There is a growing concern over the disparity in Canada’s current procedures when faced with unaccompanied minors coming from Afghanistan. **Canada has an unofficial policy of not accepting unaccompanied minors** which has left many UMs stranded in refugee camps, unable to be reunited with their legal guardians.

One case that illustrates this phenomenon involves three young female Afghan cyclists who have been pushed into unaccompanied minor status due to decisions and actions taken by GAC and IRCC. These young female cyclists have been separated from their custodial families and teammates who were moved to Calgary. This has left the three girls stranded in a UAE camp under unaccompanied minor status. Due to Canada’s policy of not accepting UMs, the Canadian government is claiming that they cannot assist these young cyclists. Where the disparity lies is in the fact that while these Afghan girls sit stranded, unable to be reunited with their families, Canada has accepted several Ukrainian unaccompanied minors without hesitation. Many dedicated advocates from several countries are actively concerned about this issue and are calling on the Canadian Government to create a similar policy towards Afghan women, particularly unaccompanied minors.

Canada is a party to the Convention on the Rights of the Child (CRC) which recognizes that states have an obligation to "take measures to ensure that a child seeking refugee protection receives appropriate protection." Furthermore, Article 3(1) of the convention emphasizes the fact that the best interest of the child must be the primary consideration in all actions concerning children. Therefore, Canada has a duty to accept unaccompanied minors onto its territory and to treat them with great care, focusing on their best interest. This becomes legally challenging when the definition of who qualifies as a minor changes from province to province. For example, there are several provinces that do not consider persons between the ages of 16 and 17 to be "within the jurisdiction of child protection agencies." The Government of Canada recognizes that the disparity in defining who qualifies as a child provincially, "does not change the fact that they are considered to be children in the federal context and according to the CRC." They note however, that those who fall into this category should be treated according to local procedures.

Further complicating this issue is that the IRPA does not set out specific procedures or criteria on how to deal with refugee claims from children. The only clarity in the IRPA is in paragraph 3(3)(f) which requires the IRPA to be interpreted and applied in compliance with international human rights instruments, including the CRC. What this means is that there is no official, legally binding policy on accepting refugees that are unaccompanied minors. This has led to a pick-and-choose policy where some unaccompanied minors get prioritized over others, most notably unaccompanied minors from Ukraine get chosen over unaccompanied minors from Afghanistan.

One example of this is the treatment of a 17-year-old male unaccompanied minor from Ukraine who came to Canada with his girlfriend over the summer. These teens were granted special visas, were able to use immigration services, receive
assistance from charity organizations, find work, and go to college. In an interview with Morning Metro⁵, the male talks about the number of services Canada offered to him and his girlfriend upon their arrival when it came to getting them set up in Canada, housed, and finding jobs. This is vastly different from how Afghan unaccompanied minors are treated upon entering Canada, if they are even able to do so at all.

The Government of Canada and the Province of B.C. have created special programs to help Ukrainian nationals and their family members find safety in Canada. In their migration resources, they note that “children 19 or younger traveling on their own or with someone who is not their guardian will be taken care of and supported upon arrival.”⁶ They make it clear that unaccompanied minors from Ukraine arriving into Canada will “ensure registration of all minors with the Red Cross / UNHCR to expedite reunions where possible.”⁷ However, no such program exist for Afghan unaccompanied minors — there are no written policies or assistance offerings in place.

To address the stark contrast in treatment of unaccompanied minors, Canada must have a uniform policy for assisting refugees with UM status. This policy must apply across the board and be implemented in compliance with the IRPA and the CRC.

Endnotes

3 Ibid
4 Ibid
6 AMSSA, “Ukrainian Migration Resources,” https://www.amssa.org/resources/ukrainian-migration-resources/
7 Ibid