



## DNA Tests: A barrier to speedy family reunification

Every year thousands of people apply to reunite with their families in Canada. For some the process is quick and smooth; for others there may be difficulties and delays. One of the barriers faced by some families is a request for DNA testing – this happens when a Canadian official does not believe that the family relationship has been adequately proven.

Children are usually affected when DNA tests are requested. The additional delays involved must seem particularly long to children waiting to be reunited with one or both parents. Even if the family responds to the request immediately, it often takes months before test results are received. Sometimes the children's parents cannot afford the significant costs of the test – months may go past while they try to raise the money. If they cannot raise the funds, the application for family reunification will almost certainly be rejected.

DNA requests are predominantly requested from people in Africa, Asia and the Caribbean. Due to their economic situation or the effects of conflict, some countries are unable to provide their citizens with high quality identity documents with security features.

Refugee families are also disproportionately affected because they may have limited personal documentation due to their refugee experience. Refugees are often forced to flee without their personal papers. Sometimes refugees have had their documents deliberately destroyed by their persecutors.

Demands for DNA testing are causing significant hardships for some families, especially those who can't afford the test or who have already been waiting years to be reunited. Most troubling of all is the impact on children, kept separated from their parents.

### **The CCR believes that it is time to review the practice of requesting DNA tests.**

- > Are they being kept to the minimum?
- > Is the hardship to the family adequately taken into consideration?
- > Are certain people, especially Africans, unfairly and disproportionately affected?
- > Is sufficient weight given to Canada's obligation to consider the best interests of any affected child and to ensure expeditious family reunification for children?

## DNA tests as a last resort to establish family relationship?

When processing an immigration application that is based on a family relationship, officers of Citizenship and Immigration Canada (CIC) must satisfy themselves that the relationship indeed exists.

Departmental guidelines specify that DNA “is a last resort.”<sup>1</sup> It is an option for an applicant “who cannot provide satisfactory documentary evidence of a relationship.”<sup>2</sup>

In practice, however, visa officers sometimes ask for DNA when there is other evidence of the relationship available. It is often unclear why the documents presented are found insufficient, because no explanations are provided for rejecting the documents.

### What constitutes satisfactory documentary evidence?

A Congolese family applied for reunification (the husband/father was in Canada, the wife and children in the Congo). As proof of relationship they provided:

- > a marriage certificate
- > birth certificates
- > photos
- > receipts showing money sent by the father in Canada
- > a certificate from the City of Kinshasa naming the husband and wife as parents of the children.

Nonetheless, they were asked to undergo DNA testing. The family was given no explanation for the rejection of the documents provided. The officer simply stated: “I am not persuaded that there is sufficient evidence to establish the parent-child relationship.”

DNA tests confirmed the relationship. The tests added a further four months to what was already a particularly long and difficult family separation.

Some names have been changed.

1 CIC manual, OP1, 5.10.

2 CIC manual, OP2, 5.15.

Sherlie, a Haitian woman in Canada, applied to be reunited with her husband, the father of her children. The family was asked for DNA testing to establish the relationship.

They had earlier submitted a marriage certificate from the State of Florida, birth certificates for the children that identified both parents and pages from a photo album.

Sherlie wrote a letter asking to be spared the DNA test. She described her life together with her husband. She pointed out that there could be a confusion based on the fact that the US writes dates according to the convention month / day / year, while in Haiti dates are written day / month / year. She noted that she couldn't cover the cost of \$905 for the DNA tests, because she was not presently working.

CIC sent another letter saying that the failure to provide DNA tests showed that Sherlie was not interested in priority processing then available to Haitians and threatening to close the file if DNA tests were not provided within 90 days.

A community agency called CIC and asked whether Sherlie's letter had been received. The officer said it had, but DNA was still required. When asked why CIC was not satisfied with the documents provided, the officer refused to answer.

The DNA tests were done and confirmed the family relationship.

### The importance of looking happy in photos

From the government file on Sherlie's case:

- > **28 June 2010:** Letter sent requiring DNA tests.
- > **15 July 2010:** “No response re. DNA. Case closed for non-compliance.”
- > **23 July 2010:** letter received from S, with family pictures and birth certificates. “Photos show the couple with the kids. All are posed and in none does anyone look happy [...] The photocopies of the US docs make it difficult to tell if they are real.” They also mention that the birth certificates are “late declarations.” The file shows no other reason for suspicion nor any actual inconsistency.

## Providing additional documents as an alternative to DNA testing

If DNA testing is indeed a last resort, one would expect that immigration officers would carefully consider any additional evidence provided by the applicant. However, this does not always happen. When applicants submit additional documentary evidence after a request has been made for DNA testing, it rarely leads to a withdrawal of the DNA request, raising questions about how seriously the evidence is considered.

