



universität
wien

MASTER THESIS

Titel der Master Thesis / Title of the Master's Thesis

**„When all Hope is Lost -
A Thesis about Unaccompanied Minors who go Missing in Norway“**

verfasst von / submitted by
Helle Sanden

angestrebter akademischer Grad / in partial fulfilment of the requirements for the degree of
Master of Arts (MA)

Wien, 2017 / Vienna 2017

Studienkennzahl lt. Studienblatt /
Postgraduate programme code as it appears on
the student record sheet:

A 992 884

Universitätslehrgang lt. Studienblatt /
Postgraduate programme as it appears on
the student record sheet:

Human Rights

Betreut von / Supervisor:

Univ.-Prof. Dr. Manfred Nowak, LL.M.

TABLE OF CONTENTS

CHAPTER 1: INTRODUCTION	1
1.1.1 <i>General Description of the Research Context.....</i>	1
1.1.2 <i>Research Questions.....</i>	3
1.1.3 <i>Terminology.....</i>	3
1.1.4 <i>Delimitations</i>	4
1.1.5 <i>Methodology</i>	4
1.1.6 <i>Literature Review on Missing Asylum-Seeking Children.....</i>	5
1.1.7 <i>Summary</i>	9
CHAPTER 2: UNACCOMPANIED CHILDREN IN TRANSIT	9
2.1.1 <i>Forced Migration.....</i>	10
2.1.2 <i>Child Trafficking</i>	11
2.1.3 <i>Afghanistan.....</i>	13
2.2 MISSING UNACCOMPANIED MINORS	14
2.2.1 <i>The European Context.....</i>	14
2.2.2 <i>The Norwegian Context.....</i>	16
2.2.3 <i>Who are these Children?.....</i>	17
2.2.4 <i>Nationality.....</i>	19
2.2.5 <i>Gender</i>	20
2.2.6 <i>Age Group</i>	21
2.2.7 <i>Summary</i>	22
CHAPTER 3: HUMAN RIGHTS FRAMEWORK RELEVANT TO ASYLUM-SEEKING CHILDREN 23	
3.1 INTERNATIONAL LAW	23
3.1.1 <i>Regional instruments: The Council of Europe.....</i>	25
3.1.2 <i>The European Union</i>	27
3.2 DOMESTIC LAW IN NORWAY	27
3.2.1 <i>Summary</i>	29
CHAPTER 4: METHODOLOGY.....	29
4.1 RESEARCH APPROACH.....	29
4.1.2 <i>Sampling and Collection Method.....</i>	30
4.1.3 <i>Ethical Considerations</i>	31
4.1.4 <i>Shortcomings and Challenges.....</i>	32
4.1.5 <i>Data Analysis Method.....</i>	33

4.1.6 Illustration.....	34
4.1.7 Explanation of Categories	35
4.1.8 Interpretation of the Results from the Qualitative Research.....	36
4.1.9 Summary	36

CHAPTER 5: RESEARCH FINDINGS - TIGHTENING ASYLUM POLICIES AS A PUSH FACTOR?36

5.1 DO WE KNOW WHY UNACCOMPANIED MINORS ARE GOING MISSING?	37
5.2 THE POLICY OF THE TEMPORARY RESIDENCE PERMIT	40
5.2.1 The Issue.....	40
5.2.2 Statements from Informants.....	41
5.2.3 Laws and Regulations	42
5.2.4 Main actors	43
5.2.5 Long Term Stay in a Reception Centre.....	43
5.2.6 Analysis of Data.....	44
5.2.7 Criticism Towards the Policy.....	46
5.2.9 Critical analysis – Immigration Control Vs. The Best Interest of the Child.....	48
5.2.10 Critical Analysis – In the Best Interest of the Child - the UDI or the CWS Responsibility?	53
5.3 THE AGE ASSESSMENT PROCEDURE.....	57
5.3.1 The Issue.....	57
5.3.2 Statements from Informants.....	58
5.3.3 International Standards and Domestic Law	58
5.3.4 Main Actors	59
5.3.5 The Age Assessment Procedure	59
5.3.6 Analysis of Data.....	61
5.3.7 Criticism Towards the Age Assessment Procedures	63
5.3.8 Critical Analysis – Part 1.....	66
5.3.11 Critical Analysis – Part 2	68
5.4 SUMMARY.....	73

CHAPTER 6: RESEARCH FINDINGS - FOLLOW UP WHEN UNACCOMPANIED MINORS GO

MISSING..... 73

6.1 THE ISSUE	73
6.1.2 Statements from Informants.....	74
6.1.3 Laws and Directives.....	75
6.2 MAIN ACTORS	75
6.2.1 The Child Welfare Service (CWS)	76
6.2.2 The Directorate of Migration (UDI).....	77
6.2.3 The Police.....	78

6.3 CRITICAL ANALYSIS	79
6.3.1 <i>The Child Welfare Service</i>	79
6.3.2 <i>The UDI</i>	80
6.3.3 <i>The Police</i>	81
6.4 REFLECTION – THE BEST RESPONSE FROM A CHILD’S PERSPECTIVE?	85
6.5 SUMMARY.....	86
CHAPTER 7: RESEARCH FINDINGS - MISSING CHILDREN AND TRAFFICKING RISKS.....	86
7.1 ISSUE.....	86
7.1.1 <i>Laws and Directives</i>	87
7.1.2 <i>Main Actors</i>	87
7.1.3 <i>Child Trafficking in Norway</i>	88
7.1.4 <i>Missing Children and Vulnerabilities</i>	90
7.1.5 <i>Uncertainty of Future Perspectives</i>	92
7.1.6 <i>Exploitation Through Forced Criminality</i>	93
7.1.7 <i>Concerns from Informants, Academia and the Authorities</i>	95
7.1.8 <i>Reflection - Missing Children and their Vulnerabilities for exploitation</i>	97
7.2 RESPONSE: THE RISK OF TRAFFICKING AS A CHILD PROTECTION ISSUE?	98
7.2.1 <i>Identification Measures</i>	99
7.2.2 <i>Guardianship</i>	101
7.2.3 <i>Special Protection Measures</i>	102
7.2.4 <i>Critical Analysis – An Issue of Protection?</i>	102
7.3 RESPONSE: THE RISK OF TRAFFICKING - AN ISSUE OF PREVENTION?	108
7.3.1 <i>Legislations</i>	108
7.3.2 <i>National Strategies and Monitoring Mechanisms</i>	109
7.3.3 <i>Allocation of Appropriate Resources</i>	110
7.3.4 <i>Information Campaigns and Research</i>	110
7.3.6 <i>Searching for Children as a Preventative Measure</i>	111
7.3.7 <i>Prosecutions</i>	112
7.3.8 <i>The Principle of Non-Punishment - Criminals or Exploited Children?</i>	113
7.3.9 <i>Targeted Measures</i>	116
7.3.9 <i>International Cooperation</i>	117
7.3.10 <i>Critical Analysis</i>	117
7.4 SUMMARY.....	122
CHAPTER 8: CONCLUSION, FINDINGS AND POLICY RECOMMENDATIONS.....	122
8.1. FINDINGS AND CONCLUSION	122
8.2 POLICY RECOMMENDATIONS	128

BIBLIOGRAPHY.....	130
<i>Zusammenfassung.....</i>	<i>145</i>
<i>Appendix.....</i>	<i>146</i>

Acknowledgments

I would first like to thank my thesis supervisor Professor Helmut Sax at the University of Vienna, which always answered my questions, guided and supported me throughout the writing process. I would also like to thank all my informants who so kindly participated and gave some of their time to this study, without them, this research would have been impossible to complete. Furthermore, I would also like to express my gratitude to Professor Manfred Nowak and Marijana Grandits for unfailing support and a great experience during the Master Programme at the University of Vienna. Last but not at least, I want to thank my family and friends, which so kindly supported me and motivated me with their encouraging words and support throughout the whole writing process.

Abbreviations

- CAT – Convention Against Torture
- CESC – Convention on Economic, Social and Cultural Rights
- CERD – Convention on the Elimination of all Forms of Racial Discrimination
- CO – Concluding Observations
- CoE – Council of Europe
- CRC – Convention on the Rights of the Child
- CWS – Child Welfare Service
- GC – General Comments
- ILO – International Labor Organization
- KOM – The Coordination Unit for Victims of Human Trafficking
- MENA Region – Middle East and the North African

Region

- NOAS – Norwegian Organization for Asylum Seekers
- OSCE – Organization for Security and Co-operation in Europe
- UAMs – Unaccompanied Asylum-Seeking Minors
- UDI – The Norwegian Directorate of Immigration
- UNHCR – United Nations High Commissioner on Refugees
- UNHCHR – United Nations Office of the High Commissioner for Human Rights
- UNICEF – United Nations International Children Fund
- UPR – Universal Periodic Review

Chapter 1: Introduction

‘A 17-year-old boy from Afghanistan went missing. When I met him, he told me he had smugglers after him and that he was in need of protection. He was only granted a temporary residence permit and was living two years in constant fear of being sent back to Afghanistan when turning 18. Suddenly one day he called me from Denmark, he told me that he had to disappear. We never knew what happened with this boy, and as far as I am aware, no one is looking for the whereabouts of these children.’¹

In 2016, Europol estimated that over 10 000 asylum-seeking children had disappeared throughout Europe. Although the number was contested, there are reasons to believe that the real number is likely to be much higher.² In line with what other European States have experienced over the last years, there was also an increase in the number of children who went missing from reception and transit centers for asylum seekers in Norway. Between January 1, 2015 and December 31, 2016, 367 UAMs (unaccompanied asylum-seeking minors) went missing, according to the UDI (Norwegian Directorate of Immigration).³ The authorities still did not know the whereabouts of 226 of these children, on December 31, 2016. What are the main reasons behind children going missing from reception and transit centers? Do we know where they are and whether or not they are safe? To what extent is there a risk for these children to fall into the hands of traffickers after they have gone missing? Is there anyone searching for them? These are a few of the several questions that arise, and the aim of my thesis is to shed light on this matter. More research and information was needed on the phenomenon of UAMs who have gone missing in Norway, the Norwegian government stressed in their reply to GRETA's questionnaire (2016). This is why I decided to write my Master thesis on this increasingly urgent but neglected issue. I hope that my findings can add to a new understanding and perspective of the phenomenon.

1.1.1 GENERAL DESCRIPTION OF THE RESEARCH CONTEXT

In the outreach of Europe's border you will find Norway, with its 5.233 million inhabitants (2016) and great prosperity, a state that has managed to build up one of the best welfare states in

¹ Interview with professional social worker from Kristiansand employed at Den Skreddersydde Enhet (7) (Stavanger 14 July 2016).

² Rikke Uldall, 'Fate of 10,000 missing refugee children debated in Civil Liberties Committee' *European Parliament* (Brussels, 21 April 2016) Web
<http://www.europarl.europa.eu/pdfs/news/expert/infopress/20160419IPR23951/20160419IPR23951_en.pdf>
accessed 2 November 2016.

³ Email from Thomas Mortensen (UDI), to author (26 January 2017 and 10 November 2016). See annex for email and data.

the world. Norway sounds like a dream destination for most of us, also those in need, such as unaccompanied minors. On the other side, to embark on a journey to Norway is not only dangerous for fleeing and migrating UAMs, but it is also devastating in that they discover, not long after arrival, that Norway is not a safe haven either. For those who arrive in the Kingdom of Norway, they will soon find out that it is extremely difficult to be granted a residence permit, especially for those coming from a war-torn country such as Afghanistan. Between January and June 2017, only 31 percent of UAMs seeking asylum from Afghanistan were given permanent protection.⁴

The types of asylum policies implemented in a country are matters that have to be seen in relation to the country's political landscape. Norway has had a long tradition of being a social democratic state with core values such as equality and tolerance. The left-wing Party (Venstre), together with the Christian Party (Krf), with their equal social democratic values, worked on forming the government between 1997 and 2005. In 2005, the Labour Party and its leader Jens Stoltenberg stayed in power until 2013.⁵ However, in 2013, the Conservative Party (Høyre) won the election and formed a government with the right wing party (Frp, or Fremskrittspartiet), and together, they managed to get an agreement with the Christian and left-wing parties for parliamentary support.⁶ The Conservatives and the right-wing Party (Frp) constitute the government in Norway today. Although the first tightening asylum policy started already in 2010, the immigration policy in Norway has changed significantly under the Conservative and the right-wing government. As one of my informants noted, 'It is like Norway [is] competing [to become] the nation in the world [that exercises] the strictest asylum policy'.⁷ Norway's harsh immigration policy has also been criticized internationally. In 2016, the New York Times stressed how 'Norway's payments to returning refugees are among the world's most generous, but its deportation policy is now among the world's most harsh'.⁸

⁴ UDI, 'Asylum Decisions for Unaccompanied Minors by Citizenship and Outcome (2017)' (UDI, 29 July 2017) <<https://www.udi.no/statistikk-og-analyse/statistikk/asylvedtak-etter-statsborgerskap-og-utfall-for-enslige-mindrearige-asylosokere-2017/>> accessed 29 July 2017.

⁵ Great Norwegian Dictionary, 'The Government Stoltenberg 11' (Great Norwegian Dictionary, 28 April 2015) <https://snl.no/Regjeringen_Stoltenberg_II> accessed 10 June 2017.

⁶ Great Norwegian Dictionary, 'The Conservative Party' (Great Norwegian Dictionary, 6 June 2017) <<https://snl.no/Høyre>> accessed 10 June 2017.

⁷ Interview with informant (2) guardian for unaccompanied minors from Vesterålen, Stavanger (Stavanger 10 December 2016).

⁸ Rod Nordland, 'A Deported Afghan Boy Returns to a Land Nothing Like Home', *New York Times* (New York 12 November 2016) WEB <<http://www.nytimes.com/2016/11/13/world/asia/a-deported-afghan-boy-returns-to-a-land-nothing-like-home.html>> accessed 15 November 2016.

1.1.2 RESEARCH QUESTIONS

- *What are the main reasons UAMs are going missing from reception and transit center?*
- *To what extent are missing children at risk of being trafficked in Norway?*
- *How well has the Norwegian State protected these children's rights and safety?*

1.1.3 TERMINOLOGY

What is the proper terminology to use when describing children who go missing or disappear from reception and transit centers? The first alternative could be to use the term 'disappeared.' However, this word is not accurate to use in the context I discuss, as the word 'disappeared' is closely related to the legal term *enforced disappearance*, which is not applicable in this sense. Enforced disappearance, as defined in the International Convention for the Protection of All Persons from Enforced Disappearance, is considered to be as follows:

‘The arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law’.⁹

In other words, the term 'enforced disappearance' is applied in cases where state officials or someone acting on behalf of the State, abduct someone against their will and do not release the person, nor provide any information to their families of the whereabouts of the individual concerned.¹⁰ When UAMs go missing in Norway, it is not the case that state officials (or anyone acting on behalf of the government) have abducted them. Rather, these children either voluntarily leave reception/transit centers, or are perhaps persuaded or pressured from an external party, such as a criminal gang or group of adults planning to exploit children in vulnerable situations. Hence, 'disappeared' is not a suitable term to use in this study. The other, more preferable option is to use the word 'missing'. Having said that, Jean Paul Brekke (2012) argues how the term 'missing' is far from perfect too. When a person is missing, it often gives a picture that someone is searching for the person, Brekke states.¹¹ However, as I will argue throughout my thesis, this is not the case for the vast majority of UAMs. For these reasons, from this point forward, I will use the term 'missing' for this context throughout my thesis. The

⁹ International Convention for the Protection of All Persons from Enforced Disappearance (adopted 20 December 2006, entry into force 23 December 2010) UNTS 2716

¹⁰ Amnesty International, 'Disappearances – Overview', (*Amnesty International* 2017)
<<https://www.amnesty.org/en/what-we-do/disappearances/>> accessed 26 February 2017.

