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*The family is the cornerstone of society. A healthy society must value, support and protect families - while recognising that the concept of “family” can have different meanings in different contexts and cultures.*

*The forced separation of family members undermines the integrity of the family unit. It can have serious individual and social consequences – especially where separation involves children.*

*Refugees who come to New Zealand, whether as part of our commitment to our international obligations or through other avenues, typically suffer family separation - often in extreme circumstances. As a consequence, they often struggle to fully integrate and participate in, and contribute to, their new communities.*

*Our aim is to assist refugees who have settled in New Zealand to reunite with their families. This includes promoting immigration policy and procedures which recognize and accommodate the basic human need and right of former refugees to be with family.*



*“They tell us we need to be settled before we can be reunited with our families but how can we settle when we are worried sick and separated from those we love and care for”<sup>3</sup>*

## EXECUTIVE SUMMARY

Family reunification continues to be the major concern for former refugees living in New Zealand. Yet despite, over many years, numerous submissions and meetings identifying significant issues arising from policy and practice, no substantial reviews or changes have taken place.

This situation is exacerbated by a lack of data and research on the impacts of current family reunification policies and procedures on former refugees’ well-being and ability to settle.

However, the experience of communities and NGOs in the Wellington region verify the human, as well as the financial, costs to former refugees and the wider community of refugees not being reunited with loved ones. Wellington Refugees as Survivors Trust confirms that their clients’ well-being and engagement in their new country improves markedly once they are reunited with family.

New Zealand family reunification policy narrowly defines “family”, and is inconsistent with the UNHCR definition. The current policy definition takes no account of wider understandings of family from other cultures nor the obligations and emotional bonds created through the consequences of war and displacement.

As at 5 May 2009<sup>4</sup>, 1134 registrations to become a sponsor had been received under the Refugee Family Support Category (representing 4,286 people). Of those registrations 695 were rejected due to the sponsor’s failure to meet eligibility requirements. This left only 439 valid registrations. Of those 439 eligible registrations, 187 sponsors have been issued with invitations for the relatives they nominated in their registration form to apply for residence. This represents 695 potential applicants for residence in the 18 months this policy has been operating. We are concerned that 61% of applications to become a sponsor fail to meet eligibility requirements. These figures also indicate that potentially 439 refugees are alone in New Zealand without any family members. This raises serious questions about how and why so many refugees are alone in New Zealand.

Requirements of the Refugee Family Support Category, and other family residence categories, that only the immediate family of the principal applicant be included in the application (i.e. partner and dependents) means that where there is an interdependent family grouping (such as

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<sup>3</sup> Former refugee leader from Cambodia.

<sup>4</sup> Statistics obtained from the Department of Labour Presentation at NRRF in Wellington, 27<sup>th</sup> May 2009.

a parent with an adult child and grandchildren, or two widowed sisters living together raising their children), sponsors are put in the invidious position of having to select only some family members - with the potential of further separating the family and leaving some members behind in an even more vulnerable position.

Some former refugees simply have **no** avenues under existing policy to enable them to be reunited with their families. The Humanitarian Category, which was removed in 2001, formerly provided such an avenue for some of these refugees.

There are significant operational issues within INZ which seriously impact on the processing of applications by refugees wanting to be reunited with family members. These issues include significant delays, costs and mistakes. The Ombudsman's Annual Report in 2007/08 noted with respect to INZ that *"...we continue at present to receive complaints about administrative failings or issues that we have previously investigated and sustained."*<sup>5</sup>

Since 1997 the Wellington Community Law Centre has directly taken or assisted former refugees with 21 appeals to the Residence Review Board or Residence Review Authority. Of these appeals 17 (81%) have been successful, resulting in overturning a decision by INZ to decline an application for residence. The main reason given by the Residence Review Board or Residence Review Authority in 82% of these successful appeals was "incorrect assessment in terms of Government residence policy".

There are inequalities in the status of refugees arriving in New Zealand. If they come via the UNHCR refugee quota programme then they are classified as refugees, and receive all the services and entitlements of refugees resettling in New Zealand. If they come via the Refugee Family Support Category or as sponsored partners, parents or children, then, despite many being refugees, they are classified as migrants and do not receive any support. This places a huge burden on sponsors who are typically already struggling, and hinders their ability to resettle and to become contributing members of society.

Further, INZ and the Settlement Division have over many years undertaken consultations in which all these issues have been repeatedly raised. There is frustration, both within refugee communities and those agencies that work with them, that there has been no noticeable progress.

While the demand for family reunification is always likely to be greater than New Zealand's capacity to respond, there are a number of strategic, policy and service delivery improvements which would result in more humane and equitable outcomes and improved resettlement outcomes.

It is time for a new approach – one that genuinely engages community representatives and agencies with officials in an attempt to address these concerns.

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<sup>5</sup> Ombudsman Report 2007/2008 page 21

*“It is dangerous being in Ethiopia. One can get killed any moment – like my mother in front of me – one suffers and is hungry and full of despair. But being here in NZ without my husband and children for the fifth year now is the greatest suffering I have ever known. Sometimes the pain is too much and I just want to end my life. It is too much. I don’t know for how much longer I can go on like this.”<sup>6</sup>*

## RECOMMENDATIONS

### THE WAY FORWARD

We recommend that a working group comprising senior INZ officials, representatives from refugee communities, and NGOs - including the Wellington Community Law Centre, Refugee Family Reunification Trust, ChangeMakers Refugee Forum, Wellington Refugees as Survivors Trust and Refugee Services Aotearoa - be established, with agreed terms of reference, to address the issues and concerns raised, and the recommendations made in this paper and to report back to the Minister of Immigration by an agreed date.

### PRINCIPAL POLICY CHANGES

- The UNHCR definition of “family” be adopted, to replace current INZ definitions, being:

*All members of a family group who are living as a family and who demonstrate long-term emotional physical or financial dependence upon the family unit.*

- To address the current backlog of applications under the Refugee Family Support Category, one year’s 750 annual places under the UNHCR refugee quota programme be applied solely to family reunification.

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<sup>6</sup> Wellington Refugee as Survivors Trust quote from client.

- An urgent review of the Refugee Family Support Category be undertaken to ensure that the objectives of this policy are met; the numbers waiting in the queue become manageable; the length of time waiting in the queue becomes realistic; and that the target number of 300 refugees entitled to enter New Zealand under this category each year is met.
- A genuine humanitarian programme be implemented to address refugee family reunification needs where no other policy is applicable.
- Government engages with NGOs and refugee communities in discussion and consultation as to what constitutes genuine humanitarian need, and as to what parameters can be established to develop a special humanitarian programme for refugee family reunification.
- In the meantime, the Minister of Immigration give greater consideration to approving, as exceptions to policy, those cases involving former refugees where genuine humanitarian circumstances exist and where there are no other options available for family reunification.
- All refugees arriving under the Refugee Family Support Category, or as sponsored partners of UNHCR refugee quota programme refugees, be entitled to the same support and services as those who arrive under the UNHCR refugee quota programme, including a re-establishment grant, clear benefit entitlements, help for a period of time by a social worker provided by Refugee Services Aotearoa or similar agency, housing assistance, student allowances and English classes.
- Government to work with NGOs and refugee communities to identify information and statistical gaps and ways of addressing these.
- Government undertake research into a lending programme similar to that provided by IOM (International Organization for Migration) in Australia to help refugees pay for costs of reunification, so that families are not prevented from reuniting simply due to the cost. We urge the Government to enter into dialogue with IOM on this issue.

## DETAILED POLICIES

- A clear and transparent process should be established to enable refugees already living in New Zealand to access the 300 places for family reunion within the UNHCR refugee quota programme.
- Under the UNHCR refugee quota programme, complete family groups be selected to come to New Zealand, as opposed to single refugees without any other family members.
- Family members left behind in refugee camps, and who are recognised as refugees by UNHCR, should be able to be referred to New Zealand for resettlement.
- The requirement for the mandatory job offer and minimum income requirements be waived for sibling and adult child applicants who are in a refugee camp, or refugee-like situation.
- Based on the principle of one fee per family, unaccompanied dependent children applying for residence be treated as one application, with one fee.
- Fees in cases involving refugees be lowered.
- All applications involving refugees be able to be lodged in New Zealand.
- The immigration fraud investigation process be reviewed to reduce delays and minimize the impact on refugees' applications or status.
- An amnesty period to allow refugees to come forward safely to disclose historic mistakes in the recording of identity or family details, and have these corrected.
- Establish transparent processes to rectify genuine incorrect birth and name details (given different cultural approaches to dates and calendars).
- A review of the DNA testing policy be undertaken, involving consultation with refugee communities and interested parties.

