



Ethics, human rights and science in the assessment of age in unaccompanied minors

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Dagens Nyheter (Swedish newspaper); June 2013

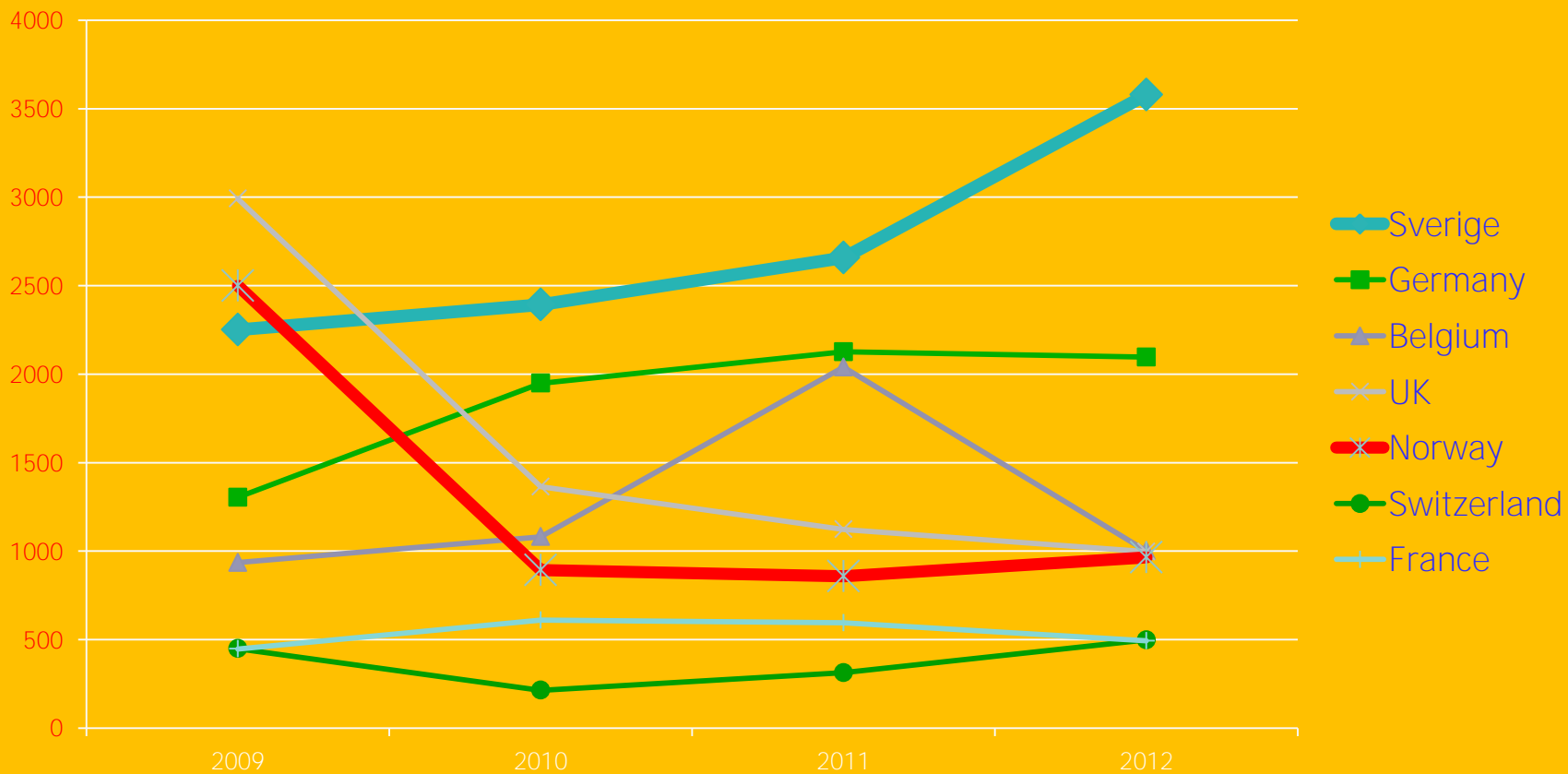
In a small apartment in Hagfors live four guys, who according to the authorities, are as old: at least 19.2 years.