¹¹ Jean-Paul Brekke, 'Missing – Asylum Seekers who Leave Reception Centers in Norway' [2012] 2 Web ISF
<https://www.udi.no/globalassets/global/forskning-fou_i/asylmottak/missing-asylum-seekers-who-leave-reception-centres-in-norway.pdf> accessed 25 June 2017.

Norwegian Directorate of Immigration (UDI) defines ‘missing’ children as asylum-seeking children who live in State-run centers but go missing from the center without informing anyone and do not return in time, leaving their whereabouts unknown.¹²

1.1.4 DELIMITATIONS

A broad range of research and studies is conducted on UAMs in general in Norway, but far less attention is given particularly to the group of children who go missing from transit or reception centers. The primary focus of this study will be on 15-to-18-year-old UAMs who have gone missing. The reason for focusing mainly on this age group is grounded in the fact that the vast majority of children missing falls within this age group (see Chapter 2). Furthermore, only the relevant parts of the asylum process and policies (i.e. parts with a direct or clear relation to UAMs who go missing) will be discussed. Consequently, several aspects of the asylum process, although important, are not explored, such as the asylum interview and so on. Moreover, I will only focus on children who go missing, and the risk of trafficking this particular group of children face and will thus exclude other groups of children also in danger of being trafficked, such as stateless children. The largest group of children, who seek asylum and who go missing come from Afghanistan; consequently, a particular focus is given to UAMs with Afghan nationality throughout the thesis.

1.1.5 METHODOLOGY

In order to answer my research questions, I decided to use qualitative research and conduct in-depth interviews. I made a questionnaire with the questions I wanted to ask and interviewed 14 informants from different institutions across Norway. I proceeded to analyze the interviews by using a coding technique (described in Chapter 4) and categories, as well as an illustration of my main research findings (also shown in Chapter 4). The research findings from the qualitative research are further explored in Chapters 5,6 and 7. In addition to the qualitative research, I also requested unpublished data and information on the identities of the children who went missing from Norway. Case officer Thomas Mortensen from UDI Statistic Department, provided the requested data by e-mail (see annex). Finally, my other source for my analysis was to use previous literature on the topic in order to see whether or not my findings were in line with

¹² The Norwegian Directorate of Immigration, ‘Requirements for Reporting and Follow-up when Unaccompanied Minors Disappear from State Run Reception Centers’ (2010) RS 2010-153
<https://www.udiregelverk.no/no/arkiv/udi-rundskriv/rs-2010-153/#_Toc251833901> accessed 13 September 2016.

previous research, and also to explore whether my findings added new information to this very complex topic.

1.1.6 LITERATURE REVIEW ON MISSING ASYLUM-SEEKING CHILDREN

There has been an increase in the number of UAMs gone missing from reception and transit centers across Europe in recent years (which I will show in Chapter 2). The phenomenon has, however, not been given much attention by scholars or Governments in Europe nor Norway. Two important reports on the topic are the ‘Summit Report 2016’ from Missing Children Europe¹³ and ‘*Missing children in the European Union Mapping, data collection, and statistic*’, conducted by the European Commission in 2013.¹⁴ The two reports discuss possible reasons for why unaccompanied asylum-seeking children go missing from reception and care centers, and provide an overview of the EU Member States’ (including Norway’s) responses to these challenges. The two reports are similar in the sense that they are both very general, with an objective of providing a brief overview of the issue of missing UAMs across Europe. However, the situation in Norway is barely mentioned. Another European study that also includes Norway is the ‘*Synthesis Report – Policies, Practice and Data on UAM in the EU Member States and Norway*’, carried out by European Network on Migration (2014).¹⁵ In addition to these reports, the Council of Europe (CoE) has an independent expert body (GRETA), which monitors the CoE Convention on Action against Trafficking in Human Beings (2005). GRETA publishes relevant country reports as a part of their monitoring responsibility. In 2013, GRETA released the first country report on Norway, where they underlined the issue of asylum-seeking children who have gone missing.¹⁶

There has been little research and few academic discussions on the issue of children going missing from reception and transit centers, even in Norway. Jan-Paul Brekke, (2012)¹⁷,

¹³ Missing Children Europe, ‘Summit Report - Best practices and key challenges on interagency cooperation to safeguard unaccompanied children from going missing’ (*Missing Children Europe*, February 2016) <<http://missingchildreneurope.eu/Portals/0/Docs/Best%20practices%20and%20key%20challenges%20for%20interagency%20cooperation%20to%20safeguard%20unaccompanied%20migrant%20children%20from%20going%20missing.pdf>> accessed 10 November 2016.

¹⁴ European Commission, ‘Missing Children in the European Union Mapping, Data Collection and Statistics’ (*European Commission*, 2013) <http://ec.europa.eu/justice/fundamental-rights/files/missing_children_study_2013_en.pdf> accessed 20 August 2016.

¹⁵ The European Migration Network (EMN), ‘Policies, practices and data on unaccompanied minors in the EU Member States and Norway’ (*European Commission (EMN)*, May 2015) <http://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/emn_study_2014_uams.pdf> accessed 22 October 2016.

¹⁶ Council of Europe, GRETA, ‘Report Concerning the Implementation of the Council of Europe Convention on Action Against Human Trafficking by Norway’ GRETA(2013)5 (Strasbourg 7 May 2013).

¹⁷ Jean-Paul Brekke (*n* 11)

conducted the first scientific research carried out regarding asylum seekers who went missing from reception centers. By comparing various groups of asylum seekers, the report aims to find out what characteristics belongs to asylum seekers who go missing, but the main focus was on adults and not children. Karen Elise Espeland wrote 'Missing' for Save the Children Youth in 2013.¹⁸ The study is a follow-up report on UAMs who went missing in Norway since the first report published in 2008. The study is exemplary in the way that it maps the follow-up procedures when children and youth go missing from five different reception centers in Norway and identifies areas of improvement. On the one hand, it explores whether or not there have been any signs of progress since the last report in 2008. On the other hand, neither of the two studies give an in-depth overview, and at least some of the contained information may already be outdated.

The journal article 'On your own, children who go Missing' by Katia Wagner (2014)¹⁹, discusses the number of UAMs arriving at Scandinavia but later going missing, and the fact that no one seems to be willing to investigate what happens to them. The journal article informs how the system is failing to protect migrant children in Norway and Sweden. Similar, to the report from Save the Children, the journal highlights the risk of UAMs becoming victims of trafficking. Anne Staver and Hilde Liden, published '*Unaccompanied Minors in Norway: Policies, Practice, and Data*' in (2014);²⁰ however, little focus is given to the issue of UAMs who go missing. Hilde Liden et.al (2013), wrote '*Living conditions for unaccompanied migrant children*'²¹ and has two pages touching upon the issue of UAMs who go missing. Nonetheless, the report concludes that the high number of missing children is shocking, and reveals how no state body is tasked with the primary legal responsibility for following up on these cases. The authors also have a separate section of the risk for UAMs to become victims of trafficking in general in Norway. Veronica Paulsen et al, 'The Child Welfare Service Work with Asylum-seeking Children' (2015)²² is the

¹⁸ Karen Elise Espeland, 'Missing – a report on unaccompanied children that goes missing from reception centers in Norway' (*Save The Children Youth*, 2013)

¹⁹ Katia Wagner, 'On Your Own, Children who goes Missing', (2014) 1 Samtiden 3.

²⁰ Anne Staver and Hilde Liden, 'Unaccompanied Minors in Norway, Policy Practice and data' [2014] 14 ISF <https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/unaccompanied-minors/29_norway_national_report_unaccompanied_minors_en.pdf> accessed 25 June 2017.

²¹ Hilde Liden, et.al. '*Living conditions for unaccompanied migrant children*' [2013] 3 Web ISF <https://brage.bibsys.no/xmlui/bitstream/handle/11250/177431/R_2013_3_web.pdf?sequence=3&isAllowed=y> accessed 25 June 2017.

²² Veronica Paulsen, Michelsen H, and Brochmann M, '*The Child Welfare Service Work with Asylum-seeking Children*' [2015] Web NTNU's Samfunnsforskning

second and most recent journal exploring the Child Welfare Service (CWS) work with UAMs and has a small section about children who go missing. Additionally, the authors provide a fruitful statistic on missing children between 2008-2014. Most of the paper discusses the CWS work on asylum-seeking children who are victims of trafficking and further examines the responsibilities of the government to follow up as appropriate.

Two other relevant scientific articles also discuss child trafficking in Norway. The first one 'Not our Children – Identification and Follow-up on Victims of Trafficking in Norway', was ordered by the Ministry of Children, Equality, and Social Inclusion and carried out by Guri Tydlem et al (2015).²³ The study explores how Norwegian institutions follow-up on child victims of trafficking, the number of victims, and challenges regarding prosecutions, investigations, identifications and follow up. One of the findings of the study is the gaps and the variations in the follow-up, child victims of trafficking gets. The second recent study on child trafficking was conducted by Hilde Liden and Cathrine Holst Salvesen 'They said You Have too –Minors Experiences from Human Trafficking' (2016).²⁴ Their study has a children's perspective that sets it apart from any of the other articles, where the researcher's interview UAMs in Norway who are victims of trafficking. The child victims give their opinions and perspectives on the follow-up they were granted and their future perspectives.

The most recent research published on the topic of UAMs who go missing was requested by the Ministry of Justice and Public Security and conducted by Berit Aasen et al (2017) 'Prevention and Follow-Up of Unaccompanied Minors who disappear from Reception and Care.'²⁵ The study is an essential publication for my research because it investigates in-depth cases of UAMs who went missing and looks at how different stakeholders follows up. It looks at directives and laws and on cooperation between the relevant institutions. On the other side, the study does not cover the situation after June 2015 and subsequent years. Hence, the changes that took place

<<https://samforsk.no/Publikasjoner/Barnevernets%20arbeid%20med%20barn%20i%20asylsøkerfasen%20WEB.pdf>> accessed 25 June 2017.

²³ Guri Tyldum, et.al, 'Not our Children – Identification and Follow-up on Victims of Trafficking in Norway' [2015] 45 Web Fafo <<http://www.faf.no/images/pub/2015/20550.pdf>> accessed 20 November 2016.

²⁴ Cathrine Holst Salvesen and Hilde Liden, 'They said You Have too –Minors Experiences from Human Trafficking' [2016] 9 Web

<https://brage.bibsys.no/xmlui/bitstream/handle/11250/2442437/Rapport_9_16_FINALweb.pdf?sequence=1&isAllowed=y>.

²⁵ Berit Aasen, Evelyn Dyb, and Stian Lid, 'Prevention and Follow-Up of Unaccompanied Minors who disappear from Reception and Care.' [2017] 17 Web NIBR 1 <<http://www.hioa.no/Om-HiOA/Senter-for-velferds-og-arbeidslivs-forskning/NIBR/Publikasjoner/Forebygging-og-oppfolging-av-enslige-mindreaarige-asylsoekere-som-forsvinner-fra-mottak-og-omsorgssentre>> accessed 25 June 2017.

concerning the unexpected challenges during fall 2015 are not taken into consideration. Moreover, the report does not present updated statistics on children who go missing or discuss the root-causes. Another important publication is the ‘Convention on the Rights of the Child – Children’s Rights in Norway’ (2016)²⁶ written by Njål Høstmælingen et al. The book is important for my study as it gives an up-to-date overview of children’s rights in Norway in general. In addition to academic studies and reports carried out, ‘The Norwegian Government’s Action Plan Against Trafficking’ (2016)²⁷, as well as the Report to the Storting ‘Children who Flee’ (2014)²⁸, gives relevant background information and describes each institutions responsibility regarding UAMs in Norway. These publications touch upon the issue of UAMs who goes missing and how the relevant authorities shall address the matter.

In total, 11 academic papers and reports discuss asylum-seeking children in Norway, which, with some variations, also touches upon the phenomenon of UAMs going missing from reception and transit centers in Norway and child trafficking in general. Nevertheless, there are gaps in the existing research; for example, there are no statistics from the past two years on missing UAMs in any of the publications. Therefore, my investigation can contribute to the already existing literature by providing current unpublished statistics. Updated statistics are fruitful and necessary for spotting new trends and assessing whether the phenomenon of missing asylum-seeking children is an issue of decreasing or increasing importance, as well as for tracking down root causes for why there might be an increase in the number of UAM who go missing. None of the existing body of relevant research discusses the root causes for why children go missing in details, nor does any of it take an explicit look at state obligations that Norway has under international human rights law, which will be another perspective my study can provide to the already existing literature on the topic.

²⁶ Njål Høstmælingen, Elin Saga Kjørholt and Kirsten Sandberg (eds.) *Convention on the Rights of the Child – Children’s Rights in Norway* (3. Edition, 2016 Universitetsforlaget).

²⁷ Ministry of Justice and Public Security, ‘*The Norwegian Government’s Action Plan Against Trafficking*’ (1 December 2016) <https://www.regjeringen.no/contentassets/2b3b502659e348189abd086306ef0d19/jd_regjeringens-handlingsplan-mot-menneskehandel.pdf> accessed 4 February 2016.

²⁸ Ministry of Justice and Public Security, ‘Report to the Storting – Children who are Fleeing’ (Meld.St.27 2011-2012) <<https://www.regjeringen.no/contentassets/6f71e355918d4927966dd93019fa711a/no/pdfs/stm201120120027000dddpdfs.pdf>> accessed 13 April 2017.

1.1.7 SUMMARY

In Chapter 1, an introduction to the topic was provided, and then a brief overview of the political landscape in Norway was described. Following this, the terminology and delimitations were discussed. Finally, the Chapter concluded with a literature review on UAMs who go missing and a general perspective on child trafficking in Norway.

