



Justice and Home Affairs Committee

Corrected oral evidence: Family migration

Tuesday 12 July 2022

10.05 am

[Watch the meeting](#)

Members present: Baroness Hamwee (The Chair); Baroness Chakrabarti; Lord Dholakia; Baroness Hallett; Lord Hunt of Wirral; Baroness Kennedy of The Shaws; Baroness Primarolo; Lord Ricketts; Baroness Sanderson of Welton; Baroness Shackleton of Belgravia.

Evidence Session No. 1

Heard in Public

Questions 1 – 14

Witnesses

[I](#): Dr Helen Connolly, Senior Lecturer in Sociology, University of Bedfordshire; Raquella De’Gessio, Head of Operations and Services, Reunite Families UK; Rosalyn Akar Grams, Managing Director of Legal Practice and Children’s Rights, Coram Children’s Legal Centre.

USE OF THE TRANSCRIPT

1. This is a corrected transcript of evidence taken in public and webcast on www.parliamentlive.tv.

Examination of witnesses

Dr Helen Connolly, Raquella De'Gessio and Rosalyn Akar Grams.

Q1 The Chair: Good morning and welcome to the House of Lords Justice and Home Affairs Committee and our inquiry on family migration and particularly the different approaches to family across the system. As this is the first oral session of this inquiry, when each member speaks for the first time, may I ask you to declare any interests orally, as well as filling in the form that we normally have. I chaired an APPG on Migration inquiry into the then new family migration rules. We published a report in June 2013, so you might say that I have form in this area.

I know that you have each seen the questions that we want to explore. There will be a temptation to say everything right at the beginning. Can I ask you to try to resist that? This is a pretty open-ended question about the different scenarios in which our rules mean a long or indefinite period of separation for families, and what differentiates that separation through our immigration law from other family separation. We have quite a long briefing, so you do not need to give us too much of a teach-in. It is more your own responses to the impact.

Dr Helen Connolly: Hello. Thank you for inviting me here today. It is a good opportunity to speak about my research and to share the voices of children with you, which is always at the heart of the work I do.

In response to the first question, I will focus on unaccompanied refugee children, if I may. The Immigration Rules see unaccompanied refugee children having to face a life without those they love, without their closest family members. In many ways, those rules set the context for an indefinite separation between unaccompanied children and their families.

The scope of the impact of the Immigration Rules is therefore profound for many unaccompanied refugee children. They do not make provision for refugee family reunion—for unaccompanied refugee children to be joined by their parents, care providers or other close family members such as siblings.

This is a blanket policy, which creates a legal anomaly, as the rules recognise the right of an adult to be reunited with their immediate family, including their children, but deny that wholesale to unaccompanied children.

The procedure also creates another anomaly, in that there is a difference between this position and the Home Office's position relating to reuniting asylum-seeking children with families outside the UK. Home Office guidance on children's asylum claims highlights the primary importance of family reunion for children's best interests. The Government suggest, in the Home Office guidance, that there is some room for movement in that policy, that it is discretionary and that children can apply outside the rules on the basis of exceptional or compassionate circumstances.

In reality, although the Home Office has this large discretion to grant family reunion more generally, it is exercised rarely. This was picked up in the research I did with

Amnesty, the Refugee Council and Save the Children; the report is called *Without My Family*. Not only is it exercised rarely, but my research also highlighted that those discretionary applications are also often refused in the first instance, although they are sometimes overturned at appeal. That infrequent use and infrequent positive outcomes of the discretionary procedure mean that, in reality, it fails to tackle the lack of protection of a refugee child's right to family life that is caused by that blanket policy.

My research with children on the impact of the lack of family reunion rights shows that it is devastating for many unaccompanied refugee children and young people. Separation from family is devastating for most people and most children. We know that unaccompanied refugee children have faced grave human rights violations against them, including: genocide and ethnic cleansing; living in besieged cities; bombings; persecution; terror; threat to their life, liberty and security; and forced military recruitment.

For a policy to sever the possibilities of protection, recovery and stability that can come from the love, care and interdependence of families is deeply concerning. It places unaccompanied children in what Harvard legal scholar Professor Bhabha refers to as a normalised state of exception, where their rights—or rather their right to have rights—are diminished relative to other children. Comparatively, we see the right to family life recognised in other spheres of domestic legislation and policies.

One just needs to turn to the principles of child law in the Children Act 1989. One of the fundamental principles of that Act is a whole-family approach to children's outcomes, working in partnership with families to keep them together where possible. That thread continues in subsequent statutory guidance, legislation and policy, but there is not that same recognition of the significance of family for unaccompanied refugee children. So in law and policy terms they are placed into this normalised state of exception.

The lack of the protection of family for refugee children in law is profoundly different from the emphasis that many refugee children themselves place on family and the love of their family. If I may, I will highlight this by bringing into today's session a quote by a young person who took part in my research on family reunion. The young person from Darfur said, "Family is everything, an absolutely magnificent thing. When you say family, it is simple, it is life. They give you inspiration and everything to move forward with life ... I haven't seen my family for nearly three years now. It is a long time and I miss my mum. I cannot explain what this feels like. A mum—she gives me life ... She is like my beating heart. Being without your family is like you have a body without a soul".

Q2 Lord Hunt of Wirral: There are all these different scenarios, which you have described. Perhaps I could go to Rosalyn Akar Grams for her views. What do all these various scenarios have in common, and what differentiates them from familial separation that is, really, unrelated to immigration law?

