

JV  
7281  
-L37  
2011

SEEKING ASYLUM :  
THE PROCESS AND PROCEDURES FOR UNACCOMPANIED  
MINORS CLAIMING REFUGEE STATUS IN CANADA

by

Jacqueline Lapeyre-MacNeil  
Bachelor of Arts, University of Toronto, 2001  
Bachelor of Social Work, Ryerson University, 2008

A Major Research Paper

presented to Ryerson University

in partial fulfillment of the requirements for the degree of

Master of Arts

in the Program of

Immigration and Settlement Studies

Toronto, Ontario, Canada, 2011

© Jacqueline Lapeyre-MacNeil 2011

## Author's Declaration



---

I hereby declare that I am the sole author of this major research paper.

I authorize Ryerson University to lend this paper to other institutions or individuals for the purpose of scholarly research.

  
Signature \_\_\_\_\_  


I further authorize Ryerson University to reproduce this paper by photocopying or by other means, in total or in part, at the request of other institutions or individuals for the purpose of scholarly research.

  
Signature \_\_\_\_\_  


SEEKING ASYLUM:  
THE PROCESS AND PROCEDURES FOR UNACCOMPANIED MINORS  
CLAIMING REFUGEE STATUS IN CANADA

Jacqueline Lapeyre-MacNeil

Master of Arts, 2011  
Immigration and Settlement Studies  
Ryerson University

Abstract

This project explores the factors that come into play in the assessment of a refugee claim put forth by unaccompanied/separated minors when arriving in Canada. Designed as an exploratory research, the study delves into the procedural and evidentiary issues which emerge when such children cross our borders. The substantial literature that has emerged over the last decades on the issue serves to inform and guide the process of determining what has been accomplished, as well as what needs to be improved upon. Informed by the American and European models, the goal of this research is to sketch a seemingly Canadian model which would outline step by step the protocol in place, and would define our government's role and actions in terms of addressing the plight of these children as they cross our border.

Key words: asylum; unaccompanied/ separated minors; Canada; refugee claim

## Acknowledgements

---

This Major Research Paper would not have been possible without the support and encouragement from many people around me.

I am particularly grateful to my research supervisor Dr. Francis Hare who supported me throughout this project and always believed that I would make it through, despite all the hurdles. Your expertise was greatly appreciated, and your never ending patience allowed me to see this project through. Thank you.

I would also like to thank my second reader Dr. Kiaras Gharabaghi for his insights on my research. I really enjoyed discussing this project during the oral defence, and your feedback was greatly appreciated.

I am indebted to all the participants in my research who shared their experiences and insights on the issue. I will keep your identity private, but know that your time and knowledge were greatly appreciated. Thank you.

I would also like to extend my gratitude to everyone who helped me carry out this project: Amy Armstrong, my supervisor at CIC, thank you for being the "middle woman" as I was negotiating interviews with Immigration officers. Even though I could not get access, your help was greatly appreciated; Charles Hawkins at the IRB, you allowed me to make contact with a key informant and that was greatly appreciated; Alaina Johnston, thank you as well for your help in securing a key participant.

I am also extremely grateful to my husband Robb for his love and support. I would have never made it through without you. For all the days and nights that I had to study, you managed to fill in the role of both parents. I love you.

Finally, I give a huge thank you to my children Patricia and Cécile. You gave up on a lot of quality time with your mommy so I could pursue my dream. Thank you. I would have never made it through without your unconditional love. I hope you will understand one day why this project was so important to me. I love you more than anything in the world and I look forward to catching up.

## Dedication

---

To all the refugee children in the world

## TABLE OF CONTENTS

### CHAPTER ONE: INTRODUCTION

|  |   |
|--|---|
| 1.1 Social problem.....                  | 1 |
| 1.2 Scope of the research.....           | 2 |
| 1.3 My position within the research..... | 5 |

### CHAPTER TWO: LITERATURE REVIEW

|  |    |
|--|----|
| 2.1 Theoretical perspective.....                             | 8  |
| 2.2 Contextual framework.....                                | 10 |
| 2.3 Defining Unaccompanied/Separated Minors.....             | 10 |
| 2.4 International Stage: The Role of the United Nations..... | 13 |
| 2.5 National Stage: The Role of the Canadian Government..... | 16 |

### CHAPTER THREE: REFUGEE CLAIM PROCEDURES IN CANADA

|  |    |
|--|----|
| 3.1 Overview of the Asylum Claim Process.....          | 19 |
| 3.2 Process as it relates to Unaccompanied Minors..... | 20 |
| 3.2.1 Identification.....                              | 20 |
| 3.2.2 Designated Representative.....                   | 22 |
| 3.2.3 Detention .....                                  | 23 |
| 3.2.4 Judicial Review.....                             | 25 |
| 3.2.5 Humanitarian & Compassionate Grounds Claims..... | 25 |
| 3.2.6 Pre-Removal Risk Assessment (PRRA).....          | 26 |
| 3.2.7 Removal .....                                    | 26 |
| 3.3 Key Players  |    |
| 3.3.1 Child Welfare Agencies.....                      | 27 |
| 3.3.2 NGOs.....  | 27 |
| 3.3.3 Interpreters.....                                | 28 |
| 3.3.4 Foster Families.....                             | 29 |

### CHAPTER FOUR: METHODOLOGY

|  |    |
|--|----|
| 4.1 Research Design.....   | 30 |
| 4.2 Data Collection.....   | 31 |
| 4.3 Data Analysis.....   | 32 |
| 4.4 Findings.....  | 33 |
| 4.4.1 Defining the situation as an unaccompanied minor enters the country.....                         | 33 |
| 4.4.2 Who is instrumental to their fate? Who decides whether or not they<br>will be admitted here..... | 34 |
| 4.4.3 Determining what happens during a meeting.....   | 34 |
| 4.4.4 Assessing the collaborative efforts between agencies.....  | 35 |
| 4.4.5 Addressing the gaps within the system.....   | 36 |
| 4.4.6 Addressing the current system.....   | 36 |

|  |    |
|--|----|
| 4.5 Discussion.....                                | 37 |
| 4.5.1 Procedural and Evidentiary Issues.....       | 37 |
| 4.5.2 To what extent can we (should we) help?..... | 40 |
| 4.5.3 Limitations of my study.....                 | 41 |
| 4.6 Conclusion.....                                | 42 |
| APPENDIX.....                                      | 43 |
| REFERENCES.....                                    | 45 |
| GLOSSARY.....                                      | 51 |

## 1. Introduction

### 1.1 Social Problem

*... I am not Safiya from Somalia anymore; I am 12-year old Fatuma flying abroad with her uncle - that is what my mother told me this morning before I was taken to the airport. He is sitting so close to me on the plane now, but never looks at me. When he came to the house last night, my mother told me, go with him and do everything he tells you. If I move my arm I can still feel pain where he held me hard, in the airport, when they were stamping my new document. When I cried for my mother this morning, he shouted at me. She pushed me out of the house, and my heart and my stomach emptied...<sup>1</sup>*

Safiya is not alone. Like her, thousands of children are forced to leave their home and family on a moment's notice. The decision is often made by parents who are willing to give away all the family resources and put their trust in a complete stranger, with the hope that their child will be safe and have a chance at a better future. Yet, Safiya's story represents only one of many scenarios. Some children find themselves cut off from their family as they try to escape violence in their homeland. Many others are plucked from their home or refugee camps and recruited as child soldiers or prostitutes.

According to the 1951 Convention relating to the Status of Refugees, a refugee is "a person who is outside his or her home country and who has a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion". While the nature of their situation makes adult refugees extremely vulnerable, children face even greater challenges, thus are in a critical and desperate position when they arrive in a receiving country, even more so when they are unaccompanied (Bhabha, 2004).

The migration of children travelling alone is not new in itself. Between 1867 and 1925, 80,000 children, for the most part plucked out of the poor houses, were shipped to Canada from the UK (Montgomery, Rousseau & Shermarke, 2001; Little, 2008). On the aftermath of World War II and the Cold War, we also witnessed an influx of youngsters in Canada, a move which served as a temporary measure to alleviate the burden of the wars; just as we saw the arrival of the Vietnamese, Laotian and Cambodian "boat children" between 1978 and 1983 (Montgomery et al, 2003). Today,

---

<sup>1</sup> Excerpt from *A gap in their hearts*. p.11



unaccompanied minors continue to move across borders, and their numbers are growing at an alarming rate<sup>2</sup>. The UNHCR estimates that while children account for half of all refugees, 5% of the global numbers represents those who claim asylum<sup>3</sup> alone. Although this number reflects only a fraction of the total refugee population, it signals a dramatic change in the fabric of our society. As volatile situations keep emerging around the globe, the migration of these children seems to feed a new trend which allows them to be routinely recruited as child soldiers, be thrown into prostitution or be permanently separated from their family. If we consider the instability of our world today, when conflicts seem to erupt in so many "hot spots", it becomes imperative to understand the situation of these children. Unfortunately, despite the urgency of the situation, little research has been done on the subject. Although the literature offers a wealth of information on immigration procedures relating to unaccompanied minors<sup>4</sup> in many parts of the world, little information regarding the position and procedures of Canada is available, making it difficult to understand where we stand. Therefore, it seems crucial to delve into the matter in order to better serve the needs of these children. The issue is important to address on two levels: first, it would inform policy makers and government officials in terms of improving the services and the reception of these children. Although Canada has implemented strict measures to protect them, there are still too many gaps in our current system. Second, front line workers may have a better understanding on how to respond to their needs once the flaws of our current system are identified and addressed.

## 1.2 Scope of the research

---

<sup>2</sup> A report from Amnesty International shows that the number of unaccompanied minors has more than doubled between 1997 and 2001, while data presented by the European Migration Network shows an increase of 40 % (Alison, 2007; Refuge & Migrant Justice, 2009). Bhabha (2004) also estimated about 100,000 unaccompanied children from more than 60 countries are living in Western Europe.

<sup>3</sup> An asylum seeker is an individual who has sought international protection and whose claim for refugee status has not been determined (UNHCR Statistical Yearbook 2008).

<sup>4</sup> A distinction is often made between "unaccompanied minors" and "separated minors". The first refers to children who arrive without the presence of an adult. The latter may be with an adult who is not a parent or a caregiver. CIC policy and program manual defines an unaccompanied or separated minor as a person under the age of 18 years of age and not accompanied by a parent or an adult legally responsible for them. For the purpose of this paper, I will use the terms interchangeably to address the situation of children who cross borders without an adult present. The implications incurred by using different definitions will be discussed further in the paper on page 22, footnote

Although anyone who is not Canadian can apply for asylum, certain criteria have to be met for any claim to be successful. Then naturally, our system sift through all the applications, allowing certain claimants to remain in Canada while denying others. The goal of this paper is to focus particularly on unaccompanied minors, and to explore what happens to them when they reach our country and claim asylum. We know that we have a protocol in place to respond to their particular needs, and we also know that the best interest of the child principle must be applied at all times. Yet, little has been written to date on the issue as it happens in Canada, thus this project will map out the protocol in place and serve as a guidebook for anyone who wish to learn more about the Canadian asylum system as it pertains to unaccompanied minors.

Most developed countries around the world have ratified the Convention of the Rights of the Child (CRC)<sup>5</sup>, which demonstrates their will to play an active part in addressing the issue. In doing so, they pledge to introduce within their national policies, specific guidelines aimed to protect these children, in accordance with the following principle, expressed by the UNHCR:

"International treaties are important to refugee children because they set standards. When a State ratifies a treaty, the Government of the State promises to the international community that it will conduct itself according to the standards in the treaty". UNHCR (1994, p. 4)

Yet, children routinely fall through the cracks. While the literature on the plight of refugee children is abundant, it often tends to focus on issues which relate to their integration in our society. Very little is known about the process they go through as they cross borders, leaving many questions unanswered. For instance, what is it like for a child who knows little about our country, language and customs, to enter Canada and to face the burden of having to prove that his or her asylum claim is valid? Does the Best Interest Principle<sup>6</sup> really apply at all times? How far will our government go to ensure

---

<sup>5</sup> The Convention on the Rights of the Child is a Human Rights Treaty which outlines the responsibilities governments have to ensure the rights of children. The four general principles of the Convention are: non-discrimination, the best interests of the child, the right to life, survival and development, and respect for the views of the child. There are two optional Protocols: on the involvement of children in armed conflict, and on the sale of children, child prostitution and child pornography. Canada ratified the Convention in 1991, the Protocols respectively in 2000 and 2005. Nations that ratify this Convention are bound by International law. It was ratified by nearly all members of the UN, with the exception of the U.S.A and Somalia (Groce & Sobsey, 2008; Unicef, 2008)

<sup>6</sup> CRC, Art. 3(1) stipulates that: "In all actions concerning children, whether undertaken by public or private

that these children are safe and will receive the protection and care that they need, regardless of the decision rendered? These questions are often ignored although they are critical to the wellbeing of unaccompanied minors, so this research paper will attempt to fill the gap and uncover the Canadian system as they experience it step by step.

