

CANADIAN COUNCIL FOR REFUGEES



More than a Nightmare Delays in Refugee Family Reunification

November 2004

“The Committee recommends [...] that every feasible measure be taken to facilitate and speed up the reunification of the family in cases where one or more members of the family have been considered eligible for refugee status in Canada.”

UN Committee on the Rights of the Child, 1995

“You know, Papa left us with Mama. He won’t be coming back. I’ve prayed a lot for him to come, but he won’t. Now I have to look for another Papa.”
Child separated from his father by slow family reunification processing.

“It’s more than a nightmare.”

Father of two daughters who have been waiting over four years to reunite with their parents and siblings in Canada.

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1. INTRODUCTION

For refugees who have found protection in Canada, one of the most pressing concerns is for their families left overseas. Like anyone else who has been separated from family against their will, they are anxious to be reunited. The fact that they are refugees adds another layer to their concern: in many cases, their family members have been left in precarious and even dangerous circumstances. As long as their loved ones remain at risk, refugees cannot fully enjoy the relative security they have found in Canada.

Unfortunately, many refugees wait years for that moment of reunification with their families, despite the fact that Canadian law and policy seek to promote refugee family reunification. Too often the experiences of refugees trying to bring their families are in painful contradiction with the good intentions of the *Immigration and Refugee Protection Act* and the officials who implement it. The stories of these refugees reflect a systemic cruelty that dishonours Canada and, we believe, would be found intolerable by the vast majority of Canadians if they knew what refugees are going through.

Refugees in Canada may face several different barriers to family reunification.¹ People who are not refugees also confront unacceptable obstacles that deny or delay their reunification with family members outside Canada. This report, however, focuses on one specific problem: the long delays, extending to months and years, in processing the applications of eligible family members abroad to be reunited with refugees recognized in Canada.

The *Immigration and Refugee Protection Act* promotes refugee family reunification by allowing refugees recognized in Canada to include family members overseas on their permanent residence application. Despite this, in half of the cases, refugees have to wait more than 13 months for their family members to be processed. One in five refugees has to wait more than 26 months. At the slowest visa office, half of the cases involve the family having to wait more than 27 months.

And some refugees wait much longer. For example, Mahmoud and Samira last saw their two eldest daughters four years ago: processing of the application has been going on for more than three years. Shirin, a mother of five, applied for her family when her youngest child was two years old: that was six and a half years ago and she is still waiting. Another wife and mother, Radhika, has been separated from her husband and three of her children for six years: the application has been in process for four years.²

The long delays prolong risks to family members overseas, who may be in conflict zones or refugee camps. Families are often subject to the same risk of persecution that caused their spouse or parent to be granted Canada's protection. Living conditions may endanger their health and the children's education, leading to increased social costs when they finally come to Canada.

¹ These include the inability to pay the costly processing fees, bad advice leading refugees not to include family members on their permanent residence application and the narrow definition of family in Canadian immigration law which means that many significant family members cannot be included.

² The case examples below provide more details of these stories. All the names are fictitious.

Psychologically, the toll of such long separations is heavy. Many refugees say that their family members suspect them of not wanting them to come, because they cannot believe that a country like Canada could be so inefficient in its processing. Families that finally reunite after years of separation face the stress of trying to live together after having grown apart. Some families' ties don't survive.

The Canadian Council for Refugees (CCR) has long been deeply concerned at the delays in family reunification. Member organizations have seen and heard first hand the suffering they have caused. In 1992 the CCR struck a task force that produced a detailed report with recommendations (Refugee Family Reunification, 1995). In the years since, the CCR has on numerous occasions pressed the government for more effective solutions to be brought to the problem.

The UN Committee on the Rights of the Child has also criticized Canada for its failure to reunite refugee families expeditiously. Like the CCR, the Committee feels that its concerns "have not been adequately addressed."³

Citizenship and Immigration Canada (CIC) has repeatedly acknowledged the problem and has made some attempts to respond through adjustments to policy and practice.

It is clear, however, that these adjustments are not a solution. Refugees continue to wait years for family reunification. More radical measures are needed to live up to our international human rights obligations and the objectives of the *Immigration and Refugee Protection Act*.

