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'Firm but fair'? Migrant children's rights through dramaturgy and nation branding in Norway and the UK

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Abstract

Applying nation branding literature and the work of Erving Goffman on dramaturgy to the situation of asylum-seeking children in Norway and in the UK, this paper develops a comparative framework for understanding why child rights appear to be de-prioritised in the current climate of 'migration control'. The paper identifies historically grounded differential approaches towards child rights and children in the two countries, which currently appear to merge into a common trajectory of migration control, framed in terms of national security and economic productivity. It explores similar tensions in both countries between the discourses of national migration management on the one hand and children's welfare and rights on the other. It finds that universal rights which should protect the welfare of all children are limited and fragmented by ideas of nationalism and foreignness. Despite a more robust legal framework for child rights, Norway is on a similar pathway as the UK; a worrying indictment of how nations fulfil their obligations towards children.

Keywords: Child rights, Nation branding, Migration control, Hostile environment, Strict but fair, Firm but fair

Introduction and background: the problem at hand

When children migrate, national sovereign rights and universal children's rights point to opposite paths of action (Spencer, 2011). Refugee children's access to the physical, social, and symbolic spaces that constitute Norway and the UK indicate a changing pattern of similarities and differences (Vitus & Liden, 2010). Norway and the UK received similar numbers of asylum seekers in 2015 when there was considerable displacement of people from the Middle East owing to conflicts and disturbances in the region. Norway received

31 145 asylum seekers¹ in 2015 while the UK had 32,414 in the same period² with a surge in both countries between 29 and 33% from previous years. However, these numbers were far lower than e.g. Germany receiving 442,000 asylum applications in 2015, and Sweden having 156,000 asylum applications. Like Sweden and Germany, Norway and the UK are wealthy European countries, although they differ in their histories, economic and social policies, and political arrangements. One reason for the lower numbers arriving in the UK and Norway is their similarly peripheral geographical positions North-West off the European mainland, which form additional barriers to migration.

Up to 2015, Norway granted asylum to most applicants (67% in 2014) and enabled refugees to utilise their skills and resources to participate in society. In the UK, a minority of asylum seekers were granted asylum (41% in 2014) and the government has been reluctant to provide similar opportunities (OECD, 2015). In both countries, the past decade has seen a series of political statements along with changes in laws, policies, practices, and procedures to discourage and prevent immigration from poorer countries.

Both countries have policies in place to protect the welfare of children, including migrant children. In this article, we analyse how the policies of these two countries appear to converge in recent migration control which affects migrant children in similar ways. Immigration and asylum laws and policies to deter unwanted immigration have been termed 'strict but fair' in Norway and 'firm but fair' in UK. In contrast, considerable efforts have been made to attract foreign companies and highly skilled workers as well as tourists to both countries thereby creating contradictions in bordering practices. Despite historical differences, both countries are on a similar trajectory of migration control which affects children in particular ways. In this article, we focus especially on the development of the 'Hostile environment' in the UK and on 'Restrictions II' in Norway and investigate the impact of these policies of deterrence on the lives of children growing up in migrancy (Seeberg & Gozdzia, 2016) to understand how these detrimental policies have become politically palatable in the two countries.

The UK was a pioneer in drafting the European Convention of Human Rights. However, the UK signed the Convention on the Rights of the Child with a reservation limiting its application to citizen children; a position it only changed in 2009 when it extended the Convention to migrant children as well. In terms of child rights, Norway has been a world leader. Children and child rights have historically formed a prominent part of Norwegian national identity while the UK has no such constant focus on child rights. Irrespective of these differences, grim situations now arise in both countries such as when strict family reunion requirements cause children to be separated from their parents and when children are age-assessed using contested methods (Aarseth & Tønsaker, 2018) and then denied secure legal status. The questions arise: how is a commitment to children's rights maintained in state policy and legal framework while the same rights are violated in situations where children are migrants or have migrant connections? How can this be acceptable to democratic societies which remain rights compliant in legal frameworks? To answer these questions, we combine insights from literatures on nation

¹ From asylum seeker to refugee—before and after the crisis of 2015—SSB.

² Asylum—GOV.UK (www.gov.uk).

branding and dramaturgy and analyse how potential normative clashes in the situation of asylum-seeking children are managed by Norway and the United Kingdom.

Methodology and data

The methodology we adopt is firmly anchored in socio-legal studies where law and legal developments are discussed in wider contexts of politics and society (Banakar & Travers, 2005). It also draws on methods in the anthropology of policy where scholars identify and analyse documents and texts that impact communities of study, as a form of ethnography of documents (Tate, 2020). We include a variety of sources such as policy documents, media briefings and reports, legal instruments, and case law in both countries which discuss human rights including children's rights commitments of both countries as well as migration control measures. The main selection criterion is high relevance to the situations of migrant children from around 2015. The selection is not the result of systematic searches but rather based on our knowledge as specialists in the field: these are the important data from which our argument arises. Our temporal focus is the immediate aftermath of the 2015 increase in the numbers of asylum seekers in Europe, which was met by a number of rhetorical and legal responses. We highlight the main policy changes as well as their justifications and implications and look more closely at how they manifest in a few selected judgments. These various texts form data for our qualitative analysis. By combing through these themes such as the deservingness of asylum seekers or the preservation of welfare state resources as well as the centrality of children in rights protection can be found. We then identify the contradictions in these texts and analyse these from our synthesised theoretical framework on negative branding and dramaturgy.

Nation branding and double dramaturgies

Nation branding

In the "national order of things" as a "system of territorial nation-states" (Malkki, 1995, p. 516) nation branding as a marketing method is associated with creating a positive brand for countries so they can capture shares of global trade (Bolin & Miazhevich, 2018). Nation branding is however more complex than purely commercial product branding, as governments engage in a range of activities not always of a commercial nature (e.g., elections, tax, national security, public works, education, and health). Cook-Martin and FitzGerald (2014:40 citing Nye, 2004) write: "Branding is a form of what Joseph Nye calls "soft power", in which governments seek to expand their prestige through language, images, and symbolically important gestures." In addition, branding produces national identity and foreignness, categories of 'us' and 'them', the other described in implicit contrast to the national self.