Orphaned since the age of 7, Amina lived with her grandmother in Ethiopia, until her grandmother died in 2006. This left Amina without any relatives in Ethiopia to care for her, at just 13 years of age. She moved on a temporary basis to stay with a family friend.

Amina's sister and brother-in-law in Canada applied to sponsor her in 2007, sending money to Ethiopia to support her in the meantime.

In November 2007, the Nairobi visa office informed Amina that her application was received and that processing should take approximately six months. However, despite repeated requests, nothing more was heard from the visa office until July 2009, when a letter was received requesting DNA testing between Amina and her sister.

**By now, Amina was 16 years old.**

Amina's sister and brother-in-law, who are not wealthy, were concerned at the significant costs and difficulties involved in doing a DNA test in Ethiopia. In August 2009 they presented additional documentary evidence in the hope that the visa office would reconsider the demand for DNA.

The visa office did not review the file until the end of October 2009, at which point they said that they noticed some discrepancies.

The family was forced to accept that the DNA test was the only way to satisfy the visa office. The positive results were received in July 2010. Amina finally received the visa and arrived in Canada in early 2011.

**Amina was now 17 years old. More than three years had passed since her sister applied to bring her to Canada.**

2006	2007	2008	2009	2010	2011
Amina's grandmother dies.	Application submitted.	Waiting for processing of application.	Visa office requests DNA.	Positive DNA results.	Amina arrives in Canada.
Amina is 13 years old.	Amina turns 14.	Amina turns 15.	Amina turns 16.	Amina turns 17.	Amina is 17.

The additional documents submitted in August 2009 were:

- > A photograph of the sisters with their mother before she passed away;
- > A notarized statement from Amina's current caregiver in Ethiopia;
- > Notarized statements of three individuals who knew the sisters in Ethiopia which confirm the sibling relationship;
- > Copies of the sisters' birth certificates. The slight difference in the spelling of the mother's name on the birth certificates has been explained by the fact that names are often spelled differently in the Ethiopian language of Amharic.
- > An Order of the Federal First Instance Court in Addis Ababa, Ethiopia, naming Amina's sister as Amina's legal guardian.

## Long delays before asking for DNA

In some cases, people wait for a very long time for processing of their files before finally being asked for a DNA test. Since testing takes time, if it must be done, it would be better to do it earlier, in order to reduce the overall processing times and ensure that families are reunited more quickly.

Some examples of how long people wait before being asked for DNA tests:

Amina = 20 months

Richard = 31 months

Brian = 14 months

### Brian – more than two years to be reunited with his mother

As a baby Brian was separated from his mother under unfortunate circumstances when she was resettled to Canada. It took Brian's mother nearly a year and a half before she was able to find assistance in submitting an application for Brian to come to Canada, which she did in April 2009. Brian was by then three years old.

In June 2009, the application was received at the Nairobi visa office. In November of that year, Nairobi reported that they hoped to complete the file by mid-2010.

Finally, in August 2010, Nairobi requested DNA testing. After some delays, the positive DNA test results were received at Nairobi in December 2010. In March 2011, the visa office acknowledged that the relationship was established.

Brian was finally reunited with his mother in Canada in June 2011.

### DNA testing added seven months to the time Brian was separated from his mother.



Richard reunited with his mother in Canada.

### DNA request – nearly 3 years later

Richard's story is one of a miracle in the midst of a tragedy. Separated as a small child from his mother in the chaos of the genocide in Rwanda, Richard was years later reconnected with her, now in Canada, through the International Committee of the Red Cross.

Unfortunately, immigration processing for Richard to come to Canada ran into numerous roadblocks. Finally, in 2006 it seemed like the case would be accepted on humanitarian grounds. A formal application was submitted in November 2006.

In the summer of 2009, nearly three years later, the Nairobi visa office decided that DNA testing was necessary. This led to further delays, as Richard had to wait until he was called for a blood sample, which did not happen until December 2009. The positive results came back in January 2010.

Richard was finally reunited with his mother in Canada in July 2010.



Photo: courtesy of  
The Saskatoon Star Phoenix

Brian reunited with his mother and sister in Canada.



## Excessive expense of DNA tests

DNA tests are expensive and beyond the means of some people. This is especially so with refugees, who often have low incomes in their first years in Canada. They are often already struggling to send money to support their family members overseas.

The cost of the test varies depending on how many family members need to be tested. The following are some examples:

**For adult and two children: \$1,100**

**For two adults and six children: \$1,800**

In addition, there may be travel costs to get to the city where the blood sample will be taken. For example, one father needed to pay for his children to travel approximately 500 km to Addis Ababa, and find overnight lodging for them there.