This report outlines Canada's human rights obligations in the area of family reunification, the relevant provisions of law and how the process is being experienced by refugees trying to reunite with their families. The case examples, provided by our member organizations, illustrate the human impact of the delays. The report concludes with a concrete recommendation to ensure the speedy reunification in Canada of refugees and their families.

2. INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

Protection of the family is an obligation of society and the State, according to international human rights instruments ratified by Canada. The Universal Declaration of Human Rights states that: "The family is the natural and fundamental group unit of society and is entitled to protection by society and the State" (UDHR, art. 16(3)). These same words are repeated in the International Covenant on Civil and Political Rights (art. 23(1)). The International Covenant on Economic, Social and Cultural Rights states that "[t]he widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children.[...]" (art. 10(1)).

³ UN Committee on the Rights of the Child. Concluding observations: Canada. 27/10/2003. CRC/C/15/Add.215, para. 46.

The Convention on the Rights of the Child contains the most explicit provisions relevant to refugee family reunification:

Art. 9 (1): States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. [...]

Art. 10 (1): In accordance with the obligations of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. [...]

UN Committee on the Rights of the Child

On the last two occasions that the UN Committee on the Rights of the Child examined Canada on its compliance with this Convention, the Committee expressed its concerns about the slowness of refugee family reunification. In 1995, the Committee expressed regret at:

“the insufficient measures aimed at family reunification with a view to ensuring that it is dealt with in a positive, humane and expeditious manner.”

and at:

“the delays in dealing with reunification of the family in cases where one or more members of the family have been considered eligible for refugee status in Canada [...]” (para. 13)

The Committee recommended:

“That every feasible measure be taken to facilitate and speed up the reunification of the family in cases where one or more members of the family have been considered eligible for refugee status in Canada.” (para. 21)⁴

In its subsequent report, in October 2003, the Committee noted that this concern had not been “adequately addressed”.⁵

United Nations High Commissioner for Refugees

The need for speedy family reunification for refugees has been underlined by the UN High Commissioner for Refugees (UNHCR). In 1977, the UNHCR Executive Committee, of which Canada is a member, stated that: “it is desirable that countries of asylum and countries of origin support the efforts of the High Commissioner to ensure that reunification of separated families takes place with the least possible delay” (Conclusion no. 9).

⁴ Concluding observations of the Committee on the Rights of the Child: Canada. 20/06/95. CRC/C/15/Add.37

⁵ See footnote 3 above.

3. IMMIGRATION AND REFUGEE PROTECTION ACT

On 28 June 2002, the *Immigration and Refugee Protection Act* (IRPA) came into force in Canada, replacing the old *Immigration Act* of 1978. The Act begins with a statement of its objectives which include the reunification of families. Among the objectives with respect to immigration is the following:

“to see that families are reunited in Canada.” (IRPA 3(1)(d))

With respect to refugees, the Act is, among other things:

“to support the self-sufficiency and the social and economic well-being of refugees by facilitating reunification with their family members in Canada.” (IRPA 3(2)(f))

The Act also contains a provision stating that it is “to be construed and applied in a manner that: [...]

“complies with international human rights instruments to which Canada is signatory.” (IRPA 3(3)(f))

4. REFUGEE FAMILY REUNIFICATION PROCESS

Refugees who are recognized by the Immigration and Refugee Board in Canada are entitled under the *Immigration and Refugee Protection Act* to apply for permanent residence for themselves and for their spouses and dependent children, whether the latter are in Canada or overseas.⁶ The following are the main requirements that must be met before permanent residence is granted:

- The person in Canada must apply within 180 days of the decision finding them a “protected person”. They can include on their application their family members (spouse and children) whether they are in Canada or overseas.
- The application must be accompanied by the processing fees, which are \$550 per adult and \$150 per child.
- Applicants must undergo a medical examination to show that they don’t represent a danger to public health or safety.
- They must clear relevant security and criminality provisions.
- The refugee in Canada must receive permanent residence before the family members can receive theirs.
- Immigration officials must be satisfied that the family members are indeed related to the refugee in the way claimed (i.e. they are the spouse/children of the refugee).

⁶ The same right exists for persons granted protection through the Pre-Removal Risk Assessment.

Applications are mailed to the Case Processing Centre in Vegreville, Alberta, who notifies the visa office overseas responsible for the country where the family members are living. The visa office in turn contacts the family members for processing of the application.

