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CANADA

They came to Canada, were in child protection, but never got legal immigration status. Now advocates are speaking up

Years later, some got into trouble with the law, and face deportation. Advocates say ‘it’s a story about systemic racism in various systems.’”

By **Nicholas Keung** Immigration Reporter

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Raised by his great-grandmother in the Dominican Republic, Fili has few memories of his parents or his sister and two brothers, who were both murdered.

When his only caregiver died, the young boy, then about 10, moved in with friends he met on the streets and started catching fish and unloading cargo at a shipping port to provide for himself.

As a young teen, he was shot in the leg once while caught in a crossfire between local gangs, and made attempts to flee the country by sea before he and a friend successfully swam aboard an Egyptian ship. They left behind a life of street violence for an unknown journey that would lead to the harbour of Quebec City in 2002.

The 14-year-old became a Crown ward, but that only marked the beginning of a two-decade battle for the stowaway, an unaccompanied minor, to gain permanent residence in Canada while being bounced from foster home to foster home.

After aging out of the child welfare system, still without proper immigration status, he had run-ins with the law and was slated for deportation to a country he barely remembered.

“This is my country, my home,” said Fili, now 35, who asked that his real name not be published because he is still in immigration limbo.



Fili's case, said his lawyer Erin Simpson, highlights the failure of child welfare agencies to address the unresolved immigration status of Crown wards in their care.

It also casts a spotlight on the racism inherent in the justice system and in immigration enforcement, Simpson said.

"It really is a long story of one institution after another failing to provide him with the care that he needed," Simpson said. "It's a story about systemic racism in various systems.

"His struggles with immigration have dominated his whole life here. There's nothing that can be done to give him back those years."

And it's stories such as Fili's that a coalition of advocacy groups would like to address with a [campaign to push for an end to deporting those who came to Canada as a minor and spent time in the child-welfare system, and provide them with a pathway for permanent residence.](#)

"In recognition of the systemic anti-Black racism within the child welfare system, the immigration system and the criminal justice system, this public policy is one of those things that can be done to address these concerns," said Khaldah Salih, co-ordinator of the campaign led by the Black Legal Action Centre, the driving force behind the proposed public policy.

Children's aid accused of neglect

The issue first came on the radar of the Toronto legal clinic in 2021 with the high-profile case of Abdilahi Elmi, a former child refugee and foster child who faced deportation to Somalia after run-ins with the law. Since then, the clinic became aware of other similar cases.

Elmi arrived in Toronto with his mother in 1995 at age 10 and was granted refugee protection in Canada. At 13, he was placed in foster care, and by 16, he was living on the streets.

His supporters said he was a victim of neglect by children's aid officials who failed to help him acquire permanent status, a necessary step toward his citizenship, which would have spared him from deportation.

Trying to restore or obtain one's permanent resident status after being deemed inadmissible for criminality can be very difficult if not impossible, and may take years.

Finally, in 2019, [Elmi was granted a reprieve at the request of the UN Human Rights Committee](#), which argued Canada would violate its international human rights obligations by sending the now adult man to one of the most dangerous countries in the world, where he has no family and does not know the language and culture.

Andrew Brouwer of the Refugee Law Office, one of the coalition partners, has seen a fair number of adult migrants facing removal after they have spent years in Canada since childhood, as refugees or under family sponsorships, and sometimes as undocumented residents.

"They end up being criminalized while they're in children's aid custody," he said, "and then they age out, they end up in the criminal justice system and then quickly are pushed through to the immigration enforcement system and are facing deportation.

"It's really based on our experience with our clients and seeking a larger remedy to help all of them that we got involved in this campaign."

The overrepresentation of Black children in the child welfare system and Black adults is well documented, including in a [2018 Ontario Human Rights Commission report](#), which found the number of Black children admitted into care was 2.2 times higher than their proportion in the child population.

A federal [Department of Justice report in December](#) also found Black adults accounted for nine per cent of offenders under federal jurisdiction (in custody or under community supervision) in the 2020-21 fiscal year although the community only represented about four per cent of Canada's adult population.

"Overwhelmingly, it is men of colour, and in particular Black men, who've gone through both systems that are systemically stacked against them," said Anthony Navaneelan of the Canadian Association of Refugee Lawyers, another coalition member. "They come in at the other end with deportation orders, despite having been in Canada for decades."

"The state is the de facto parent here, so these are the fruits of the parents of the state's actions. In our opinion, we can't just coldly apply the Immigration Act to deport these individuals. There's a responsibility on the part of the state to repair the damage it's been involved in creating."



Under the current immigration system, an increasing number of permanent residents are arriving first with temporary status as temporary foreign workers and international students. For various reasons such as the costs of raising a family in Canada, they suffer prolonged separations from their spouses and children.

As a result, said Navaneelan, the parent and child may have broken relationships when they finally reunite, and their relationships could be further strained with other adjustment challenges in a new language and culture.

The proposed policy is not a blanket amnesty or regularization program, as eligible candidates must provide a well-defined paper trail to qualify, he pointed out.