## OPERATIONAL

- Processes and procedures of INZ, and in particular IPG, be urgently reviewed to improve standards, efficiency and customer service, within a context of understanding the special needs of refugees. Particular consideration be given to IPG being reintegrated back into INZ.

### **Specifically:**

- IPG be adequately resourced with trained and competent case officers to ensure that applications for family reunification are processed according to policy in a timely manner.
- More experienced immigration officers be employed in IPG, more comprehensive ongoing training be provided (particularly on refugee issues) and improved systems be implemented to ensure that any errors identified are not repeated.
- The skills, experience and knowledge of refugee-focused NGOs be utilised in the training of immigration officers.
- All applications for family reunification involving refugees that are to be processed by IPG in Wellington be able to be lodged in New Zealand (as opposed to the current system whereby applications are lodged overseas and then transferred to New Zealand).
- All Refugee Family Support Category applications be prioritised, particularly those involving dependent children, and allocated to a case officer for processing as soon as they are received by INZ.
- All other applications involving refugees, such as partnership, dependent child, and adult child, be allocated to a case officer for processing as soon as they are received by INZ.
- INZ to review current processes and procedures to ensure that additional medicals are not unnecessarily required.



*“Time works against the separated family; unravel(l)ing once close-knit bonds and adding new wounds to existing scars that may never heal without the support of loved ones”.<sup>7</sup>*

## BACKGROUND

### A FORMER REFUGEE’S NEED FOR FAMILY

*“It has long been acknowledged that reunification with family members is a key part of a successful refugee resettlement experience. When refugees arrive in a new country, with all the opportunities it may present, their thoughts are often most strongly committed to the family members left behind in difficult circumstances.*

*This preoccupation, and the time and energy committed to seeking reunification, can be a substantial barrier to progress occurring in other areas of resettlement. Often concern for family overseas impacts negatively on mental and physical health, and compromises the person’s ability to focus on language development, education, and employment. The strongly felt burden of responsibility often also means that of the little income received by the person in New Zealand, a significant amount is set aside and either sent to family overseas or directed at costly immigration processes.”<sup>8</sup>*

Commentators and research, both from overseas and New Zealand, confirm the importance of family reunification, and identify the range of costs involved in family reunification being delayed or not achieved. The conclusions from these various sources are summarised well in the International Conference of Integration of Resettled Refugees held in Sweden in 2001.<sup>9</sup>

*Resettled refugees who are separated from family members are unable to devote their full energies to learning the new language, seeking employment and establishing themselves in the new community. Depending on their circumstances, they will be:*

- *preoccupied with locating lost family members, desperately trying to find out whether they are dead or alive;*
- *deeply concerned for the well-being of relatives who are in precarious situations in the country of origin or the country of first asylum;*
- *devoting a large part of their income to supporting family members overseas;*
- *unable to make any long-term plans, believing they must not do so until the family can make them together.*

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<sup>7</sup> Kanyhama Dixin-Fyle, “Year of the Family” Ron Redmond (ed) Refugees – Focus International Year of the Family (No 95, UNHCR Geneva 1994).

<sup>8</sup> Mel Downer, Wellington Community Law Centre *Reuniting Families*

<sup>9</sup> Refugee Council of Australia’s Discussion Paper on Family Unity and Family Reunification Obligations 2004

*On the other hand, intact families are more likely to be able to devote their full energies to rebuilding their lives and the host country will, in turn, benefit from the economic and social contributions the family can make to their new country.*

Consultant psychiatrist, Dr Raewyn Brockway comments<sup>10</sup>:

*“...As experienced clinicians, we can say without doubt, enforced family separation is the greatest cause of stress, anxiety and suffering to the refugees who are referred to our service (Wellington Refugees as Survivors Trust). A huge proportion of our time goes into supporting people through their worries and grief when they have close relatives in precarious circumstances. Often their families are in danger from war and unrest, often they are in poverty. Even in refugee camps, people often do not have adequate food or medical care, and their relatives in New Zealand are deeply affected.*

*Family separation is the single greatest concern that our clients bring to us; it causes them more grief and depression than the many hardships (including violence, displacement, rape, torture and imprisonment) that they have been through themselves...”*

Family reunification, and family unity, has been recognised in international law as a fundamental right of refugees as far back as 1951 at the Conference of Plenipotentiaries Convention relating to the Status of Refugees.<sup>11</sup>

In addition to general concepts of refugee family unity, the UNHCR has adopted a specific understanding on family reunification in the context of refugee resettlement.<sup>12</sup>

*Family is the fundamental unit of society. Successive Executive Committee Conclusions call on States to respect family unity and support family reunion. Family members can provide a strong and effective support system and, in so doing, enhance the integration of resettled refugees.*

*In this context, “family” at a minimum includes immediate family, as provided for in national legislation or policy.*

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<sup>10</sup> Dr Raewyn Brockway, consultant psychiatrist, formerly of Wellington Refugees As Survivors Trust – letter 22 March 2006

<sup>11</sup> “The Conference, **considering** that the unity of the family, the natural and fundamental group unit of society, is an essential right of the refugee, and that such unity is constantly threatened, and **noting** with satisfaction that, according to the official commentary of the ad hoc Committee on Statelessness and Related Problems (E/1618, p. 40), the rights granted to a refugee are extended to members of his family, **recommends** Governments to take the necessary measures for the protection of the refugee’s family especially with a view to:

- (1) Ensuring that the unity of the refugee’s family is maintained particularly in cases where the head of the family has fulfilled the necessary conditions for admission to a particular country,
- (2) The protection of refugees who are minors, in particular unaccompanied children and girls, with special reference to guardianship and adoption.”

(Final Act, the Conference of Plenipotentiaries which adopted the 1951 Convention relating to the Status of Refugees, unanimously approved the above recommendation)

<sup>12</sup> United Nations High Commissioner for Refugees Forum on a Multilateral Framework of Understandings on Resettlement 2004

*Resettlement countries to endeavour to maintain the unity of broader family units, taking into account cultural variations, as well as economic and emotional dependency factors.*

*Resettlement countries to consider all available lawful channels, including non-refugee admission procedures, in endeavoring to ensure the unity of the family.*

The New Zealand Department of Labour, in its publication *Refugee Voices*<sup>13</sup> notes:

*“Family reunification is generally a high priority for all refugees. When in a new country of resettlement, refugees often feel a sense of responsibility for those family members still in the former country (or in refugee camps). From the perspective of refugees coming to New Zealand, having family already here can greatly assist the resettlement process. The facilitation of refugee family reunion has the potential to improve resettlement outcomes and reduce adjustment costs for refugees by reducing the emotional and financial strain that results from being apart from family members.”*

Of 31 families who were clients of the Wellington Refugees as Survivors Trust, and who were assisted by the Refugee Family Reunification Trust, 93% were discharged once their family reunification goals were achieved. Currently RAS has a waiting list of six months.<sup>14</sup> Many former refugees are not receiving the mental health assistance they need, and their resettlement – their ability to undertake learning, employment, support their families and integrate and contribute to their new country - is severely impaired.

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<sup>13</sup> Page 145-146 *Refugee Voices: A Journey Towards Resettlement*, Department of Labour 2004

<sup>14</sup> Jeff Thomas, Manager, RAS March 2009

## **GAPS IN INFORMATION AND STATISTICS**

As we researched this paper, the lack of comprehensive and reliable information and statistics became apparent. For instance, no records are kept as to how many refugees arrive in New Zealand outside of the UNHCR refugee quota programme. Questions include: Where do they settle? How well do they settle? What are the financial and social impacts on their sponsors? What are the impacts and costs - social, psychological and economic - to the families, and to New Zealand, of delayed or failed family reunification?

Lack of information and statistics masks the extent of these “hidden” costs, and leads to a focus on more short term solutions.

### **Recommendation**

- Government to work with NGOs and refugee communities to identify information and statistical gaps and ways of addressing these.

## **THE WAYS IN WHICH REFUGEES CAN COME TO NEW ZEALAND**

There are three ways a refugee may be accepted for permanent residence in New Zealand.