Rosalyn Akar Grams: The key feature of this form of separation is that it is not through any form of choice. It is enforced on these families. These are families who want to live together, and the end result is that children are growing up separated from their parents. Often in these situations where there is prolonged separation, it is also very difficult for these families to maintain contact. Dr Connolly has talked about the situation for child refugees. An example might be an Afghan child refugee here in the UK who may have extremely limited means to contact a sibling, either still in Afghanistan or in a refugee camp somewhere around the world.

Timescales are very uncertain. That is a difference from other forms of separation, where you might have a defined timescale. The uncertainty of the process and the point at which somebody would be able to gain family reunification remains uncertain, and that presents a lot of stress and strain for the families.

I will highlight a few other scenarios, going back to the original question. Dr Connolly has talked extensively about the family reunion situation, which I would echo, especially the rights for refugee children. I note that, under the Nationality and Borders Act, group 2 refugees, which includes those who come through irregular routes, will not be entitled to family reunion unless that breaches international obligations under the ECHR and other international obligations.

The other few scenarios that I would like to highlight are situations in which there may be indefinite or extended periods of separation. There are families separated by the minimum income requirement for spouses under Appendix FM. I imagine that Ms De'Gessio will have more to say on that from her work. I also note, for example, that people who do not get to the point of settled status where they can sponsor a family member or who do not get refugee status—such as Ukrainians in the UK on short-term visas under the Ukraine extension scheme—do not have family reunion rights through that process.

There are two more. We see many children of parents who are settled in the UK struggle to meet the Immigration Rules under paragraph 297. Typically, a sort of scenario we might see would be a single parent here in the UK with settled status trying to bring over a child from abroad. The evidential requirements and the thresholds that have to be met to establish that that parent has sole responsibility for the child, or that there are exceptional circumstances, or that the other parent is deceased can often be very difficult to prove.

Lastly, there are people who might be on the long—10-year—route to settlement and who have temporary status with no right under Appendix FM to sponsor a partner, for example. In order to secure their settlement and continue with their life here in the UK, there are limits on the amount of time they can spend outside the UK, so they do not have the option, for example, of living with a family member abroad.

The Chair: You mentioned siblings. I have come across situations where one son has travelled hopefully ahead of his family, and then another son has travelled, but the two brothers cannot actually meet. Is that a fairly common situation, and do you

want to say anything about this?

Rosalyn Akar Grams: That is something we probably see quite regularly with our work with unaccompanied children arriving in the UK. They might have started their journey together and become separated en route, or one child was simply able to flee and fled first. Certainly an application on that basis is outside the Immigration Rules. The threshold is quite high. You have to show a lot of evidence to establish the relationship, the dependency and the exceptional circumstances in which the other sibling may be living abroad. Those applications can be very challenging. They can take many months and, ultimately, often go through appeal processes, which of course causes further delay.

The Chair: I am very tempted to ask you about push and pull factors. We hear quite often from Ministers that sons in particular are sent on ahead, with the expectation that family can follow. I do not want to go too far down the route on this. In this context we are looking at the impact, but if there is something very short you want to say, it would feel odd not to ask you.

Rosalyn Akar Grams: There are various reasons why one family member might come sooner, might leave, might have the opportunity. In our experience, ultimately the child is a refugee, has fled persecution and is recognised as such in the UK, and is then trying genuinely to be reunited with family members.

The Chair: Thank you. That was beautifully put.

Q3 Baroness Primarolo: Before I ask my question, I declare an interest. I am on the supervisory board for Thompsons Solicitors. It is listed in the Members' interests register. I do not think it is relevant, but I want to be careful here.

I turn to the question of the best interests of the child, a concept that many of us think we are familiar with, but when we dig down into it it is perhaps not quite what it seems. How much weight is given to the best interests of the child in family immigration policies? In particular, at what point over the course of a family's journey through the Immigration Rules are the best interests of the child actually considered? Rosalyn, I know you have done a lot of work in this area. Perhaps you could start.

Rosalyn Akar Grams: International and domestic law tells us that the best interests of a child should be treated as "a primary consideration" in the formulation of family migration policies and other immigration policies. As the committee will be aware, domestically that is through the Section 55 duty for the Home Office to carry out its functions in a way that takes into account the need to safeguard and promote the welfare of the child.

However, in our experience over many years, the immigration system fails to do this. We would really like to see, for example, clear child rights impact assessments completed in the formulation of legislation, which we did not see in the 2014, 2016, 2020 and 2022 Acts. In the context of unaccompanied asylum-seeking children, the Chief Inspector of Borders and Immigration report in 2017 noted that inspectors

had found that the Home Office staff were not giving full consideration to the child's best interests in refusal decisions. We believe that this lack of full consideration is fairly widespread across all immigration routes. We would be keen for the independent chief inspector to look at best interests in other areas.

There is reference to that Section 55 duty in various Immigration Rules, including Appendix FM and policy guidance. Where it actually appears in the various rules and policies can vary. On occasions, in a policy directly related to children, it might be in an opening statement. Often in the rules it is structured in such a way that it comes at the end of all other considerations. In practice, we find that it means that the child's best interests are not looked at at the start of the process, which we would say is the correct approach. More often, it is given cursory consideration at the point of decision and with no clear articulation of what consideration has been given to the best interests of a child. It comes very late on, is the short answer to the question.

One positive development I would mention is that the Home Office is looking at simplifying the Immigration Rules. Coram Children's Legal Centre has been involved in the review committee, and our aim is to try to ensure that children's best interests feature appropriately through the rules. We see this as an opportunity for the Home Office to address the complexity of the rules and ensure that children's best interests appear appropriately as "a primary consideration".

