

Treatment and Age-Assessment of Unattended Migrant Children Entering France

By Mckenzie Howell

Client: La Fondation pour l'Enfance

Target: The French Republic

Executive Summary:

The French government has neglected its obligations to migrant youth crossing the Franco-Italian border and their human rights, as outlined by the United Nations Convention on the Rights of Children. Incredibly flawed and biased age-assessment procedures constitute one of the French state's most egregious failings and relates to several other issues in regard to the treatment of migrant youth. Such related complicating issues include the state of the French foster care system and police harassment at the border. However, due to political circumstances and the complicated nature of the issue at hand, a complete reform of procedures is not recommended. A partial reform to age-assessment procedures is more likely to be implemented and succeed in ensuring the rights of migrant youth entering France.

Chapter 1: Case Study

I. Identification

A. Migration has been a major topic of the 21st century as millions of people across the globe undertake harrowing journeys across seas and continents. Motivations vary; many migrants seek economic opportunities abroad, while others flee conflict or persecution in their homelands. Backgrounds are incredibly diverse; numerous gender, ethnic, religious and political identities compose global migrant populations. Furthermore, migrants range broadly in age, from the elderly to mere infants. The greatest commonality among these populations is vulnerability. The key concern of this document is the vulnerable unattended migrant minors entering France which have been neglected by the very authorities tasked with their protection.¹

B. Children's Rights Abuses

1. Police aux Frontières

On September 5, 2019, Human Rights Watch released an extensive report on the poor treatment that unattended migrant minors crossing the Franco-Italian border into southern France experience at every step of their journey². This report detailed unlawful and capricious actions by French border control, la police aux frontières (PAF).

a) Expulsion Zone

La police aux frontières pose a significant obstacle to migrant minors who attempt to cross the Franco-Italian border by defying international law and returning self-identifying minors to the Italian side of the border. Under international and French law, law enforcement authorities

¹ "Subject to Whim: The Treatment of Unaccompanied Migrant Children in the French Hautes-Alpes" (Human Rights Watch, September 5, 2019), <https://search.proquest.com/policyfile/docview/2299644227/B4EAB6F219944EBCPQ/3>.

² "Subject to Whim."

are mandated to take self-identified unattended minors into the custody of French child and family services, L'Aide Sociale à l'Enfance (ASE). Instead, the PAF have been accused of returning migrants across the border multiple times before allowing them to proceed in their journey, seemingly according to officers' mood. The PAF have implemented a zone of expedited refusal of entry which encompasses a 10 kilometer radius of French borders and permits officers to expel migrants found in that area at their discretion, often for "adult appearance". Though this policy is permitted under French law, the policy is not supported by international law.

b) Harassment

Migrants, aide workers, and Human Rights Watch have also reported that the PAF have continually harassed those who assist migrants near the border. This is in violation of court rulings which support the rights of civilians to aide migrants once they cross the border under humanitarian circumstances³. Harassment includes punitive fines for minor infractions, being followed by officers, and arrest. Migrants have reported outright abusive behavior, such as an officer cutting the soles off the shoes of one young migrant found crossing through the cold and rocky Alpes⁴.

2. L'Aide Sociale à l'Enfance (ASE)

³ Human Rights Watch | 350 Fifth Avenue, 34th Floor | New York, and NY 10118-3299 USA | t 1.212.290.4700, "World Report 2019: Rights Trends in France," Human Rights Watch, December 20, 2018, <https://www.hrw.org/world-report/2019/country-chapters/france>; "French Police Cut Soles off Migrant Children's Shoes, Claims Oxfam | World News | The Guardian," accessed March 15, 2020, <https://www.theguardian.com/world/2018/jun/14/french-border-police-accused-of-cutting-soles-off-migrant-childrens-shoes>.

⁴ "Subject to Whim"; "French Police Cut Soles off Migrant Children's Shoes, Claims Oxfam | World News | The Guardian."

Even those migrants who do manage to cross into France and enter a metropolitan area have been neglected by the authorities tasked with their care, the ASE. This mistreatment constitutes a violation of international children’s rights.



Building owned by the Marseille Church, where about 320 migrants currently live, including families and about 170 unaccompanied migrant children, Marseille, France, October 2019. © 2019 Collectif 59 Saint-Just (Marquis 2019)

a) Squats

Many self-identified migrant minors have reported that while awaiting age-assessment, they were not taken into custody by the ASE as mandated by law ⁵. Instead, many have taken refuge in shanty towns similar to those found in Calais and in crowded “squats” in urban areas ⁶. These

⁵ “Subject to Whim”; “France: Immigrant Children Being Denied Protection,” Human Rights Watch, September 5, 2019,

<https://www.hrw.org/news/2019/09/05/france-immigrant-children-being-denied-protection>.

⁶ “Police Abuses Against Child and Adult Migrants in Calais | HRW,” accessed March 15, 2020, <https://www.hrw.org/report/2017/07/26/living-hell/police-abuses-against-child-and-adult-migrants-calais>; “Visite des services du Défenseur des droits le lundi 12 juin à Calais,” Défenseur des Droits, June 14, 2017, <https://www.defenseurdesdroits.fr/fr/node/23871>.

“squats” are often disused buildings which lack adequate resources for or proper supervision of the youth who stay there.

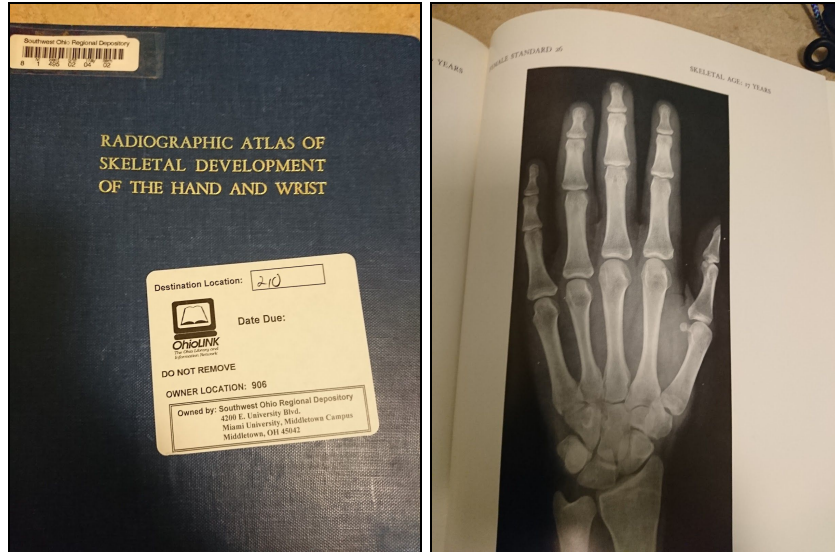
b) Personal Data Collection

In regard to when migrants do finally undergo age-assessment protocols, additional concerns have been raised about their rights to privacy ⁷. The age-assessment procedure and documentation by French authorities has led to the collection of biometric and personal data. The sharing and transmission of this data across jurisdictions and agencies of the French government has not been addressed in regards to the private medical autonomy of migrants.

