

Refugee Children before the Immigration and Refugee Board

Geraldine Sadoway

Quote: "In the past decade, worldwide more than 1.5 million children have been killed in wars; more than 4 million have been physically disabled and some 5 million are now in refugee camps; 12 million have lost their homes; and untold numbers—but they reach into the millions—have been psychologically traumatized."¹

A l'échelle mondiale au cours de la dernière décennie, plus de 1.5 million d'enfants ont été tués dans des conflits armés; plus de 4 millions ont subi un handicap physique et environ 5 millions résident présentement dans des camps de réfugiés; 12 millions sont sans abri; et un nombre indéfini—mais qui se chiffre aussi en millions—ont subi des traumatismes psychologiques.

Children have been assassinated for political activities,² captured and enslaved by rival ethnic groups, subjected to torture, rape and the destruction of their families.³ Persecution of children is an enormous problem in the world today and children are more vulnerable to the devastating effects of persecution because they experience such trauma as children without the defences built up by the maturation process.

Most of the world's children who are in danger of persecution do not reach Canada, and most of those who do come, arrive with parents and are dealt with in the context of their parents' refugee claims. However, growing numbers of unaccompanied refugee children are now appearing before the Immigration and Refugee Board (IRB) to make refugee claims.⁴ The only legislative protections for such claimants in our refugee determination process is the requirement that

the Board appoint a "designated representative" for refugee claimants under eighteen.⁵ The Board has recently published guidelines to increase procedural protections for refugee children.⁶ However, the Board has not yet tackled the substantive issues of what constitutes a well-founded fear of persecution for child claimants and how the Convention grounds for fear of persecution may be applied to cases involving child claimants. I shall focus here on a substantive approach to refugee claims by minors and recommend guidelines to be followed in addressing the difficult evidentiary issues sometimes raised by such claims.

What Constitutes "Persecution" of Children

A "Convention refugee" must establish that s/he has a "well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion."⁷ As the *UNHCR Handbook on Procedures and Criteria for Determining Refugee Status* states, "[t]here is no universally accepted definition of "persecution," and various attempts to formulate such a definition have met with little success."⁸ Furthermore, the jurisprudence on the meaning of "persecution" has developed in the context of claims made by adults.

In determining the refugee claims of children, the Board should consider first the nature of harm that could constitute "persecution" of children. Just as there are types of persecution "unique to women,"⁹ there may also be types of persecution unique to childhood. Harmful actions that might be considered as mere harassment or discrimination in the case of an adult, may constitute persecution when applied to children. Children have different basic needs, are more vulnerable and have fewer defences against abuse. For example, depriving an adult

of an opportunity to attend school may not be seen as persecution. However, depriving a child of the right to attend school (for "Convention" reasons) could easily be seen as persecutory. Separation of the child from parents may be persecutory, whereas separation of adults from their parents is something that occurs normally and would not usually be thought of as a persecutory act. Participation in the work force and forced conscription are perhaps the most obvious examples of treatment that may be persecutory for children but would not usually be persecutory for adults. Abusive acts such as beating or torture, may have more severe consequences for children (and therefore be more persecutory) than similar treatment of an adult. Similarly, threats of abuse made to a child may be more harmful and frightening than in the case of an adult who might be better able to determine the likelihood of the threat being carried out.

In approaching the issue of what constitutes persecution of children, it might be helpful to substitute "children" for "women" in some passages of the Board's *Guidelines on Women Refugee Claimants*. For example:

The social, cultural, traditional and religious norms and the laws affecting ... [children] in the claimant's country of origin ought to be assessed by reference to human rights instruments which provide a framework of international standards for recognizing the protection needs of ... [children]. What constitutes permissible conduct by a state towards ... [children] may be determined, therefore, by reference to international instruments.