GREAT Britain campaign claims to show how "We inspire the world with the best of the UK." The website for the campaign states that, "GREAT is the UK government's most ambitious international promotional campaign, uniting the efforts of the public and private sector to generate jobs and growth for Britain and Northern Ireland." The value of Britain as a brand has been estimated to be in billions. Another instance of branding in the British context is 'Cool Britannia' driven by the economic boom and a creative London scene in the 1990s as a period of increased pride in the popular culture of

the United Kingdom (Harris, 2017). As in Norway, cultural and normative values which define national identity are of importance in branding Britain. More recently, the words 'global Britain' were used four times in a new policy paper on immigration which proposes to restrict rights of asylum seekers while saying, for instance that: "The UK has a proud history of being open to the world. Global Britain will continue in that tradition." (HM Government, 2021, p. 2).

In 2007 on its then official site, the "Norway portal", the Norwegian government explained: "Norwegian nation branding aims at contributing to Norway's good reputation. It is all about expressing what Norway is and what Norway stands for...A nation's positive reputation is important and contributes to making the country a preferred co-operation partner" (regjeringen.no, 2007). Children's rights were highlighted among other topics such as export and tourism. Government and marketing agencies co-operated in promoting Norway as a pioneering country, illustrating how Norwegian childhoods formed part of a larger nation brand: "Norway was the first country in the world to establish an ombudsman for children and for 25 years the Ombudsman has represented a voice for children in the public sphere. (...) Norwegian authorities have for many years given high priority to the work aiming to ensure the influence of children and young people on the development of society" (Norway, 2007). Within the 'childhood sector' of the global market, Norway's 'target audience' are other governments, inter- and supranational bodies such as the UN and the European Network of Ombudspersons for Children (ENOC), and organisations working for children's rights and for improving children's living conditions on the national and international level.

Dramaturgy and negative nation branding

In *The Presentation of Self in Everyday Life* (1959), Goffman analysed social life as a theatre, divided into frontstage regions, where official definitions of reality are presented, and backstage regions, where dirty work is hidden, and performances are prepared. Privileged occupations and social classes dominate frontstages and present idealized images of selves and institutions, whereas subordinated persons do much of their work backstage and are dominated by frontstage performers. Goffman (1959, 1961, 1963) explored how micro-sociological, everyday interactions hold dramaturgical elements and are enacted for audiences as performances or 'front stage' presentations. In real life, as in a theatre, a messier backstage co-exists, where different practices are enacted away from the frontal gaze of the primary audience. The subject matter of dramaturgical sociology is the creation, maintenance, and destruction of common understandings of reality by people working individually and collectively to present a shared and unified image of that reality (Kivisto & Pittman, 2008:298). This process, which lies concealed deep within every interaction, is familiar to all of us in the form of the theatre. It takes collaborative effort to stage a convincing performance, complete with roles, scripts, costumes, and a stage.

Governments strive to create a consistent image for their countries to convey messages to front stage audiences, which could be their own population, other governments, global organisations, or foreigners seeking to enter (Boswell et al., 2011). In addition to websites such as the ones cited above, a primary means of messaging is through legal statutes which implement standards and objectives. In Parliament, declaratory

statements of objects and intents in statutory instruments are communicative actions from governments. Statutory instruments and convention signature statements and reservations do not just seek to implement the law but also make known widely the value systems which are important to a particular nation.³

Migration policies may be regarded as dramaturgical acts aimed at national and world audiences (Andreas, 2001; see also van Ham, 2008; see also Cook-Martín and FitzGerald 2014). While competing for the best reputation across borders for goods and services, nation-states also function as mutually exclusive entities (Fuglerud, 2006; Malkki, 1995). To fulfil exclusion objectives, brands also project negative attributes of a nation. Negative branding targets the inflow of undesirable attributes such as crime ('tough on crime') or unwanted people ('go home'). The "national order ... produces the social, political, and legal constructions that we now recognize as refugeeness" (Malkki, 1995, p.506) which explains why refugees appear to embody maximum unwantedness. Migration is also framed within neoliberal ideas of work and individual responsibility for production in a discourse of 'good citizens/migrants' who will contribute to the economy and others, unwanted, refugees, asylum seekers, who are expected to reduce the country's economic resources. Negative nation branding is closely linked to indirect deterrence through reputation management (Anholt, 2002; Dinnie, 2008; Browning, 2007; Angell & Mordhorst, 2015).

Migration control in UK and Norway

Like other European countries, both our selected countries have seen a rhetoric of migrants, and especially migrants from less wealthy, democratic, and peaceful countries as threats to the societal fabric. The rhetoric is generally—but not consistently—followed by increasingly restrictive measures targeting the immigration of people claiming asylum.

UK hostile environment and migration control

In the UK, the hostile environment for immigration has been crafted through law and policy first announced through the media. The term hostile environment, first used by Theresa May in an interview with the Telegraph (Kirkup, 2012), has come to encompass a series of legislative and policy measures to make lives of irregular immigrants difficult, thereby motivating them to leave the UK. Theresa May elaborated in the interview that the objectives of the hostile environment were to discourage people from coming to the UK by stopping them at source through negative branding, to stop those who do come from overstaying by putting barriers in place for them which make them detectable, and to stop irregular migrants from being able to access essentials for living, hence the focus on basic resources. A rhetorical mix-up of legal and social migration categories underpins this policy and enables the targeting of many different social groups both on the national and local levels.

³ Law is also a site of contestation between different state and non-state actors especially in the judicial forum but here we are looking specifically at statutes.

