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## The Importance of Refugee Family Reunion

### Briefing for Backbench Business debate on 21 June 2018

Refugees in the UK often find themselves separated from their families following brutal experiences of conflict and persecution. Being reunited with family members can be a life changing moment, bringing together loved ones who had been torn apart by war and violence. But due to restrictive rules about who is eligible, many people are not allowed to reunite in this way.

This is why our organisations, who work to support refugees in the UK and throughout the world, support the Refugees (Family Reunion) (No.2) Bill, which would allow more refugee families to be reunited safely in the UK. We are grateful to MPs from all parties who ensured the bill passed its second reading on the 16 March. Angus MacNeil MP has secured a **backbench business debate on Thursday 21 June on the importance of Refugee Family Reunion** and we hope MPs will be able to attend. The debate, which takes place during Refugee Week, is an important opportunity for Members of Parliament to continue to call for more refugee families to be able to reunite in safety.

**The Bill aims to make three changes to the current legislation relating to refugee family reunion:**

1. **Expand the criteria of who qualifies as a family member for the purposes of refugee family reunion**, including by allowing adult refugees in the UK to sponsor their adult children and siblings that are under the age of 25; and their parents.
2. **Give unaccompanied refugee children in the United Kingdom the right to sponsor their parents and siblings that are under the age of 25 to join them** under the refugee family reunion rules;
3. **Reintroduce legal aid for refugee family reunion cases.**

### What is refugee family reunion and who is eligible?

The current UK immigration rules state that adult refugees in the UK can be joined via family reunion by their spouse/partner and their dependent children who are under the age of 18.<sup>1</sup> This means that those family members who have become separated and remain outside the UK are left with the invidious choice of staying put, often in insecure and dangerous places, or embarking on treacherous, expensive, unregulated journeys.

The restrictions mean, for example, that parents are not automatically able to bring their child who have turned 18, even if that child is still dependent on them and hasn't married or formed their own family. While the family reunion guidance does allow cases not covered by the rules to be granted in

<sup>1</sup> The eligibility for refugee family reunion is set out in Part 11 of the Immigration Rules.

exceptional circumstances, in reality this rarely happens. In the first nine months of 2017, only 49 family reunion visas were granted “outside the rules.”

Muhammed and Amal are from Syria. They fled to Libya with their four children shortly after the conflict began. Life in Libya became increasingly dangerous while they were there and after two years Muhammed decided to make the journey to Europe.

Muhammed was granted refugee status in the UK. Aware that his son, Kusai, was due to turn 18 very soon, making him ineligible for family reunion, Muhammed immediately began the process of applying to bring his family to the UK.

That application was rejected. Muhammed knew that his 20 year old daughter, Athar, might not be accepted but also knew that, under family reunion law, he had the right to bring his wife and any children under the age of 18 to the UK. It turned out that the reason for the rejection was Kusai’s passport expiring while the family was in Libya. While awaiting that decision Kusai turned 18 and became ineligible for family reunion under the immigration rules.

Muhammed appealed, and a judge ruled that while Muhammed’s wife and two youngest children were eligible for family reunion and could come to the UK, Kusai and Athar were rejected on the basis of being over 18 years old.

While Athar has remained in the region, Kusai decided to take matters into his own hands and took the dangerous journey across the Mediterranean to a makeshift camp in unthinkable conditions in Calais\*.

*\*Case study accurate as of May 2016*

## What about unaccompanied refugee children in the UK?

Unlike adult refugees, children who are in the UK alone and who have refugee status have no right to be reunited with even their closest family members under the immigration rules. Because of this rule, children living in the UK are unable to live in safety with their family. The Home Affairs Select Committee has said:

**“It seems to us perverse that children who have been granted refugee status in the UK are not then allowed to bring their close family to join them in the same way as an adult would be able to do. The right to live safely with family should apply to child refugees just as it does to adults.”<sup>2</sup>**

These are children who have been through the UK asylum process and been found to be in need of protection as a refugee – the UK government has determined that it is not safe for them to return home. However, the current refugee family rules then deny these children the ability to be able to be joined by their closest relatives.

