



## UNACCOMPANIED MINORS IN INTERNATIONAL, EUROPEAN AND NATIONAL LAW

Ralf Roßkopf, 2016, \$47.40, 267pp ISBN 978-3830535782

### BOOK REVIEW

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*Across the globe, nearly 50 million children have been uprooted, 28 million of them driven from their homes by conflicts not of their making, and millions more migrating in the hope of finding a better, safer life. Often traumatized by the conflicts and violence they are fleeing, they face further dangers along the way, including the risk of drowning on sea crossings, malnourishment and dehydration, trafficking, kidnapping, rape and even murder. In countries they travel through and at their destinations, they often face xenophobia and discrimination... In 2015, over 100,000 unaccompanied minors applied for asylum in 78 countries – triple the number in 2014. Unaccompanied children are among those at the highest risk of exploitation and abuse, including by smugglers and traffickers. “Uprooted” UNICEF, 7 September 2016*

Ralf Roßkopf’s edited book, *Unaccompanied Minors in International, European and National Law* (hereafter *Unaccompanied Minors*) dissects an in depth comparative analysis of current legal standards of protection in seven countries in Europe and North America. Europe, the European Union, Canada and the United States are the central focus of the book with particular regard to those already arriving in these countries. Little or no reference is made to the largest refugee host countries (i.e., Syrian Arab Republic, Afghanistan and Somalia), which house more than half of all refugees worldwide. Neither is any mention made of four of the top ten countries in Africa (i.e., Nigeria, Democratic Republic of the Congo, Central Africa Republic and South Sudan) that likely experienced new violence-induced internal displacements in 2015. With three out of every five international child migrants living in Asia or Africa, the growing crisis for unaccompanied migrant children also needs to be assessed at its roots. Considering the vulnerabilities, trauma and risks faced by unaccompanied minors, as noted by UNICEF above, may not only assist Europe, Canada and the United States in creating national legal standards that are reflective of migrant children experiences; but, may also go a long way to develop comprehensive intervention programs to curb the flow of unaccompanied migrant children.

Roßkopf’s *Unaccompanied Minors* is a petit, 267 page, glossed paperback divided into three sections of 14 chapters including the introduction and conclusion. Section 1: Lifeworlds of Unaccompanied Minors discusses the lack of coherence in individual European countries as it pertains to unaccompanied migrant children’s residence, accommodation and social status. Although by virtue of the UN Convention on the Rights of the Child (CRC), the protection of children is primarily the responsibility of States, many European States skirt the edges of neglect and violation of the CRC as they are challenged by the “prevailing dominance of European legislative instruments for the

standardization of asylum procedures such as the Dublin II Regulation, Reception Conditions Directive, Qualification Directive and Asylum Procedures Directive” (p. 13).

Section II: Unaccompanied Minors in International and European Law outlines various instruments, principles, and conceptual analyses of who are unaccompanied minors and what sets them apart from accompanied or separated minors. Guided by the principles of *non-refoulement*, non-discrimination, and the best interest of the child, at the international level, “States have an obligation to implement appropriate measures for the care and protection of unaccompanied minors,” while taking into consideration the minor’s age, gender and language. In recent times, the Council of Europe (COE) adopted a rights-based approach regarding “detention, age assessment, guardianship and child-specific experiences of persecution of unaccompanied minors” (p. 49). The author notes the incongruent nature of legal frameworks between and within European states, stressing that the COE documents adopted to address the issue of unaccompanied minors tend to be non-binding. Hence, “they have never sought the need to negotiate and enforce a set of legally binding rules (p. 39)” The last two chapters in this section evaluate judicial protection of unaccompanied minors in the European Court of Human Rights under EU Law. For example, recognition for the concept of vulnerability of unaccompanied children was first addressed in the case of *M.S.S. v Belgium and Greece* (2011). In this seminal case, the court stated that, “an asylum seeker is particularly vulnerable because of everything the person had been through during their migration and the traumatic experiences they have likely endured” (p. 54).

The final section, Unaccompanied Minors in National Law, uniformly discusses the overall situation, application of the CRC, special treatment for minors, age determination, guardianship, residence status, asylum procedure, accommodation, social services (health and education) for youth and changes with majority in Austria, Canada, Germany, Hungary, Italy, Poland and the United States of America. In spite of the differences in legal standards within and between European States, generally they tend to comply with EU laws and the CRC regarding protection and provision of services for unaccompanied children. Canada is recognized as the first country to establish a system for protecting refugee children asylum seekers. Albeit, distinction between unaccompanied and separated minors followed by an introduction of a new term “consanguineous minor”<sup>1</sup> pursuant to Canada’s Operational Manual 5 *inter alia* result in “remarkable differences in the approaches concerning child welfare and guardianship in the provinces of British Columbia, Quebec and Ontario” (p. 137). For the United States, a major concern with respect to unaccompanied children lies with its refusal to ratify the CRC.<sup>2</sup> As a non-party member to CRC, the United States is an anomaly in responding to unaccompanied minors. Firstly, “the country is not required to grant undocumented refugee minors status to children (p. 251).” Secondly, utility of “alternative labels, such as unaccompanied alien children, limit the United States’ responsibility to protect these children to remain in the country” (p. 251).

*Unaccompanied Minors* emphasises the need for joint effort, solidarity and international cooperation in times of mass immigration and imminent collapse of countries’ asylum systems, to ensure that migrant children are protected while guaranteeing their best interests. A comprehensive assessment of unaccompanied children in Europe, Canada and United States, the book will attract the likes of academic researchers, child’s rights advocates, policy-makers, and public institutions interested in the migrant children crisis.

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<sup>1</sup> A “consanguineous minor” is a separated minor who wants to be united in Canada with a blood relative who is not a family member. For example, a niece who has lost both parents coming to be in the care of father’s sister who already resides in Canada is a consanguineous minor (p. 117).

<sup>2</sup> Note: The UN Convention on the Rights of the Child is the most widely ratified human rights treaty in history. Only two countries have not ratified the CRC. They are Somalia and the United States of America.