The most important of these "international instruments" to be consulted when assessing the situation of refugee children should be the *Convention on the Rights of the Child*.¹⁰

The Federal Court has indicated in some recent decisions that the perse-

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cution faced by a child, even if accompanied by an adult, is important to the claim as a whole, and that the *Convention on the Rights of the Child* is relevant to the determination of refugee status of children. In *Sahota v. M.E.I.*,¹¹ Mr. Justice McKeown returned the case of a 16-year-old Sikh boy for redetermination by the Board. He stated that the consideration of an internal flight alternative might be unreasonable *in view of the applicant's age*. He also stated that the new panel of the Board should consider the *Convention on the Rights of the Child*, in the redetermination hearing. In another case, Mr. Justice Muldoon determined that the particular vulnerability of the four children of the adult claimants was one of the factors the Board had ignored in deciding the case. He stated:

... in the last analysis, the Court regards the children as being of importance, and the Board seemed to neglect them and their probable vulnerability to any untoward act of racism or discrimination or harassment or persecution on the part of those who control the territory where they will be living in Sri Lanka if they return to Sri Lanka.¹²

In a case decided by Madame Justice Reed involving a mother and daughter from Sri Lanka, the Court stated:

The Board in reaching its decision that the applicant was not likely to be persecuted in Colombo focussed almost exclusively on the applicant's situation ... The Board focussed its attention on the position of the applicant, particularly her age, and did not assess the likelihood of the children being the subject of persecution. I think this is the error which dictates that the Board's decision must be set aside.¹³

Assessing the nature of harm that constitutes persecution for children is not an attempt to lower the threshold of the definition of Convention refugee to accommodate children. Rather, "persecution" must be recognized as a relative term. Thus the Board must assess the harm feared in the context of the special vulnerability of children and the potential consequences of the

harm feared to a particular child at that time in the child's life, in order to determine whether the harm feared constitutes persecution.

Nexus to the Convention Grounds

Political Opinion

A "Convention refugee," as defined by the *Immigration Act*, must establish a "well-founded fear of persecution by reason of race, religion, nationality, membership in a particular social group or political opinion."¹⁴ The Convention grounds for fear of persecution due to race, religion and nationality may as easily apply to children as to adults. However, the Board may be more hesitant to find that a child has a political opinion (or that s/he is perceived to have a political opinion) that could result in persecution.

In the case of a young Chilean woman whose claim was turned down by R.S.A.C.¹⁵ in 1980, the decision makers could not believe that as a twelve or

from which they have come in order to properly determine political opinion or perceived political opinion in these claims. Furthermore, objective evidence of treatment accorded to similarly situated children will often constitute the most important evidence as to whether the claim is well-founded since minor claimants may not be able to provide satisfactory evidence of their own particular situation.

Membership in a Particular Social Group

The ground for fear of persecution of many child claimants will be membership in the "particular social group" of their own family. In most cases of accompanied minors, this is the ground upon which the child's claim is founded. With few exceptions, if the parents are found to be refugees, the children are also determined to be refugees in their own right and if the parents are refused, the children are also refused. In the Board's reasons

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thirteen-year-old in Chile, this claimant would have been perceived as a threat to the Chilean regime. They concluded, therefore, that it was not plausible that she had been persecuted as she described.¹⁶ This was a "cross-cultural communication" problem. The decision makers were inappropriately applying their perceptions about a child's possible political involvement, based on their knowledge of Canadian children, to the Chilean context. In fact, in many parts of the world, children are political activists or may be perceived as such by their oppressors. The case of Iqbal Masih, a Pakistani child who was a crusader against child-labour in the carpet factories, is a recent well-publicized example of this.¹⁷

In determining refugee claims of minors, the Board should obtain documentary evidence specific to children in the cultural and political context

(usually not written in the case of positive determinations), the Board may comment that the children's claims were based on their parents' claim and that, accordingly, they are also found to be Convention refugees.

