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## **Refugee resettlement, family separation and Australia's humanitarian programme**

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## **Introduction**

The family is indisputably the central element and most important aspect of peoples' lives. It is our most intimate social environment – the place where we begin the vital processes of socialising children and teaching them how to survive and thrive in the world (DeFrain, Brand, Swanson 2008). Families are the basic building blocks that underpin our fundamental social structure and the most durable basis for imparting social values, customs, traditions, beliefs and languages between generations. They are a mediating link between society and individuals (Bogenschneider 2002) and are also significant contributors to economies.

Although rarely seen as part of production and exchange cycles, it is estimated that families add about 40 per cent of Gross Domestic Product to most national economies (Cox 1994). They form an alternative safety net by playing prominent roles as health care providers, educators, social workers, and personnel managers (Bogenschneider 2002). However, families are also vulnerable to external influences. Effective functioning depends on the support of the wider social context (Bronfenbrenner 2004); that is, the prevailing political, economic and societal milieu.

International human rights instruments, including those concerned with the rights of the child and of refugees, explicitly recognise the importance of family. These include, but are not limited to, the Universal Declaration of Human Rights (1948) (article 16); the International Covenant on Economic, Social and Cultural Rights (1966) (article 10); the International Covenant on Civil and Political Rights (1966) (article 23); the Refugee Convention (1951) (article 12); the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (1979) (article 9, 16); and the Convention on the Rights of the Child (1989) (article 9, 10, 20, 21, 22).

The important role that families play in building a cohesive and inclusive society is also recognised by national governments. That the family functions to promote health and wellbeing, boost education outcomes, care for the young, the sick and the elderly, and disseminate ethics and values is reflected in many national policies and programmes. Indeed, resettling 'families' is a key priority of most national immigration programmes: in the initial migration of 'family' groups and in subsequent 'family' reunion programmes.

However, do the policies used to select the 'family' uphold the meaning of family for refugee and humanitarian entrants? This paper explores this relationship, describes the lived experience of Australia's immigration policies and the consequences for settlement. It concludes by reflecting on the principles underpinning immigration policies and using Australia as an example, proposes recommendations for policy reform that (1) provides refugee and humanitarian entrants with greater agency to reunite with their families in a meaningful way and (2) reconstructs the social fabric to support their settlement in Australia.

## **Families with refugee backgrounds**

Defining the ‘family’ is a daunting task that attracts much debate. Murdock’s anthropological definition has been referenced across many decades: *The family is a social group characterised by common residence, economic cooperation, and reproduction. It includes adults of both sexes, at least two of whom maintain a socially approved sexual relationship, and one or more children, own or adopted, of the sexually cohabiting adults* (Murdock 1949 p.2). Definitions are often influenced by cultural values. Extended family structures have become less central to family life in western countries, and this is reflected in sociological definitions that focus on its nuclear formation; that is, mother, father, and children (Georgas, Berry, van de Vijver et al. 2006).

However, in most non-Western nations, a wider network of relationships are recognised as integral to what is considered to be a family and even unrelated persons (by blood or marriage) are considered to be family (Georgas, Berry, van de Vijver et al. 2006). For example, the ‘African’ definition of family consists not only of blood kin, a system of tribal membership that cannot be directly traced back to a specific blood relative, but also members of their tribe or region (Stoll and Johnson 2007). Thus, from a cross cultural perspective, the meaning of family – who is in the family and who is not – is not fixed and the configuration of family is made even more complicated by the refugee experience.

An almost universal consequence of the refugee experience is the destruction of the family unit. Family members may be forced to follow different routes or to flee based upon available opportunities or resources. Separation can be a temporary strategy to help a child escape from military recruitment or to send a politically active member into hiding (Sample 2007). Whatever the reason, families of choice and circumstance are formed (Sample 2007). A pertinent example is described by a Sudanese youth in a recent study by Luster, Qin, Bates et al. (2008 p.451):

My biological family is still my family and the group who lived with me all those years are my family too. Because of most of them are my cousins, my brother and my best friends, so we become one family too.

UNHCR recognises the complexity of refugee families and takes a broad and inclusive approach to the term. At the 2008 Annual Tripartite Consultation on Settlement, UNHCR (2008) p.2-3 outlined its understanding of family:

UNHCR aims to respect the culturally diverse interpretations of family members, as long as they are in accordance with human rights standards... The UNHCR definition also includes persons who may be dependent on the family unit, particularly economically, but also socially or emotionally dependent. This includes children who have reached 18 years of age or who are married (if they remain in the family unit) or children or older people under foster care or guardianship arrangements, but are not biologically related.

When families are separated, as is the case for many refugees fleeing conflict or political strife, the meaning of family is not altered. When individuals reach relative safety, reuniting with family is the key priority. According to the Longitudinal Study

of Immigrant in Australia (LSIA), humanitarian entrants were more likely than other migrants to have sponsored or applied to sponsor a relative, to migrate to Australia (Richardson, Stack, Moskos et al. 2004). Consultations with refugee and humanitarian entrants to Australia conducted by the Refugee Council of Australia 2008-2009 reported that family reunion was their number one priority (RCOA 2009). This is echoed by various academic studies - for discussion see Dibley and Dunsten (2002); McMichael and Ahmed (2003); Simich, Beiser, Mawani (2003); Valtonen (2004) and Momartin, Steel, Coello et al. (2006).

### **Family, resettlement and settlement**

Resettlement is one of UNHCR's three durable solutions (the other two are repatriation and local integration) and is only applied when refugees cannot return home or remain in the host country (UNHCR 2009). For any person beginning a new life in an unfamiliar country, the presence of a supportive family promotes settlement and longer-term integration. In the specific case of refugee resettlement, the United Nations High Commissioner for Refugees (UNHCR) states ... the family unit has a better chance of successfully ... integrating in a new country rather than individual refugees.

In this respect, protection of the family is not only in the best interests of the refugees themselves but is also in the best interests of States (UNHCR 1999; ECRE 2000). Families also facilitate economic adaptation (Hauff and Per 1993; Strober 1994; Takeda 2000); and promote social adjustment - fundamental aspects of settlement (Stoll and Johnson 2007). Intact families (particularly those that include more than one breadwinner) generally have better prospects for achieving self-sufficiency as families can pool their resources and support employment activities (UNHCR 2002). A family group will rely less heavily on external providers of assistance lessening the perceived 'economic burden' of new arrivals (Sample 2007).

Modulating the damaging effects of the refugee experience on mental health and wellbeing is often one of the first challenges that new arrivals face when resettling in Australia. Pre-migration experiences can take their toll and make settlement in the new country seem impossible. Family can play a positive role in recovery. There is a rich body of literature that relates recovery from physical and emotional stress with a supportive family.

Family plays a pivotal role in providing support and nurturing problem solving strategies (Summerfield 2001). This occurs on a number of levels: financially (money), physically (care or assistance), emotionally (love, understanding, counsel), legally (guardianship) and spiritually (performing religious duties) (Batrouney and Stone 1998; Manderson, Kelaheer, Markovic et al. 1998).

Moreover, the central responsibilities of the family - to provide material and emotional care and nurturing - anchors an individual's emotion and identity by providing affirmation of mutual understanding of roles and experience (Cass 1994; Farwell 2001; Rousseau, Mekki-Berrada, Moreau 2001; Steinglass 2001; Simich, Beiser, Mawani et al. 2003). This suggests that family provides benefits to the health and wellbeing of the new arrival which makes settlement less traumatic.

Conversely, family separation can have severely debilitating psychological impacts that can hamper settlement. For refugees, anxiety about the welfare of family members left behind continues and maintains a sense of helplessness and powerlessness (VFST 1998). A study of 63 resettled Sudanese refugees found that concern about family not living in Australia was the most common issue associated with depression, anxiety and somatization (Schweitzer, Melville, Steel et al. 2006).

An Australian study of living difficulties causing serious/very serious stress after release from detention found that 96% (n = 49) of participants declared worry about family in their home country or family separation as the key concerns (Momartin, Steel, Coello et al. 2006). Unresolved family reunion also contributes to long-term trauma and serves as a continual reminder of an unbearable past (Rousseau, Mekki-Berrada, Moreau 2001; Lie 2002). Family separation was also found to compound post-traumatic stress reactions and bereavement (Rousseau, Mekki-Berrada, Moreau 2001).