The term hostile environment now includes measures to limit access to basic life resources such as work, housing, and health care. Primary legislation, the Immigration Acts 2014 and 2016, made it mandatory for employers to check the immigration status of employees, while secondary legislation, for example regulations governing National Health Service charges created barriers to health care for migrants. Bureaucratic changes such as placing immigration officials at police stations and local authorities and data sharing agreements between government departments, such as memorandums of understanding between the Home Office and Department for Health, have led to greater numbers of deportations. The hostile environment has been achieving its intended effects and has impacted the lives of large parts of society (Griffiths & Yeo, 2021). These measures have a spill over effect on other groups, including citizens. The racialized effects of measures such as making property owners check the immigration status of tenants have been disproportionately borne by ethnic minority citizens and migrants. The Home Office asked property owners in the West Midlands in 2015 to roll out the scheme of checking documents of prospective tenants. Home Office and JCWI research showed that BAME tenants were more likely to be asked for their immigration papers and that some property owners displayed potentially discriminatory behaviour or attitudes. JCWI brought a case about the new housing checks in the High Court. They won the case, as the High Court agreed that housing immigration checks cause racial discrimination and declared the practice unlawful. As a result, the Government was forced to halt its plans to roll the new scheme out to Wales, Scotland, and Northern Ireland. The Government appealed. The court of appeal agreed with JCWI that the scheme causes racial discrimination but stopped short of declaring the scheme unlawful, leaving it to MPs and Government to decide whether the racial discrimination is 'greater than envisaged'.⁴

Norwegian "restrictions II" and migration control

Norway's negative asylum brand has been 'harmonised' with EU deterrence policy profiles. Norway has made the life conditions for asylum seekers increasingly difficult by limiting rights to economic support and access to work, education, and health services in a manner similar to the hostile environment in the UK. Dispersal has long been practised by placing reception centres in remote areas. The living conditions for asylum seekers in these centres are held to a minimum standard, the right to work is strictly limited, and economic benefits are given according to a separate standard well below that applied to other residents in Norway. Additionally, access to learning Norwegian is limited, as is the right to receive education and health services as compared to other residents, and so on (Lidén et al., 2013).

The Norwegian "Restrictions II" of 2016 consists of a series of legal measures, urgently approved by the parliament (Stortinget) in February 2016. The comprehensive legal package constituted a considerable tightening of Norwegian immigration policy. The extensive changes in the Immigration Act concerned education, social security, visa regulations, international protection (asylum), family reunification, and the use of force

⁴ See R (Joint Council for the Welfare of Immigrants) v Secretary of State for the Home Department (blackstonechambers.com).

(Restrictions II, 2016). Rather than heralding a radically new direction, the new policy was a big step in the same direction as before, moving the balance on the scale between “strict and fair” inexorably towards “strict” (cf. Seeberg, 2017). For some political parties this was a long-wanted development, for others a step more reluctantly taken as a perceived necessary, and temporary, measure during the imprecisely labelled “refugee crisis” of 2015.⁵ Like the UK’s hostile environment, Restrictions II forms an explicit deterrence policy, affecting human rights and rights under refugee law (Brekke et al., 2017). From the many measures specified in the document emerge a declining acceptance of asylum claims, shrinking support for asylum seekers, and higher barriers to family reunification. The government run Facebook page “Stricter asylum regulations in Norway” launched in November 2015 aimed to deter potential asylum seekers who might be considering Norway as a country of protection: “Are you leaving your country to seek a better economic future? Are you leaving your country in search of a job? These are not valid reasons for granting adults asylum in Norway. On the contrary, you must return home” (Beyer et al., 2017). The campaign was instructed not to target children: “the text had to be precise in that children were not targeted, to be in line with Norwegian Asylum policies and directives.” (Beyer et al., 2017; 27).

The specific situation of children

The Equality and Human Rights Commission in its submission to the UN Committee on the Rights of the Child in April 2016 points out several challenges remain for child rights in the UK. Child poverty and poor educational attainment persist. Similarly, Norway too falls short of carrying out promises made in various legal documents as we shall see below.

UK: exclusion of migrant children

The UK excluded migrant children from the protection of the United Nations Convention on the Rights of the Child (UNCRC) by being only one of three countries to enter declarations at the time of signing and it was the only country to enter a reservation that specifically made the convention inapplicable to migrant children by excluding nationality and immigration matters. The Joint Committee on Human Rights reports widespread criticism of the reservation (JCHR, 2003, §175). The justification provided by the government was the reservation prevented the Convention from affecting immigration status. The real impact was however on the human rights of foreign-born children who could no longer claim protected universal human rights (Goodwin-Gill, 1995). While the UNCRC is usually cited for the best interests of the child (Article 3 UNCRC) it is also of specific significance to unaccompanied asylum-seeking children (Article 22 UNCRC) so failure to participate in legally binding obligations to these children means that many children in vulnerable situations were affected. Rights for trafficked children (Article 35 and Article 11), children living in exploitative contexts (Article 32 and Article 34), children living in substitute care (Article 20) and children in arbitrary detention (Article 37a) had not been secured.

⁵ See Kryzanowsky et al. 2018 for a discussion of this concept and the situation from which it arose.

In 2009 the reservation on the UNCRC was lifted, facilitating the creation of specific duties and obligations towards these children. The government fully included the requirement for a best interests analysis for all children through Section 55 of the Borders, Citizenship and Immigration Act 2009. The section requires the Home Office to carry out its existing functions in a way that considers the need to safeguard and promote the welfare of children in the UK in all immigration activities. Now children who arrive alone are looked after by children's services in the same way as other looked-after children, under Section 20 of The Children Act.⁶ Still, as we shall see, the reality of child rights for migrant children is a far cry from their best interests, as is evident in the effect of the hostile environment on their lives.

Norway: inclusion of migrant children—?

