

---

## State violence at the border: unaccompanied migrant children in Spain

Luna Vives

Associate Professor, Department of Geography, Université de Montréal

Email address: luna.vives@umontreal.ca

### Abstract

This article examines violence inflicted by state actors on unaccompanied migrant children at the southern Spanish and European Union border. The discussion engages with border and child migration literature and addresses the growing gap between the existing regulatory framework defining the legal obligations of the EU and Spain towards them and its implementation at the border, which is understood here as a physical space and a set of administrative practices. The paper focuses on two forms of violence that impact unaccompanied migrant children in specific ways. The first is territorial exclusion, achieved through the denial of assistance at sea, and expulsions, both extrajudicial and judicial. The second is the use of unreliable and invasive age determination procedures. Combined, these violent practices forestall minors' access to the rights and protections they are entitled to. This text concludes that unaccompanied migrant children are caught up in a "war" against illegalized sea migrants, whereby state actions render the regulatory framework designed for their protection increasingly irrelevant.

**Keywords:** migration, borders, minors, Europe, Spain

### Résumé

Cet article examine la violence infligée par les acteurs étatiques aux enfants migrants non accompagnés à la frontière sud de l'Espagne et de l'Union européenne (UE). La discussion fait appel à la littérature portant sur les frontières et la migration des enfants et souligne l'écart croissant entre le cadre réglementaire actuel définissant les obligations juridiques de l'UE et de l'Espagne à l'égard de ces derniers et son application à la frontière, comprise ici comme un espace physique ainsi que comme

un ensemble de procédures administratives. L'article se penche sur deux formes de violence qui affectent de manière spécifique les enfants migrants non accompagnés. La première est l'exclusion territoriale, mise en place par le refus d'assistance en mer et les expulsions, tant extrajudiciaires que judiciaires. La seconde est l'utilisation de procédures de détermination de l'âge invasives et peu fiables. Ensemble, ces pratiques violentes empêchent les mineurs d'accéder aux droits et aux protections qui leur sont dues. Ce texte se termine en montrant que les enfants migrants non accompagnés se retrouvent pris dans une « guerre » contre la migration par mer dans laquelle les actions de l'État rendent le cadre réglementaire conçu pour leur protection de moins en moins pertinent.

**Mots-clés :** migration, frontières, mineurs, Europe, Espagne

## Introduction

Over a couple of days in the spring of 2021, about two thousand unaccompanied migrant children<sup>1</sup> crossed the border between Morocco and the Spanish enclaves of Ceuta and Melilla. Faced with the inaction of Moroccan border agents, Spanish security forces pushed some of the children back to Moroccan territory (*El País*, 2021). Over the following months, these minors were placed in overcrowded, closed facilities (Martín, 2021) or summarily pushed back to Moroccan territory (Fundación Raíces, 2021a). Those who stayed in Spanish territory underwent invasive age determination procedures. If they were declared minors, authorities placed them, as children, in publicly-financed privately run youth protection centers, some of which are known for their insanitary conditions (Asociación Pro Derechos Humanos de Andalucía, 2019) and the use of physical discipline that has resulted in the death of child residents (Ortega Dolz, 2020). If, on the contrary, they were considered adults, they became undocumented and could therefore be detained, deported, or expelled from youth centers (Fundación Raíces, 2014).

This article addresses the violence inflicted upon unaccompanied migrant children by state actors bound, by law and policy, to protect them. First, I explore how the European Union (EU)-Spain's hostile border architecture is designed to refuse unaccompanied migrant children (and other protected groups) access to their accrued rights. Second, I illustrate the role that (some) state agencies play in this refusal. To do this, I focus on spatial exclusion from EU territory through repressive practices at the

---

1. The violence experienced by unaccompanied minors (the majority of whom are teenage boys) at the border is profoundly shaped by their race, gender, age, and other axes of discrimination. While I recognize that, in this article I do not explore the intersectional nature of border violence.

border and on administrative exclusion through the widespread use of medicalized age determination procedures. The discussion addresses a narrow but crucial definition of justice: minor migrants' right to be treated as children by the state, so that they can access the rights and mechanisms in place for their protection.

## Methodology

This discussion draws from previous research (Vives and William, 2021; Vives, 2020; 2021; forthcoming), behind-the-scenes collaboration with non-governmental organizations (NGOs), and literature seldomly mobilized in academic research but widely used by community and voluntary actors. My goal here is not to give a voice to the children or the stakeholders who work with them. Rather, I want to take a step back to examine the broader structural conditions that enable governments to use geography, jurisdiction, and the gray areas of the law to refuse children access to their accrued rights, despite the complex institutional arrangements in place to protect them. It is in this context that both children's migratory strategies and other actors' actions must be interpreted.

To understand unaccompanied child migration in Europe, we first need to know who these children are, where they are, and how their number and profile have changed over time. Yet these questions are not easy to answer (Vives and Williams, 2021). Regional official statistics on unaccompanied migrant children are incomplete, fragmented, difficult to obtain, and often not comparable among jurisdictions or consistent through time (Fundamental Rights Agency, 2019; Schumacher et al., 2019; Singleton, 2018). The lack of good-quality data further weakens "minors' fragile sociopolitical position in the EU [...] as they remain hidden from public view" (Vives and Williams, 2021, p. 125). Although imperfect, estimates give us a glimpse of the size and evolution of child migration in the region (see for example figure 1, which shows the evolution of unaccompanied migrant arrivals by sea between 2015 and 2019). In the case of Spain, administrative data on unaccompanied migrant children is provided annually by the State Attorney General, based on data collected by the Police's Immigration and Borders Unit (arrivals by sea) and regional prosecutors (age determination procedures conducted that year).