Chapter 2: Unaccompanied Children in Transit

The Convention on the Rights of the Child (CRC) General Comment Nr. 6 (2005) defines unaccompanied children as children, ‘who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so.’²⁹ When trying to understand why unaccompanied children go missing, it is crucial to look at where these children come from, their reasons for leaving their homes and families, personal agency, and their journey between the home and destination country. Jacqueline Bhabha (2014) argues that structural causes, severe poverty, inequality, persecutions, discrimination, conflicts, wars, lack of education, future opportunities and the North-South relations are necessary factors to consider, if the biggest drivers of forced migration are to be understood. The Professor underscore how the demand for cheap labor in developed countries, combined with a desperate need to get away from an unbearable situation with little possibilities for survival and a dignified future, creates an exit-strategy among children coming from poor and war-torn countries.³⁰

The reason for children leaving their homes and families are often complex and multi-layered. Categorizing UAMs as one homogenous group would be misleading, as they are a multifaceted group, with various reasons for moving, different needs, experiences, and backgrounds.³¹ In a study conducted by Cecilie Øien (2010), 30 unaccompanied minors were asked to give their reasons for leaving their homes.³² Øien illustrates how the most common responses were: war and conflict close to the area they lived, the family situation and threats of danger. Several of the unaccompanied minors from Afghanistan explained how one or both of their parents had been

²⁹ United Nations Committee on the Rights of the Child ‘General Comment No. 6 Treatment of unaccompanied and separated children outside their country of origin’ (17 May – 3 June 2005) UN Doc CRC/GC/2005/6.

³⁰ Jacqueline Bhabha, *Child Migration & Human Rights in a Global Age*, (Princeton University Press 2014) Pp. 166.

³¹ The Separated Children in Europe Programme, ‘Statement Of Good Practice 4th Revised Edition’, (*The Separated Children in Europe Programme*, 2009) <<http://www.separated-children-europe-programme.org/images/18/219.pdf>> accessed 20 July 2016.

³² Cecilie Øien, ‘On the Move A Study of Unaccompanied Asylum-Seeking Children’ 20 Web Fafo Pp. 5 <https://www.udi.no/globalassets/global/forskning-fou_i/beskyttelse/underveis-en-studie-av-enslige-mindreaarige-asylsokere.pdf> accessed 25 June 2017.

killed, had disappeared, or had been imprisoned because of their political views and thus had encouraged their children to flee. Finally, the wish for education or vocational training was also strong, which is due to the lack of adequate school education for minors in Afghanistan.³³

2.1.1 FORCED MIGRATION

Julia O'Connell Davidson (2013) and Russell King (2002) argues how we perceive migration often through a dualistic perspective: national/international, temporarily/permanent, forced/voluntarily, legal/illegal, etc. The dualistic way of thinking is a classical Western liberal way of thought, a way we are trained to think to better understand and categorize the world.³⁴ In reality, these dichotomies are much more fluid, and the motivation for many children migrating or fleeing is often multifaceted, as we have seen. An important aspect of forced migration is the element of coercion, according to the IOM, which gives the example of people forced to migrate due to famine.³⁵ However, from an ethical perspective, it is contradictory to categorize children fleeing extreme forms of poverty, although not famine, as 'voluntary' rather than forced migration. The distinction between economic migration and forced migration becomes vaguer and vaguer, according to Sociologist Stephen Castles. Castles stresses that countries that experience a dysfunctional economy, such as Venezuela, are countries where extreme poverty and human rights violations flourish simultaneously.³⁶ Since combinations of factors are often the reasons for migrating, it can be difficult to distinguish economic motivations from those of human rights abuses. As different from being a refugee, forced migration can perhaps in most of the cases, be a choice, but as David Turton points out, this choice is deeply constrained. Because, the context, the local and national situation and other external factors, the migration many children undergo, are often imposed.³⁷ One thing is for certain: all unaccompanied minors on the move can, with no doubt, be described as desperate migrants.³⁸ It is also important to highlight how UAMs, who are forced to migrate, are not passive actors, but active agents in themselves.

³³ Ibid Cecilie Øien (n 32)

³⁴ Julia O'Connell Davidson, 'Moving Children? Child Trafficking, Child Migration and Child Rights' [2011] 31(3) Web SAGE Journals 454 <<http://journals.sagepub.com.uaccess.univie.ac.at/doi/pdf/10.1177/0261018311405014>> accessed 25 June 2017.

³⁵ International Organization of Migration, 'Key Migration Terms', (IOM 2017) <www.iom.int/key-migration-terms#Forced-migration> accessed 11 July 2016.

³⁶ Stephen Castles, 'Towards a Sociology of Forced Migration and Social Transformation' [2003] 37(1) Web SAGE Publications 13 <<http://journals.sagepub.com.uaccess.univie.ac.at/doi/pdf/10.1177/0038038503037001384>> accessed 25 June 2017.

³⁷ David Turton, 'Conceptualising Forced Migration' [2003] 12 Web RSC <<https://www.rsc.ox.ac.uk/files/publications/working-paper-series/wp12-conceptualising-forced-migration-2003.pdf>> accessed 25 June 2017.

³⁸ High Commissioner for Human Rights, Mr. Zeid Ra'ad Al-Hussein, 'Migration: Why human rights matter', (Seminar at Palais Harrach). Vienna April 29, 2016.

O'Connell argues that even where the choice and freedom is restricted, the girl or boy will not necessarily lose his or her agency.³⁹ Although children are forced to move, they still exercise agency and mobility. This made it possible to leave the dangerous or hazardous conditions, which may not be the case for many other children and adults in similar situations.⁴⁰

2.1.2 CHILD TRAFFICKING

The root causes of child trafficking, as with many other human rights violations, often involve a combination of several factors. One cause of trafficking is poverty. Extreme poverty and scarcity of resources put enormous pressure on families to survive. As a result, many children are forced into abusive conditions as the family, or sometimes even the children themselves, see no other solution to make a living. In some cases, children might not be aware that they are in fact being made victims of trafficking. In other situations, children may very well know they are being exploited but remain, for any number of reasons, unable to get away from the precarious situation.

Legal scholar Julia Planitzer explains how patriarchal societies, along with social norms in cultures where women and children are marginalized and perceived as less valuable, perhaps constitute the most crucial root cause, which fosters trafficking. Thus, gender inequality and the asymmetric power dimension between gender and age (and other such factors) makes children and women much more at-risk of becoming victims of trafficking than adult men. Planitzer underlines how trafficking of children is among the gravest forms of maltreatment towards children.⁴¹ Jacqueline Bhabha (2014) stresses that, although countries have legal frameworks as well as international obligations to protect their citizens, many of them are afflicted with corruption and inefficient government institutions, and some even have laws that can be discriminating towards particular groups of the society. Additionally, in other societies, although the legal framework is in place, the social and cultural norms are so robust and effectively implemented, and the rule-of-law and law enforcement so weak, that many human rights violations are neither investigated nor prosecuted.⁴² The Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children Supplementing the United

³⁹ Julia O'Connell Davidson, 2011 (n 34)

⁴⁰ Nick Gill, Javier Caletrio & Victoria Mason, 'Introduction: Mobilities and Forced Migration' [2011] 6(3) Web Routledge 301 <<http://dx.doi.org/10.1080/17450101.2011.590032>> accessed 25 June 2017.

⁴¹ Julia Planitzer, 'Prohibition of Trafficking in Human Beings,' in Manfred Nowak, Karolina M. Januszewski and Tina Hofstatter (eds), *All Human Rights for All – Vienna Manual on Human Rights* (NWV 2012)

⁴² Jacqueline Bhabha (n 30)

Nations Convention Against Transnational Organized Crime, Article 3 c) defines child trafficking as the:

‘Recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article.’⁴³

The means set forward in Article 3(a) is, for example, the threat or use of force or coercion or the abuse of a position of vulnerability, and the use of such means is not a requirement in cases where children are involved. Hence, as long as the intention is to exploit the child, when recruited, transported, transferred, harbored or receipt, regardless of the means set forward in Article 3(a) of the Convention is present or not, it shall be considered as child trafficking.⁴⁴

Oliver Peyroux (2015) elaborates on the complexity of trafficking, with various means and forms; it can be prostitution or other forms of sexual exploitation, forced labor, such as domestic work or begging, various forms of theft, robbery or drug sales. It can be in the form of forced marriage, as a child soldier or as a victim of organ removal. The exploitation of children can be highly organized, with different people involved, and an extensive hierarchy. Other times, child trafficking can be less organized, involving only a couple of adults. There are cases where the parents and/or family members, community members, etc. are acutely aware of the exploitation of their child, and perhaps even participate in the exploitation or selling their child. Or, it may be the case that parents do not perceive the operation as actual exploitation, compared to what other parents might have done. Other times, children might be abducted from their parents or recruited by criminals in their country of origin, during transit, or throughout the asylum procedure in a destination country. Some children might have themselves given their “consent” to be trafficked, without knowing what that entails, as a desperate move to get away from a reprehensible life situation, and as a means to pay the travel to (for example) Europe.⁴⁵ Children in transit and the risk of trafficking is also highlighted in GRETA’s General Reports and is of great concern.⁴⁶

⁴³ United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children Supplementing the United Nations Convention Against Transnational Organized Crime, Article 3 c) (adopted and open for signature 15 November 2000, entry into force 25 December 2003) UNTS 2237.

⁴⁴ Julia Planitzer ‘Prohibition of Trafficking in Human Beings’ (n 41) Pp. 344

⁴⁵ Oliver Peyroux, *Fantasies and Realities, Fueling Child trafficking in Europe* (Ecpat France March 2015) Pp. 129

⁴⁶ Council of Europe’s Group of Experts on Action Against Trafficking in Human Beings (GRETA), ‘5th General Report on GRETA’s Activities’ (GRETA, February 2016) Pp. 38 <<https://rm.coe.int/168063093c>> accessed 24 June 2017.

In other words, child trafficking has diverse forms, where different means are used, and various exploitative activities carried out.⁴⁷ UAMs are one of the groups of children that are most at-risk of becoming victims of trafficking. They face the risk of exploitation and trafficking both before, during transit and/or in the country of destination. Many children are equally or even more exposed to human rights violations in the country of origin. Fleeing or migrating is also an opportunity to get away from these hazardous conditions.⁴⁸ As we have seen, there are various reasons for the increase of trafficking and conflicts; and war, poverty, and instability in Africa and the Middle East are some of the causes. Furthermore, improved infrastructure and new forms of technology have emerged to more effectively recruit children, making it easy for criminal networks to take advantage of children in vulnerable situations. Strict immigration laws make it almost impossible to apply for asylum without first going through smugglers and putting children at additional risk. Concerning the vast increase of refugees and migrants who arrived at European borders in 2015, the UN, EU and the CoE expressed their concern about the possibility of an increase also in the number of victims of trafficking.⁴⁹

2.1.3 AFGHANISTAN

‘If not really necessary don't do it, but if you have to leave, the trip is very dangerous, you will be starving and there is a chance you will die’, an unaccompanied child from Afghanistan warned other children about the trip to Europe.⁵⁰ Throughout the last 30 years, Afghanistan has experienced war, which has displaced thousands of people and forced them to leave the country. After the last international military troops pulled out from Afghanistan, the number of internally displaced people in the country has increased, which is due to ongoing fights and an unstable security situation.⁵¹ Child casualties in Afghanistan are ongoing. Children are killed, injured, and exploited. The war-torn country has few possibilities for education. There is a lack of public service, and the unemployment rate is staggering. Ethnic discrimination is perpetuated, and extreme poverty has increased. Several human rights violations occur on a daily basis. Apart from all these issues, the Taliban has never been stronger, and Human Rights Watch reported

⁴⁷ Ibid Oliver Peyroux, Pp.35 (n 45)

⁴⁸ Julia O'Connell Davidson and Catlin Farrow ‘Child Migration and the Construction of Vulnerability’ (*Save the Children* 2007) <http://www.childtrafficking.com/Docs/savechild_07_cmcv_0108.pdf> accessed 9 July 2016.

⁴⁹ National Police Directorate, *Report from KOM 2015* (The National Police Directorate's Annual Report from KOM Coordination Unit for Victims of Trafficking, 2016) Pp.8 <https://www.politi.no/vedlegg/lokale_vedlegg/politidirektoratet/Vedlegg_3727.pdf> accessed 24 June 2017.

⁵⁰ Kerry Boland, ‘Children on the Move - A Report on Children of Afghan Origin Moving to Western Countries’ (*UNICEF* February 2010) 21 <https://www.unicef.org/infoycountry/files/Book_children_on_the_move.pdf> accessed August 12 2016.

⁵¹ Norwegian Refugee Council, ‘NRC Annual Report 2016’, (*Norwegian Refugee Council* 2016) 22 <https://www.flyktninghjelpen.no/globalassets/pdf/flyreg/nrc-flyreg-screen_final.pdf> accessed 23 June 2016.

that children are at high risk of being recruited by the Taliban.⁵² Forced recruitment either to the national army, terrorist groups or other insurgent groups are common problems, also prevalent in other countries such as Syria or Eritrea.⁵³ As we have seen, there is a combination of reasons for children fleeing or migrating: self-protection, survival, the wish for fundamental human rights such as education, none of which may be available in their country of origin, seem to be the main triggering causes for leaving.

The decision for children to leave their homes might be carefully organized, or it could be more impulsive.⁵⁴ According to UNICEF (2010), the decision is often taken by the family/relatives together with the child.⁵⁵ Many UAMs from Afghanistan explained how they understood the decision and agreed to leave their country of origin, and how they took part in the decision Cecile Øien informs.⁵⁶ A different study by Peter E. Hopkins and Malcolm Hill (2008) argues how decisions on behalf of a child are also made by family members, without the child's participation.⁵⁷ Other kids take the decision by themselves, because of complicated family relations and situation. Nonetheless, due to the circumstances, many UAMs explain that leaving was the only way out.⁵⁸

2.2 Missing Unaccompanied Minors

Based on the arrivals in 2015, 25 per cent of all refugees and migrants arriving in Greece, Italy, and Spain were children, according to UNHCR.⁵⁹ As long as their home country cannot provide safety or a dignified future, children will continue to come, but Europe is not a safe haven either.

2.2.1 THE EUROPEAN CONTEXT

The country where a child resides is responsible for protecting the unaccompanied child and ensuring the child's safety. However, States are failing to protect UAMs, and a significant

⁵² Human Rights Watch, 'EU: Abuses Against Children Fuel Migration' (*Human Rights Watch* June 2015) <<https://www.hrw.org/news/2015/06/22/eu-abuses-against-children-fuel-migration-0>> accessed 24 July 2016.

⁵³ Ibid Human Rights Watch (2015)

⁵⁴ Jan-Paul Brekke and Monica Five Aarset, 'Why Norway? Understanding Asylum Destinations' [2009] 12 Web ISF <https://www.udi.no/globalassets/global/forskning-fou_i/beskyttelse/why-norway.pdf> accessed 25 June 2017.

⁵⁵ Kerry Boland, Unicef (*n* 50)

⁵⁶ Cecilie Øien (*n* 32) Pp. 38

⁵⁷ Peter E. Hopkins & Malcolm Hill, 'Pre-flight experiences and migration stories: the accounts of unaccompanied asylum-seeking children' [2008] 6(3) Web Routledge 257 <<http://www.tandfonline.com/uaccess.univie.ac.at/doi/pdf/10.1080/14733280802183981?needAccess=true>> accessed 25 June 2017.