5. STATISTICS

The statistics below show processing times for applications by refugees' family members abroad, from the time at which a completed application from the family member is received at the visa post. It is important to note that these timeframes do not reflect the total time of family separation. Refugees may have already been separated from their families for days, weeks or years before they arrive in Canada. They then need to go through the refugee determination system, which takes on average a year. Once accepted as a refugee, they can apply for permanent residence for themselves and for their spouse and children, but it may take them several months to gather the relevant documents and the money for the processing fees. The Vegreville Case Processing Centre may take some time to send the file to the visa office overseas. Then there may be a possible subsequent delay before the visa office sends the application to the family members to complete and sign.

Statistics show that even after all these steps have been completed, 50% of family members must wait more than 13 months for finalization of their application.⁷ One in five cases takes more than 26 months to process. In the region of Africa and the Middle East, the region with the slowest processing times, 50% of cases take more than 16 months and one in five cases takes more than 29 months.

| Processing times, dependants of refugees July 2003 - June 2004 | | |
|---|---|---|
| | # of months to process 50% of cases | # of months to process 80% of cases |
| World | 13 | 26 |
| Africa & Middle East | 16 | 29 |
| Asia Pacific | 13 | 26 |
| Europe | 11 | 23 |
| Western Hemisphere | 11 | 21 |

The following table shows that the waiting periods vary significantly by visa post.

⁷ The statistics are taken from the CIC website: <http://www.cic.gc.ca/english/department/times-int/index.html>. These statistics do not report the numbers of applications being processed. According to CIC's 2004 Annual Report to Parliament, 3,959 family members abroad of refugees in Canada received permanent residence in 2003. 55% were female.

| July 2003 - June 2004, Processing times by selected visa posts⁸ | | | | |
|---|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| | # of months to process 30% of cases | # of months to process 50% of cases | # of months to process 70% of cases | # of months to process 80% of cases |
| All Points of Service | 8 | 13 | 21 | 26 |
| Abidjan | 23 | 27 | 32 | 36 |
| Accra | 17 | 24 | 32 | 44 |
| Cairo | 11 | 13 | 21 | 24 |
| Damascus | 13 | 18 | 27 | 32 |
| Nairobi | 14 | 19 | 25 | 29 |
| Pretoria | 6 | 7 | 8 | 9 |
| Beijing | 9 | 18 | 25 | 28 |
| Colombo | 9 | 13 | 19 | 24 |
| Islamabad | 15 | 20 | 25 | 29 |
| New Delhi | 11 | 20 | 27 | 31 |
| Singapore | 16 | 20 | 28 | 31 |
| Ankara | 6 | 8 | 11 | 13 |
| Rome | 9 | 11 | 16 | 22 |
| Bogota | 7 | 10 | 14 | 17 |
| Mexico | 8 | 9 | 20 | 20 |

The slowest post, Abidjan, covers the following countries: Burkina-Faso, Cameroon, Cape Verde, Central African Republic, Chad, Democratic Republic of Congo, People's Republic of Congo, Equatorial Guinea, Gabon, Guinea-Bissau, Ivory Coast, Mali, Mauritania, Niger and Senegal. In mid-2004, in recognition of the disproportionately slow processing times at Abidjan, Citizenship and Immigration Canada assigned an additional visa officer to the post. This will, it is hoped, make some impression on processing times.

⁸ The visa posts selected are those that serve the countries of origin with the highest numbers of refugees accepted by the Immigration and Refugee Board in 2003. However, it should be noted that family members are not always in the country of origin.

TIMELINE OF A FAMILY SEPARATION

In July 2000, Mahmoud and Samira⁹ fled persecution in Algeria. They were accompanied by their two younger children, but they were forced to leave behind two daughters, aged 13 and 16, who were put in the temporary care of their grandmother.



Older daughter
separated from
her parents

In June 2001, Mahmoud and Samira were recognized as refugees at their hearing in Montreal. The next month they applied to bring the girls to Canada by including them on the application for permanent residence.

In September 2001, they received a letter informing them that their application was approved in principle.

By January 2002, all requirements had been met for the family members in Canada, including the security check. However, the processing of the two daughters overseas took longer and their files were not ready. At that time, the law did not allow permanent residence to be granted to the members of the family in Canada if those overseas were not ready.