”Moreover, I know a couple of guys here in Hagfors, who have also been told they are 19.2 years, says Ali Shafai.”

The explanation is that Swedish authorities are trying to get an accurate answer to the question of the Afghan youth of Hagfors have turned 18 or not - based on uncertain X-ray methods.

The Migration Board's practice to establish whether the applicant teenager has passed the crucial 18 th anniversary is contrary to the recommendations of the National Board of Health and Welfare issued last summer

Unaccompanied minors in northern Europe, 2009-2012, numbers



Why do minors lack valid ID?

- The birth date has never been registered or is inexact or erroneous in country of origin (Afghanistan, Somalia etc)
- Refugees are unable to retrieve official documents in country of origin
- They may choose to destroy ID to be able to claim an age below 18

Advantages of being a minor as an asylum seeker (1)

- Are under special protection according to the UN Convention of the Child
- In the Scandinavian countries this implies some kind of substitute parenting in group homes or foster care
- Educational rights

Advantages of being a minor as an asylum seeker (2)

- Special treatment during the asylum inquiry
- Can have their asylum application handled in the second country of settlement (Dublin shouldn't be applied to them)
- Deportation should not be carried out unless a caretaker in the country of origin has been identified

EU Directive

- According to Article 17.5 of the Asylum Procedures Directive (2005/85/EC), Member States may use medical examinations to determine age in relation to the examination of an asylum application

Practice

| Country | Wrist; X-ray | Clavicle; X-ray | Teeth; X-ray | Psycho- social |
|----------|-----------------|--------------------|-----------------|-------------------|
| Finland | + | | + | |
| Norway | + | | + | |
| Denmark | + | | + | |
| Holland | + | + | | |
| Germania | + | | + | |
| UK | | | | + |
| Belgium | + | + | + | |
| Ireland | + | | | |

Age assessment by skeleton

- Stages of development of growth zones

X-rays of:

-hand/wrist

Greulich-Pyle atlas method

-collar bone

-pelvis

Growth zones of wrists and fingers



Age assessment by skeleton

- Greulich-Pyle atlas (1959) method most common
- Atlas was compiled in 1930:s to assess physiological maturity in relation to age in children with disorders
 - reference population of 1000 Americans of northern European descent and upper social class
- Stages from 0-18 years
- Different reference images for boys and girls

Age assessment by skeleton; problems

- Variation in timing of puberty makes predictions of age from skeletal maturity in teenagers difficult (2SD = +/- 2-3 years)
- Skeletal maturation is probably affected by social living conditions and ethnicity, but hard evidence is lacking
- Skeletal maturation is much affected by age of puberty, which defines external appearance, which is often the reason for the assessment
- Ethics: Negative consequences of X-ray exposure

Third and Fourth molars



Age assessment by dental maturity

- Great interindividual variation in maturity (2SD = +/- 3-4 years)
- Maturation is probably affected by social living conditions and ethnicity, but hard evidence is lacking
- Ethics: Negative consequences of X-ray exposure, but the doses used here are very low

Other X-ray methods

- A combination of teeth and skeleton is used in some countries. The scientific basis on these scales is shaky.
- X-ray of clavicle is used in Holland and Belgium (at least). Matures later than wrist. Exposes central blood vessels to x-rays. Ultrasound has been used in Germany, less precise.

Assessment of psychosocial maturity (according to UK guidelines)

- Physical appearance
- Behavior
- Interaction with the assessor
- Interaction with peers
- Social and family history
- School history
- Activities of daily life

Age assessment as part of a holistic evaluation

Royal College of Paediatrics and Child Health (RCPCH), UK:
“The most appropriate approach is to use a holistic evaluation, incorporating narrative accounts, physical assessment of puberty and growth, and cognitive, behavioural and emotional assessment. Such assessments will provide the most useful information on which to plan appropriate management.”
(RCPCH, Policy statement, 2007)



Human Rights



UN Convention on the Rights of the Child

No specific article on age assessment

Relevant articles:

Article 1: The definition of a child

Article 7: Birth registration, name, citizenship...

Article 8: The right to keep the identity

Article 9: Separation from parents

Article 10: Travel in or out of countries for family reunification

UN Convention on the Rights of the Child

...and also...