In some cases the Board may mention the "principle of family unity."¹⁸ Unfortunately, the "principle of family unity," which was a recommendation in the Final Act of the Conference that adopted the 1951 Convention, was not incorporated in the definition of "Convention refugee," and the Federal Court has found that this important principle is not a mandatory consideration in making a determination of refugee status.¹⁹

Although in the past the Board has usually included accompanied children in either the positive (or negative) decision on their parents' claims, recently some Board members have

denied claims of dependant minor children, even when one or both parents have been found to be Convention refugees. The rationale for this seems to be that the determination of refugee status should be as narrow as possible and that appropriate immigration provisions exist for allowing the dependants of Convention refugees to be granted permanent resident status as members of the family of the Convention refugee parents. In these cases, the Board has found that the children (sometimes the children and the spouse) only fear "indirect persecution." Although the children will be "indirectly" harmed by the persecution of their parent(s)—this is not found to be adequate to establish the child as a Convention refugee in his/her own right. There is a concern that including persons who fear indirect persecution "unjustifiably broadens" the Convention refugee definition.²⁰

The Trial Division of the Federal Court is somewhat divided on this issue and the Federal Court of Appeal has yet to pronounce itself definitively on either the issues of "indirect persecution" or the "principle of family unity."²¹ In my view, the better position being taken by the Federal Court is that enunciated by Mr. Justice Jerome in the case of *Bhatti v. The Secretary of State of Canada*. The Associate Chief Justice reviewed the Canadian case law on "indirect persecution" and the references to "indirect persecution" made by Atle Grahl-Madsen in *The Status of Refugees in International Law*,²² and stated as follows:

The concept of indirect persecution is premised on the assumption that family members are likely to suffer great harm when their close relatives are persecuted. This harm may manifest itself in many ways ranging from the loss of the victim's economic and social support to the psychological trauma associated with witnessing the suffering of loved ones.²³

The new restrictive approach being taken to the "principle of family unity" and the denial of refugee claims based on "indirect persecution" threatens the protection needs of refugee children.

As an immigration law practitioner, I recognize the problems that dependant children might encounter if they do not have a determination of refugee status in their own right. For example, the child might be inadmissible as an immigrant on medical or other grounds, or the Convention refugee parent might be found to be inadmissible for some reason, thus placing the minor dependants in a situation of inability to acquire permanent resident status due to the parent's inadmissibility.

More important, such reasoning disregards the fact that parental care is a basic human right of a child. According to Article 7 of the *Convention on the Rights of the Child*,

The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.²⁴

Thus, to find that the removal of a parent (through death or imprisonment), or the severe harm to a parent (by torture, rape, etc.), is not persecutory of the child, fails to recognize the child's right to parental care as an essential human right, affecting the very survival of the child, and being crucial to the child's normal development.

It would be interesting to query whether the same Board members who consider the torture of a parent to constitute "indirect persecution" of the child, would find that torture or kidnapping of an adult claimant's child (or the threat thereof) is not persecutory of the adult, but is merely "indirect persecution" and therefore not a sufficient basis for a well-founded fear of persecution. I have dealt with many cases of adult refugee claimants whose claims were based on the threats of harm to their spouses and/or children. This is a well-known method used by repressive states to exert pressure on opponents. It appears that there is a double standard operating here, which I would relate to a subconscious perception that children are possessions of their parents rather than persons in their own right. Thus it is

perceived as persecutory of the parent if his/her child (possession) is taken away or harmed but only indirect persecution of the child if the parent is taken away or harmed.

Rather than attempting to classify "persecution" as indirect or direct, it makes more sense to recognize, as some of the jurisprudence has already done, that persecution of a person's close family members may also constitute persecution of the person him or herself. Thus persecution of the child's parent/s or siblings may also constitute persecution of the child and *vice versa*.²⁵

Furthermore, it is not diluting or broadening the application of the refugee Convention to find that children's kinship ties to persecuted parents or other relatives bring them within the "particular social group" of the family and that their well-founded fear of loss of those kinship ties constitutes a well-founded fear of persecution. Membership in the particular social group of one's family as the nexus to the Convention definition, is already solidly grounded in the Canadian jurisprudence. In *Canada v. Ward*, the Supreme Court proposed three possible categories of "particular social group" in the context of the Convention definition and the first of these is "... groups defined by an innate or unchangeable characteristic ..."