The issue raises important questions, and this project will focus on the most critical ones, in an attempt to provide a model of our Canadian system, in contrast to the American and European models, which have been widely represented in the literature. To that effect, the timeline of the study will focus on the moment these children enter Canada up to the time a decision is rendered.

Designed as an exploratory research, the project will explore the issue on two different levels. The first section will be devoted to highlighting the key players involved: while it is crucial to understand who the children crossing our borders are and where they come from, it is equally important to be cognizant of the other key players within the refugee process. Whether we look at the first person they come in contact with on arrival; the interpreter who facilitates the interviews with Immigration officials; the social workers involved; the foster family who may care for the child at home while he or she goes through the process, or the officer who decides on the case, each person plays a crucial role in the child's overall experience.

The fate of refugee children is complicated, due to the fact that it involves three different levels of governing bodies: on the international stage before they arrive in Canada; on the federal level in terms of their immigration status, and on the provincial level in terms of their well-being, as Child Welfare agencies become automatically involved. The second section of the paper aims to explore such a collaborative effort. The issue is complex and the task of helping refugee children can be overwhelming, thus it is crucial to recognize the efforts that have been accomplished so far, on all levels. This project will delve into the procedural and evidentiary issues which emerge as unaccompanied minors go through the system. The goal is to shed some light on what it must feel like to make a refugee claim when you are a young child in a foreign

---

social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration" (Bierwirth, 2005).

country, with no resources and no family to fend for you. At the same time, I hope to demonstrate that the role of immigration officers is not always clear cut, and that they are often faced with a dilemma when trying to help these children.

Because there is limited information on the subject in Canada, the study will look at all refugee children under the age of 18. Gender will not be the main focus, although it will be accounted for so we can differentiate the problems associated with girls in comparison to boys. In terms of geographical boundaries, the study will focus on the Greater Toronto Area (GTA), but will also consider cases which occurred in British Colombia and Quebec.

My research will focus initially in defining the key players, and then will extend to exploring the degree to which each party is committed to act. To that effect, the questions to inform my research will address the following:

Who are the unaccompanied minors who arrive in Canada?

Where do they come from? Why?

Who is instrumental to their fate?

Who decides whether or not they will be admitted here?

What is the role of each particular agency involved in the process?

How do they work together? To what extent are they responsible for these children?

### 1.3 My position within the research

In *The problem of speaking for others*, Linda Alcoff (1994) questions the legitimacy of scholars speaking in the name of marginalized groups. She argues that privilege does not necessarily infer the authority to speak for others, and that in doing so we run the risk to oppress them even further. As a woman of mixed ethnicity and as an accomplished scholar, she uses her own social location to demonstrate the need to strike the right balance in advocating for those who are less privileged, without imposing her own views and beliefs. Her compelling argument is a good reminder that we are only expert in our own life, and while our social location will always impact our actions in some way, it is crucial as researchers, to understand the way we make sense of it. Moreover, it is equally important to recognize that we cannot have all the answers when researching a particular issue.

While I studied to become a social worker, I was bombarded with anti-oppressive theories which set the ground for understanding the difference between privilege and oppression. Aside from all the philosophical views, there were two particular moments that stood out for me. The first came during a class when our professor talked about children and how they truly represent the most undermined section of our population. No one asks them what they want or how they feel. If we look at Child Welfare in particular, decisions are made for them all the time, often by "experts" who in theory, have all the knowledge. His point resonated so true to me, that it is in part the reason I chose this topic for my research. After all, if a child is often without a voice in a country where people enjoy so many liberties, what happens to those who come from countries where every citizen struggles to survive and has limited rights, if any?

The second moment that stood out for me was during a seminar organized by the University. One of the key note speakers was a well-known advocate who lectured everyone on what it means to help others in need. Talking to a crowd filled with budding social workers, she stressed that our function was not to change the world. She reminded all of us that as future social workers, our role was not to make decisions for our clients but rather to offer our expertise and guidance to help them solve their problems. As she suggested, people would rather have us walk with them rather than do the walk for them.

When I chose to research the plight of unaccompanied minors, I knew the task would be difficult. Studying a "human phenomenon" in itself is extremely challenging, but even more so when we explore the situation of young refugee children, because we take the risk of causing even greater harm. Yet, I felt compelled to pursue the issue because it touches me in many ways. Interestingly enough, many of my reasons for choosing this topic are exactly what Alcoff is warning us against.

The vignette about Safiya's story at the onset of this paper is one example of a child who is forced to migrate to a foreign country for her own safety. As a mother, I cannot imagine what it must feel like to push your child away, at the mercy of a complete stranger, just because it is the only option you have to keep him or her safe. Yet, it happens all the time. In my world, I constantly worry about the wellbeing of my children, and as most parents, I hope they will always follow the right path.

Nevertheless, I don't have that constant fear that something horrible could happen to them at any moment. I feel secure enough because I live in a country which is not torn by war and which offers basic rights to its people.

I am also an immigrant myself, and my experience will possibly shape the direction of this project. Although my reasons for coming to Canada were never fuelled by fear or persecution, I have experienced what it is like to be a newcomer in a new country, and this knowledge may allow me to understand how they feel, to a certain degree. At the same time, I can only imagine what these children go through as they are forced to flee their homeland. I was fortunate to be born in a "safe" country that offers all the basic human rights to its citizens. As a child, my only worries were to find someone to play with me. My parents were there every night to tuck me into bed and to care for me when I was sick, so I grew up with a good sense of security. In contrast, these children have witnessed the horror of war at a very young age, have been subjected to torture or seen their family butchered in front of them. There is really no comparison! I came to Canada as a young adult to pursue my dream of exploring the world. That was my choice. It was the first time I was "out there" fending for myself, yet the trip was well planned out, with the security of a place to stay and a job to support myself on arrival. I also had a return ticket valid for three months, so I could go home if things did not worked out as planned. What the experience taught me most is that I was fortunate to have been born in a part of the world that is thriving. I was reminded of that every time I met a new immigrant here who was not so fortunate, so I will certainly reflect on all that knowledge to do this project. As a researcher, my only expectation is to provide a better understanding of the process these children go through as they claim asylum in Canada and are turned away. The lack of information available on the subject is compelling enough for me to pursue the project.

## 2. Literature review

### 2.1 Theoretical Perspective

Human Rights<sup>7</sup> are standards that recognize and protect the dignity of all human beings. They are inherent<sup>8</sup>, inalienable<sup>9</sup> and universal<sup>10</sup> (UNICEF, 2011). The Universal Declaration of Human Rights (UDHR) was drafted by representatives with various backgrounds from all over the world, and was proclaimed by the United Nations General Assembly in Paris on December 10, 1948 (OHCHR<sup>11</sup>, 2011). A rights-based approach serves to assess situations in terms of the obligation to respond to the rights of an individual, rather than to evaluate the human needs. It allows people to demand justice as a right and not a charity (Robinson, 1999). This approach has served as a framework for the United Nations Children's Fund UNICEF, which has been instrumental over the last fifty years in advocating for children around the world so that their rights be recognized and upheld. In turn, it will provide the backbone of this project, and allow me to assess not only the position of the unaccompanied minors as they enter Canada, but also the position and actions of government officials as well as international agencies.

On the aftermath of World War II, the United Nations initiated steps to address the issue of refugees, and most countries have pledged their support. Yet, more than fifty years later, as the issue concerning refugees has been dubbed a humanitarian crisis, the laws implemented on the national level do not always match the Protocol of the Convention relating to Refugees. As a result, countries struggle to adhere to their pledge. It is evident that drafting conventions to respond to the refugee crisis is an important step forward. However, it is equally salient for governments to adhere to their pledge in order to really make a difference. Otherwise, the purpose of implementing those conventions would quickly become meaningless. In this paper, Regime theory will serve as a basis to evaluate how much effort Canada has invested in protecting unaccompanied minors throughout the asylum process. Although the term "regime"

---

<sup>7</sup> Human rights entail both rights and obligations. States assume obligations and duties under international law to respect, to protect, and to fulfill human rights... At the individual level, while we are entitled to our human rights, we should also respect the human rights of others.

<sup>8</sup> We are born with them and they belong to each of us as a result of our common humanity.

<sup>9</sup> Individuals cannot give them up, and they cannot be taken away.

<sup>10</sup> They are held by all people, everywhere - regardless of age, sex, race, religion, nationality, income level or any other status or condition in life.

<sup>11</sup> Office of the High Commissioner for Human Right (OHCHR, 2011)

emerged in the seventies, it took more than a decade for the regime theory to become significant within the realm of international politics. Informed by Stephen Krasner's viewpoint<sup>12</sup>, the theory evaluates the extent to which countries follow up on their promises. It explores the correlation between the ratification of a given treaty and human rights performance by any given country, and as such, offers a course of action to evaluate the country's progress. In the early eighties, Krasner defined regimes as "implicit or explicit principles, norms, rules and decision-making procedures around which actors' expectations converge in a given area of international relations" (Brahm, 2008). His definition set the tone and opened the debate concerning the real motives that a country would have in taking actions on the international stage. Krasner's initial definition of a regime was instrumental for others to debate the implications, and although scholars disagree widely on the issue, regime theory has become instrumental in exploring international relations in terms of defining what would compel countries to commit to various treaties. His work gave rise to a wider debate about whether or not a country is guided by self-serving motives. The International Refugee Regime can be defined as:

"... the collections of conventions, treaties, intergovernmental and non-governmental agencies, precedent, and funding which governments have adopted and support to protect and assist those displaced from their country by persecution, or displaced by war in some regions of the world where agreements or practice have extended protection to persons displaced by the general devastation of war, even if they are not targeted by persecution..." (Howe, 2010)

Howe (2010) took it a step further and opened to debate whether countries respect human rights because they have signed a particular treaty, or if their signature is testimony of their will to support human rights. Using previous studies conducted by notable researchers such as Oona Hathaway, she determined that democracies are more likely to be better protectors of human rights. However, she advanced that it is primarily because a democracy allows people to voice their disapproval of governments' actions, giving a chance to non-government actors and agencies to pressure those in charge to take action.

## 2.2 Contextual Framework

---

<sup>12</sup> Krasner, Stephen D (1983). *Structural causes and Regime consequences: Regimes as intervening variables*. International Regimes, Ithaca: Cornell University Press. This particular work emerges in the literature as significant



"... In the summer of 1999, 134 separated Chinese children and adolescents aged 11 to 17 arrived in unseaworthy boats off Canada's west coast, along with 465 adults. Later in 1999 and in 2000, smaller children, mostly Chinese, were apprehended while being transported clandestinely from Eastern Canada to the United States. Virtually all of these children applied for refugee status. The subsequent controversy surrounding their treatment led to greater attention to separated asylum-seeking children in general..." Wendy Ayotte (2001)

The incidents sent Immigration officers in frenzy as they tried to cope with the situation, and process each of these children's claims. While CIC officers wanted to detain the refugee children, the provincial Ministry of Children and Families chose to place them in group homes. Many disappeared a short time later, opening the debate about what is in the "Best Interest of the Child". This event forced the government to review the policies in place, and adopt more concise procedures for similar scenarios in the future (Ali, 2006). Moreover, it highlighted the complexity of dealing with such a task when different levels of government are involved.

In exploring the issue of unaccompanied minors, this paper will attempt to keep a balance between addressing the needs of the children, and acknowledging the difficulties encountered by officials as they manoeuvre through a web of bureaucratic rules on three different levels. Their task is immense, and gets even more difficult as humanitarian crisis become more frequent. My goal will be to outline the challenges encountered by all parties involved, without necessarily putting the blame on someone.

