

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

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.¹ 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 Child³ 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



UNHCR/H. J. Davies

Liberian refugee boy newly arrived in Sheffield, UK.

claim asylum in one European Union state – fails to ensure family unity, except in limited circumstances, if they are separated during their forced migration and are forced to apply for asylum in different European countries.² States can circumvent their obligations to preserve refugee family unity as there is no definition of ‘family’ in international law. Traditional African society is much more communitarian with greater roles for ‘elders’ and more distant relatives and friends. As a result of high mortality, family groupings are very often not ‘nuclear’. The refugee experience causes many families of choice or circumstance to be formed. Emotional and economic ties should in some instances be given the same weight as blood ties or marriage.

Western states are increasingly suspicious about children being sent by parents as ‘anchors’, so that the family can then follow and be granted residence. The UK has officially derogated from Article 22 (2) of the 1989 UN Convention

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.

Esther Sample (esthersample@hotmail.co.uk) volunteers for the Red Cross International Tracing and Message Service for Refugees and Asylum Seekers and is currently

working in Malawi for a youth development NGO, 'AYISE'.

1. Ana Low, 'Local Integration, a Durable Solution for Refugees?' FMR25 www.fmrreview.org/FMRpdfs/FMR25/FMR2538.pdf
2. 'The Dublin Regulation: Twenty Voices - Twenty Reasons for Change' www.ecre.org/resources/responses_recommendations/798
3. www.unicef.org/crc

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