Membership in a family is clearly an "innate or unchangeable characteristic." In coming to its conclusions as to the meaning of "particular social group," the Supreme Court quoted with approval this passage from the U.S. decision in *Matter of Acosta*:

Applying the doctrine of *ejusdem generis*, we interpret the phrase "persecution on account of membership in a particular social group" to mean persecution that is directed toward an individual who is a member of a group of persons all of whom share a common, immutable characteristic. The shared characteristic might be an innate one such as sex, color, or kinship ties ...²⁶

The elaboration of the term "particular social group" in *Ward* to include

kinship ties, follows long-established recognition of membership in one's family as the basis for a well-founded fear of persecution by reason of "particular social group" in the jurisprudence of the IRB and its predecessor, the Immigration Appeal Board.²⁷

To ensure the protection needs of refugee children, whether accompanied or unaccompanied, the Board should provide guidelines strongly recommending adherence by decision makers to the "principle of family unity," as set out in the *UNHCR Handbook*, and indicating that so-called "indirect persecution," particularly when it deals with the persecution of parents or primary care-givers, can be the basis of a refugee claim for children on the Convention ground of "membership in a particular social group."

Age-specific Persecution

In addition to the particular social group of the family, children may be in danger of persecution because they are children. The examples of "street kids,"²⁸ child prostitutes, child brides, female genital mutilation, child slavery, and forced conscription of children come to mind. Just as in the situation of gender-defined persecution, the fact that there might be large numbers of the minor population in a particular country who are in this situation is irrelevant. The fact that the children's own parents may be involved in causing the persecutory treatment is also irrelevant because, if this is the case, the state is under a greater responsibility to intervene.

One might again refer to the Board's *Guidelines on Women Refugee Claimants*, and apply these guidelines to the situation of children:

What is relevant is evidence that the particular social group suffers or fears to suffer discrimination or harsh and inhuman treatment that is distinguished from the situation of the general population or from other... [children]. A subgroup of ... [children] may be identified by reference to their exposure or vulnerability for physical, cultural or other reasons to violence, including domestic violence, *in an environment*

that denies them protection. These ... [children] face violence amounting to persecution because of their particular vulnerability as ... [children] in their societies and because they are so unprotected.²⁹

In order to deal with claims by refugee children based on their membership in the particular social group of unprotected children, the Board must obtain evidence on the status of children in the particular country involved, such as the child welfare legislation of that country, the measures that have been adopted to protect vulnerable children, and, whether such measures are truly effective.

Evidenciary Issues

In dealing with the claims of unaccompanied refugee children, the most difficult issue has often been obtaining sufficient evidence to establish a well-founded fear of persecution. On the

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one hand, the right of children to participate in a decision affecting their rights must be affirmed. However, the children may not themselves be capable of providing the necessary evidence. This may be obvious, as when the child is two years old, or it may require a careful professional assessment, if the child is over seven years old.

Furthermore, the techniques for determining credibility in the case of adults must be significantly altered in order to treat a child or adolescent claimant fairly. Cross-examination techniques used to determine credibility of adult claimants are simply not fair to children or adolescents who have different and varying perceptions of time, chronology, and the relative importance of facts and details, and whose ability to understand questions and articulate responses even in their own language is much less devel-

oped than that of an adult. Just as we would cringe at the thought of pitting a 250 lb. adult male against a 70 lb. boy in a physical fight, we should recognize that children are not equipped to spar with the intellectual and verbal skills of adults in the hearing room. This is true even for children who are able to converse intelligently and who appear mature in many respects. The result of this incapacity to testify may be that the child is unable to provide the necessary evidence in support of his or her own claim.

Most of the Federal Court decisions on refugee claims by unaccompanied minors concern refusals by the Board based on lack of credibility of the minor claimant.³⁰ Such decisions are particularly difficult to overturn at the Federal Court because it is presumed that the Board is in the best possible position to judge the credibility of the claimant before them. To avoid erro-

neous decisions on credibility of minor claimants, the Board needs the assistance of clear guidelines as to fair procedures in dealing with the testimony of minors. In many cases, as indicated above, there should be no attempt to examine the child directly and greater reliance should be placed on objective evidence provided by alternate sources. Furthermore, there should be no attempt to cross-examine a child claimant who has given oral testimony as this would almost inevitably result in unfairness.

