

The “Brown Paper Syndrome”: Unaccompanied Minors and Questions of Status

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Abstract

In principle, the Charter of Rights and Freedoms grants equal rights to all persons residing in Canadian territory. In practice, it is clear that some populations are more “equal” than others. Difficulties relating to the immigration process, access to services, and discrimination are but some of the forms of exclusion often confronted by minority and immigrant communities. For unaccompanied minors, their combined status as refugee claimants and as minors creates an added factor of vulnerability, referred to by one minor as the “brown paper syndrome.” Drawing on a case study of unaccompanied minors in Quebec, the present article examines the relationship between status and barriers to integration, looking more specifically at the difficulties faced by these youth in the refugee determination process and in accessing resources in the public, private, and community sectors.

Résumé

La Charte canadienne des droits et libertés confère, en principe, des droits égaux à toutes les personnes vivant au Canada. Il est évident cependant que, dans la pratique, certains groupes sont « plus égaux » que d'autres. Les communautés d'immigrants et les minorités ont à faire face, entre autres formes d'exclusion, à toutes sortes de difficultés liées au processus de l'immigration, à l'accès aux services et à la discrimination pure et simple. Dans le cas des mineurs non-accompagnés, leur appartenance aux doubles catégories de demandeurs d'asile et de mineurs, crée un facteur additionnel de vulnérabilité—appelé « brown paper syndrome » (syndrome « papier gris ») par un mineur. Se fondant sur

une étude de cas effectuée au Québec et portant sur des enfants mineurs non-accompagnés, cet article examine les liens qui existent entre le statut et les obstacles à l'intégration, en examinant plus particulièrement les difficultés confrontant ces jeunes dans le processus de la détermination du statut de réfugié et dans l'accès aux ressources qui existent dans les secteurs public, privé et communautaire.

The Brown Paper Syndrome: “What I don't like is when you produce the brown paper. [...] It's not exactly racism, but then Other places when you produce it, it's like you're contaminated. It's just a label. Immediately it's like, ‘Oh, okay, there's a wall in front of me. Stay away.’” — Natasha

In principle, the Charter of Rights and Freedoms grants equal rights to all persons residing in Canadian territory. In practice, it is clear that some populations are more “equal” than others. Difficulties of access to services, discrimination, and other barriers to integration are but some of the forms of exclusion often confronted by minority and immigrant communities. For refugee claimants, the uncertainty of their immigration status increases their vulnerability. It is this added factor of vulnerability which is referred to above as the “brown paper syndrome,” in reference to the immigration papers which identify refugee claimants as being “different” from Canadian citizens. The situation described above, however, is not that of an adult asylum seeker, but rather of an unaccompanied minor; that is, a youth under the age

of eighteen who has been separated from his or her parents and who arrives in Canada unaccompanied by a legal guardian.

The United Nations High Commissioner for Refugees (UNHCR) estimates the number of unaccompanied minors to be between 2 and 5 per cent of the international refugee population, thus representing an approximate 360,000 to 900,000 youth worldwide.¹ Although most unaccompanied minors remain in or near their countries of origin, in recent years increasing numbers have made their way to countries in Europe, North America, and Australia.² In 2000, an estimated 1,088 unaccompanied minors entered Canada, most of them settling in Ontario, Quebec, and British Columbia.³ In Quebec, where the present study was undertaken, figures are not available for the precise number of unaccompanied minors who arrive each year. However, in early 2001 the Service d'aide aux réfugiés et aux immigrants de Montréal Métropolitain (SARIMM), the primary agency responsible for their protection, had 298 minors on file.⁴ In 1999, thirty-five countries were represented in SARIMM's clientele, the majority from Africa and the Indian sub-continent (48.2 per cent and 35.3 per cent respectively) and a remaining 16.4 per cent from South America and Europe. More than two-thirds of these youth are boys or young men and just under a third are girls or young women. In terms of age, the majority, 64 per cent, are over sixteen years of age, followed by 22 per cent between the ages of thirteen and fifteen, and 14 per cent under the age of twelve.⁵

Since the unexpected landing of 134 Chinese youth off the coast of British Columbia in 1999, there has been increasing attention given to the situations of unaccompanied minors, particularly with respect to legislative and policy procedures. UNHCR Canada recently published a much-needed report on the asylum process in Canada for separated children.⁶ In Quebec, the Ministry of Relations with Citizens and of Immigration (MRCI) has drawn up a preliminary discussion paper on policy issues relating to this population.⁷ In Ontario a Migrant Children's Task Force was set up in 2000 for the same purpose and, in 1999, British Columbia created a Migrant Services Team in order to better coordinate services for unaccompanied minors.

All of these initiatives have inspired an essential introspection with respect to the roles and practices of institutional actors in working with unaccompanied minors in the refugee determination process. Meanwhile, relatively little is known about the way in which unaccompanied minors themselves experience this process or about the impact of the so-called "brown paper syndrome" on their establishment in Canada. A greater understanding of this experience could only be beneficial to the development of more coherent social policy and practice regarding this population. Drawing on a case study of the obstacles faced by unaccompanied minors in

Quebec, the present paper examines the impact of their status as refugee claimants and as minors on everyday lived experience.

Boundaries and Barriers: Some Indicators from Existing Literature

Neither full citizens nor often even welcomed guests, refugee claimants frequently face difficult living conditions in their early years of establishment.⁸ The status of refugee claimant is itself a sort of "status-in-waiting" in the sense that futures are dependent on the outcome of the refugee determination process. This period of waiting can become in itself a very significant barrier to integration, particularly in terms of access to certain types of resources.

