

## Abstract

Countries are increasingly using DNA testing to make determinations in family reunification cases in which available identity documentation is considered unsatisfactory. This practice raises a number of ethical issues: Families are not biological constructs, there is no universally recognized definition of "family," test results may be extremely disruptive to the family unit, not everyone will be able to provide DNA test results on request, requests for testing may be discriminatory, and immigration officials may start rejecting previously acceptable documentation. The authors conclude that DNA technology can be useful in making decisions about family reunification, in cases that lack documentary evidence to establish a relationship, however, its use must be closely monitored. DNA testing should be reserved as an absolute last resort to facilitate family reunification in cases where it would otherwise not be achieved.

*De plus en plus, les nations recourent aux tests d'ADN dans des affaires de réunification familiale pour lesquelles les documents d'identité disponibles n'offrent pas toutes les garanties requises. Cette pratique soulève un certain nombre de questions d'ordre éthique, notamment : les familles ne sont pas des constructions biologiques, il n'existe pas de définition universelle du concept de « famille », les résultats des tests peuvent avoir un impact extrêmement destructeur sur la cellule familiale, tout le monde n'est pas en mesure de fournir les résultats d'un test d'ADN sur demande, les demandes de test peuvent avoir un caractère discriminatoire et les autorités de l'immigration pourraient en venir à refuser des documents qui étaient précédemment acceptés. Les auteurs concluent que la technologie des tests d'ADN peut être utile pour prendre des décisions visant à la réunification familiale dans les cas où les preuves matérielles sont insuffisantes pour établir une relation avec certitude ; toutefois, son emploi doit être rigoureusement contrôlé. Les tests d'ADN devraient être utilisés en tout dernier ressort pour faciliter la réunification de familles dans les seuls cas où cette unification serait impossible autrement.*

*Países alrededor del mundo están implementando con más frecuencia pruebas usando el ADN para determinar casos de reunificación de familias en los cuales los documentos de identidad disponibles no son satisfactorios. Esta práctica conlleva varios problemas éticos: familias no son definidas puramente en terminos biológicos, no hay una definición reconocida universalmente del concepto de "familia", los resultados de las pruebas pueden resultar sumamente disruptivos para la unidad familiar, no todas las personas pueden proveer resultados de ADN cuando se les solicita, solicitudes para pruebas pueden ser discriminatorias, oficiales de inmigración pueden empezar a rechazar documentos previamente aceptables en favor de estos nuevos medios de identificación. Los autores concluyen que la tecnología del ADN puede ser útil para tomar decisiones sobre la reunificación de familias en casos que carecen de pruebas documentarias para establecer parentesco. Sin embargo su uso debe vigilarse de cerca. Las pruebas de ADN deberían utilizarse como un último recurso para facilitar la reunificación familiar en casos donde no se puede lograr de otra forma.*

# THE LAST RESORT: Exploring the Use of DNA Testing for Family Reunification

*J. Taitz, J. E. M. Weekers, and D. T. Mosca*

Cross-border population movements are an accepted reality in an increasingly globalized world. Yet, in the wake of global economic slowdowns, many countries are using more stringent immigration policies to restrict the number of immigrants who cross their borders. This has affected immigration for the purpose of family reunification. According to a report on family reunification, “concerns about liberal family reunification schemes have revived since the early 1990s in view of their possible consequences in quantitative terms.”<sup>1</sup> As a result, governments have been both narrowing the definitions of who qualifies for reunification and calling for more extensive proof of biological relationships.

Since the early 1990s, many countries have begun using deoxyribonucleic acid (DNA) technology in family reunification cases to remove doubt about whether those applying to be reunited are indeed related. This article explores this use of DNA testing, first discussing how and when it is used, and then examining some of its ethical ramifications when used to determine family reunification.

---

*J. Taitz is University of Toronto, Faculty of Law, Geneva, Switzerland, International Human Rights Program Intern, Migration Health Services, International Organization for Migration (IOM), Geneva, Switzerland; J. E. M. Weekers, MPH, is Senior Migration Health Adviser, Migration Health Services, IOM, Geneva, Switzerland; and D. T. Mosca, MD, is Regional Medical Officer Migration Health Services, IOM, Nairobi, Kenya. Please address correspondence to the authors at Migration Health Services, International Organization for Migration, P.O. Box 71, CH1211, Geneva 19, Switzerland.*

Copyright © 2002 by the President and Fellows of Harvard College.