Although the beneficial role of the family in the settlement of refugee and humanitarian entrants is well documented, it does not simply follow that the process of settlement will be smooth. Settlement is stressful and puts the entire family unit under a great deal of pressure. Once the family is reunited it faces a new crisis of having to unite family members who have had very different experiences (Rousseau, Rufagari, Bagillishya et al. 2004).

A study of Bosnian refugees settling in the United States found that past experiences affected their capacity to communicate with their families (Weine, Muzurovic, Kulauzovic et al. 2004). More recent research found that intergenerational conflict can occur when after resettlement as parents and children negotiate their new environment (Atwell, Gifford, McDonald-Wilmsen 2009). This is a common scenario as the role of parent and child can be renegotiated during settlement. Hence, families need support in the settlement process to remain intact and cohesive as they negotiate the complex settlement environment and make a new life.

### **Reconfiguring the family: the Australian policy context**

Family separation and reunion is a significant issue for refugee background families. The initial separation of family members may be the result of the political upheaval in the country in which they were residing; however, separation of refugee background families is also a function of the policies of resettlement countries. UNHCR may refer a particular family to a state for resettlement, but it is the states sovereign right to determine the number and types of persons to be admitted to its territory (Lahav 1997).

Whether a family will be reunited is determined by immigration policy. Family reunification involves bringing separated family members across international borders, a politically sensitive activity (Staver 2008). UNHCR promotes the reunification of the refugee family as a component of restoring and preserving a refugee's life; however, it requires that legislative measures are in place in the resettlement country (UNHCR 2001). Ultimately, the constellation of the refugee

family as seen in the country of resettlement is not only a reflection of the refugee experience, but a consequence of national immigration law.

After the United States and followed by Canada, Australia has the second biggest formal resettlement programme in the world. Every year, Australia resettles around 13 000 refugees, the majority of which are identified and referred by UNHCR to Australia. Many of the policies and procedures applied by the governments of the United States and Canada are similar to those applied in Australia.

However, even where policies differ, all three nations are facing the same immigration quandary: who should be selected in their refugee and humanitarian intakes? The policies and processes under which refugee families arrive in Australia are provided as an example of how one of the major UNHCR resettlement nations operationalises its response to this question.

Persons referred by UNHCR for resettlement to Australia are selected, where possible, as family units (DIAC 2009b):

- a spouse or de facto partner of the family head; or
- dependent child of the family head or of a spouse or de facto partner of the family head; or
- a relative of the family head of a spouse or de facto partner of the family head who:
  - a) does not have a spouse or de facto partner; and
  - b) is usually resident in the family head's household; and
  - c) is dependent on the family head (Migration Regulations 1994, 1.12).

There are two key components of this definition which have particular implications for the configuration of refugee families in Australia. The first is the age at which a child is assumed to be dependent; that is, under 18 years (unless married, engaged or in a de-facto relationship).

For families with members over the age of 18 years whom they consider part of their immediate family, dependency must be established otherwise the member will be assessed as a separate applicant and will not be eligible to draw derivative status from the Principal Applicant. The second is the inclusion of relatives. This extends the definition beyond the restrictive notion of the nuclear family to include particular extended family. A 'dependent relative' is defined as:

- a parent, brother or sister; step-parent, step-brother or step-sister; grandparent, grandchild, aunt, uncle niece or nephew, step-grandparent, step-grandchild, step-aunt, step-uncle or step-nephew
- single (example: widowed aunt)
- usually resident in the applicant's household
- wholly or substantially financially reliant on the applicant for financial, psychological or physical support (DIAC 2009c).

Three types of dependency are recognised, financial, psychological and physical, defined by the Australian Government in the Procedures Advice Manual 3 (DIAC 2009a):

*Financial dependency.* Satisfying the lower order needs, that is, those that are required to be sustained, namely food, shelter and clothing. It does not encompass reliance on another person for luxuries and discretionary consumption goods or higher order needs.

*Psychological dependency.* The policy intention is that psychological dependence be related to a mental or emotional impairment or a medical condition preventing the person from living independently. This is a situation different from a close family relationship and the normal dynamics of family life. Dependence, by contract, implies an inability to function without external directives or control and may need assessment by a qualified practitioner.

*Physical dependency.* A person who is wholly or substantially dependent on another person for physical support would be expected to be living permanently or on a long-term basis in the same household as the person on whom dependency is claimed; and dependent wholly or substantially on that person for shelter, sustenance and protection. The mere fact that the person lives in the household of the person on whom dependency is claimed should not in itself be regarded as proof of whole or substantial dependency.

## **Family reunion**

There are a number of other possible avenues for the reunion of refugee families; however, they are often restrictive. For example, family reunion could occur under the Special Humanitarian Programme; however, the applicant must demonstrate a well founded fear of persecution in their own right. The family stream of the Migration Programme can be used to sponsor aged parents, children, partners, remaining relatives, carers or aged dependent relatives.

However, there are hefty fees involved and the sponsor must be able to show they can financially support their family members. Moreover, the Australian Government applies a balance of family test to ensure that the applicant does not have more children overseas than are in Australia.

These elements make the family stream prohibitive for the majority of refugee background families. Family members who are registered with UNHCR as refugees may also resettle to Australia as refugees in their own right; however, this is not a family reunion programme and therefore the presence of family in Australia does not prioritise their application.

Finally, there is the skilled migration programme which is once again not a family reunion programme. Hence, this paper is concerned mostly with family reunion provisions of the Humanitarian Programme known as the split family provisions.

## **Split family provisions**

Persons who could not be resettled with their immediate family but have arrived in Australia can be reunited under the Australian Government's split family provisions.



Only immediate family members are eligible for reunion under the split family provisions (see Table 1) (DIAC 2009b). They are generally granted a visa under the same category as the proposer. There is no need to prove persecution, discrimination or human rights abuses as their status is derived from the Principal Applicant.

To qualify for the visa:

- DIAC must have been made aware of the family member before the date that the initial refugee or humanitarian visa was granted;
- the applicant must continue to be a member of the immediate family, and
- the applicant must apply within five years of the date of the visa granted to the family member in Australia (DIAC 2009b).

The most important aspect of the split family provisions is that it admits ‘immediate family members’ to join the proposer. Unlike the definition of a ‘family unit’ applied for resettlement purposes, dependent relatives are not eligible to join the proposer under the split family provisions. However, had the proposer not been separated from his/her dependent relative and co-location had been possible at the point of selection they may have been eligible for resettlement with the Principal Applicant and drawn derivative status.

**Table 1: Definition of an ‘immediate family’ member for purposes of the split family provisions**

<b>Family Member</b>	<b>Description</b>
<b>Spouse</b>	The spouse or de facto partner of the proposer, where the relationship is recognised as valid for the purposes of the <i>Migration Act 1958</i> .
<b>Dependent Child</b>	The child or stepchild, of the proposer (other than a child who has a partner or is engaged to be married), being a child who either has not turned 18 or has turned 18 and is dependent on the proposer.
<b>Parent</b>	Includes parents or step-parents <b>if</b> the proposer is not 18 or more years of age.

Source: DIAC 2009b

## Methodology

Within the above context, virtually no research has been undertaken in Australia to document the ways in which these policies impact on resettled refugee families. While there is evidence from service providers that these restrictive policies negatively affect people’s psychosocial and economic wellbeing, the lived experiences of these policies have not been documented. The study reported in this paper set out to describe the impact of family reunion policies from the perspectives of recently arrived families settling in Melbourne, Australia.

We used a qualitative approach in order to allow for a diversity of experiences to be described in depth. Also, the complexity of the setting and the sensitivity of the issues

under discussion were suited to a less structured approach. Finally, we were concerned that more quantitative survey methods would be likely to gloss over the intricacies of their ‘story’. This study was designed as the first stage of a larger longitudinal project and focused on obtaining in-depth information from a small sample of families from a range of source countries. Methods of data collection included semi-structured interviews and focus groups (Garrett and Downen 2002; McNall and Foster-Fishman 2007).

Qualitative data was collected through three focus groups and 15 interviews involving a total of 41 participants. All of the participants had refugee backgrounds and were purposely selected to reflect Australia’s humanitarian composition over the last two years. Their countries of origin were Afghanistan, Sudan and Burma. The majority of the interviews and all of the focus groups were conducted through interpreters. The participants had been in Australia for between two and five years. To capture the variation in experience of family separation and reunion, interview participants were selected as follows:

- currently separated from family members and seeking family reunion;
- recently reunited families; and
- reunited for at least two years with family.