While limited access to resources has been documented for adult refugee claimants, the specific situation of unaccompanied minors has received relatively little attention in existing literature. For adult claimants, the consequences of status are particularly prevalent in the job market, where employers often refuse to hire persons without a regularized immigration status. In Renaud and Gingras's study of 407 claimants in Quebec, 84.7 per cent acquired employment only after receiving refugee status, the median time for beginning a first job being over two and a half years (thirty-two months). Also, refugee claimants are often excluded from most government-sponsored employment and training programs because of their immigration status. Obstacles exist even in access to language training courses, generally considered to be a fundamental element of integration. Although such courses are in theory open to refugee claimants, Renaud and Gingras's study indicates that acceptance into language courses is four times greater for those who have obtained status than for those who are still in waiting. In the housing market, landlords often refuse, illegally, to rent to persons who do not hold Canadian citizenship. Just over ten per cent (10.4 per cent) of those involved in the study declared having encountered a negative reaction from landlords because of their immigration status.⁹ Even for those who are able to rent, they are subject to such discriminatory practices as having to produce supplementary proof of their identity or of their capacity to make payments.¹⁰

Barriers of access can also be observed in publicly subsidized service domains, such as medical services, post-secondary training, and daycare programs. Refugee claimants are not covered under regular provincial health programs, but rather under a separate federal plan known as the Interim Federal Health Program (IFHP). Through this program, claimants do have access to

medical services considered as being “essential,” but are not covered for routine medical, dental, or mental health services. In the sector of post-secondary education, claimants are allowed access, but are not eligible for regular tuition fees paid by Canadian students. The obligation to pay foreign student fees thus becomes a substantial financial barrier to education. Similarly, claimants with young children are not eligible for daycare subsidies, a situation which is particularly onerous for single-parent families.¹¹

The lengthy delays in processing refugee claims only accentuate these obstacles. In 1999-2000, the average waiting period for obtaining refugee status was 9.6 months for adult claimants and 7.3 months for minors.¹² Altogether, claimants may wait for close to two years before acquiring regularized immigration status as permanent residents.¹³ Such delays maintain claimants in a state of anxiety, not knowing whether they will be forced to leave the country and not able to plan for the future. This anxiety is further heightened in the refugee determination process itself. An Australian study, for instance, establishes a statistically significant relationship between the procedures surrounding the refugee determination process and the increase of stress and other psychiatric and somatic symptoms among refugee claimants.¹⁴ A study of the refugee determination system in Canada, undertaken by Rousseau, Crépeau, Foxen, and Houle, also reveals significant weaknesses in the ways in which claims are processed, including difficulties in evaluating evidence, assessing credibility, and conducting hearings; insufficient knowledge of the political contexts from which the claimants have fled; false representations on war; and cultural misunderstandings and insensitivity.¹⁵

The Immigration and Refugee Board (IRB) has set up special guidelines for processing claims of minors, entitled *Child Refugee Claimants: Procedural and Evidentiary Issues*.¹⁶ Although not legally binding, the guidelines are meant to set up a framework which takes into account the special needs of unaccompanied minors in the determination process.¹⁷ Despite the well-foundedness of the guidelines, their actual implementation has been the source of concern from professionals involved both directly and indirectly with the refugee determination process. Ayotte documents some of the more serious weaknesses, such as inappropriate forms of questioning; the uneasiness of some minors in telling their stories; the lack of facility of some Board members in communicating with children; the lack of understanding of the impact of trauma, personality, and cultural background on a child's testimony; and contradictions between the testimony of the designated representative and that of the child.¹⁸ The weaknesses identified in the refugee determination process call into question the right to a just hearing and thus constitute another

very significant barrier to the establishment of decent life conditions for refugee claimants, both adults and minors.

Reflecting on Status: the Interface between the Juridical and the Sociological

The obstacles noted above can all be linked to a broader reflection on status. For Weber, status is a question of belongingness in what he refers to as the *Rechtsgemeinschaft*, or community of rights.¹⁹ Belongingness has here two distinct, but interrelated, meanings. The first, a sociological meaning, refers to belongingness in the sense of being accepted as a member of what Anderson has termed the “imagined community”; that is, the political unit in which members “of even the smallest nation will never know most of their fellow members, meet them, or even hear of them, yet in the minds of each lives the image of their communion.”²⁰ This meaning is closely associated with that of identity and poses the delicate question of who belongs to the nation-image and who is excluded from it. This image is always based on an insider-outsider relationship in which privileges are granted to those who are considered to “belong” and refused to those considered as outsiders.²¹ From this perspective, discriminatory practices experienced by refugee claimants in the domains of housing, employment, education, or public services can be considered as manifestations of a tension between insiders and outsiders. In the situations described previously, a refugee claimant is conceived of as the outsider, the “Other,” the ‘pariah.’ It is in part this status as outsider which places refugee claimants in a situation of “lesser right.”

The second meaning of belongingness, a juridical one, refers to the legal status of individuals within the community. This meaning corresponds to the differential statuses conferred by immigration categories; that is, the fact of being a refugee, a permanent resident, or a citizen. Implicit in each of these categories is a hierarchy of rights corresponding to what individuals may or may not do depending on their immigration status in the community. The rights to vote and to hold office, for instance, are rights held only by citizens, whether through birth or through naturalization. The lower the status, the fewer the rights. Many of the obstacles cited above are maintained and reinforced by the fact that refugee claimants do not yet have a regularized immigration status. Access to regular health services, to government-sponsored employment and training programs, to post-secondary education as regular students, to subsidized daycare, and to other services in the public domain is reserved for citizens and, with some restrictions, to per-

manent residents. In these cases, the sociological dimension of "lesser right" is reinforced in a legal status.