3. Age-Assessment Methodology

The personal data in question is collected from age-assessment examinations that the French government mandates in order to determine if a migrant is a minor or an adult. This distinction is a major juncture in a migrant minor’s journey, as it determines their access to housing, healthcare, and education in France. Unfortunately, there is often a significant margin of error in this judgement. For this reason, these procedures are the primary focus of policy change.

⁷ “Subject to Whim”; “En Dépit Des Polémiques, Le Fichier Des Jeunes Migrants Gagne Du Terrain,” accessed March 15, 2020, <https://www.lefigaro.fr/actualite-france/en-depit-des-polemiques-le-fichier-des-jeunes-migrants-gagne-du-terrain-20190811>; “Décision 2019-797 QPC - 26 Juillet 2019 - Unicef France et Autres [Création d’un Fichier Des Ressortissants Étrangers Se Déclarant Mineurs Non Accompagnés] - Conformité - Légifrance,” accessed February 21, 2020, <https://beta.legifrance.gouv.fr/cons/id/CONSTEXT000039096020>.



The Pyle-Greulich Atlas

a) Wrist X-rays

Developed countries across the globe utilize the same methodology in order to assess the ages of migrant youth crossing their borders: wrist x-rays⁸. This practice is touted as a quick, non-invasive and cost-effective procedure to determine a migrant's age in lieu of identification (or in light what is perceived as suspect identification). However, the accuracy of this procedure is highly questionable, with margins of error as wide as two years of age; furthermore, minors are fully capable of having “adult” wrists and being falsely identified as adults themselves. The continued use of such flawed methodology constitutes an effort by developed countries to side-step their obligations to international law and the welfare of migrant youth.

b) Psychological Evaluation

⁸ Günter Schumacher, Andreas Schmeling, and Ernst Rudolf, “Medical Age Assessment of Juvenile Migrants,” n.d., 60; Anthony Heath, Elina Kilpi-Jakonen, and Organisation for Economic Cooperation and Development, “Immigrant Children’s Age at Arrival and Assessment Results. OECD Education Working Papers, No. 75” (OECD Publishing, May 2, 2012), OECD Publishing, 2, rue Andre Pascal, F-75775 Paris Cedex 16, France. Tel: +33-145-24-8200; Fax: +33-145-24-8500; Web site: <http://www.oecd.org>.

This procedure is also frequently accompanied by psychological assessment of the migrant youth. Such assessments are meant to determine the mental age of the migrant and verify the validity of their status. Like the physical examination, the results of the psychological assessment are highly questionable and their implementation does not conform to international law in good faith.

II. Importance and Implication

A. Global Children's Rights

On 20 November 1959, the Declaration on the Rights of the Child was adopted by the UN General Assembly in order to clarify the rights of children across member states ⁹.

According to this declaration, children are entitled to food, shelter, medical care, and education.

Later, in 1989, the United Nations Convention on the Rights of Children (UNCRC) was adopted by the United Nations in order to ensure the previously defined rights of children ¹⁰. France was one of 150 nations to sign this convention. Additionally, the European Union formally expects member states to adhere to their commitments to the UNCRC ¹¹. However, the French government's handling of unattended migrant youth constitutes a failure to meet their obligations to children's rights and a violation of international law.

⁹ Ministère de l'Europe et des Affaires étrangères, "Children's Rights," France Diplomatie - Ministry for Europe and Foreign Affairs, accessed March 11, 2020, <https://www.diplomatie.gouv.fr/en/french-foreign-policy/human-rights/children-s-rights/>; "Droits de l'enfant, les grandes dates," Défenseur des Droits, November 20, 2018, <https://www.defenseurdesdroits.fr/fr/a-la-une/2018/11/droits-de-lenfant-les-grandes-dates>; "OHCHR | 1. Declaration of the Rights of the Child (1959)," accessed March 11, 2020, [https://www.ohchr.org/EN/Issues/Education/Training/Compilation/Pages/1DeclarationoftheRightsoftheChild\(1959\).aspx](https://www.ohchr.org/EN/Issues/Education/Training/Compilation/Pages/1DeclarationoftheRightsoftheChild(1959).aspx).

¹⁰ "OHCHR | Convention on the Rights of the Child," accessed March 11, 2020, <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

¹¹ "EU Action on the Rights of the Child," Text, European Commission - European Commission, accessed March 11, 2020, https://ec.europa.eu/info/policies/justice-and-fundamental-rights/rights-child/eu-action-rights-child_en.

B. International Age-Assessment Protocol

France is not the only developed country to unlawfully mistreat migrant youth in violation with the UNCRC. The same (or similarly) flawed age-assessment procedures are employed across the world to determine the ages of migrant youth crossing borders. The issue of age-assessment procedures and the treatment of migrant youth is an international issue.

1. Outdated References

One of the most glaring issues with the current methodology is the measuring stick most often employed ¹². Many age-assessments consist of wrist x-ray comparisons. In order to determine a subject's approximate age, the ossification visible in the x-ray of a migrant youth's hand and wrist is compared with that found in x-rays of the *Radiological Atlas of Skeletal Development of the Hand and Wrist* by Sarah Idell Pyle and William Walter Greulich. This atlas was published in 1950. Since then, major strides have been made in medical technology, including x-rays. Furthermore, these x-ray comparisons do not adequately account for variable circumstances of youth and their bone development. This is just one example of bias in the age-assessment procedure.