Baroness Primarolo: Could I ask you to expand very briefly on the other considerations? You talked about a balance with other considerations.

Rosalyn Akar Grams: Under the Immigration Rules, there is a balance with the other considerations: legitimate aims, national security, economic well-being, prevention of crime and disorder, and the health and morals of society. There is guidance through the Immigration Rules and in the Immigration Act 2016 directing judges as to how to balance the two. Ultimately, we would say that the first approach should be to consider the best interests of the child and then look at whether there are other reasons that would displace the child's best interests. That is consistent with domestic case law over a number of years.

Q4 **Baroness Shackleton of Belgravia:** This might be a very stupid question. I apologise in advance if it is. My practice is not in this area. What is there to stop a child who is habitually resident here applying for wardship? At that juncture, Section 1 of the Children Act kicks in. It is not best interest, but children's interests are paramount. Do you ever use that as a tool?

Rosalyn Akar Grams: We often find that there is a slight difference between the family court system and the immigration court system. There is a lot to be learned from the approach that is taken in the family court system. We work with a number of children in the care system, but, ultimately, when it comes to the immigration decisions, the guidance is "a primary consideration".

Baroness Shackleton of Belgravia: If a child is suffering and they are habitually

resident in this country, they can apply for wardship. That is an ex parte application, and it is kicked out only if there are good reasons for them not to be awarded it. If there are enough wardship applications, the Government might look at this a bit differently. It is just a practical idea of how to force people to put the children first, as opposed to one of many considerations that are all put into the mix, and then you do not get a result until it is too late and the damage is done to a child.

Q5 **Baroness Primarolo:** We have drifted to paramount interests, but I am particularly interested in the question of the interest of the child, what it is balanced with and the fact that the Migration Advisory Committee now appears to regret the minimum income requirement.

Raquella De'Gessio: On the subject of the best interests of the child, at Reunite Families we represent British spouses with non-British family members. As we were speaking about the best interest of the child, I was thinking that I would like to give you some examples from members of where I believe the rights of the child are totally disregarded.

We had one family where the mum had been married previously, had four children, was divorced from her first husband, and then remarried a Bangladeshi citizen and had another child. During that visa process, they applied under the exceptional circumstances policy, because mum did not meet the minimum income requirement and mum's brother was going to be solely responsible for the finances of the family. He would be the third-party sponsor. The family were refused, and part of the refusal stated that the four children from the first marriage could leave and go to Bangladesh. There was no consideration whatever of the fact that that would be extremely difficult for them. They are British children, and it would separate them from their actual father.

Another case involved trying to regularise somebody's status at appeal stage, where they were going through the parent of a British child. UKVI decided that it would refuse, and there was also a refusal at appeal due to there not being a court order in place for visitation, even though the mother of the child had written a letter to the court to say that she was happy with the arrangement for visitation and financial support. That was sent to the children and family court for a child visitation order. The children and family court said, "We can't give a visitation order, because you don't have a visa, and it wouldn't be in the best interests of your child because you could be asked to leave at any minute". That resulted in a person going round in circles for five years, with around £25,000 wasted, and in the end deciding to quit and leave and to have no further relationship with their child.

Baroness Primarolo: Helen might also want to come in on this, because she has touched on it.

We are interested in digging down into the child in the family and the social issues for the family. It is really hard for people to understand that the best interest of the child or children is not coming first and that they can go round and round in circles.

Raquella De'Gessio: That is because it is a set of policies that just have guidance, so you are relying on whoever is looking at your case and how they will interpret that guidance. There is no set of rules as in, "You will do A, B, C, D". You are relying on that caseworker and the way they interpret the guidance when they are looking at your application.

Baroness Primarolo: That point about discretion is important. We might have time to come back to it, but I am conscious that there are other questions. Thank you. I have much more to ask.

The Chair: Does the guidance get thoroughly reviewed regularly? Also, are you noticing any change in caseworkers' attitudes in the way they are responding? I know that the length of time is probably an issue across the whole of this.

Raquella De'Gessio: The issue is probably that caseworkers come and go, so the experience is not there, so you may be relying on people who are coming in as juniors and how they interpret the guidance. The guidance on fee waiver, for example, has just been updated. It is a 48-page document. I have read it and I barely understand it, so you probably have entry clearance officers who are just winging it.

The Chair: I should have declared another interest. I introduced two Private Members' Bills about family reunion, one of which got all the way through this House with no problem at all and then of course went nowhere in the Commons. The other one was when we were in the middle of that very short period.

Q6 **Lord Ricketts:** I will pick up from where we got to, which was that the well-being of the child should be "a primary consideration" or, in the case of wardship of court, of paramount consideration. "A primary consideration" suggests that it has to be balanced against other things. You have mentioned national security. There are all kinds of other factors: economic factors, future contribution to the prosperity of the country by a united family, and many other things.

Is there a mechanism, place and process where that balancing off of different primary considerations can be made, or should there be? I get the impression that there is not. They jostle and it depends on individuals and circumstances and how you interpret "a primary consideration" of the well-being of the child. It is a slightly general question, but it is a chance to come back on any aspect of that that has not already been covered.

Rosalyn Akar Grams: This is probably repeating a little of what I have already said. There have been attempts to formalise that into the Immigration Rules and to give guidance and directions to judges through the 2014 Act, but, ultimately, balancing the individual factors in a case is a very fact-specific assessment.