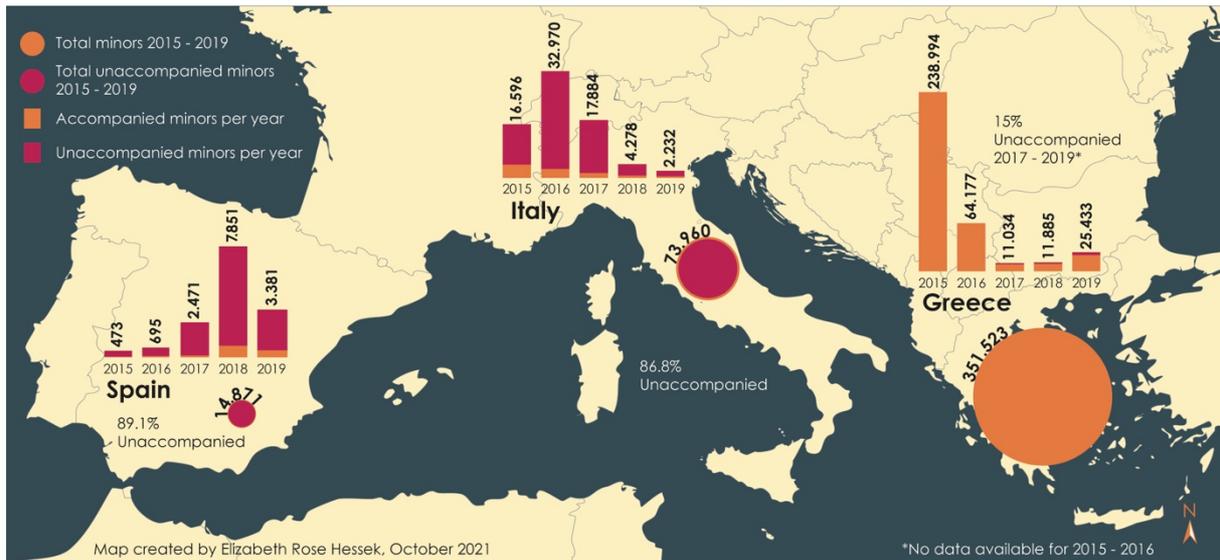


Figure 1: Unaccompanied minors arriving in Mediterranean Europe 2015-2019

Map created by Elizabeth Rose Hessek, October 2021

Sources: Vives and Williams (2021), Fiscalía General del Estado (2020)

Secondary information used here also follows the bureaucratic procedure minors go through and draws from legal documents, government policy reports, and NGO reports. To define what an unaccompanied minor is and how they should be treated, I use legal texts currently in force at the international, EU, and Spanish levels, selected for their immediate pertinence. The sections on spatial exclusion and on age determination procedures draw from reports by the state agencies involved in the initial reception and treatment of minors' files, namely the Spanish Minister of Interior, the State Prosecutor, and the Ministry of Development (which oversees the national Maritime Search and Rescue, or SAR, system). Their work is documented and overseen by other supranational, national, and regional public institutions whose work I also echo here, such as the EU Fundamental Rights Agency (FRA) and the national and regional Ombudsman agencies, notably the Defensor del Pueblo<sup>2</sup>. Once (and if) their files are accepted for processing, minors become the responsibility of regional children and youth protection agencies, private actors subcontracted by the state for this purpose. To illustrate minors' experiences once they have made it across the border, I draw from reports by reputed NGOs (e.g., European Council on Refugees and Exiles, and the Fundación Raíces) and use media coverage for additional detail. Since a minor's progression through the administrative procedure is not necessarily linear, the discussion moves between these different sources of information.

2. The Defensor del Pueblo is the High Commissioner of the Parliament responsible for defending the fundamental rights and civil liberties of citizens by monitoring the activity of the Administration and public authorities (see: <https://www.defensordelpueblo.es/en/>, accessed on December 5, 2023).

## Unaccompanied migrant children at the border

The migration of children is as old as human history: what is new is its political and legal salience (Lems et al., 2020; Bhabha, 2014a). The idea of childhood “as a time of innocence that needed to be protected” (Lems et al., 2020, p. 325) first appeared after the Second World War and took hold in the following decades with the creation of the United Nations International Children’s Emergency Fund ([UNICEF] 1946), the United Nations Declaration on the Rights of the Child (1959), and the United Nations Convention on the Rights of the Child ([UN CRC] 1989). Furthermore, the protection of minors is part of customary international law.