## **Family Reunification**

Family reunification refers to the right of the family members of those legally residing in a given country to be granted permission to enter and reside in that country so that their family can be reunited.<sup>2</sup> Family reunification is an important component of many countries' immigration policies and has long accounted for the bulk of legal immigration. Initially the impetus to facilitate family reunification was humanitarian, but host countries soon realized that they benefited from this practice as well. Having family nearby greatly facilitates immigrants' ability to integrate into their new society and also assists with their emotional well-being.<sup>3</sup>

Family reunification is first and foremost a matter of rights and humanitarianism. But promoting family reunification is also sound social policy, with positive economic consequences. Any calculation of the costs of family class immigrants needs to be balanced by a calculation of the costs of keeping families separate.<sup>4</sup>

## **International Law**

Global recognition of the fundamental importance of the family unit was first codified in Article 16 of the 1948 *Universal Declaration of Human Rights*, which states: "[t]he family is the natural and fundamental group unit of society and is entitled to protection by society and the State."<sup>5</sup> Numerous subsequent agreements have addressed the importance of both the family unit and family reunification. For example, the International Covenant on Economic, Social and Cultural Rights maintains that "the 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 dependant children."<sup>6</sup> Similarly, the preamble to the 1989 Convention on the Rights of the Child states that "the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community."<sup>7</sup> It also calls on governments to deal with applications for family reunification in a "positive, humane and expeditious manner."<sup>8</sup> Interestingly, the International Convention on the

Protection of the Rights of All Migrant Workers and Members of their Families, which has yet to enter into force, contains among the most pointed recommendations on family reunification, encouraging states to “take measures that they deem appropriate and fall within their competence to facilitate the reunification of migrant workers with their spouses . . . as well as their minor dependent unmarried children.”<sup>9,10</sup>

According to the United Nations High Commissioner for Refugees (UNHCR), implicit in the protection of family unity is a right to family reunification:

. . . [I]n order to respect the principle of family unity, it is necessary not only to take measures to maintain the unity of the family, but also to reunite families that have been separated.<sup>11</sup>

However, international instruments have failed to establish a *right* to family reunification.

## **Domestic Law**

The determining factor in family reunification policy is ultimately national immigration law, which reflects the sovereign right for each country to determine the number and types of persons to be admitted to its territory.<sup>12</sup>

The discrepancies between national legislative provisions and the level of family reunification rights that they authorize are extensive. Any country’s policy on family reunification must address two key questions: The first, which people residing in that country are entitled to be reunited with members of their family, the second, with which members of their family are those people entitled to be reunited.<sup>13</sup> There is far greater consensus on the first issue than there is on the second.

Generally, people residing in a host country who hold long-term residence permits are entitled to family reunification. These include nationals, permanent workers, and recognized refugees. Illegals, asylum seekers, seasonal workers, and those with nonrenewable or limited-residence permits do not usually have this entitlement.<sup>14</sup>

The types of relatives with which a person can be reunited vary widely because no universally accepted definition of “family” exists. The general consensus, however, is

that "family" at minimum includes the traditional nuclear family, namely a legally married husband and wife and their dependent, unmarried minor children. Yet there remain differences regarding the age at which children cease to be "dependent," as well as how children born out of wedlock, stepchildren, adopted children, common-law spouses, and same-sex relationships should be treated. States also have differing policies about the admissibility of adult children and extended family members, such as parents, siblings, and grandparents.<sup>15</sup>

The current trend among host countries appears to be toward more restrictive family reunification policies. For example, many states are narrowing the categories of family members living abroad who are entitled to join relatives living within their borders. In addition, many countries are more strictly enforcing their requirements for those applying to enter the country to provide official documentation, such as birth certificates and passports, to prove their identities as well as their biological relationships to those they seek to join. Providing such documentation is often difficult for people from countries that do not use official documents to establish identity, as well as for those fleeing from politically unstable situations where documents may have been lost or destroyed. Even when applicants produce the requisite documentation, it is not uncommon for host countries to question the authenticity of and therefore reject the documents they provide. It is becoming increasingly common for countries to use DNA technology to resolve cases in which they consider the available documentation to be unsatisfactory.

### **DNA Testing**

To make determinations for family reunification, the receiving country's relevant authorities must first be convinced that the applicant's relationship claim is authentic. When this is in dispute, recourse can be made to DNA technology prior to approving an application.