There are some very good guiding principles from our case law. As I mentioned, there is the principle of considering the best interests first and then considering whether there are reasons to displace that. There is the importance, in discovering the child's best interests, to also take the child's own views into account. That matter is often overlooked, so a child's best interests may well be with their parents

and aligned with their parents', but that should not be taken as a given. Other principles include that the child should not be blamed for what they are not responsible for, such as the conduct of their parents.

Finally, although the best interests of a child can be outweighed by the cumulative effect of those other factors, no other consideration could be treated as inherently more important than the child's best interests. It comes down to that two-stage process and it is very dependent on the evidence. A detailed analysis of all the evidence is really important. For example, where families are vulnerable and social services may be involved in supporting them, local authorities are often really well placed to make decisions and recommendations about children's best interests. That is where the decision-maker needs to give careful consideration to those factors.

Lord Ricketts: The point you made earlier about it being taken early in the process, not right at the end of the process, was important as well. Dr Connolly, did you want to come in on how a process could be designed that would safeguard this very important aspect?

Dr Helen Connolly: The one thing to point out is that there is not really any process for the best interests of unaccompanied refugee children to be properly weighted in any assessment, because there is that blanket policy. There is no space in it at all just now, which absolutely contradicts all their rights. I mentioned the state of exception in the Convention on the Rights of the Child. Article 9 and Article 10 explicitly say that family reunification should happen positively, humanely and expeditiously. There is no space at the moment for that for unaccompanied refugee children. It is an impossible state of exception.

There is no possibility of an individual assessment, so the Government's perception of best interests and public interest is much higher up in their moral order than the rights and interest of the children. That has a cascade effect on mental health, with emotional consequences and other things that we will probably pick up later. Living with the extraordinary absence of and preoccupation about the safety of your mum, your father, your siblings is so contrary to any concept of best interest.

That also links with the right in Article 6 of the Convention on the Rights of the Child to life and survival, and to development, which often does not get mentioned. We have no discussion about unaccompanied refugee children's development.

Lord Ricketts: I take away from that the incoherence of government policy.

The Chair: Do you get any detailed reasoning at all behind the best interest not being taken as overriding the other considerations?

Dr Helen Connolly: Do you mean in relation to the public interest considerations and the immigration considerations?

The Chair: Yes.

Dr Helen Connolly: The reason that is given is that they are worried that family reunion will incentivise families to send their children ahead of them as anchor children. I do not know if any of you have read the report I wrote for Amnesty, the Refugee Council and Save the Children. One of the most compelling things for me as a researcher through that process was just how much children, young people and their carers in this country—social workers, residential workers—talked about how those children were anchored in love and not anchor children.

Stories were relayed to me by children and residential workers about their experiences of family in their home country—eating together, cooking together, fishing. In the report I quote a residential worker talking about a boy who was a child of war. When he was traumatised, his mother would get beside him and try to stop him from shaking. The premise that families will be incentivised is very othering, as if families of refugee children are different to families in the UK, where safety is a priority. It is as if the parents or caregivers of unaccompanied refugee children do not have their safety or best interests at heart. It is an impossible position for parents in Syria, in Afghanistan, where we know of the mass humanitarian law violations.

Baroness Kennedy of The Shaws: Listening to you could not but be affecting. One thing that comes through to all of us who are lawyers and practitioners when listening to Baroness Shackleton talking about alternative ways of thinking about this is that it is all seen through the immigration prism.

The problem with going to immigration lawyers when you have a crisis with a family and so on is that immigration lawyers would not for a minute have in their remit the idea of using wardship, because that is what family lawyers do. There is a silo attitude to dealing with these things, which in many ways falls into a culture of disbelief and all those assumptions that underpin a rather negative response to those who are fleeing.

We know from the stories that you are telling, and this is my own experience, that often families, knowing that they are in desperate danger—take the Hazaras in Afghanistan, for example—will sell everything they possess to get somebody who is fleeing to take their child with them. The child ends up without family, but they are trying to rescue their child and give them a chance in life. It is not saying, “Get somewhere and then come and send for us”. That is not what people are thinking about. They are thinking about safety.

I wonder if the lawyering around this has been somewhat driven by a particular set of approaches that does not take account of the underlying thing that a family lawyer, for example, would bring to this. Somehow we should be introducing into the training of people in the Home Office, but also of lawyers, that there are other ways of approaching some of this. I pose that to you.

Rosalyn Akar Grams: That is a really important point. First and foremost, they are children. The immigration process treats them as immigrants first and children

second. One thing that we have found through our casework, like you say, is that, where different legal areas overlap, it can have a powerful and important impact.

In a case I recently ran, a child in care in the UK was going through care proceedings, and there were very strong findings from the judge about the best interest to family reunion with family abroad, in this case in Syria. With permission to disclose those findings through the immigration process, that led to a successful result at first instance rather than it having to go to appeal. The learning that can be brought from across jurisdictions is really important.

Q7 The Chair: Can I continue on this area for a moment? First, do any of you have comments to make about children who would be joining, say, an aunt and uncle because the parents are stuck? Secondly, if they are not recognised as refugees and are not able to stay, would the situation they would be going back to, which might be a camp somewhere in northern France, weigh in the assessment?

Rosalyn Akar Grams: The first question was about potential family reunion, say with an aunt or uncle here in the UK. We make those applications, and getting the evidence to show the family relationship is much more complicated. Those applications can often be more complex, and the immigration system does not always take into account the different family relationships and the different cultures children are brought up in. Very often, in more communal cultures, aunts and uncles may be more actively involved in their care and upbringing.

