow for cross-border movement are critical in this regard. For instance, in the border area between Uganda’s West Nile region and southern Sudan, many

²⁶ Jackson, S. (September 2006). ‘Sons of Which Soil? The Language and Politics of Autochthony in Eastern D.R. Congo’, *African Studies Review*, Vol. 49, No. 2.

²⁷ See, for example, Mamdani, *op. cit.* note 4.

²⁸ For a critique of this assumption in the case of self-settled refugees in Uganda, see Hovil, *op. cit.* note 18.

²⁹ Verdirame, G. & Harrell-Bond, B. (2005). *Rights in Exile: Janus-Faced Humanitarianism*. Berghahn Books, New York and Oxford.

Sudanese refugees (especially those who are self-settled, but also those living in the camps) have been unofficially moving in and out of Uganda in order to maximise both their own safety and their access to livelihoods. As the war in Sudan has reduced, so has the proportion of time spent in Sudan increased. Such creativity and freedom of movement needs to be encouraged rather than prevented during transitions by allowing for fluidity in people's identities within the wider national and regional context. It enables individuals and communities to repatriate in such a way as to limit the risks of relocating their families back into situations where limited infrastructure might jeopardise their physical security, and allows for a look-see approach to repatriation.

Finally, as people repatriate, wider judicial and political structures are critical to the way in which they will be re-absorbed into their country of origin. In particular, although localised mechanisms are often critical to effective reintegration of refugees, it is important that they are not seen as arbitrary and partisan as this will only serve to exacerbate the potential for the inclusion and exclusion of particular groups. This is particularly the case where groups of returning refugees are associated with a specific ethnic group. Indeed, it is only when political and judicial processes are seen as fair that ethnicity will cease to be used as a tool for mobilisation against real or perceived injustice. Thus at the point of return and transition the need for promoting inclusion at a national level is critical in order to allow for constructive expressions of localised identity within a national context.

THE RELATIONSHIP BETWEEN DISPLACEMENT AND RECONCILIATION PROCESSES

The process by which those who have been displaced by violence are able to return and stay home is a critical manifestation of a successful transition from instability to stability. Or stated another way, the specific dynamic created by issues of forced migration – both in terms of root causes of displacement and the consequences of eventual return – is a critical part of any process of reconciliation that might ensure a successful transition. As outlined above, the reality of people having to flee their homes is, in itself, a reflection of un-reconciled communities and nations. Reconciliation processes, therefore, need to not only successfully re-absorb those who return, but also address the issues that generated their flight.

The possibility of return – where it is genuinely voluntary – is often in and of itself an indicator of the possibility of long-term stability. However, before this can happen, there are numerous obstacles that prevent people from coming home, not least in a context of polarised identities, as illustrated above. In the case of Rwanda, for instance, many Hutu refugees who had fled after the genocide were reluctant to return home, as they believed themselves to be perceived as guilty of genocide by association. In this instance, mass-identities have been subscribed to a group of majority civilian Rwandans who, by virtue of belonging to the same 'ethnic' group as the genocidaires, are seen as guilty. Furthermore, the way in which responsibility for genocide is attributed to whole communities has become entrenched over time: a direct correlation is seen between a refugee's refusal or reluctance to return home and their degree of guilt.

This association creates the conditions that, in turn, can provoke further violence – and even genocide – as collective guilt hinders both return and reconciliation.³⁰ In particular, those Hutu refugees who did not return to Rwanda by 1996 were assumed to be guilty of genocide – why else did they not return home at the earliest date? Not only does this obscure the actions of the new Tutsi government and the atrocities it committed, it also defies the legal presumption of innocence and complicates the process of reconciliation. Therefore, until such time as political and judicial mechanisms address the problem of guilt by association, many Rwandans will be reluctant to return home.

A specific group of Rwandan refugees living in Uganda's Nakivale settlement, known as the Kibati group (reflecting the area in which they are currently living), are a telling example of the various dynamics that impinge upon the processes of return. The majority of this group of refugees fled to Tanzania following the 1994 genocide. In 2001, the government began to issue statements indicating that they were no longer welcome, and many, reluctant to return to Rwanda, fled to Uganda. Their status remained ambiguous as both the UNHCR and the government of Uganda initially refused to register them as refugees, rejecting calls by human rights groups to allow for individual status determination. When they were finally screened, the vast majority were rejected. Denied assistance, they have been living in extreme poverty on the outskirts of the settlement.