The final sample consisted of:

- 3 focus groups - Afghan – 4 males and 6 females, Sudanese – 4 males and 3 females and Burmese – 6 males and 3 females followed by; and
- 15 in-depth interviews with refugee background informants who have variable family status.

Total number of participants = 41 individuals (see Table 1 for demographics).

Although this research aimed to target persons at different stages of the family reunion process, in reality, most refugee families are separated from someone. This is partly due to the refugee experience but also a result of the Australian Government’s policy. It was common when interviewing a participant from an ‘intact family’, that an aunt or uncle was still overseas and that this became the focus of discussion.

An intact family was defined as a family that regards itself as whole and had no significant family members overseas. Indeed, the majority of participants were separated from their extended family members as defined as persons other than their children or spouse. Participants from three intact families were interviewed and four participated in the focus groups.

**Table 1: Demographic characteristics of participants (N=41)**

	Focus Groups	Interviews
<b>Gender</b>		
Male	14	9
Female	12	6
<b>Country of origin</b>		
Afghanistan	10	5
Burma	9	5
Sudan	7	5
<b>Age</b>		
20-30	3	4
31-40	7	6
41-55	12	5
<b>Family status</b>		
Separated from extended family members	17	10
Separated from immediate family members	3	2
Intact family	4	3
Unanswered	2	0
<b>Family reunion</b>		
Proposed family member	16	6
Successful proposal	1	2
Unsuccessful proposal	15	4

### Principal findings

The Australian Government takes a ‘one size fits all’ approach to the selection of refugee and humanitarian families and the reunion of family members with refugee and humanitarian entrants in Australia. At the core of these policies is the western concept of the nuclear family under which refugee background families are reconfigured in Australia. In the case of the participants interviewed in this study, the mismatch between these policies and their own meaning of family was a point of frustration and devastation. The findings begin by presenting their frustrations in their own words<sup>1</sup>.

During the focus groups and the in-depth interviews all participants were asked to depict their family in written or pictorial form. The majority of participants identified persons beyond the nuclear family configuration as belonging to their family. The families of participants generally included at least three generations and they often lived together in the same house or at least within walking distance.

Of the interview and focus group participants, 11 of the Sudanese participants depicted complex family systems (N=12), as did all of the Karen participants (N=14) and 10 of the Afghan participants (N=15). The Afghan and Sudanese participants generally described the configuration of their families in patrilocal terms; that is, that the bride geographically locates to the house of her husband. The Karen participants said that they were free to choose where they lived after they married.

<sup>1</sup> Pseudonyms have been used to protect the identities of participants.

## **Sudanese family structures**

The Sudanese have a particularly complex family system. The system is descriptive with a different kin term ascribed to each distinct relative (Schwimmer 2001). However, family structures vary according to locale. For instance in the Sudan, families traditionally consist of two or three generations with siblings living side by side and sharing domestic duties and economic responsibilities (El Hassan Al Awad and Sonuga-Barke 1992).

However, in the cities a large proportion of families are now based on the nuclear family unit (El Hassan Al Awad and Sonuga-Barke 1992). During interviews, the Sudanese participants described the complexity of their family and their closeness to family members who would be regarded as extended relatives under the Australian Government's definition of a family member:

Yeah he's my first cousin, I don't know the relationship here for you it maybe the extended family, but for us it is a continuously extended family, like myself, like that boy I'm trying to sponsor. I can say that he is my father's brother's son ... he is the closest person to me in my family... he is my real relative (Sudanese male, 45 years).

In Sudan, the children of your neighbour are your children. Like even in Sudan you can go, if you don't have children completely, you can go to your sister's house until you die and they bury you there, no problem (Participant, Sudanese Focus Group).

## **Afghan family structures**

There is great variation in the configuration of Afghan families. Broadly speaking, traditional Muslim families commonly regard extended family as part of the core and often span three or more generations (Dhami and Sheikh 2000). For Hazaras of Bamian, the Durrani Pashtun nomads in western Afghanistan, and the Kirghiz in Wakhan, the nuclear family is the most commonly reported household unit (Griffin 2002).

Hazaras may form compound families, in which case the senior wife succeeds to the husband's position until the oldest son reaches maturity and Durrani Pashtun families are most commonly extended family configurations (Griffin 2002). Kirghiz and Ghilzai Pashtuns form an inclusive unit of kinship that consists of relatives descended from a common ancestor and may include several to a large number of households (Griffin 2002).

The focus group and in-depth interviews with the Afghan participants included Pashtun and Hazara Afghans. The majority of the Afghan participants spoke about the family in terms of an extended configuration, but noted that this configuration varies between urban and rural regions:

Our family is very big. Under one roof you can have children, parents, aunts and uncles. In traditional culture we all live together. Usually the woman will marry and go and live with the husband and his family,

including the in-laws. In more modern culture, for example in big cities like Kabul, the children are encouraged to move out and to start their own family and have their own house. Even so they are still considered family. (Participant, Afghan Focus Group).

One participant noted that the extended family configuration is related to religion:

Because we are Muslim we call all the aunties and uncles on the mother and fathers side “family” (Afghan male, 42 years).

### **Karen family structures**

The central social unit of the Karen family is basically nuclear (Barron, Okell, Yin 2007). Even so, the Karen described their families in a far more complex manner. All of the Karen involved in this study had been resettled to Australia from a refugee camp in Thailand. Every participant said it was common for more than one generation to be living in a Karen house in the refugee camp:

Because as the Karen, we build a big house, that includes everyone in that house ... so five children and three nieces and nephew, and one sister, and the parents-in-law live with her in the camp (Karen female, 43 years).

Sisters, parents, grandparents, sisters, non-biological children, nephews and nieces were often considered in their depiction of the family. One participant articulated how close she was to her grandparents:

My grandparents are like my own parents because they are the only couple that we growing up with to tell you the truth we never been that close to my Mum because she always go out to earn the living for us so we closer to the grandparents and staying at home (Karen female, 31 years).

Four of the five Karen participants interviewed regarded a non-biological or child of their sibling as their own:

It's common to adopt a child or for a grown up girl live with somebody for a better life ... we love her like our own child (Karen female, 36 years).

The Karen focus group also discussed this common occurrence of sending children to go and live with other family members so that they may have a better life:

Karen children are spread out to go and live with other aunties or other people at the same time to have a better life and are considered part of that family (Participant, Karen Focus Group).

### **The refugee experience and reconfiguration of family**

The refugee experience reconfigures the family in ways that it would not be

otherwise. Families of circumstance are created by conflict, flight and refuge:

When a parent is killed or brother is killed or blown up in a bomb or something and then the children automatically becomes part of their brothers (Participant, Afghan Focus Group).

Remnant family members flee together and reconstitute their family together:

We moved to Thailand with my youngest aunt, my Mum, my own family and the grandparents so these are my family (Karen female, 31 years).

Orphaned children are often taken in and regarded as their own children:

Because when my brother passed away, I have to look after those three orphans and we have to raise them with whatever extra we have got. I love these children the same as my own. (Karen female, 33 years)

Other unrelated children may be taken in by families in the refugee camp:

This girl was starting in the orphanage school and then enter into where I was teaching. This is in the camp. She came up in the camp by herself and stay with another lady. But the lady who's looking after the orphanage, she wasn't good to her. So she left the orphanage place and come and stay with me. So part of my family (Karen female, 45 years).

Time spent together in refugee camps solidifies relationships and creates unusual family configurations. One participant who arrived in Australia as an unaccompanied minor proposed his friends in the refugee camp under the Special Humanitarian Programme, even before proposing his immediate family members. He explains why:

Because they were in Kakuma refugee camp where I live and they were living with me for many years, so I feel like they are my family too. So it is like immediate family (Sudanese male, 23 years).

The configuration of refugee background families before arrival in Australia reflects culture, tradition and the refugee experience. However, the Australian Government's policy also has an impact on the configuration of refugee background families in Australia. Participants spoke during the interviews about their frustration with the Australian Government's definition of family:

When someone applied, the Australian forms, they only for family. But if they live under the care of somebody else ... how would they let them, no-one can take care and they live for almost 10 years in the same family that is how the situation was created. So they take them as their kids because if you mention in the form that this is not your child, they will say "okay, why are you taking them?", see, and there is no-one to leave the child with, that is why they take them as their kids and they really are really their kids because they been with them for 10 years but they [the Australian Government] don't understand this (Participant, Sudanese Focus Group).