This interaction between the sociological and the juridical takes on an added dimension in the specific case of unaccompanied minors. They are subject to vulnerability not only because of their immigration status as refugee claimants, but also because of their status as "minors," that is, the fact of being under eighteen years of age. This "age of majority," as we call it, marks an important socio-juridical boundary, at least in Western societies. The participation of minors in certain types of activities is limited because of their age. This is the case, for instance, for voting, for signing most types of legal documents, for accessing specialized training or employment programs, or for being eligible for social welfare transfers. Such limitations are made even more complex for unaccompanied minors in Quebec because, unlike youth in general, they do not have parents or legal guardians who can assume responsibility for them until they reach the age of majority. Although mechanisms for guardianship have been put into place in some provinces, such as Ontario and British Columbia, in Quebec there is an important juridical void surrounding this issue.²²

The interface of these different types of status — as outsiders in the "imagined community," as refugee claimants, as minors — creates a certain number of barriers for unaccompanied minors. One form of status plays off against the others, thus increasing the vulnerability of this population.

The Quebec Case Study: Some Methodological Considerations

Given the limited literature available on unaccompanied minors in Canada, the principal objectives of the study were to provide a portrait of this population, to document obstacles encountered in their process of establishment, and to identify some of the sources of support enabling them to overcome such obstacles. The study is based on a Quebec sample which was constructed in two phases, each providing a distinct point of view on the experiences and needs of unaccompanied minors. The first phase consisted of a series of ten individual interviews with social practitioners and administrators working with unaccompanied minors, and one group interview which brought together an additional eight practitioners. The respondents are from four types of agencies and organizations, including the Service d'aide aux réfugiés et aux immigrants de Montréal Métropolitain (SARIMM), the YMCA,²³ Youth Centres (Centres jeunesse) and the Ministry of Relations with Citizens and of Immigration.²⁴ In addition to the individual and group interviews with the eighteen practitioners, the study also drew on informal meetings with persons working in the field. The second phase of the study is based on a series of thirteen interviews with unaccompanied minors. The youth are from Africa and the Indian sub-continent, which accounted for 84

per cent of the Quebec unaccompanied-minor population in 1999. The sample is comprised of seven young men and six young women. The names used are fictitious and were chosen by the minors themselves.

The interviews were semi-directive in structure and were conducted around the following themes: profiles and migratory trajectories of unaccompanied minors; obstacles and facilitators encountered in the process of establishment (particularly events relating to placement, education, immigration proceedings, health and social services, and help networks); and propositions for changes to social policy and practice regarding this population. The findings presented in the following pages examine the relationship between different forms of status and barriers to integration, looking more specifically at difficulties faced in the refugee determination process and in accessing resources in the public, private, and community sectors.

The Refugee Determination System: Liberating or Limiting?

I used to think these people [immigration officials] enjoy playing God, you know, you can have it, you can't. Then I was like no, I can't think that way cause I just came here.... I should just be patient and I guess good things come to those who wait, but I just wished things would like [be faster] and I would know where my life was going — Tiffany.

The refugee determination process is a highly significant moment in the trajectories of unaccompanied minors, both symbolically and materially — symbolically, because it represents the passage from one world to another, not only in terms of geographic space, but also, and even especially, in terms of mental space. In this latter sense, it represents a form of liberation from the fear of return or of persecution. The process is of material significance because it determines the objective conditions by which the minors are permitted to participate in society. It is a process by which futures are decided and on which lives are dependent. The adoption of the IRB's children's guidelines, discussed previously, reflects the explicit acknowledgement of the particular vulnerability of refugee minors in the asylum process. Despite the meritorious intentions of such guidelines, however, both practitioners and minors who participated in the study had significant reservations as to their efficacy in everyday practice. While some commented on obstacles facing unaccompanied minors in the determination system more generally, others drew attention more specifically to limitations in the hearing procedures.

The determination process is a ritualized event, organized around a structured set of rules and procedures which are highly juridical and administrative in nature. Although juridical-type proceedings do exist in some form or another in most countries, the practitioners emphasize that unaccompanied minors are generally unaccustomed to the rules and procedures which make up such decision processes. Consequently, the process is seen as confusing. The minors do not necessarily understand all of the stages involved, the roles of the different institutional actors, or the importance of the official documents and forms which they are constantly filling out. This confusion is expressed in the following accounts from minors:

Yeah, it [immigration process] is funny. I don't understand it, it is very long. I don't understand what is the process. I don't know, there are too many things [...] Because there was some mixing, I get many letters, I went many places. — Michael

I've got an idea of what's going on, but then I'm not so sure. You go to the hearing. What happens after that? If they refuse your claim what goes on after that? [...] What happens after the hearing? Say you get your status, whatever, what happens after that? I don't even know. — Tiffany

On a more immediate level, the practitioners commented on the very subjective nature of the hearing procedures themselves. Decisions sometimes appear to be arbitrary, their justification reflecting more the personalities of the Board members present during the hearings rather than the facts of the cases themselves. One practitioner gives the example of a minor in his caseload whom he considered to have a clearcut case. The decision of the Board, however, was split, with one member stating that the story lacked credibility and another, the opposite. Commenting on the case, the practitioner states:

It's not that simple!. And yet, for having worked with him for months on these questions, I knew, I mean that youth was an authentic refugee right down to the tip of his fingernails. But it was close, it passed really closely.

Other practitioners called for an urgent need to rethink the entire process of testimony for unaccompanied minors, placing significant emphasis on the very different ways in which minors may tell their stories. While they suggest that some Board members have a tendency to overestimate the capacity of minors to give testimony, for others this capacity tends to be underestimated.

The accounts of the minors themselves illustrate some of the principle difficulties encountered during the hearing procedures. A first difficulty is the formality of the event itself. Most of the minors felt intimidated during the hearing proce-

dures. This was the case, for instance, of Ruby, whose refugee claim was rejected in the initial hearing and accepted only after her case was later appealed. When asked about what had happened during the first hearing, she explained that she had been scared. She believed that her case had been refused as a form of punishment because she talked too much:

Interviewer: Why didn't they accept you the first time? Do you know?

Ruby: Yeah, because before, I noticed that I [ask] lots of questions. I talk lots of things, that's why they thinking I am talking too much, so that's why they don't accept me.