As for unaccompanied migrant children, international law defines them as persons under the age of 18 who are outside their country of origin and have been separated from their parents and any other relatives and adults who, by law or custom, are responsible for their care (United Nations General Assembly, 1989). The concept of the unaccompanied migrant child is problematic and hard to implement, however. First, these children are rarely truly unaccompanied: they usually travel with adults other than their legal guardians or even with other children (Bhabha, 2014a; Arnold et al., 2014). Second, childhood is a sociolegal construction: lacking additional documentation such as a birth certificate, it is impossible to demonstrate that an older child is exactly under 18 (García García, 2017; Kenny and Loughry, 2018). Third, unaccompanied migrant children are framed primarily on legalistic terms and conceived as a largely passive political actor—an object of state-sanctioned protection (Bhabha, 2014a). Nonetheless, the concept is crucial because of the specific protections offered to those defined as such, and this under a broad range of international, regional, and domestic instruments (Bhabha, 2014a; 2014b; Crock and Benson, 2018).

The main legal instrument for the protection of unaccompanied migrant children is the UN CRC, which targets *every child* (United Nations General Assembly, 1989, Arts. 1 and 22) and to which all EU member states are parties. Other treaties, such as the 1951 Geneva Convention and the 1967 Protocol are also relevant. Finally, the EU’s Charter of Fundamental Rights and the Action Plan on Unaccompanied Minors (now outdated; European Commission, 2010) also outline Members States’ obligations. EU countries (including Spain) are legally required to transpose these norms into their domestic legislation and policy.

The cornerstone of this normative framework is the principle of the Best Interests of the Child (BIC), which establishes that states “shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as

competent supervision” (United Nations General Assembly, 1989, article 3.1). State signatories to the CRC must implement this principle into their legislation, policy, and provision of services and treat all children equally regardless of their national origin and immigration status. At the border, this means training border agents in child-friendly approaches, putting in place asylum procedures adapted to child claimants, and move towards the elimination of child detention<sup>3</sup>.

The implementation of this broad framework for the protection of migrant children has been forestalled by a crisis of migration governance that has undermined both the narrative and the instruments put in place for the protection of migrant rights (Bhabha, 2014b; Lems et al., 2020). In this context of perceived conflict between national security and migrants’ rights, the border<sup>4</sup> is where much of the state-led violence against migrant children occurs. Over the last three decades, the EU’s external borders have gradually turned into “technologies of control and government that legitimize extreme exclusion and destitution practices and create what has been defined as a permanent state of emergency and exception” (López-Sala, 2015, p. 517). Achille Mbembe (2019) furthers this argument. Drawing from Michel Foucault’s concept of biopower (the use of social and political power to control people’s lives; Foucault, 2004 [1977]), he argues that border spaces are key to understanding contemporary necropolitics: the use of political power to determine who may live and how others will die. In the context of migration from Africa to Europe, necropolitics are intimately linked to both race and racism. Ruth Wilson Gilmore’s definition of the latter seems particularly apt here: “the state-sanctioned or extralegal production and exploitation of group-differentiated vulnerability to premature death, in distinct yet densely interconnected political geographies” (2007, p. 261). Bringing these ideas together, we can conclude that the EU’s southern border (which articulates African and European spaces of human mobility) is an instrument for the perpetuation of white supremacy that impacts racialized unaccompanied migrant children in distinct and still largely unknown ways.

Children’s rights groups and organizations have responded to state violence at and beyond the border with renewed efforts to integrate the BIC principle into international, EU, and domestic law and policy (Vives, 2020). These efforts have largely fallen short. First, and foremost, improved norms and regulations throughout southern Europe have not necessarily resulted in better practices. Second, children’s claims are increasingly delegitimized through a discourse that accuses them of being “imposter

---

3. The BIC principle is also a matter of contention (Allsopp and Chase, 2019; Arnold et al., 2014).

4. The border is understood here not just as a place, but mainly as an *apparatus* (“*dispositive*”, Foucault, 2004 [1977]): a combination of discourses, institutions, architectural arrangements, laws, administrative measures, scientific declarations, and moral declarations aimed, in this case, at stopping irregular migration.

children” or adults posing as minors (Silverman, 2016, p. 31). This delegitimization makes it possible for the state to construct child migrants as both *at risk* and *a risk* to national security, leading to new articulations of humanitarian logics at the borders of Europe (Pallister-Wilkins, 2018). The result is paradoxical: at the anti-immigration border, unaccompanied children are at once the object of protective attention, because of their perceived vulnerability, and the object of punitive attention, because of their belonging to the category of the irregular migrant (Bhabha, 2014a, p. 3).

### **The spatial exclusion of unaccompanied migrant children**

The EU’s southern maritime border is the deadliest border in the world. These deaths are the result of repressive anti-immigration practices that force migrants to take increasingly dangerous routes to reach European territory and are therefore preventable (Mbembe, 2019; Mountz, 2020; Williams and Mountz, 2018). In this section, I focus on the practice of *neo-refoulement* (or the widespread violation of the principle of *non-refoulement*<sup>5</sup> in the name of national security) as it impacts children on the external Spanish-EU border.

*Neo-refoulement* results from both state action and inaction. For example, by relinquishing their legal obligation to protect human life at sea in the zones under their responsibility and/or delegating this obligation onto Third Countries, EU member states effectively keep people in spaces of origin and transit or cause their death by inaction (Cusumano, 2019; Tazzioli, 2018; Vives, 2021). Unfortunately, there is no research systematically exploring the impacts of SAR militarization and externalization across the Mediterranean on the protection of migrant children. However, the EU’s Fundamental Rights Agency stated that the denial of docking permission to SAR vessels in 2019 alone resulted in over 780 children stranded on rescue boats “for more than a week in bad weather, under poor health conditions, and running out of drinking water and food before being allowed to disembark” in the Central and Eastern Mediterranean (Fundamental Rights Agency, 2020, p. 7). The same source estimates that the militarization of the sea border and the toughening of rescue policies resulted in the drowning of 16,511 migrants at sea, including 710 children (ibid.).