The age limit of assumed dependency that is set at 18 years or more by the Australian Government was a particular point of contention. All of the focus groups raised this issue as either mismatched with their own notion of family or as a hurdle that had to be navigated:

Our children are always the kids even when they are grown and with their own families. It is not that once they turn 18 and can go out that they leave our family (Participant, Afghan Focus Group).

She said sometimes when you want to bring your kids, you are forced to lie and this is something that affect us, because you can't leave them behind (Participant, Sudanese Focus Group).

Because it does not matter if you are 18, unless you are doing something to the family. If you are living, you live together with the family (Sudanese male, 23 years).

Participants felt that perhaps the western concept of independence was different to how it was understood in their country of birth:

When a boy or girl over 18 or 20 or 40 he or she should be still family and now the Australian policy says now she is 18 she should be separated from family but this is totally different because western countries is totally different from third world countries (Afghan male, 42 years).

Because this country is different. Like when – in Australia when the kids become 18/19 years old, they're independent. But in Afghanistan until they're married, they are not independent themselves. So when her husband sponsors his sister to come to Australia, they said no, because your 19 years old. You're big enough to look after yourself. But in my country back home it's not possible. The women have to have someone to look after them, not by themselves. Because different cultures (Afghan female, 39 years).

The participants in the study were aware that a restricted definition of family would be applied upon resettlement and acted to reconfigure their own families to be acceptable to the Australian Government.

However, they were unaware of the devastating and irrevocable consequences of this reconfiguration – persons not identified in the original declaration made by the Principal Applicant cannot be recognised retrospectively.

The Karen and Afghan Focus Groups discussed some of the misunderstandings that led to family members being left off the initial application for a visa. These included nervousness and rumour about the process:

Because some people would encourage you, you know, just write down your family, like parents and children, and some people, because they don't understand the process that they do, they not even write our parents, brother, sister, because they say "If they interview you they will

ask you complicated questions, and you have to answer everything.” Some people their nervous. So they just leave it (Participant, Karen Focus Group).

Believing a smaller family would increase chances of being granted a protection visa:

Also some people believed that they had a greater chance of being resettled if they only put down two children instead of all 6. Now they are very depressed because they are separated from their children (Participant, Afghan Focus Group).

The following case study illustrates how tragic the consequences of leaving off family members from the initial application can be:

### **Case Study 1: Hala, Afghan female, 43 years**

Hala’s husband was a former Temporary Protection Visa (TPV) holder who sought asylum in Australia. He was held in detention for two years. When he filed his application for permanent protection he only included his two sons and Hala on the form. He was not confident that his visa would be granted and so to maximise his chances he thought it best to keep his family small. According to Hala the reason he left their daughters (now aged 16, 12 and 11 years) names off instead of the sons was: *If I am accepted, that would be good because I would be living here with my two sons, but with regards to the girls, they would be married anyway and they would be living with their husbands.*

Once Hala’s husband received permanent residency he applied to bring his family here under the split family provisions. Under Australian Government policy, only Hala and his two sons were eligible for reunion because family members cannot be recognised retrospectively. Hala took her three daughters to live with her sister in a small town in Afghanistan and told them that once she arrived in Australia she would organise for them follow.

After Hala arrived in Australia her husband got his Australian citizenship and said he had to return to Afghanistan because his mother was sick. He married another woman and has never returned. Hala spoke to him once on the phone and asked him to send his daughters’ identity documents and photos so she could begin the process of reuniting with them. He never sent them and has now changed his phone number. Hala is heartbroken. She goes to her English class but she said she doesn’t learn much because she is so worried about her children. Hala says:

Being here separated from my daughters has put a lot of pressure on me mentally and it has been driving me crazy. I am looking forward to the day that I can bring my daughters here so that I can find peace of my mind.

Unfortunately, it is unlikely that Hala will be reunited with her daughters. She cannot return to Afghanistan and under Australian Government policy, they are not recognised as part of her family for reunion under the split family provisions.



## **Impact of family separation**

In recent years, academics and governments have become increasingly interested in what promotes settlement, with two key approaches developed – (1) a life events/biomedical approach (Montgomery 1996; Colic-Peisker and Tilbury 2003; Porter 2007) and/or a (2) wider social inclusion approach (the settlement is a process of basic ideas of belonging, acceptance and recognition) (Montgomery 1996; Valtonen 1998; Omidvar and Richmond 2003; Colic-Peisker and Tilbury 2003).

The two approaches emphasise different components of settlement - the former, the relationship between mental health and settlement and the latter - the role of participation in the wider community. This research explored the impacts of family separation through both lenses.

## **Psychosocial health and settlement**

Family separation can have debilitating psychosocial impacts that can hamper settlement. For refugees, anxiety about the welfare of family members left behind continues and maintains a sense of helplessness and powerlessness (VFST 1998). Research shows that concern about family is the most common issue associated with depression, anxiety and somatisation (Beiser 1988; Schweitzer, Melville, Steel et al. 2006). Feelings of sadness, loneliness and anxiety are common (McMichael and Ahmed 2003). Separation from family has also been shown to maintain or exacerbate trauma reactions (VFST 1998; Rousseau, Mekki-Berrada, Morreau 2001). The impacts of family separation are explored below.

Participants commonly described how their worry for family members still overseas caused them to experience sleeplessness and nightmares, poor concentration, feelings of guilt and in some cases depression.

All of the participants separated from family members mentioned worrying about family overseas.

Personally who leave their relative in Sudan and you know my wife who left her Mum and Dad and sisters, we are not comfortable psychologically, we do not think that we left all our relatives or they call us, everyday we have to think about it. We are worried (Participant, Sudanese Focus Group).

I try to make, I don't know, something, I tried to not thinking about nothing, yeah, then suddenly my family comes into my mind. The big thing right now I worry about my family not worry about nothing else (Afghan male, 29 years).

Before I left the country I have the safety of my kids, my children or the rest of my family over there, so that worry always is within my now, I have that worry all the time, I eat or walk or move around. It makes life difficult (Participant, Afghan Focus Group).

Biggest worry is about my Mamma. I miss her. I need to see her (Sudanese female, 30 years).

Worry about family overseas was related to the circumstances under which the family member was living and in particular the perceived level of safety. For example, Arim was a former TPV holder who was separated from his wife and children for 8 years. During these years, Arim's family moved between Pakistan, Iran and Afghanistan in response to violence and threats to their safety. He spoke about how he felt while separated from his family:

I was worried about whether my wife had shoes or not, what my daughter will be? What has happened to my family? Have they got something to eat? Are they alive? Will they survive? I don't feel very clear for the future. Go to work, coming home just I don't want to sleep. ... Before my wife was coming the life was very miserable, I've got very very bad life. Like a dog sleep on a very bad mat. Life is very bad (Afghan male, 42 years).

Klee, a Karen participant whose brother and family is still in Burma spoke about his worry. At the time of the interview fighting had just reignited in the area where Klee's brother was living.

I am very indeed worried for them. And in Burma, the situation is not very good and it's never very good. So it's very difficult to live through (Karen male, 32 years).

A participant in the Afghan Focus Group spoke about what triggers her worry:

A couple of weeks back on television they showed a scene in Pakistan that some place got blown up and my brother in law was in that area. I am so much concerned and worried about him because he's done so much for me in the life.

A Sudanese male who was able to bring his aunt and her children to Australia through the SHP, reflected on his worry before their arrival in Australia:

Before I was worried about them because the place they were living before, the armed people, they do raid the camp and the place where they were living in. In the rented house was also bad sometimes as well, there are some criminals that can attack (Sudanese male, 45 years).

Insomnia and nightmares were also commonly mentioned by participants as being attributed to their worries for separated family members. 11 of the 12 participants involved in the in-depth interviews and who were separated from family reported experiencing sleeplessness or nightmares in relation to separation from family. The following comment was typical of the participants' responses:

Yeah that it's affecting her so much because you know sometimes she doesn't sleep, she take two days, three days to get a good sleep because of thinking about the family back at home (Sudanese female, 43 years).

The Afghan participants in particular spoke about the nightmares they had endured in

relation to separation from their family. It is important to note that all of the Afghan males that participated in the research had been in detention for between 6 months and 4 years:

I still, I think, I've got sometime it comes to my dream. The other night I slept and I was dreaming I'm in a boat, you know? And then the boat was sank. Oh! I said, "what's happening?" and then I was in a car. I was in the indefinite situation in Australia and I was wondering where to go and what to do. And at each stage of something, not understand, confused, you know? (Afghan male, 27 years).