Goldie was also extremely nervous during his hearing. He couldn't understand why he was able to tell his story so easily to his social workers at SARIMM and yet was scared that he wouldn't be able to answer the questions at the hearing. The tone of questioning used by the lawyer made him even more nervous, as he explains:

Everything was right, but the problem is, I don't know why I was so nervous. I don't know. Because they [social workers] were asking me questions of my life before: what happened at this time, why it was like this, and this. [...] I think the guy from, you know, the lawyer from immigration, from the government, the question he is asking me, he is making me very deeply. That is why I got scared. That is the only reason I got nervous. I was thinking, if they ask me anything I could not answer them. — Goldie

Goldie's comment also reveals a second difficulty mentioned by several minors in the study relating to the strategies used for questioning. Some were surprised by questions which they did not consider to be relevant to their individual stories. Although refugee hearings are meant to be non-adversarial in nature, the minors described what they considered to be a confrontational environment. Tone of voice and repetitiveness of certain types of questions were interpreted as signs that their stories were not believed. Michael, for instance, describes the type of taunting, or "teasing" as he says, used by one of the Board members: "I answered good what they asked me. They were teasing also. They were asking one time one question ten times, very like, they are compressing. The first question was, they said that there were some difficulties in my story, some wrongs."

Language barriers are another significant difficulty encountered by minors in the hearing process. Of those who participated in the study, all spoke either English or

French. However, the degree of language proficiency varied greatly from one youth to another. Despite a basic ability to communicate in one or another of the two languages, more than half were accompanied by an interpreter during the hearing process. Although the presence of the interpreters was generally appreciated, problems of translation heightened the insecurity of some minors. Vange, for instance, had a Portuguese-speaking interpreter from Brazil, although he is from a country in Africa where the Portuguese dialect is quite different. The differences in dialect between the interpreter and Vange led to some confusion during the hearing, so much so that he sometimes resorted to hand gestures in order to ensure that there were no misunderstandings:

[There was] a bit of confusion, because they [the Board members] did not understand Portuguese. There were certain words, because Brazilian Portuguese and the Portuguese [in my country], there are certain differences, you see. And there were certain parts that I spoke in a Portuguese that only those from my country know and that he [interpreter] didn't understand. He explained things in a certain way that the jury members didn't understand either, but after that, I tried to explain some things by gestures and they understood. — Vange.

In other instances, problems of translation were more critical because of mistakes which weakened the credibility of the stories in the eyes of the Board members. Michael, for instance, had worked with a translator when he put together his written testimony. While he dictated in his mother tongue, the translator transcribed directly into English on the computer. According to Michael, the translation was done too rapidly because the translator was very busy during that period. As a result, there were some mistakes concerning names and addresses in the transcription which aroused the suspicion of the Board members.

In addition to problems of translation from one language to another, another type of communication barrier was also mentioned in the minors' accounts: the use of juridical or technical jargon used during the proceedings. In a somewhat comic situation, Vange described how he did not understand right away when the Board pronounced its decision, a positive one, because the person had used a technical word that he did not know. It was only after seeing the expression on his social worker's face that he knew that something important had just taken place. That "something important," of course, was the granting of refugee status.

Outside of the difficulties encountered in the hearing process itself, both practitioners and minors also commented on the long delays before status is determined. Not all of the minors had obtained status at the time of the study. The national average for processing claims of minors is 7.3 months,

although for some of the minors in the study, the waiting period was over a year. Also, while the children's guidelines emphasize the importance of prioritizing minors' claims, the practitioners suggested that this practice is not observed systematically and that delays can in fact be quite long in some cases. The long waiting period constitutes a significant source of anxiety for these youth and its effects should not be underestimated. Some complained of difficulties sleeping during this period, of headaches, of problems concentrating in school, of episodes of crying, and of various physical discomforts likely caused by stress. Goldie, who had not yet received the decision of his hearing at the time of the interview, describes the impact of the wait on his health.

It is not good for the health, you know. Sometimes I get sad. I don't know what is going to happen to me. I was thinking, and I don't feel like to eat. I don't feel to do something. I don't feel like go to school. I was scared, you know. I am still scared because if they want to, whatever they want, in little time, five, six months, the time I am going through, it is a long time. — Goldie

Still others just wanted to put this period behind them in order not to be constantly reminded of the situations which forced them to leave their countries and, also, to be able to plan for the future. For Komar, the happiest moment since arriving in Quebec was the day he learnt that he would be able to stay in Canada: "Yes, that's a very nice gift". For Michael, the day his case was accepted was the day he "started living." Vange, too, just wanted to get on with his life: "I already wanted to enter into this society like everybody else".

Thus, the immigration process, and in particular the determination of refugee status, constitute significant moments in the process of establishment of unaccompanied minors. As both practitioners and minors suggest, however, this process is riddled with obstacles. Confused understandings of the different stages in the process, confrontational types of questioning judged inappropriate for minors, communication barriers relating both to a lack of knowledge of English or French and to the use of technical and juridical terminology, anxiety and psychosomatic symptoms provoked by the long delays: these difficulties all contribute to the vulnerability of unaccompanied minors. While the IRB's children's guidelines constitute a potentially valuable tool for improving the conditions of establishment for unaccompanied minors, the lack of systematization in their implantation would appear in fact to add to this vulnerability.

Status Barriers and Access to Resources

Like adult claimants, unaccompanied minors also find that the wait for refugee status becomes an obstacle to accessing certain types of resources considered essential to social integration in the host society, whether in public, private, or community domains of activity.