⁵⁸ Cecilie Øien (*n* 32) pp. 38-42

⁵⁹ UNHCR 'Refugee/Migrant Emergency Response' (UNHCR, 2016) <<http://www.unhcr.org/576408cd7.pdf>> accessed 2 July 2016.

number goes missing from reception and care centers throughout Europe. There is little or no data collected, in many of the European countries, on children who disappear.⁶⁰ However, in January 2016, Europol (EU law and enforcement agency) made a startling announcement and stated that over 10 000 children had gone missing across Europe.⁶¹ Although this number is disputed, the actual number might even be higher, due to lack of reporting and inadequacy in the management of data.⁶² A recent report conducted in seven EU Member States, emphasized how almost all adults who were in contact or worked closely with UAMs, had experienced a child going missing under their care.⁶³ Missing Children Europe reported that in some European countries, as many as 50 percent of all UAMs living in transit or reception centers have gone missing, without anyone knowing much of what happens or where the children are.⁶⁴ Experts from GRETA also expressed concern over the ‘alarming’ amount of unaccompanied children who went missing from reception and care centers across Italy.⁶⁵ In Slovenia, UNICEF (2016) reported how around 80 percent of unaccompanied children placed in care or reception centers had gone missing.⁶⁶ Moreover, the European Union Agency for Fundamental Rights (FRA) noted that the percentage of migrant or refugee children who disappeared in Hungary was estimated to be around 90 percent one period during 2016.⁶⁷ Also in GRETA’s report on Hungary, the group of experts expressed their concerns regarding the high number of asylum-seeking children who had gone missing in the country. The majority of these children disappeared within the first 48 hours, and in some cases, in the company of an adult.⁶⁸ Missing Children Europe discussed how many of the children who go missing do not apply for asylum but disappear within the first couple of days upon arrival.⁶⁹

⁶⁰ European Commission, ‘Missing Children in the European Union Mapping, Data Collection and Statistics’ (European Commission, 2013) <http://ec.europa.eu/justice/fundamental-rights/files/missing_children_study_2013_en.pdf> accessed 20 August 2016.

⁶¹ Rikke Uldall (n 2)

⁶² Missing Children Europe, ‘Summit Report 2016’ (n 13)

⁶³ Missing Children Europe, ‘Summit Report 2016’ (n 13)

⁶⁴ Missing Children Europe, ‘Summit Report 2016’ (n 13)

⁶⁵ Council of Europe’s Group of Experts on Action Against Trafficking in Human Beings (GRETA), ‘5th General Report on GRETA’s Activities’ Pp.38 (n 46)

⁶⁶ UNICEF, ‘Unaccompanied Refugee and Migrant Children in Urgent Need of Protection’ (UNICEF May 2016). <https://www.unicef.org/media/media_91069.html> accessed 10 July 2016.

⁶⁷ EU Fundamental Rights Agency, ‘March 2016 Highlights’ (FRA March 2016)

<<http://fra.europa.eu/en/theme/asylum-migration-borders/overviews/february-2016>> accessed 7 October 2016.

⁶⁸ GRETA, ‘Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Hungary’, (GRETA, (2015) 11 Section 154) <https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/greta_report_on_hungary.pdf> accessed 10 September 2016.

⁶⁹ Missing children Europe (n 13)

There are reasons to believe that many UAMs who arrive in southern and eastern European countries often wish to seek asylum in central or in the Nordic countries, which might explain some of the disappearances from countries such as Italy or Hungary. What is perhaps more striking, on the other hand, is how a very high number of asylum-seeking children continue to go missing in countries such as Sweden, Norway, and Germany, the “dream destination” for many asylum seekers. 1900 unaccompanied minors applied for refuge in the Swedish coast city Trelleborg in 2015, but over 1000 of these children disappeared in September 2015, a Swedish newspaper reported.⁷⁰ In Germany, the Federal Criminal Police stated in January 2016, that 4749 unaccompanied children had gone missing.⁷¹ The issue of unaccompanied asylum-seeking children who have gone missing across Europe is not new; in fact, it has been ongoing for years, and the issue is indeed a global phenomenon.⁷² However, Maud de Boer-Buquicchio, the UN Special Rapporteur on the prevention of sale of children, underscored the vast increase in the number of UAMs who went missing in Europe throughout 2015.⁷³ European countries have many regulations and laws that should ensure a minimum standard of protection for unaccompanied minors seeking asylum. However, what we see today is how the systems supposed to support asylum-seeking children fail to be accountable. These children, who are fleeing unacceptable conditions in their home countries, are repeatedly faced with this inadequacy, they “still receive a lower level of support when reported missing, and are at risk of being exploited by traffickers for sexual or labor purposes,” De Boer-Buquicchio emphasizes.⁷⁴

2.2.2 THE NORWEGIAN CONTEXT

In line with what so many other European countries experience, the increase of unaccompanied minors going missing in Norway is a reality. During 2015, 5297 unaccompanied children applied for asylum, the highest number ever measured. Two-thirds of all unaccompanied minors who applied for asylum in 2015, came from Afghanistan. Many children also fled from other war-torn countries and repressive regimes such as Somalia, Syria, and Eritrea.⁷⁵ In stark contrast,

⁷⁰ Maddy Savage, ‘Swedish Town Report 1000, Missing Children’ *The Local* (Trelleborg, 15 October 2015)

⁷¹ Missing Children Europe (n 13) Pp. 26

⁷² Missing Children Europe, ‘Where are they? The Need for Better Tracing of Unaccompanied Children in the EU’, (*Missing Children Europe*, June 2016) <<http://missingchildreneurope.eu/news/Post/963/Where-are-they-The-need-for-better-tracking-of-unaccompanied-migrant-children-in-the-EU>> accessed 15 April 2017.

⁷³ Missing Children Europe, ‘Annual Review 2015’, (*Missing children Europe*, 2016) Pp. 2 <<http://missingchildreneurope.eu/Portals/0/Docs/Annual%20and%20Data%20reports/Missing%20Children%20Europe%20Annual%20Review%202015.pdf>> accessed 17 September 2016.

⁷⁴ Missing Children Europe ‘Annual Review 2015’ (n 73) Pp. 2.

⁷⁵ The Norwegian Directorate of Immigration (UDI), ‘*Asylum applications of unaccompanied minors lodged in Norway by nationality and month 2015*’ (UDI, 2016) <<https://www.udi.no/en/statistics-and->

throughout 2016, as few as 320 unaccompanied minors, applied for asylum.⁷⁶ Like 2015, the vast majority of the UAMs seeking asylum in 2016 were of Afghan origin, and the number of girls was also minimal.⁷⁷ Perhaps the main reason for why the number of asylum seekers decreased tremendously by 2016, is the EU-Turkey deal,⁷⁸ which forced migrants with no right to international protection to be sent back to Turkey, with the overarching aim of preventing irregular migration to Europe.⁷⁹ The majority of UAMs seek asylum upon arrival in the country of destination. Norway does not differentiate between unaccompanied minors who formally seek asylum and those who do not; all UAMs are automatically registered for the asylum process when entering the country. Meanwhile, the child will usually be placed in a reception center or another type of care or institution. It is right before or during the asylum-seeking process that many children go missing.

2.2.3 WHO ARE THESE CHILDREN?

I have previously looked at why children are migrating and fleeing from their country of origins, and I will in this section explore who these children are and where they come from, by looking at age, gender and nationality. Between January 2015 and December 2016, 367 unaccompanied minors went missing in Norway.⁸⁰ The chart below illustrates the status of the 367 unaccompanied children between 15-17 years, who went missing in the two-year period and their status as of December 2016.

20 of these kids had settled into another municipality according to the reception centers, 31 children returned at a later point to the reception center from which they first went missing, or the reception center was told they had decided to live in a private address. Furthermore, 90 of these children either were forcibly deported by the police (as they were 18 years of age according to the authorities), or voluntarily traveled back with IOM, or the UDI received Dublin

[analysis/statistics/asylsoknader-enslige-mindrearige-asylsokere-etter-statsborgerskap-og-maned-2015/>](#) accessed 14 July 2016.

⁷⁶ The Norwegian Directorate of Immigration (UDI), 'Asylum applications of unaccompanied minors lodged in Norway by nationality and month 2016' (UDI, 2017) <<https://www.udi.no/statistikk-og-analyse/statistikk/asylsoknader-enslige-mindrearige-asylsokere-2016/>> accessed 18 February 2017.

⁷⁷ Ibid UDI 'Asylum applications of unaccompanied minors lodged in Norway by nationality and month 2016' (n 76)

⁷⁸ European Commission 'EU-Turkey Agreement: Questions and Answers' (European Commission, Brussels 19 March 2016) <http://europa.eu/rapid/press-release_MEMO-16-963_en.htm> accesses 20 July 2016.

⁷⁹ It is also important to highlight that although the agreement exist, it still does not prevent people from fleeing precarious situations.

⁸⁰ The Norwegian Directorate of Immigration (UDI) informs that there might be some mistakes concerning the registration, and how some children tend to disappear several times, following, the starting point of the statistic is the last disappearance registered.

request from other countries. When the UDI receive Dublin-recalls from another country, it is usually an indication that these children will not get their asylum application advanced in Norway as they have already had their request for asylum completed in another country, or they have family members residing in another Dublin-state.⁸¹ Asylum seekers with “Dublin” status are frequently obliged to return to the country where they first applied for asylum.

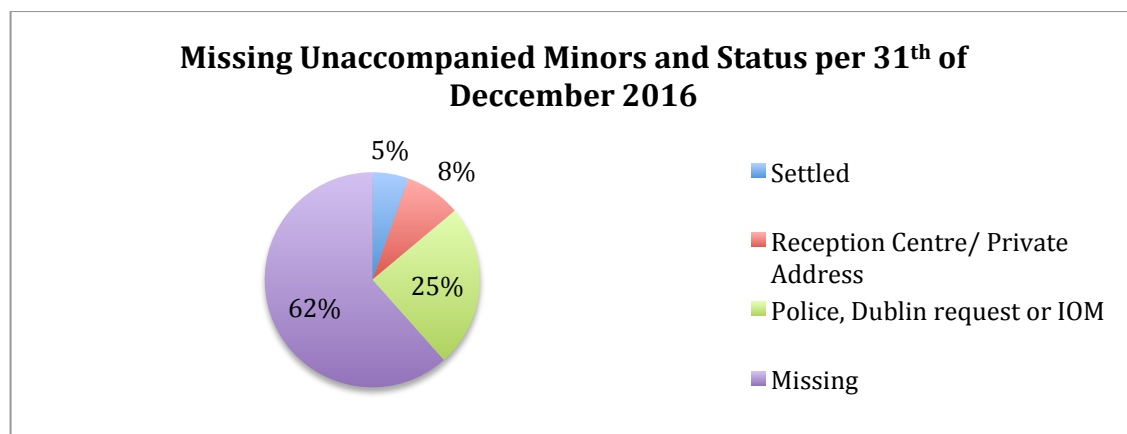


Figure 1. Percentage of the 367 unaccompanied minors aged 15-17 years who went missing between January 2015 and December 2016 and their status per 31th of December 2016.⁸²

Lastly, children who have gone missing and whose whereabouts are unknown to the government: it is this group of children that will be my primary area of focus throughout the paper. For as many as 226 of the total number of 367 who went missing between January 2015 and December 2016, the whereabouts were still unknown for the authorities as of December 31, 2016.⁸³ This means that 62 percent of those children went missing, the authorities still did not know where they were, whether they are alone/with whom they were, and whether they are safe or not.

When exploring the phenomenon of asylum-seeking children who go missing from state-run reception or transit centers in Norway, it can be fruitful to look at the timeframe, to find out whether there has been an increase or decrease in the number of children who have gone missing over the past few years. Data from earlier research conducted by Veronica Paulsen et al (2015) indicates a total number of 384 children who went missing from reception and transit centers between the years 2008 and 2014.⁸⁴ From January 2015 to December 2016 (two years), we know that 367 UAMs went missing, this is almost as many as the total number of UAMs who went

⁸¹ Berit Aasen, (n 25)

⁸² Thomas Mortensen (n 3)

⁸³ Thomas Mortensen (n 3)

⁸⁴ Veronica Paulsen, (n 22) Pp. 21

missing between 2008 and 2014. When adding the data provided for by the UDI, it shows a vast increase in the number of UAMs who went missing throughout 2016 - the whereabouts of whom were still unknown on December 31, 2016.⁸⁵ Thus, it becomes apparent, as, in line with what other European countries experience, that there has also been a significant increase of missing asylum-seeking children in Norway.

Only 320 unaccompanied minors applied for asylum throughout 2016 in total.⁸⁶ With this number in mind, the graph below gives an impression of how a high number of asylum-seeking children went missing in 2016. It may have been the case that some of the children who went missing had applied for asylum in 2015 but had not gone missing before 2016. So, it is necessary to look at the statistics and compare them to the number of asylum seekers over several years, to provide a more accurate picture of the situation. In 2015, we saw that 5297 unaccompanied children applied for asylum - which might also be a good explanation for why the number of missing children in 2016 is exceptionally high compared to all other (previous) years.

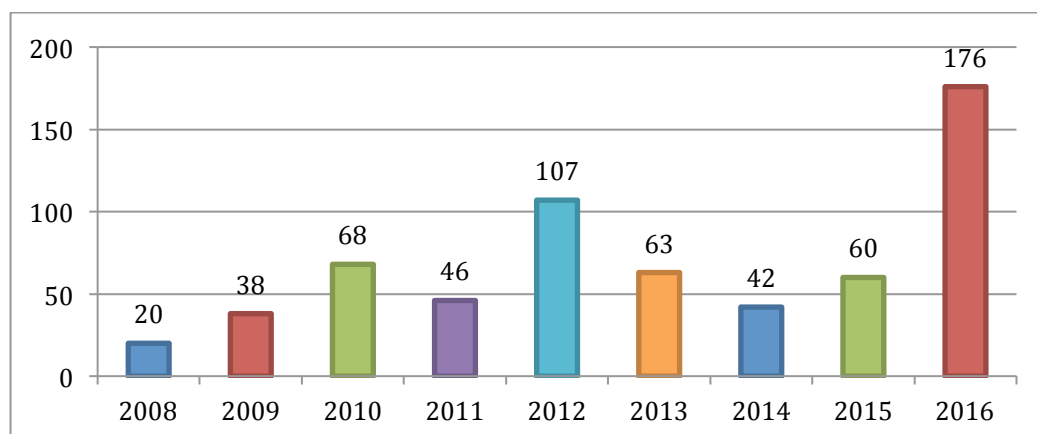


Figure 2. Number of asylum-seeking children who went missing from reception or transit centers in Norway. [Note: Each year, the whereabouts of the missing children were still unknown as of December 31, 2016.⁸⁷

2.2.4 NATIONALITY

Children who go missing come from many different countries; however, when analyzing data from the UDI, three particular nationalities stand out. From the total amount of 226 UAMs who went missing between January 2015 and December 2016 (whose whereabouts remained unknown), 144 of those children are reportedly Afghan nationals. The second-largest group of children that went missing from reception/transit centers came from Syria (18 children), and

⁸⁵ Thomas Mortensen (n 3)

⁸⁶ UDI, 'Asylum applications of unaccompanied minors lodged in Norway by nationality and month 2016' (n 76)

⁸⁷ Thomas Mortensen (n 3)

lastly, 17 children who went missing during the period were of Moroccan nationality.⁸⁸ The fact that the largest nationality of missing asylum-seeking children comes from Afghanistan has to be seen in relation to the vast majority of children seeking asylum in Norway, which also carries Afghan nationality. Throughout 2015⁸⁹ and 2016⁹⁰ combined, 3665 children with Afghan nationality applied for asylum in Norway, 144 of these children was still missing as of December 31, 2016. This means 4 percent of the total amount of UAMs who had come from Afghanistan and applied for asylum request went missing during the two-year period.

