

The Rights of the Boy on the Beach

Proposing a children's rights-based approach to news reporting on migrant children



Leiden University

Faculty of Law

Masters of Law: Advanced Study of International Children's Rights

2021-2022

Name:

Declaration statement



Date: 31st June 2022

Location:

Declaration Statement

I further hereby certify that this is an original work, that this thesis does not contain any materials from other sources unless these sources have been clearly identified in footnotes, and any and all quotations have been properly marked as such and full attribution made to the author('s) thereof.

I further authorise Leiden University, the Faculty of Law, the Master of Laws: Advanced Studies in International Children's Rights, its Programme Board and Director, and/or any authorised agents of the Institution, and persons named here in and above, to place my thesis in a library or other repository including but not limited to associated websites, for the use of the visitors to or personnel of said library or other repository. Access shall include but not be limited to hard copy or electronic media

Name (typed):

Student ID Number:

Signature:

Table of Content

Acknowledgements	iii
List of Abbreviations.....	iv
Executive Summary.....	v
Key Words	vii
Overview of Main Findings	viii
Chapter 1: Introduction.....	1
1.1 Media and Children in Migration.....	1
1.1.1 Media Engagement in Europe.....	2
1.2 Research Question.....	3
1.3 Justifications	3
1.3.1 Migrant Children.....	3
1.3.2 Aspects of Media	4
1.3.3 Geographical Region	4
1.4 Methodology.....	4
1.5 Structure	5
Chapter 2: Children’s Rights Framework.....	6
2.1 Introduction.....	6
2.2 Rights Framework.....	6
2.2.1 Article 2: Non-Discrimination	7
2.2.2 Article 3: Best Interests of the Child	8
2.2.3 Article 12: The Right to be Heard.....	9
2.2.4 Article 13: Freedom of Expression	9
2.2.5 Article 16: The Right to Privacy	9
2.2.6 Article 17: Access to Information.....	10
2.2.7 Other Developments from the Committee on the Rights of the Child	10
2.3 The Role of Duty Bearers from the Perspective of the Committee.....	11
2.4 Other Rights Developments in the European Context	14
2.5 Conclusion	15
Chapter 3: Balancing Freedom of Expression in News Media.....	16
3.2 Introduction.....	16
3.2 Freedom of Expression in International Law.....	16
3.3 Functions of News Media Under Article 10	17
3.4 The Balance with the Right to Private Life	17
3.5 Conclusion	20
Chapter 4: Trends in Reporting	21
4.1 Introduction	21
4.2 Polarising.....	21
4.1.1 Hostile.....	22
4.1.2 The risk of exploitation for the purpose of awareness raising.....	24
4.2 No Voice.....	26
4.3 Dehumanising	28
4.4 Conclusion	30

Chapter 5: Conclusions and Proposing Recommendations	32
5.1 Possible Interventions in the International Children’s Rights Framework: Forms	32
5.2 Proposed Content of the General Comment	33
I. Objective.....	34
II. General Measures of Implementation.....	34
A. Considerate Reporting.....	34
B. Depoliticise the Context.....	35
C. Definitions.....	35
D. Criteria and Consent for Interviewing Children and Using Photographs.....	36
E. Best Interest of the Child.....	36
III. Dissemination.....	37
5.3 Reflections and Looking Forwards	38
Annex No.1	39
Annex No.2	58
Bibliography	60

List of Abbreviations

ECHR – European Convention on Human Rights

CRC/The Committee – Committee on the Rights of the Child

UNCRC – United Nations Convention on the Rights of the Child

ECtHR/European Court – European Court of Human Rights

GC – General Comment

ICCPR – International Covenant on Civil and Political Rights

IFJ – International Federation of Journalists

NM – News Media

UK – United Kingdom

UNHCR – United Nations High Commissioner for Refugees

Executive Summary

This research examines the extent to which the current children's rights framework ensures the respect, protection, and fulfilment of the rights of migrant children who are subjects of news. It aims to establish how news media can violate the rights of migrant children, proposing a children's rights-based approach to reporting on migration which addresses the lacuna that currently exists in the international framework and provides a more equitable balance between the rights and interests of migrant children and news outlets.

Chapter 2 outlines the international children's rights framework. It explores the interpretation and application of the guiding principles of the UNCRC, including the right to non-discrimination, the best interest principle, the right to be heard. Beyond this, it also provides an overview of children's civil and political rights, such as the right to freedom of expression, the right to privacy and the right to access information. This chapter outlines how each of these rights are relevant to the context of migrant children who feature in news media, and what the gaps are in the development of these rights at the international level. It outlines developments beyond just the rights contained in the Convention, such as the 1996 Day of General Discussion and the Oslo Challenge, as well as other relevant sources of international law. It also explores how the Committee on the Rights of the Child interprets and elaborates on the concept of duty bearers in the UNCRC. Analysis of their position illustrates that although there is a well-established duty on news media to assist in the implementation and awareness raising of children's rights, there is not sufficient address of how news media can violate the rights of migrant children.

Chapter 3 explores the other rights interests involved when news media report on migrant children's rights, primarily the right to freedom of expression in the media as applied by the European Court of Human Rights, under article 10 of the European Convention on Human Rights. The right to freedom of expression in the media is afforded broad protection under article 10 because of the European Court's interpretation of the role of news media as 'public watchdog'. As such, there is very little speech that is not protected under this right in the context of news media. There is very little case law that involves migrant children, and therefore it is unclear how the balancing of the right to children's privacy, and the other heightened protections contained in the UNCRC might affect the balance between the right to freedom of expression and the right to privacy. Speech that might represent a violation of children's rights if protected by the broad application of freedom of expression, and any recommendations proposed must be mindful of the duty on news media to facilitate information exchange.

Chapter 4 analyses some key trends in news media reporting on migrant children that represent a violation of children's rights. It explores how both hostile reporting involving migrant children, particularly adolescent boys can promote stereotypes that contribute to violations of article 2 of the UNCRC. It demonstrates the fine line between using photographs of children in vulnerable situations to raise awareness and demonstrate the reality of migrant children's situation and using images to serve their own economic interests and the implications of this on the child's right to privacy. The lack of meaningful participation of migrant children despite their frequent feature in mainstream news media, and the use of dehumanising and legally incorrect language, are also examples of how the media can violate the rights of migrant children contained in the UNCRC, particularly articles 12, 13 and 17. It also illustrates the violations that occur because of the gaps in the legal framework, and how the media can violate children's rights.

Chapter 5 provides conclusions on the outcomes of the research. The severity and broad reach of the problematic relationship between migrant children and the media leads to the conclusion that this *must* be addressed at the international legal level. Proposals are made about the form that recommendations from the Committee should take based on the options provided by their mandate.

The final recommendations are proposed as a separate General Comment based on the standard structure used by the Committee. It provides explicit recognition of how news media can violate the rights of migrant children and provides a framework that should be adopted by news media outlets into their internal practices to ensure children's rights are properly considered in all stages of the process of producing publications. It is concluded that although the research process has been complex and frustrating because of the lack of recognition and the scale of the problem, it has showed that it is possible for children's rights to be equitably balanced against freedom of expression. It is hoped that this field of law will develop to not only protect the rights of migrant children more effectively, but all children who are involved in news media. It is also hoped that the recommendations made can be a starting point to consider other factors, such as the role of social media and the impact of 'fake news'.

Key Words

Children's rights, media and communications, freedom of expression, non-state actors, migration.

Overview of Main Findings

This research contributes to the field of research and understanding of the subject by connecting research from the schools of media and communication studies, with that of legal studies. There is a plethora of research in the fields of media, sociology, and politics on how the news reports on migration and why this can be problematic, and there is legal research on the how the media can violate other human rights. The purpose of this research is to fill the lacuna that exists around how news media can violate children's rights and contribute to addressing the lack of proper realisation.

It also identifies what is lacking in the rights framework. It identifies the failure by the CRC to consistently and comprehensively consider how the media can violate rights and provides suggestions to ensure State parties are held accountable to their duties to enforce children's rights standards. In addition to this, the broad interpretation of freedom of expression of the media is identified as a factor that contributes to children's rights being violated. It affords protection to reporting styles that are problematic from a children's rights perspective. When balancing the right to freedom of expression with the right to privacy, the European Court has not sufficiently accounted for the specific vulnerabilities and heightened protections afforded to children, particularly migrant children, under the UNCRC. Both factors contribute to rights violations, which are then exemplified by analysis of key trends in reporting across Europe which violate children's rights.

In completing this study, the research also contributes practical solutions which develops the children's rights framework in the context of migrant children in news media. There are two aspects to the recommendations. Firstly, a proposal for how the CRC can fill the gaps in the rights framework using its mandate to produce General Comments, a Day of General Discussion, and the Concluding Observations. Secondly, based on the analysis of the rights violations for migrant children caused by the news media that occur in Europe, because of the gaps in the framework and the broad reading of the right to freedom of expression, guidelines are proposed. They are suggested with the intention that they will be proposed by the CRC to provide greater legal significance and ensuring they are properly implemented, and being used by news media outlets in their own journalistic and editorial practices to minimise the negative impact of reporting on the rights of migrant children.

It also offers some reflections moving forward in this field. Despite a concerning lack of attention and address at the international legal level, there have been some developments that prove hopeful in ensuring the appropriate realisation and protection of these rights in the future. There is increasing public scrutiny of the media at the national level, and the exponential growth of information sources means that there is at least the possibility to access news from a wide range of sources that will present diverse perspectives. It is also hoped that in the future this field of research will be developed to consider the role of social media and the responsibility of third parties in the global context.

Chapter 1: Introduction

1.1 Media and Children in Migration

There has been consistent media attention documenting and commenting on the migrant crisis throughout Europe, which both supported and opposed the increasing rates of refugees and asylum seekers. The nature of the documentation of migrant children in the news during this period is exemplified by the publication of the photograph of Alan Kurdi, a 3-year-old-boy who had fled Syria with his parents and older brother Galip, that were published on 2nd September 2015. Photos of his body, lying face down on a beach in Turkey, were published by media outlets across the world. There were diverse responses to the use of the photograph. It sparked an unprecedented outcry of support for refugees and asylum seekers across Europe. Many felt it was justified to demonstrate the extent of the migration crisis and transform the European response to migration.¹ Interestingly, despite the intention to transform responses to migration, studies found that only 9% of those who reported seeing the image stated that they would support more Syrian refugees being allowed into the country.²

At the same time, there was increasing hostility towards people from migration backgrounds. There was promotion of the idea that Europe has a greater proportion of refugees than was legally required, who were predominantly economic migrants who have travelled illegally.³ This is incorrect, but it was nevertheless weaponised to promote a negative discourse around migration. Images of adolescent migrant children are often used alongside such headlines which question the validity of both their status as a refugee and as a child.⁴ The UN High Commissioner for Refugees warned in 2015 that the rhetoric around refugees at this time was reminiscent of the 1938 summit before the Holocaust.⁵ A study by the UNHCR found that it was far more likely for migrants to be framed negatively, rather than highlighting the benefits.⁶

The EU migrant crisis, starting in 2015 because of conflicts in Syria, Afghanistan, and Iraq, saw nearly 5.2 million refugees and migrants arriving in Europe before the end of 2016. Migrants attempting to enter the EU increased by 83% in 2015, compared to the same period in 2014.⁷ In 2021, more than 114,000 people attempted to reach Europe, 40% of which were women or children. 3200 of those

¹ Farida Vis, Olga Goriunova (eds), 'The Iconic Image on Social Media: A rapid search response to the death of Aylan Kurdi*' (Visual Social Media Lab, December 2015).

² United Nations High Commissioner for Refugees, 'Press Coverage of the Refugee and Migrant Crisis in the EU: A Content Analysis of Five European Countries' (UNHCR, December 2015), pg. 3.

³ Amnesty International, 'The Human Cost of Fortress Europe' (*Amnesty International*, 9 July 2014) <<https://www.amnesty.org/en/documents/eur05/001/2014/en/>> accessed 27/03/2022.

⁴ See: Sue Reid, 'Just how old do you think these migrant 'children' are? Alarming pictures of refugees - including 'the fastest 14-year-old in Sweden' - that shed light on a growing scandal amid Europe's asylum crisis' (*Daily Mail*, 29 January 2016) < <https://www.dailymail.co.uk/news/article-3422000/Just-old-think-migrant-children-Alarming-pictures-shed-light-growing-scandal-amid-asylum-crisis.html>> accessed 22/06/2022.

⁵ Office of the High Commissioner on Human Rights, 'UN Human Rights Chief urges U.K. to tackle tabloid hate speech, after migrants called "cockroaches"' (*OHCHR*, 24 April 2015) <<https://www.ohchr.org/en/press-releases/2015/04/un-human-rights-chief-urges-uk-tackle-tabloid-hate-speech-after-migrants?LangID=E&NewsID=15885>> accessed 23/03/2022.

⁶ UNHCR, (n 2) p. 5.

⁷ United Nations High Commissioner for Refugees, 'Press Coverage of the Refugee and Migrant Crisis in the EU: A Content Analysis of Five European Countries' (UNHCR, December 2015), pg. 3.

attempting to cross, died or remain missing.⁸ The large increase of refugees and asylum seekers led to a drastic increase in media coverage of migration issues. The depiction of migrant children in the media between 2014-2022, and its impact on their rights, is the central topic of this thesis.

The nature of migration law is unique. It represents an intersection between national and international politics.⁹ As such, media engagement with the migrant crisis was extremely varied between positive and negative publication. The UNHCR acknowledged the relationship between the media and agenda setting in the context of migration, particularly how the media frames debates and analysis of migration.¹⁰ As summarised by Roger Silverstone, 'the media provides a primary framework for people's understanding of the world.'¹¹ Hostility in the media often translates into an increasing hostility politically because it influences the public perception of migration and has an impact on voting preferences.¹² For this reason, it is the context of analysis for this research. The treatment of refugee and asylum-seeking children provides a very clear example of the potential violations that can occur in the media.

1.1.1 Media Engagement in Europe

The EU migrant crisis occurred at a time when the role of the media was rapidly evolving, and it played a huge role in influencing public perception. Moore (1978) stated that 'law and the social context in which it operates must be examined together.'¹³ A study by the Directorate-General for Communication on media habits and news consumption in the European Union, at the time including the United Kingdom, found that 81% of respondents watched TV, including news as well as other programmes, at least once a day (either via the internet or on a TV set). 69% used the internet at least once a day, and 80% at least once a week.¹⁴

Annex No.2 provides data to illustrate the significance of news media (NM) in the European Union.¹⁵ It is clearly an integral part of daily life and constitutes a central source of information. It also provides a useful illustration of the relationship between the public and media coverage of immigration. Belief in media reporting varies greatly depending on the impartiality of reporting, and the State's approach to migration. For example, in the UK where there is less trust in news media, there is a greater range

⁸ United Nations High Commissioner on Refugees, 'Refugee Crisis in Europe' (UNHCR, 2021) <<https://www.unrefugees.org/emergencies/refugee-crisis-in-europe/>> accessed 24/03/2022.

⁹ Gary Freeman, 'Migration Policy and Politics in the Receiving States' (1992) 26(4) *The International Migration Review* 1144.

¹⁰ *UNHCR Report* (n 2), p. 5.

¹¹ Shani Orgad, 'The Internet as a Moral Space: The Legacy of Roger Silverstone' (2007) 9(1) *New Media & Society* 33.

¹² Jakob-Moritz Eberl, Christine Meltzer, Tobias Heidenreich et al, 'The European media discourse on immigration and its effects: a literature review' (2018) 42(3) *Annals of the International Communication Association* 207.

¹³ Sally Falke Moore, 'Law and Social Change: The semi-autonomous social field as an appropriate subject of study' (1973) *Law and Society Review* 71.

¹⁴ Directorate-General for Communication, 'Media Use in the European Union' (Standard Eurobarometer Report) 94 Autumn 2019, November 2019.

¹⁵ Annex No.2.

between positive and negative styles of reporting. Comparatively, Sweden has greater trust, and a greater proportion of humanitarian responses.¹⁶

1.2 Research Question

In light of the above, the primary research question is: to what extent does the current children's rights framework ensure the respect, protection and fulfilment of the rights of migrant children who are featured in the news?

The aim of the research is to create a children's rights-based approach to media reporting of children in migration, which can be published by Committee on the Rights of the Child using the mandate under Part II of United Nations Convention on the Rights of the Child (UNCRC).¹⁷

To answer the research question, these are the supplementary research questions:

1. What does the United Nations Convention on the Rights of the Child, and the international children's rights framework, say about the rights of migrant children who are featured in the media? What gaps exist in this legal framework?
2. What are the rights and duties of news media organisations? How does this affect the rights of migrant children?
3. What are some examples of violations of the rights of migrant children because of their involvement in news media, that are missing from the rights framework? How has the interpretation of freedom of expression exacerbated these violations?
4. Based on this, how can the Committee address the gaps in the legal framework and what conclusions can be drawn?

1.3 Justifications

Given the potential breadth of the topic, it is important to establish parameters and justify these decisions.

1.3.1 Migrant Children

Migrant children have been chosen as a focus because they are often the subject of reports on migration to stimulate a particular response from the public. Although other children who have been subject to problematic treatment in the media, particularly children in the justice system, have been addressed by the CRC in previous General Comments,¹⁸ the impact of NM on the rights of migrant children has never been addressed. They are also chosen because they have a unique dependence on State parties to provide services that allows them to access their rights. Migrant children are more vulnerable in this sense and have a high level of dependence on State parties to ensure national policies allow them to access their rights. Children are defined using article 1 of the UNCRC; those below the age of 18. It is unnecessary, for the purposes of this research, to differentiate between the treatment migrant children based on their migration status (for example, whether they are seeking asylum or have arrived with refugee status), or whether they are accompanied or unaccompanied.

¹⁶ Directorate-General for Communication, 'Media Use in the European Union' (Standard Eurobarometer Report) 92 Autumn 2019, November 2019.

¹⁷ United Nations Convention on the Rights of the Child, adopted 20 November 1989, entered into force 2 September 1990) 1577 UN 3 (UNCRC).

¹⁸ See: UN Committee on the Rights of the Child, 'General Comment No.10 (2007): Children's rights in juvenile Justice (2007)', CRC/C/GC/10.

Therefore, the term 'migrant children' will be used to represent both refugee and asylum-seeking children, although it is recognised that this kind of generalisation contributes to issues of misrepresentation.

1.3.2 Aspects of media

This research focuses on NM. For the purposes of this paper, NM is defined as non-state organisations whose aim is to distribute information to the public. This includes TV, internet, and print media (both 'tabloid' news and broadsheets),¹⁹ but not radio. Although this research does include internet publications from NM organisations, it does not include posts via their social media platforms. Social media is discarded because it introduces complexities about the extent to which the third-party platforms are responsible for monitoring content shared on its platform, which is beyond the scope of this research. State-controlled news media is not included because a central aspect of the research is how duties are enforced on non-state actors. They are also meant to represent a 'neutral' or 'impartial' source of information, although it must be noted that most news outlets have open political biases.²⁰ The political bias of the news sources used, although important to recognise, are not central to the analysis. As mentioned, the nature of migration law is that it allows for more political discretion than other aspects of international human rights law.

1.3.3 Geographical and Temporal Scope

Europe has been chosen as the geographical scope for this research because it illustrates the differences that occur between countries belonging to one regional system. Even though there is guidance available that regional bodies have endorsed,²¹ the national responses to migration have been very varied, and this is reflected in news coverage of the migrant crisis. Examples will also be drawn from the UK as it has the most polarised NM responses to migration,²² and because migration has caused a great deal of internal turbulence, for example its role in the outcome of the Brexit Referendum.²³ The frame of analysis is between 2014-2022. This period is chosen as it represents the start of the migration crisis and a period of higher engagement with migration issues, as well as a wide range of approaches towards migration.²⁴

1.4 Methodology

This thesis uses desk-based research. This includes sources of hard international law, primarily the UNCRC. It also uses regional sources of law such as jurisprudence from the European Court of Human Rights (ECtHR). The research takes a multi-disciplinary approach, drawing on both legal sources, and those produced by the academic fields of media and communications, sociology, and psychology. It also relies on soft law guidance such as General Comments and Concluding

¹⁹ Terry Threadgold, 'The Media and Migration in the United Kingdom, 1999-2009' (2009) Transatlantic Migration Policy Institute, p. 2-3.

²⁰ *UNHCR Report* (n 2), p. 24.

²¹ See International Federation of Journalists, 'Child Rights and Media: Putting Children in the Right' (*International Federation of Journalists*, 2002).

²² *UNHCR Report* (n 2), p. 10.

²³ Debora Sogelola, 'Brexit, Agenda Setting and Framing of Immigration in the Media: The Case of the Daily Mail' (2018) 1 London School of Economics Undergraduate Political Review 128.

²⁴ The Migration Observatory, 'A Decade of Immigration in the British Press' (*The Migrant Observatory*, 7 November 2016).

Observations from the Committee on the Rights of the Child (CRC) and the United Nations High Commissioner for Refugees (UNHCR). This includes analysis of all 25 of the CRC's General Comments to establish the Committee's position on refugee children in the media, and its potential implications for the realisation of their rights. Annex No.1 analyses mentions of 'media' across all 25 General Comments. This term was chosen as it was used by the Committee as an umbrella term and includes news outlets. I also used the search terms 'migra', 'immigra', 'refugee', 'asylum seeking', 'asylum seeker' and 'unaccompanied', but chose not to create an annex as references to these terms occurred in a broad array of contexts throughout the General Comments which did not contribute to the overall research of this thesis. Results of 'social media' that arose were not included in the annex.