Access to Public Sector Services: Health and Education

Access to health care forms part of what most Canadians consider a basic right. Like adult refugee claimants, however, unaccompanied minors who do not yet have refugee status are not covered by provincial health programs, but rather by the Interim Federal Health Program (IFHP) administered by the federal government. While this program ensures all essential services, it is based on a curative approach to health care rather than a preventive one. Thus, unaccompanied minors have access to medical, dental, or mental health services only if the consultation is considered essential and, even then, their papers are not easily accepted in all health centres and clinics.²⁵

The difficult access to health services is best described in the accounts of the minors themselves. Komar, for instance, had a medical condition resulting from an operation he had had several years earlier and, in his country of origin, the condition was followed up in regular medical consultations. Prior to obtaining his refugee status in Canada, however, he was not able to seek medical aid because he was not yet covered by the Quebec health regime and the condition was not covered under the federal program. Although he did not suffer any adverse effects from his condition in the early period of establishment, the curative logic of the IFHP implies that he would have had to wait for his condition to worsen before being able to seek treatment. Such a logic places unaccompanied minors in a very delicate position which could potentially increase health risks. In a situation described by another minor, access to services was almost refused because the health professionals in the clinic where he sought help were not sure that they would be paid for the consultation. After pleading with one of the doctors, he was finally able to receive medical attention, but the doctor insisted that a letter be written in order to ensure payment. In the following comment, Vange describes the situation:

It was complicated, because the doctor didn't know. He doesn't work with immigration. I don't know if I understood well, but he wasn't sure who was going to pay the consultation fees. I explained to him that I was at SARIMM. He almost refused me, but since I was the last client I said 'Monsieur, I really need to know my state of health, because I don't feel very good'. He did it and they wrote a letter. I don't know if they sent it to SARIMM... It was because I wasn't a permanent resident yet, I wasn't a resident at that time. — Vange.

Natasha describes her own experience of refusal because a health professional would not accept her immigration papers. Following a medical examination, her doctor told her that she could fill out her prescription at a local pharmacy and that all she had to do was present her immigration papers and there would be no cost for the medication. When she arrived at the pharmacy, however, she felt at once frustrated and humiliated by the way in which the pharmacist reacted when he saw her papers:

So I had to go to the pharmacy and they didn't accept my brown papers, my immigration papers [...] I wish someone had told me before, cause I don't like making a fool out of myself [...] The doctor said go to the pharmacy downstairs, show them your papers, then they'll give you the medication.
— Natasha

These situations illustrate both the difficulty of access to health care and also the confusion surrounding what services are covered and what the modalities of payment are. This confusion is felt not only by health professionals who are unfamiliar with this population, but also by the minors themselves who are not necessarily aware of what their rights entail in matters relating to health care.

Access to health services is even more complex for unaccompanied minors under the age of fourteen. According to Quebec laws, youth over this age are able to give authorized consent for medical interventions. Youth under this age, however, need the consent of a parent or of a legal guardian. Unlike some other provinces, such as Ontario and British Columbia, there is no designated legal guardian for unaccompanied minors in Quebec. While there have been no serious cases involving medical consent yet, this juridical void does nonetheless pose some serious ethical considerations with respect to the protection and care of unaccompanied minors. Vaccination and other health programs in the schools, although relatively routine occurrences, illustrate the potential consequences of this void. Students under fourteen need parental consent for such interventions at school. For unaccompanied minors, consent forms are sometimes signed by foster families or social workers, although, strictly speaking, they do not have the authority to do so. As one practitioner suggests, such practices are not without risk: "If something goes wrong afterwards? We put a signature somewhere. Imagine that something happens to the child; that he has a major infection and dies [e.g. following a vaccination]. Who is responsible?" The stakes are potentially even higher for interventions such as surgery or other serious forms of

treatment. Thus, the juridical void in these cases is amplified by the status of these youth as minors.

The educational sector is also one of the more important domains in which the impact of status can be observed. Access to education is to unaccompanied minors what employment is to adult claimants. It represents an essential stage in their establishment, not only by preparing minors for the future roles they will play in society, but also by introducing them to key values, symbols, and even language skills which will enable them to fulfil these roles with ease. Generally speaking, universal access to education is taken for granted in Canada. For youth such as unaccompanied minors, however, this access is not always unproblematical.

School attendance does not always begin immediately. Among those who participated in the study, the delays in registration ranged from one to five months following their arrival in Quebec, largely the result of communication difficulties between immigration and education authorities. As with the determination process, the waiting period is often a difficult one. Without some form of activity to keep them busy, many have too much time to dwell on the events which led to their departures from their homelands. Michael, for instance, describes the way in which he spent the days before he was able to attend school:

I was thinking about my family. That was very boring days, thinking, thinking, I was so weak, my eyes were very black from this. Everybody was saying: are you eating well? But I was not eating well, I was not going outside. Really it was difficult. It was a difficult life.
— Michael

He started feeling better only after his registration was accepted. School thus provides an excellent means by which minors can establish some kind of normal routine, helping them at the same time to think of things other than their losses. Consequently, both practitioners and minors alike call for better communication between immigration and education authorities in order to shorten the administrative barriers to entering the educational system.

Outside of the long delays, unaccompanied minors face other types of resistance in the school system, resulting from their status both as refugee claimants and as minors. As refugee claimants, these youth have the right to attend regular public schools in Quebec. Some schools, however, are reluctant to accept them. In a period of important cutbacks in the educational sector, special-needs groups such as unaccompanied minors are often perceived as burdens on an already overloaded system. Among practitioners, there is a generalized concern that the lack of resources has led to a standardization of educational practices, which tends to push those with special needs towards the periphery of the school system. Thus,

the unaccompanied minors do not always have the support needed to encourage their progress in school. This was the case, for instance, of Goldie. He had enormous difficulties concentrating during the first few months in school. Sometimes he would place his head on his desk and start crying. The teacher, who believed he was trying to test her, would get angry and send him to the principal's office.

