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Local communities: first and last providers of protection

*plus a selection of articles on
other aspects of forced migration*





From the editors

Forced Migration Review

(FMR) provides a forum for the regular exchange of practical experience, information and ideas between researchers, refugees and internally displaced people, and those who work with them. It is published in English, Arabic, Spanish and French by the Refugee Studies Centre of the Oxford Department of International Development, University of Oxford.

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It is often people's immediate community that provides the first, last and perhaps best tactical response for many people affected by or under threat of displacement. However one defines protection or community, external actors will struggle to provide appropriate support unless they understand this reality. Unless they develop a greater awareness of the role of community-based protection strategies, they may fail to actively incorporate the 'agency' of the community into policy and programming; at worst, they risk undermining local communities' capacity to avoid or survive violence and displacement.

This issue's feature theme, 'Local communities: first and last providers of protection', looks at the capacity of communities to organise themselves before, during and after displacement in ways that help protect the community. Refugee and IDP authors from Rwanda, Sudan and Yemen share their insights, while other authors reflect on the subject in general or look at specific community-led protection strategies in countries such as Colombia, the Democratic Republic of Congo, the Dominican Republic, India, Nigeria and Uganda.

As usual, this issue of FMR also includes – in addition to the feature theme articles – a varied selection of articles of interest on other forced migration topics.

Formats and languages: The full issue and all the individual articles in this issue are online in html, pdf and audio formats at www.fmreview.org/community-protection. FMR 53 and its accompanying FMR 53 digest (which provides introductions to all articles plus QR/web links) will be available online and in print in English, Arabic, French and Spanish.

If you would like printed copies of either the magazine or the digest, in any language, please email us at fmr@qeh.ox.ac.uk.

Please disseminate this issue through your networks, mention it on Twitter and Facebook, and add it to resources lists.

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Forthcoming issues and feature themes:

- FMR 54: Resettlement (due out February 2017)
- FMR 55: Shelter (due out June 2017)

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And, finally, please do look at the back page to read our short report on the recent **Reader Survey**.

Marion Couldrey and Maurice Herson
Editors, Forced Migration Review

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Why this cover image: In Caqueta, Colombia, a community leader took the initiative to help her community find a safe, dignified and healthy place to live after they were displaced by guerrillas. In contrast to most of the images and metaphors that spring to mind when we look for an illustration of 'protection' – a sheltering roof, maybe, or a helping hand – to us this picture reflects a displaced community striving to rekindle the vestiges of normality. It speaks also of resourcefulness and creativity, and of a place that someone can flourish in, a place where there is belonging and safety: the coming together of community and protection. "To plant a garden is to believe in tomorrow", as the film star Audrey Hepburn once said.

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Colombia: the peace process and solutions for forced migrants

Jeisson Oswaldo Martínez Leguizamó

If, as seems likely, Colombia reaches a peace agreement to end its long internal conflict, the settlement may create the political and legal conditions to solve the phenomenon of forced migration of its citizens.

The search for durable solutions to conflicts is perhaps one of the greatest and most inspiring challenges for modern societies. Colombia seems now to be on the verge of ending a period of violence that has – in addition to the dead and missing – made six million people displaced internally and 400,000 refugees.

The peace talks in Havana, Cuba, between the Colombian government and the main rebel group, the FARC-EP, have started yielding agreements that include concrete measures regarding forced migrants. A core element is the Integrated Truth, Justice, Reparations and Non-Repetition System.

Truth: A Truth Commission will be set up with three key objectives: to “help to clarify what happened, offering an explanation of the complexity of the conflict to promote a shared understanding in society”; to “promote recognition of victims as people who saw their rights violated and as political subjects of importance to the transformation of the country”; and to “promote coexistence in the country, creating a transformative environment that allows the peaceful resolution of differences and the building of a culture of respect and democratic tolerance.”

The agreement also provides for the Truth Commission to look at how the war has affected different groups, including women, children, people with disabilities, indigenous and Afro-Colombian populations, LGBTBI people, and trade-unionists and merchants. It also mandates the Commission to throw light on issues around displacement and dispossession of land, both major causes of the conflict.

Justice: There are five objectives under this heading, relating to: the right of victims to justice, offering truth to Colombian society, protection of the rights of victims,

achieving a stable and lasting peace, and protecting the legal rights of those who participated directly or indirectly in the armed conflict. At the core should be the rights of victims and the severity of the violations suffered by them. The document notes that the consequences of these violations are more serious when it comes to persons belonging to vulnerable groups, such as displaced persons and refugees.

Although the agreement provides for the state to grant amnesty for political offences, it is clear that those responsible for forced displacement, crimes against humanity and serious war crimes are not eligible for amnesty or pardon.

Reparations: The aim of these measures is that all those who have caused damage during the confrontation should contribute to addressing the consequences. Thus both the rebel groups and the government are to undertake individual and collective actions of reparation, and both material and symbolic measures to repair the damage to the social fabric. These efforts are to be directed especially towards political movements, women’s organisations and professional groups affected by the conflict.

In respect of compensation for displacement, the agreement states that “the government will launch programmes for the return and resettlement of displaced people” and “plans for accompanied and assisted voluntary return for victims abroad (...) in safety and dignity”. The return and resettlement plans will primarily target areas where development programmes are to be implemented and in coordination with the process of land restitution. In addition, returns and resettlement should be carried out in tandem with plans

for rural housing and water, income generation, promotion of the rural economy and decontamination programmes to clear up unexploded ordnance.

