

## Time and the Child: On Temporal Construction of Refugee Childhood

Nataliya Tchermalykh, PhD (University of Geneva)  
nataliya.tchermalykh@unige.ch

Standing in the middle of a small room of the Geneva Juvenile Court next to his lawyer, Karim was wearing a hygienic mask. Suddenly, as if he felt short of breath, he took it off. The judge stared at him and said, "Ah! Ok... You know, I think you are of legal age. So you know what ... The court must examine its jurisdiction *ex officio*, so I won't even dwell on the issues of offenses. Thank you, both. Goodbye!"

The consequences of this seemingly mundane interaction for the undocumented teenager on the move through Europe from Maghreb were immediate and heavy. The same day, the judge called Karim's curator, appointed by the Child Welfare Services, which provided him temporary housing, notifying them that as Karim was of legal age, he needed to leave the youth residence: he was now a homeless adult. His lawyer wrote a formal legal notice to the SPMI and thought about lodging an appeal to pursue the litigation. But the next day, Karim hit the road; he was already far away. His alleged childhood was discontinued by one glance of the judge, and the boy decided not to contest this decision.

I met Karim in Geneva through Eva, his lawyer, whom I was following in her everyday practice as part of a Law Clinic. Eva provided *pro bono* legal advice to young undocumented migrants in Switzerland, where I was conducting participant observation for three months in 2019. Eva confessed to me that these "sudden disappearances" were a frequent ending to her cases, even though she was striving to develop a strategy for obtaining more justice for the children on the move. Why did Karim refuse her help? Could this tendency be interpreted not as a gesture of resignation to state-imposed adulthood but rather as a gesture of resistance, liberating his youth from the legal constraints? This paper offers an anthropological reflection on the significance of time and legality in the construction of refugee childhood—an ontological condition that is co-produced by the system of child-oriented policies and laws but cannot be reduced to their effects, leaving significant space for inventive strategies of resistance.

On paper, the Convention on the Rights of the Child (1989), and other multilateral protocols aimed at granting international protection to children without immediate family support, all insist on the non-deportability of children and the unconditionally equal state support to all children, citizens and non-citizen alike, therefore allocating to them a broader spectrum of rights, than to their adult counterparts. However, as migrant children transition to adulthood—naturally or "forcefully" by means of an external evaluation—they are affected by a radical change in the legal regime: like Karim, they experience the immediate "evaporation" of rights previously accorded to them as children (Bhabha 2011).

This temporal boundary, which is also a legal paradox separating the relatively protected childhood from rightless and deportable adulthood, is configured as a space of endless anxieties, controversies, and legal battles. As in European countries, there is no such thing as *the presumption of minority*, in the sense that the age still has to be proven and the burden of proof falls on the undocumented child (Bisson, Testemale, and Inghilterra 2014). In this polemical

context, judges of juvenile courts often serve as agents of the state discretion—its “eyes”—capable of distinguishing between a “real” minor deserving state protection from a “fraudulent” one.

Even when the long and humiliating process of age determination results in official recognition of one’s minor or child status, often with use of the highly contested X-Ray Greulich and Pyle method, this does not necessarily bring satisfaction and peace to the young asylum-seekers. “Ici on meurt à petit feu” (here we die a slow death) is a phrase that struck me when spoken by a young Nigerian. Indeed, the dramatic and adventurous time of migration is replaced by a long, empty, and endlessly delayed waiting for decisions by a state that suddenly seems “forgetful”, “distracted”, and even “dead” (Andersson 2014). Lili, a French lawyer, describes the “dragging” in legal procedures as a sort of “playing for time” and not taking any significant legal decision before the 18th birthday of the child, after which time their asylum rights as children will no longer apply. Intuiting this profound injustice, the adolescents feel more and more anxiety, resulting in mental health issues, self-mutilation, and even suicidal attempts: “[...]you are quiet here, you work at school, you play sports. And yet, at the end, when you are 18, when you are of age, you will be told: you, get out of here, you, go home”, as one of the young asylum-seekers confessed in an interview.

Bourdieu famously wrote that “the all-powerful is he who does not wait but who makes others wait ... Making people wait is an integral part of the exercise of domination” (Bourdieu 1997, 240). *Le Courant* takes this further: “the undocumented are not only those who do not have the right to be present, they are also those who are dispossessed of the mastery of time” (*Le Courant* 2014, 4). This observation sheds light on the role of legally-defined temporal constraints in the construction of refugee childhood and adolescence. In the eyes of the state, refugee childhood is perceived as a transient legal construct (similar to a strictly short-termed contract guaranteeing protection), rather than a dynamic social process, leading to the emergence of full citizenship rights, emancipation, and personal development. In this context, their “running away” and the very fact of being uncooperative may be perceived as the young migrants’ way to disagree with this “temporal injustice” (Cohen 2018) and reclaim a “right to their time”, liberating the time of childhood from the state’s usurpation.

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**Author contact:** Nataliya Tchermalykh, PhD (University of Geneva),  
[nataliya.tchermalykh@unige.ch](mailto:nataliya.tchermalykh@unige.ch)

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