

# **Written Submission to the Committee on the Rights of the Child - Fall 2012**

**Submitted by OCASI - The Ontario Council of Agencies  
Serving Immigrants**

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## **Migrant Youth in Ontario - Unaccompanied and Separated**

Unaccompanied minors in Canada are a very heterogeneous group. They come from a wide variety of countries and backgrounds.

Although Canada receives fewer unaccompanied minors than Europe, their arrival rates have increased in recent years. Due to their increasing numbers and the difficulties the minors, service providers and immigration officials face, changes regarding Canada's policies and services in this area are needed.

Migrant youth coming to Canada are referred to as unaccompanied minors. Canada defines an unaccompanied minor as an "individual, under the age of 18 who is without both parents, or an adult who is legally responsible for them" (Denov, Bryan, Montgomery and Atern, 2009). This differs from the United Nations High Commission for Refugees which defines unaccompanied children as those who "have been separated from parents and relatives and are not being cared for by an adult, who, by law or by custom, is responsible for doing so" (Huemer, Karnik and Steiner, 2009).

Most are seeking asylum for similar reasons that many adult asylum seekers do: conflict, economic instability and violence. However, some flee their countries for age related reasons such as family abuse and gender issues.

Immigration officers have difficulty assessing unaccompanied minors as many do not have documents showing their age, and the officers often lack adequate training to deal with youth in a culturally sensitive manner. When there is doubt regarding age of the individual, the UNHCR guidelines recommend treating the individual as a minor (Ali, Taraban and Fill, 2003). However, it is unclear whether this practice is followed.

Unaccompanied minors are often perceived as "bullet children" who have been sent ahead to facilitate a family's migration (Denov et al. 2009). This is rarely the case as minors cannot include their parents or siblings in their Permanent Residency applications or sponsor them while they are still minors. Even once they are adults, most do not earn enough to qualify to sponsor their families. Nonetheless, the "bullet children" discourse creates mistrust.

Unaccompanied minors who apply for asylum receive a hearing from the Immigrant and Refugee Board, a quasi-legal entity in Canada. These hearings have been shown to be inadequate assessments of one's refugee status (Rehaag, 2012).

Having precarious status has a strong negative impact on the lives of youth and affects their access to services, education, jobs and housing. Children who have been in

Children's Aid are often unprepared for life with precarious status once they age out of the system (Meagher et al., 2012).

Separation from family also takes a toll on the youth. Some children are separated from their families due to long delays in processing times for family reunifications. (Canadian Council for Refugees, 2010).

Children of adults entering Canada through the Live-in Caregiver Program are also separated from their parents for many years. Parents participating in the Live-in Caregiver program must work for 24 months within a four year period before applying for permanent residency, only after which they can apply to sponsor their children.

Children arriving unaccompanied at Toronto's main airport, Lester B. Pearson, who are below the age of 16, are taken care of by the Children's Aid Society. The society receives 12-15 children a year although other service providers estimate they see between 100 and 150 unaccompanied minors a year (Meagher, Lee and Drydyk, 2012).

Ontario, which receives the highest number of unaccompanied minors, does not have a unified system of care for these children and relies on various non-profit organizations (Ali et al., 2003).

Job preparation programs, as well as life skills and educational planning are crucial for unaccompanied minors even though many have uncertain futures in Canada (Meagher et al, 2012).

Many unaccompanied minors experience post-traumatic stress disorder, anxiety or depression (Derluyn and Broekaert, 2007). Some youth are from cultures where western style mental health services are not practiced and therefore require an overview of services available. Access to these services is crucial (Meagher et al., 2012).

Youth with status are eligible for Ontario's health care, however there is a three month waiting period in which youth and adults are not covered. This is problematic, particularly for those who cannot afford private coverage.

Some refugees and other migrants have experienced trauma before arriving in Canada resulting in a variety of mental illnesses such as PTSD, anxiety or depression.

Migrant youth with temporary permits or without status are not eligible for domestic post-secondary rates and must pay international fees which are significantly higher. This can be a barrier for many youth and a source of stress for those who do continue on to college or university.

Migrant students face challenges such as inaccurate grade placements and racism in the school system.