### **THE UNHCR REFUGEE QUOTA PROGRAMME**

New Zealand accepts 750 refugees from all over the world each year, as part of the UNHCR refugee quota programme (often referred to as “quota refugees”). Such people must be UNHCR “mandated” refugees. They arrive at the Refugee Reception Centre in Mangere, Auckland, and receive initial orientation and resettlement support there for six weeks.

A large proportion of refugees resettled in New Zealand in the period 1990 – 2003 were from East African countries such as Somalia, Ethiopia, Eritrea, and Sudan. Additionally, refugees came from countries such as Iraq, Cambodia and Afghanistan, including those from the *Tampa*. More recently, the Government has decided to adopt a more regionally-focused approach to refugee resettlement. As a result, in recent years the 750 UNHCR refugee quota programme places are filled by a greater proportion of refugees from the Asia-Pacific region, such as Bhutan and Myanmar (Burma).

New Zealand has a good record of accepting refugees whose circumstances are such that they may need higher levels of physical, psychological or social support.

### **ASYLUM SEEKERS – THOSE WHO ARE GRANTED REFUGEE STATUS**

Often referred to as “spontaneous refugees”, asylum seekers enter New Zealand through either legal or illegal means, and apply for refugee status under the UN Refugee Convention definition. If granted refugee status, the person is given a residence permit to live in New Zealand. The number of asylum seekers has reduced considerably in recent years due to border control occurring off shore in Asia and Australia. Due to New Zealand’s relative isolation, border control can be implemented effectively, unlike many other countries which share common borders.

## **“HIDDEN” REFUGEES - GENERAL IMMIGRATION POLICY**

Many refugees, or people from refugee-like situations, enter New Zealand under the Family Sponsored or International/Humanitarian streams of New Zealand residence policy. Others, particularly new partners of refugees (often from family-arranged marriages) have to apply for a temporary permit (either work or visitor) to live in New Zealand to enable them to meet the requirements for residence, thereby gaining grounds for a residence application.

These people are not considered by current Government policy to be official “refugees” (i.e. they are not accepted under the annual 750 places in the UNHCR refugee quota programme or granted Refugee Status). However, they may have been living as refugees or in a location of conflict where there are circumstances akin to those of UNHCR-mandated refugees. They are in fact “hidden” refugees.

At this stage, the Government does not collect statistics as to whether a person coming to New Zealand under the Family Sponsored stream or International/Humanitarian stream (i.e. particularly the Refugee Family Support Category) is from a refugee background, but nonetheless this is a key way in which communities of people from refugee backgrounds grow in numbers.

*“I don’t know how to go on with my life here in NZ when she is over there and needs my help, and I am over here and cannot do anything to help her. My life is worth nothing like that. I’d rather be dead than waiting for so long for an answer. It is too painful. I can’t read her letters anymore. Two weeks ago I received her last letter. I cannot open it. I am scared of the pain inside me when I read it. I am scared the pain is going to kill me.”<sup>15</sup>*

## OUR CONCERNS

### CURRENT POLICY

#### LIMITATIONS OF THE DEFINITION OF “FAMILY”

The concept of family is a complex one. While Government immigration policy emphasises nuclear or immediate family relationships, the definitions and understandings of family in many cultures include a much wider and diverse group. Social and emotional connection is often as important as biological ties. For many of those from a refugee background these social and emotional links are forged as a consequence of war and tragedy.<sup>16</sup>

The New Zealand Government’s objective of the Family Policies is to contribute to nation building, and its policy is to:

- Strengthen families and communities, while reinforcing the Government’s overall objectives in immigration policy; and
- Contribute to New Zealand’s economic transformation and social development.

While the Refugee Family Support Category (and former Refugee Family Quota) allows for a wider range of family relationships, the policy itself provides a very limited option for a small number of individuals. This category and other family residence categories also require that only the immediate family of the principal applicant be included in the application (i.e. partner and dependents). This means that where there is an interdependent family grouping (such as a parent with an adult child and grandchildren, or two widowed sisters living together raising their children), sponsors are put in the invidious position of having to select some family members - with the potential of further separating the family and leaving some members behind in an even more vulnerable position.<sup>17</sup>

Achieving both the objective and policy of the family sponsored stream fails because of the restricted interpretation given to “family”.

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<sup>15</sup> Wellington Refugees as Survivors Trust quote from client.

<sup>16</sup> Family Reunification Paper prepared by Mel Downer, Wellington Community Law Centre 2005

<sup>17</sup> Family Reunification Paper prepared by Mel Downer, Wellington Community Law Centre 2005

### **Case Study**

Mr H fled from Afghanistan due to persecution by the Taleban. He left behind a family comprising his wife and six children (three daughters and three sons). His family also included the twin baby daughters of his wife's late sister, and his late brother's wife and her three children. After Mr H's brother died, Afghan culture dictated that his wife and children became part of Mr H's family.

Mr H arrived in New Zealand as a refugee. He immediately applied to reunite with his family under the family component of the annual UNHCR refugee quota programme. His immediate family (his wife and children) qualified for resettlement in New Zealand but his sister in law and her three children were left behind in Afghanistan. This continues to cause great distress for Mr H and his family. He feels a strong obligation to support his sister in law and her children because they are his family. What little money Mr H has is sent to support them. Recently his sister in law became very ill and Mr H had to send a considerable amount of money back to Afghanistan to purchase medicine for her.

### **Recommendation**

- The UNHCR definition of "family" be adopted, to replace current INZ definitions, being:

*All members of a family group who are living as a family and who demonstrate long term emotional physical or financial dependence upon the family unit.*



## **ABOLITION OF HUMANITARIAN CATEGORY IN 2001**

The abolition in 2001 of the Humanitarian Category for permanent residence remains a great concern. This category enabled former refugees with family members who did not meet normal immigration policy, but who were in circumstances of extreme humanitarian concern, to apply for residence. While there were identified problems with the Humanitarian Category, it provided a means for refugees to be reunited with close family members. The eligibility requirements for other residence categories are very narrow and do not reflect the family reunion realities for refugees, nor do they allow for any assessment of humanitarian need in the determination of residence.

The abrupt cancellation of the Humanitarian Category suggests that insufficient consideration may have been given to the nature of applications made under this policy.

Following the closure of the Humanitarian Category, it was indicated that cases where there were exceptional circumstances of serious psychological or physical needs could be brought to the attention of the Minister of Immigration for a special direction. The Minister's discretion was indicated as one avenue available to address the gap left by the Humanitarian Category for dealing with desperate refugee cases. Our experience is that this has not been a successful alternative.

## **DIFFERENT CLASSES OF REFUGEES - THE EXCLUDED**

An increasing number of refugees have no options available to them to bring their family members to New Zealand. The 300 places in the Refugee Family Support Category are only available to either those who came to New Zealand under the UNHCR refugee quota programme, or to those who came to New Zealand as asylum seekers. This results in a significant group of refugees being excluded from access to family reunification under this programme - specifically those who came to New Zealand under the former humanitarian policy or under normal immigration policy (for example, as a spouse or sibling). Under the current system, these people have become effectively "second-class" refugees, even though their circumstances may be exactly the same as refugees coming to New Zealand through other means.

### **Case Study**

A client of the Wellington Community Law Centre came to New Zealand from Somalia under the humanitarian category in 1999. He applied under the Refugee Family Support Category to sponsor his brother with wife and children. His brother was also caring for two younger siblings, as well as two nephews whose parents were deceased. His application was declined on the basis that he was not classed as a refugee. He has subsequently learnt that the village his brother was living in has been subject to “ethnic cleansing”. His brother and his wife were murdered, and their children have disappeared. The remainder of his family (his two siblings and his nephews) has dispersed and is on the run. This man has suffered from torture and has witnessed the murder of family members. He is alone in New Zealand and does not have any avenue available to him to reunite with the few family members he has left. A request to the Minister for a special direction was also declined.

### **Recommendations**

- A genuine humanitarian programme be implemented to address refugee family reunification needs where no other policy is applicable.
- Government engages with NGOs and refugee communities in discussion and consultation as to what constitutes genuine humanitarian need, and as to what parameters can be established to develop a special humanitarian programme for refugee family reunification.
- In the meantime, the Minister of Immigration give greater consideration to approving, as exceptions to policy, those cases involving former refugees where genuine humanitarian circumstances exist and where there are no other options available for family reunification.

