



Issues Paper: Refugee Family Reunion

Introduction

There is considerable evidence that the reunification of families separated during a refugee crisis is a crucial element to successfully settling a person of refugee background into their new community. During a refugee crisis families can often be separated while fleeing conflict and persecution, resulting in mental anguish due to the separation and the unknown whereabouts and safety of loved ones. Reunification of families is therefore seen as a critical priority to ensure the smooth and successful settlement of refugees in Australia.

Recent changes to Australia's migration policy have created significant barriers to people of refugee backgrounds reuniting with their families. Concerned that this is impacting the settlement process for humanitarian entrants to Australia, the Settlement Council of Australia has prepared this issues paper. We seek input from our member groups to the development of a formal policy briefing on this topic.

The Role of Family Reunion in Settlement

The strengths that families bring to the settlement process are well documented.¹ Family provides significant support during the challenging process of settlement, leading to long-term personal, social, community and economic benefits. Families can be a built-in social network reducing isolation and providing emotional support. They can share economic burdens such as cost of housing. They support each other to navigate new cultural and government systems. Families are a wealth of support in all aspects of life.

The separation of refugee families, and subsequent delay of reunification, is often traumatic with long lasting consequences for a person's well-being, mental health and ability to contribute to the Australian community.² Concerns about family member's safety overseas creates significant stresses which are amplified by the already challenging settlement process. Family separation has been shown to exacerbate previous trauma experiences. It is difficult for newly arrived refugees to move forward with the uncertainty of whether their family are safe or may ever be able to join them.³ All of this can lead to difficulties settling and significant mental health problems.

Policy Context

Family Reunion Options

Refugees that have had their protection visa granted in Australia may be eligible to subsequently apply to bring their family to Australia. Eligibility for this reunification depends on individual circumstances.

The Humanitarian Programme, administered by the Department of Immigration and Border Protection (the Department) allows for the following family reunion options:

¹ For example, see Lewig, K., et al., 2009, "The Working with Refugee Families Project" *Australian Centre for Child Protection*, University of South Australia, September 2009.

² Steel, Z., et al., 2011, "Two year psychosocial and mental health outcomes for refugees subjected to restrictive or supportive immigration policies" *Social Science and Medicine* Vol 72 Issue 7 April 2011 p1149-1156.

³ Wilmsen B. 2013, "Family Separation and the Impacts on Refugee Settlement in Australia", *Australian Journal of Social Issues*, vol. 48, no.2, pp. 241-62.; Savic M., Chur-Hansen A., Mahmood MA; Moore V. 2013, "Separation from family and its impact on the mental health of Sudanese refugees in Australia: a qualitative study", *Australian New Zealand Journal of Public Health*, vol. 37, no. 4, pp. 383-8.; and Staver, A. 2008, *Family Reunification: A Right for Forced Migrants?* Working Paper Series No. 51, Refugee Studies Centre, University of Oxford.

- *Split Family Provisions* – those eligible may propose “immediate”⁴ family members under the Special Humanitarian Programme (SHP). The family member and the family proposing must meet specific criteria, and are subject to limits as set out below.
- *Special Humanitarian Programme (SHP)* – this Visa Programme is not restricted to family. It allows a number of other persons to act as a ‘proposer’ to sponsor an eligible person and provides a pathway for proposing both “close”⁵ and “extended”⁶ family members.
- *Community Proposal Pilot* – anyone eligible may be proposed by an approved organisation. However, this pilot is unlikely to be of use to the majority of refugees seeking family reunification.

Outside of the Humanitarian Programme, there are certain Migration Programme visas which are also used as a reunification option for those that meet the eligibility requirements, and are increasingly being accessed by people from refugee backgrounds who are either ineligible under the SHP, or are put off by the long delays in processing.⁷

Key Policy Changes

Since 2013 the proportion of SHP visas available has greatly increased, however eligibility criteria have been tightened significantly and many other avenues for family reunion have become more restricted:

- People who arrived by boat on or after 13 August 2012 are no longer eligible to propose family under the Humanitarian Programme.
- Those who arrived by boat before 13 August 2012 have their family reunion applications processed as the lowest priority.
- The concession allowing minors who arrived by boat to propose family for a permanent visa under the Special Humanitarian Programme (SHP) has been removed.
- Temporary visa holders are unable to access family reunion options.

For many humanitarian entrants, the only remaining option for accessing the SHP is to wait until they become citizens – a process that, in itself, can be subject to significant delays.⁸

In recent years the cost of Migration Programme visas have risen, becoming prohibitive for many applicants from a refugee background.⁹

Issues with Family Reunion

Demand for family reunion is high, with visa places through current avenues low. Given the importance of family reunion to refugee settlement it is important that this gap is addressed. Additional SHP places have provided an increased opportunity for people to reunite. However, this has been coupled with policy restrictions and the imposition of processing priorities leaving the demand for family reunion opportunities high and exacerbating an already difficult situation.

Lengthy processing times

⁴ “Immediate” family members are limited to the proposer’s partner, children under 18 and/or parents if the proposer is under 18.

⁵ “Close” Family members include siblings, or parents where the proposer is over 18 years of age.

⁶ “Extended” family members include grandparents, grandchildren, aunts, uncles, nieces, nephews and cousins.

⁷ These are generally visas under the Family Stream of the Migration Programme, and can include Parent, Child, Partner and Other Family visas.

