

ALTERSBESTIMMUNG IM ADMINISTRATIVEN KONTEXT



ERNST BERGER

ADMINISTRATIVER RAHMEN

- RELEVANTER KONTEXT.
 - KINDERHANDEL (TRAFFICKING IN CHILDREN)
 - MIGRATION, FLUCHT
- RELVANTE ALTERSGRENZEN (ÖSTERREICH):
 - 14. Lj. (STRAFMÜNDIGKEIT)
 - 18. Lj. (VOLLJÄHRIGKEIT)

GRUNDLAGEN

- EXPERTEN-KONSENSUS-KONFERENZ, (KINDERSTIMME, WIEN 2000)
- „MEDIZINISCHE METHODEN ZUR ALTERSBESTIMMUNG IM ADMINISTRATIVEN KONTEXT“
- “Comprehensive Training for Law Enforcement Authorities Responsible for Trafficking in Children/Minors“(AGIS Program of European Commission) (IOM, March 2006, VIENNA)

Particular vulnerability of children

- **children are particularly vulnerable**
 - lack of experience,
 - dependence and trust of adults, notably relatives and people in positions of authority,
 - fewer possibilities to escape exploitative situations.
- **Exploitation through parents or relatives makes detection and intervention more difficult.**
- **Cultural factors** such as the acceptance of child labour, young marriage age and a nomadic lifestyle, seem to contribute to child vulnerability
- children within **dysfunctional families**
- **insufficient child protection systems in many countries**

INTERNATIONAL DEFINITIONS

- Definition of “**Child**”
 - the term “*child*” refers to any person under 18 years of age
- Definition of “**Unaccompanied Child/Minor**”
 - a person who is under eighteen years, and who is separated from both parents and is not being cared for by an adult who by law or by custom has responsibility to do so”
- Definitions of **trafficking**
 - The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons”; the consent of a child, or the means to achieve such consent, is irrelevant, as long as the overall objective of the operation is the exploitation of the child.

UN-Convention on the Rights of the Child

- non-discrimination (Article 2),
- best interests of the child (Article 3),
- survival and development (Article 6)
- participation (Article 12)
- prevent trafficking in children (Article 35)
- *“migrant children should be guaranteed the same level of protection and opportunities as national children, regardless of their residence status”* (EU Expert Group)

Forms of trafficking

- **Prostitution.**
- Other forms of **sexual exploitation**
 - commercial production of child pornography,
 - forced marriage or sexual servitude.
- **Labour exploitation, servitude and slavery-like practices include:**
 - street begging and selling in the street;
 - pickpocketing,
 - burglary, smuggling drugs,
 - child soldiers
 - illegal adoption.

Importance of age assessment

- **Age assessment can be important in defining the legal status of an individual**
- **A person who claims to be a child might not always have the physical appearance of a child.**
- **Age assessment should only be carried out in cases of doubt.**

REASONS FOR AGE ASSESSMENT

- to prevent abuse (in cases where children claim to be older than their actual age as well as in cases where they claim to be younger)
- to provide age-appropriate reception, care and assistance;
- to ensure adequate punishment of traffickers
- to facilitate procedures of voluntary return in the country of origin.

International standards on age assessment

UNHCR Guidelines 1997

- *age assessment is no determination but only just an educated guess*
- *assessment should take into account not only the physical appearance but also his/her psychological maturity.*
- *When scientific procedures are used margins of error should be allowed.*
- *Such methods must be safe and respect human dignity.*
- *The child should be given the benefit of the doubt if the exact age is uncertain”.*

THE FIVE DIFFERENT METHODS OF AGE ASSESSMENT

- Inspection
- Interviewing techniques
- Physical examination
- Odontological examination
- X-ray examination
- **Discrepancy allowed for different age groups (Sweden) :**
 - 0-2 years of age, a discrepancy of 6 months
 - 2-9 years of age, a discrepancy of 12 months
 - 9-18 years of age, a discrepancy of 24 months

INSPECTION, PHYS. EXAM.