2. Biased Methods

a) Personal Background in Skeletal Development

Age is not the only point against the use of the Pyle-Greulich atlas. This atlas is composed of x-rays of white American children. The majority children x-rayed in the atlas were born and raised in developed countries, had not recently suffered from malnutrition or starvation, and had adequate access to medical care. Many migrants have experienced rather extraordinary

¹² A Aynsley-Green et al., "Medical, Statistical, Ethical and Human Rights Considerations in the Assessment of Age in Children and Young People Subject to Immigration Control," *British Medical Bulletin* 102 (June 2012): 17–42, <https://doi.org/10.1093/bmb/lds014>.

circumstances up to the time of their assessment (malnutrition, forced labor, injury and abuse, illness, etc.) which might significantly affect their skeletal development and overall physical condition. The results of x-ray comparisons are thus rendered unreliable.

Newer resources remain unreliable when comparing across ethnicities. Other resources have been found to have a larger margin of error in age-assessment when comparing examples to African or Asian subjects. This is extremely problematic when considering that most migrant youths entering southern France originate from Africa.

b) PTSD and Cultural Factors in Psych Evaluations

The accompanying psychological examination is guilty of similar biases¹³. Psychological evaluations have been found to fail to account for both variable cultural ideas of maturity and the effects of PTSD on migrant youth. Similar to the behavior of law enforcement, medical personnel tasked with assessing migrant youth have been known to determine a migrant's age based on nebulous criteria, such as seeming too mature for their attested age.

These evaluations are also meant to determine the validity of a migrant's status by examining their story. Migrant youth might be determined adults based on mistaken dates or errors in their retellings of events. Personnel often do not account for the psychological trauma and realities of migration which influence these errors. Migrants do not have access to calendars and clocks to track their journeys, and their recall ability might be negatively impacted by trauma.

3. Suboptimal Medical Alternatives

¹³ Schumacher, Schmeling, and Rudolf, "Medical Age Assessment of Juvenile Migrants"; Aynsley-Green et al., "Medical, Statistical, Ethical and Human Rights Considerations in the Assessment of Age in Children and Young People Subject to Immigration Control."

It is clear that the age-assessment procedure predominantly implemented in developed countries is flawed and biased against migrant youth. However, there are also flaws in emerging alternatives which must also be addressed¹⁴.

a) Clavicle X-Ray

Clavicle x-rays are more accurate in regards to age-assessment than wrist and hand x-rays. However, radiation exposure is a major medical and ethical concern, especially for the sole purpose of migration control. In general, radiation should not be our primary policy solution to age-assessment procedures in developed countries.

b) Magnetic Resonance Imaging (MRI)

MRI has been discussed as a potential solution to more thorough and radiation-free age-assessment. However, there are two major issues. First and foremost, its precision in this regard remains questionable and requires further research. Second, the expense of conducting this procedure on each migrant youth seeking formal recognition as a minor would be much greater than that of current procedures. MRI is therefore not a desirable alternative.

c) Dental Examination

Thorough dental examination furnishes both low-radiation and radiation-free alternatives to x-rays. However, like MRI, the reliability of this procedure is questionable. Tooth mineralization is not thought to be an accurate age-marker. Furthermore, examination of the molars and other dental developments can also be rather variable across ethnic backgrounds.

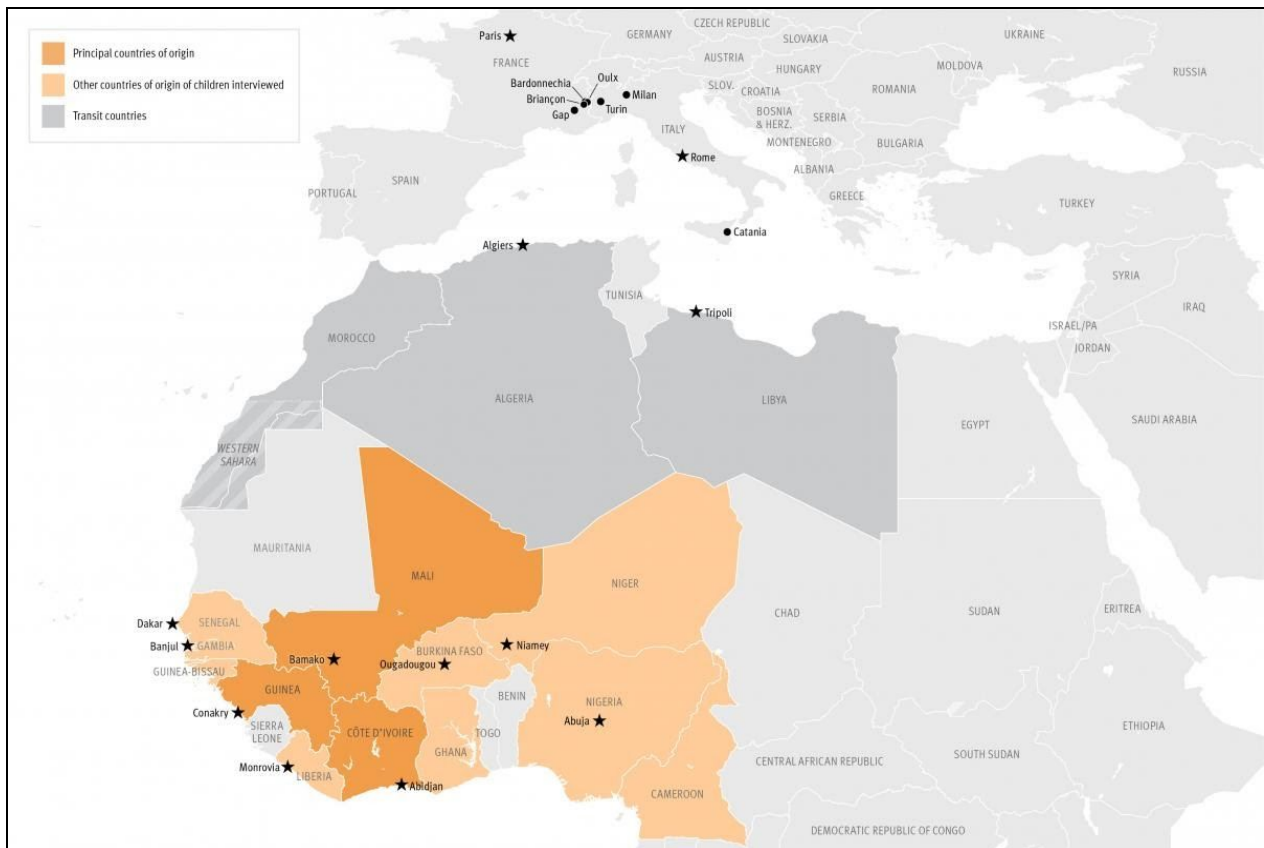
¹⁴ Aynsley-Green et al., "Medical, Statistical, Ethical and Human Rights Considerations in the Assessment of Age in Children and Young People Subject to Immigration Control"; Schumacher, Schmeling, and Rudolf, "Medical Age Assessment of Juvenile Migrants"; Heath, Kilpi-Jakonen, and Organisation for Economic Cooperation and Development, "Immigrant Children's Age at Arrival and Assessment Results. OECD Education Working Papers, No. 75."

