

## **Government should support recommendation on family reunification says Justice Committee**

- **Senator Colette Kelleher, Oxfam, Irish Refugee Council and Nasc welcome report by Joint Committee on Justice and Equality.**
- **Committee finds that a broader definition of family would be fairer to those fleeing from conflict situations.**

**Wednesday 3rd July 2019**

A group calling for a fairer system to reunify refugee families in Ireland who have been separated by persecution, conflict, violence, or human rights violations, has welcomed a report by the Joint Committee on Justice and Equality. The report recommends that the Government should allow legislation broadening the current definition of family contained in the International Protection Act to progress through the Dáil.

Senator Colette Kelleher, who initiated the legislation, Oxfam, Irish Refugee Council and Nasc fully endorse the findings, which state that the current regime is too restrictive and that it needs to better reflect the realities of refugee familial relationships.

Currently in Ireland, refugees can only apply to be reunited with immediate family members and children under the age of 18. The proposed amendment would broaden the definition of eligible family members to include; elderly parents, who are often too old and vulnerable to make the arduous journey to flee brothers, sisters, and children over the age of 18. This would allow families an opportunity to apply to reunite in a place of safety and peace help them to rebuild their lives and fully integrate into their communities in Ireland.

The implications of the current restrictions were recently presented by students from Largy College in Clones, Monaghan, who visited Leinster House to tell the House about the real challenges faced by refugees on their journey to safety. Whilst there, the transition year class took the opportunity to advocate on behalf of fellow Largy College student Lilav, a Syrian teenager who was separated from her sister during the conflict.

In an open letter to officials, Lilav said: "My family and I left Aleppo eight years ago because of the war. We spent two and a half years in Turkey. While in Turkey, my older sister Jihan, married Gmo, who is also from Syria. Jihan followed her husband's wishes and stayed in Turkey while the rest of my family moved to Greece. We spent two years living in Greece before moving to Ireland. Jihan and Gmo stayed in Turkey until 2015 before returning to Syria following the death of Gmo's brother. They had only planned to return to Syria for a few weeks".

Lilav continued "Due to the war, they have been unable to leave. Jihan and Gmo now have two young daughters. Elena aged one and a half and Lilav who is five months old. Syria is not a safe place for my two beautiful nieces to grow up. Life is extremely difficult for my sister and her young family in Syria. There is no guarantee that Jihan or her family will survive. They are in a lot of danger."

The narrowing of access to family reunification for people granted international protection under changes to the legislation made in 2015 was recently highlighted by the Irish Human Rights and Equality Commission to mark World Refugee Day, stating that the International Protection Act 2015 should be amended to widen the definition of family members to recognise the diversity of family forms in compliance with international human rights obligations.

**Senator Colette Kelleher said:** “I welcome the Detailed Scrutiny Report by the Joint Committee on Justice and Equality published today. It shows that the ‘Family Reunification’ Bill is an important, humane proposal, deserving of a money message by Government. It is in line with IHREC’s recent recommendations on refugee family reunification. My Bill returns to a more compassionate system in place for nearly two decades and gives desperate families torn apart by war and conflict, the chance to apply to be reunited in safety, puts the process on a firmer footing and within reasonable timescales. The ‘Family Reunification’ Bill recognises the diversity of family forms in compliance with international human rights obligations.”

The ‘Family Reunification’ Bill was initiated to address the restriction introduced by the International Protection Act 2015 and it has passed through all stages of the Seanad with a majority and through the Dáil Second Stage with a large majority of 78-39 in December 2018. However, it was determined that a money message from Government would be required for this Bill to proceed to formal committee stage. Today’s report by the Joint Committee on Justice and Equality recommends that the money message is granted.

**ENDS**

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## **Notes to the Editor:**

The report by the Joint Committee on Justice and Equality can be downloaded and viewed here: <http://bit.ly/2LyGIBj>

**International Protection (Family Reunification) (Amendment) Bill 2017:** The Bill gives persons who have been granted international protection under the International Protection Act 2015 a statutory entitlement to apply for family reunification in respect of dependent members of the wider family, in addition to their current automatic right of family reunification in respect of the nuclear family.