### 2.3 Defining Unaccompanied/Separated Minors

Unaccompanied minors are estimated to represent between 3 to 5 % of the total refugee population. Unfortunately, data collection has proven to be extremely challenging, despite the efforts of UNHCR to develop a concise global monitoring system. A database specific to unaccompanied and separated minors (UASC) was implemented in 2006 in an attempt to collect pertinent information such as sex, age and country of origin. Unfortunately, the statistics remain unreliable for a range of reasons:

"...there is a lack of proper identification and registration mechanisms in place in a number of countries. Where it exists, data is not disaggregated by sex and age. In addition, definitions, including age of majority vary from country to country..."

the global number of UASC who annually submit individual claims remains unknown, largely because important destination countries such as Canada, South Africa and the United States of America do not provide this information..." (UNHCR Statistical Yearbook, 2008, p.48)

In 2008, 16,600 asylum claims were lodged by UASC in 68 reporting countries<sup>13</sup>, while there were 11,300 claims put forth in 58 countries in 2007 and 9,900 claims in 64 countries in 2006.

Europe received close to 13,400 or four fifths of all UASC claims during 2008. The United Kingdom received the highest number of claims (almost 4,300), followed by Sweden (1,500), Norway (1,400) and Austria (770) (UNHCR Statistical Yearbook, 2008, p.48).

In the U.S, the number of unaccompanied minors have more than doubled between 1997 and 2001, showing that 2375 children were detained in 1997 in comparison to 5385 in 2001<sup>14</sup> (Luke, 2007).

In Canada, 871 claims were made in 1999 and 1099 a year later (CIC statistics). The IRB shows 671 separated claims were forwarded to them in 2000, while only 404 were made the previous year.

The table below highlights the trends for asylum-claims by children in Canada from 2005 to 2010.

---

<sup>13</sup> Among 130 countries reporting data, 68 countries account for 52% (UNHCR Statistical Yearbook 2008)

<sup>14</sup> those numbers are based on a report published by Amnesty International

## Claims Referred and Finalized in Canada: Minors (at time of referral) <sup>15</sup>

|                                | Referr<br>ed/<br>Déféré<br>es | Finalize<br>d <sup>1</sup> /<br>Réglées <sup>1</sup> | Accepte<br>d/<br>Accepté<br>es | Rejecte<br>d/<br>Rejetée<br>s | Abandoned<br>/<br>Désisteme<br>nts | Withdraw<br>n/<br>Retraits | %Accepted <sup>2</sup><br>%Acceptée<br>s <sup>2</sup> |
|--------------------------------|-------------------------------|--|--------------------------------|-------------------------------|------------------------------------|----------------------------|---|
| <b>2005</b>                    | 4,220                         | 5,748  | 2,552                          | 2,505                         | 205                                | 486                        | 44%   |
| <b>2006</b>                    | 4,703                         | 4,263  | 1,990                          | 1,783                         | 116                                | 374                        | 47%   |
| <b>2007</b>                    | 6,706                         | 2,878  | 1,150                          | 1,256                         | 114                                | 358                        | 40%   |
| <b>2008</b>                    | 8,491                         | 4,124  | 1,588                          | 1,778                         | 173                                | 585                        | 39%   |
| <b>2009</b>                    | 8,350                         | 6,436  | 2,252                          | 2,882                         | 225                                | 1,077                      | 35%   |
| <b>2010<br/>(Jan-<br/>Jun)</b> | 2,266                         | 4,143  | 1,315                          | 1,967                         | 116                                | 745                        | 32%   |

According to those numbers, less than half of all claims are being rejected. However, the statistics are misleading because the numbers put forth apply to all children, including those who are accompanied. As a result, we do not know exactly how many unaccompanied minors enter our country, nor do we know exactly how many are turned away, making it difficult to assess the situation on all fronts. Therefore, we cannot stress enough the importance of compiling separate data between unaccompanied and accompanied minors, if we want to be able to understand the trend as it truly refers to unaccompanied children.

Based on its collected data, UNHCR determined that two thirds of all UASC registered in industrialized countries are male, while in developing countries, the sex distribution is more balanced (UNHCR Statistical Yearbook, 2008).

According to the data collected from 55 countries that gave detailed country of origin, Afghanistan came in first with 3,300 claims lodged in 24 different countries<sup>16</sup> ;

<sup>15</sup> Those statistics were provided by the Immigration & Refugee Board of Canada (IRB) prior to the interview conducted at their office on October 15, 2010. The numbers provided refer to all refugee children (accompanied and unaccompanied).

<sup>16</sup> more than half of those claims were made in the United Kingdom (1,800), Norway (580), Sweden (350) and Denmark (160) (UNHCR Statistical Yearbook, 2008)

Somalia was the second most important country of origin with about 1,900 UASC claims (UNHCR Statistical Yearbook, 2008)

In Canada, based on the finalized claims, the top five countries of origin of separated children in 1999 were Sri Lanka, Somalia, China Democratic Republic of Congo (DRC), Rwanda, and Honduras. In Quebec alone, unaccompanied minors came from 39 different countries, reflecting the hot spots of the time. 70% of the claimants are male, 64 % are over the age of 16; 22 % are between the ages of 13 and 15 while 14% were under 12 (Ayotte, 2001).

Unaccompanied refugee children seek asylum for the most part due to extreme violence in their home country, and because of poverty (Ali, Taraban & Gill, 2003; Elgersma, 2007). There are many factors that account for their plight: in addition to all the reasons that also apply to adult refugees such as race, religion, nationality, membership of a particular social group or political opinion, many are forced to leave following the violent death of a parent<sup>17</sup>, which they often witness. Often times, children can also be targeted for recruitment by factions in armed forces; or be trafficked into prostitution (Ali et al, 2003).

Montgomery, Rousseau & Shermarke (2001) differentiate involuntary to voluntary situations that prompt children to become unaccompanied minors. In the first instance, they may get lost in the confusion of fleeing a particular scene or in a refugee camp; in the latter the family may decide to send the child abroad for his or her own protection. Although it happens less frequently, some youth make the decision themselves to leave their homeland. Most likely to be older, their flight is an attempt to free themselves from family constraints or from political or economic instability (Montgomery et al, 2001).

The nature of the situation of unaccompanied minors is important because it entails a range of ethical questions that governments need to consider when trying to assess their refugee claims. The difficulty often resides in the fact that many of these children are very young and without any parental support. Often time, the mere notion of

---

<sup>17</sup> "... This was the case of a young man from Nigeria, aged 17, whose life was turned upside down the day that a friend of the family arrived at his school to tell him that he could not returned to his home because his mother and brother had been killed. He was sent to hide in a small village for a few weeks. Fearing for the safety of the youth, the friend arranged for his passage to Montreal. These events happened so rapidly that the youth did not have time to reflect on his situation. It was only after his arrival in Quebec that he realized the full impact of his loss..." Excerpt from *Alone in a strange land: Unaccompanied minors and issues of Protection*. (2001, p.6)

how old the child is, represents a challenge for the authorities because identification is impossible to establish.

## 2.4 International Stage: The Role of the United Nations

In the wake of World War II, the Office of the United Nations High Commissioner for Refugees was created on December 14, 1950 by the United Nations General Assembly with a temporary mandate<sup>18</sup> to support displaced Europeans. However, for the next six decades, humanitarian crises around the world have prompted the agency to extend its support where needed and as a result, the UNHCR has been involved in Africa, Asia and Latin America, working relentlessly to provide protection and support to thousands of displaced populations. Today, the agency strives to lead and coordinate the international efforts to support and protect refugees globally (UNHCR, 2008; UNHCR, 2011).

The 1951 Convention relating to the Status of Refugees is the starting point for a discussion of all claims by all non-citizens seeking asylum. As such, it represents a common thread throughout the literature on the subject. It was developed in the aftermath of World War II, in the light of injustices that were committed during the Holocaust, when many countries, including Canada, failed to offer asylum to Jewish refugees (Canadian Council for Refugees, 2008). It is a Human Rights Treaty that articulates the right to asylum from persecution, based on five specific grounds.<sup>19</sup> However, unaccompanied refugee children sometimes endure forms of persecution which do not fall within those grounds, such as child abuse, child selling or child trafficking (Bhabha, 2004).

The principle of the unity of the family of the Refugee Convention addresses special circumstances as they sometimes relate to unaccompanied refugee children. It defines the unity of the family as an essential right of the refugee, stating that the same rights should be extended to members of his or her family (UNHCR, 1997; Denov, Bryan, Montgomery & Atem, 2009). This is relevant to unaccompanied children as it

---

<sup>18</sup> Optimistically, the UNHCR was established in 1950 with a three-year mandate to complete its work and then disband (UNHCR, 2011)

<sup>19</sup> According to the 1951 Convention relating to the Status of Refugees, a refugee is: "a person who is outside his or her home country and has a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion" Bhabha, 2004

directly addresses the fact that these children are alone and in need of family reunification as soon as possible.

The Convention on the Rights of the Child (CRC) is also crucial to understand the issue, as it constitutes a protection framework designed to serve the needs of refugee children around the world (McAdam, 2006). Twenty years ago, World leaders made a pledge to the CRC, as a commitment to affirm the rights of all children, regardless of their place and culture. The document was ratified by nearly all member countries of the UN, with the exception of the United States and Somalia. It represents the most widely ratified human rights treaty in the world's history, and is the first to incorporate the full range of human rights: civil, cultural, economic, political and social rights (Groce & Sobsey, 2008; UNICEF, 2008). The document has led to improvements in the lives of children on many fronts, such as access to health care, education and personal safety.

Article 3 provides a starting point for distinguishing primary interests. It states that "*in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interest of the child shall be a primary consideration*", thus highlighting the importance of making a clear assessment of the child's situation (McAdam, 2006). In addition, articles 22(1) and 22(2) which address asylum and family reunification are particularly pertinent to the needs of separated children. They state that children have the right to special protection under the Convention, and governments should ensure these children are reunited with family members when possible. Article 37 also applies to unaccompanied children in terms of detention, which is especially relevant in terms of addressing the well-being of the child on arrival in a new country (McAdam, 2006).

Because of their position as both children and asylum- seekers, unaccompanied minors are particularly vulnerable and their needs have been recognized as a priority by the UNHCR. Accordingly, in addition to the various conventions which provide the framework for their work, the agency has developed specific guidelines on dealing with these children. Although they are not legally binding, they stress the need to hold governments accountable, and they highlight the importance of treating each application promptly (UNHCR, 1997). In 2006, the Executive Committee of the High

Commissioner's Programme published a report outlining five global priority issues for refugee children<sup>20</sup>. The report serves as a pathway for all governments to implement measures aimed to achieve their goals. The first priority issue concerns separation from families and care-givers: in the turmoil of fleeing their home, children can become separated from their family, leaving them in a precarious situation. Not only is the separation devastating for the children, it also increases the risk for boys to be targeted for military recruitment, and it leaves girls at a greater risk of sexual exploitation, forced marriage and trafficking (UNHCR, 2005). It is particularly difficult to address the issue especially for young girls who tend to be easily integrated into a foster family while they are traveling, leaving them vulnerable for abuse. The second priority issue addresses sexual exploitation, abuse and violence. Although all children may be at risk, adolescent girls are the prime target in this case. They are especially at risk of female genital mutilation (FGM), forced marriage and rape (UNHCR, 2007). Military recruitment is the third priority issue: although some children under 10 have been recruited, adolescent are more likely to become involved into armed forces. Both boys and girls can be recruited, and can serve in fighting or as cooks, cleaners or messengers (UNHCR, 2005). Girls face further harm as they can be expected to provide sexual services (UNHCR, 2007). The fourth priority issue highlights the importance of education which has been recognized as crucial for refugee children. Not only does it give them a sense of stability, it also provides them with a powerful tool to protect them from sexual and gender-based violence, HIV and AIDS, military recruitment, crime and drugs (UNHCR, 2007). The fifth and final priority issue addresses the specific concerns of adolescents: as they often take on household responsibilities early on, their needs are frequently overlooked because they are perceived as being self-sufficient. Adolescents are also the principal targets for military recruitment, forced labour, sexual exploitation (UNHCR, 2005).

## 2.5 National Stage: The Role of the Canadian Government

---

<sup>20</sup> UNHCR defines a refugee child as a refugee under the age of 18, unless under the law applicable to the child, majority is attained earlier (UNHCR, 2005)

Canada has been recognized as one of the leading countries in terms of promoting the cause of refugees. In 1986 it received the Nansen Medal<sup>21</sup> from UNHCR for its outstanding services to the cause of Refugees (Ali, 2006). Our government has been particularly keen in promoting the rights of refugee children. To that effect, it was instrumental in drafting and promoting the CRC, as well as compiling specific guidelines on child refugee claimants in order to assist decisions makers within the IRB in determining their claims (Standing Senate Committee on Human Rights, 2004-2005).