In June 2002, the new *Immigration and Refugee Protection Act* came into effect. The new law required that refugees in Canada pass a new medical requirement. In February 2003, instructions were sent to the family in Canada to re-do their medical exams. Unfortunately, there were delays in the transmission of the medical results.



Younger daughter
separated from
parents

By the time the medical results were received, the security clearances, which are valid for 18 months only, were out-of-date. In September 2003, the family received a request for updated information in order to do new security clearances.

By August 2004, Mahmoud and Samira still hadn't heard that the security clearance was completed. By then the medicals were once again out of date. Mahmoud asked whether the family could do new medicals so that at least the medicals would be valid once the security clearance came through. The reply was no: they can only re-do the medicals once the security clearance has been received.

In September 2004, after the family had knocked on every available door to find out what was delaying their case, they heard that Samira at least had received her security clearance. The reason for the delay is unexplained: perhaps the file was misplaced.

As of November 2004, Samira and Mahmoud are still waiting to be reunited with their daughters, more than 4 years after they last saw them and more than 3 years after they applied for their daughters to come to Canada.

⁹ The names used in the case examples in this report are not real.

6. SOME REASONS FOR DELAYS

A key reason for delays in family reunification is the shortage of visa office resources to process the applications. Because visa officers are few in number and there are many demands on their time, applications are often waiting in a backlog. In addition, there are some particular obstacles that mean that some applications get held up longer than others. What follows is a description of some of these key obstacles.

a) Delays in Processing of Permanent Residence for Refugees in Canada

The refugee in Canada must receive their permanent residence before their family members overseas are allowed to travel to Canada. Applications for permanent residence routinely take 11-12 months to process.¹⁰ Some cases take much longer. Refugees often have difficulty finding out why their case is held up.

In June 2002, after being recognized as a refugee in Canada, Ruth applied for permanent residence for herself and her husband and daughter who remained in her country of origin. Two years later, her husband and daughter had completed their procedures, including medicals, security and interview. However, Ruth still had not received her permanent residence. She was not able to find out what is holding it up. The CIC Call Centre provided frustratingly little information. For a long time, the on-line service for application status merely stated that Ruth had received a letter about the decision on her application on 19 November 2002 and otherwise reported that the status of her application was “in process.”

Ruth finally received her permanent residence in October 2004, more than two years after she applied. She is still waiting for reunification with her family.

Radhika, a Sri Lankan, came to Canada in April 1998 with two daughters, leaving three other children and her husband in India. In March 2000, Radhika was accepted as a refugee and she applied for permanent residence for herself and her family members. Processing did not seem to move forward. Calls to CIC for information received the reply that they were verifying their documents. Finally in June 2004, Radhika and her daughters in Canada received their permanent residence. The security clearance for the family members in India is still pending. Radhika has now been separated from her husband and three of her children for more than six years.

Aside from the more ordinary administrative delays, cases may be held up because CIC does not consider the refugee’s identity documents satisfactory, because the government wants to do more detailed security investigations, because the medicals have not been successfully passed, or because the security or medical clearances are out of date and have to be re-done.

¹⁰ This was the processing time as at 18 October 2004. The information is taken from the CIC website at <http://www.cic.gc.ca/english/department/times/process-in.html>.

b) Medicals

Both the refugee in Canada and the family members overseas must undergo a medical exam. The results are only valid for one year. If there are other delays in processing, the medicals may expire and have to be re-done, adding further delays.

Subha fled to Canada from Sri Lanka in March 1999 and was recognized as a refugee in April 2000. She included her husband, who is still in Sri Lanka, on her permanent residence application. Her husband was interviewed in August 2001. In the following years, calls to CIC for information received the response that the file was under study. In the meantime, Subha's husband underwent the medical exam three times.

Finally in May 2004, Subha received her permanent residence. Now her husband is waiting for the security clearance. Subha, separated from her husband for over five years, is depressed and lonely.

c) Establishing the Family Relationship

A necessary part of the process is to establish that the applicants overseas are indeed family members of the refugee in Canada. Unfortunately, refugees are often unable to produce the kind of birth and marriage certificates that Citizenship and Immigration Canada would like to see. Sometimes documents have been destroyed in war. Sometimes persecuted families can't get documents because the authorities deny them documents as a way of persecuting them. Some refugees come from parts of the world where government structures are not capable of producing secure identity documents.