The UNCRC was incorporated into the Norwegian Constitution and Human Rights Act in 2003. The Ombudsman for Children worked actively for incorporating the UN Convention on the Rights of the Child into Norwegian law, arguing that this was part of 'the special obligations Norway has as a pioneering country in the fields of child and family policies' (Barneombudet, 2001). In Norway, the dominant discourse around the turn of the millennium described a society where lucky 'super children' enjoyed the fruits of this pioneering work, in the form of childhoods that other children in this world could only dream about (Gullestad, 1997). In a 2004 research report on children's social positions in relation to other generations and age groups in Norway, Jensen et al. conclude, 'In comparison to children in most other countries, children in Norway are privileged, at least in material terms. It is also clear that Norwegian society has a generally positive attitude towards children, judging from the level of political engagement in establishing and supporting conventions such as the UN Convention on the Rights of the Child, the Ombudsman's institution for children and the like.' (Jensen et al., 2004).

In spite of this bright general picture, Norway is an increasingly unequal society where, according to Normann & Epland (2023) 11% of children grow up in families with long-term low income and 60% of these children have immigrant background. Children living in centres for asylum seekers are among the poorest in the country (Seeberg, 2017). While the Child Protection Services are legally responsible for all children under 18 without parents or guardians, unaccompanied asylum seekers aged 15–18 years are the responsibility of the Directorate of Immigration, resulting in less adequate conditions and care (Lidén et al., 2013). The legal status of recognised child refugees is also increasingly uncertain, as temporary status until the age of 18 is implemented. An ostensibly small change that came with Restrictions II was, predictably, to have large repercussions. This was the removal of a few words from the Immigration Act's Section 28. Where it used to read: "The right to be recognised as a refugee under the first paragraph does not apply if the foreign national can obtain effective protection in other parts of his or her country of origin than the area from which the applicant has fled, *and it is not*

⁶ Section 20 of the Act states that every local authority shall provide accommodation for any child in need within the area who requires accommodation if there is no person who has parental responsibility for him/her (CCLC 2017). General Comment No. 6 (2005) *Treatment of Unaccompanied and Separated Children outside their Country of Origin* www.unhcr.org/uk/protection/migration/4bf687729/convention-rights-child-general-comment-6-2005-treatment-unaccompanied.html

unreasonable to refer the applicant to seek protection in these parts of the country of origin" (authors' translation and italics). Under Restrictions II, the words after the comma, here in italics, were deleted, making unreasonable decisions legal. This came into force in October 2016 and had the immediate effect that the recognition rate of Afghan asylum seekers plummeted, and deportations increased. It also applied to the many Afghan minors who had temporary leave and now faced deportation to areas of Afghanistan that they did not know (some, having grown up as refugees in Iran, did not know any part of Afghanistan). A general outcry resulted in a new temporary amendment to the law, stating that young people who had had temporary leave between 1 October 2016 and 1 February 2018 could file new residence applications within 90 days after the new amendment came into force (UDI, 2020). Such new applications could also be filed from abroad. Two main criteria were to be assessed: the age of the applicant at the time of the original decision from the immigration authorities, and the current situation of the applicant. 399 persons filed applications and 137 of these fulfilled the application criteria under the new amendment. Of these, one person was given full protection as a refugee, two were able to document their identities and were granted indefinite leave on humanitarian grounds, while 104 young people were not found to have documented their identities adequately and were therefore granted one-year residence permits that were renewable but did not allow for family reunification (NOAS et al., 2020; UDI, 2018).

There is a lack of knowledge of how the Directorate of Immigration and the Immigration Appeals Board specifically balance the best interests of the child up against considerations of immigration control while research indicates that children's right to be heard in immigration cases is not adequately met (Stang & Lidén, 2014). All in all, migrant children and especially asylum seeking and refugee children appear on the margins of the pretty picture of Norwegian childhoods (Seeberg, 2016).

When backstage becomes frontstage

While children mainly populate the private and backstage domains, information is transferred between domains, allowing the public eye to access the implications of policies for children e.g., through schools and health services, activism, and the court system. In the UK, children who are asylum seekers or without regular status could be in state run schools where there are regular attempts by the Home Office to track data on nationality. For instance, the Education (Pupil Information) (England) (Miscellaneous Amendments) Regulations 2016 (SI 2016 No. 808) added "nationality, country of birth, and proficiency in speaking, reading, and writing in English" to the list of data to be collected by schools. This data was collected through the annual schools' census and collated in the national pupil database. Fears that these details would be passed on to the Home Office were confirmed when the Department of Education responded to a Freedom of Information request by disclosing that details of individual children on the national pupil database in England and Wales were passed to the Home Office 18 times in four years. A memorandum of understanding between the Department for Education and the Home Office was also released in December 2016 following a Freedom of Information request. It confirmed that the education department would share pupils' names, recent addresses, school, and some attendance records, including earliest and latest attendance dates. Organisations such as Against Borders for Children campaigned against collection

of such data which could be used for immigration deportations. However, child rights remain contentious and delimited by nationality unless vigorously resisted. Fortin (2011) writes that even in a landmark case on child rights (*ZH Tanzania v Secretary of State for the Home Department* 2011 UKSC 4), the child's best interests was balanced against the state's right to enforce an efficient immigration policy, not the child's own right to respect for his family life.