There is also the question of examining migrant youth whose teeth have been left in poor condition by past hardship and how this might affect their examination results.

III. Origin

A. Motivations

A majority of migrant youth entering France (or at least attempting to) originate from current conflict zones and/or developing countries. These youth are often motivated by fear for their lives and hope for a brighter future across the Mediterranean Sea. In their 2019 report, Human Rights Watch cited persecution, abuse, and human trafficking as common reasons for departing their origin country among migrant youth ¹⁵.

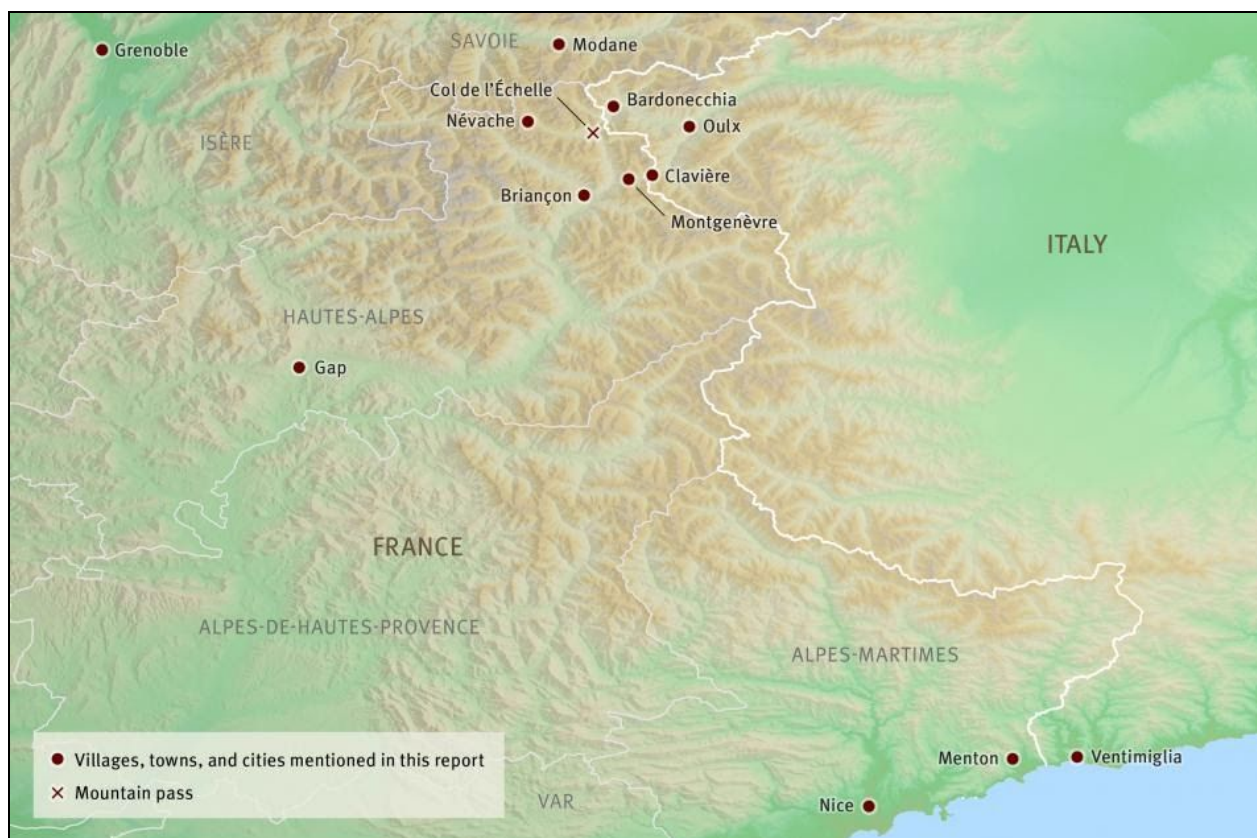


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¹⁵ "Subject to Whim."

B. Conditions in Italy

Upon arriving in Europe, migrant youths experience further hardship in the former of hostility in their host countries ¹⁶. In the case of migrant youths crossing into southern France, the host country is frequently Italy. Migrant youths have reported racial discrimination in addition to insufficient access to housing, education, and healthcare. It should be noted that according to Human Rights Watch, many youths waited as long as a year before attempting to enter France. The Italian government has recently taken action which is expected to exasperate these circumstances, which is further motivating migrant youths to cross into France ¹⁷.



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¹⁶ “Subject to Whim.”

¹⁷ Human Rights Watch | 350 Fifth Avenue, 34th Floor | New York, and NY 10118-3299 USA | t 1.212.290.4700, “Italy: Revoke Abusive Anti-Asylum Decrees,” Human Rights Watch, January 31, 2020, <https://www.hrw.org/news/2020/01/31/italy-revoke-abusive-anti-asylum-decrees>.

IV. Current Status

A. France's New Stance on Immigration

In November 2019, President Emmanuel Macron's announced that the French government will be taking a "tougher" stance on immigration¹⁸. The specifics of this stance remain unclear at the time. However, departmental authorities have been given the authority to assist in the age-assessment of migrant youth in order to expedite this process¹⁹. Steps have also been taken to prevent migrants from seeking re-assessment in other departments of France by sharing personal data across jurisdictions.