Objective Evidence and the "Benefit of the Doubt"

Once a determination has been made (by the child's representative and the child's counsel) that the child is incapable of testifying or that the child's best interests would not be served by having the child testify, other sources of information concerning the child's

situation should be prepared for the Board such as the testimony of witnesses, expert evidence, documentary evidence concerning similarly situated children and general country conditions relevant to the claim. Once this objective evidence has been gathered, then the Board should proceed to a determination of the claim guided by the recommendation of the *UNHCR Handbook*: "... having a greater regard for certain objective factors, considering the circumstances of the parents and other family members, and allowing for the liberal application of the benefit of the doubt."³¹

The *UNHCR Handbook* has been recognized by the courts in Canada as a persuasive authority. The Supreme Court, in the decisions of *Ward* and *Chan* has reiterated the importance of reference to the *UNHCR Handbook* for the proper interpretation of the Convention refugee definition. J. La Forest stated for the Court in *Ward*, as follows:

While not formally binding on signatory states, the *Handbook* has been endorsed by the states which are the members of the Executive Committee of the UNHCR, including Canada, and has been relied upon by the courts of signatory states.³²

If doubt remains, for example, if the Board is not satisfied with evidence from other family members about the situation of the child and there is little or no documentary evidence about similarly situated children, the hearing should be adjourned to seek further evidence. The most disturbing decisions by Board members have been the ones in which the Board determined that there was no reliable evidence upon which they could find that the child's fear of persecution was well-founded and then determined the child not to be a Convention refugee.

This result is particularly unacceptable if the child comes from a country with a high acceptance rate for refugee claims. For example, in a case decided by the Board in May of 1993, a nine year old Tamil boy was determined not to be a Convention refugee because, although his testimony regarding his detention in Colombo was credible, it

was obvious that he had been coached about some of his evidence and the Board therefore gave his evidence little weight. Then "faced with a total lack of evidence surrounding key events" of the claim, the Board found the claimant had not discharged his burden of showing a well-founded fear of persecution and determined that he was not a Convention refugee.³³ Yet in many successful refugee claims from Sri Lanka, the only factor necessary to establish the claims was to show that the claimant was a "young Tamil male," and therefore a member of a "particular social group" whose members have a well-founded fear of persecution according to overwhelming objective documentary evidence of persecution of such persons. One must therefore question why this nine-year-old Tamil child was not given the benefit of the doubt as the *UNHCR Handbook* recommends. At the very least, in light of the obvious vulnerability of the claimant, and in light of the inadequacy of the designated representative who was found not to be credible, the hearing should have been declared a nullity and sent for redetermination to another panel with a new representative.

Conclusion

The *Convention on the Rights of the Child* states in its preamble as follows:

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance ...

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 ...

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth.

Furthermore, Article 22 of the *Convention* deals particularly with the obliga-

tions of States Parties with regard to children who are seeking refugee status, whether accompanied or unaccompanied, and states that they shall take appropriate measures to ensure that such children, "... receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments ..."

Refugee children cannot rely on discretionary humanitarian remedies, that vary from state to state, to provide them with the necessary legal protection against refoulement and the attendant settlement rights in their country of refuge. The 1951 refugee Convention is the specific humanitarian instrument designed to protect all refugees from refoulement, including refugee children. Other immigration provisions, such as the "humanitarian and compassionate" application under section 114(2) of Canada's *Immigration Act*, are highly discretionary remedies, subject to politically motivated change and inconsistent implementation by the immigration bureaucracy. Thus the right of children to be granted Convention refugee status, and to access the legal protection provided by the refugee Convention, must be clearly and emphatically reaffirmed.