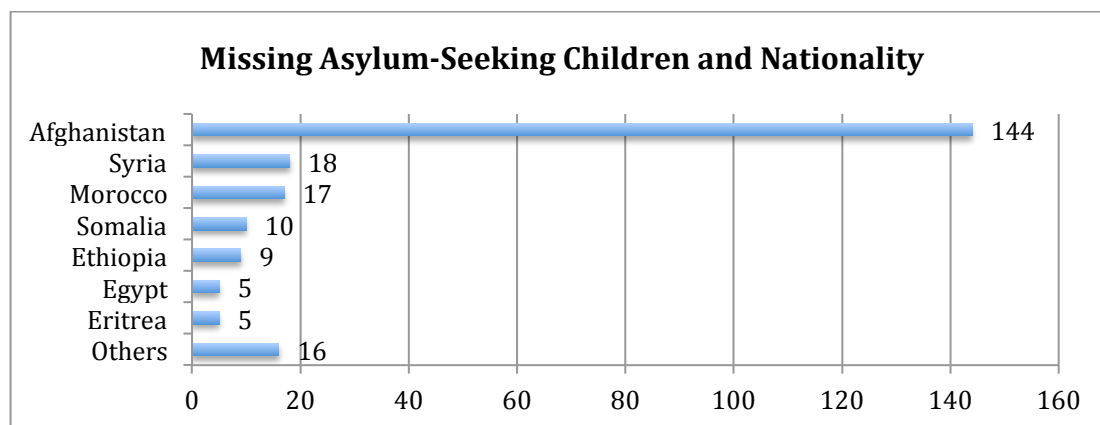


Figure 3: The number of asylum-seeking children who went missing between January 2015 and December 2016, with status unknown, and their nationalities.

From the second largest group (Syrian), 599⁹¹ UAMs applied for asylum during the same time, and 18 of these children went missing, which means 3 percent of the total amount of those seeking asylum from Syria went missing. Finally, 44 children from Morocco⁹² applied for asylum in Norway during the two-year period, and 17 of these children went missing, which means that almost 40 percent of the UAMs with Moroccan nationality went missing. This makes Morocco the largest nationality, most of the missing children carried, in relation to the number of children seeking asylum in Norway between January 2015 and December 2016.

2.2.5 GENDER

The pie chart below illustrates how 96% (218) of the total amount of 226 children who went missing between January 2015 and December 2016 were boys, and 4 % (8) were girls.

⁸⁸ Thomas Mortensen (n 3)

⁸⁹ UDI, 'Asylum applications of unaccompanied minors lodged in Norway by nationality and month 2015' (n 75)

⁹⁰ UDI, 'Asylum applications of unaccompanied minors lodged in Norway by nationality and month 2016' (n 76)

⁹¹ Ibid UDI (n 75 and n 76)

⁹² Ibid UDI (n 75 and n 76)

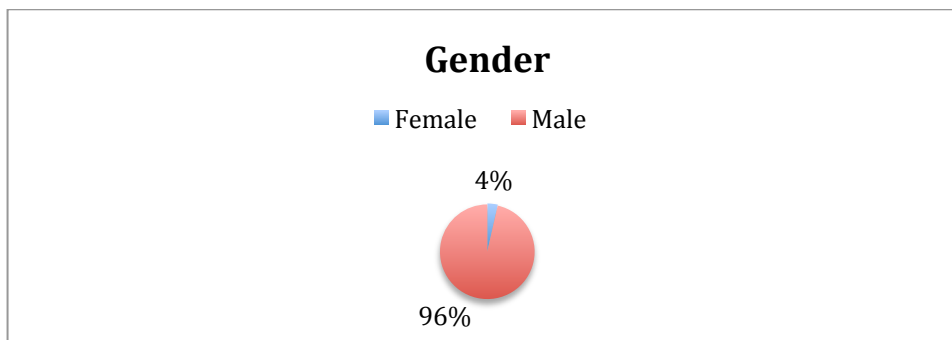


Figure 4: Missing Asylum-Seeking Children between January 2015 and December 2016, by gender.

The low number of girls going missing has to be considered in light of the fact that the vast majority of UAMs who applied for asylum during the given period (2015)⁹³ and (2016)⁹⁴ were also boys. There are many multifaceted reasons for why there are more boys (than girls) migrating and applying for asylum. One explanation might be that families are reluctant to send their daughters away when they know the long journey to Europe is very dangerous. Another explanation is how the dangerous voyage, combined with cultural norms, makes it perhaps more acceptable and even expected for boys to leave their country and hopefully make an income, whereas the same is not true for girls. Prior research conducted by Cecilie Øien (2010) in Afghanistan, indicates how it was almost exclusively boys who left the country. Leaving Afghanistan was not generally preserved as a solution to improve the quality of life for girls.⁹⁵ 3438 Afghan boys, compared to 167 Afghan girls, between 11 and 17 years of age applied for asylum in Norway, throughout 2015,⁹⁶ and seem to be a good explanation for why the number of missing boys is higher than the number of missing girls.

2.2.6 AGE GROUP

When analyzing the data and the chart below, it becomes evident that over half the number of children who went missing from the reception or transit centers between January 2015 and December 2016 were 17 years when they went missing, 71 children were 16 years old, and 26 children were 15 years old. Thus, on the one hand, it can be concluded that the oldest children go missing more frequently than the younger ones. On the other hand, the vast majority of UAMs

⁹³ The Norwegian Directorate of Immigration (UDI), 'Asylum Applications After Nationality, Age and Gender 2015' (UDI, 2016) <<https://www.udi.no/statistikk-og-analyse/statistikk/asylsoknader-etter-statsborgerskap-aldersgruppe-og-kjonn/>> accessed 15 March 2017.

⁹⁴ The Norwegian Directorate of Immigration (UDI), 'Asylum Applications After Nationality, Age and Gender 2016' (UDI, 2017) <<https://www.udi.no/statistikk-og-analyse/statistikk/asylsoknader-etter-statsborgerskap-aldersgruppe-og-kjonn-2016/>> accessed 15 March 2017

⁹⁵ Cecilie Øien (n 32)

⁹⁶ UDI, 'Asylum Applications After Nationality, Age and Gender 2015' (n 93)

who seek asylum in Norway are also between 15 and 17 years old.⁹⁷ Having this in mind, it is perhaps no surprise that the vast majority of UAMs who went missing during this period belongs to the same age group.

Increasingly younger children [have been going missing] since 2014, according to a recent study carried out by Berit Aasen et.al (2017).⁹⁸ This relates to the increase in a number of younger children applying for asylum in Norway. 15 percent of all UAMs applying for asylum in 2014 informed the authorities to be below 15 years of age compared to 21 percent reporting to be below 15 years of age in 2015.⁹⁹

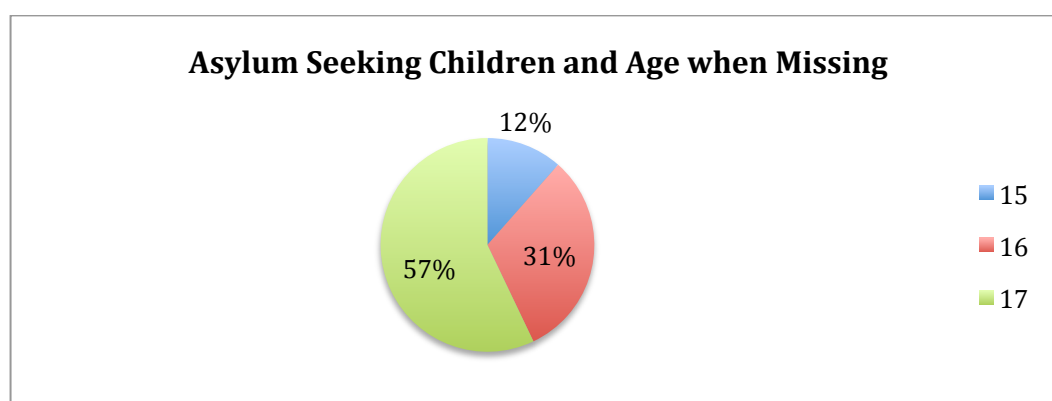


Figure 5. The numbers of unaccompanied asylum-seeking children who went missing, after age on the date when missing, the whereabouts of the missing children were still unknown as of December 31, 2016.

2.2.7 SUMMARY

Chapter 2 started with a brief introduction of children on the move - why they leave their country of origin. A very brief discussion about forced migration and child trafficking was also provided. Furthermore, the second part of the chapter touched upon UAMs who go missing across Europe. Finally, I narrowed it down and presented statistics from Norway on who the missing children are, and what their status, age and gender are.

⁹⁷ Ibid UDI, 'Asylum Applications After Nationality, Age and Gender' (n 93) and (n 94)

⁹⁸ Berit Aasen et.al (n 25) Pp.53

⁹⁹ Berit Aasen et.al (n 25) Pp. 53

Chapter 3: Human Rights Framework Relevant to Asylum-Seeking Children

UAMs are a particularly vulnerable group, and several international, regional and domestic laws have been established to provide special protection to these children. In the following chapter, I will give a description of the legal instruments relevant to UAMs who have gone missing in Norway.

3.1 International Law

The Convention, which is most comprehensible to UAMs, is the UN Convention on the Rights of the Child (CRC).¹⁰⁰ The CRC is the Convention that has the highest number of ratifications on a global level, with the US being the only UN member state that has yet to ratify the Convention.¹⁰¹ The fact that so many states have ratified the CRC gives the Convention additional political strength and shows that there seems to be universal agreement on the need for extra protection of children. On the one hand, Lucy Smith et al (2016) argues, another reason for the high number of ratifications of the CRC among States can also be due to the reservation clause, which is made evident by Article 51 of the Convention.¹⁰² On the other hand, the possibility for State Members to make a reservation from an article is also a possibility in other UN Conventions. Moreover, the preamble specifies the particular needs for vulnerable children, and the Convention goes beyond any other legal instrument in safeguarding children's rights.

The CRC stipulates some important and relevant provisions concerning the protection of UAMs. Article 8 implies the right to preserve your identity; Article 19 enshrines every child's right to be protected from all forms of violence; Article 20 recognizes UAM's vulnerability and underscore the right to alternative care for children without family or for those living in a family not able to provide adequate care; and Article 22 preserves the right to adequate protection for children seeking refugee status. Furthermore, Article 32 states that every child shall be protected from economic exploitation and hazardous work; and Article 33 states that State Parties shall protect all children from drugs and compel states to prevent minors in the illicit production and trafficking of narcotics. As well as Articles 34, 35 and 36 concerns the prohibition of trafficking

¹⁰⁰ International Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1537 UNTS 3.

¹⁰¹ Lucy Smith, 'The International Convention of the Rights of the Child,' in Njål Høstmælingen, Elin Saga Kjørholt and Kirsten Sandberg (eds), *The Convention of the Rights of the Child and Children's Rights in Norway* (3 edition 2016 Universitetsforlaget).

¹⁰² Ibid Smith (n 101)

and other forms of sexual exploitation and abuses. In addition to these articles, four general principles are at the heart of the Convention. Of these four articles, it is particularly Article 2, the prohibition of discrimination, and Article 3, the best interest of the child, that shall be a primary consideration in all actions, which together with all the articles mentioned above, makes up the most relevant laws applicable for unaccompanied children who go missing in the CRC. The Optional Protocol to the Convention on the Sale of Children, Child Prostitution and Child Pornography, ratified by Norway in 2001, is also relevant in the context of the protection of UAMs.¹⁰³ Norway ratified the CRC in 1991,¹⁰⁴ but was not incorporated into Norwegian domestic law until 2003, through the Human Rights Act, Article 2 (4).¹⁰⁵ The State authorities have the main responsibility under international law to ensure that the rights set forward in the Convention are fulfilled and respected; however, incorporating the CRC into domestic law also obliges private persons, organizations and other relevant parties to be bound by it. Moreover, the CRC Committee has drafted several General Comments (GC), such as No. 14 and GC No. 6. The latter concerns the treatment of UAMs outside their countries, and are of utmost importance in my study. The Preamble of GC No. 6 states the very aim of the GC is to highlight the vulnerable situation many UAMs are in abroad and to make sure State Parties protect the rights to which UAMs are entitled, such as protection, adequate care, and development.¹⁰⁶ Although GCs are soft laws and thereby not binding on State Parties, they are necessary instruments to assist, guide and remind the Member States to remain compliant with conventions and obligations under international law.¹⁰⁷

In addition to the CRC, the UN has other legal instruments applicable for UAMs; for example, there is the International Covenant on Civil and Political Rights (CCPR),¹⁰⁸ where Article 24 enshrines a child's right not to be discriminated. Article 10(3) of the International Covenant on Economic, Social and Cultural Rights (CESCR) states that special measures of protection and assistance should be provided to all children without discrimination.¹⁰⁹ Article 11 of the CESCR recognizes the right to an adequate standard of living for everyone. Norway ratified the two UN

¹⁰³ Ibid Smith (n 101) Pp.29

¹⁰⁴ Ibid, Smith (n 101)

¹⁰⁵ The Human Rights Act, § 2 (4) (entered into force 21 May 1999).

¹⁰⁶ UN 'General Comment No. 6 (n 29)

¹⁰⁷ Dinah L. Shelton, 'Soft Law' in HANDBOOK OF INTERNATIONAL LAW [2008] Routledge 68. Web <http://scholarship.law.gwu.edu/cgi/viewcontent.cgi?article=2048&context=faculty_publications> accessed September 14 2016.

¹⁰⁸ International Covenant on Political and Civil Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171.

¹⁰⁹ International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 Article 10 (3)

Covenants in 1972.¹¹⁰ Additionally, the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, also called the Palermo Protocol, one of the Protocols to the United Nations Convention against Transnational Organized Crime,¹¹¹ aims to prevent and protect human beings from all forms of trafficking. It is the crime-prevention aspect of trafficking particularly that is the overall focus of the Palermo Protocol, which was ratified by Norway in 2003 and has become part of Norwegian domestic law.¹¹² Only CRC Article 35 and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) Article 6 explicitly mention the prohibition of trafficking in persons of all the UN Conventions.¹¹³ The 1951 Refugee Convention and the 1967 Protocol are the only international conventions that lay out laws for refugees. The Refugee Convention does not mention the rights of particularly vulnerable groups such as UAM (except for Article 22), and due to this, UNHCR and other UN bodies have provided guidelines to the Member States to safeguard UAMs rights.¹¹⁴ Finally, the ILO's Worst Forms of Child Labor Convention is especially important for children exploited through work or services.¹¹⁵

3.1.1 REGIONAL INSTRUMENTS: THE COUNCIL OF EUROPE

The Council of Europe (CoE) has a different legal framework established for the protection of human rights, the most relevant conventions for UAMs being the Convention on Action against Trafficking in Human Beings (Anti-Trafficking Convention)¹¹⁶ as well as the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). The aim of the Anti-Trafficking Convention is to enhance protection measures that already exist in other international human rights instruments. Other legal instruments on combating trafficking seem to focus more on the prosecution of criminals, while the protection of victims of trafficking comes second. The Anti-Trafficking Convention by the CoE is crucial for safeguarding the rights of trafficked

¹¹⁰ UNHCHR 'Ratification Status for Norway' (*UNHCHR Treaty Body Internet*) <http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=129&Lang=EN> accessed 7 September 2016.