1.5 Structure

Chapter 1 provides the context behind the research, explains the research questions and methodology, and supports the research decisions made. Chapter 2 outlines the international legal framework. It expands on the rights that are relevant in this context and highlights the gaps that exist in the international children's rights framework. Chapter 3 explores the right to freedom of expression of NM and how this would affect the position taken in any guidance. Chapter 4 analyses key trends in media reporting from a children's rights perspective. It highlights the violations that are caused by NM, and the consequences of the gaps in the international framework and the incorrect balancing of competing interests. Chapter 5 draws together analysis from the previous chapters, to reach a conclusion about what exactly needs to be addressed by the CRC to fill the gaps in the children's rights framework and encourage a fairer balance to be struck between the rights of migrant children and those of NM. Key reflections about the limitations on the CRC, the realistic position of children's rights on the global agenda and the impact of the politicisation of migration.

Chapter 2: Children's Rights Framework

2.1 Introduction

This chapter establishes the international children's rights framework applicable when migrant children are featured in news media as contained in the UNCRC. It contributes to understanding the extent to which the current framework adequately respects, protects, and fulfils the rights of migrant children when featured in the news. It aims to illustrate how the relevant rights are constructed at the international level from this perspective, and more importantly highlights the 'gaps' that exist in the children's rights framework. Primarily, the CRC has failed to adequately address how NM can violate the rights of migrant children. Based on analysis of all 25 General Comments and relevant Concluding Observations, it is concluded that there is a lack of sufficient connection between the rights themselves and the role of NM in violating these rights through the production of publications. Whilst the CRC clearly envisages media as a duty bearer in the implementation of children's rights through the promotion of children's rights issues on national agendas and support awareness-raising, the CRC does not adequately address how NM can violate these rights. Analysis shows that the CRC are failing to sufficiently expand on children's rights in this context so as to allow State parties to properly implement the children's rights framework.

2.2 Rights Framework

The UNCRC was adopted on 20th November 1989 and entered into force on 2nd September 1990. At the time of writing, it has been ratified by 196 State parties, including all European countries. The rights contained apply to all children. Children are defined as persons below the age of 18, unless they reach the age of majority under applicable law.²⁵ The UNCRC allows for flexibility depending on cultural context. Alston (1994) recognised that although not perfect, the UNCRC is more sensitive to different approaches and perspectives than most other human rights treaties.²⁶ This is important beyond the European context because it allows for flexibility in ensuring children's rights are being respected and promoted through establishing guidelines, regardless of which perspective on migration is taken.

Children required a separate convention of rights because their dependence on others to fulfil their basic needs means children have heightened vulnerabilities. Children are also excluded from democratic processes which makes it harder to defend their interests.²⁷ Special protections are afforded to the most vulnerable groups of children, including migrant children. They are particularly vulnerable because of their heightened dependence on State parties for access to their rights; many migrant children do not have independent adults such as parents to contribute to, and advocate for, their rights. This heightened dependence on the State makes it even more important that the CRC ensures States are striving to fulfil *all* their rights.

²⁵ UNCRC (n 17), article 1(1).

²⁶ Phillip Alston, *Best interests of the child: Reconciling culture and human rights*, (1st Edn, Clarendon Press 1994).

²⁷ Michael Foley, Noirin Hayes, Brian O'Neill, 'Children's Rights and Journalism Practice: A Rights-Based Perspective' (2008) UNICEF, Dublin Institute for Technology.

There are three optional protocols to the Convention which establish further rights relating to children involved in armed conflict,²⁸ the sale of children, child prostitution and child pornography,²⁹ and a protocol for the individual communications procedure.³⁰

There is no right to be portrayed accurately in the media. However, there are several other elements of the UNCRC that are affected in the context of migrant children and NM, which are now outlined.

2.2.1 Article 2: Non-Discrimination

Article 2(1) UNCRC requires State parties to respect and ensure the rights in the UNCRC without discrimination, regardless of race, nationality or 'other status.' This research is concerned with acts of direct discrimination between the media and children, as opposed to indirect discrimination.³¹ Besson (2005) suggests that migrant children suffer discrimination on a two-fold basis, resulting from both their status as a child and their membership in a specific group (in this context, their migration status).³² For example, the Committee has previously recognised that hostility in the media and negative attitudes towards adolescents can be an underlying cause of rights infringements under article 2.³³

Discrimination can occur on three levels: between children and adults, between children and young adults, and between groups of children through unequal access to rights.³⁴ In terms of discrimination against children from adults, protection is afforded under article 2(2) against discrimination based on the actions of their parents. This is because it recognises the child as both an independent rights holder entitled to the same protection as adults, while addressing their vulnerabilities that arise from their dependence on adults.³⁵ In terms of discrimination between children, they are entitled to equal access to the rights contained in the UNCRC, and non-national children can invoke article 2 even where their status in a country is irregular. This is an important consideration when evaluating the impact of NM on the right to privacy (article 16), the right to be heard (article 12) and the right to freedom of expression (article 13). Equal access to these rights can be negatively impacted by NM and how it engages with migrant children. The media can contribute to discrimination against children through promoting and embedding stereotypes and reinforcing hostilities towards certain groups of children, even excluding some groups from society altogether.³⁶

²⁸Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (adopted 25 May 2000, entry into force 12 February 2002) A/RES/54/263 (OPAC).

²⁹Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (adopted 25 May 2000, entry into force 18 January 2002) A/RES/54/263 (OPSC).

³⁰Optional Protocol to the Convention on the Rights of the Child on a communications procedure (adopted 19 December 2011, entry into force 27 January 2012) A/RES/66/138 (OPIC).

³¹Oran Doyle, 'Direct Discrimination, Indirect Discrimination and Autonomy' (2007) 27(3) *Oxford Journal of Legal Studies* 537.

³²Samantha Besson, 'The Principle of Non-Discrimination in the Convention on the Rights of the Child' (2005) *The International Journal of Children's Rights* 433, p. 443.

³³Committee on the Rights of the Child, 'Concluding Observations: United Kingdom of Great Britain and Northern Ireland' (2008) CRC/C/GBR/CO/4, [24].

³⁴Ibid, p. 445.

³⁵Besson (n 32), p. 443.

³⁶Sarah Muscroft, 'Children's Rights: Equal Rights? Diversity, Difference and the Issue of Discrimination' (London: The International Save the Children Alliance, 2000).

The scope of article 2 is still subject to much debate and discretion, particularly compared to non-discrimination clauses in other treaty bodies which benefit from the clarity provided by a specific General Comment which elaborates on non-discrimination in a specific context, such as the Committee on Social, Economic and Cultural Rights.³⁷ Non-discrimination under article 2(2) of the UNCRC provides a higher degree of protection to minors because it is directly enforceable as a standalone right.³⁸ The only other example of this is article 26 of the International Covenant on Civil and Political Rights. In other conventions such as article 14 of the European Convention on Human Rights, article 2(1) of the International Covenant on Economic, Social and Cultural Rights and article 2(1) of the International Covenant on Civil and Political Rights, the right to non-discrimination is non-autonomous and must be read alongside a breach of another right contained within the relevant convention. Although this is the same with article 2(1) of the UNCRC, direct claims to be brought under article 2(2).³⁹

2.2.2 Article 3: Best Interests of the Child

Article 3 UNCRC ensures that in all actions concerning children, undertaken by both public *and* private bodies, their best interests shall be a primary consideration. The principle of best interests is a three-fold concept; a substantive right, a rule of procedure and a rule of interpretation.⁴⁰ General Comment No.14 elaborates on the best interests principle and the CRC recognises that proper implementation requires State parties to utilise the media to challenge negative perceptions and attitudes that prevent proper assessment of a child's best interests as a primary consideration. It is also clear that proper construction of the best interests of the child requires children to be recognised as rights holders.⁴¹ However, development falls short of recognising how NM are also required to act in the best interests of all children.

Appropriate application of the best interests principle is a complex issue. Cantwell (2016) is critical of how best interest is implemented, arguing that it has now a 'paternalistic and charitable notion in the implementation of the human rights of children.'⁴² This is important to consider because charitable approaches to migrant children are frequent in the media, and incorrect constructions of the best interest principle will only embed this further by over emphasising the role of adults acting in 'good faith', rather than recognising the implementation of rights as a duty. Making a best interest evaluation in this context is complex but essential, and proper consideration of best interests requires unique

³⁷ Committee on Economic, Social and Cultural Rights, 'General Comment 20: Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights) (2009) E/C.12/GC/20.

³⁸ Besson (n 32), p. 446.

³⁹ Samantha Besson, Eleonor Kleber, 'Article 2: The Right to Non-Discrimination' in John Tobin, Philip Alston (eds), *The UN Convention on the Rights of the Child: A Commentary* (Oxford University Press 2019)p. 53.

⁴⁰ Noam Peleg, 'International Children's Rights Law: General Principles' in Ursula Kilkelly, Ton Liefwaard (eds), *International Human Rights of Children* (Springer 2019), 142.

⁴¹ Committee on the Rights of the Child, 'General Comment No.14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1) (2013), CRC/C/GC/14, [15].

⁴² Nigel Cantwell, Are Best Interests a Pillar or a Problem for Implementing the Human Rights of Children, in Julia Sloth-Nielsen, Ton Liefwaard (eds), *The United Nations Convention on the Rights of the Child: Taking Stock after 25 Years and Looking Ahead* (Brill 2017).

evaluations in each individual case. The UNHCR has produced guidelines which expand upon determining the best interest of the child in the context of children involved in migration.⁴³

2.2.3 Article 12: The Right to be Heard

Article 12 UNCRC requires State Parties to assure that children capable of forming their own views are given the right to express such views freely and give due weight to those views in accordance with the age and maturity of the child. In General Comment No.12, the CRC recognises the two-fold role of the media to both promote awareness of article 12, but also to provide a platform for children to express their views.⁴⁴ They also recommend the use of the media to 'combat negative attitudes which impede the full realisation of the child's right to be heard' and 'to change widespread customary conceptions of the child.'⁴⁵ Article 12 is central to this context, because children have a right to be heard in matters concerning them, including their involvement in NM. The media also represents a platform for children to express their views on a subject, for example their experiences of migration.

Article 2, 3, and 12, along with article 6 which protects the right to survival and development, are the 'general principles' of the UNCRC. The notion of general principles to the convention is founded in the CRC 1991 Guidelines, which establishes the need for all other articles contained within the Convention to be interpreted in line with those 4 provisions.⁴⁶ Hanson and Lundy (2017) question the benefit of elevating these rights, particularly as this was never considered during the drafting of the Convention.⁴⁷ The general principles nonetheless remain an important aspect of implementing children's rights. In this context, they are influential in the application of articles 13, 16 and 17.

2.2.4 Article 13: Freedom of Expression

Article 13(1) UNCRC provides the right to freedom of expression. This includes the freedom to receive, seek and impart information and ideas through different mediums. Limitations are permitted through article 13(2), but only to protect the reputation of others, or national security. The right to freedom of expression is essential given children's exclusion from democratic processes. Articles 12 and 13 are closely associated participatory rights contained in the UNCRC, and article 13 has a similar relationship with NM to article 12, in that the media represents an opportunity for children to express their views and actively participate in society. It is important to remember that freedom of expression exists for migrant children, as well as NM.

2.2.5 Article 16: Right to Privacy

Article 16 UNCRC protects the right to privacy, and freedom from unlawful attacks on their honour or reputation. This applies horizontally, meaning that it applies to situations between children and private

⁴³ United Nations High Commissioner for Refugees, 'UNHCR Guidelines on Determining the Best Interests of the Child' (*UNHCR*, May 2008) < <https://www.unhcr.org/protection/children/4566b16b2/unhcr-guidelines-determining-best-interests-child.html/>> accessed 30/05/2022.

⁴⁴ Committee on the Rights of the Child, 'General Comment No.12 (2009) The right of the child to be heard (2009)', *CRC/C/GC/12* [83].

⁴⁵ *Ibid*, [49].

⁴⁶ Committee on the Rights of the Child, 'General Guidelines Regarding the Form and Content of Initial Reports To Be Submitted by State Parties Under Article 44 paragraph 1(a) of the Convention' (1991) *CRC/C/5*, [13].

⁴⁷ Karl Hanson, Laura Lundy, 'Does exactly what it says on the tin? A Critical Analysis and Alternative Conception of the So-Called "General Principles" to the Convention on the Rights of the Child' (2017) 25 *International Journal of Children's Rights* 285, 287.

actors, as well as the State. Article 16 implies an obligation to protect children from undue publicity, labelling the child or publishing information leading to identification of the child, and that journalists who violate these protections should be sanctioned through disciplinary and sometimes penal law actions.⁴⁸ The Committee has emphasised the particular importance of protecting confidentiality of information for children in migration,⁴⁹ but they have said little about migrant children's right to privacy in NM, which is deeply concerning considering the breadth of freedom of expression in NM. There is little guidance from the CRC as to how these competing interests might be balanced.

The Council of Europe has published guidance as to how NM can respect the right to privacy. It recognises that, particularly in the content of photojournalism for tabloid news sources, there is often a lack of ethical practices which can result in potential violations of the right to privacy or constitute acts of persecution.⁵⁰ The right to privacy is considered in other international sources of law, such as article 17 of the ICCPR which has the same wording as article 16 UNCRC. It also falls within the scope of the right to private and family life, under article 8 of the ECHR.

2.2.6 Article 17: Access to Information

Article 17 UNCRC is the most explicit recognition of the relationship between NM and children's rights, recognising the role of the mass media in ensuring that children can realise the right to access to information. NM is central in realising the right to access information by providing materials from a diverse range of sources, and ensuring there are resources available which are free from political interests.⁵¹ It also requires State parties to protect children from accessing harmful materials, such as discriminatory or exploitative material, as well as 'false narratives, misinformation and dis-information.'⁵² In protecting children from such sources, it is important to strike an appropriate balance with article 13. General Comment 25 emphasises the importance of appropriate regulation of NM when publishing materials relating to children because they are still developing critical thinking skills that allows them to analyse the reliability and impartiality of information. As such, article 17 could be argued to impose a duty to ensure regulation of materials relating to children, including news publications, that reflects children's lack of critical analysis skills. However, this link is missing from the current international framework.

2.2.7 Other Developments from the Committee on the Rights of the Child

The Committee on the Rights of the Child also hosted a Day of General Discussion in 1996 which explored children in the media. Although the role of the media and the way it is accessed in the present day is completely different to 1996, it does highlight some fundamental principles that are

⁴⁸ Wouter Vandenhoe, 'Article 16: The right to privacy' In Wouter Vandenhoe, Türkelli, Gamze Erdem Sara Lembrechts (eds) *Children's rights: a commentary on the convention on the rights of the child and its protocols*, (Elgar 2019).

⁴⁹ Committee on the Rights of the Child, 'General Comment No.6 (2005): Treatment of unaccompanied and separated children outside of their country of origin (2005), CRC/GC/2005/6, [29].

⁵⁰ Council of Europe, 'Guidelines on Safeguarding Privacy in the Media' (*Council of Europe*, October 2018) <<https://rm.coe.int/prems-guidelines-on-safeguarding-privacy-in-the-media-2018-/168090289b>> accessed 06/04/2022.

⁵¹ Committee on the Rights of the Child, 'General Comment No.25 (2021) on children's rights in relation to the digital environment', CRC/C/GC/25, [53].

⁵² *Ibid*, [54].

necessary 'foundations' for the relationship between the media and children and their rights. They discussed three key facets; how to develop possibilities for children to participate actively in the media, what can be done to protect children from harmful influences in the media and what can be done to encourage the media to contribute to improving the image of the child through their reporting. In particular, the importance of children's participation in media at all levels to avoid tokenism and ensuring that the context from which children came from was recognised.⁵³ It also highlighted that the media could play an essential role in the promotion and protection of children's rights, and that when doing so, professionals should be 'vigilant' in trying to safeguard the integrity of the child. They also highlighted the problems created by misrepresenting and stereotyping certain groups of children.⁵⁴ It is disappointing that these foundations have not been sufficiently developed by the CRC since 1996, because the fundamental ideas are still relevant, and proper development would have filled many of the gaps in the rights framework that have been identified.

The Oslo Challenge was also an important development in the legal framework around children in media. It was a call to action to recognise the role of media in the development and implementation in children's rights. It elaborated on what exactly the obligations were under articles 12, 13 and 17 of the UNCRC, and how State parties, private actors (including media corporations), NGOs, researchers, and children themselves can better implement the UNCRC. Three main areas were considered: how the media can impact the image of children, the participation of children in the media, and protection of harmful influences in the media. The Oslo Challenge provides a useful starting point when considering the extent of the obligations on each party involved in the implementation of children's rights in this context. For media professionals, the Challenge involved raising awareness about good practices, promoting ethical media practices to avoid sensationalism, and resisting commercial pressure that might result in children's rights becoming a 'low priority'.⁵⁵ This provided clarity as to how the rights framework can be constructed in this context, and how it relates to private media corporations. Disappointingly, the CRC failed to update the legal framework in light of the Oslo Challenge, despite the exponential growth of technology and how it has transformed the way news is accessed.

2.3 The Role of Duty Bearers from the Perspective of the Committee

The duty to implement children's rights is contained in article 4 of the UNCRC. All appropriate legislative, administrative and other measures must be undertaken for the implementation of children's rights. For socio-economic rights, State parties must progressively realise articles to the maximum of their available resources. However, most of the rights concerned by the scope of this topic are civil and political freedoms, for example the right to freedom of expression, the right to privacy and the right to access information, and such rights must be realised immediately. The CRC also recognises that regardless of the economic status of a country, they must take all reasonable steps towards rights realisation, paying particular attention to the most disadvantaged groups.⁵⁶ The Committee has also emphasised the importance of implementing children's rights to be seen as a process of legal obligation, rather than a charitable process or bestowing a favour upon children.⁵⁷ The introduction of children's rights monitoring bodies at the national level illustrates a change in the perceived place of

⁵³ Committee on the Rights of the Child, 'General Discussion on Media and the Child' (1996) CRC/C/15/Add.65.

⁵⁴ *Ibid.*

⁵⁵ MediaWise, 'The Oslo Challenge' (20 November 1999) < <http://www.mediawise.org.uk/wp-content/uploads/2011/03/Oslo-Challenge.pdf> > accessed 10/05/2022.

⁵⁶ Committee on the Rights of the Child, 'General Comment No.5 (2003) General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6), CRC/C/GC/5, [8].

⁵⁷ *Ibid.*, [11].

children in society, and the status of children's rights. This is important to underscore; the Committee recognises that appropriate rights realisation is essential to change perceptions of children and recognise their status as individual rights holders.

There are different duty bearers who are responsible for enacting the provisions of the Convention. As mentioned, State parties that have ratified the Convention have the primary duty to respect, protect and fulfil children's rights.⁵⁸ Article 4 is developed through General Comment No.5,⁵⁹ where the CRC explores the roles of other duty bearers. The Committee envisages implementation of the UNCRC as both a legal and societal process, with the media playing a central role in both aspects. At [59], the CRC recognises that the media can be 'valuable partners in implementation.'⁶⁰ Analysis of mentions of media across all General Comments highlights the following key functions of the media from the CRC's perspective.⁶¹

The Committee directly engages the media as a tool for promoting implementation of children's rights standards through *voluntary* engagement with rights issues from the media, with *stimulation* from civil society and NGOs.⁶² They also view the media as a tool to assist in the promotion of children's rights and raising awareness of rights violations, which is particularly evident in the General Comments which are targeted towards implementation measures such as No.5 and No.19.⁶³ It is also seen in relation to specific themes, such as in General Comment No.9 on Children with Disabilities,⁶⁴ and Joint General Comment No. 18 on Harmful Practices.⁶⁵ There are, however, far fewer mentions of how the media itself can violate children's rights. Most frequently, references are made to how media can engage with or contribute to harmful stereotypes which can inhibit the realisation of rights. Examples of this can be seen in in General Comment No. 10 on Children in the Juvenile Justice System,⁶⁶ and General Comment No.13 on Violence Against Children.⁶⁷ The most explicit references to migrant children featured in the media are in the Concluding Observations. In the 3rd and 4th Concluding Observations for Italy, the Committee highlighted the negative stereotypes and misrepresentations of migrant children, and how this harms the realisation of their rights.⁶⁸ Similarly, in the 4th reporting cycle

⁵⁸ Jaap Doek, 'The Human Rights of Children: An Introduction' on Ton Liefwaard, Ursula Kilkelly, *International Human Rights of Children* (1st Edn, Springer 2018).

⁵⁹ *General Comment No.5* (n 56).

⁶⁰ *General Comment No.5* (n 56).

⁶¹ Annex No. 1.

⁶² *General Comment No.5* (n 56), [70].

⁶³ See Annex No.1

⁶⁴ Committee on the Rights of the Child, 'General Comment No.9 (2006) The rights of children with disabilities', CRC/C/GC/9, [26].

⁶⁵ Committee on the Rights of the Child, 'Joint general recommendation/general comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on harmful practices', CEDAW/C/GC/31-CRC/C/GC/18, [74].

⁶⁶ *General Comment No.10* (n 18), [96].

⁶⁷ Committee on the Rights of the Child, 'General comment No. 13 (2011) The right of the child to freedom from all forms of violence', CRC/C/GC/13, [30].