No similar data exist for Spain. However, the militarization of the existing (civil) national SAR system and the increased involvement of Moroccan authorities along the Atlantic and Western Mediterranean migratory routes (Vives, 2021) have resulted in a systematic denial of assistance in the Moroccan SAR zone and a near-total lack of

---

5. A key principle of international law that forbids states from sending migrants seeking protection to a country where they would face death, torture, abuse, or irreparable harm.

transparency, both of great concern to human rights organizations in the region (European Council on Refugees and Exiles, 2022). Although the violence resulting from the withdrawal and/or externalization of rescue services affects all migrants, in the case of unaccompanied children, it represents a distinct form of relinquishment of EU Member States' legal obligations.

Other forms of spatial exclusion require the state to act. For example, at the border, children are sent (along with other migrants) to places where they may experience violence through "pushbacks" (where state actors from the destination country "push" migrants back to the territory of the transit country), "pullbacks" (where state actors from transit countries "pull" migrants back to their territory), and "drift backs" (where state actors transfer sea migrants to rafts without engines and let them float away)<sup>6</sup>. State agencies belonging to or with close links to the military are often responsible for these practices which happen without judicial review, as seen in the case discussed at the beginning of this paper.

Pushbacks, pullbacks, and drift backs are expressions of *neo-refoulement* because states do not evaluate the potential risks to individual migrants when they engage in these practices. Thus, they violate domestic, regional, and international commitments, including the Universal Declaration of Human Rights, the European Convention on Human Rights, the EU's 2008 common rules on return, the Convention Relating to the Status of Refugees, and the UN CRC, among others (Bhabha, 2014b). In addition, a 2016 decision by the Committee on the Rights of the Child held that states must conduct, at a minimum, an age and vulnerability assessment before proceeding to the removal of a child, as well as an evaluation of potential risks to the children once deported, including the risk of lack of proper nutrition and sanitary services (Fundamental Rights Agency, 2019). These conditions are not met during these extralegal expulsions, by definition and by design. However, it is impossible to know how many minors state actors have sent to countries where their safety is at risk.

Formal deportations are a separate instrument in that migrants spend a significant amount of time within the territory of the receiving state (including in detention) before they are expelled. They also involve the judicial system of that state. Minors face specific challenges when it comes to these formal deportations, usually when they try to have their age recognized. Age determination (which I discuss in the following section) is crucial, because, for the most part, only adult migrants can be deported. Unlike in the cases of Italy or Greece, where the deportation of minors is usually not allowed, in Spain, minors can be deported to countries with which there is an agreement. For example, a bilateral agreement signed in 2007 with Morocco allows

---

6. These three practices have been well documented along the southern Spanish-EU border.

Spain to deport unaccompanied children to this country. Still, the deportation of minors is generally frowned upon. This may explain why Spanish authorities have deported minors while they waited for their age test results, without communicating with their assigned guardians (Defensor del Pueblo, 2018; Fundación Raíces, 2014). Although long-term data on the deportation of children is not publicly available, we know for example that the majority of children who crossed into Ceuta in August 2021 were deported to Morocco within a few weeks (Europa Press, 2021).

To summarize the information presented so far, state actors keep children away from Spanish territory (where they would be more likely to have access to specific rights and protections) in several ways: by refusing life-saving SAR services or delegating them to transit countries; by expelling them without judicial review of their files; and by deporting them to countries where they are exposed to violence. Unfortunately, we have very little information about the outcome of minors who are pushed back or deported from Spain. The only information we have on violence against migrant children in countries of transit pertains to the Central and Eastern Mediterranean routes. For example, in a 2017 survey with sea migrants along these two routes, the International Organization for Migration found that 75% of participants had been victims of human trafficking or had experienced other exploitative practices; the percentage was much higher for those from African countries (close to 90%) and children (88%; International Organization for Migration, 2018) than for others. In this survey, girls were found to be overwhelmingly exposed to sexual violence. These data support the arguments presented earlier about the border as a racist instrument that increases migrant precarity and vulnerability and results in premature death (Gilmore, 2007; Mbembe, 2019; Mountz, 2020). The total absence of administrative data for minors deported from Spain, however, means we are blind to the experiences of migrant children sent back to African countries.

### **Bureaucratic exclusion through medicalized approaches to age determination**

Once in Spain, children find themselves entangled in administrative practices that prevent them from accessing their accrued rights, a reality that highlights contemporary borders as a more-than-spatial *dispositif*. Flawed age determination procedures are at the core of the administrative border that children encounter. As mentioned above, “the task of assessing age is complex and lacking in determinative accuracy” (Kenny and Loughry, 2018, p. 15). And yet, the entire system for the protection of unaccompanied migrant children rests on their being *precisely* under the age of 18.