While CIC clearly needs to satisfy itself that the persons overseas are the family members of the refugee, there are other forms of evidence that can be used when documents are lacking or deemed unsatisfactory in some way. One way is to rely on the fact that the refugee claimant provided information about their family members on their documents right at the beginning of their claim. This identification, made before there was any question of bringing them to Canada, should be considered valuable evidence of the family relationship. Nevertheless, refugees who have done this and also provided all available documents frequently face requests for further evidence of the family relationship, causing delays to family reunification.

d) DNA Testing

Sometimes CIC asks applicants to undergo DNA testing in order to establish the family relationship, even in cases in which there does not seem to be any reason to doubt the relationship. CIC's stated policy is only to ask for DNA testing as a last resort, but this has not always been their practice.

DNA testing is expensive (see box below), time-consuming and intrusive. The cost must be borne by the refugee family. This is often a serious obstacle for refugees who have only fairly recently arrived in Canada and who are probably sending money overseas to help their family survive.

Costs for DNA

\$970: for parents and a child in Sri Lanka in 2002. Each extra person would cost \$245.

\$1225: for a father and 3 children in Democratic Republic of Congo in 2003

\$1800: for a mother and five children in February 2004

\$1945: a group rate for 8 children in Democratic Republic of Congo

NO REASON FOR DNA TEST GIVEN

Ngadiadia arrived in Canada in August 2000 and was recognized as a refugee from the Democratic Republic of Congo in June 2001. He applied for permanent residence for himself and his family left behind in DRC: his wife and four children.

In December 2002, the Abidjan embassy sent two letters, with exactly the same date. One said that DNA tests were required to prove the relationship of three of the children to Ngadiadia. The second letter threatened to close the file within three months because of a failure to provide DNA tests, required “because the birth certificates provided are false” [translation from the French original]. No explanation was given of why the certificates were considered false, or why DNA testing was not required for the fourth child.¹¹

In this case, the request for DNA testing was not used as a last resort. Ngadiadia had never been given an opportunity to provide other documents. After receiving the December 2002 letters, he and his wife sent in further documents, as well as a letter of complaint to CIC headquarters in Ottawa. When no response was received, Ngadiadia and three of his children underwent DNA testing, after struggling to find the money to pay for them. The results were positive and the family was finally reunited in June 2004.

Ngadiadia was shocked by the request for DNA testing, which he interpreted as an insinuation that his wife had been unfaithful to him. As he wrote in his letter of complaint: “I am really disappointed and frustrated of these two current letters from the Embassy with all the mistakes made. The prestige of our family went down. What is happening is unfair and unjust. Why should the Embassy select certain cases? I wonder if it is for specific reasons these mistakes were made. These threats the Embassy is putting on the family’s file are hurting us psychologically, emotionally and physically.”

¹¹ In August 2004, the CCR raised this case with CIC, as an example of problematic processing. CIC acknowledged that there were processing errors in the case.

OVER 6 YEARS WAITING FOR HER CHILDREN

Shirin was recognized as a refugee from Afghanistan in April 1998. She applied for permanent residence and included her husband and five children on her application. At the time her oldest child was 10 and the youngest 2 years old. Over the next five years she received very little communication from CIC.

Finally in May 2003, Shirin was informed that her file was delayed because her husband was inadmissible. CIC suggested that if she removed her husband from the application, she would soon be reunited with her children. In July 2003, she removed her husband from the application realizing that she would likely never see him again.

In September 2003, CIC called into question whether Shirin was in fact the mother of the five children and asked for DNA testing. Shirin complied and testing was completed in February 2004 (at a cost of \$1800).

Six months later she was still waiting to be reunited with her children. It is six and a half years since she applied for reunification.

FINANCIAL HARDSHIP

Mana arrived in Canada in November 1998, having fled her Central African country of origin. She is quiet and does not like to speak about her past. "It would hurt," she says, "others and myself. I pray that it will never happen to anybody else." She was forced to leave behind her two young children. Soon after her arrival, she visited a centre for survivors of torture, and expressed her anxiety about her children. Despite her traumatic past, she remained calm and patient. Her refugee claim was expedited and she was accepted as a refugee in May 1999.

The centre assisted Mana in her efforts to reunite with her children, still in the country where she herself had been a victim of torture and war. They contacted the visa officer in Nairobi and explained her situation: "Please expedite the process. Her children are living with an aunt with inadequate protection. The old aunt is trying to hide the identity of the children, but this can only be successful for a limited amount of time. They might be at risk at any time due to their mother's identity and her status as a target for a militant group."