Because I have so many problems I couldn't do study. [...] The teacher, she get mad, and she was very, like telling me that: 'You are the only one doing this and that.' I mean, she was right, I was wrong. But she didn't understand my problem, I didn't tell her what happened to me. It might happen to anyone what happened to me. Everybody going to be in my situation maybe, because I lose everything in a couple of months. [...] Yeah, if she knows that I was having that much problems maybe she wouldn't do that to me. I mean, she is always say: 'You not doing good.' And I don't like to hear that because when I was in my country I was doing my studies, I was always good. I never heard that from teacher: You are not doing this, I don't like to hear that, but I couldn't do. I tried to do studies but all my mind goes there, I start crying in class sometimes, I was going that like on the table, and the teacher think that I am tired or I want to sleep, and they go to the director: 'He was sleeping in class, this and that.' —Goldie

Furthermore, schools have no legal responsibility to keep students in the regular system after the age of sixteen. There has thus been an increasing tendency to wait out the period until unaccompanied minors reach this age, so that they can then be ushered out of the regular system and be placed instead in the adult-sector schools for continuing education. The adult sector, however, is considered by practitioners as being inappropriate for unaccompanied minors. Offering even less support than the regular school sector, the adult sector requires a greater degree of maturity and discipline on the part of students. The lack of support was a great source of anxiety for Chef, one of the minors in the study, who was to be transferred to the adult sector the following September: "[I] found out I had to go to adult school. So, I was really afraid, but they told me, 'You don't have to be afraid.' But I find that even like that there is nobody that will push you. I know you have to push yourself, but you need a little help too." Also, the adult sector does not have the same legal responsibility to accept minors whose immigration status has not yet been regularized, nor does it receive financial compensation from the school boards for these youth. There is thus a reluctance on the part of the adult sector

to accept unaccompanied minors who have been squeezed out of the regular sector. As one practitioner explains, the educational placement of unaccompanied minors sometimes resembles a ping-pong match, because the youth are volleyed back and forth between institutions which have excluded them on the basis of either age or immigration status:

When the school board saw a sixteen- to seventeen-year-old, they would say: "The age difference is too big, we'll send him to the adult system". Except that adult schools have received rules and directives which say that they cannot accept them. For the financing, they need people who have already been accepted as refugees. Even if it is a minor, they don't receive anything, so they don't want to take them. Thus, the board would send them there and the school would say "No, you can't do that". They played ping pong with a lot of my minors [...] Now, I always refer them with a letter saying "don't send them to the adult sector. These are your schools and you should know that they don't have the right. Send them to the regular system, because they have the right there".

Access to Private Sector Domains: Employment, Housing, and Commercial Institutions

Since their basic needs in terms of placement, food, and clothing are provided for by the government, unaccompanied minors do not face the same urgency in finding employment and housing as do adult refugee claimants. However, for "older" minors, particularly those between sixteen and eighteen, access to these domains may nonetheless be problematical.

The principal daily activity of unaccompanied minors is undoubtedly school attendance. Some older youth, however, may also look for part-time jobs which can give them a little bit of pocket money for buying such items as clothes or music. Like adult claimants, however, they find that access to the job market is not always easy. Not only are employers reluctant to hire them because of their immigration status, but the working conditions are less than ideal in places where employment is more accessible. Natasha, who comes from a former British colony in Africa, was educated in English and has a British-sounding accent. When she applied by telephone for a job in a telemarketing firm, she was told right away to come in for an interview. When she arrived at the firm, however, she noticed that the employer seemed to react negatively towards her. She suggests that he was surprised by the colour of her skin and that he showed even further resistance when she presented her immigration papers. Commenting on the experience, she just shrugged her shoulders and said, "You see that funny look in their faces. You're like, I've got no job." In another type of situation, Vange found himself working illegally in a manufacturing company because other employers wouldn't accept his immigration papers. He described the working conditions there as being difficult and waited with

anticipation the acceptance of his refugee status so he could find something more appropriate:

The status was very useful to me, because I wanted to participate in this society. I wanted to work in places with good conditions, because the place where I have been working up to now, most of the time the people who work there don't have their status or even the insurance card [...] It is not a job that I love, not at all. I found it difficult. I didn't have documents. I worked like mad. Since I have good qualities I could work in better places. – Vange.

Similar experiences may occur to those who try to rent apartments. However, since most unaccompanied minors are in structured placement situations, such as foster and host families, group homes, or supervised apartments, obstacles in the rental housing market are much less frequent than for adult refugee claimants. Only minors over sixteen, the age at which Quebec laws authorize them to sign leases, are allowed to live in independent apartments. Despite the right to sign leases, however, discriminatory practices based on age and immigration status persist, as one practitioner suggests:

It's true. [Immigration status] creates a credibility problem for the tenant. I am thinking about one of my youths. It took several weeks before he could obtain an apartment – because he was a minor, because he didn't have any income, because he was a new [immigrant].

Of the minors who participated in the study, only Goldie had experienced this type of difficulty, since most of the others were in placement situations. In fact, Goldie was still living with a family at the time of interview, but he had just begun an apartment search with a friend who was over eighteen years of age. Of the few apartments he had seen so far, he described most as being "dirty" and "smelly." When they did finally see a place that suited them both, Goldie said that the landlady responded by saying, "We don't give apartments to young people."

Even such administrative activities as opening a bank account or cashing a cheque can become bureaucratic ordeals for unaccompanied minors. Although SARIMM tries to direct the youth to banks which are more tolerant, there is nonetheless a reluctance to serve this clientele. Not only do they have too little money to be of any real interest to these commercial institutions, but their status as minors and as refugee claimants tends to arouse the suspicion of bank employees, as one practitioner suggests: "They [the minors] have three photos, with

immigration papers, but the banks consider them to be suspect”.

Natasha’s experience with banks also confirms this type of reaction:

[W]hen I got there I had to make an appointment to open an account and she looks at me funny. She told me to sit down. Immediately, I saw like the barrier, kind of thing, then she serves everybody else. I got there like first.... They talk nicely to you when you’re talking like this, [but] when you produce the [immigration] paper, then Oh! My goodness!