The implementation of Bill C-31 means shorter asylum application timelines in which youth and other refugees can complete their claim, no doubt adding stress for youth already in a very difficult situation. Most worryingly, the Bill allows for children over the

age of 16 to be detained if they are part of irregular group arrivals (OCASI, 2012). The detention of children is damaging for their mental health and contradicts many international agreements.

### **Recommendations:**

- Definitions and policies should be clear and consistent in order to better understand the needs of this population
- Systematic records of unaccompanied minors served should be kept  
Unaccompanied minors face many challenges in Canada, in part due to their lack of access to status, services and adequate protection
- More immediate immigration hearings
- Providing unaccompanied minors with a caregiver of the same cultural background
- Making services easily available to this population (are all important changes which could be implemented)

### **Precarious Status - Refugee Youth in Ontario**

As a significant portion of refugees to Canada are youth, the particular needs of this population are important. Despite this large demographic, Immigrant Serving

Organizations have traditionally targeted their programs to adults rather than youth. There is a lack of overall vision within Citizenship and Immigration Canada for youth related programs and supports (Chang and the Canadian Immigrant Settlement Sector Alliance, 2009).

Adult refugee claimants who sponsor their children face unacceptably long wait times. These wait times are uneven within certain parts of the world. This result is families being separated for years at a time. (Canadian Council for Refugees, 2011).

Children who arrive in Canada alone are also not able to include their parents or siblings on Permanent Residency applications or sponsor their parents (Canadian Council for Refugees, 2008).

The United Nations advises against the detention of children and if they are detained it should only be as a last resort. Although Canada's Immigration and Refugee Protection Act (IRPA) includes these provisions, children are routinely kept in detention. For example, in 2008, 77 minors were detained in Canada (Canadian Council for Refugees, 2009).

The Canadian Council for Refugees argues that Canadian Border Service Agency officials do not give priority to finding alternatives to detention of minors.

A 2002 regulation prevents children from reuniting with their parents in Canada if they were not examined by a visa officer when the person sponsoring them immigrated to Canada (Canadian Council for Refugees, 2008). This means that adults who did not include their children in their application cannot sponsor their children, leaving them without their parents. This punishes children for their parents' mistakes.

The exclusion of these family members is life-long and requests for reconsideration on humanitarian and compassionate grounds are difficult to submit as they require expertise to complete.

Under Bill C-31, children, as well as adults coming to Canada through "irregular arrivals" or from "designated countries" have difficulty accessing full and fair hearings.

Child refugees, as well as adults have very short time frames in which to prepare for their Immigration and Refugee Board hearing which makes obtaining documents from abroad or completing psychological reports difficult.

The Bill also allows for detention of up to one year or until a hearing for children over the age of 16 when arriving through irregular means (Canadian Council for Refugees, 2012).

The Bill separates families seeking asylum in Canada by putting children in foster care or detention. It also makes family reunification for some refugees even longer.

For example, refugees who have arrived through irregular means must now wait five years before applying for permanent status, and only after those five years can they apply to sponsor their children. This will result in exceedingly long family separation times (Canadian Council for Refugees, 2012).

Children and adults who have been subject to human trafficking are not protected in Canada; rather they are often detained and deported.

Refugee youth face many barriers to education in Canada. These barriers include increased family obligations due to parent's inability to find well paid employment or language difficulties, financial barriers to post-secondary education, language barriers and inaccurate academic placements. Youth who have post-secondary education can also face the non-recognition of foreign credentials.

Refugee youth face some of the most severe challenges, experiencing hidden homelessness and absolute homelessness (Kissoon, 2010). Refugee women who have resided in shelters are also least likely to experience an improvement in their housing situation after leaving a shelter (Paradis et al. 2010).