The government will involve both individuals and communities in the design of security measures, and will reinforce communal defence programmes in order to promote human rights and to complement the processes of land restitution, return and resettlement.

Specifically regarding forced migrants outside the country, the agreement talks of “recognition and reparation of victims abroad to be strengthened, including refugees and exiles ... through plans for accompanied and assisted return”. To facilitate their return to the country, the programme will “create the conditions for rebuilding their lives, including access to the basic rights to employment, health, housing and education at all levels”. Also it stresses that “priority will be given to return to the places which they were driven out of, respecting the will of the victim”.

From agreement to implementation

The Havana Agreements (which require ratification by the Colombian people during 2016) are configured as an ambitious political tool, not only to end the armed confrontation but to reverse the pattern of unequal development and to achieve durable solutions to forced migration of Colombians, both internally displaced and political exiles. However, successful implementation will require Colombian society as a whole to be aware of and to enforce the different elements of the Agreements. For this to happen, the government will need to create an educational strategy to bring all Colombians (including exiles, refugees and migrants) into the process.

Internally displaced and exiled people have been involved in the search for peace at various stages. Before the institution of the peace process itself they contributed through various activities inside and outside the country, setting out the position against war and in favour of a concerted resolution of the conflict. After the start of the dialogues, exiles were instrumental

in the international dissemination of progress, through forums, meetings, conferences and rallies. They ensured that the outcomes of these events were brought to the negotiating table – and some are now a part of the agreements that have been signed. They have also brought significant international support to the process, from civil society and from significant political and cultural figures. At critical moments, when it seemed that the parties were about to abandon the talks, exiles and refugees mobilised to demand that the dialogue continue and insisted on the importance of a bilateral ceasefire to ensure its continuity.

Today, when most of the obstacles to agreement have been overcome, the process seems to have reached a point of no return. In these circumstances there are several tasks outstanding where displaced people can play a part. The most urgent is to promote active and informed participation in the validation process which will take place through what is being called a Plebiscite for Peace. Supporters of the peace have already begun campaigns across the country and abroad in favour of a ‘Yes’ vote. The plebiscite will take place some 30 to 45 days after the final signing of the agreement.

The government for its part must ensure the safety of those who are trying to disseminate the content of the dialogues and agreements. The government will be making a grave error if it does not commit itself to the process of dissemination but leaves it at the mercy of those powerful groups which currently have a monopoly on information. Despite the commitments adopted by the executive to disband the paramilitaries, they continue to operate in several areas of the country. For this reason, an ‘Agreement on security guarantees’ has been needed, stipulating that for peace building it is essential to combat the criminal organisations – including those that have succeeded the paramilitaries – that are responsible for murders and massacres or that threaten defenders of human rights, social movements or politicians.

Once the agreements have been ratified, their implementation will require active

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national participation and international observation. The scale of the reforms demands that the final agreement must not be a purely declaratory document but must have an irreversible legal and normative status, so that all of it acquires a binding character to be accepted and fulfilled by all citizens. Only in this way can it create the political

and legal conditions to end the conflict and to find effective and lasting solutions to the forced migration of Colombians.

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Statelessness and the refugee crisis in Europe

Katalin Berényi

The European Union needs to issue a Directive on common standards for statelessness determination procedures with a view to mitigating the particular impacts of statelessness in the context of the continuing refugee crisis in Europe.

In the upheaval of today's refugee crisis, European immigration officers can face the particular yet confusing case of stateless people¹ seeking asylum in Europe, with the result that stateless people regularly face long periods of immigration detention waiting to be identified in need of international protection as stateless persons.

Having a nationality constitutes a legal bond with a state² and provides numerous rights as well as obligations. Not having a nationality leaves the concerned individual legally non-existent and largely unprotected by national legislation. Their access to education and health care is extremely limited, they cannot legally get married, they cannot vote and they may also be unable to return to their country of origin as citizens. Statelessness may result from a variety of causes³ but in the case of Syrian refugees seeking protection in neighbouring countries and in Europe, gender-discriminatory nationality laws are greatly to blame.

In Syria, Jordan and Lebanon, nationality is passed on exclusively by the father. As a result, in the absence of the father, Syrian mothers cannot register the birth of their child who may therefore not acquire a nationality. Due to continuing conflict and displacement, the father may be untraceable or his whereabouts unknown. In addition, a child can also be rendered stateless if the father is stateless, if there is no proof that the father is a national of the country concerned, if the child

is born out of wedlock, or if the marriage has not been registered (which is also not uncommon in current circumstances). Syrian Kurds are particularly liable to have already been left without a nationality. Finally, birth registration practices in the countries hosting most Syrian refugees (Turkey, Jordan and Lebanon) show serious shortcomings, which put newborn babies at risk of being stateless. These factors leave a generation of Syrian children at high risk of statelessness and thus of being unable to claim their rights.

What is the importance for the EU?

In practical terms the European Union (EU) may not be able to return those without an identified nationality when the conflict ends. But meanwhile in the case of stateless asylum seekers who meet the criteria set out in Article 1 of the 1951 Convention Relating to the Status of Refugees – including those who did not have a nationality prior to their departure – the 1951 Convention is to be applied instead of the statelessness conventions of 1954 and 1961. Unlike the latter conventions, the 1951 Refugee Convention has been signed and ratified by **all** EU Member States. However, the 1954 Convention has also been signed by most EU Member States, who are therefore obliged to provide a certain level of protection to stateless persons falling within their jurisdictions.

The EU's mandate in protecting stateless persons is often contested. Whereas the