**Money message:** In order for Private Members’ Bills, which are deemed by the Ceann Comhairle to involve a charge on the State, to progress to committee stage in the Dáil, they need a ‘money message’ from the government. Historically, this mechanism has rarely been used. However, the denial of a money message has recently been used to block a number of Private Members’ Bills from reaching Committee stage in the Dáil.

## **Additional case studies**

### **Case Study 1: Ansur (a minor)**

Ansur, fled Afghanistan with his uncle in 2016 and applied for asylum when he arrived in Ireland. Ansur was still a child when he received a declaration that he was declared a refugee and was eligible to apply for family reunification with his parents and younger brothers and sisters. Unfortunately, Ansur was never made aware of his rights to family reunification and that his family reunification rights had an expiry date. Ansur mistakenly believed that as he was under 18, he had no legal right to make an application for himself. Ansur told Nasc that he thought they could only apply for his parents and siblings in his own right as an adult, and not through a responsible guardian.

Ansur learned of Nasc through friends and came to see us. Ansur came to our walk-in the day before they turned 18, excited and believing that he would be able to apply for reunification with his parents and siblings from the following day. Unfortunately, by the time that Ansur came to Nasc for our assistance, well over 12 months had passed since he was declared a refugee. Because of the strict 12 month time limit to submit an application for family reunification in the International Protection Act 2015, Ansur had lost his right to family to family reunification many months beforehand.

Section 56(8) provides that recipients of a grant of refugee or subsidiary protection status must make an application for family reunification for their proposed beneficiaries within 12 months of the giving of the refugee declaration or subsidiary protection declaration. Instead of beginning the happy process of reuniting his family in Ireland, Nasc had to tell Ansur that legally he had lost his rights to family reunification and that he might be separated from them permanently.

Under the former legislation, the Refugee Act 1996 (as amended) Ansur would have been able, up until the day of his 18th birthday, to apply for his parents as no limits applied. We would have been to work with Ansur to apply for his remaining siblings under the discretionary application process.

The International Protection (Family Reunification) (Amendment) Bill 2017 removes the 12 month time limit. When Ansur came to Nasc, we would have been able to immediately apply for his parents and siblings.

Nasc is working with Ansur to attempt to reunite his family. We envisage this will be a long and difficult task and any applications may well be refused, as, under the current legislation Ansur has little to no chance of success. Ansur does not satisfy any of the financial requirements to sponsor a visa for his parents or siblings under the Irish Naturalisation and Immigration Service's Policy Document on Non-EEA Family Reunification as he is still attending secondary school and is still dependent on his uncle. Ansur was not considered for the International Humanitarian Admission Programme as the second and possibly final round of applications closed prior to Ansur attending our office.

Ansur's case illustrates the inadequacy of the current system when dealing with individuals who have been granted international protection after coming to the State as vulnerable minor children on two levels: Refugees who have turned 18 before they are granted status are precluded from applying for their parents and siblings, who will be the only family they could realistically apply for; and those cases where the still minor refugee/subsidiary protection recipient applicant is not in a position to make an application given that they are still a minor with an overall lack of understanding of their rights under the current family reunification

policy and legislation for refugees and recipients of subsidiary protection and feel overwhelmed by the process, as any other minor would.

## **Case Study 2: Aleen**

Aleen came to Ireland fleeing persecution in Somalia. She had left behind her husband, her older daughter and her mother. Her family had fled Somalia and were living outside a refugee camp in Kenya. Kenya was no longer registering refugees in UNHCR camps and so the family tried to survive as best they could in dire circumstances. Aleen's husband tried to trade or work whenever possible however it was hard to make ends meet, as work was hard to come by and gangs would target Somalis and steal from them. It was not possible for Aleen's entire family to leave with her. Her mother was physically disabled and unable to walk or stand for prolonged periods, they could not afford for Aleen's husband to leave as he was the only one who could earn any money. In any case, they couldn't afford for everyone to travel.