In July 2007, a tripartite agreement between the governments of Uganda and Rwanda and UNHCR was signed stating that all Rwandans should repatriate under the assumption that it was now safe for them to return home. A repatriation exercise began in October 2007. However, a number of human rights groups, including the Refugee Law Project and the International Refugee Rights Initiative, have voiced serious concerns regarding the voluntary nature of the repatriation exercise over reports of coercion and forced removal. This is born out by the fact that an estimated one third of those repatriated had, by January 2008, returned to Uganda.³¹

When questioned about their fear of return, one of the significant issues raised was the existence of the current gacaca courts.³² There was concern that their reluctance to return was being interpreted by the gacaca as an admission of guilt. Combined with the Rwandan government's aggressive push to get those displaced to return which, in turn, is placing pressure on the government of Uganda to 'encourage' them to leave, these refugees are left with few options: their current and future protection is seriously under question. Regardless of the merits or otherwise of the gacaca courts, this evidences the extent to which transitional mechanisms need to take into account the specific dynamics associated with the return of refugees, not least in a context in which guilt by association plays a key role.

Furthermore, it is critical that reconciliation is based on an understanding of the roles played by all involved in violence and not just from a platform of victor's justice. In the case of

³⁰ See Lemarchand, R. (April 1998). 'Genocide in the Great Lakes: Which Genocide? Whose Genocide?' *African Studies Review*, Vol. 41, No. 1, pp. 3-16.

³¹ For a recent update on this group, see International Refugee Rights Initiative: <http://www.refugee-rights.org/Newsletters/GreatLakes/V4N1KibatiRepatriation.html>. See also: www.refugeelawproject.org/resources/papers/archive/2005/RLP.rwanda.repat3.pdf

³² Ibid.

Rwanda, the emphasis on the largely Hutu genocidaires has obscured the actions of the invading Rwandan Patriotic Front (RPF) army and the subsequent atrocities committed by it as it seized power. As a result, all Hutu refugees who fled following the genocide (as opposed to those who fled at earlier points in Rwanda's postcolonial history) are linked to perpetrators of violence. At the same time, it is important that provision be made for the return of ex-combatants: specific attention needs to be given to former combatants to ensure that proper demobilisation, demilitarisation, reintegration and rehabilitation mechanisms are in place when and if they return home. Indeed if their specific needs are overlooked, the potential for renewed conflict will inevitably increase.

A further dimension of the interaction between mechanisms of reconciliation and processes of return is the need for the former to be based on an adequate understanding of the historical context in which violence took place, particularly when it resulted in large-scale displacement. Lemarchand, for instance, emphasises the extent to which the 1972 genocide in Burundi, in which 100,000 to 200,000 Hutus were killed following an aborted uprising that led to the death or exile of almost every educated Hutu, has never been adequately dealt with.³³ Yet it is critical to the repatriation of the 1972 group of refugees that the dynamics that created their flight are dealt with, not least in a context in which claims over land are a hotly contested issue.

Thus in order for refugees and IDPs to feel safe enough to return, it is important that transitional justice mechanisms not only acknowledge the specific dynamics generated by the return of significant numbers of displaced people, but also ensure that they do not inadvertently prevent return on the basis of wrongly ascribed guilt by association. While this is clearly a profoundly complex and intricate process, in essence the reality is that if post-conflict mechanisms of justice are fair, this will create the conditions in which people can return to their homes.

STATE VIOLENCE AND ITS LINKAGES TO DISPLACEMENT

Many of the issues discussed above – competition over land, the role of competing identities and the need for relevant and effective mechanisms for reconciliation – refer directly or indirectly to the structural violence that fuels cycles of violence and displacement. In particular, it is important to recognise the role played by national governments in both generating displacement and, in turn, resolving root issues in any subsequent transitional process. Forced migration itself is articulated within the discourse of the state, not least in the case of refugees for whom crossing an international border becomes critical to their legal status. Likewise, processes of transition have typically taken place within a national context; after all, intrinsic to the promotion of transitional justice mechanisms is recognition of an urgent need for nation building.

The presence of refugees or IDPs are a clear symptom of structural problems resulting in lack of protection, just as their voluntary return is an indication that such issues have been at least partially or temporarily resolved. It is therefore important to consider the role of the state both in the creation of displacement and in potentially resolving it.

³³ Lemarchand, *op. cit.* note 31, p. 5.