While no data is available on the number of people who had been through the child welfare system and are facing removals, Navaneelan estimated that the number will be less than a thousand.

According to Fili's court submissions to stay his most recent deportation scheduled for November, he was wrongfully issued an exclusion order by border officials upon his arrival by sea in 2002, which prevented him from seeking asylum in Canada. He also disputed officials' claim that the then 14-year-old waived his rights to undergo a pre-removal risk assessment to remain here.

After a brief detention, Fili was placed in the care of the Direction de la Protection de la Jeunesse, which submitted a permanent residence application for him on humanitarian grounds belatedly in 2005. After another delay, the application was approved in principle by Immigration in 2008.

In 2009, Fili was charged with assault stemming from an altercation with security guards outside a bar in Ottawa. Processing of his permanent residence was halted.

In 2010, according to his court appeal, he was with his then girlfriend when police entered her apartment in connection with an investigation that did not involve him, and found small bags of ecstasy and cocaine in the bedroom.

Although she confessed that the substances belonged to her, Fili was convicted of possession of four pills of ecstasy; possession for the purposes of trafficking of one gram of cocaine; and possession for the purposes of trafficking of eight pills of ecstasy.

The assault conviction was overturned on appeal, but the drug charges led to his permanent-residence approval being revoked. In 2016, when Canada Border Services Agency tried to deport him, he moved underground.

Fili, who now lives in Laval, said he had made many attempts to get temporary residence and work permits in Canada over the years. He said he was going about his life quietly undocumented when he joined a protest with other construction workers over owed wages and he was asked by police for ID.

“You can’t complain no matter what others do to you,” said Fili, 35, who got a two-year temporary residence permit in December, his first lawful status after 20 years. “You can’t speak out. It’s like you don’t exist, but this is my home where I’ve spent most of my life.”

‘Double punishment’ for Sierra Leone migrant

Yoro was 15 when he fled war in Sierra Leone and his father sent him and his two younger brothers to Canada in 2000 via Guinea. All three initially stayed with a family friend in Winnipeg before becoming Crown wards and separated from one another.

The unaccompanied minor was granted asylum and became a permanent resident in 2003 with the help of the family friend. Yoro said he stayed with more than 10 foster families during his time in care before he aged out and moved into shelters.

There were many challenges in terms of alcohol and drug abuse with his foster families, as well as fights and abuse, said Yoro, and there were often power outages in the homes because the bills were not paid.

“The foster care system only made sure you got food and shelter. As far as getting your immigration documents or anything like that, you didn’t get any help,” said Yoro, who asked to withhold his last name while his removal is pending.

A dropout at Grade 11, he said no one had ever explained to him the importance of getting his citizenship, though he wouldn’t have been able to afford the \$630 application and \$100 right-of-citizenship fees.

Yoro was convicted of drug trafficking and weapon charges in Saskatoon in 2018 — a case now under appeal before the Supreme Court of Canada — and sentenced to 36 months in jail. The border agency initiated his removal upon his release in February 2021 and his case is now before the immigration minister, who will decide if his threat to the public outweighs the risk he faces if deported to Sierra Leone.

“I have lived in Canada much longer than in my country of birth,” said the 39-year-old father of two, who now lives in Toronto.

“There’s no good memories about Sierra Leone but war and deaths. I still have flashbacks of seeing vultures and dogs eating dead bodies on the street.”

Added Brouwer, his lawyer, “Yoro should be treated like every other Canadian kid. There’s a criminal justice system. He has gone through that process. He has served his time. Only because of the circumstances of his arrival here ... he is now facing the additional horrific penalty of being banished from his country. That’s like double punishment.”

A new children’s aid partnership

Recognizing the needs of children with unresolved immigration issues, the Ontario Association of Children’s Aid Societies partnered with the Peel CAS in [launching the Child Welfare Immigration Centre of Excellence in 2018](#).

Since then, the centre, which also offers relevant training to care workers in the sector across Canada, has supported over 1,900 children and youth through referrals and helped 87 get their citizenship. In the last fiscal year alone, it served 666 clients from 82 countries.

This summer, the province is also expected to bring in new regulations to require all 50 children’s aid societies to review and identify a client’s immigration issues within the first 30 days of a child coming into care, said Mary Beth Moellenkamp, CEO of Peel CAS.

“Part of the impetus to this (centre) was to ensure that children and youth who left us, whom we weren’t able to help support with status or citizenship or for whatever reason we missed doing that, that they had a place to go back to,” she explained.

“Certainly we wouldn’t want to see any children or youth fall through a system issue, a gap that would put them at risk.”

The coalition has met government officials in private and submitted the proposed policy to various immigration and public safety ministers to no avail before launching its campaign earlier this year.

A spokesperson for the immigration department said officials cannot comment or speculate on future program or policy decisions.



Nicholas Keung is a Toronto-based reporter covering immigration for the Star. Follow him on Twitter: [@nkeung](#)

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