

**Statement of Lutheran Immigration and Refugee Service (LIRS)
Public Meeting on the FY 2010 Refugee Admissions Program
Bureau of Population, Refugees, and Migration
U.S. Department of State**

July 9, 2009

Presented by Annie Wilson, Executive Vice President

Good afternoon. Thank you for the opportunity to speak today on behalf of Lutheran Immigration and Refugee Service regarding the refugee admissions program for federal fiscal year 2010. LIRS has represented the Lutheran tradition of welcoming the newcomer since 1939 and is one of the nine voluntary agencies offering refugee resettlement in the United States. Over a quarter of a million refugees have begun new lives in the U.S. through LIRS' nationwide network of local affiliates and church and community volunteers.

In previous years, LIRS has spoken about the importance of addressing the needs of separated children. We bring those concerns before you again, grateful for the progress that has been made in expanding resettlement opportunities for unaccompanied and separated refugee minors, and eager to see more advances in identifying and protecting this vulnerable population. This year, however, we also speak to the troubling new prominence of prolonged family separation in the refugee resettlement program. It is a matter of urgency that we revitalize family reunification and strengthen family unity, and that concrete steps are taken in 2010 to address these issues.

Family Unity & Reunification

In November, 2000 three young brothers were resettled from the Kakuma refugee camp in Kenya where they had sought safety after fleeing the civil war raging in southern Sudan. It was easy to see that Abraham, Bol and Dau¹ were from a tight knit family. Both of their parents had been killed during an attack on their village. The oldest brother and sister had stepped in when their parents died and did their best to maintain the family. The three younger brothers became separated from the older brother and their three sisters during yet another attack on the village and did not know what had happened to them.

In the year following their eventual resettlement, the boys learned that their older siblings had at last made it to Kakuma refugee camp. Nearly nine years later, they express continued sadness and worry about the siblings that have been left behind. This is especially true for Abraham,

¹ Not their real names.

who expresses his guilt at having enough to eat, access to medical care, and a comfortable and safe place to sleep while his siblings continue to suffer in the context of the harsh conditions of living in a refugee camp. Abraham says, "I need them to come to America so that they will be safe like I am today and also that I can get relieved of their problems". Abraham filed an Affidavit of Relationship for his siblings once he learned of their whereabouts and continues to request assistance in reuniting with his siblings.

For refugees and those who seek to protect them, honoring the principles of refugee family unity and reunification are essential to the framework of protection, and a key to the success of durable solutions. Families provide physical protection, economic security and social and emotional well-being for their members. In 2001 a group of refugee experts concluded that "respect for the right to family unity requires not only that States refrain from action which would result in family separations, but also that they take measures to maintain the unity of the family and reunify family members who have been separated."²

Numerous international instruments and policy documents attest to the central position of family unity. The Universal Declaration on Human Rights and the International Covenant of 1966 on Civil and Political Rights recognize that the family is the natural and fundamental unit of society and is entitled to the fullest possible protection by society and the State.³ States have a duty not only to protect, but also to assist families to this end.⁴ The Convention on the Rights of the Child requires states to ensure that the child is not separated from his or her parents. Every application to leave or enter a country for the purposes of family reunification must be dealt with in a positive, humane and expeditious manner.⁵ In addition, the Executive Committee (ExCom) of the Office of the United Nations High Commissioner for Refugees has repeatedly called on states to take the requisite measures to ensure that the unity of the family is preserved⁶ and has stressed the importance of refugee family reunification in the resettlement context. The fact that 18 different ExCom Conclusions reference family unity or reunification attest to the centrality of these principles in refugee protection.⁷

² Global Consultations on International Protection, Summary Conclusions – Geneva Expert Round Table – Family Unity, November 2001, para 5. See also Executive Committee Conclusion No. 88 (L) 1999 (b)(i) recognizes the need for "measures which ensure respect for the principle of family unity, including, those to reunify family members separated as a result of refugee flight."

³ Article 16 of UN Declaration of Human Rights.

⁴ Article 10 of the International Covenant on Economic, Social and Cultural Rights (ICESCR, <http://www.unhcr.org/refworld/docid/3ae6b36c0.html>), which provides that the family should be accorded the "widest possible protection and assistance should be accorded to the family."

⁵ Article 9, 10, and 22 of Convention on the Rights of the Child, 1989.

⁶ Conclusions Nos 9 (XXVIII) 1977; 24 (XXXII) 1981; 84 (XLVIII) 1997; and 85 (XLIX) 1998 and Conclusions of the 50th session (1999).

