



Submission to the Joint Committee on Justice and Equality

Safe Passage: A New Approach to the Refugee Crisis – Humanitarian Admission for Families Fleeing Conflict

I. Introduction

We are currently witnessing the largest global humanitarian crisis the world has seen since the end of World War II. Over 65 million people are displaced worldwide and in 2015 alone 1.2 million people sought protection in Europe. As there are few legal routes of migration available, people are forced to make this journey across the sea in unseaworthy vessels and are at the mercy of people smugglers and traffickers. This crisis has resulted in the deaths of over 7,000 men, women and children since 2015. The majority of those arriving in Europe come from refugee producing countries, such as Syria, Iraq, Somalia and Eritrea.

Ireland's response to the crisis began well with the deployment of our Navy in the Mediterranean on lifesaving missions. Ireland's response increased when the Government voluntarily committed to take 4,000 refugees and asylum seekers under the EU Resettlement and Relocation Programme. These commitments are being delivered through a new programme entitled the Irish Refugee Protection Programme (IRPP), which prioritises those fleeing the war in Syria. However, progress on our actual intake of people under the relocation plan has been extremely slow. To date 377¹ programme refugees have been resettled in Ireland. In contrast, only 69 asylum seekers have been relocated to Ireland, with another 40 due to arrive in the coming months.

In the meantime, many people already legally resident in Ireland or naturalised here are desperately seeking to bring family members out of conflict zones, and are experiencing significant delays and refusals in the processing of their visa applications for family unity. These people are willing and able to provide for their family members when they arrive with no additional cost to the State. More must now be done to bring these families together in a safe and legal way, to remove the need for them to undertake dangerous crossings, and to stop the smugglers profiteering from this human misery.

Nasc has a pragmatic, cost effective and efficient solution to this problem, that ensures the safety of those seeking protection while also promoting integration and reuniting families – a true cornerstone of our national identity enshrined in our Constitution and idealised in the 1916 Proclamation, which we commemorate the centenary of this year. Potentially hundreds of people could be welcomed to Ireland under this proposal, going some way to filling our as yet unfulfilled commitments under the Irish

¹Office for the Promotion of Migrant Integration figures, September 2016



Refugee Protection Programme. Our proposal is based on our 16 years of experience providing legal advocacy to refugees, asylum seekers and migrants, and our direct work over the past several years supporting clients applying for visas to bring their family members to safety here in Ireland.

This proposal was developed in consultation with our clients and has the support of the Irish UNHCR office. In this document we will broadly outline our proposals to provide clear, safe and legal migration routes for people who are currently suffering as a result of conflict in their country of origin and who have family members who wish to sponsor them here in Ireland. This proposal also provides a vehicle for migrants, refugees and new Irish to work together with the Irish people and our government, to harness the outpouring of support and goodwill and offer hope and survival for hundreds of their family members trapped in appalling conditions in conflict zones.

This proposal forms part of a suite of solutions, and is perfect complement to the existing Refugee Protection Programme (IRPP). There is significant international precedent for humanitarian admission and sponsorship schemes, and for the benefits they confer. Schemes of this nature lead to faster, safer and more positive integration opportunities and outcomes for recipients.

II. Proposal

Nasc is calling on the Department of Justice to introduce a humanitarian admission for families fleeing conflict.

1. **Introduce a Humanitarian Admission Programme** for Irish citizens and/or legal residents, to apply for family reunification for extended family members fleeing conflict zones. The model here could be the Syrian Humanitarian Admission Programme (SHAP) introduced by then Minister for Justice Alan Shatter in 2014. This programme, which ran for a limited time, granted permission to 111 Syrians to come to Ireland to join their families who were settled here. By introducing a new programme, we have an opportunity to build upon the SHAP and develop a programme that is more timely, effective and efficient for the State and families alike. The enhanced programme would include a 'co-sponsorship' element, which would allow Irish citizens, community and faith based groups, charities and NGOs to support a family reunification application, providing financial, social and institutional backing and thus improving a person's opportunities for integration. This co-sponsorship aspect allows the Irish government to harness the outpouring of support and goodwill coming from Irish society in support of those fleeing conflict, while also easing the financial burden on the host family in Ireland and on the Government to provide for those who have newly arrived.



