



FCJ Refugee Centre
Walking with Uprooted People

UNDERSERVED COMMUNITIES UNACCOMPANIED MINORS

MAY 2013

This presentation was made possible by the generosity of



FCJ REFUGEE CENTRE
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Definitions of Minor

- ❑ **United Nations Convention on Rights of Child (CRC):**
 - ▶ *“Every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.”*

- ❑ **Canada:**
 - ▶ Definitions vary by province:
 - ▶ *Alberta, Manitoba, Ontario, Quebec, PEI - person under 18 years*
 - ▶ *BC, Nova Scotia, New Brunswick, Yukon, Nunavut, Northwest Territories- person under 19 yrs*
 - ▶ *Newfoundland- person under 16 years*
 - ▶ *Saskatchewan- person under 16 years*

Changes

- ▶ 1) Expedited Timelines for Unaccompanied Minors (UAMs)
- ▶ 2) Expedited Timelines for Designated Country of Origin (DCO) UAMs
- ▶ 3) Mandatory Arrest and Detention
- ▶ 4) Issues and problems for UAMs

1. Expedited timelines

- ❑ Bill C-31 came into force in 2012
- ❑ Makes provision for standard case hearings to occur within 60 days -expedited timelines as compared to the previous rules
- ❑ Amount of time to prepare a claim depends on the manner of entry (port or inland)
- ❑ Timelines make no accommodations to UAM claimants due to their status as minors
- ❑ Rather, most minor claimants are expected to meet the accelerated deadlines and take all the *necessary* steps in making a successful refugee claim (such as producing identity documents, evidentiary documents, retaining counsel, and preparing to testify for the hearing)

2. Expedited timelines for DCO UAM

- ❑ DCOs (Designated Country of Origin) are countries that do *not* normally produce refugees, respect human rights and offer state protections, and are therefore “safe”
- ❑ DCO UAM claimants face even more stringent timelines, and a 75% or higher rejection rate
- ❑ DCO UAM claims are heard in 30 days (for inland applications) and 45 days (for port of entry applications)
- ❑ Issue: due to designation of their country as “safe”, marginalized groups subject to violence, and without adequate state protection, will likely have their application rejected, without right to appeal
- ❑ For a list of the current DCOs, visit:

<http://www.cic.gc.ca/english/refugees/reform-safe.asp>

3. Mandatory arrest and detention

- ❑ Recent refugee changes permit Canadian Border Services Agents to arrest and detain unaccompanied minors aged 16 and over- particularly those who are designated as foreign nationals or irregular arrivals
- ❑ Mandatory detention of UAMs is problematic:
 - ❑ Increases the amount of stress the claimant experiences
 - ❑ Incarcerated minor will be prevented from living with warm host family or finding shelter at a centre
 - ❑ Canadian Border Services Agents make *no* distinction between adults being detained and minors being detained - they are all treated the same and same processing rules apply
 - ❑ Deprives young people of the possibility of working with social practitioners whom can help them cope with mental, psychological, and emotional stability issues

Mandatory arrest and detention

- ❑ Mandatory detention is problematic for UAMs (continued):
 - ❑ Detention isolates minors from participating in normal youth activities, such as going to school and making friends
 - ❑ Places additional stress and pressure on UAM claimants who come to Canada seeking protection

4. Problems for UAMs

- ❑ Designated Foreign National refugees are denied the right to travel outside of Canada for 5 years
 - ❑ Such a restriction is problematic because it denies UAM refugees the possibility of family reunification
 - ❑ Restricts future possibilities for UAM claimants considering working or studying outside of Canada within the 5 years
- ❑ UAMs must regularly report to immigration authorities for a 5 year period after the refugee claim is accepted
 - ❑ This is an additional burden for UAMs are expected to report just as adults are expected to report
 - ❑ Interferes with the ability of UAM claimants to successfully adjust themselves to life in Canada

Problems for UAMs

- ❑ No judicial review of the mandatory imprisonment or procedural demands (ie: travel ban)
 - ❑ No appeal or procedural method to apply for exceptions
- ❑ Lack of appropriate age assessment procedures and policies in Canada
- ❑ UAMs are treated as adults after they turn 16 (problematic as many UAMs arrive without proper birth documentation)
- ❑ Age assessment depends on officer's discretion- this becomes a subjective test and most of the time UAMs are treated as adults and hence lose their liberty