⁷ Executive Committee Conclusions No. 1(XXVI) 1975(f); No. 9 (XXVIII) 1977; No. 24 (XXXII) 1981; No. 84 (XLVIII) 1997; No. 85 (XLIX) 1998 (u)-(x); No. 88 ((L) 1999. See also, UNHCR Handbook on Procedures and Criteria for Determining Refugee Status, paragraph 186.

Family reunification is a cornerstone of a successful refugee resettlement program. The 1980 Refugee Act recognizes the importance of a system which provides “for the effective resettlement and absorption of those refugees who are admitted,”⁸ and acknowledges the centrality of family reunification in this framework by including language entitling certain family members to be admitted as refugees.⁹

Family unity is an important consideration in determining if resettlement is an appropriate durable solution. When considering referring a refugee for resettlement, UNHCR staff are asked to consider “what difference – if any – this option would make in addressing the immediate and long term problems and needs of the individual refugee or groups of refugees and to what degree it would in fact serve as a durable solution.”¹⁰ Such an assessment must include efforts to maintain family unity and to provide for family reunification in the future.

Separation of Families

Amina has been separated from her mother, Halima, for many years. Her mother suffers from a chronic case of hyperthyroidism, diagnosed 10 years ago in the refugee camp.. In January 2005, Amina filed for her mother to come to the U.S. In 2008, she learned that her mother’s health had taken a turn for the worse. Halima’s thyroid goiter had swelled to the size of a baseball. Left untreated, this condition will become fatal. Amina obtained a letter from her mother’s doctor and had it translated into English along with a request that this family reunification be expedited. Unfortunately, the request was made only days before the U.S. family reunification program was suspended.

Involuntary separation of families is a tragedy compounding the trauma and travail of the refugee experience. Sometimes forced family separation is a consequence of persecution or of deliberate actions taken to separate family members. Parents are arrested and disappeared. Children are abducted into armed forces. Refugees are frequently separated as they flee ethnic cleansing, transit through war zones and cross international borders. And in some cases, the separation of families is a desperate survival tactic.

Perhaps it is because the separation of families is so common within the refugee experience that we have lost the ability to see the horrific pain such separation exacts. For refugees who are resettled, locating and reunifying with scattered families is a critical step in starting over. Sometimes reunification is not possible – refugees do not know the whereabouts of their family or even if they are alive. But frequently it is the callousness or inefficiencies of international refugee processing systems that keeps loved ones apart - for long years that can never be recaptured, or for a lifetime.

⁸ See Title I, Refugee Act of 1980, Section 101(b).

⁹ Immigration and Nationality Act Section 207(c)(2)(A); 8 USC 1157(c)(2)(A)

¹⁰ UNHCR Resettlement Handbook, November, 2004, p. 5

Family Unity and Successful Integration

Family unity is also key to successful integration, especially for at-risk populations. Refugees bring many strong survival skills and deeply rooted family and cultural traditions with them to the United States. They also encounter many challenges as they begin to rebuild their lives and strive to become economically and socially self-reliant. Family support has a positive influence on the physical and mental health and can be critical to the recovery from psychological trauma.¹¹ In contrast, the continued separation from family can create significant barriers to successful integration for those already in the U.S. They are frequently called upon to make long distance care arrangements and send remittances. They are emotionally drained due to their concern for the well-being of their absent family and may be unable to make key decisions necessary to their own long term welfare. Separated parents struggle as the sole caregiver, juggling between meeting the economic needs of the family and other critical aspects of parenting. At-risk refugees lack the economic, social and emotional support that families provide. It is not unusual for refugee families to wait five to ten years in the United States before their loved ones are able to join them.

Complex Family Structure

In prolonged refugee situations, the shape and identity of the family unit is likely to change and the traditionally understood family ties become blurred. Refugee adults take in children of distant relatives or former neighbors, women headed households join male relatives, grandparents care for their orphaned grandchildren and orphaned youth and unmarried adult siblings band together. The separation of family, and the creation under duress of new family configurations, often creates acute protection challenges for refugees, particularly for more vulnerable family members such as children, elderly and the sick. It is essential that non-traditional or non-nuclear family structures are recognized in every facet of the refugee response – including protection, care, and durable solutions.