The government argues that granting refugee children the right to sponsor family members to come to the UK will lead to more children making dangerous journeys, being sent to the UK by their families overseas. However, there is no persuasive evidence to support this claim and in every other EU country refugee children can sponsor close relatives to join them. Therefore, extending this right in the UK would not make us any more generous than neighbouring countries. Indeed, our organisations are

<sup>2</sup> House of Commons Home Affairs Committee, ‘The Work of the Immigration Directorates (Q1 2016)’, Sixth Report of Session 2016-17

aware of many cases of children travelling to join siblings in the UK, putting themselves at risk because there is no right to reunion on this basis.

Lord Kerr addressed this argument in a recent debate in the House of Lords:

**“Is it really plausible that, say in Idlib, if it is under siege in six weeks’ time, the family sits around the dining table, pick a child and tell it that it must set off across the battle lines and the Mediterranean, to try to get into England so that it can then pull the family into England? That is implausible. We are talking about refugee reunion and about children. We really must stop talking about this wildly implausible pull factor. They come here to escape being killed; they do not come here in order to become a magnet for the rest of the family.”<sup>3</sup>**

Allowing refugee children to sponsor their immediate families would reduce the number of people making irregular journeys to reach the UK and would be a straightforward change which would have a transformational impact on the lives of a small number of child refugees.

### **For families who are eligible, is it a straightforward process?**

For those refugees who do qualify for family reunion, the process is long and complicated. The report by the British Red Cross, ‘Not So Straightforward’<sup>4</sup>, sets out the many bureaucratic and practical barriers families face. Complexities include cases requiring DNA tests or those involving adoption and de facto adoption. Such cases require legal advice in determining the eligibility of applications, support in gathering documentation, and reference to precedent and existing policy and guidance.

Since 2012, refugee family reunion cases have not been eligible for legal aid. Refugees must navigate complex legal processes and immigration rules whilst enduring prolonged separation from their family and the many harms which this can cause; including isolation, emotional distress and lack of confidence, as well as practical barriers to integration.

Government ministers have made it clear that they consider family reunion an immigration rather than an asylum matter. In their response to the consultation on changes that removed refugee family reunion from the scope of legal aid provision the Ministry of Justice stated that “applications to join family members are treated as immigration cases, and are generally straightforward because they follow a grant of asylum.”<sup>5</sup> In the experience of many families seeking to reunite, the process is anything but straightforward.

### **How much would the changes proposed in the Bill cost?**

The cost of the policies laid out in the bill is small, and would have real human benefits, alongside providing potential savings for the state. The cost of reintroducing legal aid was estimated in 2011 at £5 million per year. The Independent Chief Inspector of Borders and Immigration<sup>6</sup> found that many errors in family reunion cases must be overturned, or that refusals result in further applications being made. As such, providing legal aid for refugee family reunion would help the system to function better, minimising

<sup>3</sup> HL Deb 11 May 2018, Volume 791 c372 <https://goo.gl/i9rdNU>

<sup>4</sup> British Red Cross, ‘Not So Straightforward: the need for qualified legal support in refugee family reunion’

<sup>5</sup> Ministry of Justice, ‘Reform of Legal Aid in England and Wales: the Government Response’, June 2011

<sup>6</sup> ICIBI, Inspection report on an interim re-inspection of family reunion, July 2017 & ICIBI, Inspection report of family reunion applications, September 2016

waste.

In addition, providing refugee children with the opportunity to live with their families in the UK could also deliver financial saving. Currently, all unaccompanied child refugees live under local authority care – whether that is in residential homes or with foster parents. The estimated annual cost of supporting a looked-after child is approximately £30,000 – or a total of £23.82 million per year, just for those children who were granted refugee status in 2017. This figure could fall if some children were able to be reunited with, and cared for by, their parents.

### **Is refugee family reunion the same as family reunion under the Dublin III Regulation?**

No. Refugee family reunion allows refugees present in the UK to be joined by their family members. When family members come to the UK, they are given leave in line with the person they are joining. The Dublin III Regulation is a piece of European Union legislation that is used to determine which member state is responsible for deciding a specific individual's asylum application. One of the criteria for deciding which Member State is responsible is whether the applicant has family members in a different Member State to the one in which they have made their asylum claim.

The Refugees (Family reunion) (No.2) successfully passed its Second Reading on 16 March 2018, and is currently awaiting a Money Resolution to be tabled before it can proceed to Committee.

If you have any questions on the information above, please contact:

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