Coercive Measures against Minors in the Swedish Asylum Process: Legal Uncertainty, Ambivalence and Experiences of Intrusiveness

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**Abstract**

Asylum-seeking minors are viewed as particularly vulnerable but are still exposed to coercive measures permitted by law. This study analyses Swedish Police Authority and Swedish Migration Agency officials’ perceptions of coercive measures towards minors in the asylum process in light of the Swedish law, and raises minors’ own voices on their experiences of coercive measures. Qualitative interviews were performed with 1) officials at the Swedish Police Authority and Swedish Migration Agency who manage and use coercive actions against minors and 2) former minors with experiences of being subjected to coercive measures. Based on a thematic analysis, the results illustrate how the officials’ perceptions about coercive measures are characterized by uncertainty and ambivalence. The minors expressed the importance of how they were treated during the asylum process rather than the coercive measure as such. Swedish law regulating coercive measures needs clarifications to give sufficient guidance for practice.

**Keywords**  
asylum-seeking minors, law, officials, thematic analysis, qualitative interviews

**Introduction**

Refugee minors are considered particularly vulnerable by both the UN High Commissioner for Refugees (UNHCR) (UN Committee on the Rights of the Child, 2005) and the European Union (EU) (2008/115/EC). Turković (2021) describes how asylum seekers are persons in a vulnerable position and that children are an inherently vulnerable group, with migrant children being an especially vulnerable group, since they are more likely to experience traumatic life events and losses.
Despite this, asylum-seeking children are exposed to various coercive measures by host countries in order to control migration (Del Gaudio & Phillips, 2018). Asylum investigations and deportations of asylum-seeking minors often subject them, legally, to various coercive measures such as personal property seizures, residence searches, body searches, and even arrest (per legal regulations presented below). Since coercive measures infringe fundamental human rights and freedoms however, the European Convention for the Protection of Human Rights and Fundamental Freedoms (Council of Europe, 1950), e.g., article 8 requires national laws regulating them. There are studies that illustrate the dilemmas when it comes to dealing with refugee minors, not least inspired by Lipsky’s (2010) view of how street-level bureaucrats must balance rules and legislation against the needs of the individual, and as such, the best of the child (Ottosson et al., 2013). However, studies examining coercive measures in asylum processes that reflect both experiences of minors and the case-managing bureaucrats who must respectively face and use such measures are rare.

Sweden has, during the past decade and peaking in 2015, received a high proportion of asylum seekers in relation to its population size. During the so-called immigration crisis in 2015, more than 160,000 people sought asylum in Sweden (The Swedish Migration Agency, 2022c), of which more than 70 000 were children under 18 years of age (Statistic Sweden, 2016). Thereafter, Sweden implemented a far more restrictive migration policy, causing higher numbers of deportations (The Swedish Migration Agency, 2022b). A new temporary law (Law 2016:752) was adopted and later made permanent (Government Bill 2020/21:191) to effectively restrict the number of asylum seekers. At the same time, the country’s incorporation of the UN Convention on the Rights of the Child into national law became effective in January 2020 (Law (2018:1197) on the UN Convention on Children’s Rights). As a result, the Swedish Migration Agency has implemented an agency-wide updated Child policy, and a digital tool for support and documentation to ensure that the best interests of the children are considered during asylum processing and when decisions are made. However, this policy does not specifically mention coercive measures against children (Swedish Migration Agency, 2022a).

During 2021, the Swedish government (2021b) took the position that the Swedish Police Authority shall continue to increase the enforcement of deportation decision issued by officials at the Swedish Migration Agency, and stresses that it has ensured that this work takes place in a dignified, humane, efficient, uniform and legally secure manner (The Swedish Government, 2021b). Further, the Swedish government stated that the Swedish Police Authority and the Swedish Migration Agency should improve their cooperation for an effective repatriation. In particular, the government directed authorities to improve the consistency concerning the assessment and classification of deportation decisions’ likelihood of enforceability with regards to any need for use of coercive measures, the existence of identity documents, etc. (The Swedish Government, 2021a, The Swedish Government, 2021b).

The Swedish legal regulation’s inclusion of coercive measures for the execution of deportation orders, the demands from the Swedish government that such execution must increase, and the fact that refugee minors are particularly vulnerable makes it important to explore how officials at the Swedish Police Authority and the Swedish Migration Agency perceive and use coercive measures against minors in the asylum process. In addition, the voices of the minors themselves as to their own experiences of coercive measures need to be raised. In this article, we focus on asylum-seeking minors in general, i.e., individuals who are under the age of 18 and seek asylum in a foreign country.
The aim of this article is to analyse how Swedish Police Authority and Swedish Migration Agency officials perceive the use of coercive measures towards minors in the asylum process considering the Swedish law, and to give voice to minors’ own experiences of coercive measures. Previous research literature uses various terms to describe migrant children. In this study, we use the term “asylum-seeking minors”.

The article is structured as follows; first, we give a brief overview of the research field. Next, we introduce the Swedish context of legal regulations for coercive measures, before describing the methods and results. In the final part of the article, we discuss the findings in relation to the legal regulations and previous research.

**Previous Research**

In line with international declarations, asylum-seeking minors are viewed as being particularly vulnerable, in high need of protection and having more rights compared to asylum-seeking adults (2008/115/EC; Turković, 2021; UN Committee on the Rights of the Child, 2005). Despite this, the reception of asylum-seeking minors encounters a clash between two opposing normative frameworks within a state; the immigration control policy on the one hand and the welfare protection and the child’s right on the other hand (Bhabha, 2001). This causes asylum-seeking minors to be viewed in a contradictory way; at the same time as vulnerable and in need of protection, but also as potential illegal immigrants (Meloni & Humphris, 2021). In Sweden, this contradictory view of asylum-seeking minors has become even more evident after the implementation of a more restrictive migration policy in 2015/2016. In the context of this more restrictive policy, the reception of asylum-seeking minors has increasingly been framed within what is labelled a “paradigm of suspicion” (Meloni & Humphris, 2021). This implies that minors are suspected to be older than stated, and therefore able to be treated as adults, but also that asylum-seeking minors are viewed as different from children in the host country, and as potential manipulative impostors (Bhabha, 2001). These practises have also been referred to as the criminalisation of immigration – crimmigration (Grace & Roth, 2021). Furthermore, law enforcement efforts in humanitarian borderlands are characterized by the difficulties of operating in areas governed by multiple jurisdictions, where lines of responsibility are unclear, and there is a tendency to shift blame between EU entities, the national authorities of member states, and third-party countries (Aas & Gundhus, 2015). Balancing stringent immigration control with the best interests of the child is a contentious issue that gives rise to conflicting concerns, interests, and rights (Lidén, 2019; Lidén et al., 2017).