Unaccompanied and Separated Children and Non-Traditional Family Units

Saido, a Somali refugee made the painful decision to leave her three biological children and one “adopted” daughter (a biological cousin raised from birth) in Kenya. She was admitted to the U.S. through an I-730 visa filed by her now former husband. Saido was advised to go onto the U.S. and file an AOR for her children once she had arrived. Had she known how long it would take for her children to join her, she might never have boarded that plane. She filed for her children in 2004. Meanwhile, her children’s guardian in Nairobi has informed Saido that she wishes to return to Somalia to care for her own ailing mother and cannot continue to care for Saido’s children. Saido does not know the whereabouts of other relatives who can care for her children in Kenya. She is worried

¹¹ Refugee Resettlement: An international guide to the reception and integration of resettled refugees. (UNHCR), 2002

about them living on their own, but she does not want them to lose their refugee status or the possibility of being reunited some day in the U.S.

According to UNHCR figures, approximately 3 to 5 percent of any refugee flow is made up of unaccompanied and separated children. Given current estimates of the global refugee population, this would indicate approximately 420,000 children worldwide, the vast majority of whom are living with adult caregivers. The UNHCR *Guidelines on Determining the Best Interests of the Child*, released in 2008, established a framework and formal process to identify extended and non-traditional family arrangements and offer a means for resettlement countries to maintain the family unit in their resettlement. The Best Interests Determination reports are a result of an intense assessment and a formal panel review in order to make critical decisions about durable solutions, appropriate care arrangements and potential guardianships in the best interest of the child. Best Interest Determination reports have proven invaluable in determining when children should be resettled as unaccompanied minors, but they also should provide guidance on maintaining extended and non-traditional family arrangements, including in the resettlement process.

U.S. Resettlement

Historically, the U.S. Refugee Program has served as both a protection tool and a durable solution, providing the means for permanent settlement and integration as future citizens. While LIRS applauds the increased attention that the Bureau has placed on the protection aspect of resettlement, we are concerned that the steady disappearance of a regularized family reunification channel within the U.S. Refugee Program undermines the durability of this solution. For the past several years, family reunification has been increasingly marginalized, and the waiting period for reunification - for those few who are eligible - takes longer and longer.

In our own caseload, LIRS has witnessed a steady decline in the number of refugees successfully reunited with their family members through the US Refugee Admissions program, starting even before the recent moratorium on filing for family reunification. In federal fiscal year 2004, 50% of the refugees resettled by LIRS arrived through family reunification. In fiscal year 2009 LIRS expects 20% or less of those resettled to be joining family.

LIRS recognizes the importance of the verification of identity and family ties to the integrity of the program. Nevertheless, numerous procedural obstacles have created significant barriers for refugees to maintain family unity in the context of resettlement, leading to long-term and even permanent separation.

The current reliance on DNA testing to the exclusion of other verification processes, in the wake of earlier restrictions, is a particularly troubling development. It is prohibitively expensive for newly arrived refugees, creating an automatic delay in their ability to even request reunification as they work to secure the necessary resources. DNA testing is not readily available in the remote areas overseas where many refugee family members wait

in often perilous circumstances. By the government's own admission, DNA testing is only helpful in very confirming limited family relationships, and is not helpful in the verification of non-traditional family structures. That is, while these new burdens of proof are being required for certain family members, they do not address the breadth of family configurations. We urge the U.S. government to recognize these complex family relationships and the validity of such family ties within the U.S. admissions program.

Earlier this year, affidavits of relationships filed for family reunification were returned to LIRS awaiting new policies and procedures. As a result, 729 children of principal applicants and 317 children of anchor relatives will age out this year – over one thousand children and their parents are at risk of losing their ability to reunify. We observe this situation with intense dismay, and foresee a potential tragedy of even greater dimensions unfolding in the coming years. Without a firm programmatic commitment to addressing long-term family separation, what will be the family reunification possibilities for the Bhutanese, Iraqi, Chin, Karen and Karenni refugees resettled in FY2009? And how long will the Eritrean refugees have to wait for their loved ones? Administering a program that significantly restricts opportunities for refugee families to remain intact or to reunify, or that imposes unduly long waiting times, runs counter to the obligations owed to individuals and families under the refugee resettlement framework envisioned in the Refugee Act.

Recommendations

LIRS urges the Bureau of Populations, Refugees and Migration to:

- 1. restore family reunification as a priority within the refugee admissions program, and open meaningful channels for reunification to all nationalities resettled by the United States;**
- 2. recognize complex family relationships within the refugee communities being resettled and, especially for such families, expand the means for family verification beyond DNA testing;**
- 3. identify and implement methods to streamline family reunification processing to shorten the waiting times, and;**
- 4. develop new policies and procedures to recognize Best Interest Determination decisions when it has been determined in the best interest of separated children to be resettled with their extended family.**