Another participant retold a nightmare that he experienced while being separated from his wife and children and living in a share house with other Afghan men:

One night he had a very bad dream. He dreamed that someone took his wife and his kids and they want to kill them. He is shouting and everyone come and wake him up and ask what happened, why are you crying because you are a man you are not a woman, women cry? He said I am human I am not a stone I have to have some emotion. This night all come sitting together and cry (Afghan male, 42 years).

A participant who is in Australia without any family and is in the process of applying to be reunited with his mother, brothers and sisters recounted his nightmare:

And the most horrible thing was night time, you know? When you sleep. I thought that the flash, the flashing come from the sky and just grabbed my throat, you know, "get up!" I get up and there was nothing. I was trying to concentrate and find myself sweating, you know, what happened here? (Afghan male, 27 years).

Poor concentration was raised in all of the focus groups and by 8 of the 12 participants involved in the in-depth interviews who were separated from family:

How can we concentrate on our classes, finding a job and even raising our children in Australia when we are worried about our family overseas? For example the situation in Iran is very bad at the moment. The Iran government treat us very badly and deport us back to Afghanistan to the Afghan government. There are cases where our family have been tortured (Participant, Afghan Focus Group).

Poor concentration was most commonly discussed in relation to learning English. Participants talked about being in class and their minds wandering to the situation of their families overseas. Some felt that this had impeded their capacity to learn English:

Even sometimes when I'm in the class, physically I'm in the class but my mind not the in the class. I'm going around (Afghan female, 39 years).

Arim, who is separated from all of his family who are back in Afghanistan said:

I didn't learn nothing. Just go and sit in the chair, just look at the paper, our teachers said "come on look up", every word he is writing just nothing (Afghan male, 29 years).

Hala who is separated from her three daughters said:

I go to English course, but I don't learn much and perhaps that is because I am very worried about my children (Afghan female, 43 years).

One of the Karen Focus Group participants spoke about forgetting the information learnt:

Even though I learn, and then I would keep forgetting because I had to think other matters, like family member who applied to come to this country but not successful. Also about my family members left behind. So these sort of things affect my learning (Participant, Karen Focus Group).

One participant reflected on the impact of family separation on young people at school:

Especially those who are still at uni or at high school, they are not concentrating because they feel like they are divided into two; the family back in Africa and living in Australia, so you are like living in two countries solving two problems at once (Sudanese male, 26 years).

Feeling guilty was commonly expressed by participants in this study and it was directly related to ongoing worries over family separation. Seven of the 12 participants interviewed and two of the three focus groups felt guilty about being separated from their family. This suggests that the participants feel some sense of responsibility or remorse for the separation that has occurred, even though it was out of their hands.

One participant who is trying to support his sick sister in Sudan said:

I am in a very bad situation because my sister is sick in Sudan and I don't want to neglect her and I feel guilty, because when I walk around the city, I see this health system structure and I start to imagine my sister having some sickness over there. So that made me feel guilty that I have done something wrong to them, but I haven't done anything wrong to them (Sudanese male, 26 years).

One of the Karen participants began the process of resettlement on behalf of her family when they were in the refugee camp in Thailand. However, due to medical reasons not all of her family was accepted to Australia and they are now separated. She feels as though her family blames her for the family separation:

Sometimes I feel guilty, like it's my responsibility. Yeah it seems like I'm being blamed, that you know, because of the risk you know, of our lives and we happy in the camp helping the communities and being

together but we also looking for the future... And so they decided to pressure me like you are the one who's initiate this coming to the third country and sometimes until now my mum would say yeah, you are the one who wanted to come out and started to blame me for what happened (Karen female, 31 years).

Some participants identified that depression could result from the prolonged separation from their family members. One participant who was clinically diagnosed as suffering from depression and is separated from her mother said:

I guess I was having some depression, because I'm thinking about my mum and all this thing when I had my baby. And I couldn't sleep at night and all this, and then I went and I saw my doctor. And then the family doctor gave me some medicine for depression, and then I stopped feeding the baby (Sudanese female, 27 years).

Family separation and its association with depression, was also discussed by the Karen and Afghan focus groups.

Her grandfather had two children both of them already in this country, and also only two people left [in the refugee camp in Thailand]. So her mother had to go back and look after them ... and you know, her children also suffered because the mother not around and they feel depressed so it affects the children as well (Participant, Karen Focus Group).

Participants also described many physical problems which they attributed to ongoing separation. For example, all the focus groups and 11 out of 12 of the interview participants described a range of physical symptoms they associate with worrying about their family members overseas:

Let me give you an example. Imagine you are sitting in this meeting and your car is in the car park and the meter is running out. All you can think about is that your meter is running out and you can't concentrate on the meeting. Consider if this was your family. That you were worried about their safety. It affects your whole system. The physical and emotional system (Participant, Afghan Focus Group).

Mind and body, it's very, they couldn't cope and this is affecting I think, just because we don't know the concept of what causes stress, we think we've got sick ... you couldn't sleep you were thinking and then you were thinking of, you have some people here but what about the family you leave there (Participant, Karen Focus Group).

She says sometimes when I'm thinking so much about my sisters and my mother, I felt a very bad headache or sometimes all my body pain. I take Panadol and go to the bedroom and rest for 2 or 3 hours. After that I feel better (Afghan female, 39 years).

I constantly feeling unwell with the physical health and yeah it's like my heart was tight and yeah, my breathing and you know, my stomach is kind of holding onto something (Karen female, 31 years).

So, it's affect my health, because when I was thinking of the family back there, they have to work very hard, until they can feed, you know, one mouthful of food into their mouths. They come to exchanging their lives by earning their living, you know, like, growing crops. And they are in a seriously threatening field. Here, we know that we can eat. So, every time we get something in our mouths, we were thinking of. So, it's become a thought, a trauma thought that, you know, that it's not fair for the other people back there (Karen female, 33 years).

In sum, the participants in this study clearly attributed much of their emotional and physical sufferings to the worries they carry for loved ones still overseas.

### **Participation and settlement**

One of the most common impacts of family separation was that people were not participating or pursuing their futures in the way that they would if their families were here. In some cases this was because the extended family would traditionally play a key role in caring for children and therefore free them to go to learn English or work. All of the Focus Groups raised this issue. The following comment is typical:

One of the issues I have in my family is a young couple who is supposed to be engaging in the workforce, and I have two young children whom, if I was back in Sudan, someone is my mum and my sister who actually look after these young children and that will lead me to workforce or go to the school or the university, the same thing for my wife, if her mum or my mum is here to look after the children, and she can go to the workforce but here now it is very difficult, you know we can't leave the children in the house and we have to be there for the children (Participant, Sudanese Focus Group).

In other cases, participants were immobilised by the worry of family separation as in the case of this participant:

I'm thinking too much about my family. So, I can't do anything. Like, maybe when I came here, I was supposed to be doing nurse (Sudanese female, 27 years).

This participant is separated from her four brothers, two sisters, mother and step-father. Two of her brothers have been brutalised in Egypt and her mother has been ill. She went to Egypt in 2006 to see her brother who had been attacked. The following case (next page) further illustrates how the separation of families can reduce the capacity of those in Australia to participate.

The responsibility of looking after family members overseas through remittances is a hefty burden that constrains the participants from pursuing a better future for themselves and their families. Eight of the 12 participants separated from family members had either not attended English class because they needed to find employment, had stopped studying a vocational course to find employment or had put career plans on hold.

### **Case Study 2: Yan, Karen female 31 years**

Yan has a busy life with three children less than 6 years. She was a community worker back in the refugee camp in Thailand and was an active member of the Karen community in western Melbourne before her grandmother died. Yan arrived in Australia in 2007 with her immediate family, her mother and all her sisters and brothers. However, her grandparents were left behind in the camp because they did not pass the medical check.

For the past two years she has spent all of her money flying back and forth to look after her grandparents in Thailand. However, her grandmother began to get depressed and started to blame her for leaving them behind. Yan was wracked with guilt. To make matters worse her grandmother stopped taking her medication and eating, saying that she was abandoned by her family in the refugee camp. Yan's grandmother passed away a few months ago.