There may be other costs. In September 2011 the Nairobi visa office sent a letter to a 3-year-old girl informing her that she must present herself to the IOM office in Nairobi to have her blood sample taken, and **pay a fee of \$40 US**. Since the young girl is currently living in a distant part of Kenya, her mother in Canada will need to find not only the \$40 fee, but also money for the travel costs of the girl and a caregiver.



Photo: <http://www.settlementarts.ca>

### Jean-Claude – the challenge of finding \$1,055

After years of delays, Jean-Claude was informed in February 2010 that he and his children would have to undergo DNA testing in order for his wife and children to be allowed to join him in Canada.

The news was a blow because it meant yet another hurdle for a family already under acute pressure. After 9 years of separation, Jean-Claude was desperate to be reunited with his wife and children. The stress of the long and unplanned separation was taking a heavy toll. Back in the Congo, Jean-Claude's wife was struggling with raising the children on her own, and had fallen into despair because of the never-ending delays. The children were feeling that they had been abandoned by their father.

The DNA test not only meant further delays – it was also very expensive. At a cost of \$1,055, Jean-Claude could not afford it. He was earning net \$1,560 per month, of which he sent approximately \$450 to his family in the Congo for household expenses and schooling. After paying his own rent and other basic expenses, Jean-Claude had only about \$90 a month disposable income.

### Jean-Claude's monthly budget

<b>Income:</b>	\$1,055
<b>Expenses:</b>	
Rent and food:	\$515
Sent to Congo for family:	\$450
Disposable income:	\$90

Luckily, Jean-Claude was able to rely on a generous donor who covered the costs of the DNA tests, which confirmed the family relationship.

Jean-Claude's wife and children finally arrived in Canada in July 2011. The family had been separated for 10 years.

## Delays in the DNA testing process

In some cases, families face delays outside of their control to get the testing done. This is often due to communication failures and embassies that set the schedule for when the blood sample can be taken.

### Two year delays over photos

In February 2008 the visa office in Accra interviewed four young Liberians. Their mother had been resettled to Canada several years earlier, when she didn't even know where her children were – they had been separated during the war in Liberia.

The family reunification file had already been going badly – it was initially rejected because the children were not listed on the mother's immigration forms, although she had explained to the visa officer about them and been told that she could apply to be reunited with them after she arrived in Canada.

The file was reopened in 2007, but then concerns were raised because of variations in spellings of the children's names (not uncommon in the region). After the interview, the visa officer decided that DNA tests would be necessary.

It then took an incredible two years of delays to get photos of the children suitable for DNA testing to the visa office.

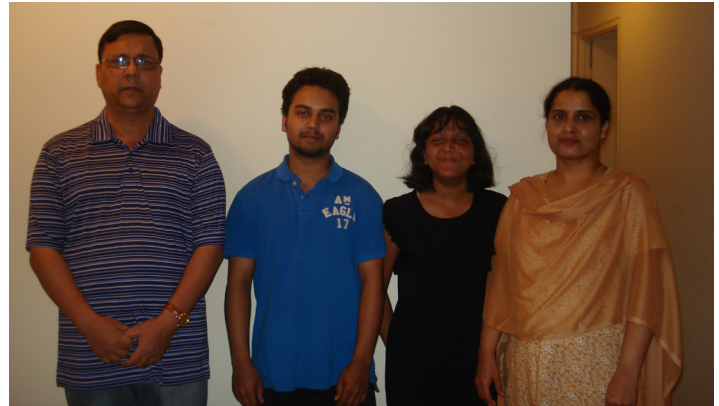
First, the size of the photos was wrong. Then photos were sent repeatedly but not received by the visa office. Finally, the photos were sent from Africa to Canada in May 2009, given to a local CIC office in Canada for forwarding back to Africa to the visa office, by diplomatic bag.

It turns out that diplomatic bag is secure but very, very slow.

The photos were finally received at the Accra visa office in November 2009. In January 2010 the DNA tests came back positive.

DNA testing added two years to these children's separation from their mother.

The children were finally reunited with their mother in November 2010, nearly seven years after she had applied for them to come to Canada. By the time they arrived, the children were all adults.



Sabrina reunited with her parents and brother in Canada.

### Sabrina - waiting for an appointment at the Embassy

In June 2010, a Canadian visa officer decided that DNA tests were required between Sabrina, an eleven year old girl in Bangladesh, and both her mother and father in Canada.

The DNA requirement was surprising, since the efforts to reunite the family had been underway for a long time already – there had been problems, but they didn't include any doubts raised about the parent-child relationship. The extra delay was also particularly unfortunate, as one of the grandparents taking care of Sabrina in the meantime had recently suffered kidney failure and had a stroke.