## **Recommendations:**

- Beyond initial resettlement programs, programs to increase refugee youths' educational and professional abilities are needed (Shakya et al., 2010).
- Financial barriers to post-secondary education for refugee claimants include being unable to apply for the Ontario Student Assistance Program (OSAP). Refugee claimants must pay international fees for their tuition, which is nearly double the price of regular tuition. This alone is enough for some to not even apply. If a student demonstrates that they have no desire to leave the country, as their refugee claim would certainly support, asking them to pay international fees seems unreasonable.
- Access to services, healthcare, education, transit and peers are all crucial for refugee youth to lead healthy lives in Canada (Khanlou, 2008).
- Settlement or community programs should have youth specific programs and recognize the difficulties refugee youth face in Canada.
- The Immigrant and Refugee Board hearings determine the credibility of youth and adult refugee claimants have been shown to be unfair and inadequate procedures for such a determination (Rehaag, 2012). A dramatic change in these procedures is needed so that vulnerable youth and adults are protected.
- The Canadian Border Service Agency should find alternatives to the detention of minors.

## **Living in the Margins – African-Canadian Youth in Ontario**

The experiences of African Canadian youth and children have been marked by extreme marginalization and disadvantage, limited access to housing and health care, racial profiling, criminalization, overrepresentation in the criminal justice system and disproportionate poverty.

Information regarding the community in Canada and the discrimination they face is difficult to access due to lack of data. This absence is in part due to the abolition of the long form census, and the information on visible minorities which was collected there (Davidson, 2011).

The lack of data collection and publication of data is extremely detrimental (Ontario Human Rights Commission, 2005b).

Although African Canadians represent only 7% of the population in Toronto, they make up 65% of youth in care (Pon et al., 2011). Racism has been identified as one of the

reasons for this, as well as the limited number of African Canadians who work in the child welfare system.

The funding model, which promotes child removal over prevention, family preservation and support, is also a factor (Pon et al., 2011). The funding structure of the child services system promotes the apprehension of children in order to ensure continuous funding (Commission to Promote Sustainable Child Welfare, 2011).

The recommended practice of placing African Canadian children in culturally appropriate familial surroundings is often not followed.

Between 1996 and 2004 the percentage of children in low-income families fell from 19 to 13% but the poverty rates among racialized families rose by 361% (Colour of Poverty, 2007).

African-Canadians also receive lower economic returns on their labour market participation, making 75.6 cents for every dollar that non-racialized workers earn (Block and Galabuzi, 2011). This income gap persists whether they are newcomers or Canadian born.

African Canadian children and youth have distinct challenges in the Canadian education system. Their high school graduation rates are lower than the rest of the population with a high percentage of African Canadian youth dropping out of high school.

The majority of students suspended are racialized and come from neighbourhoods with high African Canadian populations. Suspensions can result in grade repetition or disengagement from school.

African Canadian youth are also highly represented in alternative schools. The quality of education at these schools, which often have shorter hours and fewer courses, is questionable however.

African Canadians experience racial profiling by police and high rates of imprisonment. They are subject to more police surveillance and have three times as many encounters with the police than other populations (Rankin, 2010). They are much more likely to get caught if they do something wrong than whites are.

They are given harsher sentences and have higher rates of incarceration than other groups. This is due to the racism which is present at all levels of the policing and legal system, for example by police officers, legal professionals, in prisons, by courts and by jurors.

### **Recommendations:**

\*\*\*These challenges have been identified by the African Canadian Legal Clinic and are outlined at length in their full report "Canada's Forgotten Children: Written Submissions to the Committee on the Rights of the Child on the Third and Fourth Reports of

Canada". OCASI-The Ontario Council of Agencies Serving Immigrants endorses the recommendations made by the African Canadian Legal Clinic in the report.\*\*\*

## **Uncertain Future - Roma Youth in Ontario**

The history of the Roma people can be described as, "five centuries of consistent human rights abuse (Csanyi-Robah, 2011).

In present day, Roma living in Europe (mostly in Central and Eastern Europe), face a multitude of set-backs due to their ethnicity. In some countries and cities, Roma people have been victims of ethnic cleansing leaving thousands of Roma victims of ethnically motivated violence.

"They experienced police brutality, neo-Nazi violence, forced sterilization, and political silence while imprisoned" (Gallagher, 2011).

The World Bank reports that "although Roma have historically been among the poorest people in Europe, the extent of the collapse of their living conditions is unprecedented" (World Bank, 2005).

UNICEF describes the Roma as "Europe's largest and most vulnerable minority" (UNICEF, 2007).