Anti-poor policies are also exemplified by the minimum income requirement (MIR) for Family Settlement for UK sponsors of non-EU national partners introduced in July 2012. The rule introduced a requirement for the UK sponsor to earn a minimum gross income of £18,600, more if children are involved. This has prevented many British citizens from being able to settle with their foreign partners and children in the UK. Joint Council for the Welfare of Immigrants (JCWI) reports that at least 15,000 children have been affected by changes to the financial requirements of the Immigration Rules implemented in 2012 (JCWI, 2015, p 15). Some noteworthy features of the Rules are (i) income threshold of £18,600 was three times higher than the previous requirement, greater than average salaries for a number of UK occupations and more than the full-time national minimum wage; (ii) requirement of £16,000 in savings on top of the short-fall calculation; (iii) lengthy increase in the probationary period of leave; (iv) exclusion of credible and reliable third party support, and (v) exclusion of potential earnings of the partner entering the UK. The Rules have been challenged under Article 8 of the European Convention on Human Rights (ECHR) in the recent case of *MM (Lebanon) and Others (Appellants) v Secretary of State for the Home Department (Respondent)* [2017] UKSC 10. The Supreme Court considered the appeals of five appellants with the right to live and work in the UK but married to spouses without this right. All the applicants were disadvantaged by the MIR. The Supreme Court decided that the Secretary of State could impose the minimum income requirements but would have to specifically consider the best interests of children while assessing the effects of the Rules on a family as a primary consideration. After the *MM* case, the amended rules and guidance give effect to the decision regarding children's best interests. The immigration rules now make express provision for these interests. Gen 3.3 Appendix FM states that: "In considering an application for entry clearance or leave to enter or remain where paragraph GEN.3.1. or GEN.3.2. applies, the decision-maker must consider, as a primary consideration, the best interests of any relevant child." The hostile environment measures have also affected many minority citizens who came from the Caribbean as children, travelling on their parents' passports and not having any documents to prove their own legal status. In the 1960s and 1970s, the UK government decided to follow a declaratory route and continue the lawful residence of existing residents by operation of primary legislation, so it was not then necessary to apply for a new immigration status. When the hostile environment measures introduced document checking, these people became categorised as irregular. Similarly, with the UK exiting from the EU, EU citizens living in the UK are facing documentation challenges and hurdles in their residence (settled status) applications to retain regular immigration status, with significant effects on their children. In 2023 there are new proposals for testing the age of child asylum seekers through increasingly

medicalised processes (Home Office 2018).⁷ However, children are more part of the public domain in Norway than in the UK, and as we have shown also play an important role in national identity building and nation branding in Norway. Activism to support refugee or asylum-seeking children facing deportation tends to gain wide attention as the deportation of children is widely regarded as illegitimate (Skivenes, 2015). Norway has seen increasingly restrictive measures on family reunification, including requirements regarding age, association with Norway, economic support, and the ability to refuse family reunification to persons afforded subsidiary protection. Applications and appeals in immigration are processed in a separate, backstage system of immigration decisions, outside of the court system, and generally do not receive much public attention. The only way to enter the regular court system is by a final appeal, after several rounds in the immigration system, and most cases therefore remain backstage.

There have been several scandals regarding wrongful denials of family reunification. For example, five-year-old Norwegian citizen Maria was born in Norway, but the Immigration Appeals Board ruled to evict her Kenyan mother. In Norway, Maria had no other caregivers as her Norwegian father would not be responsible for her. The Immigration Appeals Board (UNE), aware that Maria would have to follow her mother to Kenya, argued that although the child's best interest might be to stay in Norway and should be considered, immigration regulatory reasons should carry more weight. The Supreme Court eventually found in favour of Maria remaining with her mother in Norway and her best interests were considered in this case (The Supreme Court of Norway, 2015). However, the argumentation that immigration regulatory reasons should trump consideration of children's best interests is common in the Directorate of Immigration where all immigration applications are processed as well as in its appeal instance, the Immigration Appeals Board. Fortin (2011) writes that even in a landmark case on child rights (ZH Tanzania v Secretary of State for the Home Department 2011 UKSC 4), the child's best interests was balanced against the state's right to enforce an efficient immigration policy, not the child's own right to respect for his family life.

Implications of this study for migration studies

Asylum seekers, including children, have become examples of 'unwanted customers' as 'asylum shoppers' forms part of the international jargon used by bureaucrats, journalists, and politicians alike (Moore, 2013). Marketing is not only concerned with attracting good customers. Faced with unwanted customers, marketing is all about appearing unattractive through negative branding, implemented through 'deterrence policies' – a concept borrowed from military language. Closely interwoven with discourses on terrorism and criminal activities, the discourse on asylum seekers and refugees represents them as likely to be participants in illegitimate, transnational networks threatening to undermine the global order of nation-states (Castles, 2005; Estevens, 2018).

The UK Hostile Environment measures as well as the Norwegian Restrictions II measures are tailored to warn prospective asylum seekers that the process of asylum is difficult and creates hardship, without much support or likelihood of success. Contradictory

⁷ For example, see Plan to use MRI to age assess asylum seekers 'reprehensible'|The National.

objectives thrive in the backstage and are manifest in emerging illiberal policies. These policies are driven by assumptions on voter behaviour, fear of terrorism, and concerns about 'bogus' or undeserving asylum seekers who will drain social welfare resources.

The lack of regard for child rights rings particularly true in both countries when non-national children are brought into the picture. The interactions where children's rights are denigrated are also in the backstage where children's lives play out, in centres for asylum seekers and other arenas not publicly visible. The conflict may be revealed at school, in local media, or in court cases where the situations of children become visible frontstage.

While asylum seeking children have some legal protections in the UK their life situations generally continue to be precarious and complicated especially if they seek asylum unaccompanied by family members. Youth over the age of 18 who exhaust their appeal rights become subject to increasing levels of immigration control. If they do not obtain asylum, they can be forcibly removed from the UK.⁸ The UK is also the only country in Europe where there is indefinite detention for migrants with irregular legal status. Despite the serious repercussions, the reduction in legal aid available for asylum cases means that many young people must now represent themselves in court.⁹ The uncertainty of their life situation has harsh effects on children such as severe mental health challenges (Prabhat et al., 2019). In recent years, a number of young people who were on verge of turning 18 or had turned 18 committed suicides. Three Eritrean young persons, all 18 and 19, took their own lives in quick succession in 2018 after coming to the UK from Calais.