- INSPECTION
 - examine the physical appearance
 - the child's body language,
 - how they move and act,
 - how they talk and argue and
 - Habits
- PHYSICAL EXAMINATION
 - height and weight
 - signs of sexual maturation
 - Identification of any developmental disorders

INTERVIEWING TECHNIQUES

- school and professional career such as:
 - how many years they have attended school,
 - at what age they started school and
 - if they have been working, adding these years to the age they began school;
- the birth dates of family members, especially sisters and brothers;
- their age when something well known happened in their homeland, e.g. “How old were you when that earthquake/flooding took place?”.

DENTAL AND BONE AGE

- Odontological examination
 - determination of the dental status and
 - X-ray study of the dentition
- X-ray examination
 - Bone development of the left hand.

DENTAL AGE ASSESSMENT

- Radiological panoramic overview of the dentition, called the **orthopantomogram (OPG)**, still developing dentition:
- The **standard deviation** of the dental age assessment technique is 1.5 years



It is very difficult, if not impossible, to decide whether a certain individual is below or above 18 years of age.

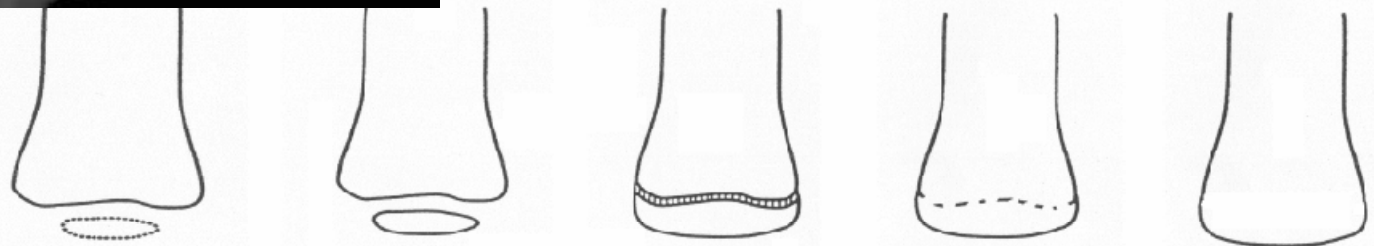
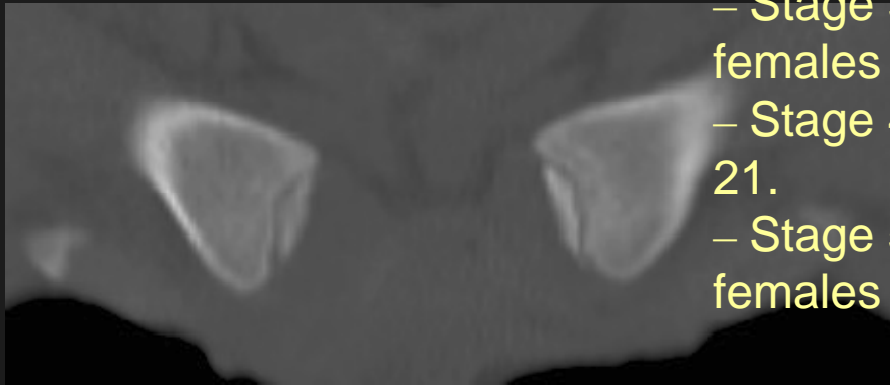
AGE ASSESSMENT BY BONE

X-RAY

- Hand wrist radiographs:
 - USA, 1933-42 (Greulich, Pyle, 1959)
 - DDR (Thieman, Nitz 1991)
- X-Ray or CT-examination of the clavicle
 - Reisinger's ossification stages. (Schmeling, et al. 2004)



- Stage 2: in both sexes at age 15.
- Stage 3 in males: age 17, females age 16.
- Stage 4 by both sexes at age 21.
- Stage 5 males age 22 and females age 21,



X-RAY / CONCLUSIONS

- Hand wrist radiographs:
 - Standard deviation. 7-13 months
 - Ethnic and sociological bias
- **Because of a high standard deviation of the results of age assessment and of radiation exposure, the hand X-ray is not used in Austria anymore**
- Clavicle CT:
 - Standard deviation 12 months
 - **The level of the radiation exposure is too high (600 μ Sv).**
- The combined use of the above methods (dental, bone) allows age diagnoses which can be used for forensic purposes.