⁶⁸ Committee on the Rights of the Child, 'Consideration of reports submitted by States parties under article 44 of the Convention: Concluding observations – Italy' (2011) CRC/C/ITA/CO/3-4, [32].

for the United Kingdom the Committee made the same observation about stereotyping in the media,⁶⁹ and reiterated this in the Concluding Observations from the 5th reporting cycle.⁷⁰ These are the most direct references made by the Committee to harmful practices of migrant children featuring in the media. However, there is little follow up to this from the CRC, and the use of the Concluding Observations makes it hard to establish a clear and traceable position from a child's rights perspective.

Finally, they also lack concrete guidance as to how State parties might proceed in addressing and guiding this relationship to ensure a greater compatibility with children's rights. On analysis of all General Comments, it is concluded that the Committee could be doing far more to guide State parties on how the media itself can violate rights. Although mentions of this theme evidence that it is clearly an issue, it does not reference the context of migrant children in the news whatsoever. Mentions of media are primarily focused on how they can assist the implementation of rights. Where there is discussion on how the media could contribute to rights violations, they are brief and there are few suggestions made as to how this could be remedied. Further, the failure to consistently address this is disappointing given the seriousness of the issue. Stereotyping is extremely harmful to children's rights and their development, but this is not reflected through the current rights framework. There are other issues in relation to NM and migrant children which are not addressed at all. To be addressed in Concluding Observations, CSOs and NGOs must report on the issue and highlight it to the CRC. The reporting process highlights an expansive range of issues to the CRC which must be carefully selected to include in the final Concluding Observations. However, reporting cycles are often extremely overpopulated with contributions from CSOs and NGOs, meaning it is very difficult to raise specific issues. As such, the fact that this issue does not feature is not a reflection on the severity of the matter in terms of its impact on children's rights.

The duty of the media must also be considered as a private business actor. The Committee have recognised that the duties to respect, protect and fulfil children's rights extend to apply to private actors. General Comment No.16 elaborates on the obligations that fall on private actors and business enterprises; 'All businesses must meet their responsibilities regarding children's rights and States must ensure they do so.'⁷¹ The CRC clearly envisages a relationship between children's rights and businesses. It is essential to recognise that non-state media outlets, as private business actors, fall within the scope of these obligations as well as the objectives that the CRC outlined as specific to the media. Collins (2014) suggests that businesses could no longer ignore their impact on children's rights, and highlights that the obligation is not only negative. In her view, General Comment 16 means businesses are also expected to 'do what it can to support children's rights.'⁷² Applying this to NM companies, first they are expected to not violate rights themselves, and secondly, to actively promote the appropriate implementation of rights. This reflects the position of the Committee that has emerged through analysis of the General Comments.⁷³ There are aspects of the Committee's guidance that illustrate how children's rights ought to be respected, fulfilled and protected by media corporations as private actors. In particular, the need for awareness-raising and sensitisation among business

⁶⁹ Committee on the Rights of the Child, 'Concluding Observations: United Kingdom of Great Britain and Northern Ireland' (2008) CRC/C/GBR/CO/4, [24].

⁷⁰ Committee on the Rights of the Child, 'Concluding Observations: United Kingdom of Great Britain and Northern Ireland' (2016) CRC/C/GBR/CO/5, [21(c)].

⁷¹ *General Comment No. 13* (n 67).

⁷² Tara M. Collins, 'The relationship between children's rights and business' (2014) *International Journal of Human Rights* 582.

⁷³ Annex No.1.

enterprises, to challenge and eradicate discriminatory attitudes 'towards all children, especially those in vulnerable situations.'⁷⁴ However, there is also an emphasis on the responsibility of State parties to introduce children's rights standards in legislative regulations that shape business activity. To this extent, there appears to be a fine line between how State parties are expected to implement children's rights through measures which influence business practices, and the obligations on the corporations themselves to act in accordance with the UNCRC. Translated to the current context, the primary obligation remains with the State parties to implement legislative frameworks that protect the interests of children in media reporting. At [58], the Committee encourages State parties to create guidelines that prevent harmful information circulating, particularly protection from portrayals that encourage discrimination. Media corporations are encouraged by the Committee to embed values and processes into their structures that respect and promote children's rights. They should be further encouraged by Government actors for State parties to act in accordance with children's rights and not actively violate rights, although the extent to which remedies are genuinely accessible in such cases of violation remains unclear and dependent on the national context and enforcement opportunities.

2.4 Other Rights Developments in the European Context

The related provisions, contained in other international conventions, have been referenced throughout this chapter for the sake of accuracy, but it is beyond the scope of this paper to elaborate fully on each of their provisions and implications. In the European context, children's rights are also enforceable through the European Convention on Human Rights (ECHR). Depending on the ratification status of countries and their models of incorporation, the ECtHR's engagement with other international conventions, such as the UNCRC, is an essential opportunity to facilitate domestic incorporation.⁷⁵ Many of the rights highlighted from the UNCRC fall within the right to private and family life is contained under article 8 ECHR, particularly when read in consideration of the right to non-discrimination under article 14 ECHR.⁷⁶ Cases have been brought to the European Court regarding NM and potential violations of these rights, but they do not relate specifically to the context of reporting on migration issues. However, they are of value in terms of illustrating that the right to privacy is justiciable against NM publications.⁷⁷ The role of the ECHR and ECtHR and its relationship with children's rights will also be examined in greater depth in Chapter 3 which considers the role of article 10 and NM outlets as a form of freedom of expression, and how the jurisprudence has elaborated upon this right. This is essential to understand the practical limitations on the Committee in terms of how they must balance children's rights alongside other rights.

It is also important to highlight the Refugee Convention 1951, which provides specific protections to refugee communities.⁷⁸ This is relevant because it ensures legal protections for refugees, which can be affected by the media's perception of refugees and the influence this can have over policy decisions. Although this 'secondary' link between the media and the implications on policy decisions relating to children's rights is not the focus of this thesis, it is important to recognise that this link has been made and that the Refugee Convention affords alternative specific protections which will be considered throughout this research.

⁷⁴ *General Comment No. 13* (n 67), [14].

⁷⁵ For example, in countries with a dualist system such as the UK and Scandinavian Countries.

⁷⁶ *Foley et. al* (n 27).

⁷⁷ See: *Khan v. Germany* App. No 38030/12 (ECtHR, 23 April 2015), and *Reklos and Davourlis v. Greece* App. No 1234/05 (ECtHR, 15 January 2009).

⁷⁸ Convention Relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137 (Refugee Convention).

2.5 Conclusion

This chapter has provided an overview of the rights that are relevant to the context of migrant children who feature in NM, that are contained in the UNCRC. It has also demonstrated the lack of attention from the CRC as to how the media contributes to both the development of children's rights and violations of migrant children's rights. In consideration of the extent to which the rights framework adequately respects, protects, and fulfils the rights of migrant children when featured in NM, it can be concluded that the CRC have failed to sufficiently address central aspects of this relationship. The CRC envisages the role of NM as primarily based in a voluntary awareness-raising capacity. The international framework fails to address how NM can contribute to rights violations, and how State parties should balance this against the rights and duties of NM outlets. For example, the potential for direct discrimination against migrant children and unequal access to rights for migrant and non-migrant children. Further, there is no acknowledgement of the need for media to act in the best interests of children, and not just encouraging others to do so. In relation to privacy, there is no mention as to how it ought to be balanced against other rights interests. This is especially problematic given the broad interpretation of freedom of expression of the media which is developed in Chapter 3. Although there are a few examples of how violations might occur through children being the subject of news, such comments are piecemeal and primarily evidenced in the context of juvenile justice and violence against children. As such, there is a concerning lacuna in the guidance on how violations can occur for migrant children and the consistent attacks on migrant children's rights in NM, as well as support for State parties in how to address this.

The importance of updating the children's rights framework at the international level to ensure proper implementation of rights is emphasised by the breadth of freedom of expression afforded to the media by the ECtHR. Chapter 3 explores further the balancing of the competing rights interests between children's rights and NM and illustrates the importance of a clear children's rights framework.

Chapter 3: Balancing Freedom of Expression in News Media

3.1 Introduction

Children's rights do not operate in a vacuum, and it is important to understand the tensions and constraints that arise from the overlap between migrant children's rights to be heard, privacy, and access to information, and the right to freedom of expression in the media under article 10 ECHR. This chapter aims to illustrate how these competing interests can have a detrimental effect on how migrant children's rights are enforced. This will provide further understanding as to why children's rights are rarely respected and implemented in this context and illustrate the importance of filling the legal lacunae in children's rights at the international level. Analysis is centred around how the ECtHR engages with article 10 of the ECHR. The focus is the balancing exercise undertaken when considering conflicts between article 10 and article 8 of the ECHR, and whether sufficient recognition is given to the heightened protections of children. It is not seeking to provide an in-depth analysis of all facets of article 10 and its application because it is a hugely complex field, which has been exacerbated by developments in the digital age and the complexities this creates for data protection and privacy. The purpose is to illustrate the central issues that would have to be considered by the CRC when producing guidance to ensure that their recommendations are practical, and to show the broad protection under article 10 because of the politicised framing of migration.

3.2 Freedom of Expression in International Law

Article 10(1) of the ECHR contains the right to freedom of expression, including the freedom to receive and impart opinions regardless of the frontiers. This includes both favourable information, and ideas which are intended to shock, offend or disturb.⁷⁹ The Council of Europe has elaborated that tolerance of such a range of positions is essential to a pluralist and truly democratic society.⁸⁰ Freedom of expression is not an absolute right; article 10(2) permits interference on three conditions: limitations must be prescribed by law, have a legitimate aim and are necessary in a democratic society. Any limitation prescribed by law must reflect the characteristics of foreseeability, precision, and accessibility. Freedom of expression is also protected under article 19(2) of the ICCPR, which is used as an interpretive tool alongside article 10 ECHR. Similarly, it provides for limitations under article 19(3) where they are provided by law and necessary for the rights or reputation of others, or for the protection of national security, public order, public health, or morals. The UN Human Rights Committee have placed particular emphasis on ensuring that article 19(3) be treated as an exception and ensuring that jurisprudence maintains the balance between the exception and the rule.⁸¹ General Comment 34 from the UN Human Rights Committee elaborates on the right to freedom of thought and expression contained in article 19. State parties have a duty to guarantee independence of the media and editorial freedom,⁸² to allow the media to fulfil its function of facilitating communication between the public and politicians.⁸³ Any restrictions at the national level must be proportionate to the interests

⁷⁹ *Handyside v. The United Kingdom* App. No 5493/72 (ECHR, 7 December 1976).

⁸⁰ Council of Europe, 'Guide on Article 10 of the European Convention of Human Rights' (*Council of Europe*, 30 April 2021).

⁸¹ Human Rights Committee, 'General Comment No.34 Article 19: Freedom of Opinion and Expression' (2011) CCPR/C/GC/34.

⁸² *Ibid*, [16].

⁸³ Dirk Voorhoof, Hannes Cannie, 'Freedom Of Expression And Information In A Democratic Society: The Added but Fragile Value of the European Convention on Human Rights' (2010) 72(4-5) *The International Communication Gazette* 407, 408.

protected,⁸⁴ and must reflect the context. Although there is an individual complaints procedure under the ICCPR, analysis of complaints filed fall beyond the scope of this thesis. The primary concern is ECtHR case law, although the ICCPR is frequently referenced by the European Court. The ECtHR has also recognised the importance of freedom of expression for minority groups. Voorhoof and Cannie (2010) highlight that democracy does not mean the majority opinion prevails; a balance must be achieved that ensures fair and proper treatment of minorities.⁸⁵

3.3 Functions of News Media Under Article 10 ECHR

Traditionally, NM outlets have been afforded broad protections under article 10 ECHR, and a high threshold established to invoke article 10(2). This is attributed to the role of the media in both discovering the truth and assisting in the functioning of democracy. Media performs two essential functions: facilitating the discussion of ideas, theories and exercise the freedom to criticise, and to act freely and independently to 'monitor and scrutinise the democratically elected'⁸⁶ to allow the public to make informed voting decisions.⁸⁷ In *Thoma v. Luxembourg*,⁸⁸ the European Court recognised the 'essential role' the media played in democratic societies in terms of imparting information and ideas, and how the public also has a right to receive such ideas. Although the Court also recognised that the media must not 'overstep certain bounds' in relation to the reputation and rights of others, the ability to provide information to the public is central to its role as 'public watchdog'.⁸⁹ The UN Human Rights Committee also explicitly recognised the importance of taking steps to protect the independence of the media, particularly on new platforms that are emerging such as social media. As such, NM has enjoyed a large degree of discretion under article 10, in order to protect liberty and pluralism of voices and sources.⁹⁰ In *Romanenko and Ors v. Russia*,⁹¹ the ECtHR recognised that the Government must be subject to close scrutiny through both legislative and judicial procedures, but also through the press and public opinion. In this sense, it is evident that given the politicised nature of migration when featured in NM, there is wide discretion to facilitate public debate and access to information to allow public scrutiny. This role of the media as the 'public watchdog' appears in several elements of the legal tests applied by the European Court to determine the balance between the rights involved.

3.4 The Balance with the Right to Private Life

There are two approaches to addressing hate speech under the ECHR: article 10, as outlined, or article 17. Article 17 states that the ECHR cannot be interpreted as implying the right to engage in the destruction of any other right. For the purposes of this research, although consideration is primarily focused on the interpretation of article 10, responses to claims under article 17 will also be considered. As mentioned in Chapter 2, the protection of the right to privacy in NM, falls within the scope of article 8 ECHR under the evaluation of 'legitimate aim', as defined in article 10(2).

⁸⁴ *General Comment No.34* (n 81), [34].

⁸⁵ *Voorhoof et al.* (n 83).

⁸⁶ *Ibid.*

⁸⁷ *Voorhoof and Cannie* (n 83), 408.

⁸⁸ App. No 38432/97 (ECtHR, 29 March 2001), [45].

⁸⁹ *Ibid.*

⁹⁰ Monica Macovei, 'A Guide to the Implementation of Article 10 of the European Convention on Human Rights' (*Council of Europe Human Rights Handbooks Vol. 2*, 2004).

⁹¹ App. No 11751/03 (ECtHR, 8 October 2009).

In order to fall within the scope of article 8 for the purposes of article 10(2), an attack on a person's reputation (or that of their family) must reach a certain level of seriousness,⁹² where it causes prejudice to personal enjoyment of private life. There are two elements to determining whether the threshold for seriousness has been met: the general principles and the non-exhaustive list of applicable criteria.⁹³ Both of these aspects will be considered briefly, to better understand how their formulation would impact any potential guidelines produced by the CRC.

In the context of publications of articles, photographs and images in NM, there are specific guiding principles for the right to private life which were initially established in *Couderc and Hachette Filipacchi Associés v. France*.⁹⁴ This includes the duty on the media to impart information without overstepping its limits and the right of the public to receive ideas as central to the media's function as a 'public watchdog'.⁹⁵ It also recognised that the media has duties and responsibilities, as well as self-imposed limitations and the Courts at both the national and regional level should not substitute their own views for those of the press. It is these concepts that guide determination as to whether a matter reaches the 'threshold of seriousness' so as to fall within the scope of article 8. As mentioned, it is clear that there is a high threshold to be obtained in relation to establishing a priority over the right to privacy over the freedom of NM, given the emphasis the Court places on its role as watchdog. This can be illustrated further by looking at case examples which elaborate on the criteria considered by the ECtHR.

There are several criteria that are considered when balancing interests. Most relevant to this context are the ideas of public interest, the subject of the report, the content, form and consequences.⁹⁶ Public interest arguments constitute a huge obstacle in this context. The Court explicitly recognised that there is 'little scope' under article 10(2) for restrictions on political debate or political speech.⁹⁷ In *Castells v. Spain*,⁹⁸ the European Court reiterated the 'role of the press in a State governed by rule of law'. Although they recognised the limits to the media's expression to prevent disorder and the reputation of others, they still have a duty to impart information and ideas on political questions.⁹⁹ Part of this includes providing enough information for opinions to be formed about the ideas and attitudes of political leaders, enabling 'everyone to participate in the free political debate' which is at the core of a democratic society.¹⁰⁰ In *Satakunnan Markkinapörssi Op and Satamedia Oy v. Finland*,¹⁰¹ The court stated that public interests relates only to matters which affect the public to such an extent that it may legitimately interest them. This is also applicable to cases which might give rise to considerable controversy, which concern an important social issue, or a problem that the public would have an interest in being informed about.¹⁰² Importantly the Court also distinguished between public interest,

⁹² *Axel Springer v. Germany* App. No 39954/08 (ECtHR, 7 February 2012).

⁹³ *Ibid.*

⁹⁴ App. No 40454/07 (ECtHR, 10 November 2015).

⁹⁵ *Ibid.*

⁹⁶ *Von Hanover v. Germany (No. 2)* App. Nos 40660/08 and 60641/08 (ECtHR, 7 February 2012).

⁹⁷ *Wingrove v. United Kingdom* App. No 17419/90 (ECHR, 25 November 1996), [58].

⁹⁸ *Castells v. Spain* App. No 11798/85 (ECtHR, 23 April 1992).

⁹⁹ *Ibid.*

¹⁰⁰ *Castells* (n 98), [43].

¹⁰¹ App. No 931/13 (ECtHR, 27 June 2017).

¹⁰² *Ibid.*, [171].

and a 'thirst for information' about other's private lives, or support for sensationalism or voyeurism.¹⁰³ What emerges from analysis of these cases is that the highly politicised nature of migration issues means that any cases brought in relation to migration will not fall within the scope of article 10(2). Morris and Messenger Davies (2018), in their examination of the UK press standard regulation, even refer to the example of the photograph of Omran Dagneesh, stating that such images are in the public interest and therefore would be an exception to the requirement of consent to the use of such images.¹⁰⁴ Arguments regarding public interest will seemingly only fail where there is no widespread concern across at least a region of the State, and there is also a need for the interest to be in relation to a specific individual. In this sense, recommendations would have to be careful not to be seen as discouraging the inclusion of migrant children in the news, as it would be contradictory to the public interest aspects of freedom of expression in NM.

Another important case to consider is *Aksu v. Turkey*.¹⁰⁵ The case concerned anti-Roma sentiments appearing in two government-funded dictionaries. There are a few aspects that are relevant to this context, because of their position on the impact of stereotyping on an individual's sense of identity. The Court recognised ethnicity as an aspect of a person's physical and social identity, which is central to personal autonomy. This autonomy was also explicitly recognised as falling within the scope of article 8. As such, negative stereotyping of a group, when it reaches a certain threshold, can affect a person's sense of identity and, by extension, their article 8 right.¹⁰⁶ This reasoning is applicable to the case of migrant children. Stereotyping can reach the threshold to represent an interference with article 8. In the context of children, their developmental stage and the higher protections afforded by the UNCRC means that there are sufficient grounds to argue that this threshold should be read as lower for children. As such, there is scope to argue that the extent of the stereotyping in NM can represent an interference with their rights. This judgment also recognised not only the negative obligation on States to not contribute to violations of article 8, but also the positive obligation, such as the adoption of measures, to ensure that the right to private life is respected between individuals as well as by the State. Furthermore, the European Court has recognised that freedom of expression is also essential for minority groups, and care must be taken to ensure the majority does not always dominate.¹⁰⁷

Therefore, the Court is tasked with striking a balance between these competing interests. As mentioned, it is one of the guiding principles that both rights be treated equally, regardless of whether the claim is brought in relation to article 8 or article 10. Based on this analysis, it is concluded that the European Court affords extremely broad discretion to NM, which is founded in their fundamental role in facilitating democracy. However, it is also recognised that there is an obligation to ensure that in completing this function, there is not undue interference with a person's sense of self caused by stereotyping. Although the threshold for this has been high, it is also to be noted that these cases have related to adults. If the children's rights standards are considered, particularly articles 2 and 16 of the UNCRC when read in light of article 3, and their heightened vulnerability and protections accounted for as part of article 8 ECHR, it is submitted that children are more susceptible to stereotyping and have a lower threshold in establishing what might affect their sense of personal autonomy. Lynn Geldof (2005) argues that children's rights must come before press freedom and highlights the responsibility

¹⁰³ *Satakunnan* (n 101) [171].

¹⁰⁴ Brigit Morris, Máire Messenger Davies, 'Can children's privacy rights be adequately protected through press regulation? What press regulation can learn from the courts' (2018) *Journal of Media Law* 92, 104

¹⁰⁵ App. Nos 4149/04 and 41029/04 (ECtHR, 15 March 2012).

¹⁰⁶ *Ibid*, [58].

¹⁰⁷ *Gorzelik v. Poland* App. No 44158/98 (ECtHR, 17 February 2004).

to consider children's rights in reporting.¹⁰⁸ Failure to do so would be to minimise the importance and weight accorded to children's rights more generally. As Geldof states, 'children are not mini-beings with mini-rights.'¹⁰⁹ There must be a serious balancing exercise that accords appropriate weight to children's interests in this context, and it is submitted that this should be reflected in any recommendations made by the Committee. The broad discretion of NM in facilitating democratic exchanges between Governments and the public should be addressed, particularly given the politicisation of migration by the NM. The Committee should promote the impact of children's rights standards in this context, and how it should be accounted for in the balancing of rights interests.