Access to Other Domains of Daily Life: The Community Sector

Even outside of more structured sectors of activity, such as those mentioned above, unaccompanied minors may also encounter obstacles in other, more informal, spheres of daily life, such as public libraries and leisure activities. One of the minors in the study, DC, is an avid reader. Although he has free access to the school library, he prefers to use the public library which is located near his foster family’s home. At this library, however, he is not allowed to borrow books because of his immigration status. Instead, he sometimes spends a half a day there reading a book which has been put aside for him. At the time of the interview, he was deep into the works of Shakespeare. Although DC did not complain about not being able to borrow books – he mentioned that the library is quieter than the home where he lives – the example nonetheless demonstrates the limits imposed by status.

Participation in leisure programs may also be limited by immigration status. A practitioner gives the example of a community organization which pairs new immigrants with individuals and families already residing in Quebec, the objective being to create support networks during the first few years of establishment. Believing that such an activity could be a valuable source of support for several unaccompanied minors in her caseload, she called the organization in order to register them. Due to limited resources, however, the organization had been obliged to adopt strict criteria for accepting new members into the program. Excluded by the criteria were those whose immigration status was not yet regularized:

I find that it would be very important. I have youth at the moment who would gain a lot from going to a family from time to time, even if they aren’t accepted as refugees yet. Or going with an adult who would take them to an activity once a month. But that doesn’t exist for refugee claimants.

Conclusion

The findings of the study reveal several types of obstacles encountered by unaccompanied minors in the early phase of

their establishment in Canada. Whether in terms of weaknesses in the refugee determination system or limited accessibility to various types of resources within the community, such status barriers identify these youth from the outset as being outsiders in the *Rechtsgemeinschaft*, or community of rights. Such barriers are situated in a logic which reproduces the sovereignty of the nation-state as a political unit in which privileges are granted on the basis of status in the community. As refugee claimants and as minors, these youth are characterized by two forms of lesser status, thus limiting their opportunities for full participation in the host society. Yet, the situations of unaccompanied minors cannot be limited strictly to a national framework. Instead, they necessarily extend to the international sphere of rights protection, as inscribed in the Geneva Convention on the Status of Refugees and the Convention on the Rights of the Child, both of which have been ratified by Canada. The humanitarian values which inspire these instruments, however, seem to be contradicted in national instruments which maintain status differences and in the everyday lived experiences of these youth. This contradiction introduces a paradox by which, to paraphrase Renaud and Gingras, “Persons admitted to Canada for humanitarian reasons experience such difficulties in the process of establishment that there is something inhumane about it.”²⁶

Although both statuses are short-term, in the sense that these youth will not always be refugee claimants or minors, it is generally acknowledged that the first three years of establishment are crucial in determining decent living conditions in the long term.²⁷ From this point of view, it is in the best interests of this population that more coherent policies and measures be developed in order to minimize some of the more adverse consequences of status differences. Practically speaking, such measures would need to address two basic types of issues. The first, more administrative, concerns the refugee determination process itself, in particular the delays in processing claims and the sometimes arbitrary application of the children’s guidelines in this process. A greater systematization of this process would not only reduce the anxiety and barriers provoked by the long waiting periods, but would also ensure more just and equitable hearings, which would better correspond to the humanitarian ideals that they are meant to embody. The second issue, more global, touches on the question of access to diverse resources. While many of the obstacles faced by unaccompanied minors in the public, private, and community sectors could be resolved simply by more rapid obtaining of refugee status, others could be minimized through the promotion of a greater aware-

ness of the special needs and rights of this population. Although the private sector remains a difficult target for promoting change, the development of informational tools and training programs among the various institutional actors brought into interaction with unaccompanied minors would enable an in-depth understanding of the lived experiences of these youth, their rights, and the resources available to them. Such an understanding is not only of academic interest, but is also crucial to the development of social intervention policies and practices which are better tailored to their needs.

Since the late 1980s we have been witnessing a severe backlash in opinion with respect to the plight of refugee populations. The economic recession of the late 1980s and the 1990s, which led to drastic cutbacks in social services and programs, has also had a dampening effect on the public's perception of Canadian humanitarian aid programs considered by many to be a drain on already scarce resources. Consequently, there is growing misunderstanding of the very essential and important role that we can play in helping innocent persons whose lives have been torn apart by events beyond their control. A greater awareness of the life situations and barriers faced by unaccompanied minors would help in dispelling the myth that these youth are burdens for society. Faced with ordeals which are unimaginable for most Canadians, these youth demonstrate an enormous capacity for adaptation. Our role as a society is to minimize barriers which hinder these capacities, thus facilitating their process of establishment and making of them full status members of the *Rechtsgemeinschaft*, both juridically and sociologically.

Acknowledgements

We would like to express our gratitude to the practitioners and unaccompanied minors who generously gave their time to participate in the study. We would also like to thank the Conseil québécois de la recherche sociale for the financial support which made the study possible.

The findings presented in this article are drawn from a larger study on the situation of unaccompanied minors in Quebec. The project, funded by the Conseil québécois de la recherche sociale (CQRS), was undertaken in collaboration with the Centre de recherche et de formation (CRF) and the Service d'aide aux réfugiés et aux immigrants de Montréal Métropolitain (SARIMM), both services of the CLSC Côte-des-Neiges, a health and social services institution in Montreal. The project also benefited from the support of the Montreal Children's Hospital, through the Équipe de recherche sur la santé mentale des enfants immigrants et réfugiés directed by Cécile Rousseau.