Blood samples or buccal swabs containing genetic material are extracted from the relevant sources, usually children and their putative parents. Using genetic markers, the subjects' genetic profiles are compared to determine biological relationship. The strength of similarities between specimens indicates the probability of parentage.<sup>16</sup>

Canada, Australia, Finland, Hong Kong Special Administrative Region of China, the United States,

Denmark, Sweden, Norway, the Netherlands, and numerous other countries are using DNA testing to establish biological relatedness in family reunification cases.<sup>17</sup> Many of these countries have developed specific guidelines to regulate this practice. Australia's Department of Immigration and Multicultural Affairs, for example, has developed Guidelines for DNA Testing in the Family Stream, that delineate when the use of DNA is appropriate. It states that, "DNA testing should be used as a *last resort* strategy when claims are doubtful or when adequate and credible documentation cannot be provided to substantiate the claims."<sup>18</sup> Similarly, an operations memorandum written by Citizenship and Immigration Canada states: "a DNA test to prove relationship is a last resort. When documentary evidence is not satisfactory evidence of a bona fide relationship, [immigration officials] may advise applicants that positive results of DNA tests by a laboratory are an acceptable substitute for documents."<sup>19</sup> The Finnish Aliens Act now includes a section entitled "Establishing Family Ties by Means of a DNA Analysis," which states that the Directorate of Immigration can suggest DNA testing "if the family tie based on biological relationship cannot be adequately established in any other way, and if it is possible to provide substantial evidence of the family tie by means of a DNA analysis."<sup>20</sup>

Some countries use DNA testing more regularly than others, but the exact number of cases in which it is used and the outcomes that have resulted are hard to come by because countries are either unwilling or unable to disclose precise statistics. Finland is one of the few countries to publish statistics detailing the results of the DNA tests that it has conducted. According to DNA Testing for Family Reunification: Directorate of Immigration Finland Experiences of the First Year, 50 families (306 individuals) were given the opportunity to take DNA tests in 2000; 39 of them (227 individuals) proceeded with the test. Twelve families received fully positive decisions, and six families received fully negative decisions based on DNA test results. Thirteen additional families had some family members approved and others rejected. The remaining families either had their applications lapse or had yet to receive a decision at the time the report was published.<sup>21</sup>

Although exact DNA usage rates are often unavailable, what is clear is that the use of this testing within the context of immigration is rising.<sup>22</sup> The increased frequency

with which DNA testing is being used makes it ever more critical to examine its limitations for immigration. DNA testing raises a number of ethical issues—some of which are addressed below—that require due consideration.

## **Issues of Concern**

### **Family Is Not a Biological Construct**

One limitation of DNA testing is that it does not take into consideration that families are sociological, and not necessarily biological, entities. For example, when babies are born within a traditional marriage, they are accepted as the children of the marriage. No genetic testing is needed to ensure that the husband is in fact the biological father of the child. Even when children are born out of wedlock, we generally accept as their fathers whoever is identified as such. Yet insistence on the use of DNA testing for family reunification is not consistent with this practice.

Families are often genuinely shocked to learn that DNA test results contradict their beliefs about their family units. For example, a family from Nairobi discovered that the child they thought was theirs was not the biological offspring of either the father or mother who apparently mistakenly reclaimed the child after years of separation due to civil war.

### **There Is No Universally Recognized Definition of Family**

The usefulness of biological testing is further influenced by the many cultural differences that define the concept of family since “religious, cultural and social norms affect the way families are constituted in different societies.”<sup>23</sup> This leads observers to question the criteria immigration authorities use to determine which people are eligible for family reunification. In “Defining ‘Family’: A Comment on the Family Reunification Provisions in the Immigration Act,” Deborah McIntosh raised this very issue: “What kind of a family [do we in Canada] seek to reunite? Is the legislative definition of family structure a reasonable one given the reality of family structure in other countries in the world? The answer is a resounding ‘no’ . . . ”<sup>24</sup>

In many cultures, “family” includes a wide range of biological relatives as well as members who are related socially rather than biologically. Exclusion rates based on DNA testing indicate the problem these differing concepts of family create. Of all of the Somalis who were subjected to DNA

testing by the Danish Immigration Service from January 1997 to September 1998, 58% received a negative result. Somali community leaders responded to these findings by stating that “the concept of family is very different in [the Somali] culture, and many Somalis are not aware of the Danish concept of who is a family member and thereby entitled to family reunification.”<sup>25</sup>