Nearly 6 months later, the visa authorities in Nairobi questioned the identity of Mana's children. They asked them to undergo DNA testing. Only after she was able to find a personal loan could she do this. The DNA test confirmed the children's identity, and so they were allowed to travel to Canada. Again, Mana faced financial obstacles and had to rely on a loan from a charitable foundation to pay for the travel expenses to bring her children to Canada. In July 2003, Mana's children arrived in Canada, more than four years after she was accepted as a refugee.

e) Unnecessary and Confused Requests

Some refugees and their families are asked to provide information that appears to have no logical relevance to the application. For example, a woman overseas was asked to provide “proof of financial support from your sponsor” even though she was applying as a family member of a refugee in Canada, and her husband was therefore not her sponsor and did not need to provide financial support.¹² Refugee families are also sometimes asked to provide documents that they have already provided, or chastised for not providing documents that have never been requested.

f) Security Checks

Refugees, like any other applicants for permanent residence in Canada, must receive a security clearance.

In some cases, security checks take abnormally long periods, often without the person knowing why their case is delayed. If one believed the extra time was used to do active security investigations, it might be justified, but all indications suggest that once a case is selected for further investigation, it often goes into a kind of limbo and for long periods receives little or no further attention.

g) Communications

The challenge of long delays is compounded by the difficulties in discussing with CIC any obstacles in processing or even finding out what is happening in a case. Applicants who consult CIC’s on-line service or who telephone the CIC call centres find the information provided quite scanty. On occasion, it is even incorrect.¹³

Many refugees, like others struggling with the immigration process, turn to their Members of Parliament for assistance. Some MPs report that 70% to 80% of their constituency staff’s time is taken up with helping people with immigration inquiries.

7. IMPACTS OF PROLONGED SEPARATION

a) Family Members in Situations of Risk

Most refugees’ families are left behind in situations of varying degrees of risk, from threat of war and persecution, to poverty and insecurity. Delays in reunification can mean death or serious harm, through violence or lack of adequate health care.

¹² The letter accompanying this request contained other confusions and inaccuracies (for example, stating that all adults must pay the Right of Landing Fee, although refugees are exempted). The CCR pointed these out to CIC and was informed in September 2004 that those types of letter are no longer being used.

¹³ For example, Mahmoud, whose story is highlighted on page 9, was told by the call centre that his wife, who was also recognized as a refugee, could not receive her permanent residence until he did. His MP’s office received a similar answer from CIC’s Case Processing Centre in Vegreville. CIC National Headquarters has confirmed that the information given out was incorrect.

Mindondo came to Canada in August 2000, having placed her two children with a friend in the Democratic Republic of Congo. Her husband fled separately and later was able to join her in Canada. In January 2002, Mindondo was accepted as a refugee. In December 2002, her 13 year old son was assassinated, having been targeted as a member of a persecuted family, the reason that led Mindondo to be recognized as a refugee. Despite this killing in the family, processing of Mindondo's daughter does not appear to have been expedited. She is still in the Democratic Republic of Congo, running from village to village to hide from the rebels, sometimes unable to contact Mindondo.

Shambuyi arrived in Canada in October 2001, having fled the Democratic Republic of Congo, forced to leave his wife and children behind. Having been accepted as a refugee, he applied for permanent residence for himself and his family. About this time one of his sons became sick.

Months went by and Shambuyi was deeply concerned to learn that no file had been opened for his family at the Abidjan visa post. Shambuyi wrote to the Minister of Citizenship and Immigration regarding his son's urgent need for medical care. In May 2004, the Minister's staff sent him a letter, saying that a file had recently been opened in Abidjan, but that the post in Abidjan "is made up of two visa officers to cover 16 countries in West and Central Africa. I would also like to add that the volume of applications to process in this post is very high and we must examine them in the order that they arrive. We are conscious of the difficulties that this situation can cause to all affected, but you will understand, I am sure, that we must work with the resources and the staff available to us" [translation from the French].¹⁴ The letter also noted that the visa officers had been informed of the request that the case be expedited because one of his children had been hospitalized. By the time Shambuyi received the letter, his son had already died.

b) Emotional Distress

The prolonged separation, combined with the sense of powerlessness, causes acute emotional distress. Refugees in Canada complain that the long months and years of anxious waiting have serious psychological and physical impacts. The stress of separation comes on top of the traumas of persecution, sometimes including torture, and the challenges of adapting to a new country. The separation makes it more difficult for refugees to focus on their own integration, to learn English or French, or work on developing their career.¹⁵ Parents who are separated from their children often suffer depression.