## THE LEVEL OF DEMAND

In the past ten years there have been decreasing avenues available for refugee family reunification with both the removal of the humanitarian category and stricter requirements under general immigration policy, such as job offer requirements.

Demand, however, remains high.

### **Refugee Family Support Category**

The Refugee Family Support Category policy came into effect on 12 November 2007. It replaced the Refugee Family Quota (RFQ) policy which operated on a 'ballot' system. The current policy allows some former refugees without family members in New Zealand (subject to certain criteria) to apply to sponsor relatives to settle in New Zealand. Up to 300 places are available per annum. Statistics provided at the 2009 National Refugee Resettlement Forum show that both of these policies have failed to achieve their objective of facilitating the successful resettlement of refugees resident in New Zealand.

#### ***a) Length of the queue under the Refugee Family Support Category***

The Refugee Family Support Category is a two-tier registration system, with priority given to tier one sponsors who meet a high threshold of need. Under this system, registrations to become a tier one sponsor are put in a queue, and sponsors are selected from the tier one queue until the annual 300 available places are filled. However, there are far more registrations in the queue than places available. As a consequence, it is unlikely that the tier two queue will ever open.

Furthermore, the queue for tier one sponsors has become so long that it is anticipated that new registrations will be waiting at least two to three years before they are drawn from the tier one queue.

While the current queue system is preferable to the previous random ballot system, the adequacy of the policy needs to be reviewed due to the length of the queue. All of the sponsors in the tier one queue have been identified by their high level of need – for example, they are alone in New Zealand or are the sole carer of a dependent relative in New Zealand. It is unfortunate that former refugees in such a position will have to wait at least two to three years before they will be selected from the queue and can begin the immigration process. Even then, it will take a further one or two years to complete the immigration process. These lengthy delays serve to defeat the Refugee Family Support Category policy objectives of helping former refugees to settle. While sponsors are waiting in the queue they are missing out on family support at the most critical time of resettlement.

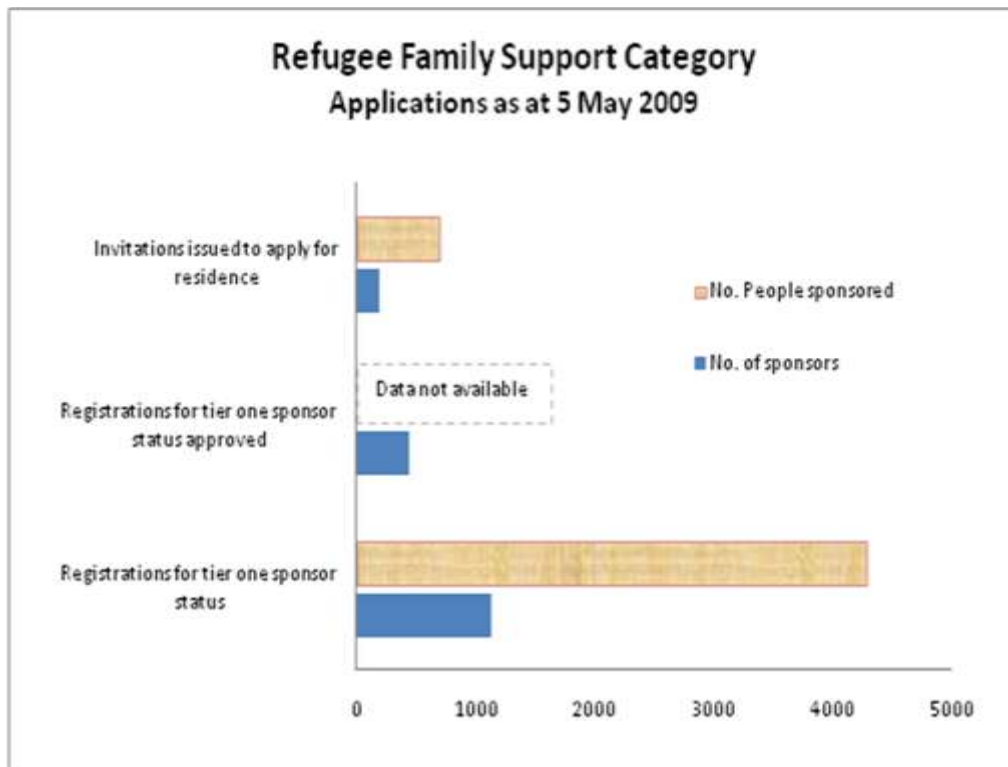
One unintended consequence of the current policy is that it creates a situation that encourages couples to separate and divorce. Because applicants who are alone in New Zealand get priority if a couple separate or divorce each partner will qualify to become a sponsor. If they stay together as a married unit neither of them will qualify.

**b) Registration to become a tier one sponsor under the Refugee Family Support Category**

As at 5 May 2009, 1134 registrations to become a sponsor had been received under the Refugee Family Support Category (representing 4,286 people). Of those registrations 695 were rejected due to the sponsor’s failure to meet eligibility requirements. This left only 439 valid registrations. Of those 439 eligible registrations, 187 sponsors have been issued with invitations representing a total of 695 potential applicants for residence in the 18 months this policy has been operating. We are concerned that 695 (61%) of the applications to become a sponsor failed to meet the eligibility requirements. Our experience is that a number of these unsuccessful applicants will remain alone in New Zealand with little likelihood of ever being reunited with family members because they do not fit the narrow criteria to qualify as a tier 1 sponsor (e.g. they arrived in New Zealand under the humanitarian category). While they may fit the criteria to become a tier two sponsor it is very unlikely that this avenue for sponsorship will ever become available. This raises questions about why this situation has occurred and how it can be resolved.

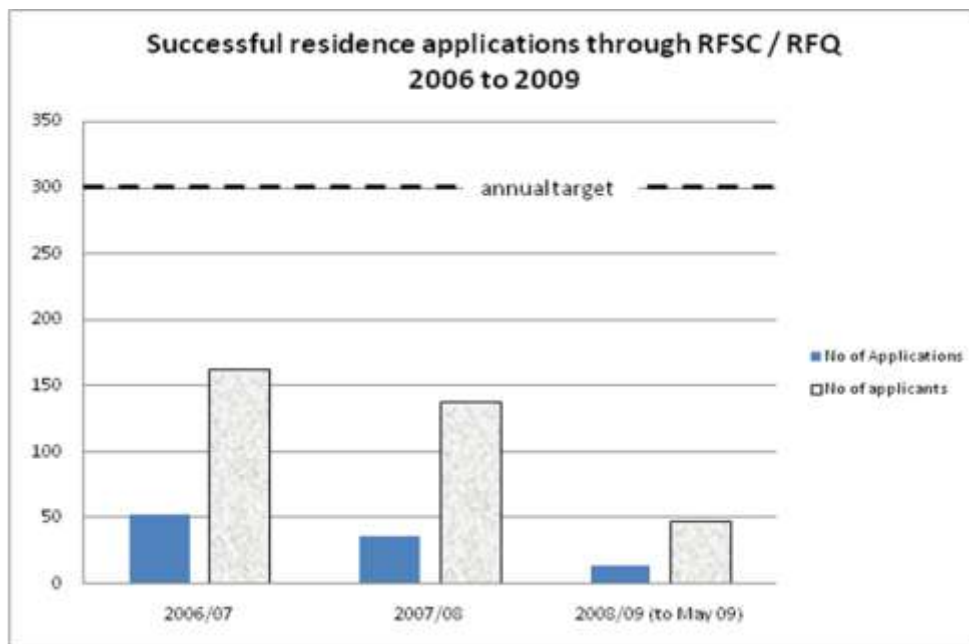
**c) Applications for residence under Refugee Family Support Category**

Even though 187 sponsors have been issued with invitations to apply for residence for their relatives, only 142 applications for residence have been lodged. These applications represent 473 applicants. Of the applications lodged, 24 were rejected as failed lodgment, representing 59 applicants. This means that only 118 residence applications (representing 414 applicants) have proceeded - significantly less than the 600 places made available. Another concerning statistic is that as at May 2009, only 7 residence applications under the Refugee Family Support Category (representing 11 residence applicants), have been approved since the inception of the policy. We understand that 111 residence applications (representing 402 applicants) are currently being processed.