Consequently, the ambiguous views on asylum-seeking minors lead to contradictory policy claims, which become a challenge for front-line workers who are responsible for carrying out these policies (Meloni & Humphris, 2021). The use of coercive measures might be viewed as the ultimate situation when these contradictory policy claims clash. Decisions to use coercive measures on minors are mostly made by officials at the Swedish Police Authority or the Swedish Migration Agency, and thus these actors are the main front-line workers for carrying out coercive measures in Sweden. The main rule is that coercion should not be used against children due to their vulnerability and rights, but still coercive measures could be framed as “a necessary evil” to carry out an effective immigration control. Previous studies have shown that front-line workers use different strategies to manage these contradictory policy claims. Canning (2020) studied detention custody officers’ use of coercive measures and showed that they utilize “soft power through kindness” to supplement the use of power through physical violence with the purpose ‘to obtain their ultimate agenda: the deportation of the unwanted immigrant...’ (p. 723). Borrelli and Lindberg (2018) studied
how migration and border officials must balance their personal moral values with a professional ethos when they are confronted with tasks that entail both complex discretionary decision-making and coercive measures. Antony (2019) found that staff at family detention centres used “moral investment strategies”, i.e. the ability to disengage internal moral self-sanctions that recognize and regulate unacceptable behaviours, to rationalize detention of asylum-seeking children. Thus, carrying out coercive measures against minors might require strategies to regulate inner psychological and moral processes. In addition, frontliners might refer to laws and regulations to justify the implementation of contradictory policies. Therefore, in this study, we wanted to investigate how frontliners responsible for carrying out coercive measures towards asylum-seeking minors, i.e. officials at the Swedish Police Authority and the Swedish Migration Agency, perceive these contradictory practices in relation to the law and its associated legal sources. This is important since laws and regulations are the ultimate source for frontliners to rely on, when rationalising and justifying the use of coercive measures against minors. Still, many laws give room for interpretation. As underlined by Lipsky (2010), street-level bureaucrats have discretion, implying room for action to balance between the needs of the people they meet and are obliged to serve versus implementing societal rules and legislation. When handling minors, this implies considering the best of the child.

To our knowledge, research considering children’s experiences of coercive measures is scarce. There are some studies on coercive measures during child and adolescent psychiatric inpatient treatment (Delaney, 2006; Nytingnes et al., 2018), parental perceptions of the use of coercive measures on children with developmental disabilities (Saloviita et al., 2016), and seclusion in the management of highly disturbed children and adolescents (Yurtbasi et al., 2016). Regarding perceptions of police’s use of coercive measures, the focus is on the police use of force (e.g., Gerber & Jackson, 2017; Jefferis et al., 2011; Mourtgos & Adams, 2020), and not considering children at all. Thus, as concluded by others (Faldet & Nes, 2021) research has traditionally conducted studies on children, rather than actively involving them in research as subjects. Raising the voices of asylum minors themselves is important since it gives further crucial insights into how the implementation of contradictory policies are experienced by the target group.

**Legal Regulation of Coercive Measures**

The meaning of the notion ‘coercive measures’ is debated in several countries (Vossler, 1998). In Sweden, there is no legal definition of the notion, although it appears in statutory provisions (e.g. The Swedish Code of Judicial Procedure 1942: 740 ch. 23 (16)). However, coercive measures can be defined as such measures that authorities take against individuals that entail an infringement of those individuals’ fundamental rights or legally protected interests and are not sanctions (Hjertstedt & Reinius, 2022). Some scholars argue that a consent from the individual excludes the notion of coercive measures, since no interference occurs (Lindberg, 2022). There are various kinds of coercive measures. Such measures can be grouped by the form of procedure in which they are being used – civil, criminal, or administrative procedure (Olivecrona, 1968).

The asylum procedure is an example of administrative procedure. Coercive measures are tools used during the asylum process to control and prevent unlawful migration and have varying purposes – including to determine a minor’s identity or age, to investigate other issues relevant for an asylum claim’s adjudication, and to enforce a decision of deportation, among others. In Sweden, various kinds of coercive measures are allowed to be used – under certain conditions – throughout the asylum process. When minors arrive in Sweden and
make an application for asylum, they can be exposed to body searches, being photographed and fingerprinted as well as seizures of tickets and passports. When Swedish authorities implement an internal special control in respect of foreigners, the minors can be brought to the police station and their photos and fingerprints can be checked. If the authorities decide to expel the minor, they are allowed to impose upon the minor a duty to report, short-term detention or even longer-term detention until such time as the minor is deported.

As stated above, decisions to use coercive measures on minors are mostly made by officials at the Swedish Police Authority or the Swedish Migration Agency but, more rarely, may be made by a court (Aliens Act 2005:716 ch. 9, 10 & 11); see Table 1, below. However, the tasks of the Swedish Migration Agency and the police also differ: The police – in contrast to the Swedish Migration Agency – often carry out coercive measures (see e.g. Aliens Act 2005:716 ch. 10 (19), ch. 12 (14)) and also have the right to use force (Swedish Police Act 1984:387, section 10), while the Swedish Migration Agency decides whether the migrant is allowed to stay in Sweden or not (see e.g. Aliens Act 2005:716 ch. 5 (20)).

During the investigation period, Swedish authorities are also allowed to expose an individual to medical age assessments – if the individual consents – in order to assess if the person is a minor or not (Aliens Act 2005:716 ch. 13 (17 & 18)). However, because such assessments require consent, some scholars do not consider this a coercive measure (see above). Thus, medical age assessments are not in focus for this article. The main coercive measures in the asylum procedure are presented in table 1 below. Four of these measures (taking of photos and fingerprints, body search, short-term detention, and longer-term detention) are particularly discussed by the participants in this study and are thus briefly presented below.