There are three main approaches to age determination in the EU. The first and best attuned to the BIC principle is accepting documental proof of age (passport, birth certificate, and other evidence of age produced by the person's country of origin). However, Southern European governments systematically refuse identification documents as proof of age for older children (García García, 2017; Hjern et al., 2018). A second approach—recommended when proof of age does not exist or when its authenticity is in doubt—involves psychosocial development evaluations conducted by professionals. However, professionals conducting these evaluations often lack proper training (ibid.). Finally, governments may request skeletal, dental, or sexual maturity tests. These are often inaccurate, particularly during puberty<sup>7</sup> (ibid.; Kenny and Loughry, 2018), but they create a false sense of certainty (Defensor del Pueblo, 2011).

Since 2015, age assessment norms and regulations have tended towards a better alignment with the BIC principle and a certain harmonization throughout Southern Europe (Allsopp and Chase, 2019; Vives, 2020). Also in line with this expansive perspective on protection, international human rights standards establish that “in assessing age, any conflicts should be resolved by giving the benefit of the doubt to an individual thus ensuring those who are vulnerable are given the protection they need” (Kenny and Loughry, 2018, p. 20). The logic is that it is better to have an adult receive the protections intended for a child than for a child to receive none. Nevertheless, in practice (and with the exception of very young children) authorities seldom accept documental evidence of a person's minority, even when the veracity of such documentation is confirmed (Digidiki and Bhabha, 2018; Fundación Raíces, 2014). In other words, while norms have improved from the perspective of the protection of children's rights, practices have not.

The case of Spain demonstrates this growing gap between policy and practice during the 2015-2019 period. For example, law 26/2015 established that an unaccompanied minor must only undergo a medical age assessment when their age cannot be determined through other reliable means; this assessment must be done in a timely fashion, with the person's informed consent, and “always respecting their dignity” (Art. 12.4). The law also instructs authorities not to use these tests “indiscriminately”. In practice, the Spanish Public Prosecutor ordered 7,745 such medical tests in 2019, primarily using the Greulich Pyle and Tunner Whintehouse methods (X-ray of the left wrist to assess bone maturity). Of the 6,708 tests that were completed, 3,732 (or 55.6%) were deemed minors by radiologists *without the intervention of a forensic specialist*, despite the fact that these tests are considered

---

7. For example, the Spanish Defensor del Pueblo has documented a case where three separate medical age procedures using x-rays performed within two months on the same person resulted in three different results that were two years apart (Defensor del Pueblo, 2011).

particularly unreliable on older children from non-white backgrounds (Defensor del Pueblo, 2011). The Public prosecutor justified this narrow and medicalized approach based on the sheer number of migrants claiming to be minors:

“due to the number of [age assessment requests] in short periods and the scarcity of resources, it is only possible to apply the single X-ray of the left carpus, without intervention from a forensic specialist. As highlighted [in the 2018 annual report], judicial review accepts this approach as the bare minimum in a situation of emergency, prior to the judicial route where a more detailed exam can be requested under free juridical assistance.” (Fiscalía General del Estado, 2020).

In other words, the exceptional situation (large numbers of arrivals) justified the use of largely inaccurate age determination tests considered the “bare minimum”. However, the Defensor del Pueblo has observed that the government routinely uses the large numbers argument to circumvent the obligation to respect its own obligations, including that to provide migrants with individualized legal representation, which is essential for an effective judicial review should these minors appeal the results of their age determination tests (Defensor del Pueblo, 2021, p. 60). Thus, even the legal bare minimum is not met.

The Spanish government itself admits it does not abide by its obligations as a signatory of the CRC. For instance, the Public Prosecutor has argued that the CRC recommendations are “irreconcilable” with Spanish legislation (even though most of this legislation abides by the CRC) and the jurisprudence of several domestic tribunals and cannot be applied. Instead, Spanish authorities increasingly rely on medical and sexual maturity tests. The latter require minors (some of whom have been victims of sexual violence) to undergo a full-body exam by a medical team to have their bodies and genitals checked for signs of sexual development. This medicalized approach to age assessment is questionable from a purely procedural point of view, since the results are not necessarily meaningful (Defensor del Pueblo, 2018). Moreover, these tests violate both the BIC principle and domestic and regional regulations designed to protect these minors (Defensor del Pueblo, 2018; Fundación Raíces, 2020).

Medical age determination procedures are inherently violent in their execution, intention, and results. If declared adults, children are deprived of their right to proper documentation, becoming illegalized and ineligible for protection services, and potentially detained with the adult migrant or general prison population or deported. For example, in 2018, a 16-year-old unaccompanied girl from Cameroon seeking asylum in Spain was declared an adult based on a medical test that stated that her “pubic hair and breast development” were consistent with those of an 18-year-old. The minor was immediately cut off from youth protection services and became homeless

and undocumented (Fundación Raíces, 2021b). Two years later, in 2020, a teenager whose birth certificate, identification card, and passport were confirmed as valid by the Gambian consulate in Spain was asked to undergo a sexual maturity test. The Spanish Defensor del Pueblo explains that in the case of boys, sexual maturity is estimated “according to penis length, testicular size, and [...] amount and distribution of pubic hair” (Defensor del Pueblo, 2011, p. 83). The minor refused and as a result was determined to be an adult, expelled from a youth center and left homeless for two months, until a judge ruled the minor had to be taken back into the youth protection system (La Vanguardia, 2020).