Aleen set out from Africa, not realising that she was pregnant with her second child. After a harrowing journey, she gave birth after arriving in Ireland. It took almost three years for Aleen to be recognised as a refugee. In her absence, her mother's health had deteriorated further. She came to Nasc for assistance in applying for family reunification.

Aleen was devastated to learn that she would not be able to apply for family reunification with her mother. Her mother is entirely dependent on Aleen's husband and daughter for everything from dressing herself to preparing food. Aleen wants to bring her husband and daughter to Ireland but believes that if she applies for them and leaves her mother behind, she is effectively leaving her mother to die. Aleen's mother has no one else who can care for her.

Under the former legislation, the Refugee Act 1996 (as amended) Aleen would have been able to make a discretionary application for her dependent mother. Aleen would have been able to provide medical evidence to show how entirely reliant her mother is on Aleen's husband and daughter. There is no such provision under the International Protection Act, 2015. The International Protection (Family Reunification) (Amendment) Bill 2017 reintroduces a provision for refugees to apply for dependent family members including parents.

Aleen wanted to know if there were any other options. Aleen considered submitting an application under the International Humanitarian Admission Programme (IHAP) but didn't have accommodation available for her mother. She also didn't have a passport, travel document or any of the identity documents for her mother which were required for an IHAP application and she had no possibility of getting these organised within the short window of time IHAP operated.

We also discussed visa applications with Aleen however Aleen does not satisfy any of the incredibly onerous financial requirements to sponsor a visa for her mother under the Irish Naturalisation and Immigration Service's Policy Document on Non-EEA Family Reunification. The financial requirement to sponsor one elderly parent is evidence of earnings in excess of €60,000 per annum after tax.

## **Case Study 3: Tesfay**

Tesfay\* fled Eritrea and came to Ireland to seek protection in 2017 and was granted refugee status just over one year later. Tesfay is married with five children. After Tesfay left for Ireland, two of the five children (both minors) went missing. Tesfay and his family were

distraught. The children went missing in two separate incidents, both leaving the house in the morning and not returning again.

Tesfay's wife and three other children were forced to flee to Ethiopia soon after. They are now registered as refugees with UNHCR. It has been well over 12 months and neither Tesfay nor his wife have been able to find any trace of their two missing children.

Tesfay came to Nasc for help with family reunification. He was deeply worried about his family in Ethiopia as well as the missing children. Rape and violence are common in the camp his wife and daughters are currently living in. There is limited international aid and his wife struggles to find food for the family. The three children have not been in school since they left Eritrea. Tesfay wants his family to come to Ireland as soon as possible and wants to ensure that his wife and children are safe but he is also concerned about abandoning his two missing children.

We are concerned that as Section 56 of the International Protection Act, 2015 gives refugees only 12 months after their declaration to apply for family members, and it only allows applications to be made for children up to the age of 18, Tesfay will shortly lose the right to apply for the two missing children even should they be found. There is no provision in the International Protection Act, 2015 to extend the 12 month period, even in the type of extreme circumstances that someone like Tesfay finds himself in.

The Refugee Act, 1996 did not have a deadline to apply for family reunification and applicants could apply for their children over 18 if they remained dependents on their parents. Under the Refugee Act, we would have advised a client like Tesfay to apply for the family members in Ethiopia and we would be apply to apply for his missing children separately if they were traced. The International Protection (Family Reunification) (Amendment) Bill 2017 removes the 12 month time limit and would also permit Tesfay to apply for family reunification with his children, even if they had turned 18 by the time he had located them.

**\*\*Please note that names and identifying details have been changed to protect the identities of the individuals referred to in the case studies.\*\***

Following the publication of the Oireachtas Committee on Justice and Equality's report on detailed scrutiny of the Family Reunification Amendment Bill. Nasc, Oxfam Ireland and the Irish Refugee Council and now calling on the Government to