However, many gaps have also been identified within our system. In Canada, refugees are a federal responsibility, while child protection and social services fall under the mandate of provincial governments and territories (Free the Children, 2009). As a result, the international laws are often disconnected from the national policies that are implemented and enforced (Watters, 2007). Indeed, many experts denounce the lack of consensus on the issue. For instance, there is no clear definition of what constitutes a "separated child" (Canadian Council for Refugees, 2009). Everyone seems to give it a particular meaning, which frequently creates conflict when efforts are pulled together (Khan, 2003; Standing Senate Committee on Human Rights, 2005). In addition, there is no consensus within our borders on what constitutes a child. The age range is set under 19 in British Columbia and under 16 in Ontario, thus lacking consistency (Standing Senate Committee on Human Rights, 2005).

Furthermore, "Best Interests of the Child" is problematic because the principle is open to different cultural interpretations, which may undermine the legal consensus. For example, genital mutilation may be seen as part of the child's cultural development, while some may see it as conflicting with the Best Interests Principle (McAdam, 2006). In the same light, Grover points out the same principle as conflicting with the interests of the child, because he or she is not allowed to include his or her parents in the claim for refugee status.

---

<sup>21</sup> The Nansen Medal is given annually by UNHCR in recognition of outstanding services to the cause of refugees. The award is named after Fridtjof Nansen, the first League of Nations High Commissioner for Refugees and the 1922 Nobel Peace Prize Laureate. Jeanne Sauvé received the medal on behalf of Canada. Canadians are the first and only people to have been honoured collectively with this award. The 1986 award committee cited "the major and sustained contribution of the People of Canada to the cause of refugees" through individuals, families, voluntary agencies, community and religious organizations, as well as the three levels of government. (IRB website, 2009)



Stasiulis (2005) also identifies as problematic the notion that the children are in need of protection. She asserts that the term is loaded with assumptions, which cannot be easily clarified. It raises the question of "protection by whom or what" and "in the name of what objective"? In the case of children, we need to consider the laws applicable to refugees as well as the specific guidelines regarding children. As McAdam asserts (2006), the attributes that define children are immutable, whereas refugee definitions may vary and develop over time. So, if the need to choose arises, a child will be a child before he or she is a refugee.

As the number of refugee claimants seems to grow at an alarming rate, non-governmental agencies (NGOs) have denounced the inaction of the government in addressing the plight of unaccompanied children. For example, they called the attention to the fact that there is no national policy in place to care for the growing number of cases. Also, there is no clear guidelines that undertake crucial issues such as the appointment of legal guardian upon the child's entry in the country; the conflicting aspect between policies that address detention and family reunification, and the government's commitment to tend to the "Best Interests of the Child" (UNICEF, 2006; Khan, 2003, METRAC, 2007, Bhabha, 2004). Yet, those concerns are central to unaccompanied children, especially as they enter the country, because of the nature of their situation which requires immediate attention.

### 3. Refugee Claim Procedures in Canada

#### 3.1 Overview of the Asylum process

Any person who is not a Canadian citizen can make a claim for refugee protection at any port of entry (POE), or at any designated inland Citizenship and Immigration Canada (CIC) office. The claim process follows two steps: eligibility and refugee determination (Canadian Council for Refugees, 2008). All applicants, regardless of age are examined for eligibility upon making a claim. Thus, children have the burden to go through the same process as adult claimants. The only difference in their case is that a Designated Representative<sup>22</sup> (DR) has to be appointed to safeguard the interests of the child (Khan, 2003). The responsibilities of the DR are:

"... to retain counsel; to instruct counsel or to assist the child in instructing counsel; to make other decisions with respect to the proceedings or to help the child make those decisions; to inform the child about the various stages and proceedings of the claim; to assist in obtaining evidence in support of a claim; to provide evidence and be witness in the claim; to act in the best interest of the child..." (Ali, 2006)

In addition, the DR must sign a Conditional Departure Order on behalf of the child, stating that he or she will be required to leave the country if the claim is denied (Ayotte, 2001).

When a refugee claimant comes forward, the first step is for CIC officers to determine whether or not the person is eligible to have their claim assessed by the Immigration Refugee Board (IRB). There are five grounds that would render a claim ineligible: if the claimant has made a previous claim in Canada; if he or she has refugee status in another country; has arrived through a "safe third country"<sup>23</sup> or is inadmissible on grounds of security or criminality grounds<sup>24</sup> (Canadian Council for Refugees, 2008). Eligible claims are then forwarded to the IRB<sup>25</sup> which determines whether the claimant is a Convention refugee based on specific criteria such as the danger of torture the

---

<sup>22</sup> Requirement under the Immigration and Refugee Protection Act (IRPA) (Elgersma, 2007)

<sup>23</sup> The Safe Third Country Agreement between Canada and the U.S. is part of the U.S.-Canada Smart Border Action Plan. Under the agreement, refugee claimants are required to request refugee protection in the first safe country they arrive in, unless they qualify for an exception to the Agreement. The two countries signed the Agreement on December 5, 2002 and it came into effect on December 29, 2004 (CIC website, 2009)

<sup>24</sup> The claimant is considered to be a member of a terrorist association, or has committed serious violations of human rights or war crimes (Ayotte, 2001)

<sup>25</sup> The Immigration and Refugee Board (IRB) is the quasi-judicial tribunal responsible for refugee determinations in Canada

person faces, as well as risks for cruel and unusual punishment if deported (Canadian Council for Refugees, 2008). If the claim is accepted, the individual becomes a "protected person" and can apply for permanent residence. If the claim is rejected, the individual can apply for judicial review to the Federal Court. In turn, if that application is negative, the person becomes subject to removal. However, he or she can apply for a Pre-Removal Risk Assessment (PRRA). In that case, a specially trained officer will evaluate the potential risk of harm done to that person if he or she is being deported back to the home country (Canadian Council for Refugees, 2008). If the PRRA officer was to determine the person would face a risk of harm, then the claimant would be deemed in need of protection, fitting with the non-refoulement<sup>26</sup> principle of the Convention relating to the Status of Refugees.

At any time during the refugee process, the claimant can also put forth an application to remain in the country on Humanitarian and Compassionate grounds (known as H & C application). However in this case, a removal order can be enforced while the application is being reviewed, unlike every other option during which process the removal order is stayed until a decision has been made.

While these procedures apply to all refugee claimants, international human rights instruments such as the Convention on the Rights of the Child mandate signatory governments not only to process the case of unaccompanied minors on a priority basis, but also to adapt their policies and procedures so as to accommodate their needs throughout the process. To that effect, the IRB was the first to introduce specific guidelines to assess a refugee claim put forth by a minor. The following section will delve into the issues that arise when a child refugee enter our country.

### 3.2 Process as it relates to Unaccompanied Minors

#### 3.2.1 Identification

Identification of a refugee claimant is the first step of the process. As International Human Rights instruments mandate signatory countries to follow specific guidelines when a child claims asylum, proper identification is critical. If the claimant was not recognized as a minor, officers might treat him or her as an adult, and in doing

---

<sup>26</sup> According to the principle of non-refoulement, no State should expel or return ("refouler") a refugee in any manner whatsoever to any country where the refugee faces persecution (Canadian Council for Refugees, 2008).

so, would ignore the protocol that should take place. The task is difficult for many reasons: often times, the claimant arrives with no documentation, leaving the officer with only the physical aspect, the demeanour and the declaration of the person to rely on. Some countries also do not provide birth registration to their citizen, thus many claimants including children may not know how old they are. Other times, they may have been instructed to lie with the belief that they will be treated better if they give a younger age; or that they will be allowed to work if they pretend to be older (Hannan, 2003; Human Rights Watch, 2008). It is also common for children who have experienced extreme violence and hardship in their home country, to present a more mature demeanour than children the same age would in the receiving country. Unfortunately, immigration officers are not always able or willing to recognize the difference (Crawley, 2007).

Scientific tools such as bone assessments are available to determine the age of the claimant, but scholars have decried their use because of the large margin of error they carry (Ali, 2006). In fact, reports conducted in Europe by Human Rights Groups show that the authorities routinely neglect to conduct such a test, choosing instead to make an "arbitrary assessment" based on the appearance of the child or on his or her declaration (Human Rights Watch, 2008; Crawley, 2007).

*"The worst thing I can remember they made me sit there and like a slave market other immigration officers were told to look at me and guess my age. It was like I'm going to be sold. One would say 24, another would say 21. I was told to stand up and down. Then they said you are over 18... When they were deciding my age in that place it was like they are going to buy you. It was the worst point." Hassan, 16, Iran<sup>27</sup>*

Identification<sup>28</sup> also entails the determination of whether the child is accompanied or not, and the biggest difficulty here lies with the definition itself. The United Nations defines an unaccompanied child as a person under the age of 18, who is separated from both parents, and who is not being cared for by an adult who by law or custom is responsible to do so. In turn, CIC characterizes an unaccompanied child as an

---

<sup>27</sup> "Hassan's age was disputed and he was taken to Oakington where he was detained for eight days. He was subsequently assessed by social services who confirmed that he was the age he said he was and took him into their care". Excerpt from: *When is a child not a child? Asylum, age disputes and the process of age assessment*. (Crawley, 2007, p.52)

<sup>28</sup> Refer to page 3, footnote 3

individual under the age of 18 who is without both parents, or an adult who is legally responsible for him or her (Denov, Bryan, Montgomery & Atem, 2009). Definitions tend to differ, making it difficult to assess the situation when a child crosses the border. In Canada, each province has its own classification. As a result, a person under the age of 19 may be considered a minor in some provinces but seen as an adult in others<sup>29</sup>. Arguments put forth in the literature delineate the difference between unaccompanied and separated children. Some argue that separated is a broader term which applies to children who are separated from their parents or regular caregiver, but have an adult with them (Grover, 2006). The distinction is important to make because of the growing problem of trafficking, and UNHCR stress the need for officers to be vigilant about the validity of the relationship between a child and an accompanying adult (Elgersma, 2007; Ayotte, 2001).

### 3.2.2 Designated Representative

Once it is established that the refugee claimant is an unaccompanied minor, the authorities are mandated to appoint a designated representative (DR) who will have the responsibility to ensure that the needs of the child are met throughout the entire process (UNHCR, 2010). According to CIC, the person to be representing the claimant must be over 18 years of age, must be able to appreciate the nature of the proceedings; must be willing and able to represent the claimant; and must not gain anything by having a negative decision made against the claimant. An important factor to consider is also the ability of the DR to speak and know the language and the culture of the claimant (Department of Justice Canada, 2003).

Having a designated representative is paramount to address the best interests of refugee children, as they are forced to navigate through lengthy and complicated legal procedures, without having the mental, emotional and physical capacity to do so. In addition, these children find themselves in a setting drastically foreign to what they have ever experienced. As a result, they may not understand how every person that they encounter within the refugee claim process, fits in the picture. Moreover, based on their

---

<sup>29</sup> A person under 19 years of age is considered a minor in British Columbia, Nova Scotia, New Brunswick, Northwest Territories, Yukon and Nunavut while Alberta, Manitoba, Ontario, Quebec, Prince Edward Island set the limit at 18 years of age. In turn, Newfoundland and Saskatchewan defined a minor as a person under the age of 16 with the latter adding "unmarried" criteria to the definition. CIC Operational Manual, 2008

past experiences, they may view the authorities as untrustworthy, and their psychological state of mind might be seriously impaired. Thus, having someone who can guide them through the asylum process and safeguard their interests is essential. Unfortunately, experts criticize the system in place, claiming that in too many instances, the person appointed as a designated representative does not fully understand his or her role and as a result, delays or conflicts between parties often arise, at the expense of the child's interests (Department of Justice Canada, 2003).

### 3.2.3 Detention

In 2002, Tabitha Kaniki Mitunga<sup>30</sup> spent two months alone in a detention centre in Belgium because she did not have the proper documents to enter the country. She was five years old! Officials then proceeded to deport her to the Democratic Republic of Congo, her native country, where no one was awaiting her at the airport. Her case sparked international controversy and ultimately, the Belgian and Canadian Heads of State intervened, allowing Tabitha to come live in Canada with her mother (Walljasper, 2006). This case illustrates perfectly the issues that pertain to the detention of refugee child claimants, raising many questions about what procedures Immigration officers should follow when faced with such a situation.