The family immediately set about complying with the DNA requirement. However, Sabrina could only have her blood tested when the Canadian authorities in Dhaka scheduled an appointment for sampling. According to the DNA company, this happens only three times a year.

Finally, in October 2010, Sabrina was able to have her blood sampled and the results came back positive later the same month.

Sabrina was issued a visa in March 2011 and is now reunited with her parents and brother in Canada.

## DNA testing as indirect evidence for non-biological relationships

In some cases, in what appears to be a disturbing new trend, DNA testing is being requested to establish non-biological relationships, for example between spouses. Since DNA testing cannot prove that two people are spouses, this involves using the children of the family as indirect biological evidence of the relationship between the couple.

This use of DNA testing of children raises ethical issues: it imposes a procedure on children for the benefit of their parents. And if a child refuses to submit to the test, is a couple to be kept separated because their child was not willing to be used in this way?

**Sherlie** and her children were in Canada. Sherlie applied to be reunited with her husband, Webster. CIC asked for DNA testing between Sherlie and her children, and Sherlie's husband and her children in order to satisfy the visa officer of the non-biological spousal relationship between the couple. The family was being asked to prove something that was actually irrelevant to the application, ie. that Webster was the biological father of Sherlie's children.

It appears that the immigration officer was trying to use the children as a kind of bridge to test Sherlie and Webster's spousal relationship.

**Eyob** was accepted as a refugee in Canada. His wife and children are refugees in the Sudan. The visa officer was not satisfied as to the family relationships. DNA tests were required not only between Eyob and his children, but also between the children and their mother, all in the Sudan. Again, the biological relationship between the children and their mother is not legally relevant. The visa office is demanding that Eyob and his wife's spousal relationship be established through their children.

### Requiring DNA for adopted child

**Selam** is a young Eritrean girl, whose father, a soldier, was killed in combat. Since her mother, also a soldier, was paralyzed, Selam was adopted by her aunt, Azeb. In June 2009, Azeb, who lives in Canada, submitted an application for permanent residence for Selam. In October 2010 the visa office sent a letter requesting DNA testing to establish a biological relationship.

The relationship that needs to be established is whether Azeb is truly Selam's **adoptive** mother. Whether she is also her aunt is not legally relevant. The crucial questions that the visa officer surely needs to be asking are whether the adoption is genuine and whether it was entered into primarily for the purpose of immigration to Canada. In its letter, the visa office doesn't explain why they are making this apparently irrelevant request: "Since the documentary evidence you have provided does not enable us to establish relationship between you and Ms. [X], we will accept the results of a DNA analysis carried out by a laboratory accredited by the Standard Council of Canada for DNA testing."

It is also worth noting that DNA testing to establish an aunt-niece relationship is more difficult and less reliable than parent-child relationships.

## Thousands of individuals affected

Each year thousands of people are affected by requests for DNA tests. Statistics for 2009 show that over 2,000 positive tests were conducted (representing about 1,200 families). This means that approximately 3,500 individuals had to undergo testing to prove their family relationship, enduring delays and expenses. It is not known how many of these were refugees, although we can guess that they are disproportionately represented.

We may also wonder how many families were unable to find the money for the DNA tests and saw their family reunification applications rejected in consequence.

## Canada's obligations towards children

As a signatory to the Convention on the Rights of the Child, Canada must:

- > Give a primary consideration to the best interests of the child (Article 3), and:
- > Deal with family reunification applications "in a positive, humane and expeditious manner" (Article 10).

It is not always clear in DNA cases that these obligations towards children are being met.

## Conclusion

Canada's immigration officers must satisfy themselves that a relationship exists before issuing visas to family members.

But in doing so, they need to take into account the quality of documents available in some parts of the world, and particularly to people forcibly displaced and fearing persecution. It is unfair to set a standard of documentation that people cannot meet, and to reject other evidence that supports the existence of the relationship.

Immigration officers may not always be aware of the hardships caused by a DNA request, in terms of expenses and delays.

In particular the impact on children needs to be taken seriously: Canada has a legal obligation to reunite families expeditiously.

## The Canadian Council for Refugees calls on the government to:

1. Review current practices relating to DNA testing and their impacts on families.
2. Adopt clear guidelines designed to ensure that DNA testing is only used as a last resort, including by directing that:
  - > Uncontradicted affidavit evidence by parents and other parties be accepted as an alternative;
  - > The best interests of any children and their right to speedy family reunification be given due weight;
  - > The availability of documentation in the region or to a refugee family be taken into consideration;
  - > DNA tests not be required as an indirect means of proving the genuineness of non-biological relationships.



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