These are not isolated cases. Between 2019 and 2020 alone, the UN CRC adopted 14 decisions concluding that “Spain’s procedures to determine the age of unaccompanied migrant children violated their fundamental rights” (United Nations High Commissioner for Refugees, 2020). Still, the government has expanded the use of these procedures, inflicting further violence upon the very children it is supposed to protect.

## Conclusion

This article has focused on the Spanish border to discuss two specific types of violence state actors deploy that result in violence against unaccompanied migrant children. The first is the spatial exclusion through the denial of assistance at sea and expulsion from the territory. The second is administrative violence through the use of unreliable and invasive approaches to age determination—which in turn enables spatial exclusion through the production of children’s deportability. Both forms of violence forestall minors’ access to their accrued rights and protections in ways and with consequences we do not fully understand because we lack quality data.

How is it possible that the most protected migrant group finds itself so profoundly undermined by state actors legally required to protect it? The growing gap between the regulatory framework and actual practices on the ground is part of the answer. A robust set of legal norms and principles designed to protect these children has evolved over the last three decades and has been translated into European and Spanish law and policy. These developments have run parallel to the securitization and criminalization of (some) migration and the emergence of borders (understood here as both a physical location and a set of administrative practices) as a critical instrument to keep undesired migrants out of the territory through exposure to precarity, violence, and death. In other words, the tension between protection and restriction has resulted in a context where children are protected in theory but not in practice.

In a twist now typical of the humanitarian logic at work along the southern EU border, the protection-defense paradox that defines these children as both *at risk* of violence and exploitation and *a risk* to national security. The logics apply to all stages and spaces where undesired migration happens, so that spatial exclusion and bureaucratic practices are part of a larger continuum of violence inflicted directly and indirectly by state actors. This constellation of violent practices promoted by the state includes ongoing and intertwined processes of externalization, militarization, a growing reliance on immigrant detention, and the abandonment of international commitments. Although the result impacts all unwanted migrants, my goal here has been to illustrate how some of this violence affects those in situations of acute vulnerability in particular ways. In this sense, unaccompanied migrant children are like the canary in the coal mine: if, despite all the safeguards put in place, they are exposed to harm at the hands of the state, the whole international protection system is failing.

### Acknowledgements

Thanks to research assistants, Marianne Turcotte-Plamondon and Elizabeth Rose Hessek, for their work on the map included in this article. This work was supported by the Fonds de Recherche du Québec—Société et Culture [2019-NP-253366] and the Social Sciences and Humanities Research Council of Canada [430-2020-00700]. All mistakes are my own.

### To quote this article

**Vives** Luna, 2023, « Violence d'État à la frontière : enfants migrants non accompagnés en Espagne » ["State violence at the border: unaccompanied migrant children in Spain"], *Justice spatiale / Spatial Justice*, 18 (<http://www.jssj.org/article/violence-detat-frontiere-enfants-migrants-non-accompagnes-espagne/>).

### References

**Allsopp** Jennifer, **Chase** Elaine, 2019, "Best interests, durable solutions and belonging: policy discourses shaping the futures of unaccompanied migrant and refugee minors coming of age in Europe", *Journal of Ethnic and Migration Studies*, 45(2), p. 293-311 (<https://doi.org/10.1080/1369183X.2017.1404265>).

- Arnold** Samantha, **Goeman** Martine, **Fournier** Katja, 2014, "The Role of the Guardian in Determining the Best Interest of the Separated Child Seeking Asylum in Europe: A Comparative Analysis of Systems of Guardianship in Belgium, Ireland and the Netherlands", *European Journal of Migration and Law*, 16(4), p. 467-504 (<https://doi.org/10.1163/15718166-12342066>).
- Asociación Pro Derechos Humanos de Andalucía**, 2019, *Infancia Migrante. Derechos Humanos en la Frontera Sur 2019* (<https://www.apdha.org/informe-infancia-migrante/>, accessed on January 27, 2022).
- Bhabha** Jacqueline, 2014a, *Child migration and human rights in a global age*, Princeton and Oxford, Princeton University Press.
- Bhabha** Jacqueline, 2014b, "Moving Children: Lacunae in Contemporary Human Rights Protections for Migrant Children and Adolescents", *Revue européenne des migrations internationales*, 30(1), p. 35-57 (<https://doi.org/10.4000/remi.6747>).
- Crock** Mary, **Benson** Lenni B., 2018, "Central issues in the protection of child migrants", in **Crock** Mary, **Benson** Lenni B. (eds.), *Protecting Migrant Children: In Search of Best Practice*, Cheltenham, Northampton, Edward Elgar Publishing Limited, p. 1-28.
- Cusumano** Eugenio, 2019, "Migrant rescue as organized hypocrisy: EU maritime missions offshore Libya between humanitarianism and border control", *Cooperation and Conflict*, 54(1), p. 3-24 (<https://doi.org/10.1177/001083671878017>).
- Defensor del Pueblo**, 2011, *¿Menores o adultos?: procedimientos para la determinación de la edad* (<https://www.defensordelpueblo.es/wp-content/uploads/2015/05/2011-09-Menores-o-Adultos-Procedimientos-para-la-determinaci%C3%B3n-de-la-edad1.pdf>, accessed on June 22, 2021).
- Defensor del Pueblo**, 2018, *Procedimiento de Determinación de la Edad. Decreto de Mayoría de Edad y Notificación a los interesados, por parte de los fiscales, con anterioridad a la materialización de su Devolución* (<https://www.defensordelpueblo.es/resoluciones/dictar-una-instruccion-para-recordar-a-los-fiscales-la-necesidad-de-dictar-decreto-de-mayoria-de-edad-y-notificarlo-a-los-interesados-con-anterioridad-a-la-materializacion-de-su-devolucion/>, accessed on June 22, 2020).