Since her grandmother died, Yan has begun to withdraw from her community work. She says: *I don't want to do anything now, you know because who cares, you know whether, how much we face and we are helping the communities and even on religions parts, you know we are really contribute our thought and our advice and I didn't see the point of doing it.*

The responsibility of looking after family members overseas through remittances is a hefty burden that constrains the participants from pursuing a better future for themselves and their families. Eight of the 12 participants separated from family members had either not attended English class because they needed to find employment, had stopped studying a vocational course to find employment or had put career plans on hold.

Typically the type of employment that they were engaged in was casualised, manual labour that did not require much English and did not utilise their skills. Two of the participants began nursing degrees in Australia only to have to find a job so that they could send money overseas and another planned to become a policeman just as soon as he is reunited with his family, until then he needs to remit money to them.

Two other participants had started university degrees only to stop or halt them to work to send remittances. One participant who had almost finished high school in Afghanistan and is an avid reader described the dilemma:

There was a scholarship offered to me, a free scholarship from the organisation I think who were supporting asylum seeker, you know? And because of my family and I have to support them financially, and emotionally, you know, they've been living in Iran and Pakistan. So I couldn't accept that offering, you know?

And then there was a lady, she kept saying to me that "why you, why you just reject it?" I would say, "look, if you were in my position, what would you do?" I have my wife, I have my brothers and sister, so I need to support them financially and I need to support myself here. And I

couldn't actually take that advantage (Afghan male, 27 years).

One participant in the Sudanese Focus Group also recognised that family separation was having an impact on the educational attainment of young people:

So with the failure of the family reunion also, it has failed young people who might pursue their studies, because they might go to the factory and work with manual labour and they will never save up any money for their education.

The responsibility to financially support family members abroad restricts people from participating in society in the way they would like. Remittances was one of the main issues discussed by the focus groups and all of the participants in the in-depth interviews who are separated from family sent remittances on a regular basis. Whilst the amount and frequency of remittances varied, participants estimated anywhere between 19 to 65 per cent of their monthly income was sent overseas.

Typically participants put themselves under considerable financial strain and even sacrificed basic necessities in order to provide financial support to their families overseas:

After all these expenses and sending back the money, I probably have less for our family than sending (Karen female, 31 years).

For many of the family members overseas, the remittances they receive are the only way they survive. One participant said: *I have to, no choice because if I don't send money she [her mother] hasn't got anything to eat* (Afghan female, 39 years). The responsibility of this is a heavy burden: *For us to send the remittance to them it leave us in a very big struggle* (Sudanese male, 26 years).

Having all the family together was an important factor in the participants moving forward and planning for the future. Family reunification provides the individuals with a meaning, a justification and a direction for the future (Chan and Lam (1983) cited in Abbott (1997)). Although the participants were generally hopeful for the future, their optimism was often related to the possibility of reunification with their families in the future.

Hala (case study 1) who is separated from her three young daughters and estranged from her husband said:

Well I look forward and thinking about bring my daughters here. I have been through a lot of things; hardship, war and everything and I came to Australia and now I have this problem (Afghan female, 43 years).

However, for five of the 12 participants involved in the in-depth interviews who are separated from family spoke about how being separated from their families made it difficult to look forward and plan for the future:

I don't think forwards until the people that I have left behind are living the same level of what I'm living in (Sudanese female, 30 years).



This participant said that once her family arrives in Australia she will initiate her plans for the future and this includes going to school and studying to become a nurse. The Afghan Focus Group provided a good summary of many of the comments made by participants:

Once they come here, most of our worries will be over and we won't have any more worries or tension. Their lives will be saved, they will not have any issues, and then their employment and financial issues will be solved automatically because they have more hands around, more people around us, and whatever we plan here for the future will be more stronger plans and better plans (Participant, Afghan Focus Group).

Hala's plans are also suspended until she is reunited with her daughters:

Being reunited with my daughters and then my son can work and then we can purchase a house here and have a good life (Afghan female, 43 years).

A young Sudanese mother, 27 years said: *when my family will be here. Then I will be positive.* Even though her first application under the SHP was rejected, her plans for the future remain on hold: *Just going to my nursing. And after that, I want to do; I want to be a doctor. So, if I had my family here, I could do everything.*

Unresolved family reunion contributes to long-term trauma and serves as a continual reminder of an unbearable past (Rousseau, Mekki-Berrada, Moreau et al. 2001; Lie 2002). A participant who lost all of her children and her husband except for one son whom she is separated from said:

Now that my son is not here, I long for my two children and husband ... I can't think of the future because I always concentrating on the past, what happened in the past, sometime back (Sudanese female, 43 years).

Moreover, her plans for the future are also on hold until she is reunited with her son:

I would go to Shepparton to the countryside maybe get a house there ... If my son is here I could go to the countryside, my son could fully concentrate on his studies and get a job, begin to groom his future, then do something good (Sudanese female, 43 years).

Participants who had relatively intact families were more forward looking and positive about the future. A Karen participant whose family is relatively intact in Australia said:

So now that I have my family here, and I have my sister here and so we wanted, you know, our lives to grow and develop in a good way, and waiting for the children, and once we are old, you know, and see the children growing up in this country, it's a happiness for us (Karen female, 43 years).

Similarly, a participant in the Afghan Focus Group said:

Before when my brothers and sisters they were not here and we were separated, I used to have a lot of worries and tension. But now, ever since everybody is united here, I feel so much happy and fresh air, and I never think back about Afghanistan any more because I think now my people around me. And also this is of course, the ultimate you know, the dream that you could have, to be so relaxed and happy and joyful once you have people that you ever wanted back here (Participant, Afghan Focus Group).

One of the most concerning trends was that participants had either risked their lives to return or were planning to visit their families. Of the 12 interview participants separated from family in this study, six had returned to see their families and four were planning to return. Two of the three focus groups also discussed this trend:

Because of the fail of family reunion also has increased a lot of Sudanese that would have come back home. Because you feel always homesick when you meet the family, it is hard for us who are mourning growing up in Sudan so the better would be that kids are born here, they will not think about home but for this generation a lot of them would be always coming and going, going and coming (Participant, Sudanese Focus Group).

Just to go back and see the relatives, and family, extending family members, and yeah, and friends. If nobody is there that's related to us left, we don't want to go back (Karen female, 43 years).

It is difficult for participants to settle in Australia when their family members are overseas:

They say, you know, when you in this country and the rest of the family is there. But if they are waiting they want to come and reunite with you, but you don't feel like you want to live here forever (Karen female, 31 years).

## **Discussion**

This research suggests that family separation compromises the health and wellbeing of persons with refugee backgrounds. Worry about family overseas was related to sleeplessness, nightmares, poor concentration, feelings of guilt, depression, headaches, pain and difficulty breathing. Family separation also impacts on participation and prevents a person from taking advantage of new opportunities or to plan for the future.

The participants in this study reported were typically working in casualised, manual labour that did not utilise their skills or require English in an effort to earn money quickly to look after their family members abroad. Some participants had stopped studying English or a vocational course in order to take up such employment and others had put career plans on hold. Family separation also places significant

financial strain on families who have low incomes that are already stretched.

Family reunion is a priority for the majority of the participants in this study. In an effort to see their families, most of the participants had either planned to or had returned to the place where their families were residing, despite risks to their own safety. Many of the participants live in a state of limbo, stuck between a traumatic past and an uncertain future.

The immigration policies which shape the configuration of refugee background families in Australia are ultimately responsible for determining the social resources that support settlement. This is particularly the case early in settlement when broader social networks are not yet established.

However, these immigration policies also have longer-term implications for refugee background families - the absence of an integral member of the family has pervasive psychosocial effects and reduces participation and agency. The financial strain of supporting family members abroad also threatens to impoverish and marginalise those settling in Australia.

This research returns to the first principles of immigration policy; that is, immigration is a selective process in which Governments determine who will cross the borders of nation-states and under what circumstances. However, it seems that in the case of the selection of families, the policy context is reconfiguring families in a way that does not support their wellbeing in Australia and also limits their capacity to actively participate in their own settlement, in their own way. The question is: *how could immigration policies better reflect the configurations of families?*

Operationalising the complex concept of ‘family’ into immigration policy is a difficult task. However, to open discussion and progress policy development, this paper proposes four key principles that reaffirm the place of families as the fundamental social unit vital to human flourishing. Moreover, the principles provide refugees with greater agency to configure their families in the country of resettlement in a way that retains their personal meaning. By way of example, Australian policy is analysed against the principles to illustrate how an existing immigration policy could be reformed to better support settlement and longer-term integration of refugee background families.