In light of this shift in policies, it seems unlikely that the French government will take significant action in favor of migrant youth or that such policies will originate from within the French government. Therefore, nonprofit organizations devoted to children's rights in France like La Fondation pour l'Enfance will take the lead in proposing sufficient policy alternatives to current flawed age-assessment techniques and treatment of migrant youth²⁰.

¹⁸ Michèle Tribalat, "Michèle Tribalat: les politiques seront-ils bientôt dépossédés de la question migratoire?," Le Figaro.fr, February 7, 2020, <https://www.lefigaro.fr/vox/economie/michele-tribalat-les-politiques-seront-ils-bientot-deposedes-de-la-question-migratoire-20200207>.

¹⁹ "En Dépit Des Polémiques, Le Fichier Des Jeunes Migrants Gagne Du Terrain."

²⁰ "Je souhaite venir en aide à un(e) enfant migrant en France," Fondation pour l'Enfance, accessed February 16, 2020, <https://www.fondation-enfance.org/jai-besoin-daide/je-suis-adulte/enfants-migrants/enfant-migrant-france/>

Chapter 2: Policy Options

The French government has not made any significant amendments to age-assessment procedures in response to criticism from various human rights organizations. Other states in similar circumstances to France, such as the United States, also continue to utilize similarly flawed age-assessment methods. Therefore, it is necessary to turn to the theoretical realm for solutions to the issue at hand.

I. Holistic and Multidisciplinary Age-Assessment

No single technique has been identified as a precise instrument with which to determine a migrant's age. Nor has any specific combination of techniques yielded such results.

Nevertheless, experts around the world have proposed more thorough examinations as a solution to capricious age-assessments by examiners and wide margins of error²¹. This policy proposes that France eliminate wrist and clavicle x-rays from the age-assessment process and instead adopt a holistic and multidisciplinary approach to the age-assessment of minors.

A. Multidisciplinary Panels

A holistic and multidisciplinary approach to age-assessment entails contribution from various professional fields to the examination process. Such professionals include qualified pediatricians, social workers, and psychologists. These professionals will form a panel which will weigh the evidence yielded from the least invasive examination methods available in order

²¹ Patrizia Carletti, "Protocol for Identification and for Age Assessment of Unaccompanied Minors," *Italian Journal of Pediatrics* 41, no. Suppl 2 (September 30, 2015): A12, <https://doi.org/10.1186/1824-7288-41-S2-A12>; Lucia Celesti, "A Multidisciplinary Protocol for Age Assessment of Unaccompanied Minors," *Clinical Pediatrics: Open Access*, accessed April 5, 2020, <https://doi.org/10.4172/2572-0775-C2-011>; European Asylum Support Office, *EASO Age Assessment Practice in Europe*. (Luxembourg: Publications Office, 2014), <http://bookshop.europa.eu/uri?target=EUB:NOTICE:BZ0213783:EN:HTML>.

to render a final assessment on a migrant's age. Negative evaluations will result from significant evidence of maturity. The burden of proof lies with the panel and their examination.

B. Revised Psychological Evaluations

Psychological evaluation is already a component of age-assessment procedures in France. However, the current evaluation process has been criticized for a lack of cultural sensitivity and disregard for the impact of Post-Traumatic Stress Disorder on results. A holistic and multidisciplinary approach to age-assessment necessitates that the psychological assessment of migrants account for trauma (such as post-migratory stress), individual cultural backgrounds, as well as potential mental health or developmental disorders. This process will involve competent interpreters and “cultural brokers” who can effectively communicate a migrant's experiences across linguistic and cultural barriers²².

C. Feasibility

Though this policy is among the most commonly suggested solutions to the issue of inaccurate and unfair age-assessment procedures, there are several barriers to its successful implementation in France.

1. Current Political Climate

First and foremost, the current administration is not amenable to policies which might promote increased immigration into France²³. In fact, recent steps have been taken to expedite

²² Rachel Kronick, “Mental Health of Refugees and Asylum Seekers: Assessment and Intervention,” *Canadian Journal of Psychiatry. Revue Canadienne de Psychiatrie* 63, no. 5 (May 2018): 290–96, <https://doi.org/10.1177/0706743717746665>.

²³ Tribalat, “Michèle Tribalat”; Norimitsu Onishi, “France Announces Tough New Measures on Immigration,” *The New York Times*, November 6, 2019, sec. World, <https://www.nytimes.com/2019/11/06/world/europe/france-macron-immigration.html>; “How Macron's New Immigration Bill Affects Refugees and Asylum Seekers,” *Help Refugees* (blog), April 27, 2018, <https://helprefugees.org/news/how-macrons-new-immigration-bill-affects-refugees-and-asylum-seekers/>.

the processing of migrant youth using the current flawed age-assessment procedure²⁴. In light of the present circumstances, it is unlikely that La Fondation pour l'Enfance or any other children's rights organization can successfully lobby for a complete overhaul of the age-assessment procedures.

2. L'Aide Sociale à l'Enfance (ASE)

Even if successfully lobbied for and implemented by the French government, the state of French social services remains a significant obstacle to the overall success of this policy. It is questionable whether or not French authorities would be able to support the minors who would subsequently enter the system following their positive identification as minors. Abuse within the childcare system is a prevalent issue with lifelong effects, which would likely compound the trauma of migration²⁵. Additionally, the educational outcomes among both youth in foster care and newly-arrived migrants are not especially promising, with many exiting the system without a secondary-education diploma²⁶. In short, it is unlikely that ASE would be able to make the necessary provisions for migrant youth and their specialized needs without significant reform,

²⁴ "En Dépit Des Polémiques, Le Fichier Des Jeunes Migrants Gagne Du Terrain," accessed March 15, 2020, <https://www.lefigaro.fr/actualite-france/en-depit-des-polemiques-le-fichier-des-jeunes-migrants-gagne-du-terrain-20190811>.

