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State practice and the family unity of African refugees

by Esther Sample

As African and Northern states increasingly prioritise immigration control and economic and security considerations, families are being pulled apart. In the UK detention and deportation prevent reunification and actively disrupt family unity.

For African refugees, family separation is often an unintended result of forced migration, with family members compelled to follow different routes or to flee based upon available opportunities or resources. However, it can also be a chosen temporary strategy, such as helping a child escape military recruitment or sending a politically active member into hiding. Family separation is rarely intended to be permanent, and huge efforts are usually made to re-unify members.

With legitimate routes to safety restricted, displaced African families increasingly pool together to pay an illegal agent to forge documents and transport one member abroad, despite trafficking risks and the likelihood of long-term separation. In the context of the extreme trauma of persecution and exile, the social, psychological and material support of the family is of utmost importance.

Commonly, some family members will cross borders to refugee camps or Northern countries of asylum, while others will remain as IDPs because of movement restrictions enforced by combatants or physical or material constraints. The 1969 OAU Convention, ‘Governing the Specific Aspects of Refugee Problems in Africa’, stated that all family members should be extended recognition on a prima facie basis. Individual status determination was not included because in situations of mass influx the need for protection is obvious, and the number of the examinations required would be unfeasible. This means that families who manage to cross the border together are all granted protection and are not interrogated separately as in the UK. Separated families can also, theoretically, cross the

national and international NGOs extend their programmes to support this vulnerable group, in collaboration with those NGOs already providing assistance.

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border and then reunite. However, without more government and donor resources invested in refugee family tracing to support the work of agencies such as the ICRC, chances of reunification are slim amongst the chaos of the dispersed communities in refugee camps. Community income-generating projects can provide psychological wellbeing and social protection. The Ugandan and Zambian governments, with support from UNHCR, have converted some refugee camps into refugee resettlements, providing arable land and access to local markets and services. Under such circumstances families and communities are better able to maintain unity.

Unfortunately, however, most African states – resentful of the lack of international assistance and global burden-sharing – are following the Northern example and tightening border controls. As in the UK, this means that it is possible that some family members can be admitted and not others, as policies change or individuals are interrogated. Tanzania, once famous for its ‘open door policy’ towards Rwandans, has moved towards repatriating all refugees and closing its borders, impelled to do so by their numbers, economic crisis, shrinking international support and security concerns.

**Risk of detention and separation in the UK**

Those who make it to the UK may be interrogated, detained or separated. Denied permission to work, asylum seekers have no route to the stability or self-sufficiency that they seek. The UK Asylum and Immigration Act 2004 allows for the withdrawal of all support from failed asylum-seeking families. Unless the family is prepared to sign up for ‘voluntary return’ and so receive support under section 4, this leads to destitution and can result in the children being taken into care. Detention centres can also separate asylum-seeking family members. In terms of deportation, ‘national security’ is the government’s key consideration, and minor offences can lead to one family member being deported alone back to a conflict zone.

At the European level, those with Subsidiary Protection – measures complementary to the protection regime enshrined in the Geneva Convention and its 1967 protocol – fall outside the EC’s Family Reunion Directive. Similarly, the Dublin Regulation – the 2003 regulation to ensure that asylum seekers can only on the Rights of the Child for this reason. This obligates states “to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason”. Refugee children in the UK face prolonged interrogation and are frequently detained over age disputes, leading to a drawn-out procedure of interviews and uncomfortable paediatric examinations, while being detained with adults.

The incompatibility between immigration control and child protection policies means that unaccompanied minors are less likely to gain refugee status but at the same time they have a reduced chance of refoulement, at least until they are 18. This policy incoherence leaves asylum-seeking children trapped in a marginalised or illegal position and compounds their already traumatic situation.

Governments should recognise that through supporting family unity the ‘economic burden’ they fear from refugees can be lessened: a family
group will rely less heavily on external providers of assistance and protection and witnesses can lead to speedier asylum determination procedure. The issue of refugee family unity is increasing in salience, as refugee and IDP numbers grow and states expand immigration controls, restrict entry for family reunification and disrupt family units. Refugees can be left isolated and in desperate need of support. The best way to alleviate this problem, for both governments and refugees, is to encourage self-sufficient refugee family and community groups.

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2. ‘The Dublin Regulation: Twenty Voices - Twenty Reasons for Change’ www.ecre.org/resources/responses_recommendations/798
3. www.unicef.org/crc

UNHCR Africa newsletter
UNHCR’s Africa Bureau publishes a regular newsletter which is available online at www.unhcr.org/doclist/news/42c3b1b22.html and in hard copy. For more information, please contact Hélène Daubelcour (daubelco@unhcr.org), Africa Bureau, UNHCR, PO Box 2500, Geneva, Switzerland.


Nine million children are refugees right now.

Ninemillion.org is a UNHCR-led campaign to raise awareness and funds for education and sport programme for refugee youth, many of whom are forced to spend years of their young lives away from home with little hope of returning. What happens to them now, during their years as refugees, is up to all of us. www.ninemillion.org

Failure to protect: lessons from Kenya’s IDP network

by Prisca Kamungi and Jacqueline M Klopp

State-instigated violence in the 1990s in Kenya left thousands dead and hundreds of thousands displaced. Today some 430,000 IDPs live in abysmal conditions. This is in spite of the fact that Kenya has an IDP support network, a vibrant civil society and, since a historic election in 2002, political freedom to organise. What has gone wrong?

With all its advantages relative to many of its neighbours, and with its move towards a formal commitment to the Guiding Principles, Kenya is still unable to adequately protect its IDPs. We draw on our experience working with Kenya’s IDP Network to analyse some of the deep political barriers to effective state and civil society action on behalf of the internally displaced.

Throughout the 1990s the Kenya African National Union (KANU) government funded and orchestrated violence to cleanse opposition voters from key constituencies. In the run up to the 2002 election – which ended the 24-year autocratic regime of Daniel Arap Moi – the opposition National Rainbow Coalition (NaRC) made the choice to include many of the former KANU politicians responsible for the violence. Since these politicians could deliver votes, they were also brought into the NaRC government after the election and some were even elevated to high positions. This made addressing the IDP plight politically sensitive and led the new President, Mwai Kibaki, to shelve plans for a Truth, Justice and Reconciliation process.

The fact that the government continues to see some perpetrators of violence and their province-level accomplices as necessary for its political survival is one of the biggest barriers to change.

Kenya’s IDP Network was launched in 2003 with support from many civil society actors who worked for the displaced during the violence: the National Council of Churches of Kenya (NCCCK), the Catholic Diocese of Nakuru and the Kenya Human Rights Commission (KHRC). The network represents IDPs in most regions, except northern Kenya, where people experienced violent displacement. As it has worked to gain public recognition, it has felt the need to become autonomous from its civil society partners by whom many IDPs feel let down. The displaced are also deeply frustrated by what appears to be official denial and delay. Apart from some limited resettlement and relief food in some places, the government and civil society have done little for Kenya’s IDPs.

Another enormous problem is land – an issue which is both an underlying cause and a consequence of violence. The government has failed to reform its system of land management. Like the former KANU government the...