Regarding the taking of photos and fingerprints, the Swedish Police Authority and Swedish Migration Agency have a statutory right to take photos and fingerprints of applicants older than 13 years if the migrant cannot prove his or her identity when arriving to Sweden, if he or she applies for a residence permit as a person in need for protection, or if the prerequisites for detention are fulfilled (Aliens Act 2005:716 ch. 9 (8)). There is also an obligation for migrants older than 5 years applying for a residence permit – for whatever reason – to let the Swedish Migration Agency take their photos and fingerprints (Aliens Act 2005:716 ch. 9 (8a)).

Body search is an investigation of clothes, bags and other items that a person wears or brings (The Swedish Code of Judicial Procedure 1942:740 ch. 28 (11)). In the asylum process, it is possible for police officers to make a body search when migrants arrive in Sweden if it is necessary to clear the migrant’s identity (Aliens Act 2005:716 ch. 9 (2)). Further, if the migrant is kept in detention, it is possible to make a body search of the migrant, if there is a reasonable suspicion that he or she is wearing or in possession of certain forbidden items (Aliens Act 2005:716 ch. 11 (9)).

Short-term detention means that minors and adults can be detained during a statutorily-regulated, short period of time (not more than 48 hours). The Swedish law makes it legal for authorities to, e.g., transport a minor to the airport and even to place him or her in a guarded hotel room overnight, but not to put the minor in a holding cell or similar locked room (Government Bill 2016/17:191). According to Swedish law, the asylum seeker can be put in preventive detention by the Swedish Police Authority or the Swedish Security Police, when these authorities are about to execute a decision of deportation, if this is necessary to successfully deport the individual concerned. The same rules are applicable for both adults and for minors (Aliens Act 2005:716 ch. 9 (12)).

In contrast, longer-term detention means that adults can be locked in holding cells or similar rooms for a longer time. In domestic law, there are different rules applicable
for adults and minors (Aliens Act 2005:716 ch. 10 & 11). There is also an additional specified circumstance in which authorities may legally put migrants – adults and minors – into Swedish detention when they are to be transferred to another EU country (Regulation (EU) No 604/2013, The Dublin Decree). Minors can be put in detention for fewer reasons than adults under Swedish law: only if it is probable that they will be deported or the execution of a decision of deportation is about to be issued or enforced may they be subjected to detention. In addition, there are some legal restrictions on putting minors in detention: instead imposing a duty to report must not be a sufficient measure, a minor cannot normally be detained for longer than 72 hours, the detention must not separate the minor from both parents or guardians, et cetera (Aliens Act 2005:716 ch. 10 (2, 3, 5)).

Table 1. Coercive measures in the asylum process

<table>
<thead>
<tr>
<th>Coercive measures</th>
<th>Decision-maker</th>
</tr>
</thead>
<tbody>
<tr>
<td>Body search</td>
<td>Police officer, Migration Agency</td>
</tr>
<tr>
<td>Search of cars and vehicles</td>
<td>Police officer</td>
</tr>
<tr>
<td>Seizure of passports or tickets</td>
<td>Migration Agency, Police Authority</td>
</tr>
<tr>
<td>Taking of photos and fingerprints</td>
<td>Migration Agency, Police Authority</td>
</tr>
<tr>
<td>Verification of photos and fingerprints</td>
<td>Migration Agency, Police Authority</td>
</tr>
<tr>
<td>Being brought to a police inquiry or detention in order</td>
<td>Police Authority</td>
</tr>
<tr>
<td>to assist in a police inquiry</td>
<td></td>
</tr>
<tr>
<td>Short-term detention</td>
<td>Police Authority, Security Police</td>
</tr>
<tr>
<td>Being assigned a duty to appear (at a given location)</td>
<td>Handling authority = Migration Agency, Police Authority, court</td>
</tr>
<tr>
<td>Longer-term detention</td>
<td>Handling authority = Migration Agency, Police Authority, court</td>
</tr>
<tr>
<td>Enforcement of deportation</td>
<td>Migration Agency, Police Authority</td>
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</tbody>
</table>

Thus, the above-mentioned coercive measures are regulated in internal Swedish laws, above all the Aliens Act. However, there are also constitutional laws that affect the field. For instance, articles 3, 5.1 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (Council of Europe, 1950), restrict the use of detaining minors in European council member states such as Sweden (Turković 2021). In addition, according to the article 3 of the UN Convention on the Rights of the Child (The Swedish Law 2018:1197 on the UN Convention on Children's Rights), the principle of the best interests of the child shall be a primary consideration in all actions concerning children, including the discretion of the use of coercive measures.

Method

Study Design

The study is a qualitative study based on interviews with 1) officials at the Swedish Police Authority and the Swedish Migration Agency who are the main responsible for carrying out coercive measures against minors in the asylum process and 2) former minors with experiences of seeking asylum and being subjected to coercive measures in Sweden. The interviews were analysed using thematic analysis (Braun & Clarke, 2006) since it is a flexible analytical method useful for identifying systematic patterns in qualitative data. We interviewed a total of 14 officials who handle coercive measures against minors in the asylum process and 10 former minors with experience of being exposed to coercive measures in their asylum process.
Interviews with Officials at the Swedish Police Authority and the Swedish Migration Agency

We invited actors who in their daily work handle coercive measures towards asylum-seeking children, i.e. police officers, civil servants at the Swedish Migration Agency and staff at the Swedish Migration Agency’s detention centres. Four border police officers, one lawyer at the Swedish Police Authority, five migration officials, and four officials at detention centres were interviewed during 2019 and 2020. The participants were seven men and seven women (see table 2 below). The sample of participants was identified through contact with the head of the regional border police unit who provided contact information to persons at the Swedish Migration Agency and the detention centres. We used ‘snowball sampling’ or ‘chain-referral sampling’ techniques in which existing subjects provide referrals to recruit additional subjects required for the study (Bryman, 2016).