¹¹¹ United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons (adopted and open for signature 15 November 2000, entry into force 25 December 2003) UNTS 2237.

¹¹² The Norwegian Directorate of Immigration (UDI) Directive, *The Immigration Authorities Responsibility to Follow up and Identify Possible Victims of Trafficking*, (UDI Directive, RS 2011-007, 2011) <<https://www.udiregelverk.no/no/rettskilder/udi-rundskriv/rs-2011-007/>> accessed 24 June 2017.

¹¹³ UNHCHR, 'Human Rights and Human Trafficking - Fact Sheet No.36' (*UNHCHR*, 2014) 5 <http://www.ohchr.org/Documents/Publications/FS36_en.pdf> accessed 20 September 2016.

¹¹⁴ UNHCR, 'Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum' (*UNHCR*, February 1997), <<http://www.refworld.org/docid/3ae6b3360.html>> accessed 21 April 2017.

¹¹⁵ ILO, Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor (adopted 17 June 1999, entry into force 19 Nov 2000) No. 182

¹¹⁶ Council of Europe Convention on Action against Trafficking in Human Beings (open for signature 16 May 2005, entered into force 1 February 2008) CETS No.197

victims, and the Convention is more precise than other conventions and goes beyond the minimum standard set forward in other legal instruments.¹¹⁷ The preamble of the Anti-Trafficking Convention § 5 specifies that the Convention is primarily concerned with safeguarding the human rights of victims of trafficking and with emphasizing that the fight against trafficking is a ‘paramount objective.’¹¹⁸

Article 2 highlights the scope of the Convention, which unlike the Palermo Protocol, comprises all forms of trafficking - national, regional and transnational - regardless of whether it has any links to organized crime. Another important aspect is stated in Article 1(2), which stipulates that monitoring mechanisms shall be established, to make sure that all State Parties implement and comply with their obligations set forward in the Convention.¹¹⁹ The CoE Anti-trafficking Convention uses the same definition of child trafficking as set forward in the Palermo Protocol Article 3(c) as previously mentioned. Articles 4(b) and (c) of the Anti-Trafficking Convention also states that it is a case of trafficking regardless of whether the child has given any “consent” to be exploited or not.¹²⁰ Norway ratified the Convention on Action against Trafficking in Human Beings in 2008.¹²¹

The other important convention is the ECHR,¹²² which entered into force in 1950 and was ratified by Norway in 1952.¹²³ In the European Court of Human Rights (ECtHR) ruling in *Rantsev v. Cyprus and Russia*, the Court stated that “it is unnecessary to identify whether the treatment about which the applicant complains constitutes ‘slavery, servitude or forced and compulsory labor.’”¹²⁴ The Court thereby concluded that trafficking in itself falls within the scope of Article 4 of the ECHR.¹²⁵ Furthermore, the ECtHR ruling also identified State Parties’

¹¹⁷ Council of Europe, ‘Explanatory Report to the Council of Europe Convention on Action against Trafficking in Human Beings’ (*Council of Europe*, CETS No. 197, Warsaw 2005) 10 <<https://rm.coe.int/16800d3812>> accessed 24 June 2017.

¹¹⁸ Ibid CoE Anti-Trafficking Convention, (n 116) Preamble Art 5.

¹¹⁹ Ibid CoE Explanatory Report (n 117) Pp. 7

¹²⁰ Ibid CoE Explanatory Report (n 117) Pp. 17

¹²¹ CoE - GRETA, ‘Chart of signatures and ratifications of Treaty 197’, (CoE April 2017) <http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/197/signatures?p_auth=C8VCXTSf> Accessed 21 April 2017.

¹²² Convention for the Protection of Human Rights and Fundamental Freedoms (Opened for signature 4 November 1950, entered into force 3 September 1953) ETS No.005

¹²³ CoE, ‘Press Country Profile – Norway’, (CoE June 2017) <<http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/signatures>> accessed 24 June 2017.

¹²⁴ *Rantsev V. Cyprus and Russia* [2010] ECHR (App no. 25965/04).

¹²⁵ Maria Grazia Giammarinaro, ‘Trafficking in Human Beings and Human Rights Violations: The OSCE Approach’, in Manfred Nowak, Karolina M. Januszewski and Tina Hofstatter (eds), *All Human Rights for All – Vienna Manual on Human Rights* (NWV 2012) Pp. 233

obligation to ensure accountability and uphold measures to investigate, prosecute perpetrators, as well as to guarantee the protection of victims and the prevention of future exploitations.¹²⁶

Lastly, the OSCE (Organization for Security and Co-operation in Europe) has also established an action plan to the Member States (soft law) on combating trafficking.¹²⁷

3.1.2 THE EUROPEAN UNION

The European Union (EU) is another institution with several charters and policies adopted to protect UAMs. Since it is not a member of the EU, Norway is not bound by legal instruments such as the Charter of Fundamental Rights of the European Union, nor policies such as e.g. the EU Directive on Trafficking.¹²⁸ Having said that, the Charter is comparable to the ECHR, which Norway is a State Member of. Although the best solution would be to incorporate the Charter into the EEA-agreement and thereby transform it into Norwegian legislation, the Charter runs parallel with the ECHR in many ways, Dr. Juris Arnfinn Bårdsen argues.¹²⁹

3.2 Domestic Law in Norway

In 2014, the Norwegian Constitution was amended, concerning its 100-year anniversary, where the four core principals of the CRC were adopted into the Constitution § 104.¹³⁰ This means that protecting every child on State territory from human rights violations such as discrimination, safeguarding the right to life and development, and having the best interest of the child as a primary consideration and respecting the child's own view, shall be key objectives for the Government as part of constitutional law. Having said that, I will note that although the constitution underlines the necessity of special protection of children, it does not go any further than what the CRC do.¹³¹ The other legal instrument applicable to asylum-seeking children, is the Norwegian Child Welfare Act, which entered into force in 1993. The aims of this Act are to secure protection and assistance to all children - regardless of their residential status and

¹²⁶ *Rantsev V. Cyprus and Russia* (n 124)

¹²⁷ Organization for Security and Co-operation in Europe (OSCE) 'Action Plan in Combating Trafficking in Human Beings', (OSCE December 2003) <<http://www.osce.org/odihr/23866>> accessed 2 November 2016.

¹²⁸ European Economic Area (EEA) 'Agreement on the European Economic Area' (EEA, January 1994) Art. 7 <<http://www.efta.int/media/documents/legal-texts/eea/the-eea-agreement/Main%20Text%20of%20the%20Agreement/EEAagreement.pdf>> accessed 21 April 2017.

¹²⁹ Dr. juris Arnfinn Bårdsen, 'Fundamental Rights in EEA Law – The Perspective of a National Supreme Court Justice' (EFTA Court Spring Seminar, Luxembourg 12th of June 2015) <<https://www.domstol.no/globalassets/upload/hret/artikler-og-foredrag/fundamental-rights-in-eea-law---bardsen-03062015.pdf>> accessed 21 November 2016.

¹³⁰ Ministry of Justice and Public Affairs, The Constitution §104 (17 May 1814)

¹³¹ Ragnhild Hennum, 'The Right to Protection against Violence, Abuse and Exploitation' in Njål Høstmælingen, Elin Saga Kjørholt and Kirsten Sandberg (eds), *The Convention of the Rights of the Child and Children's Rights in Norway* (3 edition 2016 Universitetsforlaget). Pp.330.

background - who live in conditions that might be detrimental or abusive, and to ensure that all children are granted adequate conditions to grow up. The best interest of the child is also enshrined in the Welfare Act.¹³² Another important domestic law is Immigration Act §88, which embody the possibility to take an age assessment test for asylum-seekers if there is doubt about the asylum-seeker's age.¹³³ Immigration Act § 38 gives permanent or temporary residence permit to children either on humanitarian grounds or due to a special connection to Norway, permanently or temporarily, until the 18th birthday.¹³⁴ The policy of granting a temporary residence permit which ends when turning 18 years of age, is explicitly enshrined in Immigration Regulation § 8-8.¹³⁵

Furthermore, the Norwegian Criminal Code 2005 (amended in 2015) prohibits trafficking in § 257 and §258. If the act of trafficking is related to organized crime, § 60 will also be applicable. The Criminal Code criminalizes the act of trafficking with up to 6 years, and grave forms of trafficking; involving a child, for example; will be punished with up to 10 years. How old the victim is, whether or not the perpetrator used extreme forms of violence or force, and whether the act produced considerable profit, are all important elements factoring into the judgment of whether the exploitation is grave or not.¹³⁶ Finally, Police Instruction Act § 12-4 states how the police are “obliged to take care of and guide children who are lost so that they can be reunited with their parents or legal responsible as soon as this is practicable.”¹³⁷ Additionally, Police Law §12 section 3 states how the ‘police may force one’s way into homes, rooms or other places to search for missing persons [...]’.¹³⁸

The Norwegian Government has also developed a new action plan for combating trafficking, launched December 2016. The action plan has a separate (one-page) section on children who go missing. This part explicitly underlines how there are reasons to believe that children when missing are in risk of serious neglect and draws a parallel to the risk of trafficking these children face. The action plan underlines how it is the National Police Directorate, which is responsible to ensure that UAMs who go missing are prioritized on equal terms as any other child who go

¹³² Ministry of Children and Family Affairs, The Child Welfare Act §1, (enforced 1 January 1993)

¹³³ Ministry of Justice and Public Security, The Immigration Act §88 (enforced 1 January 2010)

¹³⁴ Ministry of Justice and Public Security, The Immigration Act §38 (enforced 1 January 2010)

¹³⁵ Ministry of Justice and Public Security, Immigration Regulation §8-8 (enforced 1 January 2010)

¹³⁶ Ministry of Justice and Public Security, The Criminal Code §257 (enforced 1 October 2015)

¹³⁷ The Police Instruction Act § 12-4 (enforced 26 June 1990)

¹³⁸ Ministry of Justice and Public Security, The Police Law §12 (enforced 1 October 1995)

missing.¹³⁹ Besides, there are three important directives from the UDI: The Directive on Identification and Follow Up on Victims of Trafficking,¹⁴⁰ The UDI Directive on Reporting and Follow-Up on Asylum-Seeking Children Who Go Missing¹⁴¹ and the Directive with Guidelines on How to Carry Out the Age Assessment for UAMs.¹⁴² It is important to remember that the governmental action plan and UDI directives are not legally binding.

3.2.1 SUMMARY

These international laws and guidelines are relevant to UAMs who go or have gone missing in Norway, as international conventions, as well as domestic law, impose both positive and negative obligations on Norway to protect and prevent UAMs from ill-treatment, neglect, discrimination, exploitation and all forms of trafficking and to ensure fundamental rights.

Chapter 4: Methodology

4.1 Research Approach

In this Chapter, the methodology will be elaborated. I will discuss how the data was collected and analyzed. Little research exists on the issue of UAMs who go missing from reception and transit centers in Norway. In particular, there is limited information on what might happen to UAMs while missing. I wanted to collect first-hand data by interviewing informants working closely with UAMs, and to map the increasingly urgent but neglected issue. So, to answer my research questions, I decided to use qualitative research and the method tool: in-depth interviews. Professor Steiner Kvale (1997) explain how qualitative interviews are good when the researcher searches for opinions, perceptions and stories.¹⁴³ I felt that use of qualitative research with in-depth interviews was the method that would be best suited to finding answers to my research questions. It is important to underline that my research findings are not hard facts and only represent the views and opinions of some informants and not a great percentage of a population. For a study to be as objective as possible, it is important to include and interview

¹³⁹ Government's Action Plan on Combating Trafficking, Pp. 11 (n 27)

¹⁴⁰ The Norwegian Directorate of Immigration, 'Identification of Victims of Trafficking or Violence in close Relations', (2015) (RS 2015-007) <<https://www.udiregelverk.no/en/documents/udi-circulars/rs-2015-007/>> accessed 13 September 2016.

¹⁴¹ The Norwegian Directorate of Immigration, 'Directive for Reporting and Follow up When Unaccompanied Minors goes Missing from Reception Centers' (2015) (RS 2015-009) <<https://www.udiregelverk.no/en/documents/udi-circulars/rs-2015-0091/>> accessed 13 September 2016.

¹⁴² The Norwegian Directorate of Immigration, 'Directive on the Age Assessment for Unaccompanied Minors' (2014) (RS 2010-183) <<https://www.udiregelverk.no/no/rettskilder/udi-rundskriv/rs-2010-183>> accessed 25 June 2017.

¹⁴³ Steiner Kvale, *Interview – An introduction to the Qualitative Research Interview*, (Hans Reitzels Publishing House, 1997 Pp. 108).

people representing different positions and with various backgrounds. The study involved both institutions working on migration and security such as the police, as well as reception centers. In this way, informants representing the authorities and informants working directly with unaccompanied minors were included to keep the research balanced and representative.

UDI does not publish data on missing children; however, to carry out my study, this type of data was crucial. With this in mind, my first step was to contact UDI's Statistical Department and request unpublished data of all information they had and could provide regarding UAMs who had gone missing in Norway. With a confirmation letter from the University of Vienna, the statistics were provided and sent by e-mail from a case officer, Thomas Mortensen (see annex). Mortensen answered every question I had, except one question about the asylum status each child had when he/she went missing; in fact, this particular question was neglected twice. Following this, I collected 14 in-depth semi-structured interviews from different institutions. The 14 informants can be divided into two groups:

<u>Authorities</u>
○ Police ○ Child Welfare Service ○ UDI (Statistics)

<u>Non-State Actors</u>
○ Save the Children ○ Journalist ○ Social workers in reception and transit centers ○ Guardians for unaccompanied minors ○ Outreaching social workers in Oslo and Bergen ○ Leader for Reception Center

The box to the left lists the authorities, and this group is important precisely because they represent the authorities; and the Child Welfare Service (CWS) has the overall responsibility to protect and to prevent children from exploitation and inadequate care. Furthermore, UDI is in charge of overall care for this particular group of children. The box to the right lists informants who, first of all, do not represent the authorities, and second of all, who were selected based on their involvement and follow-up with UAMs on a daily basis.

4.1.2 SAMPLING AND COLLECTION METHOD

To choose my informants, I used a so-called snowball method, which means that for every person I interviewed, I asked if they knew someone who could be relevant to talk about concerning my topic. Before the interviews, I created an interview guide with 10 – 13 semi-structured questions related to my research questions and what I wished to find out. My

interview guide consisted of two parts; the first part is where I asked all informants to talk about their assumptions for why UAMs go missing and how great they believed the risk for exploitation and trafficking to be. In the second part of the interview guide, the informants were asked to provide their opinion on how the authorities followed up when UAMs went missing. All interviewees were given the possibility to raise their concerns, ideas, highlight problems and use their examples.