Those applications can be challenging when it comes to evidence of the relationship and the dependency, and the availability of other carers in the country of origin. There is then the assessment of the child's best interests, and the arguments that the lawyer would put forward about that through that process. I am not sure whether that answers the question entirely.

The second point was about unsuccessful asylum applicants and the position on return. Is that right? In preparing an application, you will always look at the situation that somebody will be returning to and presenting those arguments. If you mean a family reunion situation with a refugee here in the UK and somebody living in a camp abroad, certainly you would make arguments about the humanitarian situation of the person in that camp abroad, and so on.

That may or may not be taken into consideration in the decision, but it is very dependent on the evidence of that situation. We see a lot of cases with a child refugee here in the UK and a sibling who may be in a refugee camp abroad. You would bring arguments about the situation for them in that camp. I am not sure that I answered your question.

The Chair: I was wondering how the arguments featured in a decision. Again, I think what you are saying is that it is very variable and rather depends on the caseworker, again.

Rosalyn Akar Grams: Yes, that is right. It also depends very much on the evidence of that situation. It can be a harder argument to be successful with.

Baroness Primarolo: We have talked about best interest and whether it is paramount. If we look at just one element, the sheer safety of these children, surely nobody would do this to children. I take that back. Where is the consideration of safety, whether they are here, or there is potentially the threat of them being returned to a camp or the country of their parents?

Rosalyn Akar Grams: That argument would be made throughout the application. Often you find that you have to demonstrate that even if the situation in a camp or wherever it might be is dire and inhumane, there is something different for that child as opposed to all the others. That is often the argument that we receive back—that there are many children in camps who are living in these dire situations—yet this particular immigration decision is in relation to this particular child.

Q8 Baroness Kennedy of The Shaws: I want to ask you about education and the common challenges experienced by the children you have been talking about when they are in the school system. How does it affect their academic experience and performance? If any of you would like to talk about that, I would be very interested to hear about it.

Raquella De'Gessio: Studies have been done on parental separation, whether through immigration, divorce or anything else. There are disparities, but mainly they would say that they are seeing the biggest impact on children in the younger ages—five, six, seven. Then there is a gap until adolescence. It is definitely affecting children's performance in schools and it decreases the level of motivation, autonomy and even manual dexterity.

Family separation has been associated in studies with cognitive development and educational performance, since parent separation has multiple negative effects on the children, because the children feel that it is their fault. They take on guilt and stresses and it diminishes their resources and ability to cope, because they are separated from a parent through no fault of their own. It impacts on them very negatively.

It impacts, throughout school, on their motivation, their engagement and their learning-related behaviour in the classroom. They really struggle. Several studies have investigated the impact and timing of parental separation in relation to scholastic performance. Younger children are coming out as having the most adverse impacts, because they seem to feel extremely anxious about abandonment and blame themselves. We are seeing it a lot. We have cases in our community where children are developing mutism, stool-holding, anxiety, depression and PTSD.

Baroness Kennedy of The Shaws: It was quite shocking, reading the reports from the British Red Cross and so on, that even the struggle to enrol in schools is a problem. They can be out of education for extended periods.

Raquella De'Gessio: It takes nine months to get a school place. That is the limit, but it could take longer.

Dr Helen Connolly: Because unaccompanied refugee children do not have family, when they get into a school that makes their experience of school very challenging, because all their experiences are refracted through that absence. In the report I did and in my work with young people, and in other research I have done with unaccompanied refugee children, I have found that their ability to fully enjoy school and achieve their full potential is absolutely hindered. School and college, as we know, are essential in order for young refugees to begin to reclaim a life for themselves and a sense of ordinary living. It links in with socialisation and development again. We do not focus on development and refugee children.

The heartbreaking thing about the way that absence is experienced in their everyday life—in particular, difficulties with sleeping and mental health that impact their schooling—is how, certainly for many of the young people I have worked with, that contrasts with their absolute determination to do good, make good and succeed. Their life projects and ambitions are so motivated by their wish to do well for their families. That paradox of wanting to do well in your life project, wanting to do that for your family and not being able to have that right to family life is absolutely burdensome.

Young refugees want to contribute. One refugee in my project said, “I want to go through my higher education and be a medical doctor—a surgeon. But without my family it’s difficult. I always think about my mum and dad, and when I am at school, college, the thoughts come to me and I can’t study. I can’t concentrate on my lessons and my life isn’t enjoyable without them”. Education and their families are so linked to their future that it is very difficult. That is not to say that they do not do well and do not do the best with what they have, but it is a massive challenge.

Rosalyn Akar Grams: My colleagues have covered it and said it all. What we see with our clients and our casework probably echoes what has been said of the difficulties.

Raquella De’Gessio: It is also good to acknowledge that there are huge fees for visas or for people who are refugees. The options for children who cannot be reunited with their parents who would be able to work are also very limited. You are creating a huge disparity between who could go on to higher education and who cannot.

Baroness Kennedy of The Shaws: I know the problems with the fees.

Raquella De’Gessio: Yes, you are financially impeding people.

Baroness Kennedy of The Shaws: They are charged at foreign student rates rather than domestic rates, and all that. I am very mindful of that.

Raquella De’Gessio: You are already creating that disparity for children of a British and a foreign parent. They cannot afford it, because they are paying visa fees years and years. Children cannot be reunited with their families, who could support them financially in that way.

Q9 **Lord Dholakia:** My question relates to barriers faced by some of the children,

particularly in relation to extracurricular activities and socialisation. In Mo Farah's example, he talked about the fact that his citizenship may be taken away from him. What do you think is precisely going on in this respect in this particular area, in which people could participate but are reluctant to do so?