Due to extensive geographical distances and the COVID-19 pandemic, almost all interviews were conducted by phone, which, despite its limitations of e.g., not capturing nonverbal expressions, worked for the purpose of this study. The interviews contained questions about experiences of working with asylum-seeking minors and their encounters with coercive measures, their knowledge about the legal framework regulating coercive measures against minors, as well as perceptions about how regulations are being applied in practice. In addition, the interviews contained questions about perceived problems and challenges with the application of the law, as well as perceived need for changes in policy and practice. One face-to-face and 13 telephone interviews were conducted, recorded and transcribed.

Table 2. Type of actors represented by our participants (N = 14)

<table>
<thead>
<tr>
<th>Swedish Police Authority</th>
<th>Swedish Migration Agency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Border police (BP)</td>
<td>Officials at the Migration Agency (MA)</td>
</tr>
<tr>
<td>4 police officers and 1 lawyer</td>
<td>(N = 5, 2 men and 3 women)</td>
</tr>
<tr>
<td>(N = 5, 3 men and 2 women)</td>
<td>Officials at the Migration Agency’s detention centres (DC)</td>
</tr>
<tr>
<td></td>
<td>(N = 4, 2 men and 2 women)</td>
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</tbody>
</table>

Interviews with Asylum-Seeking Young Adults

At the end of the spring of 2020, ten interviews were conducted with young adult boys who had been exposed to coercive measures during their asylum process by the last author, who is trilingual in Farsi, Swedish and English. Two of the participants came from Iraq while the rest came from Afghanistan. At the time of their interviews, the participants were aged 18–21; most of the participants were 16 years old when they arrived in Sweden. At the time of the interview (2020), two of the participants had a permanent residence permit, three had temporary residence permits and the rest were so-called ‘hidden refugees’, undocumented and remaining in Sweden without residence permits. The interviews were conducted in the Farsi language with the participants from Afghanistan. The two participants from Iraq were in good command of the Swedish language and therefore it was used. Each interview took 45–50 minutes. First, the participants were shown a list of coercive measures (see table 1) and were asked to mark each coercive measure to which they had been exposed, for example, body searches, seizures of passports and tickets or taking of photographs and fingerprints. Further, the interviews contained questions about experience of coercive measures from involved authorities. The interview continued by soliciting the telling of stories about their experience with different actors such as personnel of the Swedish Migration Agency and police officers. The interviews were documented by means of written notes to provide a climate of safety and security for participants since some of them denied us permission to record their interviews.
Steps in the Analysis
The thematic analysis from the interviews with Swedish Police Authority and Swedish Migration Agency was driven by the researchers’ theoretical and analytic interests (Braun & Clarke, 2006). Themes from the interview guide, combined with the legal regulation’s framework on coercive measures, were used to structure and interpret the interview data. The analysis was conducted in several steps. First, we read the interview transcripts several times to obtain a sense of the content. We marked and selected text that explicitly contained information about the participant’s perceptions about the use of coercive measures against minors. The selected condensed text was coded line by line. In the next step we sorted and divided the codes into groups based on their content and interpreted what these codes had in common to come up with themes. The condensed text and the codes were discussed by the authors to theorize about the significance of the patterns (Braun & Clarke, 2006). This analysis was done separately for Swedish Police Authority and Swedish Migration Agency to enable comparisons between the groups.

Thematic analysis was also used to organise, describe, and interpret data from the interviews with former minors (Braun & Clarke, 2006). Data from the extensive interview notes were initially carefully read and re-read and thereafter sorted and summarized according to the different coercive measures they referred to. Thus, the list of coercive measures was used as predetermined themes, enabling a description and interpretation of the subjective experiences of these measures. Despite this mainly deductive approach, we were open to new and emerging themes in the data. This strategy resulted in construction of themes describing the importance of treatment from authorities and how coercive measures were carried out, as well as on how the asylum process overall affected the minors.

Ethical Considerations
The study was approved by the Swedish Ethical Review Authority (Dnr 2019-02439). All participants received oral and written information about the project. They were informed about the purpose of the study, that participation was voluntary and that they could withdraw at any stage. We also provided information about how data would be treated and used and how confidentiality would be ensured. Full confidentiality of participants was maintained (Swedish Research Council, 2011), by omitting the participants’ names and identities in the recorded and transcribed interviews.

Swedish Police Authority and Swedish Migration Agency Officials’ Perceptions of Coercive Measures
The thematic analysis resulted in the construction of two main themes that illustrate how the Swedish Police Authority and Swedish Migration Agency officials’ perceptions about coercive measures against minors were characterized by uncertainty and ambivalence. The overall perception among representatives for the Swedish Migration Agency, the Swedish Police Authority and the Swedish Migration Agency’s detention centres was that coercive measures should not be used against minors. At the same time, the participants were clear about the asylum process being, by law and custom, built on coercive measures. Thus, the participants expressed contradictory and mixed feelings towards the use of coercive measures against minors.

1 BP = border police, DC = Officials at the Migration Agency’s detention centres, MA = Officials at the Migration Agency.
Ambivalence towards coercive measures against minors was also illustrated by the fact that participants expressed that this uncertainty could be perceived as either good or bad, depending on the perspective adopted. On the one hand, participants expressed that it is harmful for minors to be detained, but on the other hand, they also expressed that available alternatives for effectuating, e.g., deportation of minors could be even worse. Thus, coercive measures were justified as being carried out in the best interests of the child; in other words, for humanitarian reasons. The two main themes identified are described in detail below. Quotes are used to illustrate how the theme and sub-themes were found to be represented in the data.

The Use of Coercive Actions are Influenced by the Overall Uncertainties Characterising the Asylum Process
This theme reflects how perceptions towards coercive measures against minors could be understood as influenced by the overall view among Swedish Police Authority and Swedish Migration Agency that the asylum process as such is characterised by uncertainties on what is required to carry out asylum investigations and what actions are classified as coercive by the law.

The participants acknowledged that the asylum process is founded on a reverse burden of proof in which the asylum seeker needs to prove him-/herself in need of protection. This fact in itself compels coercion although the asylum seeker cooperates; e.g., the taking of fingerprints can be necessary in order to prove the asylum seeker’s identity, something that he or she has a duty to prove.