**Defensor del Pueblo**, 2021, *La inmigración en Canarias* ([https://www.defensordelpueblo.es/wp-content/uploads/2021/03/INFORME\\_Canarias.pdf](https://www.defensordelpueblo.es/wp-content/uploads/2021/03/INFORME_Canarias.pdf), accessed on July 18, 2022).

**Digidiki** Vasileia, **Bhabha** Jacqueline, 2018, "Sexual abuse and exploitation of unaccompanied migrant children in Greece: Identifying risk factors and gaps in services during the European migration crisis", *Children and Youth Services Review*, 92, p. 114-121 (<https://doi.org/10.1016/j.childyouth.2018.02.040>).

**El País**, 2021, "Tres minutos en España, el paso de los inmigrantes por Ceuta hasta su devolución en caliente a Marruecos", *El País* (<https://elpais.com/videos/2021-05-20/video-tres-minutos-en-espana-el-paso-de-los-inmigrantes-por-ceuta-hasta-su-devolucion-en-caliente-a-marruecos.html>, accessed on October 7, 2021).

**European Commission**, 2010, *Action Plan on Unaccompanied Minors (2020-2014)* (<https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0213:FIN:EN:PDF>, accessed on July 22, 2022).

**European Council on Refugees and Exiles**, 2022, *Atlantic Route and Spain: Court Rejects Complaint on Reception Failings, "Smart" Borders Risk Reinforcing Racism, Tragedy at Sea Driven by Sahel Displacement* (<https://ecre.org/atlantic-route-and-spain-court-rejects-complaint-on-reception-failings-smart-borders-risk-reinforcing-racism-tragedy-at-sea-driven-by-sahel-displacement/>, accessed on January 27, 2022).

**Europa Press**, 2021, *España y Marruecos inician la repatriación de más de 700 menores de la crisis de Ceuta* ([https://www.elconfidencial.com/espana/2021-08-13/comienza-repatriacion-menores-marroquies-no-acompanados-ceuta\\_3230946/](https://www.elconfidencial.com/espana/2021-08-13/comienza-repatriacion-menores-marroquies-no-acompanados-ceuta_3230946/), accessed on January 13, 2022).

**Fiscalía General del Estado**, 2020, *Memoria de la Fiscalía General del Estado 2019*. Fiscalía General del Estado ([https://www.fiscal.es/memorias/memoria2020/FISCALIA\\_SITE/index.html](https://www.fiscal.es/memorias/memoria2020/FISCALIA_SITE/index.html), accessed on October 6, 2021).

**Foucault** Michel, 2004 [1977], *Sécurité, Territoire, Population. Cours au Collège de France, 1977-1978*, Paris, Gallimard-Le Seuil.

**Fundación Raíces**, 2014, *Sólo por estar solo. Informe sobre la determinación de la edad en menores migrantes no acompañados*,

(<http://www.fundacionraices.org/wp-content/uploads/2014/05/SOLO-POR-ESTAR-SOLO.pdf>, accessed on March 29, 2023).

**Fundación Raíces**, 2021a, *La justicia mantiene la suspensión de las repatriaciones de menores en Ceuta y desestima las alegaciones de la Abogacía del Estado* (<http://www.fundacionraices.org/?p=3250>, accessed on October 7, 2021).

**Fundación Raíces**, 2021b, *La ONU condena a España por no proteger a una niña víctima de violencia sexual en Camerún y por someterla a un desnudo integral para determinar su edad* (<http://www.fundacionraices.org/?p=3159>, accessed on October 6, 2021).

**Fundamental Rights Agency**, 2020, *Children in Migration in 2019* ([https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2020-children-in-migration\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-children-in-migration_en.pdf), accessed on May 12, 2020).

**García García Tesseida**, 2017, *El procedimiento para la determinación de la edad de los extranjeros no acompañados. Bases para un nuevo modelo*, Madrid, PhD, programa de doctorado en Migraciones Internacionales y en Cooperación al Desarrollo, Universidad Pontificia de Comillas (<https://repositorio.comillas.edu/xmlui/handle/11531/26598>, accessed on March 29, 2023).

**Gilmore Ruth Wilson**, 2007, *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California*, Berkeley, University of California Press.

**Hjern Anders, Ascher Henry, Vervilet Marianne, Derluyn Ilse**, 2018, "Identification: age and identity assessment", in **Bhabha Jacqueline, Kanics Jyothi, Senovilla Hernandez Daniel** (eds.), *Research handbook on child migration*, Cheltenham, Northampton, Edward Elgar Publishing, p. 285-293

**International Organization for Migration**, 2018, *Flow Monitoring Surveys: the human trafficking and other exploitative practices indication survey. Male and Female Respondents Interviewed Along the Central and the Eastern Mediterranean Routes in 2017* ([https://migration.iom.int/docs/FMS human trafficking and other exploitative practices Central and Eastern%20Med November 2017.pdf](https://migration.iom.int/docs/FMS_human_trafficking_and_other_exploitative_practices_Central_and_Eastern%20Med_November_2017.pdf), accessed on June 19, 2020).