Notes

1. United Nations High Commission for Refugees (UNHCR), *Refugee Children: Guidelines on Protection and Care* (Geneva: UNHCR, 1994).
2. Susan Forbes and Patricia Weiss Fagen, "Unaccompanied Refugee Children: The Evolution of U.S. Policies – 1939 to 1984," *Migration News* 1 (1985): 3-36; see also Howard Adelman, ed., *Unaccompanied Children in Emergencies: The Canadian Experience* (Toronto: York University, 1984); Wendy Ayotte, *Separated Children Seeking Asylum in Canada* (Ottawa : United Nations High Commissioner for Refugees, 2001); Wendy Ayotte, *Separated Children Coming to Western Europe: Why They Travel and How They Arrive* (London: Save the Children, 2000); Catherine Montgomery, Cécile Rousseau, and Marian Shermarke, "Alone in a Strange Land: Unaccompanied Minors and Issues of Protection," *Canadian Ethnic Studies Journal* 13, no. 1 (2001): 1-17.
3. Ayotte, 2001.
4. This figure includes all unaccompanied minors in their care, independent of the year of arrival. However, since the responsibility for these youth is transferred to Quebec's Youth Protection Services (Centres jeunesse) once they have acquired permanent resident status, it can be assumed that the majority have been with SARIMM for less than two years.
5. Montgomery, Rousseau, and Shermarke, 2001: 4.
6. Ayotte, 2001.
7. Ministère des Relations avec les Citoyens et de l'Immigration (MRCI), *Mineurs non accompagnés qui revendiquent le statut de réfugié* (Montreal: Programme particulier pour revendicateurs de statut, MRCI, 2000), internal document. See also Jeanne Houde and Frédérique Sabourin, *Mineurs non accompagnés* (Montreal: Interministerial Working Group on Unaccompanied Minors, MSSS-MRCI, 1997), internal document.
8. Jocelyne Bertot and André Jacob, *Intervenir avec les immigrants et les réfugiés* (Montreal: Méridien, 1991); see also Robert Heipel, "Refugee Resettlement in a Canadian City: An Overview and Assessment," in *Refugee Policy: Canada and the United States*, ed. H. Adelman (Toronto: York Laness Press, 1991): 344-355; Jean Renaud, Alain Carpentier, Gisèle Ouimet, and Catherine Montgomery, *La première année d'établissement d'immigrants admis au Québec en 1989: Portraits d'un processus* (Montreal: Ministère des communautés culturelles et de l'immigration, 1992); Jean Renaud and Lucie Gingras, *Les trois premières années au Québec des requérants du statut de réfugié régularisés* (Quebec: Ministère des Relations avec les Citoyens et de l'Immigration, 1998); Christopher McAll and Louise Tremblay, *Les requérants du statut de réfugié au Québec: Un nouvel espace de marginalité?* (Montreal: Ministère des Relations avec les Citoyens et de l'Immigration, 1996); Morton Beiser, *Strangers at the Gate: The "Boat People's" First Ten Years in Canada* (Toronto: University of Toronto Press, 1999).

9. Renaud and Gingras, 1998.
10. McAll and Tremblay, 1996.
11. Catherine Montgomery, Christopher McAll, Andrea Seminaro, and Julie-Ann Tremblay, "Profils de la pauvreté et de l'immigration à Côte-des-Neiges," *Interaction* 4, no. 1 (2000): 77-95.
12. Ayotte, 2001.
13. Renaud and Gingras, 1998.
14. Derrick Silove, Zachary Steel, and Charles Watters, "Policies of Deterrence and the Mental Health of Asylum Seekers," *Journal of the American Medical Association* 284, no. 5 (2000): 604-611; Derrick Silove, Ingrid Sinnerbrink, Annette Field, Vijaya Manicavasagar, and Zachary Steel, "Anxiety, Depression and PTSD in Asylum-Seekers: Associations with Pre-migration Trauma and Post-migration Stressors," *British Journal of Psychiatry* 190 (1997): 351-357.
15. Cécile Rousseau, François Crépeau, Patricia Foxen, and France Houle, "The Complexity of Determining Refugeehood: A Multidisciplinary Analysis of the Decision-Making Process of the Canadian Immigration and Refugee Board," *Journal of Refugee Studies* (in press).
16. Immigration and Refugee Board (IRB), *Child Refugee Claimants: Procedural and Evidentiary Issues* (Ottawa: Immigration and Refugee Board, 1996).
17. According to the Guidelines, claims from minors should be prioritized, a designated representative should be appointed to accompany and provide support to the minor throughout the proceedings, panel members should be selected on the basis of their experience in dealing with children, the age and mental development of the child should be considered in the hearing procedures, an informal environment should be created during the hearing, children should be questioned in a sensitive manner, and, where possible, hearings should be limited to a single sitting.
18. Ayotte, 2001.
19. Max Weber, trans., *Economy and Society, Vols. 1-2* (Berkeley, Calif.: University of California Press, 1978, original 1921).
20. Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (2nd ed.) (London: Verso, 1991, original 1983): 6.
21. Danielle Juteau, *L'ethnicité et ses frontières* (Montreal: Les Presses de l'Université de Montréal, 1999).
22. An interministerial committee in Quebec examined the question of guardianship in 1997. Since then, more recent discussions in 2000-2001 have united several institutional actors in an attempt to find a solution to the question of guardianship (cf. MRCI, 2000). At the time of writing, no specific plan of action had yet been detailed.
23. SARIMM has a branch office in the YMCA where short-term placement is also provided for unaccompanied minors in the days following their arrival in Quebec.
24. The Centres jeunesse, which form part of the youth protection network in Quebec, are responsible for unaccompanied minors with regularized immigration status. As for the Ministère des relations avec les citoyens et de l'Immigration, it is the Ministry responsible for immigration procedures in Quebec.
25. Outside of the regular network of health service clinics, unaccompanied minors living in Montreal also have access to a specialized

health service for refugee claimants, the Clinique Santé Accueil, which is housed in the CLSC Côte-des-Neiges. The specific needs of this population are well known to the practitioners of this clinic and, consequently, minors do not encounter the same types of barriers here as they do in the regular health network.

26. Renaud and Gingras, 1998, 91.
27. Adelman, 1991.

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