**d) Approvals of applications for residence under Refugee Family Support Category/RFQ policies**

The data on the approvals of residence applications under both the Refugee Family Quota and the Refugee Family Support Category policies<sup>18</sup> reflects a policy failure (refer to figure below). In the 2006/2007 financial year, only 53 residence applications were approved representing only 163 applicants (54% of the 300 places offered annually). In the 2007/2008 financial year, only 36 residence applications were approved representing 138 applicants (46% of the 300 places offered annually). In the 2008/2009 financial year to date (May 2009) only 14 residence applications have been approved representing only 48 applicants. If these policies were operating successfully we would expect an average of 300 residence applications to be approved annually.



**e) Arrival of successful applicants in New Zealand**

INZ is unable to provide statistics on the arrival in New Zealand of successful applicants under the Refugee Family Support Category/Refugee Family Quota policies. Our experience is that many of these families are unable to pay the costs of travel to New Zealand and we are concerned that a number of these successful applicants never actually reach New Zealand. It is important that these figures are measured, as the policy is in danger of becoming a means of family reunification in name only.

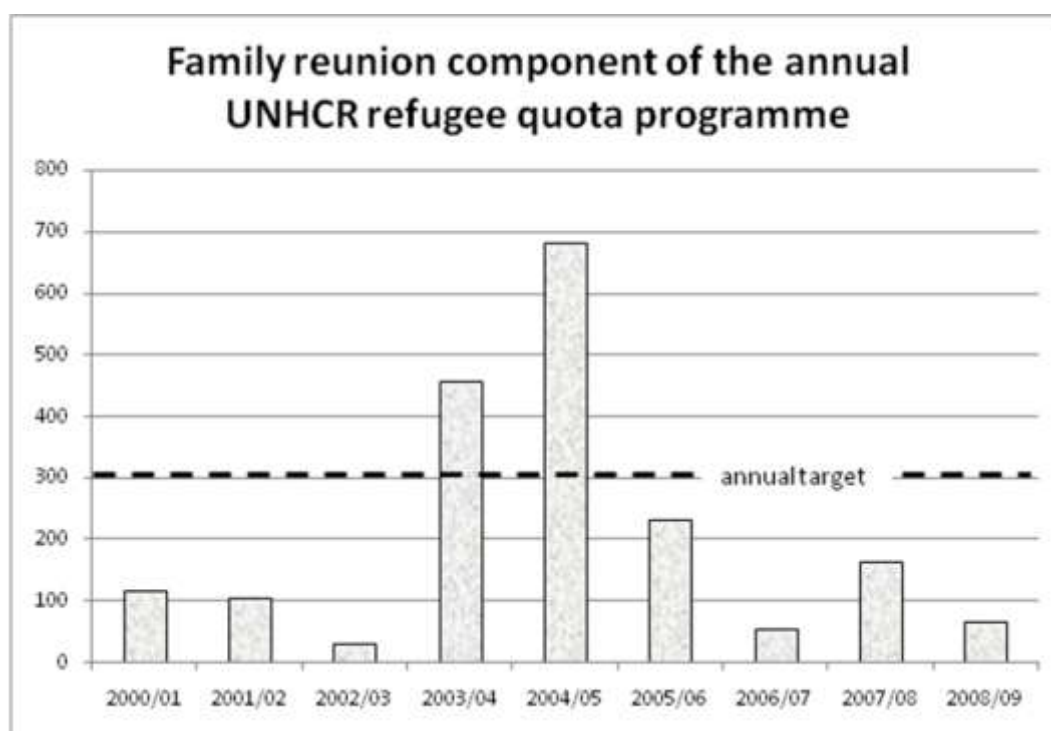
**Recommendation**

An urgent review of the Refugee Family Support Category be undertaken to ensure that the objectives of this policy are met; the numbers waiting in the queue become manageable; the length of time waiting in the queue becomes realistic; and that the target number of 300 refugees entitled to enter New Zealand under this category each year is met.

<sup>18</sup> Statistics obtained from the Department of Labour presentation to NRRF, Wellington, 27 May 2009

## UNHCR Refugee Quota Programme

The UNHCR refugee quota programme of 750 refugees annually includes subcategories for 75 women at risk, 75 medical/disabled (including 20 HIV) and 300 family reunion and emergency referrals. The 300 family reunification places are limited to declared spouses and dependent children of refugees who arrived in New Zealand under previous quota intakes and UNHCR referred family linked cases. As can be seen from the table<sup>19</sup> below, other than between 2003/04 and 2004/05 when the relatives of the Tampa refugees arrived, the family reunification subcategory does not appear to be used for family reunion. The reasons for this are not clear.



While the need for family reunification will always be greater than can be met, the current demand and the significant delays under the other immigration categories impact on the successful resettlement of former refugees already living in New Zealand, and inevitably there are social, health and economic costs to families and consequently to the wider community.

### Recommendation

- To address the current backlog of applications under the Refugee Family Support Category, one year's 750 annual places under the UNHCR refugee quota programme be applied solely to family reunification.

<sup>19</sup> Statistics obtained from the Department of Labour presentation at NRRF, Wellington, 27 May 2009.

## UNREASONABLE AND UNREALISTIC REQUIREMENTS

Under general immigration policy, the Sibling and Adult Child Category requires the principal applicant to have an acceptable offer of employment in New Zealand, with minimum income levels. This requirement presents a virtual impossibility for a person coming from a refugee situation. Many refugees face difficulties in accessing employment, even after they have been living in New Zealand for some time. The most vulnerable family members are also often women who are caring for children on their own. The minimum income requirement for an applicant with children is significant. Many refugees lack literacy and/or language skills, and any jobs that can be obtained are typically unskilled and pay the minimum wage. In addition, families tend to be large which means the top level of income required is impossible to achieve. The application of this requirement to refugees is absurd.

The ability to waive certain requirements for refugees applying under the general immigration category would allow greater family reunification and ease pressure on the refugee-specific channels.

### Case Study

Mr M came from Somalia in 1999 with his wife and daughters as part of the UNHCR refugee quota programme. In 2005 his wife died and his adult daughters moved to another city. Despite his efforts, he has not been able to bring his brother to New Zealand under the adult sibling policy because his brother is unable to find a job offer that meets the policy requirements (he is married and has eight children). Under the policy an applicant who has up to four or more children must have a job offer that pays a minimum of \$47,586. The combined income that Mr M's brother was able to achieve from two job offers amounted to \$43,550 (\$4,000 short) and the application was declined on that basis. Mr M is effectively alone in New Zealand – he comes from a minority tribe in Somalia that has traditionally been discriminated against and this is still the case in New Zealand. Unless he can reunite with his brother, there is little prospect that he will fully integrate into New Zealand society.

### Recommendations

- The requirement for the mandatory job offer and minimum income requirements be waived for sibling and adult child applicants who are in a refugee camp, or refugee-like situation.
- In the meantime, the Minister of Immigration give greater consideration to approving, as exceptions to policy, those cases involving former refugees where genuine humanitarian circumstances exist and where there are no other options available for family reunification.

## **COSTS**

Many refugees struggle to raise enough money to pay for the expenses involved in family reunification. For some refugees, these costs are prohibitive, and effectively preclude them from ever reuniting with their family.

The medical tests required by INZ are expensive, and families usually have to travel huge distances, at great personal risk, to visit an approved panel doctor. During the processing of an application, INZ may seek further medical testing, such as DNA tests, which requires applicants to undergo further travel. If this process could be streamlined, it would save refugees great expense and risk.

Application fees required by INZ to lodge an application are also expensive, and often multiple fees are required.

### **Case Study**

An application by parents to bring their three young children to New Zealand cost a total of \$3,600 - as each child had to pay an application fee of \$1,200. This family had only recently arrived in New Zealand, and so could not afford to pay for these fees themselves.

Finally, once an application is approved, family members in New Zealand are required to raise the money to pay for the cost of the airfares – the final step in reuniting a family. A one-way airfare from Africa, for example, is about \$2,000 – \$2,500. The average cost to bring a family of four to New Zealand is about \$10,000 - which is beyond the reach of most families.

One practical option to consider, to assist with transport costs, is interest free loans supported by a revolving loan fund administered by an organisation such as International Organization for Migration (IOM). This approach is used in countries such as the United States, Canada and Australia. The scheme speeds up the reunification process.