Such complexities have led some countries to adopt a more flexible approach. In both Australia and the Netherlands, negative results do not necessarily lead to rejection. Rather, further examinations determine whether circumstances justify accepting the petition. Similarly, the Finnish government recognizes that DNA testing ignores “social parenthood,” and the government claims to take this into account when making determinations about family reunification.<sup>26-28</sup> In June 2002, Canada adopted new immigration legislation whose regulations suggest a willingness to recognize a broader range of parental relationships, such as simple adoptions and guardianships.<sup>29</sup>

### **Test Results May Be Disruptive, Especially for Children**

The most important consideration in regard to DNA testing in any context is its potential to irreparably disrupt a family unit. The impact on children after learning that they are not biologically members of their families is most likely devastating. Article 8 of the Convention on the Rights of the Child can be understood to protect children from this very type of intrusion. It reads: “State Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.”<sup>30</sup>

An ongoing case in Canada illustrates the potential repercussions of using DNA testing to make decisions in family reunification cases. A Somali man was married and his wife gave birth to three children during the course of their marriage. Shortly after the birth of the youngest child, the man’s wife died. He later remarried, and his second wife sponsored his immigration to Canada. After he was landed, he began proceedings to sponsor his three children. The Canadian High Commission in Nairobi claimed that the documentary evidence establishing his parentage of his three boys was insufficient. He was recommended to submit DNA samples, and failure to do so would likely result in the rejection of his application.

The results of the tests revealed the older two children



were his, but the youngest child was not his biological son. As a result, the two older children are now living in Canada with their father, while the youngest child remains in Nairobi. The family appealed the decision to the Immigration and Refugee Board (Appeal Division), but on 18 January 2002 their appeal was rejected.<sup>31</sup> The father's representative is applying for judicial review of that decision.

### **Not Everyone Will Be Able to Provide DNA Test Results on Request**

While DNA testing may be seen as self-selective—that is, people who refuse requests for DNA testing do so because they know that the outcome will be negative—there are other reasons why applicants might refuse to undergo DNA testing.

For example, the tests are extremely expensive: Estimated costs range from several hundred to more than a few thousand U.S. dollars. Most governments do not cover these costs, and many applicants, especially those from poorer countries, cannot afford them, even though they know that these tests may be the only acceptable proof of relationship.<sup>32</sup> For example, in *Sheikhahmed v. M.C.I.*, the applicant's son and daughter were refused permanent residence because they did not have appropriate documentation and refused to undergo DNA testing. The applicant claimed that he was not unwilling to take the test; he just could not afford to do so.<sup>33</sup>

In addition to financial barriers, religious constraints may also prevent applicants from agreeing to submit to DNA testing. In *Uyanze v. M.C.I.*, the application of a permanent resident's son was denied because of insufficient documentary evidence. The appellant had refused a request for DNA testing because as a Jehovah's Witness it contravened his religious beliefs.<sup>34</sup>

### **Requests for Testing May Be Discriminatory**

Certain ethnic groups are asked more often to undergo DNA testing than other groups. Of course these requests correspond somewhat to the absence of appropriate documentation in some source countries. However, concerns have been raised about officials' appearing more ready to reject documents of people from poorer countries. The Canadian Council for Refugees (CCR) claimed that, based on its clients' experiences, applicants have been routinely asked

to undergo DNA testing at some Canadian visa posts.<sup>35</sup> The African Canadian Legal Clinic similarly charged that more than 85% of African applicants have been asked to submit DNA test results.<sup>36</sup> In fact, the majority of those countries that use DNA testing seem to require it most often of nationals from particular source countries. For example, the Finnish government has most frequently required DNA testing of people from Somalia, Iraq, Angola, and the Democratic Republic of the Congo.<sup>37</sup> According to Australia's Department of Immigration and Multicultural Affairs, DNA testing has been most often used by Australian missions in Manila, Phnom Penh, Ho Chi Minh City, and Nairobi.<sup>38</sup> If guidelines for using DNA testing are indeed being applied discriminatorily, then this, in conjunction with the high costs of the testing, can create a considerable barrier to family reunification for some ethnic groups.