**Kenny Mary Anne, Loughry Maryanne**, 2018, "Addressing the limitations of age determination for unaccompanied minors: A way forward", *Children and Youth Services Review*, 92, p. 15-21 (<https://doi.org/10.1016/j.childyouth.2018.05.002>).

- La Vanguardia**, 2020, "Un juez ordena la protección de un menor que vivió en la calle desde marzo", *La Vanguardia* (<https://www.lavanguardia.com/politica/20200513/481129153716/un-juez-ordena-la-proteccion-de-un-menor-que-vivio-en-la-calle-desde-marzo.html>, accessed on May 15, 2020).
- Lems** Annika, **Oester** Kathrin, **Strasser** Strasser, 2020, "Children of the crisis: ethnographic perspectives on unaccompanied refugee youth in and en route to Europe", *Journal of Ethnic and Migration Studies*, 46(2), p. 1-21.
- López-Sala** Anna, 2015, "Exploring Dissuasion as a (Geo)Political Instrument in Irregular Migration Control at the Southern Spanish Maritime Border", *Geopolitics*, 20(3), p. 513-534 (<https://doi.org/10.1080/14650045.2015.1025384>).
- Martín** María, 2021, "Menores en primera línea del caos", *El País* (<https://elpais.com/espana/2021-05-23/menores-en-primera-linea-del-caos.html>, accessed on October 7, 2021).
- Mbembe** Achille, 2019, *Necropolitics*, Durham, Duke University Press.
- Mountz**, Alison, 2020, *The Death of Asylum: Hidden Geographies of the Enforcement Archipelago*, Minneapolis, University of Minnesota Press.
- Ortega Dolz** Patricia, 2021, "La Audiencia de Almería reabre el caso de la muerte de un joven inmigrante en un centro de menores por posible 'homicidio imprudente'", *El País* (<https://elpais.com/espana/2020-10-30/la-audicencia-provincial-de-almeria-ve-posible-homicidio-imprudente-en-la-muerte-de-illias-tahiri.html>, accessed on October 12, 2021).
- Pallister-Wilkins** Polly, 2018, "Hotspots and the geographies of humanitarianism", *Environment and Planning D: Society and Space*, 38(6), p. 991-1008 (<https://doi.org/10.1177/0263775818754884>).
- Schumacher** Guenter, **Loeschner** Jan, **Sermi** Francesco, 2019, *Data on Children in Migration*, European Commission (<https://ec.europa.eu/jrc/en/publication/data-children-migration>, accessed on May 19, 2020).
- Silverman** Stephanie J., 2016, "'Imposter-Children' in the UK Refugee Status Determination Process", *Refuge: Canada's Journal on Refugees*, 32(3), p. 30-39 (<https://doi.org/10.25071/1920-7336.40371>).

- Singleton** Anne, 2018, "Data: Creating the empirical base for development of child migration policy and protection", in Bhabha Jacqueline, Kanics Jyothi, Senovilla Hernandez Daniel (eds.), *Research handbook on child migration*, Cheltenham, Northampton, Edward Elgar Publishing, p. 334-344.
- Tazzioli** Martina, 2018, "Crimes of solidarity. Migration and containment through rescue", *Radical Philosophy*, 2(1), p. 4-10 (<https://www.radicalphilosophy.com/commentary/crimes-of-solidarity>, accessed on March 29, 2023).
- United Nations General Assembly**, 1989, *Convention on the Rights of the Child*.
- United Nations High Commissioner for Refugees**, 2020, *Spain's age assessment procedures violate migrant children's rights* (<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26375&LangID=E>, accessed on October 6, 2021).
- Vives** Luna, 2020, "Child migration in the US and Spain: Towards a Global Border Regime?" *International Migration*, 58(6), p. 29-77 (<https://doi.org/10.1111/imig.12704>).
- Vives** Luna, 2021, "Death at sea: Dismantling the Spanish Search and Rescue System", *Geopolitics*, 25(2), p. 641-666 (<https://doi.org/10.1080/14650045.2021.1973438>).
- Vives** Luna, forthcoming, "La migration des enfants non accompagnés à travers la frontière méditerranéenne", in Rea Andrea, White Bob (eds.), *Les frontières des migrations africaines*, Montreal and Brussels, Presses de l'université de Montréal-Éditions de l'université de Bruxelles.
- Vives** Luna, **Williams** Kira, 2021, "Closing the gap: Official statistics on the migration of unaccompanied migrant children across the Mediterranean", in Dauvergne Catherine (ed.), *Handbook on the Law and Politics of Migration*, Cheltenham, Northampton, Edward Elgar Publishing, p. 125-140.
- Williams** Kira, **Mountz** Alison, 2018, "Between Enforcement and Precarity: Externalization and Migrant Deaths at Sea", *International Migration*, 56(5), p. 74-89 (<https://doi.org/10.1111/imig.12439>).