3.5 Conclusion

To conclude, this section has explored how the Court engages in the balancing of interests as part of the construction of freedom of expression. Analysis has shown the following. Firstly, the role of the media as public watchdog has been clearly established internationally, which affords a large degree of discretion under the right to freedom of expression. State parties, because of this broad reading of freedom of expression, should not introduce outright prohibitions for NM reporting on migration, even if it does represent potential violations of children's rights; each case must be individually assessed. As such, it makes sense for outlets to introduce internal practices that conduct such balancing exercises against the interests of children, so they are fulfilling their duties of implementation and respect for rights under the UNCRC. Secondly, the way that migration has affected how it falls within the scope of freedom of expression. The politicisation of migration issues has afforded greater protection for freedom of the NM because it places migration within the scope of its function of facilitating exchange of information between Governments and the public. Thus, it would be difficult for State parties to regulate or prohibit the kinds of reporting that would violate children's rights because they risk being struck down at the regional level. Disappointingly, there is little case law at the European level that involves children, particularly migrant children, and how the protections created under the UNCRC might affect the balancing of interests. As such, the importance of respecting the UNCRC in such balancing exercises is an essential theme to include in any recommendations or guidelines suggested in the following chapter.

Chapter 4 will go on to illustrate the consequences of the lacuna in the legal framework and the shortcomings at the regional level to properly consider the rights of migrant children through analysis of specific examples of how NM violates, or contributes to violations, of the rights of migrant children and how the broad reading of freedom of expression is contributing to the lack of respect for children's rights in the media.

¹⁰⁸ BBC Media Action, 'Children's Rights Versus Press Freedom: Who Wins?' (*BBC Media Action*, 15 March 2006) <<https://www.comminit.com/bbcmmediaaction/content/childrens-rights-versus-press-freedom-who-wins>> accessed 02/06/2022.

4. Trends in Reporting on Migrant Children

4.1 Introduction

This chapter will examine common trends in NM reporting relating to migrant children. The purpose is to illustrate the consequences of the combination of the gaps in the rights framework, and the expansive interpretation of article 10 ECHR, on the rights of migrant children as contained in the UNCRC. The purpose of this examination is to illustrate that this is not only a moral or ethical issue, but a concrete legal issue as well. The legal framework, outlined in Chapter 2, is tested to illustrate the rights violations that are occurring because of migrant children featuring in NM and the consequences of the lack of an appropriate children's rights framework in this context. It identifies the following examples, characterised by the International Journalists Federation¹¹⁰ and Open Migration,¹¹¹ as particularly problematic because they are the most consistently seen across Europe and can be most explicitly linked to potential rights violations.

Polarising – Migrant children are represented as either a threat to society ('hostile') or over-exposed in the media, particularly through the use of images, which risks going beyond the purpose of demonstrating the problem and could amount to exploitation of the child's rights.

No Voice – People from migration backgrounds in general are underrepresented in the media, but this is particularly problematic for children. They are rarely provided a platform to be able to give their own views and opinions. This is exacerbated by the fact that conversation is dominated by politicians who are then able to influence public opinion to meet their own political agenda.

Dehumanising – The conflation of language around migration, particularly legal language and reasons for migration, creates a misunderstanding in public perceptions and dehumanises migrants.

In conducting this analysis, this chapter contributes to the research questions by identifying examples of the kinds of violations that are not addressed by the CRC in the current children's rights framework, and what ought to be considered to ensure that the rights framework is adequately respecting, protecting, and fulfilling the rights of migrant children. It shows that the current rights framework is failing to address these kinds of violations. It also aims to illustrate the way the broad interpretation of freedom of expression of NM, and the lack of appropriate balancing against the heightened protections afforded to children, is exacerbating the consequences of these violations. It aims to show why it is so important that the CRC provides a children's rights perspective on how to engage in this balancing of interests.

4.2 Polarising

NM reports often show two 'perspectives' when reporting on migration, which are either hostile towards migration or over-exposing children for the sake of promoting a charitable approach to rights that children are actually entitled to. Both are problematic from a children's rights perspective because it perpetuates negative stereotypes about children, which inhibits the full realisation of their rights, and both examples exacerbate the effects of one another. The Committee has highlighted stereotyping as

¹¹⁰ Children's Rights Alliance, 'Children's rights and equality in the newspapers' (May 2009), p. 24.

¹¹¹ Valentina Baú, 'Rethinking the Representation of Refugee Children and Adolescents in the Media. Views from Italy's frontline' (*Open Migration*, 9 March 2021) <<https://openmigration.org/en/analyses/re-thinking-the-representation-of-refugee-children-and-adolescents-in-the-media-views-from-italys-frontline/>> accessed 24/04/2022.

problematic in General Comments, as demonstrated in the analysis in Annex No.1. Gemi (2013) highlights that migration is regularly featured in mainstream media during dramatic events which supports the use of these extreme perspectives, but does not consider the 'normal' times, which promotes the public to consider migration as a 'problem/conflict/difficulty.'¹¹²

4.1.1 Hostile

One example of hostility in NM towards migrant communities is the presentation as a 'threat', either physically, culturally, or economically.¹¹³ This epitomises the kind of speech that the CRC has warned against throughout its General Comments in other contexts. The Committee states that the media will highlight shocking events which creates and perpetuates negative stereotypes, particularly for disadvantaged children and adolescents. They also suggest that stereotyping and perpetuating certain images and constructions of children will 'pave the way' for punitive state policies. There are several key themes in which negative connotations arise for migrants in general, particularly that of crime, cultural threats, and national security threats. A study by the UNHCR found that in written sources of NM in the UK, 14.2% of reports relating to migration were centred around cultural threats, 9.3% were linked to national security and 8.1% linked migration to crime.¹¹⁴ Comparatively, in Sweden only 3% and 2.6% linked migration with crime and national security threats respectively.¹¹⁵

An example of 'threat' themes, and the politicisation of children's rights issues,¹¹⁶ is the UK's NM response to developments in age determination procedures. Asylum seekers who have their age wrongly determined by age assessment procedure are frequently accused of 'lying' to the Home Office.¹¹⁷ News articles also often use photographs that do not reflect the picture of innocence and childhood that has been promoted elsewhere in the news.¹¹⁸ These themes promote 'moral panic' about false claims of childhood and encourage a defensive approach to age determination,¹¹⁹ for example the introduction of new methods of age assessment as part of the Nationality and Borders Act 2022. It has been praised for bringing the UK in line with other European countries and described as providing greater accuracy.¹²⁰ News outlets have generally presented as an appropriate response to address the inaccuracies and issues with current age determine procedures. However, there is no mainstream representation in UK NM of children who are wrongly determined as adults and how this

¹¹² Eda Gemi, Iryna Ulasiuk, Anna Triandafyllidou, 'Migrants and Media Newsmaking Practices' (2013) 7(3) Journalism Practice.

¹¹³ Maria Grazia Sindoni, "'Migrants are Cockroaches". Hate Speech in British Tabloid Media' (2017).

¹¹⁴ UNCHR (n 2), p. 39.

¹¹⁵ UNCHR (n 2), p. 134.

¹¹⁶ Anna Verley Kvittingen 'Negotiating Childhood: Age Assessment in the UK Asylum System' (2010) 67 Refugee Studies Centre.

¹¹⁷ James Gant, 'Migrants could face X-Rays of their bones to prove their age under new powers to stop adult asylum seekers claiming to be children' (*Mail Online*, 15 October 2021) <<https://www.dailymail.co.uk/news/article-10095169/Migrants-face-X-Rays-bones-prove-age-new-powers.html>> accessed 07/05/2022.

¹¹⁸ Carly McLaughlin, "'They don't look like children": child asylum seekers, The Dubs amendment and the politics of childhood' (2018) 44(11) Journal of Ethnic and Migration Studies 1757.

¹¹⁹ Ibid.

¹²⁰ David Barrett, 'Adult migrants who pose as child asylum seekers could face X-ray age checks in new crackdown by Priti Patel' (*Daily Mail*, 4 January 2022) <<https://www.dailymail.co.uk/news/article-10369525/Adults-posing-child-asylum-seekers-face-X-ray-age-checks-new-crackdown-Priti-Patel.html>> accessed 11/06/2022.

can affect their ability to access the rights to which they are entitled. Similarly, there is no mainstream NM which highlights how the use of scientific methods has a large margin of error and, in that sense, does not provide any greater clarity to age determination procedures,¹²¹ or that scientific age assessment, particularly the use of x-rays, are controversial in relation to children's rights.¹²² The failure to consider this measure from a children's rights perspective, instead focusing on the 'deception' only serves to promote misconceptions around asylum-seekers and encourages scepticism towards migrant communities, particularly unaccompanied minors, even though children should be afforded the benefit of the doubt when there is discrepancy around their age.¹²³ British journalists have explained that it is 'more newsworthy if people are abusing the system or exploiting loopholes or abusing the hospitality being extended to them by British Society...because that triggers a reaction in them.'¹²⁴

Another example can be made from Spanish news reporting on unaccompanied asylum-seeking children. A study into Spanish news reporting on unaccompanied asylum-seeking children found interesting correlations. It explored the rhetoric that existed around the word 'MENA', which is used by far-right political parties who want to portray unaccompanied minors as 'delinquent' or infer that they should return to their country of origin.¹²⁵ The fact that children seeking asylum are being linked to questions of legality is of huge importance. As the authors note, it illustrates that there is a discourse relating unaccompanied minors to securitisation and criminalisation, which is problematic because there is 'no such thing as illegal people'.¹²⁶ Conflating these terms, particularly in relation to children, promotes hostility towards unaccompanied children in domestic contexts. This diagram illustrates the association of negative terms with the term 'MENA' in Spanish news.

¹²¹ Royal College of Paediatrics and Child's Health, 'Refugee and unaccompanied asylum-seeking children and young people - guidance for paediatricians' (*Royal College of Paediatrics and Child's Health*, 2 February 2022) <<https://www.rcpch.ac.uk/resources/refugee-unaccompanied-asylum-seeking-children-young-people-guidance-paediatricians>> accessed 09/03/2022.

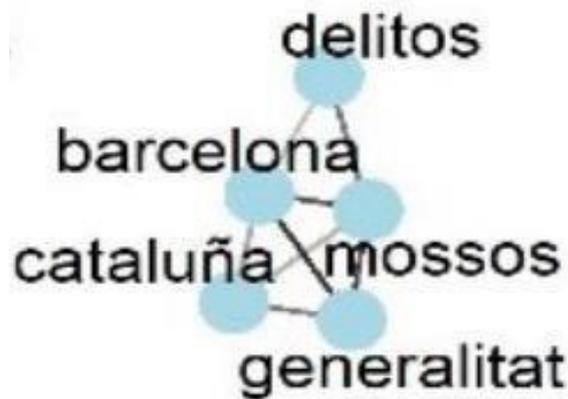
¹²² A Aynsley-Green, Tim, Cole, Heaven Crawley et al., 'Medical, statistical, ethical and human rights considerations in the assessment of age in children and young people subject to immigration control' (2012) 102 *British Medical Bulletin* 17.

¹²³ *General Comment No.6* (n 48), [31].

¹²⁴ Tom Law, Rob McNiell, 'Migrants and the media: what shapes the narratives on immigration in different countries' (*Ethical Journalism Network*, 26 April 2019) <<https://ethicaljournalismnetwork.org/migrants-media-narratives-immigration>> accessed 12/04/2022.

¹²⁵ Juan-David Gómez-Quintero, Jesús-C. Aguerri, Chabier Gimeno-Monterde, 'Media representation of minors who migrate on their own: The MENA in the Spanish press' (2021) 66 *Media Education Research Journal* 91.

¹²⁶ PICUM, 'Why Words Matter' (*PICUM*, 2021) <<https://picum.org/words-matter/>> accessed 07/05/2022.

Figure 1: 'Network of correlations' in articles using 'MENA'.¹²⁷

'delitos' = crimes, 'mossos' = Catalanian police force, 'generalitat' = Catalanian Government, 'Barcelona' = Barcelona, 'Cataluña' = Catalonia.

Similar examples can be seen in the UK, such as an article from tabloid newspaper *The Daily Mail*, which explicitly linked unaccompanied minors from north Africa to sexual assault and violence.¹²⁸ Hostile representation is problematic because they primarily promote stereotypes and discrimination that contradicts the rights that children are entitled to. Although not always in direct reference to children, the connotations for unaccompanied minors, particularly for adolescent boys who have travelled alone, can promote incorrect assumptions, given that NM is considered a primary source of factually accurate information, as outlined in Chapter 1. The Committee recognises that 'stirred up stereotypes' of children can 'pave the way for State parties' policies based on a punitive approach.'¹²⁹ Exposure to negative media messages over a time can influence voting preferences, resulting in increasingly hostile policies towards migrants, including children.¹³⁰ Negative representations of children seeking asylum can contribute to support for the introduction of more extreme measures to address migration, that could potentially infringe on children's rights realisation, as seen with the age determination procedures in the UK. Images and stories about generalised, homogenous groups of migrants reinforce accompanying negative stereotypes.¹³¹ Such nuanced clashes between children's rights and the media are difficult to address from a legal perspective, but the Committee is clear on the harmful effects of such stereotypes in terms of the realisation of children's rights, and why such practices are problematic from a children's rights perspective.

4.1.2 The risk of exploitation for the purpose of awareness raising

At the other end of the spectrum, stories relating to migrant children can also represent children as innocent victims. This is also problematic from a rights perspective. It promotes a false characterisation of children which prevents their rights being fully realised and exacerbates the impact of the negative reporting trends that appear parallel to excessively charitable reporting and reinforces

¹²⁷ Gómez-Quintero et al, (n 125), figure 2.

¹²⁸ Nazir Afzal, 'Why Britain should be worried about the flood of young male migrants' (*The Daily Mail*, 8 January 2016) <<https://www.dailymail.co.uk/news/article-3389734/Why-Britain-worried-flood-young-male-migrants-Leader-lawyer-s-son-immigrants-gives-stark-warning.html>> accessed 27/05/2022.

¹²⁹ *General Comment No. 13* (n 67), [30].

¹³⁰ Eberl et. al (n 12).

¹³¹ Rachel Rosen, Sarah Crafter, 'Media Representations of Separated Child Migrants' (2018) *Migration and Society* 66.

the concept of a 'perfect victim', for which there is an extremely high threshold.¹³² It reinforces the incorrect perception of children as in need of voluntary charitable support, as opposed to recognising the responsibility on both private and state actors to enforce children's rights. Philip Ariès (1962) originally conceptualised childhood as a social construct and noted the then-accepted perception of childhood as innocence and immaturity.¹³³ Despite the fact that social constructions of children have developed beyond this and children are individual rights holders, news articles that illustrate the vulnerability of children alone, particularly without the recognition that they have the power to demand their rights, is contrary to the UNCRC. The Committee on the Rights of the Child has been clear throughout the General Comments that children are rights holders and are not dependent on the benevolence of adults.¹³⁴

For example, Rosen and Crafter (2018) highlight that a 'good' childhood is conflated with residential stability. Between 2011-2015 the predominant themes in tabloid newspapers in the UK was humanitarian and child migrants were largely represented as 'vulnerable' and in sympathetic terms.¹³⁵ Benevolence was another common trend during this period, with frequent appeals to the public's charitable and moral values to stimulate support for migrant children.¹³⁶ Portraying children as victims rather than rights holders also carries implications where children fail to fulfil the requirements of being a perfect victim. Merry (2011) notes, those who choose to decide to put themselves in a dangerous situation are less deserving of 'victim' status than those who had no choice.¹³⁷ This epitomises the distinction between these two extremes of reporting, for example the representation of unaccompanied migrant children might travel through 'illegal' means to reach a country of destination, compared to younger children with less agency, who have travelled with their parents without any choice.

This kind of sensationalism is most common through images of children in extremely difficult circumstances. For example, *Bild*, a right-leaning German tabloid newspaper is notorious for using images of children to promote sensationalist ideas.¹³⁸ For example, they used the images of Aylan Kurdi on front pages,¹³⁹ and have included other images of migrant children in distress.¹⁴⁰ This is often justified on the basis that using such images will shock the public into stimulating change.¹⁴¹ However, Fehrenbach and Rodogno (2015) note that there is no evidence to suggest that this has been successful.¹⁴² The use of sensationalised images could arguably violate the right to privacy and

¹³² McLaughlin (n 118).

¹³³ Philippe Ariès, *Theories of Childhood* (Vintage 1962).

¹³⁴ *General Comment No. 13* (n 64), [72(a)].

¹³⁵ Rosen, Crafter (n 131).

¹³⁶ Rosen, Crafter (n 131).

¹³⁷ Sally Engle Merry, *The Practice of Human Rights*, (Cambridge University Press 2011), pg. 195.

¹³⁸ Annika Lems, Kathrin Oester, Sabine Strasser, 'Children of the crisis: ethnographic perspectives on unaccompanied refugee youth in and en route to Europe' (2019) 46(2) *Journal of Ethnic and Migration Studies*.

¹³⁹ Jon Henley, 'Bild Stance over Alan Kurdi Image a typically bold move' (*The Guardian*, 9 September 2015) <<https://www.theguardian.com/media/2015/sep/09/bilds-stance-over-alan-kurdi-images-a-typically-bold-move>> accessed 5/06/2022.

¹⁴⁰ Lems, Oester, Strasser (n 138).

¹⁴¹ Heide Fehrenbach, Davide Rodogno, "'A horrific photo of a drowned Syrian child": Humanitarian photography and NGO media strategies in historical perspective' (2015) 1121.

¹⁴² *Ibid*.

development. As noted by Foley et. Al (2008), the setting up of photojournalists to capture children in vulnerable positions only perpetuates their trauma.¹⁴³ The IFJ cites an example where NGOs had set up long-lens cameras in a refugee camp and documented children crying. Later it was determined that the *real* reason the children had cried was because they had mistaken the long-lens cameras for guns and thought the photographers had come to kill them.¹⁴⁴ This fear and stress that is caused by foreign journalists to refugee camps is rarely addressed.¹⁴⁵

The Committee has noted that a children's rights approach ensures respect for the 'dignity, life, survival, wellbeing, health, development, participation and non-discrimination of the child as a rights holder.'¹⁴⁶ The encouragement of charitable themes and the perpetuation of childhood conflated with victimhood, does not accurately reflect how children are to be perceived socially to enable access to their rights, nor does it fulfil the obligation to respect evolving capacities of children under article 5.¹⁴⁷ It normalises the overexposure of children without an appropriate or ethical consent process, which is particularly problematic considering the lack of direct participation from children. McLaughlin (2018) says that the use of images 'fetishizes' children and reduces them to embodiments of innocence that values them purely in terms of their vulnerability. It also promotes the 'performance of (child) vulnerability and (adult) protection.'¹⁴⁸ It also further embeds the problems that arise from negative representations. Using photographs of migrant children also connotes a very specific idea of the kind of children who are deserving help. When children do not meet that very specific criterion, for example where children are adolescent, male, or have 'adult characteristics' such as facial hair, then they are not deserving of the humanitarian responses and should arouse suspicion.¹⁴⁹

Both hostile and charitable approaches to children in migration pose a problem for their rights. Hostile approaches are problematic as it normalises misrepresentation and stereotyping which are contrary to article 2 of the UNCRC and provide justification for harsher policies which further infringe on the rights to which migrant children are entitled. Charitable and sympathetic approaches are also problematic because they expose children to greater levels of trauma and imply that children's rights are a charitable act, rather than promoting the construction of children as independent rights holders who are able to demand their rights. They also worsen each other's effects from a children's rights perspective by embedding a hierarchy of victimhood and promoting the idea that only some children are deserving of 'charitable' support, rather than representing *all* children as independent rights holders who are owed very specific protections by State parties because of their status.

4.2 No Voice

Another central issue is the lack of direct participation from migrant children in news publications. Although stories *about* and *regarding* children feature frequently in the media, they are rarely given the platform themselves to share their own views and experiences. A study on children's involvement in

¹⁴³ Foley et. al (n 27).

¹⁴⁴ International Federation of Journalists (n 21), p. 12.

¹⁴⁵ Foley et. al (n 27).

¹⁴⁶ Committee on the Rights of the Child, 'General Comment No.21 (2017) on children in street situations, CRC/GC/2017/21, [10].

¹⁴⁷ UNCRC (n 17), article 5.

¹⁴⁸ Pia Hardrup Christensen, 'Childhood and the Cultural Constitution of Vulnerable Bodies' (2000) In *The Body, Childhood and Society*.

¹⁴⁹ McLaughlin (n 118).

the media conducted by Children's Rights Alliance England (2009)¹⁵⁰ found that less than 20% of articles containing pictures of children also contained comments from a child. Of all articles sampled, only 9.7% contained quotes from children. There are two key aspects which exacerbate the problems this causes: firstly, the overrepresentation of other sources, particularly politicians. Secondly, when children are involved in media, it is rarely done ethically.

A key issue is the over-representation of other voices in the media, despite migrant children being the subject. The politicisation of migration means that politicians' perspectives are prioritised because it is part of NM's function to scrutinise politicians and facilitate information exchange.¹⁵¹ However, this has developed at the expense of representation of legal and rights-based approaches. As a result, the voices of politicians are prioritised to the detriment of migrants, particularly migrant children. For example, in the UNHCR report, domestic political sources featured over twice as much as refugees and asylum seekers in Sweden, Spain, Germany, the UK and Italy. The largest differences were seen in Sweden (43.5% average compared to 9.8%) and Germany (33.5% average compared to 8.7%).¹⁵² A more recent study by the Refugee Journalism Project found that politicians and migrants, asylum seekers and refugees are now featured equally in reporting by the three most popular news sources in the UK.¹⁵³ While this is positive progression, it must be noted that this data is in relation to adults, and there is a very clear lack of data relating to children's engagement with NM as an active contributor. The negative impact of the political rhetoric dominating migration as it features in the news goes beyond the overrepresentation of politicians. Although it is important that the public are aware of the different political approaches to migration, political debate around migration often relates to issues where integration of migrants is not working, which accentuates negative ideas of migration as a political issue to be solved. Georgiou and Zaborowski (2017) also note that the speed with which the media is required to respond to crises lends itself to the overrepresentation of political expressions.¹⁵⁴ Increased politicisation of migration debate, through mainstream NM, increases support for parties with anti-immigration policies, as they are perceived to be the most competent on migration issues.¹⁵⁵ It is also essential to note that politicisation of migration in NM further removes children from the discussion by prioritising the views of politicians, as opposed to the children who are affected.