The officials at the Swedish Migration Agency and the detention centres described how coercive measures are carried out routinely, for example, taking fingerprints and photographing when the asylum seekers first contact the authorities to apply for asylum (MA1, MA2, MA3, MA4, DC1). However, representatives from the Swedish Migration Agency also expressed uncertainty about the boundary between voluntariness and coercion. Those who seek asylum want something (residence permits) and therefore cooperate, which means that it will not be a problem, but within this process there is a lot that is unregulated. One example given was that passports are regularly seized in connection with the application (MA2). While the Swedish Migration Agency cannot conduct a body search of an individual to look for a passport, they can ask for it, and if they get it, they can keep it. This decision is not one that asylum seekers can appeal; thus, if they cooperate and hand over their passports, they risk losing them. On the other hand, if asylum seekers refuse to hand over their passports, it can be interpreted as if they are able to receive their country’s protection and thus the need for protection in Sweden is questioned (MA4). Since the meaning of ‘voluntariness’ is not regulated in law, the issue of passports was one example where the line between voluntariness and coercion was very unclear for these participants.

Another uncertainty about law versus practice concerned the routines of taking fingerprints and conducting body and personal property searches. One participant at a detention centre pointed out that fingerprints are not taken on minors under the age of 14, but on the other hand, everyone who comes to or visits the detention centre is physically searched. According to the participant, however, these body searches were done for safety reasons to

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2 In the Swedish asylum process, there is a reverse burden of proof, i.e., it is the asylum seeker who must prove that he or she has the right to stay. However, the authorities – above all the Swedish Migration Agency – have the main responsibility for the basis for the evaluation of evidence, so-called burden of investigation, Andersson, S., Diesen, C., Lagerqvist Veloz Roca, A., Seidlitz, M. & Wilton Wahren, A. 2018. Prövning av migrationsärenden: Bevis 8, Norstedts Juridik AB.
ensure that minors are not used (or exploited) by the adults to smuggle in anything illicit (DC4). This view was echoed by another participant who described how everyone who arrives at the detention centre is routinely physically searched, including external visitors. In addition, the inmates are inspected after having met with external visitors (DC1). Thus, a more intrusive coercive measure – physical searches – is performed routinely on children, while a less intrusive one – taking of fingerprints – is not (Hjertstedt, 2018).

Officials from both the Swedish Police Authority and the Swedish Migration Agency reported that it is rare for minors to be taken into longer-term detention (MA1-4, DC1-4, BP1-5), but also confirmed that cases do exist and are permitted under the Dublin Regulation (BP1, BP2, BP4). There are very few minors in detention per year, precisely because of the very restrictive rules (BP5). Detention of a minor requires a failed attempt to enforce the deportation which means that minors are almost never taken into detention (BP2). Still, detention does occur and one of the participants reported that three to four minors a year are taken into detention at their unit, but in 2016 there were as many as 20 minors in detention (DC2). The participants also described how the maximum length of time for minors in detention is 72 hours, but how this does not apply to Dublin transfers (who face the same time limits as adults) and thus this difference between Dublin (cross-border) and other cases involving minors could lead to confusion and uncertainty. One participant at a detention centre described an experience with a case of an unaccompanied minor who was transferred from Germany and who, for reasons unknown to the participant, stayed for 15 days in detention. Thus, there are clearly uncertainties within the asylum process with regards to what rules are applicable in different situations and what actions are classified as coercive measures.

Another sign of the uncertainty that characterizes the asylum process, that further influences the use of coercive measures, was described by one official at the Swedish Migration Agency, who said that cases are tossed back and forth between the police and the Swedish Migration Agency. This could potentially happen when the police have taken a person into detention who then seeks asylum; in these situations, the Swedish Migration Agency must assess the grounds for protection, so the case ends up with it. The same case can then go back to the police if it becomes a forced repatriation (MA2). Further, in referring matters between the Swedish Migration Agency and the Swedish Police Authority, coercive measures could also be actualized. As one participant put it: ‘The Swedish Migration Agency cannot force anyone to return but indirectly force someone by handing over the case to the Police who can ‘take them in the arm and force them to leave’ (MA1). One participant, a border police officer with long experience of deportations, described that legal support is required to carry out coercive measures such as house searches, custodies and body searches. As a police officer, he is obliged to follow the law, and to enforce a deportation, these coercive measures are part of the deportation process.

Ambivalence Towards the Use of Coercion – Generally not Good, but “Child Friendly” Coercion could be Better than the Alternatives

This second theme reflects how coercive measures against minors were expressed, and justified, if carried out for humanitarian reasons, i.e., in the best interest of the child. In our interpretation, this illustrates an ambivalence among officials at the Swedish Police Authority and the Swedish Migration Agency; coercive actions should not be taken against minors, but still this is (sometimes routinely) done in the asylum process. One way of handling this conflict is to view and formulate coercive measures as an act of humanity, i.e., any other option would be worse for the child. A border police officer, for example, described how taking a person into guarded hotel care, short-term detention, is of course a coercive
measure. This is however done exclusively by renting a hotel room and then the police having a hotel room on the other side of the corridor and sitting outside the door to help with things that the family wants, such as buying e.g., food and diapers. It is a coercive measure but a very humane coercive measure (BP2).

One of the police officers said that it requires more resources to enforce a deportation without detention, compared to if it was possible to put a minor in detention. It takes lots of resources to enforce a deportation within 48 hours, which is the time limit to take a person into preventive detention before a deportation. As mentioned before, when minors are involved, it is not possible to keep them detained (BP2). Some of the police officers said that they do not think that minors should be detained (BP1, BP2, BP3, BP4). Nevertheless, they advocated a kind of “child-friendly” detention centre. This would imply a possibility to put them in detention for two days to handle practical things before the enforcement trip. This is due to long distances between detention centres, international airports and many minors’ residences (BP2, BP3, BP4, BP5). As one officer put it: ‘this would enable time to manage those last things that you do not have time for when you come in the morning and say ‘now we’ll leave in four hours’’ (BP3). Another police officer said:

’We know that detention is a success factor to ensure departure. That applies in all cases. The problem is when it comes to minors. We also know that humans feel bad about being restricted in freedom, but it (detention) is still a great success factor in resolving the case’ (BP4)

One of the police officers described how a child-friendly enforcement of a forced deportation is carried out. In cases involving minors, they explain to the parents that the family is in custody, but they never say that directly to the minor. The focus with the minor becomes something completely different, because it is about the child’s best interests. The police want to make the trip as good as possible for the minor. For example, they ask, ‘which are your best toys?’ and look at them with interest. The police make sure that the toys are not forgotten, and they help the minors pack their things, but they do not inform the minors about the deprivation of liberty (BP3).