In the IRB's new procedural guidelines on Unaccompanied Refugee Children, it is encouraging to note that both the *Convention on the Rights of the Child* and the *UNHCR Handbook on Procedures and Criteria for Determining Refugee Status*, are quoted with approval. One might hope that with the implementation of procedural guidelines, with special training for Board members who are selected to deal with child claimants, and with the development of positive jurisprudence on the substantive issues of refugee law as it applies to children, the refugee claims of children will be recognized as meriting the particular concern and special care consistent with the sentiments expressed in the *Convention on the Rights of the Child*. If further guidelines

are implemented to address the substantive issues of claims by refugee children, Canada may once again provide leadership in an uncharted area of refugee law as we have with the *Guidelines for Women Refugee Claimants*. ■

Notes

1. *Toronto Star*, April 10, 1994 "Children of conflict."
2. *Globe and Mail*, April 20, 1995.
3. *Human Rights Watch*, Sept. 1995.
4. According to the Chair of the IRB, there were an estimated 700 new cases of unaccompanied refugee children before the IRB in 1994. Most such children are sent by parents or relatives from areas of significant danger to the care of relatives or friends in a safe country. This is not an entirely new phenomenon: for example 7,731 British children were evacuated to Canada, without their parents between 1939 and 1941. They were sent to relatives, friends and volunteer "foster parents" who cared for them for the duration of the war: *The Guest Children*, Geoffrey Bilson, Fifth House, Saskatoon, 1988, pages 258, 270.
5. *Immigration Act*, R.S.C. 1985, c.I-2, section 69(4).
6. "Guideline 3: Child Refugee Claimants. Procedural and Evidentiary Issues," Sept. 30, 1996 Guidelines issued by the Chairperson pursuant to section 65(3) of the *Immigration Act*.
7. *Immigration Act*, R.S.C. 1985, c.I-2, section 2(1).
8. *UNHCR Handbook on Procedures and Criteria for Determining Refugee Status*. Geneva, 1988, paragraph 51.
9. *Guidelines on Women Refugee Claimants Fearing Gender-Related Persecution*, IRB, March 9, 1993.
10. *Ibid.* page 7.
11. *The Convention on the Rights of the Child* (CRC), was adopted by the General Assembly of the U.N. on 20 November 1989, signed by Canada on May 28, 1990, ratified by Canada, December 13, 1991, and brought into force in Canada on January 12, 1992. [In the IRB's "Guideline 3: Child Refugee Claimants. Procedures and Evidentiary Issues." Sept. 30, 1996, it is noted at the outset that the CRC requires "appropriate measures" to be taken by States Parties for unaccompanied and accompanied children who are refugee claimants. However, the "Guidelines ..." do not point out the importance of using the CRC as a guide for understanding the basic human rights of children.]
12. *Sahota v. M.E.I.* IMM-3313-93, June 3, 1994, F.C.T.D.
13. *Nadesalingam et al v. M.C.I.* IMM-5711-93, Dec 13, 1994, F.C.T.D.
14. *Iruthayathas et al v. M.C.I.* IMM-4742-93, Aug 16, 1994. F.C.T.D.
15. *Immigration Act*, R.S.C. 1985, c.I-2, section 2(1).
16. The R.S.A.C. was the Refugee Status Advisory Committee, which reviewed a transcript of an examination under oath of the claimant and made a recommendation to the Minister as to whether the claimant was, or was not, a Convention refugee.