### **Recommendations**

- Based on the principle of one fee per family, unaccompanied dependent children applying for residence be treated as one application, with one fee.
- Fees in cases involving refugees be lowered.
- All applications involving refugees be able to be lodged in New Zealand.
- INZ to review current processes and procedures to ensure that additional medicals are not unnecessarily required.
- Government undertake research into a lending programme similar to that provided by IOM (International Organization for Migration) in Australia to help refugees pay for costs of reunification, so that families are not prevented from reuniting simply due to the cost. We urge the Government to enter into dialogue with IOM on this issue.



## LACK OF RESETTLEMENT SUPPORT

Refugees who arrive under the Refugee Family Support Category are officially termed 'migrants', not 'refugees'. This is despite the fact that the majority of those who come to New Zealand under this category are from refugee situations. Some may even have been determined to be refugees by UNHCR. Yet, because of the category that they arrive through, they are not eligible for the same settlement services as those who come through the UNHCR refugee quota programme.

This is in direct contrast to the policy aim of the Refugee Family Support Category to bring family members to New Zealand in order to assist in the resettlement of refugees already here.<sup>20</sup>

When asked about government programmes to assist Refugee Family Support Category arrivals with resettlement, INZ advised that it is the responsibility of the sponsor under the Refugee Family Support Category to support new family members:

*"...RMS (now Refugee Services Aotearoa) are not funded to provide support to family sponsored refugees ..... its assumed that the relative who has sponsored them to come to NZ should be the main form of support and resettlement assistance to newcomers..."<sup>21</sup>*

### Case Study

Mr MM's brother, brother's wife and their five young children finally arrived in New Zealand in February 2009.

Mr MM still lives in one bedroom flat that Refugee Services organised for him on his arrival in Wellington in 2003. He still uses second-hand furniture given to him on his arrival. Mr MM has not purchased anything new, apart from shoes and some clothes. He has not been able to advance his quality of life in any significant way, as he has been totally focused on family reunification.

It was impossible for Mr MM to save money to help his family on their arrival in New Zealand, because of the expenses of family reunification. Mr MM tried his best to act responsibly and prepare for their arrival. Unfortunately private accommodation was beyond his means.

His anxiety has increased and he grapples with the shame that he was not able to provide the welcome for his family that for years he dreamed of. He blames himself for not being able to save more, he feels he has failed. He has found it hard to concentrate at work, makes mistakes and has been afraid that he might

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<sup>20</sup> RFSC Settlement Services

Under section S4.10.1 of the RFSC:

*The objective of the Refugee Family Support Category is to facilitate the successful resettlement of refugees resident in New Zealand by providing them with an opportunity to sponsor family members.*

<sup>21</sup> Email from INZ to Refugee Family Reunification Trust in response to question about support for Somali family.

17/7/08

lose his job. He worked long hours, and started another night job. His mental health has been compromised again.

Mr MM has been unable to find accommodation for his family and so they continue to stay with him in his one-bedroom flat. They have insufficient food and necessities.

Although the family had a letter from INZ confirming that residency permits would be given once the Red Cross travel documents were changed to NZ travel documents, this took six weeks and problems occurred when multiple offices/services required valid photo ID's before they provided services.

During this period, the family could not apply to Housing New Zealand or to Wellington City Council for accommodation or for a benefit. Enrolment in schools and English courses was also delayed.

Mr MM had to go back to work very soon after his family arrived. He found it difficult to juggle numerous resettlement tasks – he has no outside assistance. Tasks included applying to change travel documentation, applying for IRD numbers, opening bank accounts and registering with a GP.

Mr MM and his family have been overwhelmed with tasks and cultural shock. While Mr MM was relieved to see his family, they haven't had time to enjoy and relax with each other.

Mr MM is very stressed and exhausted as he continues to struggle to deal with the huge responsibility of resettling his family.

The policies and practices in the resettlement support services provided to those arriving in New Zealand under the Refugee Family Support Category are inconsistent, contradictory, and inequitable. They result in increased financial pressure and stress on sponsors and their sponsored family members coming to New Zealand under the Refugee Family Support Category, and delay successful resettlement for both the sponsor and those sponsored.

### **Recommendation**

- All refugees arriving under the Refugee Family Support Category be entitled to the same support and services as those who arrive under the UNHCR refugee quota programme, including a re-establishment grant, clear benefit entitlements, help for a period of time by a social worker provided by Refugee Services Aotearoa or similar agency, housing assistance student allowances and English classes.

## **OPERATIONAL ISSUES**

In 2005 the Immigration Profiling Group (IPG) was established as a specialist unit within Immigration New Zealand (INZ). IPG is responsible for processing applications for residence and temporary permits from countries designated as 'high risk'.

As family members of former refugees tend to live in 'high risk' countries, their applications are often processed by IPG. There are significant issues relating to the operation of IPG that seriously impact on the processing of applications by refugees to be reunited with family members. In our experience, the key issue with IPG is insufficient resourcing of staff. This lack of resourcing seems to contribute to high staff turnover, which in turn leads to inexperienced staff processing applications. It is also our view that there is no awareness or appreciation within INZ, and more particularly IPG, of the multitude of impacts of delayed or failed family reunification.

The result is a process which is much more difficult than it should be for former refugees seeking family reunification.

## **DELAYS IN PROCESSING APPLICATIONS**

Significant delays are occurring in the processing of applications from former refugees for family reunification. Specifically, applications by parents of dependent children are taking years before a decision is received from INZ.

Most applications for family reunification are managed by the family member (sponsor) living in New Zealand. This is mainly because they have better English skills and have a better chance of navigating the complex application process.

The requirement that applications be lodged at offshore branches of INZ, and subsequently returned to New Zealand for processing by IPG in Wellington, is inefficient, expensive, and time-consuming. As an example, an application for permanent residence lodged in London costs NZ\$1,200 while the same application lodged in New Zealand costs NZ\$700. On top of that, applicants are required to use a secure courier service to ensure that valuable documentation, such as passports and birth certificates, safely reach the INZ offshore branch. Once again, this puts the applicant and their family to considerable expense. Many of these applicants are destitute and living in refugee camps, and their only means of support is money sent to them by their family members living in New Zealand, who may also be in difficult financial circumstances.

Once an application is received by IPG, it is then held in a queue awaiting allocation to an immigration officer. According to information on INZ’s website in the Adult Child/Sibling/Parent applications: <sup>22</sup>

*“Due to extremely high demand in this category, applications lodged from February 2009 will take up to two years to be allocated to a Case Officer after being accepted.”*

INZ issues an annual internal administration circular which details the residence programme priorities for the coming year. The 2008/09 circular (available on the INZ website) divides applications for residence into four separate streams:

1. Skilled/Business
2. International/Humanitarian
3. Family (Parents/Adult Children / Siblings) - which is capped
4. Partners / Dependent Children - which is uncapped

These streams are prioritised in the following order:

1. Priority one - Skilled Migrant Category; applications that come under refugee policy; and Partnership/Dependent Child applications where the sponsor is a NZ citizen or a holder of an indefinite returning resident visa;
2. Priority two – Partnership and Dependent Child applications which do not fall within priority one; and
3. Non priority – Parent, Adult Sibling/Adult Child which are added to a managed queue as other priority areas are cleared.

Our understanding is that as at late March 2009, the IPG had 1061 residence applications. The table<sup>23</sup> below illustrates the prioritisation of those applications:

	<b>Allocated to case manager</b>	<b>Awaiting allocation to case manager</b>	<b>Total applications</b>
<b>Priority one</b>	230	58	288
<b>Priority two</b>	168	257	425
<b>Non priority</b>	69	262	331

<sup>22</sup> Immigration New Zealand Website – Family Stream Processing Times 24/02/09

<sup>23</sup> Letter to WCLC from IPG dated 30 March 2009

It is acknowledged that applications for residence under the Refugee Family Support Category come under priority one, but we note from the table above that 58 (21%) of those received are still waiting to be allocated to a case manager. Many of the Refugee Family Support Category applicants are refugees living in dangerous circumstances, and there have been instances where applicants have died (through military action or illness) while waiting for their application to be processed and approved.

#### **Case Study**

In July 2008, the sponsor of three applicants aged 8, 10 and 22 years, was advised that "...your application continues to be held in the managed queue to await allocation to an Immigration Officer. We will write to you again within the next twelve months to update you on any progress of your application..." These children are refugees from Somalia, and are alone in Ethiopia. As of the end of June 2009, the case has not yet been allocated to a case officer. This application has been waiting for eleven months with no apparent progress.