The Committee states that children should be given the opportunity to represent themselves in the media.¹⁵⁶ Participation is essential to the proper construction of children's rights. As mentioned, article 12 is a guiding principle and as such the right to be heard must be considered when implementing and enforcing all other rights. Smith Fullerton (2004) suggests that journalists do not take children, and writing about them, sufficiently 'seriously' because children might appear 'frivolous' or 'too difficult to interview.'¹⁵⁷ Children's Rights Alliance England (2009) also highlighted that the failure to properly

¹⁵⁰ *Children's Rights Alliance* (n 110).

¹⁵¹ *Vereinigung Bildender Künstler v. Austria* App.No 68354/01 (ECtHR, 25 January 2007).

¹⁵² *UNCHR* (n 2), p. 128, p. 109.

¹⁵³ The Refugee Journalism Project, 'Breaking the Frame' (*The Refugee Journalism Project*, 11 August 2021) <<https://lccjournalismprojects.shorthandstories.com/breaking-the-frame/index.html>> accessed 23/04/2022.

¹⁵⁴ Myria Georgiou, Rafal Zaborowski, 'Media Coverage of the "Refugee Crisis": A Cross-European Perspective' (*Council of Europe*, 2017).

¹⁵⁵ *Eberl et. al* (n 12).

¹⁵⁶ Committee on the Rights of the Child, 'General Comment No.17 (2013) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts (art. 31), CRC/GC/2013/17, [56(b)].

¹⁵⁷ Jo Aldridge, Stephen Cross, 'YOUNG PEOPLE TODAY: News, Media, Policy, and Youth Justice' (2008) 2(3) *Journal of Children and Media* 203.

represent the views of children directly in the media undermines the value of their input when they *are* represented. Muscroft (2000) argues that a lack of representation of minority groups in the media creates a lacuna of positive role models for other children to relate to and deprives the possibility of creating a positive image of these groups to the wider population.¹⁵⁸ A combination of these factors, as well as the excessive politicisation of the migration debate, leave children grossly underrepresented. NM outlets are responsible for to facilitating children's *ethical* participation. Participation must not be lip-service; it must be effective.¹⁵⁹ It is not compatible with children's rights to justify the lack of involvement of children because of arguments made about the right to privacy. Guidelines have been produced by children's rights organisations to ensure that children's participation in media is done in a way that is compatible with their rights, but analysis of media outputs suggests that they are rarely properly implemented.¹⁶⁰ Similarly, there are developments in other aspects of non-fiction media which are promising and demonstrate the potential and willingness of migrant children to contribute to their own narrative in the media.¹⁶¹ However, this is yet to translate into a culture of everyday practice for mainstream NM. When migrants know it is safe to talk to NM journalists and that this will not be used with negative connotations, they will 'speak freely about everything.'¹⁶² Linguistic and cultural barriers also prevent proper participation.¹⁶³ Often it is the most socio-economically deprived who have the most persuasive cause, but the hardest time communicating this.¹⁶⁴ The position of the CRC on the responsibility of all actors to facilitate children's rights, as well as explicit recognition in academia as to the practical barriers that prevent effective participation, means that there is no justification as to why children could not be involved in NM to ensure greater compatibility and promotion of children's rights.

If children were able to participate in the stories about them, it could both allow promotion of a children's rights-based perspective on migration issues relating to children and could also be an essential opportunity for children to hold State parties to account. This is certainly how the Committee perceived the role of the media, as identified by analysis of all General Comments.¹⁶⁵ There must therefore be a gap in the enforcement of children's rights standards in NM organisations, which is limiting the application of the international framework and suggests that a more explicit link must be established to ensure that NM organisations are accountable to their duties to children's rights.

4.3 Dehumanising

The final trend which illustrates the potential rights violations by NM of migrant children's rights is the lack of accuracy and precision in reporting, most commonly characterised by the use of incorrect legal terms or inflammatory linguistic choices, which results in the dehumanisation of migrant children.

The legal terms used in media are rarely accurate and become conflated with negative terms. For example, in the UK, NM outlets frequently use problematic terms such as 'illegal migrant' or illegal

¹⁵⁸ Sarah Muscroft, 'Children's Rights: Equal Rights? Diversity, Difference and the Issue of Discrimination' (London: The International Save the Children Alliance, 2000).

¹⁵⁹ *General Comment No. 12* (n 44), [133].

¹⁶⁰ See *International Federation of Journalists* (n 21).

¹⁶¹ For example, The Shadow Game is a transmedia project which used sources directly from children travelling unaccompanied across Europe: < <https://shadowgame.eu/en/homepage/>> accessed 06/06/2022.

¹⁶² *Gemi et. al* (n 112).

¹⁶³ *Gemi et. al* (n 112).

¹⁶⁴ *Gemi et. al* (n 112).

¹⁶⁵ See Annex No.1.

immigrant' and conflates refugees and economic migrants. The UNHCR highlighted that such references did not exist to the same extent in other European countries. In Germany, the accurate use of 'refugee' or 'asylum seeker' was found in 90% of its reports, irrespective of the 'quality' of the paper or its political biases. In Sweden, this is the case in 70% of reports surveyed. Comparatively, study of UK NM sources found that migrant was used in 49.2% of articles, compared to 'asylum-seeker' being used in only 7.3% of surveyed articles.¹⁶⁶

In the same study, the UNHCR also analysed the use of terminology in relation to the country of origin of migrants. Despite a majority of Syrian or Eritrean asylum seekers being granted refugee status, they were still referred to as 'migrants' when discussed in UK NM. Closer analysis showed the terms 'migrant' and 'refugee' were used interchangeably within the 42% of all articles.

NM in the UK has increasingly used the term 'illegal immigrants' to describe refugees and asylum seekers who are travelling to the UK via unofficial routes.¹⁶⁷ This is hugely problematic, because it implies that the migration itself is illegal. However, under the Refugee Convention, State parties should not impose penalties on refugees arriving through illegal means from countries where their life of freedoms were threatened.¹⁶⁸ In this sense, there should not be penalisation or criminal sanctions against refugees for their means of arrival in the first place. This illustrates how important the accuracy of labels under international law is because it determines the protection that is afforded to the individual.¹⁶⁹ In addition to this, frequent use of metaphors which 'animalise' migrants increases the negative impacts of incorrect language,¹⁷⁰ and further promotes and embeds harmful stereotypes. Such metaphors compliment the effects of the lack of accurate data by reducing the status of refugees to that of a herd of animals. ICMPD recognises that using such terminology and reducing refugees and migrants to only their status, reduces public perception and risks leaving them open to policies which have more harmful outcomes,¹⁷¹ in a similar fashion to hostile reporting.

The conclusion can be drawn that a combination of these factors serves to encourage stereotypes of migrant communities. It encourages a politicisation of the term 'refugee' and 'migrant', detaching them from their legal meaning.¹⁷² There is a legal right to seek asylum contained in the Refugee

¹⁶⁶ UNCHR (n 2).

¹⁶⁷ See: Tom Pyman, 'UK's 'soft touch' justice encourages illegal migrants to sail over Channel on deadly dinghies, MPs warn, as Britain tells France MORE will die if it doesn't reopen talks on smashing people smuggling gangs' (*Daily Mail*, 7 November 2021) <<https://www.dailymail.co.uk/news/article-10247871/UKs-soft-touch-justice-encourages-illegal-migrants-sail-Channel-MPs-warn.html>> accessed 09/06/2022, or Carole Malone, 'Illegal channel migrants are taking the UK for a ride, says Carole Malone' (*Daily Express*, 20 November 2021) <<https://www.express.co.uk/comment/expresscomment/1524370/illegal-channel-migrants-enter-britain>> accessed 09/06/2022.

¹⁶⁸ *Refugee Convention* (n 78), article 33.

¹⁶⁹ UNHCR (n 2).

¹⁷⁰ See: Cyril Dixon, 'Illegal migrants flooding into EU: Record 1.8 MILLION border breaches in just one year' (*Daily Express*, 6 April 2016) <<https://www.express.co.uk/news/politics/658502/Record-illegal-migrants-entered-EU-ONE-year-Brexit>> accessed 06/06/2022.

¹⁷¹ International Centre for Migration Policy Development, 'Reporting Migration: A Handbook on migration reporting for journalists' (ICMPD, 2020) <<chrome-extension://efaidnbmninnkcbajpcgiclfndmkaj/https://www.icmpd.org/file/download/50559/file/Handbook0on0Reporting0Migration0EN.pdf>> accessed 06/06/2022.

¹⁷² Eleanor Drywood, Harriet Gray, *Demonising Immigrants: How a Human Rights Narrative Has Contributed to Negative Portrayals of Immigrants in the UK Media* (Routledge 2019).

Convention. Article 22 of the UNCRC affords particular protection to migrant children on account of their heightened degree of vulnerability. However, the increased politicisation of these legal rights and standards makes it harder for children to access their rights. Firstly, they are not separated from the generic grouping of 'migrants' and their protections are not properly recognised. Secondly, even where this is the case, most children are not deemed as 'worthy' of receiving their rights because they do not fit the concept of a 'perfect victim.'

Although it is difficult to establish a causal link between these trends in reporting and children's rights violations, it should not be overlooked. NM plays an essential role in interpreting reality,¹⁷³ that can influence how the political agenda is controlled.¹⁷⁴ It also inhibits a construction of children's rights by promotion of stereotypes which the CRC has highlighted as problematic in other General Comments in the context of juvenile justice and violence against children. Stereotyping of refugees and migrants is based in a misrepresentation of the reasons for migration and a lack of use of accurate terms. As a result, tougher measures are introduced, which only further infringe on the rights of migrants and refugees in general. Bernstein's theory of language code contributes to illustrating the importance of using legally accurate terms, particularly in relation to children.¹⁷⁵ This theory suggests that the relationships that exist in a particular social group affect the language used, and as such discourses used by that group contribute to shaping the perception of reality by making aspects of reality more or less relevant. Applying this theory to the current context and the language used around migration, conflating terms implying an 'illegal' element to migration, even for refugees and asylum seekers, and reasons for migration, embeds homogeneity further into the reality of migration, particularly in the perception of the public who access NM regularly. This is worsened by the exponential growth of digital technology, and the modern access to NM through other means such as social media and 'bitesize' pieces of information.¹⁷⁶

This stereotyping is exacerbated for refugee children because of the extreme treatment they receive in the news. As such, this could represent an infringement of article 2(2), and article 22 of the UNCRC. The impact of the use of incorrect language, and effects on language code, is also heightened for migrant children. As a more vulnerable group entitled to a higher level of protection, embedding and normalising the use of generic terms can make it harder for migrant children to access their rights because their specific rights are not distinctly recognised, or are mischaracterised. This homogenisation continues the lack of recognition as individual rights holders, and implies their rights in relation to others, for example as an extension of their parents or under generic 'human rights' claims.

4.4 Conclusion

Analysis of these trends has shown how NM can violate migrant children's rights, which has been overlooked in the international rights framework. Analysis has shown that the polarising presentation of migrant children as either something to be feared or worthy subjects of charity, the lack of *meaningful* participation, and misuse of terminology and data can represent violations of the right to non-discrimination, the right to be heard, and the rights to privacy and access to information. There are also more subtle consequences of these trends. They contribute to stereotypes and misrepresentations that prevent the proper construction of children's rights at the national level by

¹⁷³ William Gamson, Andre Modigliani, 'Media Discourse and Public Opinion on Nuclear Power: A Constructionist Approach' (1989) 95(1) *American Journal of Sociology* 1.

¹⁷⁴ *ICMPD* (n 171).

¹⁷⁵ Basil Bernstein, *Class, Codes and Control* (1971).

¹⁷⁶ Giovanni Ziccardi, *Political Hate Speech in Europe* (Edward Elgar Publishing 2020).

promoting incorrect constructions of migrant children that influence public perceptions, and stunts development of public perceptions of children which enables a bottom-up approach to children's rights. Ultimately, it has provided examples of what the CRC needs to address to fill the gaps in the legal framework relating to how the media can violate children's rights and the extent of their duty in the implementation of children's rights.

The fact that these kinds of reporting styles are seen consistently throughout Europe and over a period of 8 years shows just how serious this issue is, and how pressing the need to update the legal framework is. The examples shown are particularly problematic when considering the functions of NM. The politicisation of migration discussion undermines the children's rights aspect because it opens all aspects of migration for debate and scrutiny. Although reporting on migration and facilitating information exchange is a primary duty of the media and this is well established internationally, these examples have shown the detrimental consequences of the failure to properly consider children's rights when balancing these competing interests. This analysis has shown what exactly the Committee needs to address in order to ensure the children's rights framework is changed and provides a children's rights perspective to the balancing of such competing interests. Chapter 5 will go on to make practical suggestions, based on this analysis, as to how the CRC and media organisations can update the legal framework to address these violations, and integrate children's rights-based processes internally to prevent them from occurring again.

Chapter 5: Conclusions and Proposing Recommendations

This chapter draws together the results from all the analysis to provide overall conclusions and propose how to update the children's rights framework to address the gaps that exist on how NM can violate rights. Both the international children's rights framework, and the balancing exercise between children's rights and freedom of expression of the media at the European level are failing to ensure that the rights of migrant children who are featured in NM are respected, protected, and fulfilled. The analysis in Chapters 2 and 3, and Chapter 4 showed the consequences of these lacunae in the international rights framework, the impact of the broad reading of the right to freedom of expression in the media and the tangible consequences of this collision of interests. This chapter concludes the research and contributes to the research question by making recommendations about how to ensure the children's rights framework reflects the duty on State parties and non-state actors to adequately respect, protect, and fulfil children's rights in *all* contexts, including when migrant children are featured in the news. As stated by Morris and Messenger Davies (2018), 'rights-based approaches that lack any practical guidance for press regulators can result in vague and shallow complaints handling.'¹⁷⁷ The analysis throughout this research has shown that a higher level of intervention from the Committee on the Rights of the Child is necessary to ensure that these violations do not continue. A two-pronged approach is taken. Firstly, analysis throughout this research has shown the gaps in the framework that must be filled, and what is needed to fill them. This aspect determines the best form for this to take under the CRC's mandate. It also illustrated the broad protections afforded to freedom of expression for NM, which makes it practically difficult for State parties to prohibit certain styles of reporting or uses of language. The second aspect provides guidelines that should be recommended by the CRC, for media outlets to establish internally children's rights-based practices when reporting on migrant children. Suggestions are made as to how both the CRC and NM organisations can best address this issue. It is also a proposal on how NM can integrate children's rights processes when reporting about migrant children.

5.1 Possible Interventions in the International Children's Rights Framework: Forms

The CRC has a mandate under Part II of the UNCRC to produce a range of resources to promote the development and enforcement of children's rights in State parties.¹⁷⁸ Although the Committee also produces individual communications under OPIC and the inquiry procedure, they are not considered in this context because they require proof of a specific victim of a rights violation, and the current context is too nuanced to be suitable for this kind of analysis. Further, the inquiry procedure is anonymous so does little to raise awareness of the severity of the issue.

A specific General Comment would be the most efficient way for the Committee to address migrant children's rights in NM. It is a valuable tool in terms of raising awareness which has been lacking through previous publications from the Committee. It also allows for an in-depth analysis and the production of comprehensive guidelines, which can reflect the national context. It also has the potential scope to allow for consideration of the rights of other groups of children who are negatively affected by NM such as children in the justice system, Roma children, or children with disabilities. It could also elaborate on the scope of freedom of expression and the right to be heard, beyond just the significance for migrant children.

Additionally, the CRC should develop this as a recurring theme in all General Comments. This would be beneficial as it would allow recommendations to be responsive to developments that affect the

¹⁷⁷ Morris, Messenger Davies (n 104), p. 109.

¹⁷⁸ UNCRC (n 17), part II.

relationship between children's rights and NM, such as the exponential growth and role of digital technology, or rapid global awareness of 'fake news'. However, this approach risks 'diluting' the severity of the issue where it is not prioritised on the agenda. This approach is seen in General Comments No. 10, No.13 and GC.24, and has clearly not been successful in encouraging State parties to address this as a matter of priority, so cannot be done as a standalone measure. General Comment No.25 presented an ideal opportunity to address how engagement with NM has developed because of the digital environment and what this means for children's rights, especially for migrant children who are subject to some of the most extreme reporting and rights issues.

Another DOGD would be beneficial. Actors from the fields of media, communications, journalism, sociology, and psychology should collaborate and expand upon the pre-existing frameworks and guidelines to produce a comprehensive strategy for addressing the way children feature in the media. The previous Day of General Discussion in 1996 was clearly successful in this regard with the IFJ Guidelines being produced as a result.¹⁷⁹ However, they require an update to reflect both developments in the world and the new challenges that face child refugees, and developments in technology and media that have transformed the nature of information exchange.

It could also appear as a theme in the Concluding Observations that are produced by the Committee at the end of each State party reporting cycle. This would allow for tailored responses that prevent excessive westernisation of recommendations and reflect the freedom of the press in each country. However, it would be extremely difficult to get this topic on the agenda for consideration by the Committee. Issues raised in reporting cycles are through reports from CSOs and NGOs. This is further exacerbated by the huge backlog faced by the CRC in terms of reporting processes,¹⁸⁰ making it more difficult to highlight very particular children's rights issues to the Committee.

Overall, a Day of General Discussion and a General Comment would be the most appropriate way for the CRC to address children as subjects of the media. It would allow for an interdisciplinary approach which is essential in this context. It would also represent an essential awareness-raising opportunity and would reflect the severity of the matter.

5.2 Proposed Content of the General Comment

The factors and criteria that are outlined as forming part of the guidance are based on both the conclusions drawn about what is missing from the international legal framework and the key issues that still prevail in mainstream media, while also drawing on and utilising elements from other guidance that has been published, for example by the IFJ¹⁸¹ and the UNHCR.¹⁸² These examples of guidelines are extremely valuable, but this research shows that they are simply not enough. Commercial interests continue to prevail over the use of children's rights-based approaches which could be informed using these existing guidelines. The CRC needs to be the author of such guidance so that it carries greater weight in terms of ensuring implementation. Inspiration is also drawn from national contexts, where successful frameworks for regulating the relationship between children and

¹⁷⁹ *International Federation of Journalists* (n 21).

¹⁸⁰ Child Rights Connect, 'The Reporting Cycle of the Committee on the Rights of the Child A guide for NGOs and NHRIs' (2014).

¹⁸¹ *International Federation of Journalists* (n 21).

¹⁸² UNHCR, 'Reporting on Refugees: Guidance for and by Journalists' (*UNHCR*, 20 February 2018) <<https://www.unhcr.org/publications/brochures/58e1ed994/reporting-on-refugees-guidelines-by-and-for-journalists.html>> accessed 09/06/2022.

the media have been established.¹⁸³ These sources represent a useful starting point that can be adapted with a specific focus on migrant children and the issues highlighted in this research. Including these resources in a General Comment will also allow for greater 'weight' to be placed behind these recommendations. Suggestions are structured based on the template of the General Comments. It does not cover all aspects that are considered in General Comments but makes suggestions as to what ought to be included in the relevant sections.

I. Objective

1. News media is instrumental in the implementation and enforcement of children's rights and is an essential tool for public accountability. However, it can also contribute to rights violations and misconceptions that prevent the full realisation of children's rights. In both positive and negative respects, the impact of news media on children's rights cannot be overstated. This General Comment aims to explain how State parties should implement the UNCRC in relation to children's rights in the media, to ensure full compliance with the obligations under the Convention. Guidance will be suggested to promote greater compatibility between children's rights and the functions and duties of the media, while respecting independence of non-state actors and their essential role in holding State parties to account.

II. General Measures of Implementation

2. The realisation of children's rights in the context of NM requires careful consideration and balancing of the interests involved. State parties must recognise the function of news media as a public watchdog. A balance must be struck between respecting the rights of children and ensuring there is not excessive State involvement in the news which might affect its independence. When striking this balance, the Committee reminds State parties and non-state actors of the heightened protections afforded to children, particularly in relation to their privacy and non-discrimination, which would affect this balancing exercise.
3. These recommendations are not exhaustive and should not be seen as a way of prohibiting certain content relating to migrant children or children's participation, as this would be contrary to articles 12 and 17 of the Convention. Instead, State parties should encourage a process of children's rights analysis by NM organisations at all levels of the organisation, to encourage conscientious consideration of children's rights in the publication of news. State parties ought also to adapt criteria to fit the requirements of the national cultural context.

A. Considerate Reporting

4. Primarily, journalists and editorial boards should not contribute to violations of children's rights. They should strive to promote children's rights through awareness raising and the provision of accurate information. When reporting involves migrant children, journalists and editorial boards must take due consideration of the best interest of that child, and how they are able to best protect and implement that child's right while fulfilling their duty of facilitating information exchange with the public.
5. Although there is no formal definition of 'hate speech', State parties are encouraged to consider the particular protection from non-discrimination afforded to children under article

¹⁸³ Charter of Rome Code of Conduct Regarding Asylum Seekers, Refugees, Victims of Trafficking and Migrants (2008).