- 2. Take a greater humanitarian approach in decision making on all family reunification applications.** This would include the use of positive discretion when adjudicating applications for extended family members of refugees. It would also include the implementation of the provision in the non-refugee family reunification policy, which gives decision makers the discretion to grant family reunification in cases where the requirements are not met. This already existing policy can be triggered in exceptional cases of a humanitarian nature – all that is required here is for the State to implement its own policy. The current and ongoing conflict in Syria and resultant profound impact that this war has had on upon the civilian population would, in our view, constitute an exceptional case of a humanitarian nature.

The proposal is modelled on humanitarian admission programmes and private sponsorship schemes in place in other jurisdictions, including Canada and Germany, as well as the Irish experience with the 2014 Syrian Humanitarian Admission Programme (SHAP). Our proposal is designed to complement the Government-agreed resettlement and relocation quotas to address the current humanitarian crisis.

Under SHAP, Syrians living in Ireland (legal residents and naturalized citizens) were invited to sponsor an application for extended family members living in Syria or in surrounding countries or in refugee camps. 111 Syrians were granted permission to join family members here. However, the figures for the numbers who actually entered are unavailable. Nasc is aware of at least two cases where the permitted family members died or went missing before they had the chance to get their visas, due to slow decision-making under the scheme. Of those who came to Ireland, many are now working and contributing to the economy. Since the SHAP was concluded, the situation in Syria has deteriorated further with greater numbers being forced to make perilous journeys across the sea and families forced into the hands of people smugglers and traffickers.

In the last two years alone, we have worked with our clients to bring loved ones to safety in Ireland and have reunited over 137 families. We have found there to be significant delays in decision making, and a number of incidents where positive discretion should have been applied but was not. In a few cases, the death of a family member might otherwise have been prevented, if decision making on these cases had been expedited. We have seen witnessed Irish citizens unable to bring family members to safety because they do not have an automatic right to family reunification. We have also witnessed instances where family reunification visas are being refused because the criteria, particularly financial criteria, are being strictly applied, even in cases of extreme vulnerability.

We are proposing a targeted, supported, legal migration route for persons in need of protection who have family members living in Ireland. People living in Ireland with family displaced or in conflict zones would be eligible to sponsor family members, both immediate and extended, to enter and reside in Ireland. Community groups, NGOs and groups of private individuals would be eligible to co-sponsor family members of potential applicants living in Ireland to enter and reside in Ireland. Based on the



Canadian 'group of five' resettlement programme, co-sponsors could establish a trust fund or sign formal commitments relating to their obligations in terms of financial resources, accommodation, and employment opportunity and/or integration measures. Sponsorship requests would be made from within the communities where the refugee/person in need of protection would be settled.

In addition, when the new International Protection Act 2015 is commenced it will bring with it a further erosion of the right to family reunification, removing completely the discretionary right to apply for extended family members and introducing a 1-year time limit for refugees to submit an application for family reunification. A humanitarian safety net is urgently needed to ensure families fleeing conflict are reunited in safety.

The key elements of the proposed scheme are as follows:

- a) It would be open to both **immediate and extended family members** living in identified high risk conflict areas and would operate for the duration of a crisis (the person does not have to be a recognised refugee). This should include an option to extend to other areas of concern, as identified by UNHCR, if necessary.
- b) **Existing strict criteria for family reunification** (e.g. financial dependency) **should be eased** when applied to families seeking to flee identified high risk conflict zones.
- c) **All applications should be processed quickly and visas granted without delay.** We propose that the issue of visas should be carried on in the same expedited manner as that for those granted family reunification for a refugee.
- d) **All those legally resident whose country of origin is recognized as a high risk conflict zone and citizens of Ireland are eligible to apply**, including those currently resident under SHAP.
- e) As part of the co-sponsorship applications, **Irish citizens, private organisations, religious organizations, NGOs and community groups** could provide the financial backing to those who wish to apply under the sponsorship scheme but may not have the financial resources to do so.
- f) The sponsored person would initially be entitled to **2 years residency** (renewable and reckonable), **an immediate right to work, a medical card, and travel documents** (if necessary). Sponsored persons would not be entitled to social welfare benefits, including rent allowance or access to social housing for the first 12 months of residency.
- g) For the first 12 months of residency, **the sponsor(s) must commit to providing financial supports to sponsored persons**, e.g. food, housing, clothing, day-to-day living expenses, as well as support



with integration, including accessing employment, language training, and networking with relevant community groups.