Dr Helen Connolly: All these questions are so interlinked with education, mental health and the impact that the system is having on young people. In relation to opportunities for extracurricular activities, the same exists. If the absence of family is refracted through their everyday life, it is sometimes difficult for them.

Also, there is a mixed picture of care and support for unaccompanied refugee children. You have some terrific social workers, et cetera, who are getting young people linked in with the spaces that are so important for them to feel alive and to develop safe, positive relationships in this country. There is also no legal guardianship for unaccompanied refugee children, so there is no one taking ownership and supporting them to get linked into those spaces of fun and friendships that allow them to feel alive and feel like a child.

That question is difficult to answer, while also being easy to answer, because, again, it is linked with the dependence on the lottery of who looks after young people, who their foster carers are, whether they have a guardian or advocate. It is mixed, and it is unfair, because they are children and they should be enjoying the full rights of the UNCRC. Fun, play and having those relationships are important elements of that. That also speaks to them being normal children in extraordinary circumstances. It is an important question.

Raquella De'Gessio: I would like to give you a quote from one of our members. She told us that her son had never been able to access extracurricular activities, because she is a single parent trying to save £3,000 for a visa during a pandemic, so there are no finances for extracurricular activities. We see this across the board among our membership. They are struggling deeply financially, so the children are missing out on doing extra things for socialisation and enjoyment.

I will give you an example from my own son. His dad was the coach of a football team that he played for. Then we were unable to regularise his status due to some complications and he had to go home. My son would not go to football any longer because he was embarrassed and did not want people to ask him, "Where's your dad?" Children are finding it very difficult, because they come from a different kind of dynamic to other children and tend to isolate themselves because of this. They do not want to be asked questions and they take the burden on themselves.

Lord Dholakia: We also talk about what is in the best interests of the child against that. We have had cases in the past where the control of numbers was so important that people, particularly from Bangladesh, were actually denied entry to this country—it was a classic case in the 80s—until DNA was discovered and it was found that they were really the genuine children of parents who were in this country. Have you ever had the opportunity to look at any instruction given to the immigration officer and entry clearance officers on these sorts of matters in

controlling the numbers, rather than looking at the interest of the child?

Raquella De'Gessio: Do you mean with DNA? They would look only if they wanted to prove that the foreign parent was not the parent, so not in a positive direction, more in a negative direction.

Q10 Baroness Shackleton of Belgravia: Thank you all very much. It is heart-rending but very interesting. We have touched on this quite a lot. Declaring my interest, I have, over the period of my career, done a lot of applications to remove children from this jurisdiction and put them in foreign jurisdictions because one parent wants to relocate. The court goes into some considerable detail. We are back into the paramountcy test here. The court is directed to look at it as a paramount concern.

There are all sorts of psychological and physical problems with separating children from their parents, visiting them and so on. It is a very difficult decision for judges. It is one of the hardest sorts of cases that I do, because you know that the life of that child will be changed irrevocably, although there will be some contact.

You have gone into the emotional impact on children in quite a lot of detail, particularly Dr Connolly. One of the focuses on children, and indeed people generally, is an idea of certainty, a feeling of routine, the managing of expectations and so on. At what stage do you say to a child, "It's no good you thinking that mummy and daddy are going to come and join you. We're going to put the best support system in place, because that's exceedingly unlikely to happen. They want you to do well"—as Baroness Kennedy says—"and you're the beacon of hope for them"? Somebody needs to manage their expectations to limit the emotional harm that can be caused by this dream that everything will be okay or that they could somehow be responsible for reuniting their family.

Dr Helen Connolly: That is a difficult question. Those conversations are very difficult for practitioners to have. They are practical conversations. They are realistic conversations in the context of law and policy, but they are very difficult conversations for a young person to comprehend. As I said earlier, young people try to get on in that space of absence, but at what cost? A lot of good care goes in around children and young people at times, but, again, going back to the mixed picture of care, not everyone will have those conversations with young people. They also have conversations with each other about it. I have heard them do that as well and support each other in that absence.

Baroness Shackleton of Belgravia: I was just wondering about when it turns from hope to the reality that it is not going happen, and that full adoption is a better solution, because then somebody will be responsible. It might not be their own family, but it may push the child forward and enable them to reach their potential.

Raquella De'Gessio: Of course, you can never tell when those impacts on a person will rear their ugly heads. It may be that those impacts are seen in adulthood and the damage has been done. If it happens in the formative years of nought to seven, you may not see those impacts until your teenage years or your twenties. At some point, you will see those impacts, and it will impact that person greatly. Telling

someone that they cannot be with their family in any circumstances is a horrendous thing to have to do.

Dr Helen Connolly: Certainly with a lot of the young people I have worked with, it feels arbitrary, and that is a very complex thing to have to process. Why is this happening? That also speaks to the CRC and no arbitrary interference in family life, and that arbitrariness is felt by young people. Even if they are being practical and pragmatic, looking forward and doing their best to steady and to settle themselves in, they are still having to live with the emotional consequence of trying to process that arbitrary nature of Immigration Rules and power.

Baroness Shackleton of Belgravia: What if the concern is a monetary concern about immigration and bringing the family because they then became dependent on the state or whatever? Has research been done as to the cost of immigrant or refugee children who are then dependent on the state who would otherwise not be dependent on the state had they had the right to family life or could have had that chance? Has somebody tracked these poor children who have lived in isolation over here to find out what happens to them when they need to get a job or, as with your son, when they need to play football, and to find out the impact of not being able to be self-sufficient? These children who would otherwise be doctors or realise their potential then become dependent.