²⁵ Margaux d'Adhémar, "Enfants maltraités : le système en difficulté, l'État passe contrat avec 30 départements," *Le Figaro.fr*, February 3, 2020, <https://www.lefigaro.fr/actualite-france/enfants-maltraites-le-systeme-en-difficulte-l-etat-passe-contrat-avec-30-departements-20200203>; Emeline Delaville and Valérie Pennequin, "Effets de La Maltraitance Sur La Régulation Émotionnelle Des Enfants et Des Adolescents Confiés à l'Aide Sociale à l'Enfance," *Consequences of Maltreatment on Emotional Regulation in Children and Adolescents in Foster Care (English)* 177, no. 7 (September 1, 2019): 641–47, <https://doi.org/10.1016/j.amp.2018.04.011>.

²⁶ X. Azuelos and B. Quintard, "Résilience Scolaire et Difficultés de Comportement Chez Les Enfants de Migrants : Contribution Du Génogramme Imaginaire," *Resilience to School and Behavioral Difficulties in Children of Migrants: Impact of the Imaginary Genogram (English)* 23, no. 2 (June 1, 2017): 127–52, <https://doi.org/10.1016/j.prps.2016.11.005>; Joel Windle, "'Soft' and 'Hard' Landings: The Experience of School under Contrasting Institutional Arrangements in Australia and France," *International Journal on Multicultural Societies* 11, no. 2 (December 2009): 174.

which is an entirely separate policy issue. At present, current efforts to ameliorate the circumstances of children in the system have been limited to specific departments²⁷.

3. La Police aux Frontières

French border control will also continue to pose a significant threat to migrants attempting to cross from Italy into France. This policy does not address allegations of abuse and violation of international children's rights by the PAF. Therefore, the question remains of how their actions might negatively influence the effectiveness of this policy. As it stands, many migrants report having made multiple attempts to cross the border before officers permitted their crossing. It is possible that knowledge that migrants are more likely to be recognized as minors could lead to even greater crackdowns on migration. This policy would then be rendered useless, as few individuals would be able to successfully enter France in order to undergo assessment.

4. Risk of Abuse

There is concern that such thorough examinations might lead to a higher frequency of abuse among migrant youth at the hands of officials²⁸. Sexual abuse is a particular concern. Ideally, special attention would be paid to the privacy of migrants and that only necessary, non-invasive examinations would be carried out. However, it must be recognized that this policy furnishes greater opportunity for sexual abuse than current x-ray procedures.

II. Revise Psychological Evaluations

Partial reform might remedy some problems with the current procedures while simultaneously limiting retaliation by the PAF and negotiating the current political climate. In

²⁷ d'Adhémar, "Enfants maltraités."

²⁸ European Asylum Support Office, *EASO Age Assessment Practice in Europe*.; Celesti, "A Multidisciplinary Protocol for Age Assessment of Unaccompanied Minors."

lieu of complete elimination of wrist and clavicle x-rays *and* revision of psychological evaluations, the latter alone might still render positive results for migrant youth.

A. Feasibility

While the French government might be more amenable to partial action rather than total overhaul, some of the same obstacles remain. Additionally, one must consider the primary draw-back of such a policy as compared to the policy discussed previously.

1. Current Political Climate

The current administration remains is not amenable to policies which might promote increased immigration into France²⁹. It remains to be seen if French officials would be open to any increase in immigration, large or small. Lobbying for such a policy thus remains a major obstacle to implementation.

2. l'Aide Sociale à l'Enfance

The state of French social services remains a significant obstacle to the overall success of this policy after-the-fact. As previously stated, it is questionable whether or not French authorities would be able to support the minors who would subsequently enter the system following their positive identification as minors without significant reform. However, as this policy is only a partial revision to age-assessment procedures, this policy would not be as burdensome on the present system as the previous system.

3. Limited Impact

While limited impact might make ASE and other French authorities more amenable to policy change, it is nonetheless a point against this policy. This policy would not benefit as many

²⁹ Tribalat, "Michèle Tribalat"; Onishi, "France Announces Tough New Measures on Immigration"; "How Macron's New Immigration Bill Affects Refugees and Asylum Seekers."

migrant youth as Policy I. That said, it may still be more successful than the following strategies described below.

III. Pre-Assessment Counseling

One solution which side-steps the issue of current government policy and might still positively impact the results of migrants seeking age-assessment is pre-assessment counseling. This solution will be implemented by La Fondation pour l'Enfance itself as a public service to self-identified migrant minors who are awaiting age-assessment and thus lack ready access to medical resources.

A. Biopsychosocial Approach

Research into mental health treatment of migrants and refugees is a growing field, as these individuals often require more specialized and/or intensive care than clinicians are accustomed to³⁰. Furthermore, treatment of migrants and refugees frequently necessitates the assistance of interpreters and “cultural brokers” who can effectively translate multiple traumatic incidents across linguistic and cultural barriers. An ecosystem approach in which an assessment “considers not only pre-migratory trauma, but social, familial, and cultural determinants of mental health in the host country” is highly recommended. In the realm of psychotherapy, Narrative Exposure Therapy and Cognitive Behavioral Therapy have been noted for a fair degree of success in regard to treating PTSD among migrant youth. It is hoped that treatment of PTSD symptoms might mitigate some of the damage done by biases in the current psychological age-assessment procedure.

³⁰ Kronick, “Mental Health of Refugees and Asylum Seekers.”

B. Feasibility

As this policy option would be the exclusive undertaking of La Fondation pour l'Enfance and any potential partners, lobbying for government implementation is no longer an issue.

However, a new issue emerges in its place. In addition, similar barriers remain in regard to the success of this particular policy option.

1. Funding and Logistics

As a project of La Fondation pour l'Enfance, its funding and implementation will be the responsibility of this organization. La Fondation pour l'Enfance must budget for such a project as well as seek donors and new partnerships in this endeavor. Without government support, the process of implementing this policy in a timely and effective manner might take months or years, and cost a significant amount of money to implement and sustain.

2. Limited Impact

La Fondation pour l'Enfance is not an especially affluent organization and is dedicated to several other causes relating to children's rights. As a result, it is unlikely that this policy will make a significant impact on the number of migrant minors recognized by the French government. However, when weighed against present circumstances and the theoretical results of other policy options, this policy and its limited impact deserve some consideration. A degree of positive impact is better than zero changes to present circumstances.