PSYCHO-SOCIAL AGE ASSESSMENT



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AIMS OF PSYCHOSOCIAL AGE ASSESSMENT

- IMPROVEMENT OF ACCURACY OF AGE DETERMINATION
- DETERMINATION OF
 - THE CURRENT PSYCHOSOCIAL MATURITY AND
 - THE NEEDS WHICH REQUIRE SUPPORT.

DIMENSIONS OF DEVELOPMENT AND AGE

- MATURATION IS NOT AN HOMOGENEOUS PROCESS!
- WE MUST CONSIDER DIFFERENT DIMENSIONS OF DEVELOPMENT:
 - DIFFERENT BIOLOGICAL ASPECTS
 - PSYCHOSOCIAL ASPECTS
- NO ONE OF THESE DIMENSIONS CAN BE DECIDED WITH SCIENTIFIC ACCURACY:
 - INFLUENCE OF ETHNIC AND BIOGRAPHIC FACTORS

PSYCHOSOCIAL AGE

- NEED FOR SUPPORT AND CARE
RESULTS FROM PSYCHOSOCIAL
MATURITY!

DELAYED MATURITY

- LEGAL DECISIONS ARE USUALLY RELATED TO CHRONOLOGICAL AGE.
- EXCEPTIONS (AUSTRIAN LAW):
 - DELAYED MATURITY CAN BECOME BASIS FOR DECISION
 - CRIMINAL LAW: CRIMINAL RESPONSIBILITY
 - GENERAL CIVIC CODE: CONSENT OF ADOLESCENTS TO MEDICAL TREATMENT

CONCLUSION 1

- THE PSYCHOSOCIAL AGE ASSESSMENT - LIKE ALL OTHER METHODS OF AGE ASSESSMENT - YIELD ALWAYS ONLY ESTIMATED VALUES
- IN DOUBT, THEY SHOULD BE INTERPRETED IN FAVOUR OF THE AFFECTED PERSON.

QUESTIONS TO PSYCHOSOCIAL AGE ASSESSMENT

- WHICH SUPPORT / CARE NEEDS THE RELEVANT PERSON IN:
 - ORGANIZATION OF THE DAILY LIFE (HOUSING, DAILY STRUCTURE - WORK, EDUCATION, FREE TIME)
 - PSYCHOLOGICAL SUPPORT / COPING WITH TRAUMA
 - JURISTIC PROCURATION (CONSULTING, SUPPORT, “OBSORGE”)
 - SHAPING OF INTERPERSONAL RELATIONSHIPS, INCLUDING
 - PARTNERSHIP
 - SEXUAL RELATIONSHIPS (DANGER OF SEXUAL AND CRIMINAL EXPLOITATION)

METHODS

- DERIVED FROM INVENTORY OF CHILD PSYCHIATRY AND DEVELOPMENTAL PSYCHOLOGY
- DIAGNOSTIC PROCESS
 - INTERVIEW
 - OBSERVATION OF BEHAVIOUR

INTERVIEW

- „CLEARING INTERVIEW“
 - TWO INTERVIEWS
 - DURATION: ABOUT 1,5 HOURS
 - INTERVALL: ABOUT 1 WEEK
- EXCLUSION OF CURRENT PSYCHIC DISTURBANCES (POSTTRAUMATIC REACTION, CULTURAL SHOCK)
- CLEARING OF NEEDS FOR SUPPORT
- IMPROVEMENT OF AGE ASSESSMENT