In Norway too secure status has been compromised. A significant aspect of age is linked to the temporary leave to remain, which came into force in 2010. The clause in the immigration regulations allows for granting temporary leave until the age of 18 to minors between the ages of 16 and 18 on the sole grounds that they lack caregivers in the country of origin. Such temporary leave can neither be renewed nor be used as a basis for family reunification. The clause has been used more actively since 2015 and has especially been applied to minors from Afghanistan.

Children in asylum-seeking families have better access to Norwegian society than do their parents. They generally attend mainstream, local schools and to some extent kindergarten along with local children and have wider access to free health services, to some extent making them more visible frontstage and more likely to be included and campaigned for should their asylum claims be rejected. Yet, there is striking disparity between their own destitution as asylum seekers and the glimpses of a wealthy, inclusive welfare society that they get through their partial access as children (Seeberg, 2017).

As we have seen there is significant convergence of the UK and Norwegian treatment of migrant children in recent years. In both countries, children find secure legal status elusive as their residence becomes delimited by fixed terms and re-assessments. Also, in

⁸ See the Immigration (Removal Directions) Regulations 2000 for details.

⁹ Asylum remains within the scope of legal aid, but children sometimes shift in and out of different migration categories, and some are not officially seen as asylum seekers (and so outside scope of the Legal Aid, Sentencing and Punishment of Offenders Act 2012): see Coram Children's Legal Centre (2018) report on legal aid.

both countries, children find it challenging to establish that they are indeed children in order to be eligible for any protection.

The MM case from the UK and the Maria case from Norway illustrate how it is not just asylum-seeking foreign children who are affected by new immigration and nationality developments; rather, the effects spread like ripples in the water. There is a tendency towards reimagining the nation state and its membership in a manner that only people with resources can belong. Nira Yuval-Davis describes belonging and nation states as follows: “The concept of the nation state assumes a complete correspondence between the boundaries of the nation and the boundaries of those who live in a specific state. This of course, is virtually everywhere a fiction. There are always people living in particular societies and states who are not considered to be (and often do not consider themselves to be) members of the hegemonic nation” (Yuval-Davis, 1997, p.15).

The situation of children complicates the narrative of ‘us and them’ (Anderson, 2015). Although children’s life situations are closely linked with those of adults, migrant children and children in migrant families have their own entitlement to rights and protection by virtue of being children. Countries normally adopt a separate framework for protecting children and supporting their agency, best exemplified by the United Nations Convention on the Rights of the Child (UNCRC, 1989). As well as being part of universal frameworks, ideas of cherishing the potential and agency of children and protecting them from many adult concerns are also part of human value systems at the level of communities and states. Yet children cannot be protected from their own lives, in which their parents usually are the most significant people. Policies targeting adults therefore affect children. Children, whether nationals or non-nationals, are ordinarily not economically active in this sense, but are part of families which may or may not be economically productive. Their ability and likelihood to contribute to the future are often assessed through their familial situations or position in a country’s social welfare system. Therefore, in the neoliberal conception of work and surplus value, children occupy an ambiguous position. Branding ‘redirects the anxieties that the material conditions of neoliberal capital’ produced through unemployment, economic disenfranchisement and changing demographics. In spite of the many differences between Norway and the UK, we have shown that when a country is branded an inhospitable migration destination for adults, children are also increasingly unable to enjoy their rights.

Conclusion

To understand how contradictions co-exist in migration control and child rights we combined insights from nation branding studies with the lens of Erving Goffman on dramaturgy. We have argued that governments communicate divergent messages to separate audiences to achieve different objectives and may perform for different audiences and at various times place their messages for dramaturgical effect on front stage while carrying on other practices behind the scenes. They achieve this through policies and practices but also performative nation branding. We have shown how, although negative branding for purposes of migration control does not explicitly target children, child rights as universal rights have become delimited and fragmented when foreignness comes into focus in the UK and in Norway through negative branding. The universal rights to protect the children have become enmeshed in nation-centred concerns for migration control in

these two countries. In Norway, the dominant discourse on children in general is radically different from that on asylum seekers specifically. The discourses are in dynamic tension and together construct the image of the Norwegian nation. Norwegian discourse on children and childhood invites a discussion of topics such as welfare policies, the best interest of the child, the Children's Convention, children's agency and perspectives, and norms and standards for Norwegian childhoods. In contrast, discourse on asylum seekers makes it possible to discuss issues related to immigration, national security, transnational terrorism and crime, welfare shoppers, national identity, and obligations towards neighbouring nation-states. The case of asylum-seeking children in Norway demonstrates how 'the same constructions of the nation may be used for both exclusive and inclusive purposes' (Every & Augoustinos, 2008). In the UK, the two discourses conflate so that hostile environment policies have created increased uncertainty for children and increased the emphasis on 'foreignness'.

There is a tension between the discourses of national migration management and children's welfare in both countries, with current discourses tending towards the former. Although nation states also value a human rights compliant image, in general, negative branding uses and reproduces stereotypes, based on race/ethnicity and gender. Such ideas also affect the rights of citizen children who have a foreign parent and are unable to live inside their country of citizenship for financial or other requirements placed on their parents through immigration law (Seeberg & Gozdzia, 2016). Thus, the rights and position of children in both countries are at risk in the current 'strict but fair' and 'firm but fair' immigration and asylum control despite professed national and international commitments to their best interests.

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Author contributions

Both have written this paper with equal contribution.

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Availability of data and materials

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Declarations

Competing interests

Not applicable.

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References

- Aarseth, S., & Tønssaker, S. K. (2018). While we await a new method of determining the age of young asylum seekers. *Tidsskrift for Den norske legeforsning*. <https://doi.org/10.4045/tidsskr.17.0960>
- Anderson, B. (2015). Us and them? Social justice, citizenship, and migration. In J. Gruber & S. Rettenbacher (Eds.), *Migration as a sign of the times: Towards a theology of migration* (pp. 15–32). BRILL.
- Andreas, P. (2001). *Border games: Policing the U.S.-Mexico divide*. Cornell University Press.
- Angell, S. I., & Mordhorst, M. (2015). National reputation management and the competition state. The cases of Denmark and Norway. *Journal of Cultural Economy*, 8(2), 184–201.
- Anholt, S. (2002). Nation branding: A continuing theme. *Journal of Brand Management*, 10, 59–60.