3. L'Aide Sociale à l'Enfance

It bears repeating that the state of French social services remains a significant obstacle to the overall success of any policy which seeks to identify migrant minors and take them into the custody of ASE. However, like Policy II, the limited impact of this policy option might make French authorities more amenable to its implementation as opposed to Policy I. Like Policy II, Policy III would not be *as* burdensome on the present system.

IV. Second-Opinion Assessment

This policy option represents a direct challenge to the results of the present age-assessment procedure after-the-fact. In essence, La Fondation pour L'Enfance will fund second-opinion age-assessments which adhere to the recommended holistic and multidisciplinary methodology when the current procedures yield a negative result for the alleged minor. The aim of this policy is not to generate contrary results, but rather to verify the results of the initial assessment and furnish migrants who contest their results in court with a qualified second-opinion.

A. Holistic and Multidisciplinary Approach

This policy would fund thorough examination of migrants utilizing the panel structure commonly recommended in lieu of x-rays, as described in Policy I. This would include the revised psychological assessment which would account for the effects of PTSD and cultural differences.

B. Submission to Court

The results of the assessment will be prepared as a formal report for the use of the migrant and/or their legal representation in proceedings which seek to challenge the results of their initial age-assessment. This report might be presented to the court as a qualified second-opinion of the migrant's age which might strengthen their overall case for reclassification of status if accepted.

C. Feasibility

Like the above policies, Policy IV is not without its obstacles to effective implementation by La Fondation pour l'Enfance.

1. Funding and Logistics

Timely and cost-effective implementation remains a barrier to Policy IV as it does to Policy III. As a project of La Fondation pour l'Enfance, the funding and implementation of these second-opinion assessments will be the responsibility of the organization. La Fondation pour l'Enfance must budget for such a project as well as seek donors and new partnerships in this endeavor. As previously stated, without government support, the process of implementing this policy in a timely and effective manner might take months or years, and cost a significant amount of money to implement and sustain.

2. Limited Impact

Due to financial constraints, it is unlikely that Policy IV could benefit a large number of migrants. Candidates for assessment would likely be limited to those who meet particular criteria. This criteria might include an incredible necessity for government benefits afforded to minors, an especially high likelihood of misidentification as an adult, or otherwise extraordinary circumstances. Therefore, this policy would likely render the smallest impact on the migrant population in France as compared to other policies.

3. Legal Challenges

There are likely to be significant legal challenges to the implementation of this policy. For one, French courts might not initially accept age-assessment results from a third-party; their stance on the issue is currently unknown, though it is known that the courts have been supportive of current procedures³¹. If these results are not initially accepted, La Fondation pour l'Enfance might face years-long legal battles to have such second-opinion assessments recognized by the French judicial system. This process would delay effective action on the behalf of migrants, be

³¹ "‘Extremely Disappointed’: French Court Gives Green Light to Bone Age Tests for Child Migrants - The Local," accessed April 5, 2020, <https://www.thelocal.fr/20190322/extremely-disappointed-french-court-gives-green-light-to-bone-age-tests-for-child-migrants>.

incredibly costly to the organization, and might ultimately fail, rendering the proceedings a waste of time and resources.

4. Risk of Abuse

There remains a real concern that such thorough examinations might lead to a higher frequency of abuse among migrant youth at the hands of examiners. As previously stated, in ideal circumstances, special attention would be paid to the privacy of migrants and that only necessary, non-invasive examinations would be carried out. However, it must be recognized that this policy furnishes greater opportunity for sexual abuse than current x-ray procedures. Though in the case of this policy, fewer migrants are likely to be affected due to the limited scope of the policy.

V. Trade-Offs

The tables below compare and contrast the requirements and potential impacts of the different policies proposed above. In Table 1, each policy receives an ‘x’ for each requirement of its successful implementation:

Table 1 - Requirements

Policy	Requires Implementation by the Government	Requires Private Funding	Requires Cooperation of the Courts
Holistic & Multidisciplinary Approach	X		
Revise Psych. Evaluations	X		
Pre-Assessment Counseling		X	
Second Opinions		X	X

In Table 2, each policy scores on a scale of one to ten in regard to expected positive impact on the accurate identification of migrant minors. Additionally, each policy scores on a scale of one to three in regard to three potential negative effects of these same policies:

- Increased Burden on ASE.
- Increased Risk of Border Control Harassment.
- Increased Risk of Abuse Among Minors by Authorities.

Each number on the scale denotes a margin of predictable increase due policy change. In short:

1 - Denotes a small potential increase.

2 - Denotes a mild potential increase.

3 - Denotes a significant potential increase.

The total of the three scores are subtracted from the hypothesized positive impact scores on migrant youth in order to ascertain a potential net positive impact on the demographic operating on the same one to three scale as the negative potential impacts.

Table 2 - Potential Impact

Policy	Impact on Migrant Youth	Increased Burden on ASE	Increased Risk of Harassment	Increased Risk of Abuse	Net Positive Impact
Holistic & Multidisciplinary Approach	10	3	3	3	1
Revise Psych. Evaluations	7	2	2	1	2
Pre-Assessment Counseling	5	1	1	1	2
Second Opinions	5	1	1	2	1

As seen above, while holistic reform would theoretically have the greatest impact on migrant youth, this impact would be hampered by larger consequences within the French social system and in regard to police response. Without addressing larger issues, this policy would be rendered largely ineffective. This problem applies to other proposed policies, narrowing our viable options more significantly.

Chapter 3: Policy Recommendation

I. Criteria for Recommendation

La Fondation pour l'Enfance is a nonprofit organization whose capacity to address the issue at hand is limited. For this reason, there are two primary points of criteria that the ideal policy should fulfill:

a. Significant Impact

First and foremost, the ideal policy must have a significant positive impact on the welfare of unattended migrant minors entering France. As seen at the end of the previous chapter, some options sacrifice a broader scope of impact in favor of greater feasibility, be it government support or monetary capacity of the client. A balance is possible and must be achieved to the benefit of both the client and migrant youth. Scope must be maximized without completely compromising the ability of La Fondation pour l'Enfance to implement or advocate for the policy.

b. Reduced Burden

Scope must be balanced against the potential financial, logistical, and jurisdictional burdens posed toward the client, its allies, and the French state by the policy. The state of French social services is of particular concern, as l'Aide Sociale à l'Enfance has been under fire recently for mistreatment and neglect of children in its custody. (Delaville and Pennequin 2019; Dutrénit 2005; Euillet 2020) There is great concern that the situation cannot accommodate a significant influx of minors requiring care without further compromising the quality of care further. While a significant scope of impact is desired, the scope must also be managed in order to accommodate youth and circumvent further harm via institutional neglect and abuse.