Dr Helen Connolly: A lot of research tends to focus on that formative crisis point, and there is not much long-term research. It is not really there. Again, going back to that point about there not being much focus on development and outcomes, we talk about outcomes in children's social care, but we tend not to see the word "outcomes" in law and policy on unaccompanied children, so there is not a lot of research on that. I enjoy watching parliamentlive.tv, and I heard a reference to an economic figure.¹

Baroness Shackleton of Belgravia: Would it be helpful if they were tracked?

Raquella De'Gessio: Yes, on various levels, even in family immigration. If you are preventing a family from being reunited, preventing mum or dad from coming here, where both can go to work and contribute, but you are keeping mum on benefits, it negates the point. You do not want dad to come here because you do not want him to claim benefits, but you are happy to keep mum here by herself and she is claiming benefits, and then you are decreasing the opportunities for the child. That is always what it is about: you are decreasing the opportunities that the child will go on to have.

Part of the Children's Commissioner's call for evidence, which we took part in, is about those disparities and how much a child starts off at a disadvantage to other children. Article 8 is about the right to family life. What is happening now? The Government are trying to remove that. That tells us that they have no respect for

¹ The witness has clarified that this refers to the Second Reading of the Refugees (Family Reunion) Bill [HL] in the House of Lords in July 2022 (HL Debs, 8 July 2022, [cols 1230-1233](#) [Lords Chamber])

family life, so they do not have respect for children, do they, because children are family?

Baroness Shackleton of Belgravia: I would not necessarily say the Government have no respect for—

Raquella De'Gessio: They do not have a duty of care to them if they want to separate children from their family, do they?

Baroness Shackleton of Belgravia: The children are separated. The question is whether they can be reunited.

Raquella De'Gessio: Yes. By preventing it, you are showing that you are not really caring about it.

The Chair: I hope we will get some evidence next week about the economic impacts of this.

Rosalyn Akar Grams: Could I add a point on the way these factors are considered? Often, the narratives portray family life and children's best interests as private matters, versus immigration control being in the public interest. One of the comments from Lady Hale in a Supreme Court case that Coram intervened in was that there is actually a strong public interest in ensuring that children are brought up properly and have that opportunity. That is the point.

Baroness Shackleton of Belgravia: That is why I suggested wardship, because a judge is then fixed with having to make sure, on the paramountcy test, that the child is protected, so that trumps most other considerations.

Baroness Primarolo: It might be better to get the Immigration Rules right in the first place. Absolutely, it is a great thing to do in the here and now.

Baroness Shackleton of Belgravia: It is, but we know from every other variable we have explored on every Select Committee that that takes for ever.

Q11 **The Chair:** Changing the Immigration Rules seems to sit in the "too difficult" tray.

Could we turn to practical matters? Would you like to say something about the practical issues faced by separated families? You have touched on it already.

Raquella De'Gessio: At the moment, we have to meet the minimum income requirement, for instance. Practically, that will be quite difficult for families. We have a cost of living rise, which means that families may be able to meet the minimum income requirement now because the national minimum wage has risen. It is possible that you will meet that requirement, but then you have the extortionate fees to find. If mum is going to work and needs to pay childcare—childcare is quite expensive these days—and on top of that we have the rise in the cost of living, it is more than likely that families will stay separated because they cannot afford the huge fees.

Of course, we have the fee waiver, but it is about the practicalities of it actually working. There is no timescale on it. Fee waiver is an application in itself anyway; it takes a lot to complete that, and then there is no timescale, so you could be left waiting for a lengthy period. One member waited two years and was then told no. That is a long time to keep people separated while they are waiting for an acknowledgement that they will get fee waiver. The guidance on fee waiver is not clear. It is all down to interpretation and looking at your bank account and deciding what your essential spending is. We had one lady whose son was autistic, and he would only eat McDonald's, so she was consistently buying McDonald's, but that is looked at as a luxury. It is very difficult.

Also, if you are applying for fee waiver in country—so if you are going to the next stage, which is further leave to remain—and you cannot afford the fees, you could be taken right up the wire of 10 days before and told, “No, you don't qualify for fee waiver”. You are then pushing somebody into having no status in country, and the impact that will have on the family is devastating. Although we are looking at people who may be able to meet the minimum income requirement, they are still—

The Chair: It is not the end of the story.

Raquella De'Gessio: No.

Baroness Kennedy of The Shaws: I was interested in Raquella's story just now about an autistic child who wants only one kind of food. Of course, that can be supervised—often, very painfully, almost micromanaging a person's existence—by looking at what people are spending their money on. You find that the caseworker is looking at how you spent the money that is on your card to see whether you are buying things that they approve of you buying. It is a pretty shocking way of having to live your existence. It is a form of coercive control.

Q12 **Baroness Hallett:** We have focused so far largely on the impact on the child, for very good reason. What about the impact on the parents and siblings? To what extent do family migration rules impact on their ability to integrate in British society and social cohesion?

Raquella De'Gessio: Is this about, say, a British family with a foreign partner?

Baroness Hallett: Basically, the parents or a parent and a sibling are here, and they cannot reunite with their child elsewhere.

Raquella De'Gessio: Would you be interested in the case of a child from a previous relationship? You could have the parents here—a British spouse and a non-British spouse. He may have a child from a previous relationship that he will have to leave behind, and probably they will not be able to reunite for a very long time because they will not be able to afford the extra visa fees for that child. We have one family now where a daughter has had to be left behind with a grandfather and uncle. The family are very concerned for her safety and have put CCTV around the whole of the house just so that they can watch her and make sure that she is taken care of, but

they have no way of bringing that child here because they can barely afford the visa fees for the husband. There is no way of reuniting the child.