Article 12: Respect for the views of the child

Article 28: The right to education

Article 32: Child labour

Article 37: Protection against torture, humiliating treatment and deprivation of liberty

Article 38: Protection of children affected by armed conflicts

Article 39: Rehabilitation of children

...and others...



UN Committee on the Rights of the Child: General Comment No. 6 (2005): Treatment Of Unaccompanied And Separated Children Outside Their Country Of Origin

The best interests of the child must also be a guiding principle for determining the priority of protection needs...

...age assessment and should **not only take into account the physical appearance** of the individual, but **also his or her psychological maturity**.

...must be conducted in a scientific, safe, child and gender-sensitive and fair manner, avoiding any risk of violation of the physical integrity of the child; giving due respect to human dignity

...if there is a possibility that the individual is a child, she or he should be treated as such;

European Network of Ombudspeople for Children - ENOC: State Obligations for the Treatment of Unaccompanied Children (2006)

...only take place in cases of serious doubt

...independent experts

**...include a combination of physical, social and psychological maturity
assessments.**

The child's views should be given due weight

...open to revision if new evidence comes to light.

Thomas Hammarberg: The Council of Europe Commissioner's Human Rights Comments

2011-08-09

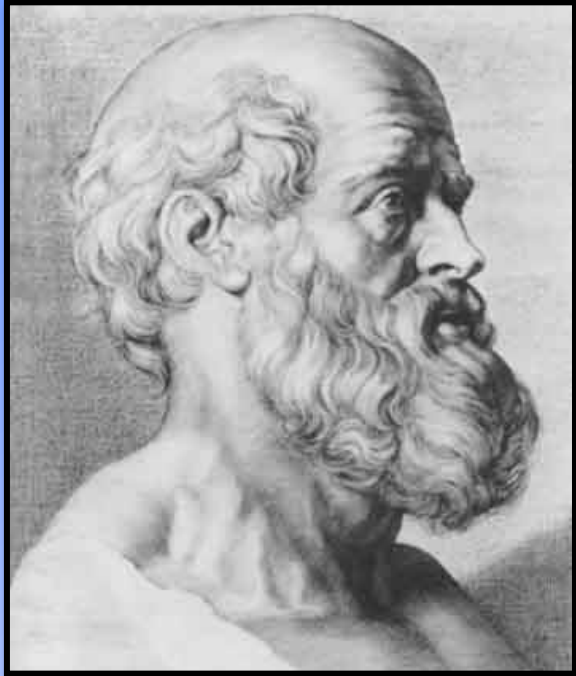
Children should be respected and trusted

As a basic rule, migrant children should be received with respect and empathy, instead of mistrust and unnecessary examinations.

Examples of policy recommendations

- Royal College of Paediatrics and Child Health, 2007
- UNICEF, 2011
 - Holistic approach
 - The individual protection needs must be taken into consideration

Medical Ethics



Justice

- ? Equal treatment

Autonomy

- ? Voluntariness
- ? Right to information
- ? Permission
- ? Right to accept or refuse

Non-malevolence

- ? Ionizing investigations of non-medical reasons
- ? Integrity

Beneficence

- ? The best interest of the patient

Geneva Declaration 1948

World Medical Association

The health of my patient will be my first consideration...

I will maintain the utmost respect for human life from its beginning even under threat and I will not use my medical knowledge contrary to the laws of humanity

The Swedish way

Inspired by the British, Sweden very recently introduced age assessments based on a holistic evaluation, incorporating narrative accounts, physical assessment of puberty and growth, and cognitive, behavioural and emotional assessment.

These assessments are to be made by experienced paediatricians in a few university clinics. We'll see how it goes...

Conclusions

- The "official" age has very important consequences for asylum seeking youth.
- There is no method available which can determine age in the age-bracket 16-20 with sufficient accuracy for legal purposes.
- Current Swedish practice relies on the judgement of officials with limited medical/psychological training

The way forward?

- A more flexible approach with different levels of support for young asylum seekers, where the support provided is based on needs rather than skeletal maturity?
- Such a system would be more congruent with the UNHCR guidelines and a "holistic approach".

Questions to discuss

1. Should doctors / other professionals be involved in age assessment?
2. If no, what are the alternatives and consequences?
3. If yes, on what conditions? Where should the red lines be?

Thank you for your attention!

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