Further delays then occur within IPG during the processing of applications, with many applications taking years before a decision is reached. This situation is exacerbated by the increasing demand for information that refugees are simply not able to provide. Many applicants have little or no education, are illiterate and often misunderstand and fill out forms incorrectly or incompletely. There is concern that when such mistakes are made, the applicants are then penalised harshly.

#### **Examples of delays**

An application under the Refugee Family Quota lodged with INZ in June 2004 was finally approved in December 2008, after four and a half years. This family were refugees from Somalia living in Kenya.

An application under the Refugee Family Quota lodged in June 2005 was finally approved in February 2008, after more than two and a half years. Similarly another application, under the Refugee Family Quota, lodged in June 2006 has yet to be decided.

An application for permanent residence lodged in July 2005 was incorrectly declined in February 2007. After a successful appeal to the Residence Review Board, the application was finally approved in May 2008 – nearly three years after lodgement.

An application to bring two children aged 10 and 11 to New Zealand, lodged in January 2005 was finally approved in July 2007 – two and a half years after lodgement.

An application to bring a one month old baby to join her parents in New Zealand, lodged in May 2007, was approved in March 2008 – 10 months later.

The reality is that family separation lasts for even longer than these times suggest, as it takes a considerable period, six months or more, to prepare an application for lodgment. Documents have to be prepared, signed and typically witnessed in other countries. This is all time-consuming. Add to this the cost of couriers, lawyers, lodgment fees etc. Once a case is finally approved by INZ, it can take another 3-4 months to prepare travel documents, and then another 3-4 months to raise the money for airfares and finalise travel arrangements. These procedural necessities all add to the lengthy time that family members are separated from each other.

Meanwhile, the family members overseas are often in refugee camps or other dire circumstances, where their lives are at risk on a daily basis. In most cases they do not have sufficient food or water, and often no health care or education. Other dangers, such as rape and assault, are daily realities. The longer they are left in these circumstances, the greater the chance of harm. Children are particularly vulnerable.

**Example**

An application was lodged in January 2005, the applicant husband died in 2007 still waiting for a decision, leaving an orphaned child alone.

Many refugees find the lengthy delays waiting for their family to be re-traumatising, and say that every day that passes without any news or progress feels like a slow form of torture. Some say that they would rather be back in a refugee camp with their family than in New Zealand without them. Many feel guilty that they have found safety while leaving their family members at extreme risk. Survivor guilt is a part of PTSD (Post Traumatic Stress Syndrome). Often they will send money back to support their family and deprive themselves of money for basic food and other necessities.

The longer the delays in family reunification, the greater the risk that the family will be dysfunctional once reunited. Families that finally reunite after years of separation can find it difficult to pick up the pieces and live together. Many marriages do not survive lengthy separation, and some family bonds become difficult to restore. Children arriving in New Zealand have often become strangers to their parents.

**Recommendations**

- All applications for family reunification involving refugees that are to be processed by IPG in Wellington be able to be lodged in New Zealand (as opposed to the current system whereby applications are lodged overseas then transferred to New Zealand).
- All Refugee Family Support Category applications be prioritised, particularly those involving dependent children, and allocated to a case officer for processing as soon as they are received by INZ.
- All other applications involving refugees, such as partnership, dependent child, and adult child, be allocated to a case officer for processing as soon as they are received by INZ.
- IPG be adequately resourced with trained and competent case officers to ensure that applications for family reunification are processed according to policy in a timely manner.

## COMPETENCE

We acknowledge that some applications are complex and time-consuming, but do not accept this as an excuse for unreasonable delays. A competent and experienced immigration officer should be able to deal with even a complex file in a timely manner.

In our experience, immigration officers at IPG often lack experience, training and knowledge about refugee and administrative law issues.

An example of a basic mistake that continues to be made by IPG is a requirement for payment of the migrant levy from refugees when it is not in fact payable. Although this issue was raised at the National Refugee Resettlement Forum in May 2008, and IPG agreed to look into it, the migrant levy continues to be wrongly charged, as recently as December 2008.

Often there are sections of letters from IPG that simply do not make sense or have words missing.

“...name is Queue Profiling Managed and I am the case officer for your application...” (November 2008). Other errors in the same letter included deleting a baby from the family list, and sending the letter to a PO Box in Ethiopia instead of to the correct address in Wellington. As a result it took two months to get back to Wellington, further delaying the process unnecessarily.

“iii. Which your wife paid for the wedding, but she did not who paid for it?”  
Letter to applicant.

Incorrect statutory interpretation and application of policy continue to occur. For example, in a letter in September 2006, INZ wrote to advise a refugee applicant that, as their sponsor had been granted residence under a certain policy, their family members could not now be granted residence under the current policy. This was factually incorrect. The policy INZ referred to did not apply in this case, as the sponsor had come to New Zealand as a refugee under the UNHCR refugee quota programme. Fortunately, this family had an advocate who was able to identify this error, otherwise the wrong decision by INZ would have stood and this family would have been prevented from coming to New Zealand.

High-level corroboration of our concerns can be gained from the 2007/2008 annual report of the Ombudsmen, where it is noted that

***“...we continue at present to receive complaints about administrative failings or issues that we have previously investigated and sustained.”<sup>24</sup>***

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<sup>24</sup> Ombudsmen Report 2007/2008 page 21

We are concerned that refugees who do not use a competent advocate or lawyer are unlikely to be aware that INZ has made an error, and this could result in their family never being reunited. The public should be able to rely on advice from INZ as being correct, and at present this is simply not the case.

### **Recommendations**

- Processes and procedures of INZ, and in particular IPG, be urgently reviewed to improve standards, efficiency and customer service, within a context of understanding the special needs of refugees. Particular consideration be given to IPG being reintegrated back into INZ.

#### **Specifically:**

- IPG be adequately resourced with trained and competent case officers to ensure that applications for family reunification are processed according to policy in a timely manner.
- More experienced immigration officers be employed in IPG, more comprehensive ongoing training be provided (particularly on refugee issues) and improved systems be implemented to ensure any errors identified are not repeated.
- The skills, experience and knowledge of refugee-focused NGOs be utilised in the training of immigration officers.

## **IMPACT OF UNHCR REFUGEE QUOTA PROGRAMME SELECTION**

As previously stated, family reunification options for all refugees have decreased significantly in recent years. The impact of these changes on some of the refugee communities previously selected has been significant, and many of these refugees are still separated from close family members.

The composition of New Zealand's UNHCR refugee quota programme of 750 places annually reflects the needs and priorities of UNHCR. In recent years, priority has shifted to the Asia-Pacific region, and away from Africa.

Between 1992 and 2000 Bosnian, Somali, Sri Lankan, Ethiopian and Sudanese were the major nationalities of refugees resettled in New Zealand. Then, in 2001, the Government accepted 150 asylum seekers from the *Tampa*. Consequently, in 2003 and 2004, the focus for family reunification shifted to the *Tampa* group – many of whom were unaccompanied males. Another priority at this time was to strengthen smaller communities, specifically Sudanese, Rwandan, Djiboutian, Congolese and Burundian.

This shift away from reunification of larger established refugee communities, such as Somalian and Ethiopian, since 2000 also coincided with the closure of the humanitarian policy in October 2001.



The convergence of all these factors has left some refugee communities in a state of limbo. Additional factors have compounded this problem – for example, there does not seem to have been a planned “exit strategy” after the selection of so many refugees from Somalia. There also appear to have been flaws in the selection processes for refugees from Somalia and Ethiopia, resulting in too many split families. The long-term consequences are now being felt, with many Somali and Ethiopian refugees still separated from close family members, and struggling to cope with the feeling that they have been forgotten.

Statistics from the Refugee Family Reunification Trust tend to reflect the high level of need within these communities. Half of all refugees in the Wellington region receiving assistance from the Trust with the costs of family reunification are from Somalia (68 families since 2001). This is closely followed by Ethiopia (49 families since 2001). Assistance has also been given to Iraqi families (9 since 2001), and 10 families from various other countries.

The Wellington Community Law Centre statistics confirm a high level of need for assistance with family reunification problems by refugees from Somalia and Ethiopia. RAS experiences a similar level of need from refugees from Somalia and Ethiopia.