The in-depth interviews were recorded by using a phone, then transcribed and collected through five private meetings, one meeting over Skype, five through the phone, and three over e-mail. All interviews (except the one over e-mail) lasted between 30 min to 1.5 hours. Since UAMs have gone missing from all across Norway, I chose to conduct interviews with informants covering a broad geographical area, such as Oslo (east) Bergen (west), Kristiansand (south) and Vesterålen (north).

4.1.3 ETHICAL CONSIDERATIONS

When conducting a scientific study, some ethical concerns have to be taken into account. Steiner Kvale (1997) mentions a list of factors that ought to be included, and these are informed consent, confidence, consequences, as well as the role of the researcher.¹⁴⁴ Informed Consent: Before the interview started, I always introduced my research objectives to my informants. I also informed their right not to answer my questions and their right to stop the interview at any time (none of my informants asked for the discussion to be halted). I also asked about their consent for recording the conversation, and no one disagreed. Confidentiality: All informants were informed about the interviews being used in my thesis and about the right to be anonymous. Several informants wished to be anonymous, while others did not specify any such preference. However, since I only interviewed 14 people, I decided to make all of them anonymous, to better protect the identity of those who wished not to be identified. Consequences: Participating in a study could have led to adverse consequences (e.g. re-traumatization from discussion of past experiences) for some informants. It is important that the researcher is aware of whether or not the research can put informants at any form of security risk and/or physical or psychological harm. All my informants were adults, and no children participated in my study. Moreover, when everyone was anonymous, no one can identify any of the informants, which enhances the protection of the participants. The role of the researcher: A researcher can be affected by his or her informants, especially if the researcher has some similarity to the informant's (e.g.)

¹⁴⁴ Steiner Kvale, (n 143) Pp. 120-124.

background, religion, life experience, and so on. Another important aspect to take into consideration is, for example, whether an external party is sponsoring the research, such as the government. These are all factors that might affect the researcher by lack of objectivity or perhaps making her/him look away from certain results or take things out of its context. If the government is sponsoring research, it might also affect the result of a study. In some occasions, the researcher can be so affected that she/he loses the professional distance and ‘go bush,’ as Steiner Kvale underscores.¹⁴⁵ I had no connections to any of my informants, and neither was my study sponsored by the State or any other organization. Hence, keeping a distance to my informants was not perceived as an issue in my research.

4.1.4 SHORTCOMINGS AND CHALLENGES

Two main elements stand out in terms of challenges and gaps in my research. First, the views from the children themselves would have been a highly valuable viewpoint to integrate into my study, and the lack of child participation is a shortcoming. Given that we do not have information on where missing unaccompanied children reside, gathering their perspective would thus be very challenging. Another option could be to interview UAMs currently staying in reception centers. However, this could create additional ethical challenges and even give ideas to children that they had not even thought about previously. For these reasons, I decided the risk was too high and not an option in my research. Having a child’s perspective and child participation in research is very important, but this also takes time and requires child expertise and other carefully developed methodological approaches. Due to my time restrictions and limited proficiency in working with children in research contexts, I was unfortunately not able to carry out this task.

The second challenge of my research was finding and interviewing willing informants representing the authorities, such as the police, UDI and the CWS. Very few of them replied to my e-mailed requests, and if they did, most of them responded briefly or said it could not be prioritized. The only e-mails included in my research were all three from the authorities and are very short. Although the UDI provided me with crucial data on UAMs who have gone missing, I did not manage to interview any case officers from the UDI, they never replied to any of my requests for an interview. Another interesting though perhaps not so surprising remark is how willing and engaged ‘child-proficient’ social workers, guardians, journalists and NGOs were to be interviewed and give their opinion, compared to the authorities. The reasons for why it was so

¹⁴⁵ Steiner Kvale, (n 143) Pp. 123.

difficult to interview representatives from the authorities, are multi-faceted, I believe. The issue of UAMs who have gone missing is a sensitive topic for the authorities, and by avoiding my request for an interview, they also avoid discussing it. Another reason is also lack of time, but also a lack of priority given to Master students conducting research on sensitive topics.

4.1.5 DATA ANALYSIS METHOD

The method I used to answer my research questions is a qualitative method of collecting in-depth interviews from various experts either from the authorities or persons who are proficient in working with children. I analyzed the data by using the guidelines from Professor Kent Löfgren.¹⁴⁶ I started by writing out the tape records from the interviews to a written text. Then, I quickly browsed through all my conversations as a whole and made notes about my first impression. Following this step, I read the transcripts again, one by one and started to code the transcripts. Coding implies reading a transcript carefully, line by line, and labelling important words, phrases or sections of the transcripts. I decided what I should code by following Löfgren's suggestions, which argue something is relevant to code when repeated in several places, or if it is surprising, or the interviewee explicitly states that it is essential, or it is related to a theory, or for another reason that might be relevant.¹⁴⁷ My aim was to find out the main assumptions and describe the root causes for why UAMs go missing, how high the risk of exploitation is for these children when missing, and how effective the authorities' follow-up is. Once I decided which codes were the most important, I created categories by bringing several codes together. Each category was established and labeled because my informants raised concerns, statements and opinions which I grouped. Below an illustration is given of a group created:

Temporary Residence Permit

Fear of being forced deported

Loss of hope and future

Etc.

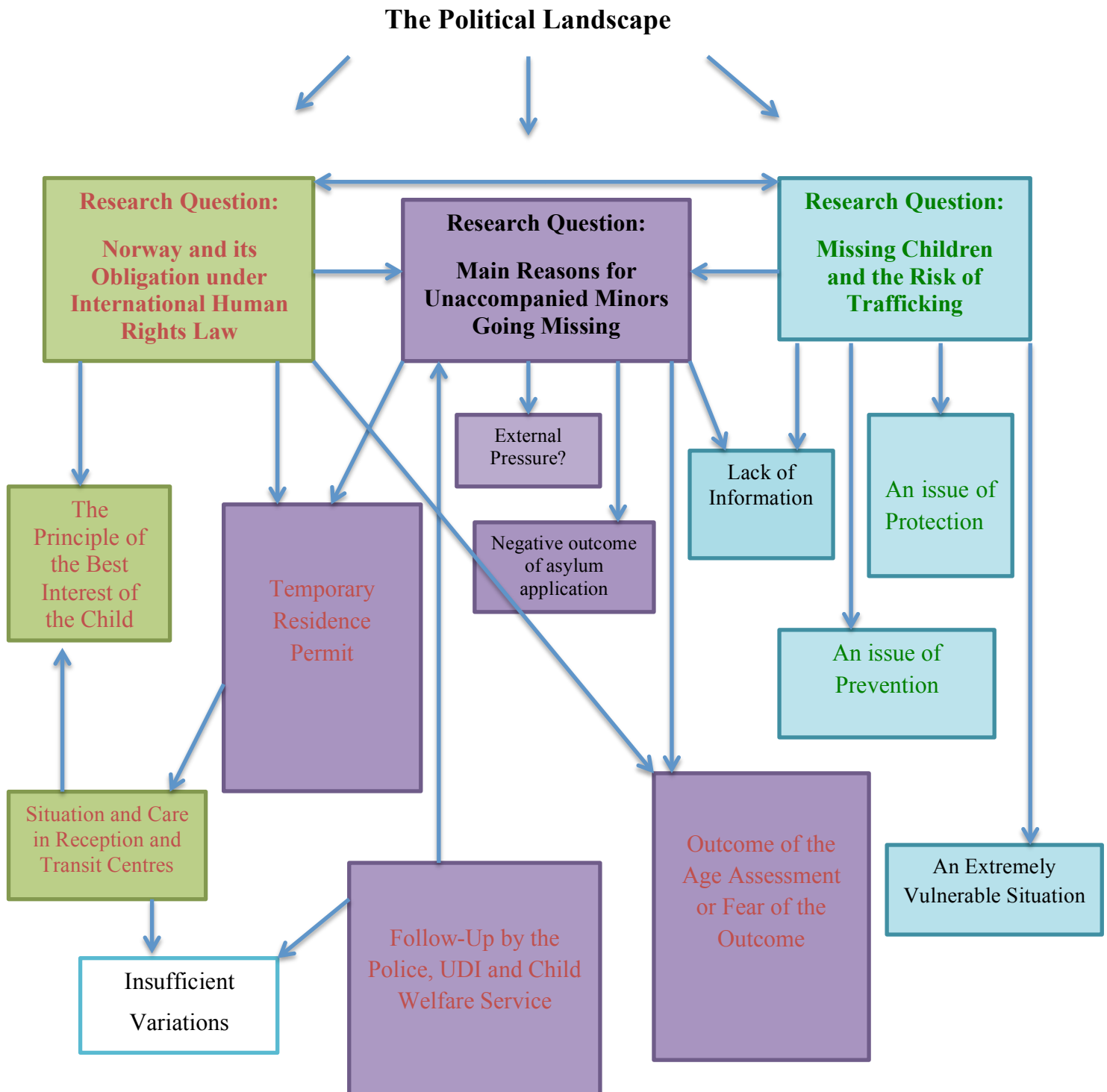
In the following section, I started to label the categories and decided which one were the most important, and which ones I kept. I chose to omit the types of lesser importance or relevance to my study and research questions.

¹⁴⁶ Kent Löfgren, 'Qualitative Analysis of Interview Data – A Step by Step Guide', (Youtube, 19 May 2013), <<https://www.youtube.com/watch?v=DRL4PF2u9XA&t=194s>> accessed 19 December 2016.

¹⁴⁷ Ibid Kent Löfgren (n 146)

4.1.6 ILLUSTRATION

From the main categories that emerged from my research, I made an illustration shown below. Figure 6 below consists of boxes and arrows showing the types and their connections. The size and colour of each box show where it belongs and how important it is. Furthermore, the directions of the arrows are also important and illustrate the relation the categories have to each other.



4.1.7 EXPLANATION OF CATEGORIES

Following I will give a brief description of the groups. The main categories will later be discussed in detail throughout the paper.

- **Main Reasons for Unaccompanied Minors Going Missing:** One of my research questions highlighted my aim to find out the main reasons for why UAMs go missing in Norway.
- **Negative Outcome / Fear of Negative Outcome:** When there are few chances for a positive outcome of the request for asylum, as well as perhaps relatives or friends in other countries, my informants noted that children might find it better to leave the reception center rather than being forcibly deported.
- **External Pressure:** Some of my informants were concerned some children might go missing as a result of pressure or persuasion from other adults or criminal gangs. Although they assumed this could occur, none of the informants were of the opinion that it was one of the main reasons for children going missing.
- **Lack of Information:** My informants repeatedly underlined the lack of concrete information on why asylum-seeking children go missing.
- **The Age Assessment:** The vast majority of my informants listed the outcome of the age assessment or fear of the outcome among the main reasons for why UAMs go missing. Between 2015 and 2016, almost all UAMs were offered an age assessment test. Many of the test takers were afraid the age assessment would show they were not children. According to my informants, if the outcome of the age assessment showed 18 years or older, the UAM often went missing.
- **Temporary Residence Permit:** The policy of a temporary residence permit is a practice implemented to give temporary protection to children who have no one else to take care of them if returned to their country of origin, but does not give the right to protection as a refugee according to the law. Therefore, once they turn 18 years old, the temporary right to protection ceases, and the 18-year-old will have to leave Norway. Several of my informants sharply criticized the policy. According to them, a significant number of children under this plan go missing, to avoid forced deportation after turning 18.
- **The Principle of the Best Interest of the Child:** Children under the policy of temporary residence permit suffer in various ways.
- **The Situation and Care in Reception and Transit Centers:** Children under the policy of temporary residence permit often have to stay for an extended period of time in a reception center, until they are 18 years of age.
- **The Responsibility of the Police, UDI and the CWS:** Whenever a child goes missing, these three stakeholders have the main responsibility to follow up and decide on what to do.
- **The Risk of Trafficking:** Although children might voluntarily choose to leave the reception/transit center themselves, that does not mean they are not at risk of exploitation and even trafficking. The majority of my informants raised the risk of trafficking as a great concern and discussed how this is an issue of protection, and most of all, prevention.

- **International Human Rights Obligations:** Norway has a responsibility to protect UAMs.

4.1.8 INTERPRETATION OF THE RESULTS FROM THE QUALITATIVE RESEARCH

Through a careful analysis of the data collected, I could interpret the results from my qualitative research and create an explanation: It becomes evident how the assumed motivations for why UAMs go missing are closely related to increasingly stricter asylum policies such as the difficulties faced by UAMs - particularly those from Afghanistan - to be categorized as a child after the age assessment procedure, and the growing trend of having only temporary residence permits being issued. Such difficulties seem to be serving as a driving factor for children to go missing. The lack of follow-up on UAMs, the extremely vulnerable situation and the risk of trafficking for missing children were of great concern for almost all of my informants. When interpreting the results of the analysis, the risk of trafficking seems to be a matter of protection and of prevention.

4.1.9 SUMMARY

In Chapter 4, I described the method and methodology I used to answer my research questions. I gave a step-by-step explanation on how the interviews were analyzed, and then an illustration was made from the main findings of my qualitative research. In following chapters, I will look at the results from the qualitative research in detail, to discuss them and conduct a critical analysis to answer my last research question: to what extent Norway has protected these children's rights and safety.

Chapter 5: Research Findings - Tightening Asylum Policies as a Push Factor?

Chapter 5 has three parts: First, I will explore what the main assumed reasons for why UAMs go missing in Norway are, which was my first research question. One of the other research questions was to explore to what extent the Norwegian Government has succeeded in protecting these children's rights and safety. Second, I will explore this in detail, starting with an analysis of the temporary residence permit policy. Third, I will explore how the age assessment in Norway is carried out, and whether or not these two policies are in line with international human rights standards.

5.1 Do We Know Why Unaccompanied Minors Are Going Missing?

After being weeks or months on the move, UAMs appear in Norway, but why do asylum-seeking children go missing when they have finally reached what should be a good and safe destination? When first arriving, the usual procedure for an unaccompanied child is to register at the Police Unit for Foreign Affairs. If the child is under 15 years of age, he or she will be placed in a care center, where the CWS is responsible for the child.¹⁴⁸ Children between 15 and 18 years of age will be transported to a transit center, where they stay until they are moved to a reception center, under the protection of the UDI, while the asylum application proceeds or until they turn 18 years old. There are four types of reception and transit centers, where asylum-seeking children in this age bracket can reside. These are reception centers only for UAMs, ordinary reception centers with a section for UAMs, transit centers only for UAMs, as well as regular transit centers, with a section for UAMs.¹⁴⁹ It is a voluntary option for UAMs aged 15 years or older, to stay in reception centers in Norway.¹⁵⁰ It is often difficult to know exactly why UAMs go missing. Below are some of the statements my informants gave, when asked for their thoughts on the matter.¹⁵¹

- ‘UAM goes missing because they are scared they will get a negative outcome of their asylum application and sent back to Afghanistan. It used to be 40 unaccompanied children in the reception center, but 10 of them went missing just recently, they are scared the police will pick them up by night, and deport them.’¹⁵²
- ‘When we receive wanted information on an UAM who has gone missing from a reception center, it is very often an Afghan boy, and the main reason for the disappearances is that the child are granted only a temporary residence permit, or the outcome of the age assessment concluded he is over 18 years.’¹⁵³

¹⁴⁸ Cathrine Holst Salvesen, ‘You Can’t See it Before you Believe it – Identifications of Child Victims of Trafficking,’ (Master Thesis, University of Bergen, 2014).