Further, since the police are responsible for enforcing the deportation, they must find effective solutions. Since taking minors into longer-term detention is forbidden, they solve the issue by taking one of the parents into detention, and thus separating the minor from its parent. The police officer said: ‘I’m not entirely sure we think of the child’s best interests [when we do that]; I’m not entirely sure it’s the best’ (BP4). The procedure to take one of the parents into detention to ensure the deportation is also described by a participant at the Swedish Migration Agency (MA1). Another problem that was described by one of the officials at the detention centre is that the parent sometimes withholds the truth from the minors, which creates problems and anxiety for the minors (DC1).

Whether minors should be body searched in detention centres has also been discussed on the basis that the lack of these searches can be exploited by the adults. A common view was that frisk searching minors, although a coercive action, can be carried out in a playful way so that small minors do not feel offended. Thus, body searches of minors were perceived as a better option than risking that minors become exploited by adults to conceal contraband, which can create worry and anxiety in the minor. If everyone who arrives at the detention centre is always body searched, the minor does not for example have to lie about what items his or her parent has brought to the centre, which could be the case if body searches were only performed under certain conditions (DC 1). One participant commented about body searches in the detention:
‘And so, we do a body search of the child in a, what shall I say, a nice way. At the prison service, I know that they play with the children and wave and feel through the sweater and shake their legs and take off their shoes, so that you do it playfully. All body searches are external body searches, it’s like at the airport, on the outside of the clothes dressed as well.’ (DC1)

Asylum Seeking Minors’ Experiences of Coercive Measures
The interviewed minors reported varying experiences of coercive measures’ use. Table 3 shows how the participants answered the questions concerning coercive measures.

Table 3. The interviewed asylum-seeking minors’ experiences of coercive measures

<table>
<thead>
<tr>
<th>Coercive measures</th>
<th>Number of minors having experiences of the measure N = 10</th>
</tr>
</thead>
<tbody>
<tr>
<td>Body search</td>
<td>10</td>
</tr>
<tr>
<td>Search of cars and vehicles</td>
<td>1</td>
</tr>
<tr>
<td>Seizure of passports or tickets</td>
<td>1</td>
</tr>
<tr>
<td>Taking of photos and fingerprints</td>
<td>10</td>
</tr>
<tr>
<td>Verification of photos and fingerprints</td>
<td>10</td>
</tr>
<tr>
<td>Enforcement of deportation</td>
<td>3</td>
</tr>
</tbody>
</table>

As seen in Table 3, all the participants had been exposed to body searches, as well as to the taking and inspection of photos and fingerprints. In addition, three of the minors had been exposed to medical age assessment, which (even often not considered as a coercive measure) they perceived as intrusive and offensive. On the other hand, some coercive measures, such as the taking of photos and fingerprints, were not perceived as especially intrusive by the participants.

Two additional themes emerged from the analysis of the minors’ stories which signified the importance of how they were treated by authorities, and how their overall experiences from the asylum process affected them. These themes are described in detail below.

The Treatment from the Swedish Police Authority and the Swedish Migration Agency Overshadows Experiences of Coercive Measures
Regardless of having been exposed to coercive measures or not, all minors expressed the importance of how they were treated by different authorities during the asylum process. Here, significant differences in their experiences of their encounters with the police versus the Swedish Migration Agency were evident. Nine out of ten participants expressed that they had experienced the Swedish Migration Agency’s staff to be very unpleasant at certain stages of their asylum process and that they had filed formal complaints to pursue the matter. These experiences were e.g., expressed as such: ‘90% of administrators do not know the rules’; ‘they made me feel like a liar’; ‘The manager just played with me, did not take me seriously’. From the interviews it was clear that the participants had experiences of being let down and feeling abandoned in their encounters with the Swedish Migration Agency. One of the participants described how he became forced to go through age assessment by the Swedish Migration Agency: “To me they said we don’t believe what you have said about your age (I was 16). I was told to do an age assessment or else my application will be refused. Do you choose refusal, or do you want to undergo an age assessment? I replied that I deny age assessment. I received a negative decision, and my age was written up. That is, now I was suddenly 19 years old and not 16 years old”. Only one of the participants reported that his
administrator at the Swedish Migration Agency had helped him in some processes regarding deportation from Sweden and once again to get him back to Sweden.

In contrast, most participants expressed that the police did a good job during their encounters with them. Interview participants had understood very well the difference in assignments between the Swedish Migration Agency and the Swedish Police Authority. The minors declared that they understood that the police had nothing to do with the influence of the asylum decision and only enforced deportation decisions. For example, one of the participants described how the police officer treated him with respect when he was sitting in police custody and how police officers talked with him calmly and were not angry. One other participant described that “… I was in shock because of being deported, so I did not care what the police officers were doing, but they stood by me and they were calm…”

The Asylum Process caused Wounds, but there is Still Hope for the Future

There were different perceptions among the participants about how the Swedish Migration Agency’s handling of their asylum case has affected their health, but also how it has affected their attitudes towards Sweden. Most of the participants stated that they have felt badly during the case management process. One of the participants described his health status like this “today, after so many days waiting and not being trusted in my story, I feel depressed. When I think about how much I have fought against Taliban, and homeland’s demands on my shoulders, I won’t live anymore. I have no place to go anymore, except Sweden”. Ultimately, however, most participants expressed that they have a positive view of Swedish society today. The interviews show that there is a lot of disappointment about the Swedish Migration Agency, but living life is more important to these young people than dwelling on their past negative experiences. One of the participants said this: ‘… I have waited a couple of years to get a residence permit and not received it, but still I like Sweden…’. Another of the participants expressed that “…despite waiting some years and being denied a permit, I still have hope…”. Yet another participant described “…now, I have a driving licence and work because I believe I can make it and get a permanent permit…”. However, few of the participants also stated that they cannot trust Swedish authorities because of their experience with the Swedish Migration Agency.