II. Partial Revision to Psychological Assessment Procedure

Partial reform will remedy issues with at least one phase of the current government procedures. The psychological evaluation is the prime target for reform of this policy. As psychological evaluations typically take place before x-rays, the results of these evaluations might positively impact assessment of x-ray results in favor of identifying a youth as a minor if they are revised to conform to medical experts and human rights advocates. In lieu of complete elimination of wrist and clavicle x-rays *and* revision of psychological evaluations, the latter reform alone will positively impact migrant youth seeking age assessment without overburdening l'Aide Sociale à l'Enfance or incurring significant retaliation.

III. Implementation

Such reform, while partial, is likely to take several years to implement. Additionally, implementation will require several successive stages. Eventually, new campaigns will need to be implemented in order to support the long-term success of this policy and its components.

a. Lobbying

Lobbying the French government and various officials is the primary means by which this policy can be implemented by La Fondation pour l'Enfance. The organization is experienced in advocacy and outreach. Furthermore, the organization is already associated with several other nonprofits and NGOs with significant political influence in France. Finally, the prime time for lobbying efforts is right around the corner.

i. 2022 French Presidential Elections

The next two years are a pivotal time for this phase of implementation. It is speculated that Emmanuel Macron first shifted toward a more prohibitive stance on immigration in order to appeal to right-wing voting demographics in the upcoming presidential elections. However, President Macron's party is center-left on the political spectrum and cannot afford to alienate its primary constituency or those further to the Left by taking on a staunchly right-wing stance on immigration. It is likely that he seeks to draw voters away from his far-right opponent, Marine Le Pen. However, in taking this stance, Macron risks splitting his voting base with the more staunchly left-wing Socialist Party. La Fondation pour l'Enfance can take advantage of the elections to advocate for a partial policy reform which will both remedy the issue at hand without outright alienating the present administration from either end of the political spectrum.

ii. Allies

At this stage of implementation, allies are of critical importance. La Fondation pour l'Enfance has numerous potential allies in the political sphere. Outside the French government, NGOs like Amnesty International and Human Rights Watch represent just two powerful organizations with an expressed interest in the issue. United Nations subsidiaries, such as the United Nations High Commissioner for Refugees and the United Nations Children's Fund, can

also aid in this process both monetarily and in terms of publicity. Finally, within the French government, le Defenseur du Droit represents an important ally in the advocacy for this policy.

b. Reorientation

The second phase of implementation entails a reorientation of existing staff who deal in the psychological assessments. Current staff will be extensively educated on cultural sensitivity and the particular circumstances of migrant youth in order to curb Western-biased and ableist assessments. This reorientation process will allow existing personnel to roll over into the new age-assessment system and prevent logistical problems that might arise from terminating employees who do not already comply with policy standards. Reorientation will ideally be carried out by mental health professionals and migrant advocates with extensive experience with migrant youth outside the age-assessment process.

c. Employ Cultural Brokers

The third phase of implementation entails the permanent employment of “cultural brokers” who can ensure the continued adherence of staff to policy standards and to translate youth experiences in evaluation.(Kronick 2018) The primary role of cultural brokers is not limited to linguistic translation, but also includes the translation of cultural context.

i. **Potential Hiring Pools**

Adult migrants who have already experienced the age-assessment process or experienced similarly turbulent arrivals to a host country would make ideal cultural brokers in this scenario. This would be especially the case when the adult broker and the migrant youth share countries of origins and/or similar migration experiences (human trafficking, refugee from conflict zone, etc.) that a mental health expert might not be able to understand or relate to. Of course, accredited experts in anthropology and other social sciences could also lend greater credibility to these psychological evaluations and their results.

d. **Pre-Assessment Counseling**

The final stage of implementation entails that pre-assessment counseling services be made available to migrant youth awaiting assessment. This stage should follow all other stages as it seems likely it will take longer to implement than either reorientation or new hiring. Thus, the other phases take precedence due to their more immediate results. Nevertheless, this phase remains important to the success of this policy and its positive impact on migrant youth, regardless of their eventual assessment results.

i. **Post-Migration Stress**

The primary focus of pre-assessment counseling will be the treatment of Post-Migration Stress. This particular type of Post-Traumatic Stress which requires more specialized clinical care than a typical mental health professional might have experience with.(Kronick 2018) Ready availability of this specialized treatment will go a long way in preparing youth for the stress of age-assessment and whatever comes afterwards. Narrative Exposure Therapy and Cognitive Behavioral Therapy have a positive track record with youth in particular.

IV. Obstacles

a. **L'Aide Sociale à l'Enfance**

The state of French social services remains a significant obstacle to the overall success of this policy to address the issue. As previously stated, it is questionable whether or not French authorities would be able to support the minors who would subsequently enter the system following their positive identification as minors without significant reform. Therefore, successful implementation of this policy should be either accompanied or followed by intense lobbying for improved conditions in French fostercare.

b. **La Police aux Frontieres**

French border control will also continue to pose a significant threat to migrants attempting to cross from Italy into France. This policy does not address allegations of abuse and violation of international children's rights by the PAF. Therefore, as in the case of l'Aide Sociale a l'Enfance, implementation of this policy must be either accompanied or followed by action against this particular side of the issue at hand. For now, though the allegations at hand are heinous and worrying, they sit beyond the scope of this policy recommendation.

V. Conclusion

This issue is not as straightforward as one would hope. France is in clear violation of its obligations to international children's rights. However, there are complicated politics at play which mean that the issue cannot be remedied with sweeping changes. Small steps must be taken, beginning with staunch advocacy. Hopefully, advocacy will lead to partial policy reform, which in turn will pave the way to amelioration in other spheres, such as French social services and police accountability.

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