2(2), and how this might mean a lower threshold of tolerance towards stereotypes and misrepresentation is necessary in order to protect children's rights to non-discrimination, than might exist for adults. Stereotyping can come in different forms, and overly sympathetic or charitable approaches towards children can be just as harmful as negative stereotypes of migrant children.

6. When publishing material involving migrant children, consideration should be given as to how it might affect migrant children's rights, and how it will impact public perceptions of children which could affect their rights and how they are implemented nationally. NM outlets are encouraged to refrain from publishing material that will negatively impact the realisation of children's rights, particularly the most vulnerable groups of children, such as migrant children.
7. News media outlets should be encouraged to provide training for all media professionals to ensure that they are working in accordance with children's rights and normalise a process of considering the rights of children when involving them in news.

B. Depoliticise the Context

8. Where children are involved in reporting in migration, NM outlets should strive to remain as impartial as possible. They should refrain from using political language or impartial facts relating to children, or presenting them as fact, because this might encourage decisions or perspectives that are detrimental to children's rights.
9. News media is instrumental in reporting political developments, and politician's perspectives to the public. This is part of their role as public watchdog and is a cornerstone of enabling democracy. As such, State parties must be careful to respect this duty when implementing guidelines and should not prohibit the inclusion of children in the media or reporting on children on the move. However, to balance this against the rights of the child NM outlets are encouraged to distinguish between facts and political perspectives to minimise potential discrimination, stereotyping, and misrepresentation as prohibited by article 2, and promote access to information that is impartial as protected by article 17.

C. Definitions

10. News media outlets must use the legally correct terms when describing migrant children so far as is possible. The term 'illegal' and 'animalistic' metaphors in relation to migrant children, regardless of the context, should not be used. Such terminology is extremely detrimental to rights realisation and encourages stereotyping of migrant children. State parties are encouraged to produce accessible glossaries of legal terms to be used in articles. An example is the glossary found in the Charter of Rome, which reflects both the international legal standards and the domestic context.¹⁸⁴
11. In addition, journalists and NM should provide more contextual information around migration and children. This will improve the accuracy of reporting and limit opportunities for misrepresentation.
12. Actors involved in the implementation of children's rights, including State parties, NHRIs, NGOs and CSOs are encouraged to produce data on children migration, specifically

¹⁸⁴ Ibid.

documenting their age, gender, and reasons for migration. The collection of such data will allow for more accurate reporting.

D. Criteria and Consent for Interviewing Children and Using Photographs

13. In accordance with article 12, it is important that migrant children are given the opportunity to be heard in news media. This is not only essential to the realisation of migrant children's rights but will also assist the media in fulfilling its role as a public watchdog. Children's participation should be treated with equal importance to that of political actors, NGOs, and adults. Children should not be dismissed from being involved in NM because it is perceived as too ethically complex to facilitate.
14. Any participation from children requires informed consent in accordance with their evolving capacity under article 5. For younger children, consent should also be provided by a parent or guardian.
15. Information about the purpose, form and context of the article and the child's comments and involvement should be provided in the language that is suitable for the age and maturity of the child.
16. Understandably, migrant children who are asked to be involved in news publications may be apprehensive and not trusting. As such, all efforts must be made to build a professional relationship of trust and confidence prior to the interview process. Initial contact must be done without equipment or recording materials present, and transparency about the purpose and uses of the interview is essential. Journalists should be aware of their body language, and ensure they are not acting or using language that will patronise, intimidate, or overwhelm children.
17. NGOs can be useful in connecting children to the media where appropriate. Furthermore, children should have the option to have a trusted adult present in any interview to help them should they require. Journalists should be careful to ensure that the questions they ask are directed to, and appropriate for the child, *not* the adult present. Where necessary, translators should be provided, and care must be taken not to paraphrase or summarise what the child is saying.
18. The anonymity of children should also be respected where necessary, and any interviews used in NM should be sensitive to any risks to the child's safety, particularly considering that many children are fleeing abuse or persecution. This is of utmost importance when using photographs or videos of children.

E. Best Interest of the Child

19. Many national regulations use the best interests of the child as a children's rights standard. In enacting best interests assessment, State parties and non-state actors are encouraged to consider whether the publication by NM will either violate the right of the child to non-discrimination, freedom of expression, right to privacy or the right to access information, or contribute to violations by the State party. Where this is the case, NM outlets should also consider whether the aims and purpose of the publication can be met through other means which do not occur to the detriment of the rights of the child.

III. Dissemination

20. State parties should ensure that this general comment is widely disseminated to all relevant stakeholders, particularly non-state actors involved in the production of news media, as well as NGOs, civil society, and the public at large. It should also be made available to children, particularly migrant children, including age-appropriate versions in a range of languages.

5.3 Reflections and Looking Forwards

This research has shown this area of law to be frustrating in many regards. The volume of competing interests and the high stakes makes it a complex balancing exercise, and although understandable, the position of the European Court on the scope of freedom of expression of NM and the lack of case law that elaborates on the weighting of children's rights in this balancing exercise is disappointing. From a children's rights perspective, it is concluded that the European Court is not doing enough to sufficiently consider and address the specific protections afforded to children through the UNCRC, especially for groups of particularly vulnerable children. The volume of evidence that has been uncovered while conducting this research of *all* the ways news media is problematic for the rights of migrant children has exacerbated my frustration and confusion as to why this issue has been overlooked for so long. There are many examples, in a broad range of contexts beyond just migration, of how media organisations are repeatedly disregarding the rights and interests of the children they choose to feature, instead prioritising commercial interests. In this sense, it is baffling as to why this issue has been so underrepresented on the international agenda. Of course, there are a plethora of pressing global children's rights issues and getting issues on the international agenda is extremely competitive, but the issue of children in the media has been long standing and pervaded all aspects of children's rights. Given this, it is difficult to accept the excuses as to why this issue has not been addressed as a matter of urgency on the children's rights agenda. Notwithstanding the frustration, completing this research has shown an awareness of this issue, particularly on the national level and in CSOs and NGOs. These developments provide hope that this is an issue that is being taken seriously, and this research has shown that there are tangible methods of approaching the problem.

Another notable conclusion is that there must be a serious reconsideration of how we talk about migration, particularly migrant children. The deeply politicised nature of migration has exposed migrant children to a huge degree of public scrutiny via the media under the guise of accountability of Governments. The negative impact of this is exacerbated by the transformation in how news is consumed, particularly the pace and volume of information that is distributed via a huge range of channels online. This means it is pertinent that the international legal standards are enforceable to allow migrant children to realise and enforce their rights. It also points to the need for accurate data to be collected, and greater participation from migrant children to better understand how they have experienced migration in Europe and their relationship with their rights.

This research has shown that the current children's rights framework does not adequately support duty bearers in respecting, protecting, and fulfilling the rights of migrant children who are featured in the news. It has used its conclusions on why the current legal framework is inadequate to make proposals to both the CRC and NM outlets on how they can fulfil their duties to enact and enforce the rights of migrant children. It is hoped that this research will contribute to boosting this issue higher up on the global agenda. Although it is a very nuanced area of law and sociology, there is no doubt that a constant flow of negative information, whether legally accurate or not, *will* build a narrative about migrant children that affects how they are able to access and enforce their rights. Beyond just migrant children, stereotyping of groups of vulnerable children is becoming all too common and excused as part of a democratic society. This may be the case, but it is also essential that children can challenge these stereotypes and the misinformation, and ultimately enforce the rights to which they are entitled. In the future, this guidance could be a useful starting point for developing further guidance on the

complexities that are introduced by social media and third-party responsibilities. It would be desirable to build on this research by considering a more global perspective on the impact of news via social media, in particular the rise of 'fake news' on social media platforms, and how this has exacerbated the problems identified in this research.

Annex No.1: Mentions of the term 'MEDIA' in all General Comments from the Committee on the Rights of the Child.

GC Number	Topic	Paragraphs to Note
General Comment No.1	Aims of Education.	[21] The media, broadly defined, also have a central role to play, both in promoting the values and aims reflected in article 29 (1) and in ensuring that their activities do not undermine the efforts of others to promote those objectives. Governments are obligated by the Convention, pursuant to article 17 (a), to take all appropriate steps to “encourage the mass media to disseminate information and material of social and cultural benefit to the child”. Footnote 8: Refers to DOGD 1996 [1396] about the role of the media.
General Comment No.2	The role of national human rights institutions in the promotion and protection of the rights of the child.	[19(l)] Promote public understanding and awareness of the importance of children’s rights and, for this purpose, work closely with the media and undertake or sponsor research and educational activities in the field.
General Comment No.3	HIV AIDS in the rights of the child.	[16] Consistent with the obligations of States parties in relation to the rights to health and information (arts. 24, 13 and 17), children should have the right to access adequate information related to HIV/AIDS prevention and care, through formal channels (e.g. through educational opportunities and child-targeted media) as well as informal channels (e.g. those targeting street children, institutionalized children or children living in difficult circumstances).
General Comment No.4	Adolescent health and development in the context of the	[14] Creating a safe and supportive environment entails addressing attitudes and actions of both the immediate environment of the adolescent - family, peers, schools

Convention on the Rights of the Child.

and services - as well as the wider environment created by, inter alia, community and religious leaders, the media, national and local policies and legislation. The promotion and enforcement of the provisions and principles of the Convention, especially articles 2-6, 12- 17, 24, 28, 29 and 31, are key to guaranteeing adolescents' right to health and development. States parties should take measures to raise awareness and stimulate and/or regulate action through the formulation of policy or the adoption of legislation and the implementation of programmes specifically for adolescents. [27] In order to act adequately on the information, adolescents need to develop the skills necessary, including self-care skills, such as how to plan and prepare nutritionally balanced meals and proper personal hygiene habits, and skills for dealing with particular social situations such as interpersonal communication, decision-making, and coping with stress and conflict. States parties should stimulate and support opportunities to build such skills through, inter alia, formal and informal education and training programmes, youth organizations and the media. [28] In light of articles 3, 17 and 24 of the Convention, States parties should provide adolescents with access to sexual and reproductive information, including on family planning and contraceptives, the dangers of early pregnancy, the prevention of HIV/AIDS and the prevention and treatment of sexually transmitted diseases (STDs). In addition, States parties should ensure that they have access to appropriate information, regardless of their marital status and whether their parents or guardians consent. It is essential to find proper means and methods of providing information that is adequate and sensitive to the particularities and specific rights of adolescent girls and boys. To this end, States parties are encouraged to ensure that adolescents are actively involved in the design and dissemination of information through a variety of channels beyond the school, including youth organizations, religious, community and other groups and the media.

General Comment No.5	General measures of implementation.	<p>[53] The Committee emphasizes States' obligation to develop training and capacity-building for all those involved in the implementation process - government officials, parliamentarians and members of the judiciary - and for all those working with and for children. These include, for example, community and religious leaders, teachers, social workers and other professionals, including those working with children in institutions and places of detention, the police and armed forces, including peacekeeping forces, those working in the media and many others. Training needs to be systematic and ongoing - initial training and re-training.</p> <p>[59] The media can be valuable partners in the process of implementation (see also paragraph 70). [70] The media can play a crucial role in the dissemination of the Convention and knowledge and understanding of it and the Committee encourages their voluntary engagement in the process, which may be stimulated by governments and by NGOs. Footnote 22 - Reference to DOGD 1996 on Children and the Media.</p>
General Comment No.6	Treatment of unaccompanied and separated children outside of their country of origin.	-
General Comment No.7	Implementing rights in early childhood.	<p>[35] Article 17 recognizes the potential for both traditional print-based media and modern information technology-based mass media to contribute positively to the realization of children's rights. Early childhood is a specialist market for publishers and media producers, who should be encouraged to disseminate material that is appropriate to the capacities and interests of young children, socially and educationally beneficial to their well-being, and which reflects the national and regional diversities of children's circumstances, culture and language. Particular attention should be given to the need of minority groups for access to media that promote their recognition and social inclusion. Article 17 (e) also refers to the role of States parties in ensuring that children are protected from inappropriate</p>

		<p>and potentially harmful material. Rapid increases in the variety and accessibility of modern technologies, including Internet-based media, are a particular cause for concern. Young children are especially at risk if they are exposed to inappropriate or offensive material.</p> <p>States parties are urged to regulate media production and delivery in ways that protect young children, as well as support parents/caregivers to fulfil their child-rearing responsibilities in this regard (art. 18). [36(E)] Exploitation of young children in the entertainment industry, including television, film, advertising and other modern media, is also a cause for concern.</p>
General Comment No.8	The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment.	[48] The Committee notes that there are now many examples of materials and programmes promoting positive, non-violent forms of parenting and education, addressed to parents, other carers and teachers and developed by Governments, United Nations agencies, NGOs and others. ¹⁷ These can be appropriately adapted for use in different States and situations. The media can play a very valuable role in awareness-raising and public education.
General Comment No.9	The rights of children with disabilities.	[26] Knowledge of the Convention and its specific provisions devoted to children with disabilities is a necessary and powerful tool to ensure the realization of these rights. States parties are encouraged to disseminate knowledge by, inter alia, conducting systematic awareness-raising campaigns, producing appropriate material, such as a child friendly version of the Convention in print and Braille, and using the mass media to foster positive attitudes towards children with disabilities. [27] As for professionals working with and for children with disabilities, training programmes must include targeted and focused education on the rights of children with disabilities as a prerequisite for qualification. These professionals include but are not limited to policymakers, judges, lawyers, law enforcement officers, educators, health workers, social workers and media staff among others. [37] Access to appropriate information and mass media. 'State parties are required to protect all children...from harmful

		<p>information...and material that promote xenophobia or any other form of discrimination and could potentially reinforce prejudices.' [37] Children with disabilities should also be provided with the appropriate technology and other services and/or languages, e.g. Braille and sign language, which would enable them to have access to all forms of media, including television, radio and printed material as well as new information and communication technologies and systems, such as the Internet. [72] It must be emphasized though that when such exclusive events take place, the media must play its role responsibly by giving the same attention as it does to sports for children with no disabilities.</p>
<p>General Comment No.10</p>	<p>Children's rights in juvenile justice.</p>	<p>[96] Children who commit offences are often subject to negative publicity in the media, which contributes to a discriminatory and negative stereotyping of these children and often of children in general. This negative presentation or criminalisation of child offenders is often based on misrepresentation and/or misunderstanding of the causes of juvenile delinquency, and results regularly in a call for a tougher approach (EG zero-tolerance, three strikes and you are out, mandatory sentences, trial in adult courts and other primarily punitive measures). To create a positive environment for a better understanding of the root causes of juvenile delinquency and a rights-based approach to this social problem, the States parties should conduct, promote and/or support educational and other campaigns to raise awareness of the need and the obligation to deal with children alleged of violating the penal law in accordance with the spirit and the letter of CRC. In this regard, the States parties should seek the active and positive involvement of members of parliament, NGOs and the media, and support their efforts in the improvement of the understanding of a rights-based approach to children who have been or are in conflict with the penal law. It is crucial for children, in particular those who have</p>

		experience with the juvenile justice system, to be involved in these awareness-raising efforts.
General Comment No.11	Indigenous children.	[40] The Committee underlines the importance that the media have particular regard for the linguistic needs of indigenous children, in accordance with articles 17 (d) and 30 of the Convention. The Committee encourages States parties to support indigenous children to have access to media in their own languages. The Committee underlines the right of indigenous children to access information, including in their own languages, in order for them to effectively exercise their right to be heard. [61] States parties should ensure that school facilities are easily accessible where indigenous children live. If required, States parties should support the use of media, such as radio broadcasts and long distance education programmes (internet-based) for educational purposes and establish mobile schools for indigenous peoples who practice nomadic traditions.
General Comment No.12	The right to be heard.	[49] In order to fulfil the core obligations to article 12, State parties should adopt the following strategies which includes to 'Combat negative attitudes, which impede the full realization of the child's right to be heard, through public campaigns, including opinion leaders and the media, to change widespread customary conceptions of the child. [81] The right to freedom of expression embodied in article 13 is often confused with article 12. However, while both articles are strongly linked, they do elaborate different rights. Freedom of expression relates to the right to hold and express opinions, and to seek and receive information through any media. [83] The Committee also reminds States parties that the media are an important means both of promoting awareness of the right of children to express their views, and of providing opportunities for the public expression of such views. It urges various forms of the media to dedicate further resources to the inclusion of children in the development of programmes and the creation of opportunities for children to develop and lead media initiatives on their rights. [96] The media should play a strong role in communicating to

		<p>parents that their children's participation is of high value for the children themselves, their families and society.</p> <p>[134] Children themselves can be involved as trainers and facilitators on how to promote effective participation; they require capacity-building to strengthen their skills in, for example, effective participation awareness of their rights, and training in organizing meetings, raising funds, dealing with the media, public speaking and advocacy.</p>
<p>General Comment No.13</p>	<p>Freedom from violence.</p>	<p>[8] The Committee recommends that States parties widely disseminate the present general comment within government and administrative structures, to parents, other caregivers, children, professional organizations, communities and civil society at large. All channels of dissemination, including print media, the Internet and children's own communication means, should be used.</p> <p>[15(c)] The impact on children, in particular adolescents, of high-handed or "zero tolerance" State policies in response to child violence is highly destructive as it is a punitive approach victimizing children by reacting to violence with more violence. Such policies are often shaped by public concerns over citizens' security and by the high profile given to these issues by mass media. [30] Violence in the mass media. Mass media, especially tabloids and the yellow press, tend to highlight shocking occurrences and as a result create a biased and stereotyped image of children, in particular of disadvantaged children or adolescents, who are often portrayed as violent or delinquent just because they may behave or dress in a different way. Such stirred-up stereotypes pave the way for State policies based on a punitive approach, which may include violence as a reaction to assumed or factual misdemeanours of children and young persons. [41(g)] Ensure that relevant legislation provides adequate protection of children in relation to media and ICT. [44] Educational measures should address attitudes, traditions, customs and behavioural practices which condone and promote violence against children. They should encourage open discussion about</p>

		<p>violence, including the engagement of media and civil society. [44(a)] Public information programmes, including awareness campaigns, via opinion leaders and the media, to promote positive child-rearing and to combat negative societal attitudes and practices which condone or encourage violence; [47(a)(iii)] Developing partnerships with all sectors of society, including children themselves, NGOs and the media.</p>
General Comment No.14	Best interests of the child.	<p>[15(h)]: ensuring compliance with implementation through the use of measures such as (h) Combating all negative attitudes and perceptions which impede the full realization of the right of the child to have his or her best interests assessed and taken as a primary consideration, through communication programmes involving mass media and social networks as well as children, in order to have children recognized as rights holders</p>
General Comment No.15	The right of the child to the highest attainable standard of health.	<p>[14] states are required to prevent discrimination in the private sphere and provide remedy if it occurs. States should also take steps to create a supportive environment for business to respect the right to protection from discrimination by promoting knowledge and understanding of the right within the business sector, including within the media, marketing and advertising sectors. [58] The mass media industry, including advertising and marketing industries, can have positive as well as negative impacts on children's rights. Under article 17 of the Convention, States have obligations to encourage the mass media, including private media, to disseminate information and materials of social and cultural benefit to the child, for example regarding healthy lifestyles. The media must be regulated appropriately to protect children from harmful information, especially pornographic materials and materials that portray or reinforce violence, discrimination and sexualized images of children, while recognizing children's right to information and freedom of expression. States should encourage the mass media to develop guidelines to ensure full respect for the rights of the child, including their protection from</p>

violence and from portrayals that perpetuate discrimination, in all media coverage. States should establish copyright exceptions which permit the reproduction of books and other printed publications in formats that are accessible for children with visual or other impairments. [61] Information about children's health should be provided to all parents individually or in groups, the extended family and other caregivers through different methods, including health clinics, parenting classes, public information leaflets, professional bodies, community organizations and the media. [63] Efforts to reduce road traffic accidents should include legislating for the use of seatbelts and other safety devices, ensuring access to safe transport for children and according them due consideration in road planning and traffic control. The support of the related industry and the media is essential in this respect. [64] Recognizing violence as a significant cause of mortality and morbidity in children, particularly adolescents, the Committee emphasizes the need to create an environment that protects children from violence and encourages their participation in attitudinal and behavioural changes at home, in schools and in public spaces; to support parents and caregivers in healthy child-rearing; and to challenge attitudes which perpetuate the tolerance and condoning of violence in all forms, including by regulating the depiction of violence by mass media. [65] Regulation of the advertising and sale of substances harmful to children's health and of the promotion of such items in places where children congregate, as well as in media channels and publications that are accessed by children are recommended. [77] The Committee calls on all non-State actors engaged in health promotion and services, especially the private sector, including the pharmaceutical and health-technology industry as well as the mass media and health service providers, to act in compliance with the provisions of the Convention and to ensure compliance by any partners who deliver services on their behalf. [84] Article 17 of the Convention delineates the responsibilities of mass