### **Immigration Officials May Reject Previously Acceptable Documentation**

There is concern that immigration officials may begin relying too heavily on DNA testing, thereby placing an unnecessary burden on those seeking to reunite their families. In fact, authorities have been accused of rejecting documentation they would have previously accepted now that DNA technology has become available. Thus even applicants who have documented evidence of their family ties may need to undergo DNA testing for their claims to be approved.<sup>39</sup>

### **Conclusion**

DNA technology can potentially be useful in making decisions about family reunification in cases that lack documentary evidence to establish a relationship. It can assist immigration authorities as well as applicants who may not have any other form of identification. However, for DNA testing to help rather than hinder the family reunification process, its use must be closely monitored. Above all, DNA testing should be reserved as an absolute last resort, when no other evidence is available and the applicant would otherwise be rejected. When deciding whether to recommend biological testing, officials need to consider the intrusiveness of the test and its potentially devastating impact on a family unit. Due consideration should also be given to the high cost of such tests and to the further delay they cause to

the reunification process. If applied responsibly and even-handedly, DNA testing can be used to facilitate family reunification in cases where it would otherwise not be achieved.

## References

1. Secretariat of the Inter-Governmental Consultations on Asylum, Refugee and Migration Policies in Europe, North America and Australia, *Report on Family Reunification: Overview of Policies and Practices in IGC Participating States* (Geneva: Author, 1997), p. 15.
2. Commission of the European Communities, *Amended Proposal for a Council Directive on the Right to Family Reunification* (Brussels: Author, 2000), p. 2.
3. See, Intergovernmental Committee for European Migration, *Migration of Family Units: The ICEM Experience*, prepared for the Second Seminar on Adaptation and Integration of Permanent Migrants, Geneva, 1975; Pamila Ahlfeld, "Strengthening Family Reunification—The New Proposals," *Imm. & Cit.* 11/4 (1999): 1.
4. Canadian Council for Refugees, *Brief to the Immigration Legislative Review* (Montreal: Canadian Council for Refugees, 1997), retrieved from [www.web.net/~ccr/legrev.htm](http://www.web.net/~ccr/legrev.htm).
5. United Nations, Universal Declaration of Human Rights, 1948, Resolution 217 A (III).
6. United Nations, International Covenant on Economic, Social and Cultural Rights, 1966, General Assembly Resolution 2200A (XXI) at Article 10.
7. United Nations, Convention on the Rights of the Child, 1989, General Assembly resolution 44/25.
8. See note 7, Article 10.
9. According to the Global Campaign for Ratification of the Convention on Rights of Migrants, 11 years after the convention was adopted by the United Nations, only 19 states have ratified or acceded to it. Ratification by 20 states is required for the convention to enter into force (retrieved from [www.migrantsrights.org](http://www.migrantsrights.org)).
10. United Nations, International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 1990, General Assembly Resolution 45/158 at Article 44.
11. Executive Committee of the High Commissioner's Programme, Family Protection Issues (Geneva: United Nations High Commission for Refugees, 1999) at paragraph 16 (retrieved from [www.unhcr.ch/refworld/unhcr/excom/standcom/1999/crp1499.htm](http://www.unhcr.ch/refworld/unhcr/excom/standcom/1999/crp1499.htm)).
12. G. Lahav, National, Regional and International Constraints to Family Reunification: A European Response, presented at Meeting of Experts in Konstanz at the Centre for International and European Law on Immigration and Asylum at the University of Konstanz, Germany, April 1999 (retrieved from [www.uni-konstanz.de/FuF/ueberfak/fzaa/german/veranstaltungen/workshp/lahav.html](http://www.uni-konstanz.de/FuF/ueberfak/fzaa/german/veranstaltungen/workshp/lahav.html), p. 7).
13. See note 1, p. 18.
14. See note 1, p. 18–19.

