

U.S. Weighs the Fate of Child Immigrants

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Body

In January 2001, Malik Jarno, described by his lawyers as a mentally retarded Guinean who is now 17, arrived at Dulles International Airport in Virginia. He said he was seeking sanctuary from political persecution that had left his family dead.

But because he tried to enter the country using a false passport, Mr. Jarno was detained by the Immigration and Naturalization Service and has bounced from one adult jail to another. He spent nine months in jail before receiving a hearing, at which the immigration agency challenged his claims about his age and mental capacity and declared that he should be deported.

"I thought I could have a new life here," Mr. Jarno said in an interview, which was translated by one of his lawyers, Benoit Jacqmotte. "I also thought this was a country that respected human rights. But I am not sure anymore."

Malik Jarno has emerged as a symbol of the plight of the nearly 5,000 unaccompanied **children** who are detained by the immigration agency each year.

While the agency says it works with nonprofit organizations and public agencies to place **children** in the least restrictive setting possible, many are sent to jails for months at a time without access to critical services.

In addition, up to 80 percent of unaccompanied juveniles appear in court without a lawyer or guardian, legal advocates say. That often means added time in detention, because immigration judges are reluctant to issue final orders of removal against **children** without counsel.

Amnesty International USA, the American Civil Liberties Union, the American Bar Association, the Lawyers Committee for Human Rights and the Women's **s** Commission for Refugee Women and **Children**, among others, have called for immigration officials to change the way they handle cases of unaccompanied **immigrant children**.

Legislation, meanwhile, is pending in both houses of Congress to create an Office of **Children's** Services within the Department of Justice. The Senate bill, introduced by Senator Dianne Feinstein, Democrat of California, would transfer responsibility for the **children** from the immigration service to another agency within the Justice Department, which would set standards for detention, release and counsel.

Mr. Jarno, who speaks basic French and Puhlar, a West African language, is being held at Rappahannock Regional Jail in Stafford, Va. In the 14 months he has spent in adult jails, he said, he has been beaten by guards and other inmates and sprayed in the face with a pepper solution. He said he has spent time in solitary confinement and has been strip-searched.

"They punish me, but I do not know why," he said.

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Mr. Jarno's mother died when he was young. His father, an imam and a local community leader, died in prison in Guinea. His brother has disappeared, his lawyers said.

"I'm scared of going back to Guinea," Mr. Jarno said. "I think I'll be in danger if I return."

Mr. Jacqmotte, who is working without pay, said, "The real issue is that the I.N.S. could transfer him at any time to a facility equipped to deal with this child's special needs."

But the immigration service contends that there is no reason for such a move because Malik Jarno is not a minor, despite a birth certificate that lists his date of birth as Jan. 7, 1985. Mr. Jarno's lawyers say the immigration service believes he is 19. The agency also disputes whether Mr. Jarno is retarded.

Mr. Jarno was examined last month by a psychologist hired by his lawyers who concluded that he suffers from moderate mental retardation and "very delayed intellectual functioning." His I.Q. is about 47, the psychologist said, placing him in the bottom 0.1 percent of those tested.

Immigration officials used dental and wrist X-rays to determine Mr. Jarno's age. Many medical experts have said such methods are unreliable. The developers of the bone study method used by the immigration service said that 90 percent of those tested would fall within a range of roughly 30 months above or below the person's actual age.

The immigration commissioner, James W. Ziglar, has said the agency was reviewing its use of X-rays to determine age.

Senator Feinstein's measure would change procedures so that various forms of evidence would be considered in determining a child's age for purposes of detention, placement, custody and parole. The bill would also bar the use of X-rays as the sole means of determining age.

At a hearing last month, Senator Edward M. Kennedy, Democrat of Massachusetts and chairman of the immigration panel for the Judiciary Committee, said that more than 30 percent of the children who were in custody were housed in juvenile jails. Many others, he said, were kept at shelters for many months without access to translators, education or medical care.

The immigration agency said today that it would transfer four Tanzanian teen-agers who were being held at a detention center in Pennsylvania, to a foster family.

In July, the boys, 16 and 17 years old, wandered away from a Boy Scout jamboree in Virginia. They said they hoped to stay in the United States to attend school.

The youths, who speak Swahili, have been held at the Berks County Youth Center about eight months, pending the outcome of their asylum proceedings. They did not want to return to their country, their lawyer said, for fear of reprisals for embarrassing its government.

The lawyer, Andrew D. Morton, who represents the boys without pay, said the facility was generally used for detaining youths for short periods of time. The center, he said, was inadequate to provide long-term care.

Amnesty International said Malik Jarno's imprisonment was a clear violation of both international and domestic standards for the treatment of asylum-seekers.

"Sadly, he's far from the only one," said Curt Goering, a deputy executive director for Amnesty International. "Many other children seeking refuge in the United States are kept in deplorable conditions, and it's a practice that has to stop."

Mr. Goering added, "It should be unfathomable that a child could suffer so much while under the auspices of the U.S. government."

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