The UNHCR stresses that minor asylum-seekers should not be detained:

"In recognition that detention can affect the physical and mental well-being of children and heighten their vulnerability, States should refrain from detaining children, and do so only as a measure of last resort and for the shortest appropriate period of time, while considering the best interests of the child."<sup>31</sup>

In Canada, officers from Canada Border Services Agency (CBSA) make the decision of detaining the children either when they enter the country; when they make a claim at an inland CIC office or once the removal order against them comes into effect. The resolution is taken based on three grounds: the person poses a flight risk in that the officer senses that he or she will not appear at a future hearing; his or her identity has

---

<sup>30</sup> Tabitha's mother took her case to The European Court of Human Rights (ECHR). A special judicial body upholding the European Convention on Human Rights, the ECHR held unanimously that the Belgian Government violated the rights of Tabitha with regards to her detention, deportation, and her right to liberty and security (Articles 3 & 8 of the European Convention on Human Rights) (Council of Europe, 2006)

<sup>31</sup> Conclusion No. 107 (LVIII). Children at risk, 2007.

not been verified; or he or she is considered a danger for public safety (Canadian Council for Refugees, 2010; Global Detention Project, 2009)).

Every five years, signatory countries to the Convention on the Rights of the Child are obligated to file a report to the UN Committee on the Rights of the Child which is made up of eighteen independent experts (Standing Senate Committee on Human Rights, 2005). Based on that report, the Committee evaluates their compliance with the Convention and issues recommendations aimed at improving their performance. In 1995, the UN criticized Canada for not doing enough to address the principles of non-discrimination and of the best interests of the child (Public Health Agency of Canada, 2002; Khan, 2003). As a result, the Canadian government worked to improve its national policies and in 2002, introduced the Immigration and Refugee Protection Act (IRPA), which in part states clearly that:

as a principle that a minor shall be detained only as a measure of last resort, taking into account the other applicable grounds and criteria including the best interests of the child. (IRPA, s.60).

However, despite taking such a stand, children are still being detained every month.

**Numbers of Minors detained, monthly average<sup>32</sup>**

|          | 2007 | 2008 | 2009<br>(Jan-Sept) |
|----------|------|------|--------------------|
| Atlantic | 0    | 0    | 0                  |
| Prairies | 1    | 1    | 0                  |
| Pacific  | 5    | 6    | 3                  |
| Quebec   | 7    | 13   | 10                 |
| Ontario  | 46   | 58   | 17                 |
| Total    | 58   | 77   | 31                 |

The next report made by Canada to the UN in 2003 still drew criticism. Although the Committee acknowledged the efforts of the Canadian Government, it stressed the need

---

<sup>32</sup> The numbers shown in this table do not account for the children who are not legally detained, such as those who are in detention accompanying a detained parent. Canadian Council for Refugees, p.2, 2010

to define what constitutes "last resort" and emphasized the need to find alternative measures (Canadian Council for Refugees, 2010).

### 3.2.4 Judicial Review

When an asylum claim is denied by the IRB, the claimant can file an application with the Federal Court within fifteen days, to have the decision reviewed. In that case, the removal order is stayed until the Court has made a new decision (Ali, 2006, Elgersma, 2007). If the Court elects to uphold the initial decision, a removal order comes into effect. If it doesn't, the case is returned to the IRB for a new hearing, this time in front of a new member (Ayotte, 2001).

According to a report published in 2001, eight judicial reviews involving separated children took place from 1998 to 2000.

#### Judicial Review involving Separated Children<sup>33</sup>

|      | Claim referred back | Claim denied | Claim abandoned |
|------|---------------------|--------------|-----------------|
| 1998 | 1                   | 1            | 0               |
| 1999 | 0                   | 2            | 0               |
| 2000 | 1                   | 2            | 1               |

However, another report claims that in the year 2000, nine children were granted refugee status after their case was reviewed by the Federal Court. These children, between the ages of 13 to 18 had arrived on board of an illegal migrant ship in the summer 1999, and claimed asylum on the basis of their particular social group, saying that they feared being trafficked again by their parents and human smugglers if returned to their home country (US Committee for Refugees and Immigrants, 2001).

### 3.2.5 Humanitarian & Compassionate Grounds Claims

Any applicant can also make a claim on Humanitarian and Compassionate grounds (H & C), in which case a CIC officer would decide whether or not the person can remain in Canada. In the case of unaccompanied minors, IRPA dictates that the best interests of the child need to be considered, although other factors also play a role (Ayotte & Peloffy, 2003).

---

<sup>33</sup> IRB Statistics. Excerpt from *Separated children seeking asylum in Canada*. Ayotte, 2001, p.39



### 3.2.6 Pre-Removal Risk Assessment

When an asylum claim is denied, the applicant regardless of age can apply for a pre-removal risk assessment (PRRA). The file is then transferred to the PRRA Unit at CIC where a specially trained officer will assess the danger faced by the claimant if returned to his or her home country (Elgersma, 2007). The applicant has fifteen days to file the application and another fifteen days to produce the documentation to support his or her case (Ali, Taraban & Gill, 2003). The burden in this case is for the claimant to produce new evidence that was not presented in front of the IRB beforehand.

### 3.2.7 Removal

"There could be a serious problem of gaps in protection and care should unaccompanied minors be returned to their country of origin" (UNHCR, 1994)<sup>34</sup>

This is the position taken by the UNHCR, stressing that in the event an unaccompanied minor would exhaust all avenues, governments should assess the situation and find an appropriate solution that fits the best interests of the child (UNHCR, 2007). Yet, Western countries routinely deport unaccompanied minors without assessing the situation they face once they return home. Human Rights Watch has been instrumental in documenting the treatment of young children by Immigration officials in European countries, denouncing a complete lack of care when returning them to their home country (Human Rights Watch, 2008). The United States also shows a poor track record when it comes to deporting young children. An extensive report published by the Centre for Public Policy Priorities (2008) paints a bleak picture of the fate of unaccompanied minors who are intercepted at the border and often times deported almost immediately.

In Canada, CBSA is responsible for the removal of rejected asylum-seekers, including children. When unaccompanied minors are involved, officials are dictated to arrange for someone to receive the child on arrival, whether it is a relative, a government official or a child welfare agency representative. Furthermore, minors who are 13 years old or younger should be removed with an escort (Ayotte & Peloffy, 2003). In reality, we know very little about what happens when a child is being removed and

---

<sup>34</sup> Excerpt from *Unaccompanied and separated minors as refugee claimants*. Elgersma, 2007, p.2

what is in place in the home country to facilitate the return. More importantly, the extent of our government's responsibility towards these children remains unclear.

### 3.3 Key Players

#### 3.3.1 Child Welfare Agencies

Unaccompanied minors who enter the country alone are deemed abandoned by the authorities, and as such become "in need of protection", as defined in the Child Protection Act, section 9 (q)<sup>35</sup>. Because child protection and welfare falls within the jurisdiction of the provincial authorities, Immigration officers are obligated to notify the appropriate child welfare agency when an unaccompanied minor makes a claim for asylum (Elgersma, 2007; Ali, 2006). The agency then takes charge of looking after the well-being of the child, making arrangements for housing, education and ensuring that the child receives medical care under the Interim Federal Health Program (IFHP)<sup>36</sup> (Montgomery, 2002). Since 1999, the Migrant Services Team of Children and Family Development (MCFD) has been responsible for the protection of unaccompanied minors in British Columbia, while in Quebec, the Service d'Aide aux Réfugiés et Immigrants de Montreal Metropolitain (SARIMM) holds the responsibility of caring for these children. In Ontario, Peel Children's Aid Society steps in when an unaccompanied minor is reported, possibly because of its proximity to Pearson airport which is the main port of entry in Ontario (Ayotte, 2001; Johnston, 2010).

In contrast with the immigration regulations which tend to look at the minors as possible illegal aliens, the role of social services is to make sure their basic needs are met. Nevertheless, the literature seems divided in the overall effect they have upon the children. While many acknowledge their efforts, others denounce the power they use and how intrusive they can be. In addition, some also point out to their precarious role caught between immigration and their mandate which is often times strictly regulated, leaving little room to really care for these children (Chase, 2010).

#### 3.3.2 Non-Governmental Organizations (NGOs)

---

<sup>35</sup> *The child has been abandoned, or the only parent of the child has died or is unavailable to take custody of the child, and adequate provisions have not been made for the care of the child.* Child Protection Act, section 9 (q)

<sup>36</sup> Funded by CIC, the IFHP provides temporary health coverage to refugees, protected persons and refugee claimants who are not yet covered by provincial health insurance plan. Service Canada, 2011

The World Bank defines a Non-Governmental Organization (NGO) as "a private organization that pursues activities to relieve suffering, promotes the interests of the poor, protects the environment, provides basic social services, or undertakes community development". Although NGOs existed well before the first World War, their role has been largely associated with the work of the United Nations, defining "all kinds of private organizations that are independent from government control"(Duke University Libraries, 2011). Although the term is difficult to characterize, in great part because of the wide range of activities they take part in, we recognize three major types of NGOs. The first one operates at the community level and is instrumental in providing services to unaccompanied minors as they go through the asylum process. At the national level, organizations such as the Canadian Council for Refugees strive to bring to light many issues pertaining to refugees, while on the international stage these agencies may hold the key to the children's fate when they are returned to their home country. As an example, the International Committee of the Red Cross (ICRC) plays a key role in reuniting families. While immigration officials are mandated to ensure someone will be receiving the child on return, their responsibility ends there. Thus, international agencies which are stationed in developing countries become instrumental in supporting the minors' reintegration, well past their return.

### 3.3.3 Interpreters

According to the Benchmark of Interpreter Programs Report (IRB, 2011), the IRB is the largest administrative tribunal in Canada, with a pool of 1,200 accredited interpreters<sup>37</sup> whose responsibility is to translate simultaneously everything that is said at a refugee hearing. In order to qualify, the potential candidate must be either Canadian or a permanent resident; and pass a test<sup>38</sup> which covers oral interpretation, sight translation and official languages. Considering the asylum claimant has the burden of making his case on two occasions<sup>39</sup> regardless of age, the role of the interpreter is critical. Building on the work of Walter Kälin<sup>40</sup>, Robert F. Barsky (1993) identified many

---

<sup>37</sup> The Benchmark of Interpreter Programs claims that these interpreters are accredited in 267 languages and dialects

<sup>38</sup> the candidate must answer 70% of the test correctly in order to qualify

<sup>39</sup> eligibility and refugee determination

<sup>40</sup> "Troubled communication: Cross-cultural misunderstandings in the Asylum hearing" (1986). *International Migration Review*, Vol. 20 (2), pp. 230-241

flaws within that system. He argues that in too many instances, the interpreter is not capable of providing an accurate translation of what is being said, and as a result the officer may render a negative decision. He also calls attention to the ambiguity of using an interpreter who belongs to the same culture as the claimant. On one hand, the officer may question whether or not the performance of the translator is influenced by the cultural link he or she has with the claimant; while on the other hand, the claimant may not trust the interpreter, believing that he or she has ties with their respective government<sup>41</sup>.

However, child welfare workers assert that interpreters can have a positive effect for the asylum claimant, especially when it comes to unaccompanied children. In addition to serving as an intermediate between parties, the interpreter can also convey insights about the claimant's culture to the social worker, allowing him or her to understand the situation better (Stedman, 2003).

### 3.3.4 Foster Families

Largely ignored in the literature, foster families are nevertheless central to the process as they take unaccompanied minors in their home while they go through the process. The families work in close collaboration with child welfare agencies which have the responsibility to screen them. Ideally, the family would have the same cultural background as the unaccompanied minor (De la Soudiere; Williamson and Botte, 2007). These families open their homes to the refugee children at any time of the day and night, and often can assist in identifying the background of the child when the authorities have little to go on. Most importantly, they allow the youth to spend time among a family, giving him or her, the security of a home (Hayes, 2009).

---

<sup>41</sup> this is particularly relevant to people who claim asylum on grounds of political persecution

## 4. Research Methodology

### 4.1 Research Design

This research aims primarily to present the asylum claim process as it is for unaccompanied minors in Canada, exploring what happens to them as they cross our borders. The literature review has exposed the protocol in place for making an asylum claim in Canada, identifying at the same time the evidentiary and procedural issues that arise when unaccompanied minors are concerned. The goal of this section is to offer additional insights on the issue by interviewing people who are directly involved in the asylum claim process. To that effect, the questions raised at the onset of this paper will serve as a blue print for my research design, bringing additional insights that will further the understanding of the problem.