15. See note 1, p. 19–20.
16. One of the advantages of DNA over traditional methods of blood testing, such as red blood cell grouping and human leukocyte antigen (“HLA”) testing is that while the latter can only conclusively prove exclusion (that a person could not possibly be the child’s biological parent), DNA testing also establishes inclusion (that a person is in fact the child’s biological parent). See Alan Davis, “Are You My Mother? The Scientific and Legal Validity of Conventional Blood Testing and DNA Fingerprinting to Establish Proof of Parentage in Immigration Cases,” *B.Y.U.L. Rev.* 129 (1994).
17. See note 1; European Council on Refugees and Exiles, *Survey of Provisions for Refugee Family Reunion in the European Union* (London: Author, November 1999).
18. Family Section, Department of Immigration and Multicultural Affairs (Australia, Author, May 1999), p. 4.
19. Citizenship and Immigration Canada, Social Policy and Programs, “Revised OP 1, Section 5 – DNA Test for Relationship” CIC OM No. 00-27, July 10, 2000 at p. 2.
20. Finnish Aliens Act, 1991, as amended, Section 18 (e), (114/2000), retrieved from [www.uvi.fi/englanti/doc/laki/aliensact.pdf](http://www.uvi.fi/englanti/doc/laki/aliensact.pdf).
21. Finland: Directorate of Immigration, 2001, p. 12.
22. More and more countries are starting to use DNA testing. For example, in the last three years, Hong Kong, the Netherlands, Finland and Norway adopted policies regarding its use.
23. Lahav, *supra* note xii, p. 6.
24. Deborah McIntosh, “Defining ‘Family’: A Comment on the Family Reunification Provisions in the Immigration Act” (1988) 3 *J.L. & Soc’y Pol’y* 104, p. 105.
25. UNHCR, *DNA Test for Somalis Found More Than Half Cases False* (UNHCR AsylNord No. 6 December 1988).
26. See note 18.
27. Ministry of Justice, *Evaluation Report on DNA* (Netherlands: Author, 2001).
28. See note 21.
29. Citizenship and Immigration Canada, Immigration and Refugee Protection Act, retrieved from [www.cic.gc.ca/english/irpa/key-ref.html](http://www.cic.gc.ca/english/irpa/key-ref.html).
30. See note 7.
31. Parkdale Community Legal Services, Submissions of Counsel on Constitutional Questions (prepared on behalf of the Appellant in *Mr. O. v The Minister of Immigration and Citizenship*) [2001] I.A.D. No. T99-14852 at Para. 50; Matina Karvellas, “Are We Family? DNA Testing and Family Class Sponsorship,” Parkdale Community Legal Services/Intensive Program in Poverty Law, Osgoode Hall Law School, January 2001 (unpublished paper), 19–20; and *M.A.O. v. Canada (Minister of Citizenship and Immigration)* [2002] I.A.D. No. T99-14852 (Immigration and Refugee Board – Immigration Appeal Division).
32. Finland and Norway are exceptions; the Dutch government covers most of the expenses associated with DNA testing and will refund any costs borne by the applicants if the test results are positive. Directorate of Immigration, see note 21. Directorate of Immigration, *DNA Analysis in Connection with Applications for a Residence Permit to Reunite*

*Children and Parents in Norway: Pilot Project* (Norway: Author, 1999). Email correspondence from Immigration and Naturalization Department, the Netherlands, 30 July 2001.

33. The judge found the applicant to be credible and thus agreed to grant special relief and reunite the family in question. *Sheikhahmed v Canada (Minister of Citizenship and Immigration)* [1999] I.A.D. No. T98-04375 (Immigration and Refugee Board, Immigration Appeal Division).

34. The judge allowed the appeal and granted the applicant's petition. *Uyanze v Canada (Minister of Citizenship and Immigration)* [2000] I.A.D. No. V98-03773 (Immigration and Refugee Board, Immigration Appeal Division).

35. Letter from CCR to Director General, Section Branch, Citizenship and Immigration Canada, 23 September 1997. Correspondence from Director General to CCR, 28 May 1998: Canadian authorities responded to these accusations by stating that their inquiries had revealed no such misapplication of DNA testing guidelines.

36. United Nations, Immigration and Refugee Issues: Promoting Full Participation and Reversing the Tide of Criminalization and Expulsion, prepared for the UN World Conference Against Racism, Durban, South Africa, September 2001 (retrieved from [www.aclc.net/un\\_conference/report10.html](http://www.aclc.net/un_conference/report10.html)).

37. See note 21, p. 5.

38. Email correspondence from the Department of Immigration and Multicultural Affairs, Australia, 8 August 2001.

39. See, CCR, Using the Charter to Challenge Discrimination Against Refugees and Immigrants, prepared in a workshop, June 1997, retrieved from [www.web.net/~ccr/ccp.htm](http://www.web.net/~ccr/ccp.htm).