		<p>media organizations. In the context of health, these can be further expanded to include promoting health and healthy lifestyles among children; providing free advertising space for health promotion; ensuring the privacy and confidentiality of children and adolescents; promoting access to information; not producing communication programmes and material that are harmful to child and general health; and not perpetuating health-related stigma.</p>
<p>General Comment No.16</p>	<p>Impact of the business sector on children's rights.</p>	<p>[14] States are required to prevent discrimination in the private sphere in general and provide remedy if it occurs. States should collect statistical data that is appropriately disaggregated and other information to identify discrimination against children in the context of business activities and operations and mechanisms should be established to monitor and investigate discriminatory practices within the business sector. States should also take steps to create a supportive environment for business to respect the right to protection from discrimination by promoting knowledge and understanding of the right within the business sector, including within the media, marketing and advertising sectors. [58] The mass media industry, including advertising and marketing industries, can have positive as well as negative impacts on children's rights. Under article 17 of the Convention, States have obligations to encourage the mass media, including private media, to disseminate information and materials of social and cultural benefit to the child, for example regarding healthy lifestyles. The media must be regulated appropriately to protect children from harmful information, especially pornographic materials and materials that portray or reinforce violence, discrimination and sexualized images of children, while recognizing children's right to information and freedom of expression. States should encourage the mass media to develop guidelines to ensure full respect for the rights of the child, including their protection from violence and from portrayals that perpetuate discrimination, in all media coverage. States should</p>

		<p>establish copyright exceptions which permit the reproduction of books and other printed publications in formats that are accessible for children with visual or other impairments. [60] Digital media is of particular concern, as many children can be users of the Internet but also become victims of violence such as cyber-bullying, cyber-grooming, trafficking or sexual abuse and exploitation through the Internet. [77] Different mechanisms for consultation can be used, such as youth councils and parliaments, social media, school councils and associations of children. [82] In this context, the media should be encouraged to provide children with information about their rights in relation to business and raise awareness among businesses of their responsibility to respect children's rights.</p>
<p>General Comment No.17</p>	<p>The right to rest, play and recreational activities.</p>	<p>[4] The urban population, especially in developing countries, is increasing significantly, as is violence worldwide in all its forms – at home, in schools, in mass media, in the streets. [22] States parties are encouraged to ensure that children are provided with the widest possible access, through different media, to information and materials related to their own culture and to other cultures, in a language that they understand, including sign language and Braille, and by permitting exceptions to copyright laws in order to ensure the availability of printed materials in alternative formats. [37] The introduction, for example, of curfews on children; gated communities or parks; reduced noise-level tolerance; playgrounds with strict rules for “acceptable” play behaviour; restrictions on access to shopping malls builds a perception of children as “problems” and/or delinquents. Adolescents, in particular, are widely perceived as a threat by widespread negative media coverage and representation, and discouraged from using public spaces. [45] Children in all regions of the world are spending increasing periods of time engaged in play, recreational, cultural and artistic activities, both as consumers and creators, via various digital platforms and media, including watching television, messaging,</p>

social networking, gaming, texting, listening to and creating music, watching and making videos and films, creating new art forms, posting images. Information and communication technologies are emerging as a central dimension of children's daily reality. Today, children move seamlessly between offline and online environments. These platforms offer huge benefits – educationally, socially and culturally – and States are encouraged to take all necessary measures to ensure equality of opportunity for all children to experience those benefits. Access to the Internet and social media is central to the realization of article 31 rights in the globalized environment. [46] However, the Committee is concerned at the growing body of evidence indicating the extent to which these environments, as well as the amounts of time children spend interacting with them, can also contribute to significant potential risk and harm to children. For example” Access to the Internet and social media is exposing children to cyberbullying, pornography and cybergrooming. Many children attend Internet cafes, computer clubs and game halls with no adequate restrictions to access or effective monitoring systems. [48] In addition, gender differentiation in what is considered girls' and boys' play and which is widely reinforced by parents, caregivers, the media and producers/manufacturers of games and toys serve to maintain traditional gender-role divisions in society. [56(b)] Children should be given the opportunity to represent themselves in the media. [57(b)] **Regulation of non-state actors.** Protection from cultural, artistic or recreational material which might be injurious to children's well-being, including protection and classification systems governing media broadcasting and film, taking into account the provisions of both article 13 on freedom of expression and article 18 on the responsibilities of parents. [60] The Committee recommends that States parties disseminate this general comment widely within Government and administrative structures, to parents, other caregivers, children, professional organizations, communities and civil society at large. All channels of dissemination,

		<p>including print media, the Internet and children's own communication means should be used. This will necessitate translation into relevant languages, including sign languages, Braille and easy-to-read formats for children with disabilities. It also requires making culturally appropriate and child-friendly versions available.</p>
<p>General Comment No.18</p>	<p>Joint General Comment with the Committee on Elimination of all forms of Discrimination against Women on harmful practices.</p>	<p>[46] However, the Committee is concerned at the growing body of evidence indicating the extent to which these environments, as well as the amounts of time children spend interacting with them, can also contribute to significant potential risk and harm to children. For example: • Access to the Internet and social media is exposing children to cyberbullying, pornography and cybergrooming. Many children attend Internet cafes, computer clubs and game halls with no adequate restrictions to access or effective monitoring systems [17] Despite efforts to combat harmful practices, the overall number of women and girls affected remains extremely high and may be increasing, including for instance in conflict situations and due to technological developments like the widespread use of social media. [33] Such a holistic strategy must be mainstreamed and coordinated both vertically and horizontally and integrated into national efforts to prevent and address all forms of harmful practices. Horizontal coordination requires organization across sectors, including education, health, justice, social welfare, law enforcement, immigration and asylum, communication and media. [63] For out-of-school girls, non-formal education is often their only route to learning and should provide basic education and instruction in life skills. It is an alternative to formal schooling for those who did not complete primary or secondary school and may also be made available through radio programmes and other media, including digital media. [72(d)] Conduct specialized awareness and training programmes for health care providers working with immigrant communities to address the unique health care needs of children and women who</p>

		<p>have undergone FGM or other harmful practices. Provide specialized training also for professionals within child welfare services and services focused on the rights of women, education, the police and justice sectors, politicians and media personnel who are working with migrant girls and women. [74] Awareness-raising measures should include accurate information from trusted sources about the harm caused by the practices and convincing reasons as to why they should be eliminated. In this respect, the mass media can perform an important function in ensuring new thinking in particular through women's and children's access to information and material aimed at the promotion of their social and moral well-being and physical and mental health, in line with obligations under both Conventions that help to protect them from harmful practices. [78] Community-based and mainstream media can be important partners in awareness-raising and outreach about the elimination of harmful practices, including through joint initiatives with the government to host debates or talk shows, prepare and screen documentaries and develop educational programmes for radio and television. [80(b)] Ensure that awareness-raising programmes provide accurate information and clear, unified messages from trusted sources about the negative impact of harmful practices on the woman, children, in particularly girls, and their families and society at large. Such programmes should include social media, the internet, and community communication and dissemination tools; [80(g)] Build or reinforce effective partnerships with mainstream media to support the implementation of awareness-raising programmes and promote public discussions and encourage the creation and observance of self-regulatory mechanisms that respect the privacy of individuals.</p>
General Comment No.19	Public budgeting for rights realisation.	[8(k)]: Provide budget information to all children in ways that are easily understood and in media that are popular with children, like social media. [16]: The objective also has implications for other stakeholders in

		<p>the budget process, such as national human rights institutions, the media, children, families and civil society organizations. [53]: It recognizes the important role played by officials of the executive, independent ombudspersons for children, educational institutions, the media, civil society organizations, including children's organizations, and legislatures in assuring children's participation in relation to public budgets. [112]: The Committee recommends that States parties widely disseminate the present general comment to all its government branches, levels and structures and to civil society, including children and their caregivers, as well as to development cooperation entities, academia, the media and relevant parts of the private sector.</p>
<p>General Comment No.20</p>	<p>Implementing rights during adolescence.</p>	<p>[2] Globally, adolescents engage positively in many spheres, including health and education campaigns, family support, peer education, community development initiatives, participatory budgeting and creative arts, and make contributions towards peace, human rights, environmental sustainability and climate justice. Many adolescents are at the cutting edge of the digital and social media environments, which form an increasingly central role in their education, culture and social networks, and hold potential in terms of political engagement and monitoring accountability. [6] The Committee emphasizes the particular significance for adolescents of the recommendations arising from the day of general discussion on digital media and children's rights. [24] Adolescents can connect with peers, engage in political processes and increase their sense of agency to make informed decisions and choices, and therefore need to be supported in forming organizations through which they can participate in a variety of means, including digital media. [37(f)] Dissemination of accessible information about children's rights and how to exercise them through, inter alia, the school curriculum, the media, including digital media, and public information materials, making particular efforts to reach out to adolescents in marginalized situations. [42] Adolescents have the right</p>

		<p>to seek, receive and impart information and ideas and use the means of their dissemination, including spoken, written and sign language and such non-verbal expression as images and objects of art. Means of expression include, for example, books, newspapers, pamphlets, posters, banners, digital and audiovisual media, as well as dress and personal style. [47] Access to information encompasses all forms of media but particular attention needs to be given to the digital environment, as adolescents increasingly use mobile technology and as social and digital media become the primary means through which they communicate and receive, create and disseminate information...The recommendations from the days of general discussion on the media in 1996 and 2014 have particular resonance for adolescents...States should adopt measures to ensure that all adolescents have access, without discrimination, to different forms of media and support and promote equal access to digital citizenship, including through the promotion of accessible formats for adolescents with disabilities. Training and support should be provided as part of the basic education curriculum to ensure the development of adolescents' digital, information and media and social literacy skills. [48] States are encouraged to require businesses to undertake child-rights due diligence with a view to identifying, preventing and mitigating the impact of risks on children's rights when using digital media and information and communications technology. [78] Awareness-raising activities, including through social media, need to be conducted in order to make parents and children aware of the dangers of both domestic and international trafficking. [81] The Committee expresses deep concern about the fact that adolescent boys and girls are being recruited, including through the use of social media, by States' armed forces, armed groups and militias, and urges all States parties to ratify the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.</p>
--	--	---

General Comment No.21	Children in street situations.	<p>[18] States should facilitate sensitization and training for other stakeholders who come into direct or indirect contact with children in street situations, such as transport workers, media representatives, community and spiritual/religious leaders and private sector actors, who should be encouraged to adopt the Children’s Rights and Business Principles. [27] States should work with print, broadcast and social media to disseminate and amplify sensitization and de- stigmatization messages and stories on the basis of a child rights approach. Public fear of crime committed by children in street situations is often media-fuelled and disproportionate to reality. The media should be actively encouraged to use accurate data and evidence and conform to child protection standards to safeguard children’s dignity, physical security and psychological integrity. [33] States and intergovernmental organizations should provide — and support civil society organizations in providing — children in street situations with a supportive and enabling environment to: be heard in judicial and administrative proceedings; carry out their own initiatives; and fully participate at the community and national levels in policy and programme conceptualization, design, implementation, coordination, monitoring, review and communication, including through the media. [62] All channels of dissemination, including print media, the Internet, and children’s own communication means, such as storytelling and peer education, should be used.</p>
General Comment No.22	Joint general comment with the Committee on the Rights of Migrant workers and their families, on general principles regarding the rights of children in the context of international	<p>[52] It should be made known to all children and all relevant professionals and stakeholders, including those working for and with children (i.e., judges, lawyers, police and other law enforcement entities, teachers, guardians, social workers, staff of public or private welfare institutions and shelters, and health- care providers), the media and civil society at large.</p>

	migration: General Principles.	
General Comment No.23	Joint general comment with the Committee on the Rights of Migrant workers and their families, on general principles regarding the rights of children in the context of international migration: state party obligations with respect to countries of transit and destination.	[66] It should be made known to all children and all relevant professionals and stakeholders, including those working for and with children (i.e., judges, lawyers, police and other law enforcement entities, teachers, guardians, social workers, staff of public or private welfare institutions and shelters, and health- care providers), the media and civil society at large.
General Comment No.24	Children in the justice system.	[70] In the Committee's view, there should be lifelong protection from publication regarding crimes committed by children. The rationale for the non-publication rule, and for its continuation after the child reaches the age of 18, is that publication causes ongoing stigmatization, which is likely to have a negative impact on access to education, work, housing or safety. This impedes the child's reintegration and assumption of a constructive role in society. States parties should thus ensure that the general rule is lifelong privacy protection pertaining to all types of media, including social media. [111] Children who commit offences are often subjected to negative publicity in the media, which contributes to a discriminatory and negative stereotyping of those children...). States parties should seek the active and positive involvement of Members of Parliament, non- governmental organizations and the media to promote and support education and other campaigns to ensure that all aspects of the Convention are upheld for children who are in the child justice system.
General Comment No.25	Children's rights in the digital environment.	[5] The present general comment draws on the Committee's experience in reviewing States parties' reports, its day of general discussion on digital media

and children's rights, the jurisprudence of the human rights treaty bodies, the recommendations of the Human Rights Council and the special procedures of the Council, two rounds of consultations with States, experts and other stakeholders on the concept note and advanced draft and an international consultation with 709 children living in a wide variety of circumstances in 28 countries in several regions. [50] The digital environment provides a unique opportunity for children to realize the right to access to information. In that regard, information and communications media, including digital and online content, perform an important function. [52] States parties should encourage the production and dissemination of such content using multiple formats and from a plurality of national and international sources, including news media, broadcasters, museums, libraries and educational, scientific and cultural organizations. [57] Professional codes of conduct set by news media and other relevant organizations should include guidance on how to report digital risks and opportunities relating to children. Such guidance should result in evidence-based reporting that does not reveal the identity of children who are victims and survivors and that is in accordance with international human rights standards.

[58] Children's right to freedom of expression includes the freedom to seek, receive and impart information and ideas of all kinds, using any media of their choice.

[125] States parties should ensure that the present general comment is widely disseminated, including through use of digital technologies, to all relevant stakeholders, in particular parliaments and government authorities, including those responsible for cross-cutting and sectoral digital transformation, as well as members of the judiciary, business enterprises, the media, civil society and the public at large, educators and children, and is made available in multiple formats and languages, including age-appropriate versions.

Annex No.2: Graphs to illustrate how media is engaged with in the European Union and United Kingdom

Figure 1: Graph illustrating frequency of news media consumption of people over the age of 15 in the EU in 2019. Data Collected from Directorate-General for Communication, 'Media Use in the European Union' (Standard Eurobarometer Report) 94 Autumn 2019, November 2019.

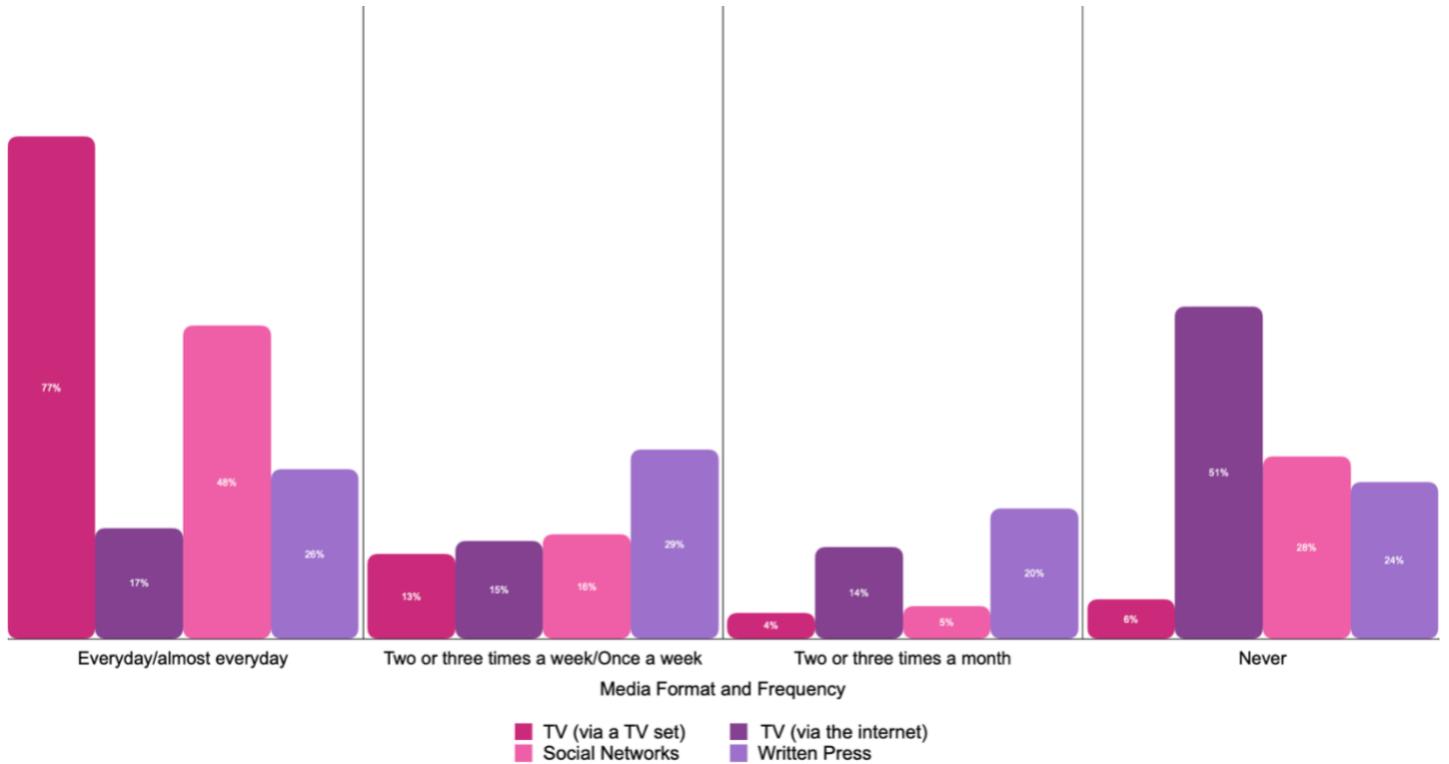


Figure 2: Percentage of people who agree that the media does a very/somewhat good job of covering migration, disaggregated by age. Data collected from Directorate-General for Communication, 'Media Use in the European Union' (Standard Eurobarometer Report) 94 Autumn 2019, November 2019.

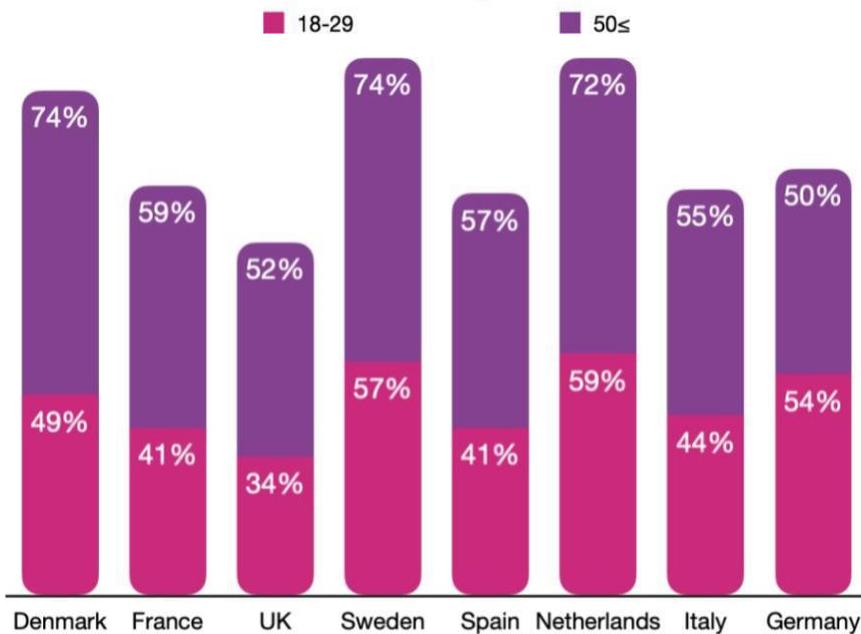
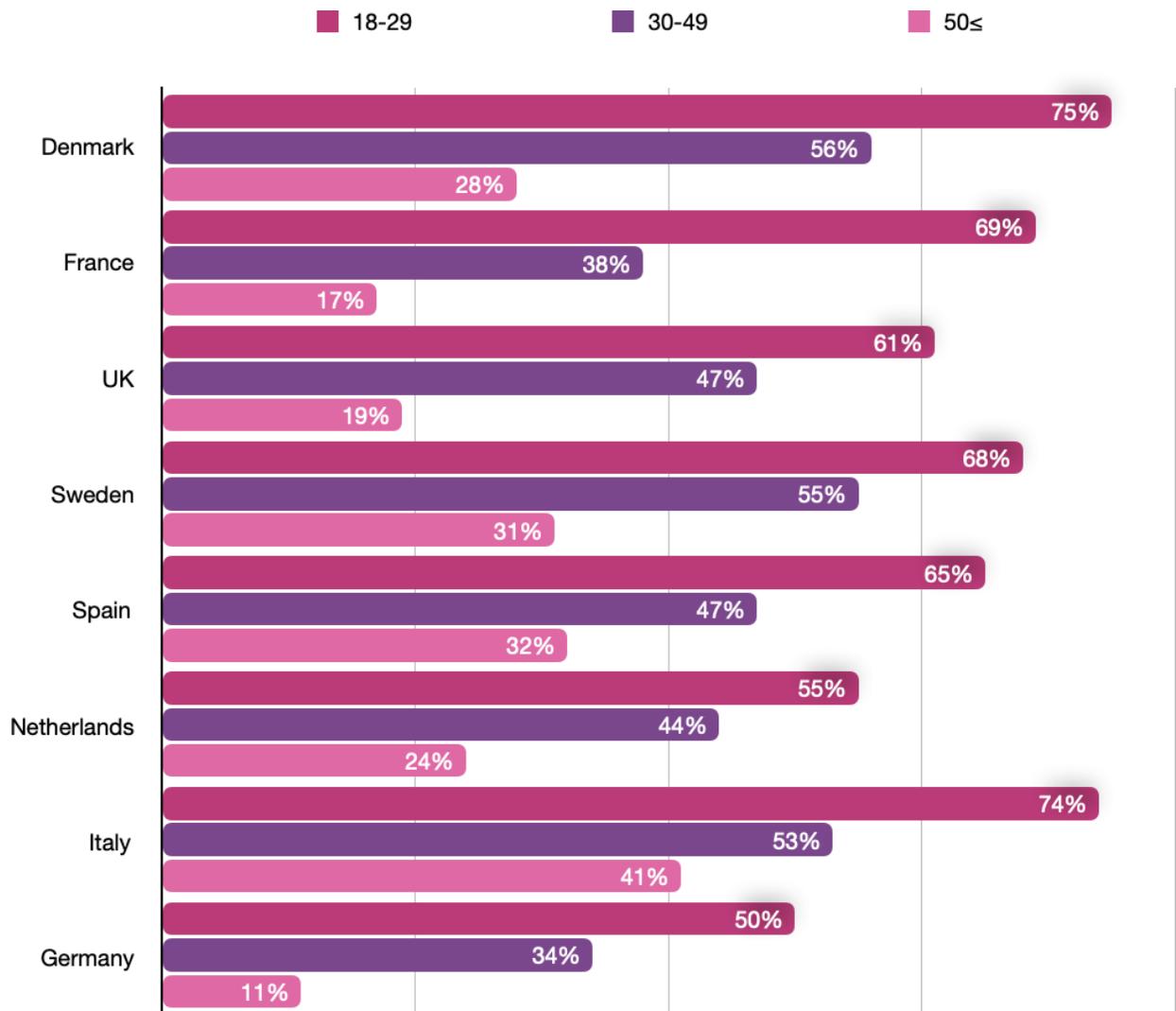


Figure 3: Graph illustrating access to news via social media in European Countries, disaggregated by age. Data from Katerina Eva Matsa, Laura Silver, Elisa Shearer, Mason Walker, 'Western Europeans Under 30 View News Media Less Positively, Rely More on Digital Platforms Than Older Adults' (2018) *Pew Research Center*, p. 13.