Following a qualitative approach to allow for more flexibility in exploring the matter, the study was originally intended to focus on two particular modules of investigation, using data analysis, and participatory action research (PAR). Data analysis was to conduct a preliminary review of statistics and official reports published over the last ten years, which would serve to present the situation as it is today. Drawing from CIC and the IRB procedure manuals as well as the Federal Court Data which relates to the judicial review of pertinent cases, the review, exposed throughout the literature would identify the key players in the asylum process, as well as explore the role of our government and the extent to which it has implemented national policies to address the plight of unaccompanied minors seeking asylum in Canada. To build on that information and using Participatory Action Research, the second module was to conduct interviews with five Immigration officers and five front-line workers who work in direct contact with unaccompanied minors. PAR emerged in the 1990s as a new method of research which steered away from tradition, and aimed to actively include the participants in the research process. Immigration officers and front-line workers were chosen because their work in direct contact with unaccompanied minors put them in a prime position to identify the gaps in the system, thus giving them the ability to project potential solutions to the issue. Interviewing unaccompanied minors was initially considered, but the idea was rejected because of the potential psychological harm that could ensue.

After receiving approval to conduct such a project by Ryerson University's Ethics Board Committee, officials at CIC were contacted to request permission to post a recruitment flyer for Immigration officers. Similarly, managers at various NGOs, refugee shelters and the office of the UNHCR in Toronto were contacted with the hope to recruit potential participants. Seven weeks later, CIC denied my request with no explanation given. However, I was given a contact at the IRB for any more questions I would have. Similarly, all of the front-line workers I contacted also turned down my request, citing privacy issues. As an alternative, I relied on snowball sampling. Dr. Hare, my research supervisor was instrumental in identifying a potential participant, in addition to the contact I had from CIC. The person was contacted by email and informed of my research project. He agreed to participate, and a phone interview was scheduled for the following week. During that interview, he identified one of his former colleagues as a potential participant for my project. An internet search allowed me to locate her and I contacted her by phone, explaining how I got her name. I explained the purpose of my research and she agreed to answer a few questions informally over the phone. Another participant was referred to me by the contact person given to me by CIC. I contacted her by email to explain the purpose of my study, and she agreed to participate. An interview to be conducted at her office was scheduled for a few days later. Finally, the last participant was recommended to me by one of my peers who presented her own research at the Migration and the Global City Conference in Toronto in October 2010. As one of my co-presenters at the conference, she was instrumental in putting me in touch with a key player leading the immigration team at the Peel's Children's Aid society. Once again, the interview was conducted over the phone for more convenience. Most interviews were carried out over the phone as an alternative to face-to-face interviews because of time constraint for the participants. In all, I was able to recruit four people (two males and two females). Although limited in number, the subjects offered key insight into the project at hand as they were able to share and elaborate on their experience working in the field.

#### 4.2 Data collection

Two of the participants, one male and one female, worked for the Canadian Immigration Department years ago and their input serve to get a sense of what the

issue was like, some twenty years ago. The context was different then, yet their testimony helps to put the issue in perspective, especially when compared to the other testimonies which apply to today's situation. The interviews focused on three main topics: The first one served to place the person within the context, defining their role within the refugee process. To that effect, I used broad questions such as *"Can you tell me about your position in the agency"*? The second topic focused more on the experience they had in dealing with unaccompanied minors, in an attempt to explore what happened when faced with such a situation. Although the questions I used remained open, I relied on their responses to guide further probes into the matter. The third section allowed the participant to expand on their experience, and offer insights on today's immigration system and potential ways to address the gaps.

One participant works for the IRB and offers an insider look at the process. Aside from outlining the asylum process, the interview revealed the challenges faced by the IRB Members who are required to follow a strict protocol when assessing a claim put forth by an unaccompanied minor. The interview was conducted in the library of the IRB office in downtown Toronto, and lasted for about one hour. The goal was to sketch the profile of those who make the decisions (in this case the IRB members) on a refugee application, and to determine the process they follow when it comes to unaccompanied minors.

Another participant works for a Child Welfare agency, giving us a chance to understand the situation from the Welfare agencies' standpoint. This testimony is particularly relevant to understand the collaboration between two major forces in the decisions made in the asylum claims put forth by unaccompanied minors. The interview was conducted informally over the phone and lasted for about 30 to 45 minutes.

#### 4.3 Data Analysis

Each participant was asked questions evolving around their position and role within their agency; their experience in working with refugee children and the potential solutions they envision for current issues, based on their particular experience in the field. All the notes taken throughout the interviews were later compiled and specific themes were identified. Afterwards, the information was organized according to the questions put forth initially.

## 4.4 Findings

### 4.4.1 Defining the situation as an unaccompanied minor enters the country

As we can easily imagine the fear the children go through as they enter a new land, the interviews reveal that the experience is also extremely challenging for the Immigration officers and front-line workers. Identification emerges as a key issue when the asylum claimant is a minor. Even when the child is with someone, the officer still has the burden to determine if the accompanying adult is legitimate. The difficulty of the task is amplified by the fact that not only the children do not know why they are here, but if they have a relative in the country, that person is often unwilling to step forward. The officer usually starts by looking at the documents the child has in his or her possession, if any.

*"It is very rare for a child to arrive without a lead. There is always an address, a name to follow ..."*

There is also the difficulty of assessing the immediate needs of the child, and at the same time dealing with the urgency of determining what should be the next step for the officers. The burden is on them to identify a course of action, even when there is little information to go on. When a child alone and under the age of 16, they are mandated to notify Child Welfare Services. In turn, social services have the burden of assessing the immediate needs and situation of the child.

*"We want to assess the situation. What does the child understand of the situation? The child may not have slept or eaten"*

The precarious nature of our world today also plays a factor in the way Immigration Officers deal with unaccompanied minors. If we compare today to a few decades ago, officers now have to be more vigilant about the situation of the child.

*"In those days, children were often sent ahead, with the parents joining them later"*

Participant talking about the way it was in the 70s

In contrast, nowadays, officers worry about smuggling and prostitution issues.

*"We need to ensure that the child is safe. We ask questions about the relation he or she has with the accompanying adult if there is one. We have to deal with what we have and it's often difficult to assess what is in the best interest of the child"*



*"If the child changes residence frequently, it signals a problem"*

Consistent with what was found in the literature review, participants also tend to agree that detention is really used as a last resort or if the circumstance dictates it is in the best interest of the child.

*"Children are not kept in detention. If they are, it's probably because they have a parent there"*

*"If the child is being held in detention (which is a last resort), a review of the detention grounds has to take place within 48 hours".*

4.4.2 Who is instrumental to their fate? Who decides whether or not they will be admitted here?

The IRB members are instrumental to these children' fate, considering they have the power to approve or deny a refugee application. In spite of that, the literature rarely touches upon who they are, thus my meeting with participant 3 was key to fill in the gap and sketch their profile, as well as determining how they work when confronted with a case put forth by a minor.

[Who are the members of the IRB? How would you define their background?]

*"Some are lawyers... but they can be of any background..."<sup>42</sup>*

[Who determines a case put forth by unaccompanied minors? Are there particular officers assigned to their case?]

*"No, anyone can do".*

[How many decide? Do they have a particular training for working with children?]

*"One member decides. In special cases, there can be three people on a case (a trainee with two experienced members)". Members receive on-going training every month, they are divided into teams"*

4.4.3 Determining what unfolds during a hearing

[Who would be present during the hearing?]

---

<sup>42</sup> The participant recommended that I checked the IRB website for job postings looking for Members to get a better sense of what they look for. Members are tested in part for behavioural competencies as described fully in Appendix A (Governor in Council Appointment Process. Immigration and Refugee Board Annexes, 2007)

*"The child claimant, the Member, the interpreter, the counsel and the designated representative. Sometimes, there is also a Refugee Protection officer and an observer (i.e. a social worker)"*

[How long is a hearing?]

*"A hearing can be short (that happens rarely); can last for about three hours (most common), or it can be long in that it lasts all day (usually not with minors, more likely in the case of war crime)."*

*"When dealing with a minor, Members usually hold a pre-hearing conference to discuss issues pertinent to the case (i.e. psychological problems)"*

While the literature review often emphasizes the importance of upholding the best interests of the child, the interview revealed that in fact the child claimant still has the burden to meet the definition of a refugee claimant.

*"Guidelines dictate that the asylum claim put forth by unaccompanied minors be heard on a priority basis... but it still has to fit within the definition of a Convention refugee. ... The process is different but the rules are the same"*

When probed about the Best Interests of the Child Principle, the participant stressed that it applies to procedures only.

[What happens when a case is denied?]

*"The claimant can ask for a Judicial Leave that would seek a review of the case by the Federal Court. Although it is not always granted, if the case is sent back to the IRB, a different Member will be assigned to it"*

[What happens when a removal order comes into effect?]

*"CBSA is in charge of enforcing a removal order".*

#### 4.4.4 Assessing the collaborative efforts between agencies

Assessing a case put forth by an unaccompanied minor is complicated because two agencies with opposing objectives become involved in the process. While Immigration officials are primarily concerned with border control, the wellbeing of the children prevails for child welfare agencies. A great part of my interview with participant 4 detailed the collaboration between Children's Aid Society (CAS) and CIC. He stressed that the agency understands the need to address the gaps within the system. As time

evolves, we need to adapt our policies. As a result, the Immigration department is now collaborating with Child Welfare Services in Toronto in an attempt to bridge those gaps.

*"Ten years ago, Child Welfare officials saw a need in immigration procedures. Often time, a claimant would not get status because they missed the deadline. We developed a team to fill the gaps, to understand these issues on multi-faceted ways.... Our Immigration team made of 6 members now hold continued sessions with Immigration officials 4 times a year to discuss structural issues and find solutions as a team"*

The collaboration is an important step forward for the benefit of the child claimants, yet it raises important questions about privacy issues, and the extent to which agencies can positively exchange sensitive information with no harm done to the child claimant. When probed about the issue, he acknowledged that it was often a challenge.

#### 4.4.5 Addressing the gaps within the system

While participant 4 acknowledged the need for different parties to work together for the benefit of the child claimants, participant 3 emphasized the efforts made by the government in order to improve the effectiveness of the refugee process. The lack of statistics put forth by the government is often decried in the literature, thus I asked participant 3 about her insights on the issue. [Considering that most western countries report annual statistics to the UNHCR, why does Canada not keep statistics on unaccompanied minors?]

*"Our focus is on trying to improve things. Training is important and our members undergo training regularly"...*

*"...Also, we have had an agreement with McCarthy-Tétrault Law Firm in Toronto for 5 years now. Their lawyers provide services pro-bono as designated representatives to the unaccompanied minors. They step in at the early stage of the process, often meeting us at Pearson airport when a child enters the country... their contribution is a huge step forward and they have exceeded all expectations by going above and beyond<sup>43</sup>".*

#### 4.4.6 Assessing the current system

---

43 MacCarthy Tétrault Firm won a Platinum 2010 Lexpert Zenith Award for "Most Impact on Child or Children", for their initiative in their Unaccompanied Minors Project. Lexpert Zenith Award honours Canadian Law firms or in-house law students who are committing their time, skills and mentorship to a diverse and valuable range of pro-bono activities

Each interview ended with a question asking the participant to identify the biggest issue within our current system. One participant identified safety issues as critical for the unaccompanied minors, especially once they leave the country. Another expressed concerns about unaccompanied minors aged 16 and 17, who no longer fall under the child welfare mandate. These children have no place to go and as a result, are even more vulnerable. She also stated that having a designated representative at the early stage of the process is critical, reinforcing that the collaboration between CIC and the McCarthy-Tétrault law firm was a big step forward.

#### 4.5 Discussion

The situation of a refugee claimant is critical by nature because the person is being denied basic rights which should be a given for every human being. As fundamental tenets of the Universal Declaration of Human Rights, these rights should not be negotiated. Yet, asylum claimants, including children are subjected to a rigorous process to be recognized as refugees when they make a claim. Although international instruments have been implemented to protect unaccompanied minors who are in that situation, they still have the burden of proving that they are worthy of it.

##### 4.5.1 Procedural and Evidentiary Issues

A great part of this study was devoted to the examination of procedural and evidentiary issues as they relate to unaccompanied minors who go through the asylum claim process. Such an assessment is imperative not only to understand the process but also to identify possible flaws. Indeed, my findings are consistent with the information revealed by the literature review, suggesting that the core issues are universal. The goal of this project was to uncover a Canadian model of practice which we could compare to the American or European models that are more widely exposed in the scholarly research. As such, it becomes evident that procedural and evidentiary issues are a challenge. It is important to recognize the complexity of the issue, as many of the problems identified are very difficult to address because of the very nature of them. Canada has been recognized and awarded in the past for its efforts to address the plight of refugees. It was in fact instrumental in the drawing of the Convention on the Rights of the Child, and it was also the first to draft specific guidelines for taking care of unaccompanied minors.