We believe this is symptomatic of the poor selection processes in the past, and the underestimating of the scale of the problems, in particular, faced by Somali refugees and the consequences of reconstituted families.

At present, there is no process for former refugees already living in New Zealand to access the 300 places for family reunion within the UNHCR refugee quota programme. Urgent action is required to address the significant issues still facing these former refugees. Family members left behind in refugee camps, and who are recognised as refugees by UNHCR, should be able to be referred to New Zealand for resettlement. It is better to allocate places to refugees who already have family in New Zealand, rather than bringing refugees with no existing family links to New Zealand. Unless the exiting backlog is resolved, this problem of disjointed families, and the associated social and economic costs will continue to increase.

Further, the definition of “family” applied to the places in the UNHCR refugee quota programme has generally only included declared spouses and dependent children - an issue addressed earlier in this paper. In particular, the current definitions fail to recognise the significant nature of relationships that can exist in wider and more diverse interdependent family groupings.

More strategic decisions should be made about the UNHCR refugee quota programme composition, and particularly the family reunion component, to assist with the cases where separation from family is a significant and persistent barrier to effective resettlement.

### **Recommendations**

- To address the current backlog of applications under the Refugee Family Support Category, one year’s 750 annual places under the UNHCR refugee quota programme be applied solely to family reunification.

- A clear and transparent process should be established to enable refugees already living in New Zealand to access the 300 places for family reunion within the UNHCR refugee quota programme.
- Under the UNHCR refugee quota programme, complete family groups be selected to come to New Zealand, as opposed to single refugees without any other family members.
- Family members left behind in refugee camps, and who are recognised as refugees by UNHCR, should be able to be referred to New Zealand for resettlement.

## **INCORRECT IDENTITY DETAILS AND UNDECLARED FAMILY MEMBERS<sup>25</sup>**

Unfortunately it is not an uncommon situation for refugees to arrive in New Zealand with incorrect personal details recorded on their certificate of identity, and incomplete lists of family members. There are many different reasons why this may occur. In some cases the error is a genuine mistake. In other cases, there may be some intent behind the provision of incorrect information. However, our experience is that in most cases there is a genuine reason, arising out of a complex set of circumstances. In these circumstances, we are concerned about the increasing predominance of immigration fraud investigations being directed against refugees and their family members. Some of these investigations appear to be initiated by malicious allegations made by disgruntled members of the community. In all cases the approach seems to be punitive, and engenders fear on the part of the refugee – fear of losing residence or citizenship, fear of being “sent back”.

We believe it is fundamentally important that refugees have a safe way of coming forward to tell their stories and to rectify these historic mistakes. Leaving people in the situation of living as “someone else” is a significant impediment to successful resettlement and perpetuates a culture of “secrets and lies” within families and communities.

## **INCORRECT BIRTH DETAILS**

Incorrect birth details commonly result from the fact that in many other cultures a specific birth date is not important nor is it recorded in a formal way. For those who have fled as refugees, any birth documents they may have had are usually left behind and are unable to be retrieved. This results in situations where the assignment of a birth date may be arbitrary and often only motivated by the need to have one for immigration purposes.

Often people from a refugee background will only be able to supply a year of birth. This has been accepted by INZ but results in the person being assigned 1 January as the specific date for INZ processing and, consequently, for the person’s residence visa and permit and certificate of identity.

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<sup>25</sup> Wellington Community Law Centre, Reuniting Families February 2005

When the date of birth is being determined by an adult family member on behalf of a child, or is someone's "best guess", mistakes can be compromising when the child then enters the school system in New Zealand or in terms of entitlements and rights that are age-based.

### **Recommendations**

- An amnesty period to allow refugees to come forward safely to disclose historic mistakes in the recording of identity or family details, and have these corrected.
- Establish transparent processes to rectify genuine incorrect birth and name details (given different cultural approaches to dates and calendars).
- The immigration fraud investigation process be reviewed to reduce delays and minimize the impact on refugees' applications or status.

### **INZ DNA TESTING POLICY**

Since about 2001, INZ has routinely offered refugees the option of providing DNA test results to verify family relationships. Although INZ subsequently developed policy dealing with processes and procedures for DNA testing, we are concerned that these guidelines are not adhered to in many cases. For example, we note that policy requires that the opportunity to seek counselling must be given to an applicant and/or sponsor when the results are negative. As far as we are aware, this has never been done.

The DNA testing policy also requires an immigration officer to be sensitive to the possible repercussions of a negative result on the family unit. As opposed to dealing with a negative test result sensitively, we have observed negative results being used oppressively to impugn an applicant's good character. We query whether this approach by INZ is appropriate and in accordance with guidelines.

A further concern is the inappropriate use of DNA testing on more distant relationships which may not be clearly resolved by DNA analysis, such as uncle/niece relationships.

### **Recommendation**

- A review of the DNA testing policy be undertaken involving consultation with refugee communities and interested parties.



## APPENDIX 1:

### NGO DESCRIPTIONS

#### **CHANGEMAKERS REFUGEE FORUM INC**

ChangeMakers is a pan-refugee development agency bringing together the interests of thirteen refugee communities in the Wellington region. It leads the development of an information sharing and advocacy network with refugee communities around New Zealand. Its key roles are to facilitate capacity building of refugee communities and their leaders; represent and advocate the interests and concerns of refugee communities at a local and national level, and work with government and non-government agencies to ensure that they effectively address the issue of refugee resettlement.

#### **REFUGEE FAMILY REUNIFICATION TRUST**

The Refugee Family Reunification Trust is a charitable trust incorporated under the Charitable Trusts Act 1957 and registered under the Charities Act 2005.

The purpose of the Trust is to financially assist refugees in Wellington to bring immediate family members to join them here. Reuniting these families greatly improves the lives of those refugees already living in New Zealand, and is critical to their successful resettlement and integration.

All money raised is used exclusively to help refugees pay for the expenses directly related to bringing family members from refugee situations. This includes application fees charged by, and medical reports required by, INZ, and the cost of airfares to bring approved family members to New Zealand.

#### **WELLINGTON COMMUNITY LAW CENTRE INC**

The Wellington Community Law Centre is an Incorporated Society which provides services to meet the unmet legal needs of the Wellington community. Community Law Centres are set up under the Legal Services Act 2000, and the Wellington Community Law Centre is one of 28 Community Law Centres throughout New Zealand. Since 1997, the Wellington Community Law Centre has co-ordinated a Refugee and Immigration Legal Advice Service (RILAS), providing information, advice and assistance to refugee and migrant communities seeking to be reunited with family members in New Zealand.

## **WELLINGTON REFUGEES AS SURVIVORS TRUST**

Established in 1997, the Wellington Refugees as Survivors Trust provides a mental health service for quota refugees and for those who come to NZ as part of refugee reunification. There is a multidiscipline team employed to provide counselling and advocacy services to refugee adults as well as children and families in Wellington, Hutt Valley and Porirua. Training is also provided for other health and social service professionals working with former refugees. All services are delivered with interpreters.

## APPENDIX 2:

### UNHCR MULTILATERAL FRAMEWORK OF UNDERSTANDINGS ON RESETTLEMENT

#### UNHCR HIGH COMMISSIONER'S FORUM – 16 SEPTEMBER 2004

Family is the fundamental unit of society. Successive Executive Committee Conclusions call on States to respect family unity and support family reunion. Family members can provide a strong and effective support system and, in so doing, enhance the integration of resettled refugees.

21. Without prejudice to individual refugee preference, all parties to respect and maintain family unity. In this context, “family” at a minimum includes immediate family, as provided for in national legislation or policy.
22. Resettlement countries to endeavour to maintain the unity of broader family units, taking into account cultural variations, as well as economic and emotional dependency factors.
23. In situations where immediate family members are in the same host country, that country to permit and facilitate the unification of family members within the country.
24. Resettlement countries to respect the unity of the family when processing applications for resettlement. Where immediate family members are in different host countries and resettlement is the preferred durable solution, resettlement countries to make every effort to facilitate reunification through resettlement of the family in one country.
25. If a refugee has immediate family members who are already established in a participating country, that country normally to be the first to consider an application to reunite the family, when resettlement is the most appropriate durable solution.
26. If a refugee has immediate family members who are already established in a nonparticipating country, UNHCR to ask that country to consider an application to reunite the family.
27. Resettlement countries to consider all available lawful channels, including non-refugee admission procedures, in endeavoring to ensure the unity of the family.