At one level, the actions of the state can directly lead to displacement. For instance in the case of northern Uganda, it was the government's counter-insurgency strategy against the Lords Resistance Army (LRA) that led to the creation of so-called 'protected villages': everyone living in the Acholi sub-region was forced to leave their homes and livelihoods and move to unprotected IDP camps, resulting in the mass-displacement of over a million people. With the increasingly likely prospect of a negotiated settlement between the government and the LRA, there is much talk and action regarding the return of IDPs to their homes. Yet the extent to which the government of Uganda is successfully dodging having to take accountability for its actions in creating forced displacement in the first place, is going to have a serious long-term impact on the process of reintegration: widespread lack of trust in the government generated during years of conflict will not simply disappear with the signing of a peace agreement. Thus people might return to their homes, but root causes of a conflict in which displacement was one of the most visible consequences will still need to be addressed.³⁴

In other instances, it is the weakness or total failure of the state that allows for violence to occur: in the absence of adequate protection structures, people are left vulnerable to the actions of localised power bases. While this makes the state no less accountable for its inability to protect its citizens, it creates a different set of issues with regard to the return of those displaced, particularly regarding the locus of power.³⁵ In eastern DRC, for instance, the lack of effective national government structures leaves individuals and groups vulnerable to exclusion by local militias and other power brokers who have filled the vacuum. Until fundamental changes have taken place within the national arena, therefore, it is unlikely that repatriation will be a safe or sustainable option for many. By the same token, where refugees or IDPs *are* forced to return home – whether as a result of international pressure or from a lack of other options – their presence can quickly lead to further destabilisation and conflict through clashes between groups over control of the area and its resources.

Inextricably linked to processes of national reconstruction is a corresponding need for the reform of social and economic institutions. In the first instance, police, prison services and the army are all critical in this regard, not least in a context in which returning refugees often fear indiscriminate and unfair judicial processes in the aftermath of conflict. Likewise, the role of international institutions such as the World Bank, the International Monetary Fund and donor countries are important in dictating the structural policy issues of economic reform and democratisation, something that may also implicate the extent to which returning populations feel included or excluded from national processes.

Thus, once again, the effectiveness of any transitional process returns to the need for equitable political, judicial and economic mechanisms that generate an environment conducive to non-displacement. In particular, the reintegration of refugees in their countries of origin, or the finding of permanent solutions for refugees (after all, it is a clear indicator of

³⁴ See Lomo, Z. & Hovil, L. (February 2002). 'Behind the Violence: Causes, Consequences and the Search for Solutions to the War in Northern Uganda', Refugee Law Project, Working Paper No. 11.

³⁵ A plethora of literature shows the extent to which weak states are vulnerable to conflict. Patrick Chabal and Jean-Pascal Daloz, for instance, emphasise the link between failed states and 'disorder'. They argue that the State in Africa is not just weak but essentially vacuous. Chabal, P. & Daloz, J-P. (1999). *Africa Works: Disorder as Political Instrument*. The International Africa Institute, James Currey, Indiana University Press: Oxford, Bloomington and Indianapolis.

failed transition if refugees still exist outside of the country) needs to be entrenched within the policies of the country and needs to be emphasised throughout the process.

CONCLUSION

This paper has sought to explore the linkages between the violence that engenders forced migration and the forms of violence that result from forced migration. In order to break this vicious cycle, it is critical to locate the forces or factors that engender violence within this cyclical process. Specifically, the paper has emphasised socio-economic dynamics, particularly with regard to access to land; issues of identity; the interaction between national reconciliation processes and the return of displaced persons; and a consideration of some of the state linkages with violence and consequent displacement. All of the above are seen as critical in addressing ongoing cycles of violence and displacement.

The paper has also emphasised the extent to which the nation state is the context in which part of the discussion needs to take place: while its limitations are clearly acknowledged, ultimately it is through an effective consolidation of the post-conflict state that there is hope for stability. Thus in the first instance, any discussion of displacement and violence in the region needs to engage with mechanisms of the state that both engender forced displacement and, in turn, help to prevent it. At the same time there needs to be a corresponding understanding of both localised and regional realities, not least in the Great Lakes region, where there is a disjuncture between territory and nationality. The realities of forced migration in the region evidence the need for creative solutions that go beyond the confines of individual states and need to be dealt with in creative ways that allow for cross-border initiatives and understandings.

The complex issues raised above – including access to land and the different dynamics of identity – emphasise localised issues that are critical to address, yet are so often misunderstood. In this regard, it is vital to gain an empirical understanding of people's perceptions at a grassroots level to inform any discussion on the implications of displacement within a context of transition. Too often, the opinions and aspirations of those who are displaced are represented (or misrepresented) only by the official assistance structures, whether through UNHCR, NGOs or governments. In order to genuinely bring about durable solutions for such groups, it is critical that they are given an adequate voice in discussions regarding their future. Ultimately, any transitional process needs to assess which individuals, groups or communities are most vulnerable to becoming tomorrow's refugees in order to ensure that future flows of displacement are prevented.

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