Discussion

In this section, we discuss the findings in relation to legal sources and previous research.

Lack of Knowledge about What Counts as Coercive Measures

The results indicate that there is a general lack of knowledge about what counts as coercive measures. Officials, especially at the Swedish Migration Agency, carried out some measures routinely without reflecting on the fact that they were coercive measures. One reason for this may be that coercive measures is a diffuse concept with no legal definition, but only some suggestions in the juridical literature (Hjertstedt & Reinius, 2022). This lack of knowledge could also be understood within the overall “policy of uncertainty” that characterizes the asylum process in Sweden. The uncertainties of the requirements for receiving asylum – not least due to recurrent and rapid temporary or permanent changes in regulations in the asylum process – the long waiting times for a decision, and the restricted rights during asylum waiting periods could be viewed as state-sanctioned policies of uncertainty (Phillimore & Cheung, 2021). Hence, the lack of knowledge of what counts as coercive measures and when these measures are allowed, is not unexpected given the overall policy of uncertainty, in which the Swedish Police Authority and not least the Swedish Migration Agency operate.
Since these officials are used to handle uncertainties, the specific uncertainty that surrounds coercive measures may not require any particular considerations. Thus, certain coercive measures, such as taking of fingerprints can be carried out routinely without misgivings. Yet another reason for a general lack of knowledge might be related to the influx of refugees in 2015, when many new officials with limited experience were recruited to the Swedish Migration Agency (The Swedish Migration Agency, 2022c).

On the contrary, the knowledge among the police officers seems to be better when it comes to which measures are coercive measures and which are not. This might reflect that the police, by training, are more prepared to manage coercive measures compared to other actors; the police have – in contrast to other societal actors – the right to use force (The Swedish Police Act (1984:387) section 10). At the same time, the statutory division of responsibilities between the authorities is unclear, as both participants from the Swedish Migration Agency and the Swedish Police Authority point out. There also seems to be a lack of opportunities to appeal the decisions to use coercive measures, which means that one does not have to be so ‘careful’ when it comes to the use of coercive measures against asylum-seeking children. This clearly relates to the conflict between the policies of immigration control and the welfare protection of children, where asylum seeking minors tend to be viewed and treated differently from other children in the host country (Bhabha, 2001).

The policy of uncertainty that characterizes the asylum process has been also labelled “the violence of uncertainty”, due to its detrimental effects in health and life for immigrants (Phillimore and Cheung, 2021). Thus, this uncertainty and ambiguity becomes an added burden for asylum-seeking minors.

Uncertainty about the Borders between Voluntarism and Coercion

The results show that the line between coercion and voluntariness is unclear regarding many of the measures taken during the deportation process. This is in line with previous legal research finding that the meaning and the effect of a consent is rarely regulated in Swedish law (Hjertstedt, 2017a; Hjertstedt, 2017b). Both the law and the application of the law are unclear, which makes it difficult and often impossible for front-liners to have a consistent interpretation of the various situations in relation to the law and the application of the law. In these situations, they will use their discretionary power as street-level bureaucrats. In other words, it is up to the individual official to use their discretion as to how best to achieve their legally assigned objectives and to accomplish the missions with which they are tasked (Lipsky, 2010). This use of discretion can be interpreted as ignorance by the minors that are exposed to this situation, thus resulting in ‘morally uncomfortable and often Sisyphean tasks’, i.e., a never-ending task (Borrelli & Lindberg, 2018). However, it seems that the police, which has a coercive role more broadly, can be clearer and more professional in its use of coercive measures, which then also become more predictable for the minors.

Confusion about What Rules Should Be Applied When and Why – Contradictory Regulations

The interviews provide examples of when the regulations are conflicting or at least inconsistent. For example, no fingerprints are taken from children under the age of 14 (Aliens Act 2005:716 ch. 9 (8)), but regular body searches are carried out on these children at detention centres (Aliens Act 2005:716 ch. 11 (9)). Thus, it seems confusing that a more intrusive coercive measure – body search – is allowed on children but not a less intrusive one – taking of fingerprints (Hjertstedt, 2018). Another example is that exceptions are
made to the rule of not depriving children of their liberty by taking children into custody when it is a Dublin case (Regulation (EU) No. 604/2013), which creates confusion about what is in the best interests of the child. Scholars have argued that it is important to have rules that cohere. In legal theory, coherence – e.g. that there are not arbitrary, unjustified differences between rules – has been formulated as a criterion for good legislation (Hjertstedt, 2011). If the rules are too complicated and contradictory, they are at risk of being applied arbitrarily.

Lack of Alternatives to Coercive Measures for Fulfilling One’s Mission – the Downside of Street Level Bureaucracy?

Many of the participants expressed an ambivalent view of coercive measures – these are intrusive measures that should be avoided but could be the least bad alternative. This is in line with the Swedish parliamentary ombudsman, who partly has emphasized that coercive measures should be avoided, partly has pointed out that applying coercive measures means that authorities must observe procedural safeguards, such as the duty for the police to document the measure and possibility for the exposed to attend the execution of the coercive measure (The Swedish Parliamentary Ombudsman, JO 1982/83 p. 39, JO 1992/93 p. 143, JO 2006/07 p. 54).

The front-liners are torn between demands to perform their tasks and the lack of good ways, methods, and conditions under which to perform their tasks in a child-friendly way and without coercive measures. This can be examined in relation to Borrelli and Lindberg’s (2018) description of how street-level bureaucrats working with migration control are confronted with morally uncomfortable tasks that often are impossible to carry out, and how they handle this with creativity and often an eccentric approach to their work. Borrelli and Lindberg (2018) believe that the actors in this way ‘take an active part in shaping the ethics of migration control’ (p. 163). One example in this study is that the border police take one of the parents into custody because there are such restrictive rules about depriving children of their liberty. In this example, the police have taken a solution-focused approach instead of questioning the whole concept of utilizing coercive measures when it comes to children.