17. It should be noted that this case was dealt with before the oral hearing became a part of the determination process, so the R.S.A.C. had no opportunity to assess the credibility of the oral testimony of the claimant. The case went for redetermination by the Immigration Appeal Board and the claimant was found to be a Convention refugee at the redetermination hearing. (*Torres-Leal v. M.E.I.* I.A.B. 80-9046, Feb 4, 1981). This issue of the perceived unimportance of political activity by young people continues to be relevant. In *Shakir et al v. M.C.I.* IMM-2671-95, April 3, 1996, the Federal Court found that the Board's conclusion that the Sudanese authorities would not have taken the claimant's marginal political activity at the age of 15 to be serious, was within the expertise of the Board and the Board's conclusion was reasonable since there was no specific documentary evidence of persecution of high school students in the Sudan, despite the general evidence of the "incredible human rights abuses" in that country.
18. See Note 2, *supra*. [Canadian children are also capable of becoming political activists, as the case of thirteen-year-old Craig Kielburger of Thornhill, Ontario clearly illustrates. *Globe and Mail*, January 12, 1996 "Youngster's child-labour plea upstages PM."].
19. *UNHCR Handbook supra*, paragraphs 181 to 188.
20. *Castellanos v. The Solicitor General of Canada*, IMM-6067-93, Dec 15, 1994, F.C.T.D.
21. C.R.D.D. Decision T95-03883, June 6, 1996, in which an Iranian woman was found to have a well-founded fear of persecution in Iran for dress code violations, [she had received lashes and been sexually assaulted for this already], but her two sons were not granted refugee status because they were only in danger of "indirect persecution," and furthermore, the *Immigration Act* provides for "other ways of ensuring that families are kept together."
22. *Pour-Shariati v. M.E.I.*, [1995] 1 F.C. 767 (F.C.T.D.); *Saez de Busto v. M.C.I.*, IMM-3704-94, Feb. 16, 1995, (F.C.T.D.); *Vyramuthu v. Solicitor General of Canada*, IMM-6277-93, January 26, 1995, (F.C.T.D.); *Rafizade v. M.C.I.*, IMM-2570-94, March 7, 1995 (F.C.T.D.); *Abbas Pour et al v. M.C.I.*, IMM-3650-95, June 6, 1996, (F.C.T.D.); *Bhatti v. Secretary of State of Canada*, A-89-93, Sept. 14, 1994, (F.C.T.D.); *Martinez v. M.C.I.*, IMM-462-96, June 6, 1996, (F.C.T.D.)
23. Grahl-Madsen, Atle. 1966. *The Status of Refugees in International Law*. Leyden: A. W. Sijthoff.
24. *Bhatti v. Secretary of State of Canada*, A-89-93, Sept. 14, 1994, (F.C.T.D.).
25. *Convention on the Rights of the Child*, (*supra*, Note 11) Article 7(1).
26. *Casteneda v. M.E.I.* No. A-805-92, Oct. 19, 1993; *Arguello-Garcia v. M.E.I.* 92-A-7335, Jun 23, 1993.
27. *Canada v. Ward*, [1993] 2 S.C.R. 689 (S.C.C.).
28. *Requena-Cruz v. M.E.I.*, I.A.B. April 8, 1986; *Taheri v. M.E.I.*, A-111-90, April 26, 1993; *Germain v. M.E.I.*, A-1265-92, Oct 25, 1994; *Canada (M.E.I.) v. Bakshi*, A-343-92, June 13, 1994, F.C.A.). and *Al-Busaidy, Talal Ali Said v. M.E.I.* A-46-91, January 17, 1992.
29. UNICEF. 1996. "Street Children" United Nations Centre for Human Rights, U.N. New York, USA.
30. *Guidelines on Women Refugee Claimants, supra*, page 6.
31. *Manimaran v. M.C.I.* IMM-4133-94, Oct. 30, 1995; *Ali v. M.C.I.* T-3026-92, July 26, 1995; *Sivanathan v. M.E.I.* IMM-3035-93, Mar. 20, 1994; *Gonzalez et al v. M.E.I.*, 92-T-1229, Nov. 18, 1993; *Kurukulasuriya v. M.E.I.*, IMM-2100-93, July 6, 1994. See also *Sornalingam v. M.C.I.* IMM-3962-94, Feb. 8, 1996, in which Mr. Justice MacKay rejected the Board's credibility findings with regard to the testimony of a nine-year-old Tamil boy, pointing out at one point that the child "simply could not know the reasons for [the security forces'] actions ..." and that this was therefore not a proper ground for rejecting his testimony as not credible.
32. *UNHCR Handbook, supra*, paragraphs 213-219.
33. *Ward v. Canada*, (1993) 153 N.R. 321, at page 345, (S.C.C.); *Chan v. Canada*, (1995) 187 N.R. 321, at page 335, (S.C.C.).
34. C.R.D.D. Decision: T92-09383, May 4, 1993. □