¹⁴ As noted above, a third visa officer has since been sent to the Abidjan visa post.

¹⁵ The importance of family reunification to integration is recognized in the objectives of the *Immigration and Refugee Protection Act*, which state that the Act is "to support the self-sufficiency and the social and economic well-being of refugees by facilitating reunification with their family members in Canada." (IRPA 3(2)(f))

A TORTURE SURVIVOR STRUGGLES WITH FAMILY SEPARATION

Farideh was arrested along with her first husband and their 4-month-old baby in Iran. Farideh and her son were kept together, separated from her husband. She was tortured to extract information about her husband and his activities. Her worst experience was the time when they tortured her husband in the neighbouring cell in a way that she could hear his screams.

Sixteen months after the initial arrest her husband was executed: twenty-eight years old, a human rights activist, a poet and a writer. Farideh and her son remained in jail for a total of 5 years.

Life outside jail was not much better for Farideh, with no job, no money, and nowhere to live. She was left with no choice but to accept a traditional arranged marriage in an attempt to protect herself and her child. A year later, she became pregnant and delivered another child. Unfortunately, her second marriage turned out to be an abusive one; it was a kind of slavery. "At home," she explained, "I was abused by my second husband and outside home, I was constantly harassed and was periodically tortured by guards and security forces that were suspicious of my activities."



Farideh and her son in prison

When Farideh finally fled Iran, she was forced to leave her older son behind. She arrived in Canada with her younger son in July 2000 and was accepted as a refugee in April 2002. She fell sick and was hospitalized for two months but managed to submit her application for permanent residence for herself and both her sons in June 2002.

Farideh and her younger son received their permanent residence in January 2004. The elder son, however, has not even been contacted by the visa officer. When Farideh inquired about the case, CIC told her that the file had not yet gone to Damascus. In December 2003, a community organization wrote a letter to CIC on behalf of Farideh and provided them with the son's address in Iran. There still has been no news.

Farideh is struggling with the effects of torture. The psychiatrist treating her has reported: "In Canada she has continued to suffer from a Post-Traumatic Stress Disorder which resulted from her detention and torture in Iran. She has had difficulty sleeping with bad dreams, intrusive memories of her upsetting experiences, excessive anxiety with physical symptoms of tension, depression and increased upset when she has reminders of her experiences in Iran, such as hearing sirens or seeing people in Canada that remind her of the authorities in Iran."

The separation from her older son, with whom she spent five years in jail, only adds to Farideh's pain.

Pascal has been waiting for four years for reunification with his wife and five children. Recently his wife had a very serious accident and is confined to a bed with a fractured pelvis. There is no one else to look after the children. In despair over the situation, Pascal threatened to commit suicide in front of the CIC offices in order to let Canada know how they are making refugees suffer. Members of the community are working to give Pascal psychological support.

“It’s more than a nightmare for me. The stress is making me ill. I have to take pantoloc for heartburn, and my doctor says the cause is stress and anxiety. I was a taxi driver in Algeria. Recently I failed a taxi exam. I couldn’t do it - my mind was elsewhere. My wife, who is a seamstress by profession, can’t touch the machine any more. Sometimes she asks herself what she is doing here, that she should be in Algeria with her daughters.” Comments of Mahmoud, whose two oldest daughters were left behind in Algeria more than 4 years ago.

c) Loss of Trust

Many refugees who have lived through prolonged family separation have seen doubts arise in the minds of their family members, who suspect that if their spouse or parent really wanted them to come, the process would have moved more quickly. Many refugees come from countries where bureaucracies can be made to move by using connections or paying bribes. Family members may suspect that their relative is not making the necessary effort. Or they have an image of Canada as a highly developed country whose government processes must be swift and efficient, and suppose that the delays must therefore be caused somehow by their relative.

Marie is waiting in Canada for reunification with her husband. He has told her, “I know that you are using administrative delays as an excuse for deceiving me. Canada is an organized country that could not create such a situation. You have figured out how to exploit the fact that I’m not around. I am letting you know that I have taken up with another woman too.”