Bibliography

CONVENTIONS

Convention Relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137 (Refugee Convention).

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (adopted 25 May 2000, entry into force 12 February 2002) A/RES/54/263 (OPAC).

Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (adopted 25 May 2000, entry into force 18 January 2002) A/RES/54/263 (OPSC).

Optional Protocol to the Convention on the Rights of the Child on a communications procedure (adopted 19 December 2011, entry into force 27 January 2012) A/RES/66/138 (OPIC).

United Nations Convention on the Rights of the Child, adopted 20 November 1989, entered into force 2 September 1990) 1577 UN 3 (UNCRC).

COMMITTEE SOURCES

Committee on Economic, Social and Cultural Rights, 'General Comment 20: Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights) (2009) E/C.12/GC/20.

Committee on the Rights of the Child, 'Concluding Observations: United Kingdom of Great Britain and Northern Ireland' (2008) CRC/C/GBR/CO/4.

Committee on the Rights of the Child, 'Concluding Observations: United Kingdom of Great Britain and Northern Ireland' (2016) CRC/C/GBR/CO/5.

Committee on the Rights of the Child, 'Consideration of reports submitted by States parties under article 44 of the Convention: Concluding observations – Italy' (2011) CRC/C/ITA/CO/3-4.

Committee on the Rights of the Child, 'General comment No. 1 (2001) Article 29(1): The Aims of Education', CRC/C/GC/1.

Committee on the Rights of the Child, 'General comment No.2 (2002) The role of independent national human rights institutions in the promotion and protection of the rights of the child', CRC/C/GC/2.

Committee on the Rights of the Child, 'General comment No.3 (2003) HIV/AIDS and the rights of the child', CRC/C/GC/3.

Committee on the Rights of the Child, 'General comment No.4 (2003) Adolescent health and development in the context of the Convention on the Rights of the Child', CRC/C/GC/4.

Committee on the Rights of the Child, 'General Comment No.5 (2003) General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6), CRC/C/GC/5.

Committee on the Rights of the Child, 'General Comment No.6 (2005): Treatment of unaccompanied and separated children outside of their country of origin (2005), CRC/GC/2005/6.

Committee on the Rights of the Child, 'General comment No.7 (2005) Implementing child rights in early childhood CRC/C/GC/7.

Committee on the Rights of the Child, 'General comment No.8 (2006) The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (arts. 19; 28, para. 2; and 37, inter alia)', CRC/C/GC/8.

Committee on the Rights of the Child, 'No. 9 (2006) The rights of children with disabilities', CRC/C/GC/9.

Committee on the Rights of the Child, 'General Comment No.10 (2007) Children's rights in juvenile justice (2007),' CRC/C/GC/10.

Committee on the Rights of the Child, 'No.11 (2009) Indigenous children and their rights under the Convention, CRC/C/GC/11.

Committee on the Rights of the Child, 'General Comment No.12 (2009) The right of the child to be heard (2009)', CRC/C/GC/12.

Committee on the Rights of the Child, 'General comment No. 13 (2011) The right of the child to freedom from all forms of violence', CRC/C/GC/13.

Committee on the Rights of the Child, 'General Comment No.14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1)', CRC/C/GC/14.

Committee on the Rights of the Child, 'General Comment No.15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art. 24)*', CRC/C/GC/15.

Committee on the Rights of the Child, 'General comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights', CRC/C/GC/16.

Committee on the Rights of the Child, 'General Comment No.17 (2013) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts (art. 31)', CRC/GC/C/17.

Committee on the Rights of the Child, Committee on the Elimination of Discrimination against Women, 'Joint general recommendation/general comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on harmful practices', (2014) CEDAW/C/GC/31-CRC/C/GC/18.

Committee on the Rights of the Child, 'General comment No. 19 (2016) on public budgeting for the realization of children's rights (art. 4)', CRC/GC/C/19.

Committee on the Rights of the Child, 'General Comment No.20 (2016) on the implementation of the rights of the child during adolescence', CRC/GC/C/17.

Committee on the Rights of the Child, 'General Comment No. 21 (2017) on children in street situations', CRC/C/GC/21.

Committee on the Rights of the Child, Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, 'Joint general comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant

Workers and Members of Their Families and No. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration', CMW/C/GC/3-CRC/C/GC/2. Committee on the Rights of the Child, Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, 'Joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return', CMW/C/GC/4-CRC/C/GC/23.

Committee on the Rights of the Child, 'General comment No. 24 (2019) on children's rights in the child justice system', CRC/C/GC/24.

Committee on the Rights of the Child, 'General Comment No.25 (2021) on children's rights in relation to the digital environment', CRC/GC/C/25.

Committee on the Rights of the Child, 'General Discussion on Media and the Child' (1996) CRC/C/15/Add.65.

Committee on the Rights of the Child, 'General Guidelines Regarding the Form and Content of Initial Reports To Be Submitted by State Parties Under Article 44 paragraph 1(a) of the Convention' (1991) CRC/C/5.

EUROPEAN COURT OF HUMAN RIGHTS CASE LAW

Aksu v. Turkey App. Nos 4149/04 and 41029/04 (ECtHR, 15 March 2012).

Axel Springer v. Germany App. No 39954/08 (ECtHR, 7 February 2012).

Castells v. Spain App. No 11798/85 (ECtHR, 23 April 1992).

Couderc and Hachette Filipacchi Associés v. France App. No 40454/07 (ECtHR, 10 November 2015).

Gorzelik v. Poland App. No 44158/98 (ECtHR, 17 February 2004).

Handyside v. The United Kingdom App. No 5493/72 (ECHR, 7 December 1976).

Khan v. Germany App. No 38030/12 (ECtHR, 23 April 2015).

Reklos and Davourlis v. Greece App. No 1234/05 (ECtHR, 15 January 2009).

Romanenko and Ors v. Russia App. No 11751/03 (ECtHR, 8 October 2009).

Satakunnan Markkinapörssi Op and Satamedia Oy v. Finland App. No 931/13 (ECtHR, 27 June 2017).

Thoma v. Luxembourg App. No 38432/97 (ECtHR, 29 March 2001).

Vereinigung Bildender Künstler v. Austria App.No 68354/01 (ECtHR, 25 January 2007).

Von Hannover v. Germany (No. 2) App. Nos 40660/08 and 60641/08 (ECtHR, 7 February 2012).

Wingrove v. United Kingdom App. No 17419/90 (ECHR, 25 November 1996).

NATIONAL LAWS

Nationality and Borders Act 2022.

Charter of Rome Code of Conduct Regarding Asylum Seekers, Refugees, Victims of Trafficking and Migrants (2008).

ARTICLES

Aldridge J, Cross S, 'YOUNG PEOPLE TODAY: News, Media, Policy, and Youth Justice' (2008) 2(3) *Journal of Children and Media* 203.

Aynsley-Green A, Cole T, Crawley H, et al., 'Medical, statistical, ethical and human rights considerations in the assessment of age in children and young people subject to immigration control' (2012) 102 *British Medical Bulletin* 17.

Besson S, 'The Principle of Non-Discrimination in the Convention on the Rights of the Child' (2005) *The International Journal of Children's Rights* 443.

Children's Rights Alliance, 'Children's Rights and Equality in the Newspapers' (Children's Rights Alliance England, May 2009).

Collins T. M., 'The relationship between children's rights and business' (2014) *International Journal of Human Rights* 582.

Council of Europe, 'Guide on Article 10 of the European Convention of Human Rights' (*Council of Europe*, 30 April 2021).

Directorate-General for Communication, 'Media Use in the European Union' (2019) 92 Autumn 2019 Standard Eurobarometer Report.

Doyle O, 'Direct Discrimination, Indirect Discrimination and Autonomy' (2007) 27(3) *Oxford Journal of Legal Studies* 537.

Eberl J.M, Meltzer C, Heidenreich T et al, 'The European media discourse on immigration and its effects: a literature review' (2018) 42(3) *Annals of the International Communication Association* 207.

Falke Moore S, 'Law and Social Change: The semi-autonomous social field as an appropriate subject of study' (1973) *Law and Society Review* 71.

Fehrenbach H, Rodogno D, "A horrific photo of a drowned Syrian child": Humanitarian photography and NGO media strategies in historical perspective' (2015) 1121.

Foley M, Noirin Hayes N, O'Neill B, 'Children's Rights and Journalism Practice: A Rights-Based Perspective' (2008) UNICEF, Dublin Institute for Technology.

Freeman G, 'Migration Policy and Politics in the Receiving States' (1992) 26(4) *The International Migration Review* 1144.

Gamson W, Modigliani A, 'Media Discourse and Public Opinion on Nuclear Power: A Constructionist Approach' (1989) 95(1) *American Journal of Sociology* 1.

Gemi E, Ulasiuk I, Triandafyllidou A, 'Migrants and Media Newsmaking Practices' (2013) 7(3) *Journalism Practice*.

Georgiou M, Zaborowski R, 'Media Coverage of the "Refugee Crisis": A Cross-European Perspective' (*Council of Europe*, 2017).

Gómez-Quintero J.D, Aguerri J, Gimeno-Monterde C, 'Media representation of minors who migrate on their own: The MENA in the Spanish press' (2021) 66 *Media Education Research Journal* 91.

- Hammarberg T, 'Children, the UN Convention and the Media' (1997) *International Journal of Children's Rights* 243.
- Hardrup Christensen P, 'Childhood and the Cultural Constitution of Vulnerable Bodies' (2000) In *The Body, Childhood and Society*.
- International Federation of Journalists, 'Child Rights and Media: Putting Children in the Right' (*International Federation of Journalists*, 2002).
- Lems A, Oester K, Strasser S, 'Children of the crisis: ethnographic perspectives on unaccompanied refugee youth in and en route to Europe' (2019) 46(2) *Journal of Ethnic and Migration Studies*.
- Macovei M, 'A Guide to the Implementation of Article 10 of the European Convention on Human Rights' (*Council of Europe Human Rights Handbooks Vol. 2*, 2004).
- Matsa K.E, Silver L, Shearer E, Walker M, 'Western Europeans Under 30 View News Media Less Positively, Rely More on Digital Platforms Than Older Adults' (2018) Pew Research Center.
- McLaughlin C, "'They don't look like children": child asylum seekers, The Dubs amendment and the politics of childhood' (2018) 44(11) *Journal of Ethnic and Migration Studies* 1757.
- Muscroft S, 'Children's Rights: Equal Rights? Diversity, Difference and the Issue of Discrimination' (London: The International Save the Children Alliance, 2000).
- Orgad S, 'The Internet as a Moral Space: The Legacy of Roger Silverstone' (2007) 9(1) *New Media & Society* 33.
- Rosen R, Crafter S, 'Media Representations of Separated Child Migrants' (2018) *Migration and Society* 66.
- Sogelola D, 'Brexit, Agenda Setting and Framing of Immigration in the Media: The Case of the Daily Mail' (2018) 1 *London School of Economics Undergraduate Political Review* 128.
- Szakács J, Bognár É, 'The impact of disinformation campaigns about migrants and minority groups in the EU' (*European Parliament*, June 2021).
- The Migration Observatory, 'A Decade of Immigration in the British Press' (2016) The Migrant Observatory.
- Threadgold T, 'The Media and Migration in the United Kingdom, 1999-2009' (2009) *Transatlantic Migration Policy Institute*, pg. 2-3.
- UNHCR, 'Press Coverage of the Refugee and Migrant Crisis in the EU: A Content Analysis of Five European Countries' (*UNHCR*, December 2015).
- Verdoodt V, 'The Role of Children's Rights in Regulating Digital Advertising' (2019) 27(3) *International Journal of Children's Rights* 455.
- Verley Kvittingen A, 'Negotiating Childhood: Age Assessment in the UK Asylum System' (2010) 67 *Refugee Studies Centre*.
- Vis F, Goriunova O (eds), 'The Iconic Image on Social Media: A rapid search response to the death of Aylan Kurdi*' (*Visual Social Media Lab*, December 2015).
- Voorhoof D, Cannie H, 'Freedom Of Expression And Information In A Democratic Society: The Added but Fragile Value of the European Convention on Human Rights' (2010) 72(4-5) *The International Communication Gazette* 407.

BOOKS

- Alston P, *Best interests of the child: Reconciling culture and human rights*, (1st Edn, Clarendon Press 1994).
- Ariès P, *Theories of Childhood* (Vintage 1962).
- Bernstein B, *Class, Codes and Control* (1971).
- Drywood E, Gray H, *Demonising Immigrants: How a Human Rights Narrative Has Contributed to Negative Portrayals of Immigrants in the UK Media* (Routledge 2019).
- Liefaard T, Kilkelly U, *International Human Rights of Children* (1st Edn, Springer 2018).
- Merry S.E, *The Practice of Human Rights*, (Cambridge University Press 2011).
- Sloth-Nielsen J, Liefaard T (eds), *The United Nations Convention on the Rights of the Child: Taking Stock after 25 Years and Looking Ahead* (Brill 2017).
- Tobin J, Alston P (eds), *The UN Convention on the Rights of the Child: A Commentary* (Oxford University Press 2019).
- Vandenhoe W, Türkelli G.E, Lembrechts S, (eds) *Children's rights: a commentary on the convention on the rights of the child and its protocols*, (Elgar 2019).
- Ziccardi G, *Political Hate Speech in Europe* (Edward Elgar Publishing 2020).

WEBSITES

- Amnesty International, 'The Human Cost of Fortress Europe' (*Amnesty International*, 9 July 2014) <<https://www.amnesty.org/en/documents/eur05/001/2014/en/>> accessed 27/03/2022.
- Baú V, 'Rethinking the Representation of Refugee Children and Adolescents in the Media. Views from Italy's frontline' (*Open Migration*, 9 March 2021) <<https://openmigration.org/en/analyses/re-thinking-the-representation-of-refugee-children-and-adolescents-in-the-media-views-from-italys-frontline/>> accessed 24/04/2022.
- BBC Media Action, 'Children's Rights Versus Press FreedomL Who Wins?' (*BBC Media Action*, 15 March 2016) <www.comminit.com/bbcmmediaaction/content/childrens-rights-versus-press-freedom-who-wins> accessed 01/06/2022.
- Council of Europe, 'Guidelines on Safeguarding Privacy in the Media' (*Council of Europe*, October 2018) <<https://rm.coe.int/prems-guidelines-on-safeguarding-privacy-in-the-media-2018-/168090289b>> accessed 06/04/2022.
- Daily Mail 'Tiny victim of a human catastrophe' (*Daily Mail*, 03 September 2015) <<https://www.pressreader.com/uk/daily-mail/20150903/281479275180262?>> accessed 02/04/2022.
- Daily Mail, 'The Swarm on Our streets' (*Daily Mail*, 31 July 2015) < http://ichef-1.bbci.co.uk/news/660/cpsprodpb/4FB9/production/_84590402_dmfrontpagepage31july.jpg> accessed 02/04/2022.

- Dixon C, 'Illegal migrants flooding into EU: Record 1.8MILLION border breaches in just one year' (*Daily Express*, 6 April 2016) <<https://www.express.co.uk/news/politics/658502/Record-illegal-migrants-entered-EU-ONE-year-Brexit>> accessed 06/06/2022.
- Gant J, 'Migrants could face X-Rays of their bones to prove their age under new powers to stop adult asylum seekers claiming to be children' (*MailOnline*, 15 October 2021) <<https://www.dailymail.co.uk/news/article-10095169/Migrants-face-X-Rays-bones-prove-age-new-powers.html>> accessed 07/05/2022.
- Henley J, 'Bild Stance over Alan Kurdi Image a typically bold move' (*The Guardian*, 9 September 2015) <<https://www.theguardian.com/media/2015/sep/09/bilds-stance-over-alan-kurdi-images-a-typically-bold-move>> accessed 5/06/2022.
- International Centre for Migration Policy Development, 'Reporting Migration: A Handbook on migration reporting for journalists' (*ICMPD*, 2020) <<chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.icmpd.org/file/download/50559/file/Handbook0on0Reportin g0Migration0EN.pdf>> accessed 06/06/2022.
- IPSO, 'Journalism: Children's Rights' (*Independent Press Standards Organisation*, January 2019) <<https://www.ipso.co.uk/media/1603/children-pub-info-v3.pdf>> accessed 05/06/2022.
- Jones S, 'UN High Commissioner for Human Rights raises concern over media's role in fomenting anti-refugee sentiment' (*The Guardian*, 14 October 2015) <<https://www.business-humanrights.org/en/latest-news/un-high-commissioner-for-human-rights-raises-concern-over-medias-role-in-fomenting-anti-refugee-sentiment/>> accessed 02/03/2022.
- Lanni A, 'Polarized or normalized: press coverage in the time of the refugee crisis' (*Open Migration*, 19 April 2016) <<https://openmigration.org/en/analyses/polarized-or-normalized-press-coverage-in-the-time-of-the-refugee-crisis/?>> accessed 03/03/2022.
- Law T, McNiell R, 'Migrants and the media: what shapes the narratives on immigration in different countries' (*Ethical Journalism Network*, 26 April 2019) <<https://ethicaljournalismnetwork.org/migrants-media-narratives-immigration>> accessed 12/04/2022.
- MediaWise, 'The Oslo Challenge' (20 November 1999) <<http://www.mediawise.org.uk/wp-content/uploads/2011/03/Oslo-Challenge.pdf>> accessed 10/05/2022.
- Office of the High Commissioner on Human Rights, 'UN Human Rights Chief urges U.K. to tackle tabloid hate speech, after migrants called "cockroaches"' (*OHCHR*, 24 April 2015) <<https://www.ohchr.org/en/press-releases/2015/04/un-human-rights-chief-urges-uk-tackle-tabloid-hate-speech-after-migrants?LangID=E&NewsID=15885>> accessed 23/03/2022.
- PICUM, 'Why Words Matter' (*PICUM*, 2021) <<https://picum.org/words-matter/>> accessed 07/05/2022.
- Reid S, 'Just how old do you think these migrant 'children' are? Alarming pictures of refugees - including 'the fastest 14-year-old in Sweden' - that shed light on a growing scandal amid Europe's asylum crisis' (*Daily Mail*, 29 January 2016) <<https://www.dailymail.co.uk/news/article-3422000/Just-old-think-migrant-children-Alarming-pictures-shed-light-growing-scandal-amid-asylum-crisis.html>> accessed 22/06/2022.
- Royal College of Paediatrics and Child's Health, 'Refugee and unaccompanied asylum-seeking children and young people - guidance for paediatricians' (*Royal College of Paediatrics and Child's Health*, 2 February 2022) <<https://www.rcpch.ac.uk/resources/refugee-unaccompanied-asylum-seeking-children-young-people-guidance-paediatricians>> accessed 09/03/2022.
- The Refugee Journalism Project, 'Breaking the Frame' (*The Refugee Journalism Project*, 11 August 2021) <<https://lccjournalismprojects.shorthandstories.com/breaking-the-frame/index.html>> accessed 23/04/2022.
- UNHCR, 'UNHCR Guidelines on Determining the Best Interests of the Child' (*UNHCR*, May 2008) <<https://www.unhcr.org/protection/children/4566b16b2/unhcr-guidelines-determining-best-interests-child.html/>> accessed 30/05/2022
- United Nations High Commissioner on Refugees, 'Refugee Crisis in Europe' (*UNHCR*, 2021) <<https://www.unrefugees.org/emergencies/refugee-crisis-in-europe/>> accessed 24/03/2022.