Both the police and the Swedish Migration Agency officials at the detention centres describe how they utilize their discretionary power to make the coercive measures more child friendly. They ‘ask for their toys’ and ‘shake their legs’ during the body search. This can be understood in Borrelli’s and Lindberg’s (2022) description of how narratives are invented about the work practices that better align with the personal values. This can be seen as being creative and a coping strategy to navigate conflicting demands but also tasks that morally conflict with personal values (Borrelli & Lindberg, 2018). This could also be viewed as examples of trying to use “soft power through kindness”, as suggested by Canning (2020). Our results from the interviews with the minors also confirms the importance of how actions are carried out, rather than solely what actions are performed.

The police seemed to believe that handling a particular case involving asylum-seeking minors would be more effective if done with child-friendly custody, focusing on building positive relationships. In this article, we examine the situation from a legal perspective. There is a need to consider the potential traumatic impact on the asylum-seeking minors involved, which hasn’t been adequately addressed yet. It highlights the importance of studying the situation not only from legal and operational viewpoints but also from the perspective of potential psychological trauma experienced by the asylum-seeking minors.
The Minors’ Experience of Intrusion and Societal Actors

Interestingly, minors’ experiences of being exposed to some coercive measures, for example to a non-voluntary requirement to give fingerprints or be photographed, are in some situations perceived as less negative than medical age assessment that is based on voluntariness. The minors’ experiences are in line with the results of a Swedish study according to which police officers perceive the taking of fingerprints as a less intrusive measure than a physical examination of the human body (Hjertstedt, 2018).

Most minors expressed their general satisfaction over how police handle coercive measures, while they expressed their dissatisfaction with the Swedish Migration Agency. The way the interviewees describe the behaviour of the Swedish Migration Agency officials collides with the constitutional demand that the principle of the best interests of the child shall be a primary consideration in all actions concerning children (UN Committee on the Rights of the Child, 2005). It is somewhat surprising that the minors felt more comfortable with the police than with the Swedish Migration Agency, despite the police serving as a symbol of repressive power in society. One possible explanation could be that the minors (as well as people in general) expect the police to act in an oppressive manner given their legal right to use force, why “kindness” therefore is not expected from the police. It might also be that asylum-seeking minors have experiences from other countries where the police use their repressive power in a more brutal way, compared to the Swedish police in general. On the contrary, expectations to be fairly treated might be higher on civil servants at the Swedish Migration Agency. Further, different authorities might have various understandings of minors’ life situations and their own role and duties in handling their cases. Since the police constantly meet people in critical situations, they are trained and experienced in conflict management; an “expertise” that officials at the Swedish Migration Agency in general might lack. A previous study about unaccompanied children who were exposed to deportation from Sweden showed how police officers try to find solutions to handle the situation with a low degree of conflict while the Swedish Migration Agency tries to use legislation as a tool against the minors (Hansson et al., 2017). One clear finding is how the minors express their negative attitudes and feelings experienced when they are exposed to age assessments. When the Swedish Migration Agency does not believe the minor’s story and age, then they are offered a chance to have a medical age assessment. This is framed as an offer, but in reality, the minor cannot refuse this offer since their age can then be adjusted in line with what the individual officer at the Swedish Migration Agency believes is a more probable age (The Swedish Migration Agency, 2021). Consequently, this becomes a voluntary action “by coercion” which results in negative feelings. In an investigation by Ghazinour et al. (2015), the same emotional reaction in unaccompanied asylum-seeking minors was reported regarding their meeting with authorities such as the Swedish Migration Agency. The report showed that the minors fight for their existence in a chaotic environment where they experience a series of interruptions in their everyday life, and that they distrust the Swedish legislation and officials they meet. Previous research has underlined how the “paradigm of suspicion” (Meloni & Humphris, 2021) characterizing the asylum process, results in asylum seekers being regarded as suspect regardless of violating the law or not (Bryan & Denov, 2011). Consequently, asylum-seeking minors are conferred a “risk identity” (Bryan & Denov, 2011), which might further fuel the feelings of being mistreated and offended by the Swedish Migration Agency. Others (Borrelli & Wyss, 2022) have also underlined how this atmosphere of suspicion in which the asylum process takes place, impinge negatively on the trust between migrants and societal officials. This could be yet another explanation...
to the dissatisfaction and the negative experiences among the minors in this study of how they were treated by the Swedish Migration Agency officials.

Limitations
A limitation of this study is that the section discussing children's own perspectives is considerably shorter. The interviews with the minors were not recorded due to ethical reasons, which made it difficult to use exact quotes. It is problematic that research differentiates how it treats the voices of professionals versus minors/youth. Nevertheless, it is important to give voices to the children's narratives, although this section is not equal to the section of societal actors.

Conclusions
The results illustrate the uncertainty in the legal framework making this discrepancy between the law and how it is applied and understood in practice. The law intends to consider the best interests of the child, but this is not made clear enough or not adapted to practise, such as the vague concept of coercive measure, confusing rules of detention and the diffuse border between voluntarism and coercion. The police find solutions to carry out their work or legal duties when the legal framework or statutory law is not sufficiently clear and able to guide them. The police are generally solution-focused, and effective solutions are required in much of their migration law enforcement work. However, we also note how the actors (Swedish Police Authority and Swedish Migration Agency) mainly put emphasis on trying to apply the law in an instrumental way while they may lack a full understanding of how the asylum process affects young people's emotional lives. Encountering different actors in the asylum process exposes the minors to parallel processes, with which they must cope. While these young people report how harmed they have been by what they were exposed to by migration officials, those officials’ reasoning around whether or not the law is working as it should. The fact that these young people are at a sensitive developmental age, adolescence, and undergo such difficult experiences probably affects their self-esteem and view of their environment and world, for better or worse.

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The Swedish Parliamentary Ombudsman (JO). Decision JO 2006/07 p. 54.