⁸ See for example: Refugee Council of Australia, 2015, Delays in Citizenship Applications for Permanent Refugee Visa Holders.

⁹ In the 2013-14 Federal Budget, the Government introduced additional charges for each Additional Applicant included in a visa application (including partners, children and other dependents). This coincided with an increase to the base Visa Application Charge in that budget, and subsequent Budgets. The result is an increase of well over 100% for some visas in the Family Stream of the Migration Programme.

Those eligible for family reunion under the Split Family Provisions of the SHP report experiencing extremely lengthy application processing times. Some wait years to have their applications processed. Often when applications are lodged there is no communication about their status for many years. This wait without communication can be extremely distressing. For those who arrived by boat (even before August 2012) there is almost no likelihood of success.

Definition of ‘family’

The definition of ‘family’ for the Split Family Provisions of the SHP is narrow and does not align with many refugees’ views of who they define as family. Under the Split Family Provisions it is restricted to immediate family including parents (for proposers under 18 only), partners and dependent children (usually, limited to those under 18 years). This definition has the effect of delaying processing for many others, such as parents, grandparents, siblings and adult children despite the obvious importance of these people in many family groups. Some families have had to make difficult decisions to leave people behind, including children that have turned 18, and the strict application of this definition can have very significant impacts on their chances of reunion once in Australia.

Those who have arrived by boat

Policy restrictions for people who arrived by boat, including those now on temporary visas, have effectively stopped family reunion for these people, as set out above. Those still eligible to apply for family reunion visas face excessively long processing times in a process with already long waiting periods.¹⁰ The punitive nature of these policy changes has a significant impact on one of the most vulnerable populations within the sector.

Documentation and Consistency

Because of the Department’s increased focus on the provision of documentation and the consistency of information provided, often innocent mistakes or results of circumstance can act to prevent family reunion for refugees who would otherwise be eligible.

Documentation requirements to support family reunion applications are onerous and greater flexibility is required. For many, obtaining identity documents can be challenging as they may have been lost or destroyed while fleeing. For others, such as children born stateless, documentation simply does not exist.

Consistency in information provided to the Department is also proving a crucial factor. When a family member is omitted from an initial protection visa application they are not ever eligible for a family reunion visa. There are many reasonable explanations for this omission such as a mistake by the applicant, a misunderstanding with interpreters or an error in translation. The policy, as a result, acts as a further punishment for those who have already suffered.

Separation during resettlement

Some families have been separated through UNHCR’s resettlement process with individuals of the same family being resettled in different countries. People resettled in countries Australia has assessed as having established systems of protection do not have access to SHP. This further limits their family reunion options.

Unviable Alternatives

¹⁰ An application under the Split Family provisions of the SHP for any boat arrival is treated as lowest priority for processing, while those who arrived by boat after 13 August 2012 are excluded altogether.

The Community Proposal Pilot is not a viable family reunion option. The pilot's places are very limited¹¹ and fees are extremely high,¹² excluding many people. Some may place themselves in difficult financial situations to raise the funds for the fees.

The Migration Programme in its current form is also not a feasible option for many attempting family reunion. The high fees and eligibility and documentation requirements associated with the Programme are onerous or impractical for most refugees to meet. For some visas within the Migration Programme, waiting periods can stretch into the decades, due to the policy of "capping" visa numbers currently used by the Department.¹³

As a result, those from refugee backgrounds are left with little option but to pursue the onerous and, at times futile, processes of the SHP as a 'last resort' and despite little chances of success and long processing times.

SCOA Call for Input

SCOA strongly believes that family reunion options should be made more accessible for all refugees regardless of how they entered Australia or the circumstances of their separation.

SCOA intends to develop a policy brief on this issue and invites members to share:

- examples of the experiences of clients who have encountered the issues raised above;
- how the issues raised in this paper have affected members in the provision of services;
- examples of the successful reunion of families; and
- any other concerns with the current system, not raised in this paper.

Specifically, SCOA calls for input from members on the following issues:

- The extension of family reunion options to all humanitarian entrants (including lifting restrictions on refugees who arrived by boat and those on temporary visas).
- The expedition of processing of Split Family and other SHP visa applications and the inclusion in this process of adequate communication check-points to update applicants on the progress of their application.
- The definition of 'family' in the context of family reunion.
- The need for greater flexibility on documentation requirements for Split Family and other SHP visa applications.
- The viability of the Community Proposal Pilot and recommendations for change, including lowering fees, applying concession rates and delinking the Community Proposal Pilot from the current Humanitarian Programme.
- Other potential pathways for family reunion through the Migration Programme, including making concessions available for some of the fees and requirements for people from refugee backgrounds.
- Designing a mechanism to minimise the splitting up of families prior to arriving to resettle in Australia.

This Issues Paper is a working document and will be developed into a policy as further research into this important area is conducted. If you would like to contribute please contact the SCOA office.

¹¹ 500 places in the 2013-14 migration programme.

¹² Starting at approximately \$20,000 for one applicant and increasing by over \$2,000 for each additional applicant.

¹³ The Department has indicated that waiting periods for visas in the "Other Family" stream range from four and a half years to over fifty years, depending on the visa applied for. See: <https://www.border.gov.au/Trav/Brin/Fami/Capping-and-queuing/Other-family-visa-queue>