*Principle One: Humanitarian resettlement and family reunion policies should respect the right to family unity and where possible support the existing configurations of refugee background families in settlement and reunion.*

The first principle reaffirms the right to family unity as mandated by human rights instruments and crucial to rebuilding the social fabric than underpins settlement and participation. There are five areas of Australian immigration policy that could be reformed to uphold principle one.

First, the assumed age of dependency should be increased from less than 18 years to less than 25 years for resettlement and for reunion purposes. Currently, under Australian humanitarian policy, a young person who has reached 18 years is not assumed to be part of their immediate family and must be assessed against the

dependency criteria detailed earlier. Second, refugee youth should be eligible to propose their parents or if they are without parents then another person with whom they share a dependency relationship.

Once a young person reaches 18 years of age they are no longer eligible to propose their parents under the split family provisions as they are assumed to be independent. The interviews and focus groups suggest that dependency does not desist at 18 years of age and that young people are considered an integral part of the family unit. Moreover, separation can have detrimental impacts on the wellbeing and settlement of those in Australia. Confusion about how the Australian Government defines a family for the purposes of resettlement and family reunion has spurred applicants to misrepresent their family units leading to a state of permanent separation.

In Australia, the age of 25 is often given as the upper limit of youth policy. Youth are universally agreed to be transitioning from childhood to adulthood and that the contextual experiences of this period are critical in shaping later successes (Lerner, Lerner, von Eye et al. 1996). It is during early adulthood that identities and values are forged. As Crock says (Crock 2007 p.129) as children “age out” of their childhood, the need for family and for a mentor does not disappear.

Moreover, refugee young people are trying to come to terms with the upheaval and the trauma of their past. Abduction, recruitment into the military and imprisonment of parents are just some of the circumstances that may have lead to the separation of a young person from their family (RRAC 2002). A supportive family provides the resources for a young person to settle in Australia.

In the absence of family, refugee young people may struggle in their transition to maturity. Extending the upper limit of dependency to comprehensively include youth and allowing refugee youth to propose their parents (or in their absence, a parental figure) would not only support settlement, but would also put Australian immigration policy in step with Australian youth policy.

The third recommendation that would affirm the principle of family unity is that married, de facto or engaged children and their spouses should be assessed for relationships of dependency with the Principal Applicant for the purpose of resettlement and reunion. The Australian Government assumes independence of children who are married, in a de facto relationship or engaged regardless of age.

Under UNHCR policy, married children of the Principal Applicant who remain dependent on the Principal Applicant, and the spouse of the married children where the couple remains dependant on the Principal Applicant may be eligible for derivative refugee status. Comments from the participants in this study suggest that in some cases marriage simply increased the number of dependents within the family unit. In more traditional family structures where the wife relocates to the house of her husband’s family, such as those described by the Sudanese and Afghan participants in this study, marriage is not an end point to dependency.

The fourth recommendation recognises the complexity of the family structure; in particular, that persons who are not blood related can be integral members of the family. To ensure the unity of less traditional family configurations is upheld, the

introduction of a category of 'de facto dependant' which could include unrelated relatives if they are found to be dependent and apply this at both the point of selection and for reunion purposes could be considered. Such persons should be granted derivative refugee status. As a consequence of the refugee experience, non-traditional family configurations are borne. For example, a number of the participants in this study had taken in orphaned children and one young man separated from his blood-relatives banded together with other young men in the same situation to become a de facto family.

Although these configurations may not be considered conventional, the participants asserted that they regard these configurations as 'real' family and that those who took in unrelated children love them as their own. UNHCR recognises unrelated individuals that may have a dependency relationship with the Principal Applicant as family.

However, under Australian Government policy, unrelated individuals who are dependent on the Principal Applicant are not eligible for resettlement as part of the family unit or for reunion under the humanitarian programme unless they are children who have been adopted legally or on a customary basis. By introducing a category of de facto dependent the importance of such persons to the family unit is affirmed.

The final recommendation acts to ensure that dependent persons who are separated from their immediate family overseas and for whatever reason cannot be resettled with the family unit are eligible for family reunion under the humanitarian programme: extend the definition of a family member as applied for resettlement to humanitarian family reunion policy. Different definitions of 'family' are applied to family members who resettle together and those who must utilise family reunion procedures from Australia. The former applies an extended definition of family which includes dependent relatives, whilst the latter only allows for immediate family members.

Because of the refugee experience, dependent relatives may be separated from the family unit and unable to relocate with their family. Although they are living elsewhere they may remain wholly reliant on the Principal Applicant. They may also be psychologically dependent and experience great distress because of the separation. However, under Australia's humanitarian policy, they would not be eligible for family reunion. By extending the definition of a 'family unit' as it is applied for resettlement purposes to those who are applying for reunion under the split family provisions, upholds the principle of family unity.

*Principle Two: Humanitarian resettlement and family reunion policies should not discriminate against any person.*

The second overriding principle affirms that immigration policies should be non-discriminatory. However, there are some parts of Australia's immigration policies that are discriminatory and separate families through their application. For example, those who are suffering from an illness or are living in a polygamous relationship may not be eligible for resettlement with their family unit or for reunion with family members in Australia.

The first point of discrimination under Australian Government policy is the health requirement. Applicants will not meet health criteria if they have a medical condition that may result in a significant cost to or prejudice Australians' access to healthcare or community services.

According to DIAC (2009d) a significant cost<sup>2</sup> is the policy threshold for the level of costs regarded as significant is AUD 21 000 and the Medical Officer of the Commonwealth (MOC) is guided by a multiple of average annual per capita health and welfare expenditure for Australians. 'Costs' are assessed over a 5 year period for permanent visa applicants (3 years for those over 70 years and older, phased in from age 68), with the inclusion of costs that can be identified with reasonable certainty as occurring beyond that 5 year period. This means that persons suffering from illnesses that are expensive to treat such as HIV/AIDS may be excluded from resettlement or reunion with their families in Australia.

Families of persons who are ineligible for resettlement or family reunion under immigration law are placed in an impossible position as was evidenced in this study. One of the participants (Yan) was separated from her grandmother by the health regulations. Yan's grandmother failed the pre-departure medical check and was not eligible for resettlement with the rest of her family. Her husband, Yan's grandfather, remained in the refugee camp with his wife. Yan encouraged the family to resettle anyway and hoped that once they arrived in Australia she could arrange for their grandparents to follow.

However, her grandmother was never cleared for travel and her grandparents remained indefinitely in the refugee camp in Thailand. The impacts on the family in Australia were significant. Family members had to return regularly to Thailand to look after the grandparents.

This was expensive but also meant that Yan's young children were left without their mother in Australia for many months of the year. When Yan's grandmother in Thailand gave up hope and stopped taking her medication, she died. Yan felt personally responsible for her death and because of the situation there has been much conflict among the family members in Australia. In her sadness, Yan has withdrawn from her work in the community.

Usually under the 'one fail, all fail rule', if a member of a family unit is found to be suffering from an unacceptable medical condition before resettlement, then the entire family unit will be ineligible for resettlement to Australia. In such cases, not only the person suffering from the medical condition is rejected, but his/her entire family.

This did not happen in Yan's case because her grandparents were regarded as a separate family unit under Australian Government policy. This paper recommends that given refugee and humanitarian entrants who are selected for resettlement have no other options, i.e. they cannot return home or be locally integrated, that the Australian Government consider waiving the health requirement if a pre-existing illness does not present a health risk to the wider population.

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<sup>2</sup> The 'significant cost threshold' is currently under review by DIAC.

To ensure that humanitarian resettlement policies are non-discriminatory, the Australian Government should give consideration to including *family members who are in polygamous marriage relationships in the definition of a family for resettlement and reunion purposes*. Polygamous marriages can be a feature of local culture and kinship systems (for example in West Africa) or an important part of practicing religion authentically (in the case of Arab-Muslims or African-Muslims) (Koktvedgaard Zeitzen 2008).

Under Australian law, polygamous marriages are not recognised as a legal union. According to the Australian Government, neither party is able to satisfy requirements relating to the mutual exclusiveness of the marital relationship and so neither relationship is recognised as being a spousal relationship (DIAC 2009a). This rule prevents families from resettling as an intact family unit or breaks up the family unit when the husband and one wife are resettled to Australia. Considering that a refugee by definition cannot return home, this places the family in an unbearable situation whereby a husband must leave members of his immediate family behind.

