Unaccompanied/Separated Migrant Children in Canada’s Immigration Program

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Citizenship and Immigration Canada
Unaccompanied Migrant Children

- Canada has safeguards in place to ensure that unaccompanied migrant children receive the care they need;
- To ensure the best interest of the child is considered, Canada Border Services Officers and Immigration Officers follow instructions on how to facilitate the examination of children at Canada’s ports of entry;
- Children who enter Canada alone or accompanied by an adult other than a parent or legal guardian are referred for secondary examination to ensure that the child is not being put at risk;
- Children who are accompanied by a legal guardian, but appear to be at risk are also referred for a secondary examination;
- Officers are instructed to contact the local child protection agency, if a child is unaccompanied or otherwise at risk.
Definitions

In the context of refugee protection:

- **Unaccompanied Child**: a child under the age of 18, no parent or legal guardian is present at the time the child makes a claim for refugee protection.

- **Separated Child**: a child under the age of 18, separated from both parents or from his/her legal guardian, but not necessarily from other relatives.
Making a Refugee Protection Claim in Canada

- A person, including a child, may make a refugee protection claim to a Citizenship and Immigration Canada (CIC) or a Canada Border Services Agency (CBSA) officer;
- Officers assess whether a claimant is admissible to Canada and determine whether the claim is eligible to be referred to the Immigration and Refugee Board (IRB) for determination;
- Officers refer ineligible claimants for removal (removal proceedings are overseen by Canada Border Services Agency).
Jurisdictional responsibility

- In Canada, jurisdictional responsibility for child welfare protection matters rests with the provinces and territories;
- CIC and CBSA Officers are instructed that if a child is unaccompanied or separated, or if, during the interview it becomes apparent that the child is otherwise vulnerable, the child is to be referred to the provincial or territorial child protection agency;
- Local child protection agencies determine the level of care and treatment that children who come within their jurisdiction require.
Number of children making refugee protection claims in Canada

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>Overall Claims # of claims</td>
<td>31,895</td>
<td>25,535</td>
<td>19,760</td>
<td>22,933</td>
<td>28,529</td>
</tr>
<tr>
<td>Children &lt;18</td>
<td>6,983</td>
<td>5,313</td>
<td>3,943</td>
<td>4,702</td>
<td>6,698</td>
</tr>
<tr>
<td>Children as % of total</td>
<td>22%</td>
<td>21%</td>
<td>20%</td>
<td>21%</td>
<td>24%</td>
</tr>
</tbody>
</table>

- Precise data on unaccompanied/separated children is not available because the current data framework does not capture data on unaccompanied/separated children.
- The majority of children are included in the scope of their parents’ claims.
Children making claims for Refugee protection

➢ In April 2008, CIC published revised child and gender sensitive guidelines for interviewing children who make a claim for refugee protection;

➢ Guidelines provide direction to officers for identifying unaccompanied/separated children and children at risk;

➢ Guidelines include instructions to officers to take into consideration the particular vulnerability and needs of children when they receive the claim.
Hearing the claim at the IRB

- The *Immigration and Refugee Protection Act* (IRPA) requires that a designated representative be appointed for all minor children in all proceedings before each Division of the IRB;
- In most cases, children are accompanied by their parents and they would be designated as the child’s representative;
- However, if the child is unaccompanied or if the IRB has concerns about the suitability of the parent acting as the designated representative, an independent representative will be appointed;
- In such cases, the IRB normally appoints employees of social service or other non-governmental support agencies as designated representatives.
Hearing the claim at the IRB continued

- The role of the designated representative is to act in the best interests of the child in all proceedings before the IRB;
- The role of the designated representative includes retaining and instructing counsel, making decisions or helping the child to understand and make decisions about the proceedings, in obtaining and providing evidence, and in being a witness at the hearing, if necessary.
A practical example

- Let’s assume that Marcos, whose story is outlined in case study #5, makes a refugee claim in Canada;
- Marcos may or may not be accepted as a Convention refugee;
- However, even if his claim is not accepted, Marcos would have access to a number of processes, including an application for permanent residence on humanitarian and compassionate grounds;
- The best interest of the child would be taken into consideration throughout the refugee claim and other processes.
Detention of Unaccompanied/Separated Children

- The *Immigration and Refugee Protection Act* (Section 60) states that a minor child shall be detained only as last resort;
- Education for school aged children is provided;
- Most children in the immigration system are NOT detained;
- Even when there is no parent or legal guardian available, the child will be released into the care of the province or territory.
Removal of Unaccompanied/Separated Children

- Canada has in place removal procedures to ensure that the best interest of the child is considered;
- Arrangements for reception in the country of origin are made prior to departure;
- Prior to removal the child may apply for a pre-removal risk assessment (PRRA) to ensure that he/she will not be at risk in the country of origin;
- In the context of a PRRA, the best interests of the child would include the recognition that children may be at a particular risk, if returned without appropriate arrangements having been made.
Policy Considerations

- Best interest of the child;
- Family reunification for unaccompanied/separated children.
Challenges

- The challenge is to ensure that children’s overall welfare is protected throughout the refugee protection process.
- Develop policies to meet the protection needs of migrant children without compromising the integrity of the refugee protection system.
Citizenship and Immigration
Canada’s Website:

www.cic.gc.ca