There is also the impact of elderly dependent relatives. As of 2012, it is really a ban masquerading as a rule. If you need to take care of your elderly parents and you are in this country, you will find it almost impossible to sponsor your elderly parents. That prevents your family being together and you taking care of your wider family.

Baroness Hallett: How does that impact on the ability of the people who are here, and who cannot reunite with the child, to integrate into British society? Maybe they have come here with babies and there is an older child. How does it impact on the whole family's ability?

Raquella De'Gessio: Many of our members have told us that they feel that by being married to somebody who is not British they are traitors. They are already not part of society because they are looked upon as different. They do not feel that they have any rights to family life, so they tend to isolate themselves because people do not understand. The pat answer will be, "But you're British. Why can't you have your husband here? Why can't you have your child here?" People do not understand the rules, so they tend to isolate themselves from other people through embarrassment and not being able to afford things.

In general, they just do not want to share their stories. A lot of people are suffering with PTSD through separation, so they find it very difficult to integrate into society. For people who have been separated for long periods and then reunited, the non-British partner will be impacted, and their integration will be affected by that, along with their children.

Baroness Kennedy of The Shaws: Baroness Hallett was thinking of families, and I gave the example of a family who is persecuted in a particular country and encourages somebody who is getting out to take their child with them. It might be a father getting out with one of the children, because he is most at risk of beheading or slaughtering by an extremist group and the wife and other children are at home. What is being asked about is not a British person marrying somebody else, although that obviously presents problems too. What about that separated family unit? How well does that enable someone to settle in this country? What are the implications in a situation like that, or have you no experience of that, Rosalyn?

Rosalyn Akar Grams: It is extremely difficult, especially in a circumstance like that where you still have family abroad who may be in a very precarious or dangerous situation. For the clients we work with, even if they are getting to the point where their own status is secure, there is a constant, psychological barrier in thinking about family members who have been left behind. We have worked with newly arrived Afghan families, and their absolute concern, almost beyond their immediate concerns for their education and housing, is the family that has been left behind.

Q13 **Baroness Primarolo:** I wanted to ask about a slightly different point about the minimum income requirement. It is a point that one of you made earlier. Many of

the parents will have lots of jobs in precarious employment practices that make the qualification for the minimum income more challenging—to put it delicately—if not impossible. Clearly, they are also absent. A vicious circle appears to open up. In order to get the money and the income guarantee, suboptimal employment is entered—in other words, somebody is working not as they are qualified to work but just in whatever they can get to get to the minimum income guarantee as quickly as possible. There is loss in employment potential, but there is also impact on the children, because, if there is only one parent, they are absent.

Raquella De’Gessio: Yes. They are separated from one parent who is not in the country, and then from the other parent because they are working, and working to meet that minimum income requirement. Basically, the child is doubly suffering with separation anxiety, because dad is elsewhere and mum is just working. The mental health impacts on the child are quite devastating, with anxiety, separation anxiety and depression.

Baroness Primarolo: Presumably isolation of the family—

Raquella De’Gessio: Yes. One child, whose grandmother was taking care of her because mum was working and dad was not there, became very resentful of the grandmother and did not want to spend time with her. They are a child; they do not understand. They just understand, “Mum’s not here. Dad’s not here. I’m on my own and I’ve had to go with grandma”. Maybe they understand: “I never lived with grandma or spend a lot of time with her”, or, “Grandma is replacing mum and I don’t like that”. The impact on the family unit is double. It is a double-edged sword.

Baroness Primarolo: In terms of society, it is a loss to all of us.

Raquella De’Gessio: Yes. It is a double-edged sword for everyone.

The Chair: There will of course be an opportunity for you to come back to us in writing. I will ask you at the end to write to us about a particular area, but is there anything more you would like to say now?

Dr Helen Connolly: I wanted to end with this. The recent independent social care review emphasises how to transform social care through relational protection, and boldly uses words like “love”. That language is very important for thinking about all groups of migrant children and unaccompanied refugee children in relation to family reunion.

Raquella De’Gessio: I want to end by saying that integration was cited as a major reason for the minimum income requirement. Through our membership, we can see that the impact is the exact opposite, because we are forcing families to separate, forcing people into single parenthood, and denying people the opportunity to participate in the economy and to provide for their own families. Its impact is the exact opposite to what it set out to do.

Rosalyn Akar Grams: I would like to finish by thanking the committee for establishing this inquiry. It is a really important inquiry. It is really valuable to be

looking at family migration in the wide context in which you are. The system is so very complex, and families find themselves in very different situations in that context. For us, the most important concern, as I have said several times, is ensuring that children's best interests are at the forefront of all those considerations. Thank you for hearing from us today.

Q14 The Chair: We have not finished yet. I am not exactly giving you homework, but if you have further thoughts on two particular things, we would be interested in hearing them. One of our concerns is the impact of different pathways and the different ways in which these issues are treated. Can you say anything about the distinction between someone coming from, say, Syria on one of the programmes, and coming on the other regular pathways as well as the irregular ones?

The other thing that has come over to me very clearly is the happenstance of all this—the chances of who you will encounter when meeting the entry clearance officers, social workers, foster parents and so on. If there is any more that you would like to say on that, I would be really glad. I am sorry for putting another burden on you, but you are all living and breathing these issues. It has been really helpful. Thank you all very much.