- Banakar, R., & Travers, M. (2005). *Theory and method in socio-legal research*. Bloomsbury Publishing.
- Barneombudet. (2001). *Høringsvar: innarbeiding av barnekonvensjonen i norsk lov* [Consultation response: incorporation of the Convention on the Rights of the Child into Norwegian law].
- Beyer, A., Brekke, J. P., & Thorbjørnsrud, K. (2017). *Communicating borders: Informing migrants and potential asylum seekers through social media*. Institute for Social Research Report 2017:4, Oslo.
- Bolin, G., & Miazhevich, G. (2018). The soft power of commercialised nationalist symbols: Using media analysis to understand nation branding campaigns. *European Journal of Cultural Studies*, 21(5), 527–542. <https://doi.org/10.1177/1367549417751153>
- Boswell, C., Geddes, A., & Scholten, P. (2011). The role of narratives in migration policymaking: A research framework. *The British Journal of Politics, and International Relations*, 13, 1–11.
- Brekke, J.-P., Røed, M., & Schøne, P. (2017). Reduction or deflection? The effect of asylum policy on interconnected asylum flows. *Migration Studies*, 5(1), 65–96.
- Browning, C. S. (2007). Branding Nordicity: Models, Identity and the Decline of Exceptionalism. *Cooperation and Conflict*, 42(1), 27–51.
- Castles, S. (2005). Nation and empire: Hierarchies of citizenship in the new global order. *International Politics*, 42, 203–224.
- CCLC. (2017). This is my home: securing permanent status for long-term resident children and young people in the UK. Coram Children's Legal Centre.
- General Comment No. 6. (2005). *Treatment of Unaccompanied and Separated Children outside their Country of Origin* www.unhcr.org/uk/protection/migration/4bf687729/convention-rights-child-general-comment-6-2005-treatment-unaccompanied.html
- Coram Children's Legal Centre Report 'Rights without Remedies'. (2018). <https://www.childrenslegalcentre.com/rights-without-remedies/>
- Dinnie, K. (2008). *Nation branding: Concepts, issues, practice* (p. 126). Oxford: Butterworth-Heinemann.
- Estevens, J. (2018). Migration crisis in the EU: Developing a framework for analysis of national security and defence strategies. *Comparative Migration Studies*, 6(1), 28.
- Every, D., & Augoustinos, M. (2008). Constructions of Australia in pro-and anti-asylum seeker political discourse. *Nations and Nationalism*, 14(3), 562–580.
- FitzGerald, D. S., & Cook-Martin, D. (2014). *Culling the masses: The democratic origins of racist immigration policy in the Americas*. Harvard University Press.
- Fortin, J. (2011). Are Children's Best Interests Really Best. *ZH (Tanzania)(FC) v Secretary of State for the Home Department*, 74.
- Fuglerud, Ø. (2006). Staten og flyktingene – eller «Trademark Norway» og spørsmålet om utsidens innside [The State and the Refugees – or «Trademark Norway» and the question of the inside of the outside]. *Norsk Antropologisk Tidsskrift*, 17(3–4), 225–231.
- Goffman, E. (1959). *The Presentation of self in everyday life*. Doubleday.
- Goffman, E. (1961). *Asylums: Essays on the condition of the social situation of mental patients and other inmates*. Anchor Books.
- Goffman, E. (1963). *Stigma: Notes on the management of spoiled identity*. Prentice Hall.
- Goodwin-Gill, G. S. (1995). Unaccompanied refugee minors. *Int'l J. Child. Rts.*, 3, 405.
- Griffiths, M., & Yeo, C. (2021). The UK's hostile environment: Deputising immigration control. *Critical Social Policy*, 41(4), 521–544.
- Gullestad, M. (1997). A passion for boundaries - Reflections on connections between the everyday lives of children and discourses on the nation in contemporary Norway. *Childhood - a Global Journal of Child Research*, 4(1), 19–42.
- Harris, J. (2017). Cool Britannia: Where did it all go wrong? *New Statesman*. <https://www.newstatesman.com/1997/2017/05/cool-britannia-where-did-it-all-go-wrong>
- HM Government. (2021). *New Plan for Immigration: Policy Statement* https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/972517/CCS207_CCS0820091708-001_Sovereign_Borders_Web_Accessible.pdf, last accessed 21 Aug 2021.
- JCHR. (2003). *Joint Committee On Human Rights, Tenth Report*. 9 June 2003. <https://publications.parliament.uk/pa/jt2003/jtselect/jtrights/117/11702.htm>
- JCWI. (2015). Family friendly? The impact on children of the family migration rules: A review of the financial requirements <https://www.jcwi.org.uk/Handlers/Download.ashx?IDMF=6a720c35-f86e-49b0-b80a-b0944073ffbd>
- Jensen, A.-M., Kjørholt, A. T., Qvortrup, J., Sandbæk, M., Johansen, V., & Lauritzen, T. (2004). Childhood and generation in Norway: Money, time, and space. In A.-M. Jensen, A. Ben-Arieh, C. Conti, D. Kutsar, M. N. G. Phádraig, & H. W. Nielsen (Eds.), *Children's welfare in ageing Europe* (pp. 335–402). Trondheim: Norwegian Centre for Child Research.
- Kirkup, J., and Winnett, R. (2012). Theresa May interview: 'We're going to give illegal migrants a really hostile reception'. *The telegraph*. <https://www.telegraph.co.uk/news/uknews/immigration/9291483/Theresa-May-interview-Were-going-to-give-illegal-migrants-a-really-hostile-reception.html> 25 May 2012.
- Kivisto, P., & Pittman, D. (2008). Goffman's dramaturgical sociology: Personal sales and service in a commodified world. In P. Kivisto (Ed.), *Illuminating social life classical and contemporary theory revisited* (pp. 259–276). Thousand Oaks, CA: Pine Forge Press.
- Krzyżanowski, M., Triandafyllidou, A., & Wodak, R. (2018). The mediatization and the politicization of the "refugee crisis" in Europe. *Journal of Immigrant & Refugee Studies*, 16(1–2), 1–14.
- Lidén, H., Eide, K., Hidle, K., Nilsen, A. C. E., & Wærdahl, R. (2013). *Levekår i mottak for enslige mindreårige asylsøkere*. [Living conditions for unaccompanied minors in reception centres] Oslo: Institutt for samfunnsforskning.
- Malkki, L. H. (1995). Refugees and exile: From "refugee studies" to the national order of things. *Annual Review of Anthropology*, 24(1), 495–523. <https://doi.org/10.1146/annurev.an.24.100195.002431>
- Moore, K. (2013). 'Asylum shopping' in the neoliberal social imaginary. *Media, Culture & Society*, 35(3), 348–365.
- NOAS, Redd Barna, & Norsk Folkehjelp. (2020). «Hvert år må jeg søke på nytt». Enslige mindreårige som får begrenset oppholdstillatelse fordi de ikke kan legge frem pass som dokumentasjon på identitet. [“Each year I must apply again”. Unaccompanied minors who get limited leave to remain because they are unable to provide a passport as