Selvan fled Sri Lanka and arrived in Canada in September 1999. He was accepted as a refugee in June 2000 and applied for permanent residence for himself, and his wife and two children remaining in Sri Lanka. His family members were interviewed in June 2001, but have not yet been sent for medicals. CIC has responded to requests for information by saying that there is a delay and that it is not known when there will be progress. Finally in July 2004, Selvan received a letter from CIC asking him to bring in his original documents for verification.

Selvan’s wife is extremely upset and depressed at the separation of over five years. She has stopped talking to her husband. Selvan has asked a counsellor at a community organization to call her and try to explain the situation.

The situation may be particularly difficult to understand for children, who try to make their own sense out of what their parents tell them.

A child from the Democratic Republic of Congo waiting for his father to come to Canada told his classmates: ‘You know, Papa left us with Mama. He won’t be coming back. I’ve prayed a lot for him to come, but he won’t. Now I have to look for another Papa.’

Irénée is waiting for reunification with his wife and six children who remained in Kinshasa (Democratic Republic of Congo).

Since Irénée’s departure the children have had to drop out of school because their mother can’t pay the costs. The family has had to move. The children have rebelled against their father, asking, “Why did you bring us into the world if it is only to condemn us to becoming street kids? You abandoned us to go and live in peace in Canada while we are living here in misery, while we have nothing.” When he heard this, Irénée burst into tears. He then tried to explain that these are administrative delays. His oldest son responded: “Can Canadians themselves accept being separated from their children and their wives for 2 or 3 years? Dad, ask one of the officials who is married and has children if he could bear such a thing.”

d) Increased Need for Services

Family members who have waited for years in precarious situations are likely to have greater needs when they finally arrive in Canada. Children who have missed several years of schooling will need more help when they enter the Canadian educational system. Families who have been living in dangerous and unhealthy conditions, with limited access to health care, are likely to need more from the health care system than if they had been brought out of such situations as quickly as possible.

e) Stress on the Family Relationship after Reunification

After a prolonged separation, the hoped-for reunification may bring new challenges, because distrust has entered into the relationships, and family members have grown apart. Some marriages break up.

The relationship between the parents and children cannot be the same after years of separation. The children have been maturing, with one or both parents absent. In addition, if the children have felt abandoned and betrayed, it is not easy for them to trust their parents again.

Sophie fled arrest, detention and rape in the Democratic Republic of Congo in 1997, leaving her 6 and 8 year-old sons behind. In 2003, after interminable delays, the family was finally reunited, the boys now 13 and 15. Sophie no longer recognized them, but she was happy.

Several months later, Sophie was in distress again. Her sons didn’t consider her as their mother and therefore showed her no respect. She was very worried about them as they were not making an effort at school and were mixing in dubious company. She had lived in the hope of being reunited with her children, but now she finds she has lost contact with them.

8. CONCLUSION

No one wants refugee families to be kept separated. International human rights standards call for expeditious reunification. The *Immigration and Refugee Protection Act* is designed to reunite families. Ordinary human compassion demands that families be allowed to be with each other. Concern for societal costs dictates that periods of separation should be kept to a minimum.

The government has attempted to speed up family reunification by making some minor adjustments to policies. These efforts unfortunately have not solved the problem.

The CCR therefore recommends a simple solution:

That the spouses and children of people recognized as refugees in Canada be brought immediately to Canada, to be processed here.

This recommendation has a number of advantages:

- It does not involve extra costs. In fact, having family members processed in Canada saves expensive visa office time.
- It should reduce costs to society because the quicker family members come, the less they will have been exposed to situations of danger and deprivation.
- Refugee families who are reunited quickly can support each other in their integration into Canadian society and will be able to contribute more quickly economically and socially.

The recommendation takes into account that:

- The overwhelming majority of family members of refugees do eventually come to Canada. The process, long though it is, does not actually result in screening out a significant number of cases.
- Refugee claimants are required to identify family members as soon as they make their refugee claim. Unless there is some evidence to call into question the relationship, those identified may be presumed to be the refugee's family members.
- Every day the Canadian government issues thousands of visitor visas, through a speedy process that nevertheless takes into account health and security concerns. A similar process could be used with respect to family members of refugees.