III. About Nasc

Nasc (the Irish word for *link*) is an NGO and a registered charity based in Cork. Nasc works for an integrated society based on the principles of human rights, social justice and equality. Nasc offers free legal clinics and provides advocacy in the areas of immigration, protection and social welfare law. One of the key focuses of Nasc's work is reuniting families. Over the past 16 years, Nasc has worked with thousands of individuals and families seeking to bring family members to safety in Ireland. As a result, we have developed knowledge of the issues and barriers that this community is facing when seeking to bring family members to safety. This proposal was developed in consultation with the Syrian community and has the support of the Irish UNHCR office.

IV. Case Studies from Nasc's Legal Service

- A. A Syrian refugee living in a camp in Turkey was granted family reunification with her husband in Ireland. She had fled Syria without a passport after an attack on her town by ISIS. She was forced to return to Syria to apply for a passport at very considerable personal risk when the Irish authorities would not provide a temporary travel document to her to allow her to realise her right to travel to Ireland. Although the Irish Naturalisation and Immigration Service (INIS) had granted her permission to travel to, and settle in Ireland, they would not provide her with the means with which to do so. Although this woman eventually managed to obtain a passport and get to Ireland, we are working with several other families who are facing the same problem. Syrian refugees in Ireland who have family in Turkey struggle to realise their rights to family reunification as they often times face impossible barriers in obtaining travel documents. Turkey does not recognize International Committee of the Red Cross Travel Documents and the INIS will not provide Irish Travel Documents.
- B. A Syrian refugee was granted family reunification with her mother and her sister however an application for her brother was refused. The family had spent its savings sending the brother to study abroad so he could avoid conscription into the military. When his student visa expired and he was at risk of being returned to Syria he crossed a border to Europe to apply for asylum. He is now living in a legal limbo in Europe however no mechanisms exist to allow him to apply for travel to Ireland. The refugee in Ireland is desperately concerned for his health and welfare and



for the health and welfare of other family members left behind in Damascus. There is no way for her to sponsor visa applications for her brother and sister and their families who are living in danger in Syria. The family feel particularly vulnerable as fewer and fewer Christians remain in Syria.

- C. A Syrian man with EU citizenship applied for a visa for his father and two brothers. He has been living and working in Ireland for several years and is a homeowner. He believes that he is well-placed to support his brothers in Ireland and would be able to meet their financial needs until such time as they were able to work. While the visa application was pending his father died from a treatable medical condition. He has now lost both his mother and his father during the conflict. The brothers are now each other's only remaining family. The visa application and an appeal were both refused based on lack of documented financial dependency.

V. Contact Information

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Oral Statement to Justice Committee

Safe Passage: A New Approach to the Refugee Crisis – Humanitarian Admission for families fleeing conflict

Firstly, I want to take this opportunity to thank the Chairman Caoimhghín Ó Caoláin, all of the Deputies and Senators, and the Clerks of the Justice Committee for inviting us here today to speak about our proposal for a humanitarian admission programme for families fleeing conflict.

Nasc is the Irish word for 'link'. We work to link migrants, refugees, asylum seekers and ethnic minorities living in Ireland with their rights. We do this by offering a free legal service and advocacy in the areas of immigration, protection and social welfare law.

One of the key focuses of Nasc's work is reuniting families. Over the past 16 years, Nasc has worked with thousands of individuals and families seeking to bring family members to safety in Ireland. In the past two years alone, we have helped reunite over 137 families, rescuing men, women and children from war, violence and persecution. As a result, we have developed expert knowledge of the issues and barriers people are facing when seeking to bring family members to Ireland.

We have all seen the images on the news or on our social media of people in rickety boats trying desperately to get to the safety of Europe's shores. Families living in hovels or makeshift tents, freezing and starving while they wait for Europe to do something to protect them. We have seen countless images of drowned children, injured children, starving children, children on their own, children at risk. Recent events in Calais are unfortunately just a particularly dire example of this.

We are rightly horrified by these images. And the majority of us want to do something to help. That is a testament to our humanity, our goodness and our belief that we can make a difference. It is a tribute to who we are and the Ireland our ancestors fought to make a reality a century ago.