Although it is tempting to argue that procedural issues should be easy to address, the problem is complicated. The lack of consistency is evidently a key issue, but because we are dealing with a global issue, it seems impossible to reconcile the differences in the way different countries operate. For instance, access to relevant data is often impossible: the United Nations have attempted to create a universal database to keep track of unaccompanied minors as they move across borders, but to no avail. The difficulty may lie in part in the fact that countries such as Canada do not provide data as requested. Yet, they may not comply because of the fact that we have so many divergent definitions in Canada of what constitutes a minor. As the definition varies across provinces, it is indeed difficult to compile clear numbers about who enters our country. A claimant may appear to be a minor at the time of entry, only to be deemed older as identification gets under way. It is also a reality that many developing countries do not maintain such statistics. As a result, they are unable to comply with the UN's request for annual data, making the plan impossible to achieve. In this light, the dilemma extends beyond procedural flaws, bringing about questions about global interaction such as how we can ensure that every country is on the same page?

Detention also emerges as a key issue when unaccompanied minors are involved. Yet, while government officials maintain that it is used as a measure of "last resort", they do not offer much of an explanation, prompting the United Nations to criticize Canada. Regime Theory serves to evaluate the extent of our commitment to helping refugee children, and if the theory holds true, our actions suggest a genuine desire to help, considering our country fares a lot better than its counterparts in the US and in Europe<sup>44</sup>. However, the theory also suggests that democracies are better protectors of human rights in which case, it fails to demonstrate that it is indeed a true indicator, because obviously, not all democracies demonstrate the same will to protect human rights (Howe, 2010). The question that emerges then is: Are we doing enough? Human Rights agencies play an instrumental role in denouncing unwilling governments in an attempt to hold them accountable. Similarly, scholars have become key players

---

<sup>44</sup> In 2000, the US detained 4,700 unaccompanied minors because they did not have proper documentation (Howe, 2010). In Europe, Human Rights groups repeatedly denounce the poor practices of countries such as UK, Spain or Greece (Thompson, 2008)

over the last couple of decades because their work is putting the issues at the forefront, prompting government officials to take action, or at least to take notice that their actions are being watched. In 2000, Anthony H. Richmond explored the implications of doing research on such a topic, showing that the impact is for the most part insignificant. Blaming public opinion; the power of economists and the tedious process of doing research, he argues that research findings are seldom taken into account. Based on my experience doing this project, I can certainly agree with Richmond. I was faced with multiple road blocks from the onset. While the need to adhere to a strict protocol in order to protect all parties is understandable, especially when vulnerable children are involved, it seems that the ethical concerns often impede upon the process. My request to interview immigration officers was denied without any explication given. It took seven weeks for them to give me an answer, suggesting that they did evaluate the implications. During that time, they inquired about the purpose of my research and questioned if it would be published. The fact that they weighed the options suggests that the purpose of my project did not completely fall to deaf ears. However, they appeared extremely cautious about giving access to sensitive and maybe classified information. While I anticipated difficulties with the Immigration Department, I was surprised to receive the same response from front-line workers. All turned down my request for an interview, citing privacy issues. This was a big issue with my research because I was denied access to what was to me, crucial information which would allow me to go beyond the issues that have already been acknowledged. Although it is understandable that they would take extra steps to protect these minors, it raises questions about boundaries: where is the line? The literature clearly exposes the difficulties of conducting research on unaccompanied minors, making it evident that they are the most vulnerable. My research is also a good example of those difficulties: not only was I denied access to key information, but the interviews I collected also suggest that even though different parties involved such as government and welfare agencies are trying to collaborate, they often struggle with issues of privacy as well as determining how much information they should share. So the question on how can we best help these children remains.

Evidentiary issues are even more challenging to address, because the process entails gathering information through an interview. The process of an immigration hearing is gruelling for any refugee claimant, but even more so when young children are concerned because they do not have the physical, physiological and psychological capability to understand the process, nor to grasp the seriousness of their situation. Even with a designated representative at his or her side for guidance, there is too much at stake.

International Instruments can also become a contentious issue, especially when applied to the international context. For example, some scholars argue that “best interests of the child” can at times be difficult to define. Who decides what the best interest is? They argue that it is often relative to cultural norms, which have no place in our national policies (MCAdam, 2006).

#### 4.5.2 To what extent can we (should we) help?

“We have a programme, we have a structure, we have a policy, but we do not have adequate resources”

Anne Skatvedt, UNHCR’s senior coordinator for refugee children (1994)<sup>45</sup>

This statement was expressed by Ms. Skatvedt more than a decade ago, as she acknowledged the difficulty of the task at hand. Since its inception in 1950, the office of the UNHCR has been working relentlessly ever since<sup>46</sup> to relieve the suffering of millions of displaced people in the world, half of whom are children. Considering the UNHCR has coordinated the international efforts, it is troubling to hear a top adviser acknowledging the magnitude of the task. Furthermore, what are the implications for our country? Many criticize the government for not doing enough; others are complaining that we do allow too many refugees in Canada. I would argue that the situation is extremely complex and cannot be addressed in shades of black and white. Many of the flaws within our system are real and may be due solely to the negligence of our government. In that case, it is imperative to put the pressure on the policy makers so that they do pay attention more closely to the situation. However, there are many questions that cannot be easily addressed. For example, if we consider the numbers of asylum seekers who cross our borders every year, we cannot accept them all, which is

---

<sup>45</sup> Excerpt from *Alone in the world*. Refugee Magazine Issue 95 (The International Year of the Family), 1994

<sup>46</sup> Despite a three-year mandate at the time it was implemented

why our government has set a quota to respect. Thus, when it comes to unaccompanied minors, should we let them in regardless of that quota? Our system seems to be conflicting in terms of defining the priority: we have a complex protocol in place which aims to protect unaccompanied minors as they go through the asylum process because of their vulnerability, yet they still have the burden of meeting the requirements to be recognized as refugee. As a result, the Best interest of the Child principle becomes limited.

Similarly, we may question the extent of our obligation towards these minors. At one point are we no longer responsible for them if we return them? Is ensuring that someone is waiting for them on arrival enough to believe they will be safe? All these are ethical questions which are not easily answered, yet they remain at the core of the issue.

#### 4.5.3 Limitations of my study

The plight of unaccompanied minors entails a wide range of issues, and it would have been impossible for me to address all of them within this project. I chose instead to focus on the most critical ones, leaving out important factors such as gender and push factors. I also decided not to interview refugees who came to Canada as unaccompanied minors, because of the potential harm that could have ensued. While these were self-imposed restrictions to meet with the particular requirements of the study, I also encountered substantial difficulties in recruiting participants for my research. As a result, my sample was limited to four people. Although they provided me with great insights on the issue and allowed me to present the Canadian asylum claim system step by step, my results would have been stronger if I had the opportunity to interview more participants.

I also left out many procedural issues which are paramount to the subject, such as the interview process as conducted by Immigration officers and IRB members. The role of CBSA officers also represents a significant gap because they are the officers who come into play when detention or removal is deemed necessary. Their input would be valuable in terms of highlighting that particular aspect of the process, which is unfortunately a possible outcome for unaccompanied minors' asylum claim.



Finally, international agencies which strive to support these minors once they are back home, can offer significant knowledge in terms of understanding what it feels like to return, how difficult it is to adapt to home, and how the family members treat them as they return. Their contribution would extend our knowledge beyond our borders, allowing the experts in immigration to bridge the needs of these children between their home country and Canada.

#### 4.6. Conclusion

This study explored the experiences of unaccompanied minors as they claim asylum in Canada. Although I hoped to do more than acknowledging the gaps already well-established in the literature, I'm afraid this project raises more questions than it offers answers. I undertook it with the ambition of going a step beyond, looking at an area that is often neglected in the literature. It was perhaps a little naive on my part to think that I would be able to accomplish what seasoned researchers have attempted for years, yet it seemed important to carry out the research rather than to declare defeat from the onset, because of the difficulty of the task.

As a result, this project offers a glimpse of the Canadian asylum system as it pertains to unaccompanied minors, and as such, gives a useful tool to understand that system. There remains a wide area of the issue that needs to be examined, such as the role and impact of CBSA officers; the process of actually returning failed asylum claimants to their home country, as well as the role of international agencies as they work with these children once they are back in their home country. Ultimately, if we want to support refugee children, we need to understand not only our own rules and regulations, but also be aware of the impact they may have beyond our borders. The plight of these children does not necessarily end when an asylum claim has been decided upon. While Canada has demonstrated its willingness to help these children, we need to conduct more research that would extend our knowledge and allow for a more efficient collaboration with other countries.

## Appendix

### IRB GIC BEHAVIOURAL COMPETENCIES

#### ANNEX 3 – REQUIRED COMPETENCIES FOR BOARD MEMBERS

**Communication:** Ability to transmit and receive information clearly and communicate effectively to others by considering their points of view in order to respond appropriately. It includes using impartiality and tact in all communications as well as the ability to convey ideas and information, both orally and in writing, in a way that brings understanding to the target audience.

**Conceptual Thinking:** Ability to identify patterns or connections between situations that are not obviously related such as the applicability of broad legal principles to a specific set of facts, and to identify key or underlying issues in complex situations. It includes using creative, conceptual, or inductive reasoning.

**Decision Making:** Ability to make decisions based on analysis of the information presented in the face of ambiguous or conflicting situations or when decisions rendered have a significant impact on others.

**Information Seeking:** Ability to efficiently identify information required to clarify a situation, to direct that information be obtained from appropriate sources, and use skilful questioning to draw out the relevant information including when others are reluctant to disclose it. This competency enables the Member to prepare clear and well-structured analysis reflecting in-depth knowledge of the subject and the audience and to use the hearing as a tool to obtain additional required information.

**Judgement/Analytical Thinking:** Understanding a situation, issue, problem, etc. by extracting the essential elements and forming them into a cohesive whole, or tracing the implications of a situation in a step-by-step way. It includes efficiently assimilating, organizing and interpreting information from a variety of sources and depicting sound judgement by being rational, objective and unbiased, and selecting the best option based on the analysis.

**Organizational Skills:** Ability to organize the work to make the most efficient use of available time. It is expressed in such forms as monitoring and checking work or information, insisting on clarity of roles and functions, etc.

**Results Orientations:** Overall concern for working well and surpassing a standard of excellence. Focuses on results to be achieved, promotes best practices, measures performance and make adjustments to improve both efficiency and effectiveness. Takes ownership of personal work objectives, as well as the objectives that may exist through collaboration with others.

**Self-Control:** Ability to keep one's emotions under control and restrain negative actions when provoked in order to preserve impartiality and neutrality in decision-making. It also includes the ability to maintain stamina under continuing stress and during time of change.

**Cultural Competencies:** Ability to take into account the social and cultural conditions, norms and beliefs prevailing in claimant's milieu of origin in assessing the credibility or plausibility of their actions. This involves the ability to question one's own cultural assumptions, a willingness to understand a perspective other than one's own, and a commitment to recognize diversity both between and within cultural groups.