- documentation of identity]. Retrieved from https://www.noas.no/wp-content/uploads/2020/05/NOAS_Enslige-mindrea%CC%8Arige_rapport_WEB.pdf
- Normann, T. M., & Epland, J. (2023). Færre barn med vedvarende lavinntekt i 2021 (Fewer children with lasting low incomes in 2021). Published by Statistics Norway at <https://www.ssb.no/inntekt-og-forbruk/inntekt-og-formue/artikler/faerre-barn-med-vedvarende-lavinntekt-i-2021>. Accessed 19 Aug 2024.
- Norway. (2007). *Norgesportalen* [The Norway Portal] at Norge.info. (Discontinued, content no longer available).
- Nye, J. S. (2004). *Soft power: The means to success in world politics*. Public Affairs.
- OECD. (2015). *International migration outlook 2015*. Washington, DC.
- Home Office publication on assessing age (Home Office 2018, 7).
- Prabhat, D., Singleton, A., & Eyles, R. (2019). Age is just a number? Supporting migrant young people with precarious legal status in the UK. *International Journal of Children's Rights*, 27, 228–250.
- R (Joint Council for the Welfare of Immigrants) v Secretary of State for the Home Department (blackstonechambers.com). regjeringen.no. (2007). *Hvordan bygge Norges omdømme*. [How to build Norway's reputation] <http://www.regjeringen.no/nb/dep/ud/tema/Norgesfremme-og-kultursamarbeid/informasjon-norgesprofilering-omdomme.html?id=448251>: accessed 23. mai 2007. Discontinued.
- Restrictions II. (2016). *Lov om endringer i utlendingsloven mv. (innstramminger II)* [Act on changes in the Immigration Act], Justis- og beredskapsdepartementet (2016).
- Seeberg, M. L. (2016). Child refugees and national boundaries. In J. Nikil (Ed.), *Contested childhoods: Growing up in migrancy migration governance identities* (pp. 43–59). Springer.
- Seeberg, M. L. (2017). Alt er relativt: ytelser til barnefamilier i norske asylmottak, 1989–2017 [All is relative: Payments to families with children at Norwegian centres for asylum-seekers]. *Tidsskrift for Velferdsforskning*, 20(4), 268–285. <https://doi.org/10.18261/issn.2464-3076-2017-04-02>
- Seeberg, M. L., & Goździak, E. M. (2016). Contested childhoods: Growing up in migrancy. In M. L. Seeberg & E. M. Goździak (Eds.), *Contested childhoods: Growing up in migrancy. Migration, governance, identities* (pp. 1–19). Springer.
- Skivenes, M. (2015). How the Norwegian child welfare system approaches migrant children. In M. Skivenes & R. Barn (Eds.), *Child welfare systems and migrant children: A cross country study of policies and practice* (pp. 39–61). Oxford University Press.
- Spencer, S. (2011). *The migration debate*. The Policy Press.
- Stang, E. G., & Lidén, H. (2014). *Barn i asylsaker*. [Children in asylum cases] NOVA rapport 1/2014.
- Tate, W. (2020). Anthropology of policy: Tensions, temporalities, possibilities. *Annual Review of Anthropology*, 49(1), 83–99. <https://doi.org/10.1146/annurev-anthro-010220-074250>
- The Supreme Court of Norway. (2015). Judgment HR-2015–206-A.
- UDI. (2018). *Åtte av ti «oktoberbarn» fikk opphold* [Eight out of ten "October children" granted residence]. <https://www.udi.no/aktuelt/atte-av-ti-oktoberbarn-fikk-opphold/> Accessed 27 July 2020.
- UDI (2020). *Age examination of unaccompanied minor asylum seekers*. <https://www.udi.no/en/word-definitions/age-examination-of-unaccompanied-minor-asylum-seekers/> Accessed 27 July 2020.
- UN Convention on the Rights of the Child, (UNCRC). (1989).
- van Ham, P. (2008). Place branding: The state of the art. *The ANNALS of the American Academy of Political and Social Science*, 616(1), 126–149.
- Vitus, K., & Liden, H. (2010). The status of the asylum-seeking child in Norway and Denmark: Comparing discourses, politics and practices. *Journal of Refugee Studies*, 23(1), 62–81. <https://doi.org/10.1093/jrs/feq003>
- Yuval-Davis, N. (1997). *Gender & nation*. SAGE Publications Ltd.

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