But the reality is that most of us do not know what we can do. And the Government's response to date, to take 4,000 refugees and asylum seekers over two years - and indeed the most recent commitment to take 200 unaccompanied minors from Calais, while commendable, is simply not enough to account for the millions who are displaced worldwide, or the thousands of children that now live in risk throughout Europe. And it does not even begin to account for those who have been forced to remain in conflict zones – Aleppo, Mosul, Yemen, South Sudan, Eritrea.

Syrians and other refugees and naturalised citizens living in Ireland also see those images, and despair. It is the country of their birth lying in ruins. They still have family – sometimes close family (spouses,



children), sometimes extended family (parents, siblings, nieces and nephews, cousins), fighting for survival that they desperately want to bring here to safety. Just imagine for one moment that those images we see daily were our country and our children.

In the last few years, in the midst of devastating civil war in Syria, Nasc has been working to secure family reunification for many Syrians living in Ireland – some are refugees, some migrant workers, some naturalised Irish citizens. Many of these people are willing and able to provide for their family members when they arrive, so that they will not become a burden on the State. And yet, we are seeing significant delays and refusals in the processing of visa applications, in the offering of travel documents, and in the use of positive discretion to include extended family members.

The failure to positively exercise the exceptional discretion that is currently embedded in both the Refugee Act, 1996 and the Family Reunification Guidelines is a fundamental failure of the Irish government to act on its humanitarian capacities and offer a safe and legal route for people to flee conflict zones and be reunited with family members here in Ireland.

To illustrate the lack of humanitarian or exceptional discretion being used by the Irish Naturalisation and Immigration Service (INIS) in some of their decision making, a letter from INIS issued in 2015 to one of our clients, a well-established and highly experienced professional here, refused his application for a visa for his parents, despite his father being in the late stages of Alzheimer's, questioning the degree of destruction in Syria, stating: "It is noted that central Damascus has been relatively unscathed by the war in Syria."

Another client's refusal was based on his failure to show the financial dependency of his two brothers – for example, records of money transfers to bank accounts in Syria. However, his brothers, like many in Syria and throughout the world, do not have bank accounts. And even if they did, most banks no longer process money transfers to Syria, and even if money does arrive it is likely to be confiscated by the Assad Government.

We have many more stories like these.

Importantly, the imminent commencement of the International Protection Act, 2015 will effectively remove that exceptional discretion for extended family members. So once that Act has been fully commenced – which we are told will happen within the next few weeks – refugees and those with subsidiary protection in Ireland will no longer have the right to have anyone but their close family members (previously married spouses and minor children) join them here in safety.

A safety net is urgently required. Nasc has a pragmatic, cost effective and durable solution that will provide a humanitarian safety net, to bring families together in a safe a legal way, to remove the need for people to undertake dangerous sea or land crossings, and stop the traffickers who profit from this



human misery. It also provides an opportunity for Irish communities to finally do something positive to support those fleeing conflict, by sponsoring a family reunification application and supporting a family in need.

We are calling on the Government to grant safe passage to reunite families by:

1. Introducing a humanitarian admission programme for extended family members, taking the learnings from the 2014 Syrian Humanitarian Admission Programme to develop a more enhanced and functional scheme;
2. Taking a greater humanitarian approach to decision making in visa applications emanating from family members who are displaced or living in conflict zones;
3. Giving the Irish community an opportunity to sponsor families fleeing conflict, on the lines of successful sponsorship programmes in Canada and Germany, where evaluations show high levels of integration and participation outcomes for sponsored individuals.

This is the basic outline of our proposal. It is designed to complement the Government-agreed resettlement and relocation quotas to address the current humanitarian crisis, and can go some way to filling our as yet unfulfilled commitments under the Irish Refugee Protection Programme.

Given the current global climate, the rise of extremism in both the West and the 'developing' world, we must take every opportunity (to paraphrase Michelle Obama) to 'go high when they go low', to do what is right because it is right and not just because it is politically expedient. To not just react with partial and ad hoc bandages but to act positively and decisively with stable, sustainable and durable solutions. Actions that mark Ireland out as a leader in championing inclusion when they want exclusion, tolerance when they want hatred and human rights when they want authoritarianism. This is our chance to offer something that will help bring families together in safety, out of conflict, not just now but into the future.

Thank you again for the opportunity to present our ideas and expertise to you. We would be very happy to discuss the proposal in more depth with you, and welcome any questions.

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