## References

- Alcoff, Linda (1991). The problem of speaking for others. *Cultural Critique*, No. 20 (Winter 1991-1992) , pp. 5-32.
- Ali, Mehrunnisa Ahmad; Taraban, Svitlana and Gill, Jagjeet Kaur (2003).  
Unaccompanied/Separated children seeking refugee status in Ontario: A review of documented policies and practices. CERIS Working Paper No. 27. Retrieved from [http://ceris.metropolis.net/Virtual%20Library/Demographics/CWP27\\_Ali.pdf](http://ceris.metropolis.net/Virtual%20Library/Demographics/CWP27_Ali.pdf)
- Ali, Mehrunnisa Ahmad (2006). Children alone, seeking refuge in Canada. *Refuge*, Vol. 23, No. 2, pp. 68-80
- Ayotte, Wendy (2001). Separated children seeking asylum in Canada. Retrieved from <http://ccrweb.ca/separated.PDF>
- Ayotte, Wendy & Peloffy, Karine (2003). Background Paper 2. Separated children in Canada: Immigration procedures. International Bureau for Children's Rights.  
Retrieved from [http://www.ibcr.org/editor/assets/thematic\\_report/3/2003\\_bp2\\_limigration\\_procedures.pdf](http://www.ibcr.org/editor/assets/thematic_report/3/2003_bp2_limigration_procedures.pdf)
- Barsky, Robert F. (1993). The interpreter and the Canadian Convention Refugee Hearing: Crossing the potentially life-threatening boundaries between "coccocode-e-eh", "cluck-cluck", and "cot-cot-cot". *TTR: Traduction, Terminology, Redaction*, Vol. 6, No.2, pp. 131-156. Retrieved from <http://www.erudit.org/revue/TTR/1993/v6/n2/037154ar.pdf>
- Berthiaume, Christiane (1994). Alone in the world. *Refugees Magazine* Issue 95 (The International Year of the Family). Retrieved from [www.unhcr.org/print/3b53f1674.html](http://www.unhcr.org/print/3b53f1674.html)
- Bhabha, Jacqueline (2004). Seeking asylum alone: Treatment of separated and trafficked children in need of refugee protection. *International Migration*, Vol. 42 (1), pp.141-148

- Bierwirth, Christoph (2005). The protection of refugee and asylum-seeking children, the Convention on the Rights of the Child and the work of the Committee on the Rights of the Child. *Refugee Survey Quarterly*, Vol.24, Issue 2. pp.98-124
- Canadian Council for Refugees (2009). State of Refugees: An introduction to refugee and immigration issues in Canada. Retrieved from <http://www.ccrweb.ca/documents/state-of-refugees.pdf>
- Canadian Council for Refugees (2010). Detention and Best Interests of the Child. Retrieved from <http://www.ccrweb.ca/files/detentionchildrensummary.pdf>
- Chase, Elaine (2010). Agency and silence: Young people seeking asylum alone in the UK. *British Journal of Social Work*, Vol. 40, No. 7, pp. 2050-2068.
- Crawley, Heaven (2007). When is a child not a child? Asylum, age disputes and the process of age assessment. Centre for Migration Policy Research. Immigration Law Practitioners' Association (ILPA) Research Report. Retrieved from <http://www.ilpa.org.uk/publications/Executive%20Summary%20Age%20Dispute.pdf>
- Council of Europe (2006). Chamber judgment Mubilanzila Mayeka and Kaniki Mitunga v. Belgium. Retrieved from [http://www.noticias.info/Archivo/2006/200601/20060127/20060127\\_140820.shtm](http://www.noticias.info/Archivo/2006/200601/20060127/20060127_140820.shtm)
- Denov, Myriam; Bryan, Catherine; Montgomery, Michael and Atem, Simon (2009). Unaccompanied and Separated Children in Canada: Issues of Resettlement, Classifications of risk. Retrieved from [canada.metropolis.net/mediacentre/DenovM\\_SeparatedChildren\\_mar30\\_09\\_e.pdf](http://canada.metropolis.net/mediacentre/DenovM_SeparatedChildren_mar30_09_e.pdf)
- De la Soudiere, Marie; Williamson, Jan and Botte, Jacqueline (2007). The lost ones. Emergency care and family tracing for separated children from birth to five years. United Nations Children's Fund Unicef
- Duke University Libraries (2011). NGO Research Guide. Retrieved from [http://library.duke.edu/research/subject/guides/ngo\\_guide/igo\\_ngo\\_coop/ngo\\_wb.html](http://library.duke.edu/research/subject/guides/ngo_guide/igo_ngo_coop/ngo_wb.html)

- Global Detention Project (2009). Mapping the use of detention in response to growing global migration. The Graduate Institute, Geneva, Switzerland. Retrieved from <http://www.globaldetentionproject.org/about/contact.html>
- Grover, Sonja (2006). Denying the right of trafficked minors to be classed as Convention Refugees: The Canadian case example. *The International Journal of Children's Rights*; Vol. 14, pp. 235-249
- Hannan, Lucy (2003). A gap in their hearts: the experience of separated Somali children. Integrated Regional Information Networks (IRIN) Report. Retrieved from [www.irinnews.org/pdf/in-depth/Gap-In-Their-Hearts-English.pdf](http://www.irinnews.org/pdf/in-depth/Gap-In-Their-Hearts-English.pdf)
- Hayes, David (2009). Abandoned in Canada, *Chatelaine*, September Issue.
- Howe, Sarah M. (2010). Separated children fleeing persecution: A comparative study of asylum. Policies in the U.K and the U.S. Government Donors Papers. Connecticut College.
- Human Rights Watch (2008). Left to survive. Systematic failure to protect unaccompanied migrant children in Greece. Retrieved from <http://www.unhcr.org/refworld/docid/4950a7382.html>
- IRB (2006). Benchmark Review of Interpreter Programs. A Study of Best Practices in Canadian Jurisdictions with Large Banks of Interpreters. Retrieved from <http://www3.sympatico.ca/martinj1/interp1.pdf>
- James, Gregory (2007). Applications for permanent residence made inside Canada. Humanitarian and Compassionate grounds. Retrieved from [http://gregoryjameslaw.com/apr\\_hc\\_information.htm](http://gregoryjameslaw.com/apr_hc_information.htm)
- Khan, Rana (2003). Refugee status determination process in Canada. Background Paper 1. Retrieved from [www.ibcr.org/editor/.../2003.bp1\\_refugee\\_status\\_determination.pdf](http://www.ibcr.org/editor/.../2003.bp1_refugee_status_determination.pdf)
- Kumin, Judith & Chaikel, Danya (2002). Taking the agenda forward: The roundtable on separated children seeking asylum in Canada. *Refuge*, Vol. 20, No. 2, pp. 73-77

- Little, Michael (2008). Some children matter more than others. Issues prompted by Roy Parker's study of the shipment of poor children to Canada, 1867-1917. *Adoption & Fostering*, Vol. 32, No 2, pp.6-18
- Luke, Alison (2007). Uncertain territory: Family reunification and the plight of unaccompanied minors in Canada. *Dalhousie Journal of Legal Studies*, Vol. 16, pp.69-84
- McAdam, Jane (2006). Seeking asylum under the Convention on the Rights of the Child: A case for complementary protection. *The International Journal of Children's Rights*, Vol. 14, pp. 251-274
- METRAC (2007). Application of the United Nations Convention on the Rights of the Child as it is applied in Canada. Retrieved from <http://www.metrac.org/programs/info/senate.committee.rights.child.pdf>
- Montgomery, Catherine (2002). The "Brown Paper Syndrome": Unaccompanied minors and questions of status. *Refuge*, Vol.20, Issue 2, pp. 56-67
- Montgomery, Catherine; Rousseau, Cécile and Shermarke, Marian (2001). Alone in a strange land: Unaccompanied minors and issues of protection. *Canadian Ethnic Studies*, Vol. 33, Issue 1, pp. 102-119
- Public Health Agency of Canada (2002). Children's rights and international policy. Retrieved from [http://www.phac-aspc.gc.ca/dca-dea/allchildren\\_touslesenfants/rights-index-eng.php](http://www.phac-aspc.gc.ca/dca-dea/allchildren_touslesenfants/rights-index-eng.php)
- Refugee and Migrant Justice (2009). Does every child matter? Children seeking asylum in Britain. Retrieved from Refugee and Migrant Justice website
- Richmond, Anthony H. (2000). Immigration policy and research in Canada: pure or applied. *Journal of Ethnic and Migration Studies*, Vol. 26.1, pp. 109-125
- Robinson, Mary (1999). A Human Rights Conceptual Framework for UNICEF. Innocenti Essays No 9

Service Canada (2011). Interim Federal Health Program. Retrieved from

[http://www.servicecanada.gc.ca/eng/gov/interim\\_health.shtml](http://www.servicecanada.gc.ca/eng/gov/interim_health.shtml)

Standing Senate Committee on Human Rights (2005). Who's in charge here? Effective implementation of Canada's international obligations with respect to the rights of children. Interim Report retrieved from

<http://www.parl.gc.ca/Content/SEN/Committee/381/huma/rep/rep19nov05-e.pdf>

Stasiulis, Daiva (2004-2005). The active child citizen: Lessons from Canadian policy and the children's movement. *Polis, Revue Camerounaise de Science Politique*, Vol. 12., pp. 507-539

Stedman, Máire (2003). Working with refugee young people. *Context*, Vol. 67, pp.16-18

Thompson, Amy (2008). A child alone and without papers. A report on the return and repatriation of unaccompanied undocumented children by the United States. Centre for Public Policy Priorities. Retrieved from

<http://www.cppp.org/repatriation/A%20Child%20Alone%20and%20Without%20Papers.pdf>

UNHCR (1994). Refugee children: Guidelines on protection and care. Retrieved from

<http://www.unhcr.org/refworld/docid/3ae6b3470.html>

UNHCR (2005). UNHCR's Strategy and Activities concerning Refugee Children. Summary Notes.

UNHCR Executive Committee of the High Commissioner's Programme (2006). Report on the High Commissioner's five global priority issues for refugee children. *Refugee Survey Quarterly*, Vol. 26, Issue 1, pp.157-168

UNHCR (2008). The UN Refugee Agency- Global provider of asylum data. Retrieved at [www.unhcr.org/4868e61e4.pdf](http://www.unhcr.org/4868e61e4.pdf)

United States Committee for Refugees and Immigrants (2001). U.S. Committee for Refugees World Refugee Survey 2001- Canada. Retrieved from



<http://www.unhcr.org/refworld/docid/3b31e15f1c.html>

Walljasper, Jay (2006). A Court that countries have to answer to. Ode Magazine. Retrieved at

<http://www.alternet.org/story/40502/>

## Glossary

**Asylum claim:** An asylum seeker is an individual who has sought international protection and whose claim for refugee status has not been determined (UNHCR Statistical Yearbook, 2008)

**Convention Relating to the Status of Refugees:** The 1951 Convention relating to the Status of Refugees is the key legal document in defining who is a refugee, their rights and the legal obligations of States (UNHCR, 2011)

**Convention on the Rights of the Child:** The Convention on the Rights of the Child is a Human Rights Treaty which outlines the responsibilities governments have to ensure the rights of children. The four general principles of the Convention are: non-discrimination, the best interests of the child, the right to life, survival and development, and respect for the views of the child. There are two optional Protocols: on the involvement of children in armed conflict, and on the sale of children, child prostitution and child pornography. Canada ratified the Convention in 1991, the Protocols respectively in 2000 and 2005. Nations that ratify this Convention are bound by International law. It was ratified by nearly all members of the UN, with the exception of the U.S.A and Somalia (Groce & Sobsey, 2008; Unicef, 2008)

**Designated Representative:** The Immigration Act requires the designation of a representative for all child claimants. The designation applies to all the proceedings of the refugee claim and not only to the hearing of the claim. The role of the designated representative is not the same as that of the legal counsel (IRB Guidelines 3, 1996)

**Humanitarian and Compassionate Grounds Claim (H&C Claim):** Any person can apply to stay in Canada on humanitarian or compassionate grounds. However, application are approved only in exceptional circumstances and can take years to be processed. There is no clear definition of humanitarian and compassionate" in the immigration laws, but CIC defines it as hardship that is "excessive, undue and undeserved, and disproportionate". An H & C application will not prevent or delay your removal from Canada. You still have to leave on or before the date stated on your removal order. Your application will still be processed and CIC will notify you in writing about the decision on your case (CIC, 2007; James, 2007)

**Judicial Review:** Judicial review is the process in relation to decisions, determinations or orders made, measures taken or questions raised under the Immigration and Refugee Protection Act (IRPA) for which no specific right of appeal exists. It is a two-stage process. The first stage is the application for leave of the Court which in this context asks permission to have the matter resolved by the Court at an oral hearing. If leave is denied, the application is dismissed and proceeds no further. If it is granted, the application moves on to stage two which is the judicial review.

**Pre-Removal Risk Assessment (PRRA):** In a pre-removal risk assessment, CIC evaluates the risk you will face if you are sent back to your country. PRRA is supposed to take place when the Canada Border Services Agency (CBSA) is ready to remove you from Canada. Almost anyone who is in Canada and who has been given a removal order can apply for PRRA (Cleo Net, 2010)

**Refugee:** A person is a refugee if he or she fulfills the criteria set out in the 1951 Convention relating to the Status of Refugees (UNHCR Statistical Yearbook, 2008). According to the 1951 Convention relating to the Status of Refugees, a refugee is: "a person who is outside his or her home country and who has a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion" (Bhabha, 2004)

**Unaccompanied/separated Minor:** The literature distinguishes between "unaccompanied minors," who arrive without the presence of an adult, and "separated minors," who may be with an adult who is not a parent or previous primary caregiver. The latter can be a person of concern, as the accompanying adult might not be able to adequately provide for the child, or may be involved in trafficking. The Citizenship and Immigration Canada (CIC) policy and program manual for immigration officers defines an unaccompanied or separated minor as a person "under 18 years of age and not accompanied by a parent or an adult legally responsible for them" who arrives at a port of entry into Canada (Elgersma, 2007)