CONDITIONS FOR INTERVIEW

- CONDUCTED BY PROFESSIONAL TRAINED PEOPLE (ADOLESCENCE PSYCHIATRICALS or PSYCHOLOGISTS, EDUCATIONALISTS, SOCIAL WORKERS).
- CONDUCTED IN A LANGUAGE THAT THE INDIVIDUAL IS FAMILIAR WITH
- CONDUCTED IN A AGE APPROPRIATE ATMOSPHERE IN THE PRESENCE OF A TRUSTED THIRD PARTY

CONTENT OF INTERVIEW

- INTERACTION DURING ASSESSMENT
- SOCIAL HISTORY AND FAMILY COMPOSITION
- DEVELOPMENT CONSIDERATIONS, ESPECIALLY ACTIVITIES AND ROLES
- EDUCATIONAL HISTORY
- INDEPENDENCE AND SELF CARE SKILLS
- Source: “Practice guidelines for age assessments of young unaccompanied asylum seekers”

EVALUATION OF INTERVIEW

- CONSIDERATION OF
 - POSSIBLE PSYCHOPATHOLOGICAL SYMPTOMS (POSTTRAUMATIC REACTION - ICD, DSM)
 - CULTURE- SPECIFIC ASPECTS IN RELATIONSHIPS
 - IF NECESSARY: CONSULTATION WITH AN EXPERT IN THIS FIELD.
- IF NECESSARY: REPETITION OF INTERVIEW

OBSERVATION OF BEHAVIOUR

- IF RESULTS OF INTERVIEW
 - UNCLEAR
 - NEEDS FOR INCREASED SUPPORT
- ALLOCATION TO „CLEARING CENTER“ FOR OBSERVATION OF BEHAVIOUR
 - DURATION: ABOUT 2 WEEKS

OBSERVATIONS IN CLEARING CENTER

- BEHAVIOUR IN A PEER GROUP
- BEHAVIOUR IN CONTACT WITH ADULTS OR PEOPLE WITH AUTHORITY
- ACCOMPLISHMENT OF REQUIREMENTS OF SELF CARE

MATURITY CRITERIA

- SOMATIC MATURITY
- PSYCHOSOCIAL MATURITY
 - INTELLECTUAL MATURITY
 - EMOTIONAL MATURITY
 - SOCIAL MATURITY
- USEFUL FOR ASSESSMENT OF NEEDS FOR SUPPORT AND CARE (“NEEDS DIAGNOSTIC”)
- NO RELEVANT CONTRIBUTION TO DIFFERENTIATION IN THE AGE OF ABOUT 18 YEARS!

INTELLECTUAL MATURITY

- TYPICAL THINKING PATTERNS FOR ABOUT
 - 8 YEARS
 - 14 YEARS
- BUT: DEPENDS NOTABLY ON THE LEVEL OF EDUCATION

EMOTIONAL MATURITY

- TRANSITION OF ATTACHEMENT AND RELATIONSHIPS
 - FROM FAMILY TO
 - NON-FAMILY STRUCTURES
 - EDUCATIONAL SYSTEM
 - RELIGIOUS GROUPS
 - PEER-GROUP

SOCIAL MATURITY

- DEVELOPMENT OF MORAL JUDGMENT
- ABILITY OF THE ANTICIPATION FOR SOCIAL CONTEXT
 - ability of planning and to act by the attained insight
 - acquisitions of social rules at different levels
 - ability to adopt the perspective of someone

WHAT CAN THE PSYCHOLOGICAL TEST?

- THE APPLICATION OF THE STRUCTURED TEST PROCEDURES (PSYCHOLOGICAL TEST) CAN GIVE COMPLEMENTARY INFORMATION.
- BUT: A STRUCTURED TEST CANNOT ELEMIMATE THE UNCERTAINTIES!

CONCLUSION

- THE STRENGTH OF PSYCHOSOCIAL AGE ASSESSMENT:
 - THE „NEEDS DIAGNOSTIC“
- THE WEAKNESS OF PSYCHOSOCIAL AGE ASSESSMENT:
 - THE UNACCURACY IN THE AGE OF ADOLESCENTS OR YOUNG ADULTS