According to the UNHCR Resettlement Handbook (UNHCR 1997), principles of non-discrimination indicate that polygamous marriages, contracted in a valid manner, should be included in the definition of family. Some of the refugee and humanitarian entrants who are resettled to Australia derive from cultures that practice polygamy, such as Sudan and Afghanistan.

Although this research did not explore polygamy directly in the interviews, it did feature in field notes. Whilst waiting for one participant, the interviewee chatted with the participant's aunt. She explained that her husband had returned to Sudan to visit his other wife who had been left behind so that their family could be resettled to Australia. The children of that wife were resettled to Australia with her and her husband. The woman said that it was very difficult for her, the other wife's children and her husband as they are in the unbearable position of living psychologically (and financially) between two countries. She said she constantly worries about her safety. She feels that her husband's other wife is like a sister and that she wishes she could be resettled to Australia.

Because of situations like this, UNHCR (1997) suggests that countries that cannot accept the entire family due to national legislation forbidding polygamy should not accept polygamous families for resettlement. However, for a refugee or humanitarian entrant, resettlement is not a choice but a necessity. Given that the major resettlement countries do not recognise foreign polygamous marriages such families are put in an impossible position: to resettle to safety and break up their family unit or stay together and face an uncertain future.

In analysing this issue in Canada, Bailey, Baines Amani et al. (2006 p.7) said that *permitting immigration by actually polygamous families would indicate toleration, but not endorsement, of the practice of polygamy*. This conclusion is applicable to the Australian context. Policy amendments that allow refugee and humanitarian entrants who live a polygamous married life to resettle to Australia would remove this form of discrimination from immigration policies but would not endorse its practice.

*Principle Three: Families are dynamic and require flexible humanitarian policies to allow for changes or discrepancies during processing and after resettlement.*

Families are dynamic and evolve through inter (the interactions between family members) and intra-relationships (the interactions between families and non-family members). What may constitute a family at one point in time may change. To recognise and reflect the shifting nature of families, the policies of resettlement nations should be flexible so when the meaning of family has shifted the policies can be adapted.

For example, under current Australian regulations, if the child/ren are the primary applicant/s, their age will be considered both at the time the proposer was granted their own visa, and again at the time of the split family application being lodged and again at the time of making a final decision. This is because the primary applicant must have been a 'member of the immediate family' of the proposer at the time the proposer was granted their visa, and must continue to be a member of the immediate family of the proposer at both the time of application and time of decision in their own split family visa application.

The implication is that persons who were classed as dependants based on their age at the time that the proposer was granted their visa may not be eligible to join the proposer in Australia as part of their family unit if they are 18 years of age or more when the split family application is made unless they are found to be financially, physically or psychologically dependent on the proposer. Consequently, young people may find themselves separated from their immediate family.

Greater flexibility in the assessment of age would ensure that an applicant can reunite with their parents. The corresponding policy recommendation is: when assessing the age of an applicant for family reunion under the humanitarian programme, the age of a refugee young person at the time that their proposer filed their application for a refugee or humanitarian visa to Australia should be considered rather than the age at which the proposer filed the application for family reunion.

Flexible family reunion policies could also help to rectify mistakes made in processing families. Under Australian Government policy, failing to identify family members on the original declaration has significant and, at present, irrevocable consequences. To be eligible for reunion under the split family provisions, the proposer must have declared the relationship to the applicant before the grant of the proposer's visa (DIAC 2009b).

Family members left off the original declaration are not eligible for reunion and are likely to remain separated from their immediate family. This is a cause of great distress for such families and has follow-on effects for their relationships and their settlement more broadly in Australia.

UNHCR (2000) also recognise that there are a number of reasons why the initial application could be incorrect. A refugee may fear that acknowledging dependants would undermine the chance of resettlement (or in the case of onshore assessments the chance of permanent protection). Mistakes are not uncommon and it is routine for visa officers to correct applications when interviewing applicants. Similarly there



could have been problems with translation. Other people often help refugees to complete applications or the refugee may have responded to rumour or misinformation in the community leading to mistakes.

In light of such occurrences, UNHCR (2000) asserts that there must be a mechanism for considering dependent family members even if they are not listed on the original application. At present, the Australian Government does not recognise family members retrospectively.

This research found that the effects of indefinite family separation through omissions on initial application forms can be all encompassing, impacting not only health and wellbeing but participation in broader society and ultimately long-term settlement. The Australian Government should consider retrospectively recognising family members even if they were not declared before the proposer's visa was granted to ensure they are not precluded from reunion through the split family provisions.

*Principle Four: Given that refugee and humanitarian entrants by definition cannot return, non-humanitarian immigration policies should include special concessions for persons from refugee background families to preserve their family structures.*

This paper is calling for the humanitarian programme of resettlement nations to be more humane and to respect the right to family unity, in a way that is non-discriminatory and a better reflection of the complex and changing meaning of family for refugee and humanitarian entrants. However, this paper also recognises that the foremost consideration of a humanitarian programme is to assist persons who are subject to persecution or substantial discrimination who are typically outside of their home country and in need of resettlement.

Not all family members will fit these criteria and given the limited number of places available for such persons, immigration officials face a moral dilemma: who is more deserving of the humanitarian place – a family member who may not have strong claims for refugee or humanitarian protection or a person with no family but strong claims?

It is important to stress that the humanitarian programmes of the various resettlement nations are not family reunion programmes and therefore where an integral family member would like to be reunited with their family in a resettlement nation, there must be alternative and accessible avenues outside of the humanitarian programme. This would mean that those claiming refugee or humanitarian status are not displaced by the family members of refugee and humanitarian entrants with weaker claims.

For most resettlement nations, the family stream of the broader migration programme provides an alternative avenue for family reunion. However, in the case of Australia, there are a number of barriers to refugee and humanitarian entrants accessing this stream for family reunion purposes. It is argued by this paper that: *The accessibility of the family stream for refugee and humanitarian entrants should be improved through special concessions.*

For example, the associated costs are exorbitant for refugee and humanitarian entrants wishing to sponsor family through the family stream. Application fees vary from

\$1,420 for a partner and can be as much as \$34,330 for a contributory aged parent plus a \$10,000 assurance of support (DIAC 2007). Moreover, if you pay more your application is processed quicker: a parent visa costs \$3,185 but takes between 10 years before the visa grant is even considered whereas the \$46 035 contributory parent visa takes between 18 months and two years (DIAC 2007).

All of the participants in this study were finding it difficult to make ends meet on their low salaries or government payments. They send considerable sums of their income overseas and often leave themselves struggling to cover even basic necessities. For the participants, such costs are unaffordable. Indeed, none of the participants had applied or were planning to apply for family reunion through the family stream.

Second, unlike the humanitarian programme, the family migration stream applies a balance of family test. Under this test the number of children of the parent who are lawfully and permanently resident in Australia or are eligible New Zealand citizens usually resident in Australia must be (i) greater than, or equal to, the total number of children of the parent who are resident overseas; or (ii) greater than the greatest number of children of the parent who are resident in any single overseas country (DIAC 2009a).

If the children of the parent applying for reunion with his/her child in Australia are resident in a refugee camp operated by UNHCR or is registered by the Commissioner as a refugee they would not count towards the balance of family test (DIAC 2009a). Refugee families can include large numbers of children and depending on their circumstances they may not be registered by UNHCR or the Commissioner. Parents in such circumstances wishing to reunite with their child in Australia would fail the balance of family test and be ineligible to migrate.

Third, the definition of dependency is more restrictive under the family stream than the Humanitarian Programme. According to the Australian Government, under the family stream only financial dependency is recognised as grounds for consideration as a family member (DIAC 2009a). Under the humanitarian programme a broader definition of dependency is applied that takes into account physical and psychological dependency. This means that those who cannot prove financial dependency have no other avenue through which to claim a dependent relationship.

## **Conclusion**

Family is the social unit fundamental to human flourishing. The form and function of family units vary as do the meanings of family relationships. An almost universal consequence of the refugee experience is the destruction of the family unit. Resettlement is one of the three durable solutions of UNHCR, but the resettlement policies of UNHCR resettlement countries often reconfigure the family in ways that are not meaningful for refugees themselves.

This is largely because resettlement countries adopt western definitions of the family based on the nuclear family configuration and thus they do not recognise other family formations and relationships as legitimate. This further fragments families and has a detrimental impact on the wellbeing and settlement of individuals. Flexible

immigration policies that better reflect the form and function of refugee families and support them to remake their families and family life in their own ways would more effectively promote the social fabric that best supports their settlement and longer term integration.

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