Amnesty International describes discrimination against Roma as massive and states that "Roma are denied basic rights of housing, healthcare and education while suffering evictions, racist attacks and ill treatment from a variety of institutions."

This dislike and mistrust is deeply entrenched into European society. "A 1990 *Los Angeles Times* poll showed that fully 80 per cent of central Europeans view the Roma as the 'evil other'" (Porter, 2011).

The Roma in Hungary are in an even direr situation. Of the about 750,000 Roma in that country, (7.5% of the total population), 500,000 to 600,000 are in "deep poverty". (Shane, 2011)

Canada's largest Roma community is understood to be in Hamilton, Ontario and is estimated at between 1,500 and 3,000 people.

During the mid to late 1990s, 85-95% of those refugee claims were successful. However, when the Czech Republic and Hungary showed interest in joining the European Union, the success rate fell dramatically to only 8% by 1999 (Gallagher, 2011).

Around 2006-2007, there was again an influx of Roma refugees to Canada.



From 2008 to 2010, rejection rates went from 6% to 93% respectively (Csanyi-Robah, 2011). In 2011, Hungary had the greatest number of refugee claimants, with 4,423 applying. A year earlier the figure was just 2,296 (Boesveld, 2012).

“While little attention has been paid to the needs of refugee children in Canada in general, the integration of Roma children and their families appear to be at particular risk” (Walsh, 2010).

“Roma children in Canada have high needs for services in education, health and social services sectors, yet Roma families are frequently unable or unwilling to access services effectively and institutional systems often fail to identify or respond adequately” (Walsh, 2010).

The Federal Immigration Minister has demonstrated an unusual scepticism about the authenticity of the refugee claims put forth by the Roma of Hungary. The Minister has described the Hungarian Roma influx as “very peculiar”, “bizarre” and “very well-organized” (Shane, 2011).

Since 2009, Canada has accepted less than 10% of the Hungarian refugee claims.

Amdur writes, “The reaction of Canada's Conservative Party has been openly hostile. (The) Immigration Minister charged that the Czech Roma were not real refugees” (2009). In 2009, 2,210 Czechs applicants applied for refugee protection in Canada. After the restitution of the visa requirement, that number declined to just 62 applicants (Porter, 2011).

Bill C-31 can potentially make the Roma situation even worse.

One of the components of the new Immigration and Refugee law is the "Designated Safe Country" consideration. The Immigration Minister will have sole authority on which countries are deemed safe, “more or less assuring that refugee claims from any such countries would be quickly rejected” (Farber, 2012). Critics have argued that this gives the Minister too much power. For Roma refugees from Hungary, Bill C-31 means having their cases rejected sooner and in greater numbers. By all indications Hungary will be a designated 'safe' country of origin, thus making a claim for asylum difficult if not impossible.

The government has acknowledged that a large number of Roma refugees coming from Hungary are doing so for the sole purpose of taking advantage of the country's welfare system. Refugees from "safe" countries would be dealt with, and likely rejected, in just six weeks - not enough time to qualify for social assistance before being deported. This line of thinking, “suggest that the Roma come to this country, not to escape discrimination and persecution, but simply to enhance their economic status. Thus they get labelled as bogus refugees” (Farber, 2012).

## **Recommendations:**

- Since Roma youth often have few social ties, school and specialized programs such as mentoring, homework clubs, youth groups and sports teams in school or at community organizations can be very helpful. However, the school experience can also present challenges as children are racialized by their peers and teachers, the trauma they have experienced can slow the learning process, and they may experience conflict in educational spaces (Meagher et al., 2012; Denov et al. 2009).
- More needs to be done to provide the Roma community in Ontario with culturally sensitive (and appropriate) services. Currently, in the City of Toronto, there is only one agency serving the Roma community with limited funding and space.
- Settlement services need to be provided with adequate resources to assist the Roma community. Roma refugees in Ontario have to rely on Hungarian or Czech translators to access services at the neglect of their own native language, Romani.
- The Government of Canada needs to re-evaluate its stance on Roma refugees and their situation in Eastern and Central Europe.

## Challenges Facing Unaccompanied and Separated Youth

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