¹⁴⁹ Veronika Paulsen, (n 22) Pp. 21

¹⁵⁰ Monica Five Aarset, Ada Engebritsen and Hilde Anette Aamodt, ‘Children and Families in Reception Centres – Cooperation between Reception Centres and the Child Welfare Service’ [2016] 1 Web NOVA Pp. 25 <<https://www.bufdir.no/en/Bibliotek/Dokumentside/?docId=BUF00003425>> accessed 25 June 2017.

¹⁵¹ It is important to highlight that these comments are only a fraction of the reports I collected during the interviews, but due to space limitations, I choose only to include some of them.

¹⁵² Interview with Guardian for Unaccompanied minors in Vesterålen (2). Date 10.12.2016.

¹⁵³ Interview with a professional social worker from Uteseksjonen (3) (City Council of Oslo) (Oslo 21 December 2016).

- ‘In the transit center where I used to work some months ago, unaccompanied asylum-seeking children went missing on a regular basis, none of them came back again. The reason for their disappearances was the outcome of the age assessment.’¹⁵⁴

According to my informants, the vast majority of children seem to go missing as a result of the outcome of the age assessment, and/or before they turn 18 years old - at which point the temporary residence permit ceases, to avoid deportation. These children are not given any date for when they have to leave the country, as the removal takes place without the children and the youngsters being informed and often by night.¹⁵⁵ Berit Aasen et al argues that children in this group often notice a pattern of deportations of their friends in reception centers by the police, which serves as a signal: leaving the reception center might be a better solution than being forced to leave the country and sent back.¹⁵⁶

In addition to the outcome of the age assessment and the fear of the results of the age assessment, as well as the temporary residence permit, four of my 14 informants pointed out another reason for the children going missing. According to these informants, a possible pressure from other external parts, perhaps from criminal gangs might also happen, although they believed it did not occur very often. Another motivation to leave transit and reception centers can be that the young person is a “Dubliner”. Norway will thus receive a Dublin request from the country the child had his or her application finished proceeded in and send the child back. This reason was only mentioned by one of my informants but has been listed as one of several causes by Berit Aasen et al (2017).¹⁵⁷ The study also found that children who wanted to be sent back to their country of origin but had no one willing to take care of them there could not be sent back by Norway, and these children later went missing.¹⁵⁸ Earlier studies conducted by Save the Children Youth (2013), Paulsen et al (2015)¹⁵⁹, the European Migration Network (2015),¹⁶⁰ and the GRETA Fifth General Report on GRETA’s Activities (2015),¹⁶¹ argues that many asylum-seeking children go missing within the first days following arrival, especially from the transit centers. In alignment Berit Aasen et al (2017), found that 44 percent of all UAMs who had gone

¹⁵⁴ Interview with a professional social worker (11) from a transit center in Oslo (Oslo 3 December 2016).

¹⁵⁵ Berit Aasen (n 25) Pp. 66

¹⁵⁶ Berit Aasen (n 25)

¹⁵⁷ Berit Aasen (n 25) Pp. 101

¹⁵⁸ Berit Aasen (n 25) Pp. 108

¹⁵⁹ Paulsen et al (2015) (n 22)

¹⁶⁰ European Migration Network ‘Policies, Practices and Data’ (n 15) Pp. 29

¹⁶¹ GRETA’s 5th Report (n 46)

missing from reception and care between 2008 and 2015 disappeared from transit centers within the first month after they had applied for asylum, and many of these children had come from North Africa.¹⁶² For this group of kids, minimal information exists, and Aasen et al states the following: “We cannot exclude the risk of trafficking and recruitment to criminal gangs for this group of children.”¹⁶³ According to their study, this group of children faces the highest risk of falling into the hands of traffickers and criminal gangs.¹⁶⁴ Furthermore, the study underscores how around 50 percent of all UAMs who go missing, disappear from reception centers.¹⁶⁵ 55 percent of the UAMs who were missing between 2011 and 2015 had their application for asylum pending at the UDI at the time of disappearance. 22 percent of them were compelled to leave the country, and 15 percent appealed rejected asylum claims. It is evident that the information underlines how the majority of children went missing while they were waiting for their application to proceed and/or if they had little or no chance to acquire a residence permit.¹⁶⁶ Thus, in Norway, over the past few years, it seems like almost an equal number of children have gone missing from reception centers as transit centers.

Can external pressure be one of the main causes for why children go missing from reception or transit centers? Scientific research conducted by Hilde Liden et al (2013) states how employees in shelters they interviewed had experienced cases where UAMs had felt pressure or had been threatened to engage in exploitative work either by people they had met before or during their stay in reception centers in Norway. Hilde Liden, et al emphasize that it is hard to know how many of the disappearances are caused by external threats or pressure from adults.¹⁶⁷ When my informants were asked to describe the main reasons for UAMs going missing, they listed the outcome of the age assessment or the fear of the outcome and the use of a temporary residence permit as their primary assumptions. However, some of my informants also believed that children could feel pressured or persuaded into leaving the reception center. Although my informants were of the opinion that this rarely happened, it should be of concern. This is what they had to say on the matter:

¹⁶² Berit Aasen (*n* 25) Pp. 9

¹⁶³ Berit Aasen (*n* 25) Pp. 66

¹⁶⁴ Berit Aasen (*n* 25)

¹⁶⁵ Berit Aasen, (*n* 25) Pp. 51

¹⁶⁶ Berit Aasen (*n* 25) Pp. 57

¹⁶⁷ Hilde Liden, et.al 2013 (*n* 21) Pp.196.

- ‘I believe many children goes missing because their asylum application is rejected, having said that, I also think that many disappear due to other reasons, reasons we do not know about.’¹⁶⁸
- ‘3-4 times it happened that some of the children who went missing did not come back to the reception center. One girl went missing for two days, and we assumed she had been with some men because when she came back, she was very affected and not okay. We never found out what happened to her during the days she was missing.’¹⁶⁹
- ‘It is clear that there exist perpetrators that can pressure children to leave reception centers. I have myself, experienced some kids feeling pressured through their cell phone. I believe that in many cases it exists criminal groups urging children to leave. [...] During a period, it was a group of clergymen who said they wanted to talk with the children. A lot of strange things goes on in these reception centers. Some years ago, one of the transit centers in Oslo, where also called the sugar cane.’¹⁷⁰

Previous studies conducted by Jan-Paul Brekke (2013),¹⁷¹ Anne Staver (2014),¹⁷² Hilde Liden et al. (2013)¹⁷³ and V. Paulsen and H Michelsen (2015)¹⁷⁴ lists the following assumptions for why asylum-seeking children go missing: fear of a denied request for asylum, fear of deportation, fear of the age assessment outcome and avoidance of contact with the authorities. Most of these reasons are in line with my findings from the qualitative study. However, it became evident in my research how the outcome of the age assessment and the policy of temporary residence permit and the fear of deportation were the key factors for why children went missing.

5.2 The Policy of the Temporary Residence Permit

5.2.1 THE ISSUE

Many UAMs seeking asylum in Norway are granted protection, but there are also children who do not have a right to protection according to the law and are thus not given asylum but rather, a mere temporary residence permit. In April 2016, the Norwegian Minister of Integration, Sylvi Listhaug (Frp) held a speech in the Parliament with the title ‘Tightening asylum policies – in the best interest of the child.’ The Minister argued how ‘too many children are forced by their families to migrate [and] to stop this, we need to make it less attractive to send their children

¹⁶⁸ Interview with Swedish author and journalist (13) (Oslo, 17 November 2016).

¹⁶⁹ Interview with a former professional social worker from a reception center for unaccompanied minors in Kristiansand and a current employee for the Child Welfare Service in Kristiansand (10) (Oslo, 25 November 2016).

¹⁷⁰ Interview with a guardian for unaccompanied minors in Oslo (1) (Oslo, 19 November 2016).

¹⁷¹ Jan-Paul Brekke, (n 11) Pp.35

¹⁷² Staver and Liden, 2014 (n 20)

¹⁷³ Hilde Liden et.al, 2013 (n 21)

¹⁷⁴ Veronica Paulsen (n 22) Pp. 21

alone to a foreign country.’¹⁷⁵ The objective of the Minister’s speech was to enhance the use of the policy or temporary residence permit as a measure to prevent immigration and to make it less appealing for fleeing or migrating children to come to Norway. The primary issue with this policy is not only that it is temporary, but more that it ends when the asylum seeker is very young (only 18 years of age) and seems to be used as an instrument of deterrence. In other words, the first thing these young persons have to face after legally becoming adults is the end of a safe life in Norway and the worry for what might happen to them when sent back to (for example) Afghanistan - and the danger and uncertain future they now, at 18, have to face. The policy of temporary residence permit was implemented in 2010¹⁷⁶, but it is not before the last years the use of § 8-8 of the Immigration Regulation has increased significantly. By studying the time frame of children who went missing since 2008 (see figure 1), it becomes apparent that more children went missing after 2011, when the policy of temporary residence permit took effect. Between the years 2010 and 2015, 221 children in total were granted a temporary residence permit, and 75 of these children went missing.¹⁷⁷ Asylum-seeking children granted only a temporary residence permit may find a strong reason for disappearing when they comes close to turning 18 years of age.

5.2.2 STATEMENTS FROM INFORMANTS

The number of children granted only a temporary residence permit in Norway has increased over the past few years. Seven of my interviewees raised the issue of the policy and harshly criticized it. Two of them said the following about the policy:

- ‘We have seen a vast increase of granting only a temporary residence permit to unaccompanied minors, as well as an increase of internal returns to Afghanistan.’¹⁷⁸
- ‘There are reasons to believe that the tightening asylum policy with an increasing use of temporary residence permit and limited residence permit, results in a higher number of children who goes missing, as they fear they will be returned when turning 18 years.’¹⁷⁹

¹⁷⁵ The Office of the Prime Minister, ‘Tightening Asylum Policies – in the Best Interest of the Child’ (Speech delivered by Minister of Integration Sylvig Listhaug to the Parliament, Oslo, 5 April 2016) <<https://www.regjeringen.no/no/aktuelt/innstramming-til-barnas-beste/id2482065/>> accessed 25 June 2017.

¹⁷⁶ Immigration Regulation §8-8 (n 135)

¹⁷⁷ The Children’s Ombudsperson, ‘Temporary Residence Permit to Unaccompanied Asylum-Seeking Children’ (*The Children’s Ombudsperson*, 2 February 2016) <<http://barneombudet.no/wp-content/uploads/2016/02/Barneombudet-mener-asylinnstramninger.pdf>> accessed 25 June 2017.

¹⁷⁸ Interview with two representatives from Save the Children Press (6) (Oslo, 23 November 2016).

¹⁷⁹ Interview with a professional social worker from Uteseksjonen (3) (City Council of Oslo) (Oslo 21 December 2016).

5.2.3 LAWS AND REGULATIONS

When analyzing the temporary residence permit policy, various laws are applicable. Article 20 of the CRC obliges States to ensure alternative care, special protection and assistance for a child deprived of his or her family environment.¹⁸⁰ Additionally, CRC Article 3 stipulates how the best interest of the child shall be a primary consideration every time a decision is taken concerning a child.¹⁸¹ In this section, I will examine details of Immigration Regulation § 8-8 on the temporary residence permit, and of Article 3 of the CRC.

Article 3 of the CRC, on the best interest of the child, is considered by the CRC Committee to be one of the four core principles of the Convention, and shall be of fundamental concern every time a decision concerning a child is taken.¹⁸² Michael Freeman explains that Finland suggested how the best interest of the child should be *the* primary consideration when the text was first drafted. It is interesting to remark how the Norwegian delegation, together with the UK, opposed this suggestion and either wanted that the word *all* be deleted or that the sentence changed to *a* primary consideration. Unfortunately, the latter prevailed over Finland's proposal, and the article states the best interest of the child shall be *a* primary consideration, not *the* primary consideration. Hence, Article 3 became weaker than when it was first initiated, and less protection is given because it is not an absolute priority.¹⁸³ Furthermore, the CRC Convention does not entail any definition of the concept. The concept is broad, and one concern is that the best interest of the child can be interpreted differently, and moreover, is culturally relative.¹⁸⁴

Having said that, the CRC Committee has established certain conditions stipulated in General Comment No. 14. It is especially section 71(d) that emphasizes how the care and protection safeguard to a child has to be consistent with what is necessary for the child's well-being.¹⁸⁵ Legal scholar Trude Haugli (2016) argues how protection and well-being are meant not only to protect against abuse and ill-treatment but also to fulfil children's need of and right to adequate emotional care, which entails living in an atmosphere of love and safety, having a feeling of belonging and of being in charge of his or her life situation. Additionally, the position of

¹⁸⁰ CRC Article 20

¹⁸¹ CRC Article 3

¹⁸² Trude Haugli, 'The Best Interest of the Child', in Njål Høstmælingen, Elin Saga Kjørholt and Kirsten Sandberg (eds.) *The Convention of the Child – Children's Rights in Norway* (3. Edition 2016 Universitetsforlaget).

¹⁸³ Michael Freeman, '*A Commentary on the United Nations Convention on the Rights of the Child – Article 3 The Best Interest of the Child*', (Martinus Nijhoff Publishers 2007) Pp. 45 and Pp. 60.

¹⁸⁴ Michael Freeman, (n 183) Pp. 2

¹⁸⁵ United Nations Committee on the Rights of the Child 'General Comment No. 14 on the Right of the Child to Have his or her Best Interests taken as a Primary Consideration' (29 May 2013) UN Doc CRC/C/GC/14. Section 71 (d).

vulnerability has to be taken into consideration. Being a UAM automatically put these children in an extraordinarily vulnerable situation.¹⁸⁶

Furthermore, Norwegian Constitution § 104 section 2 stipulates that the best interest of the child shall be a primary consideration¹⁸⁷, which means that the best interest of the child is a fundamental principle for Norway. The Immigration Act § 38 also stipulates that the best interest of the child shall be a primary consideration.¹⁸⁸ Moreover, Immigration Regulation § 8 (8) underscores that if a UAM has turned 16 when the request for asylum is decided and which has no grounds for protection but has no family or relatives caring for the child if returned, the child can be granted a temporary residence permit until 18 years old. The temporary residence permit expires when she or he turns 18 years old. The temporary permit cannot be renewed or provide protection for family members.¹⁸⁹ It is thus expected that, at that point, they leave the country. Some might try to seek asylum again, but as they are now adults, their chance to get protection, especially as asylum seekers from a country such as Afghanistan, is very small. Between January and May 2017, only 23% was granted a permanent residence permit among adult asylum seekers from Afghanistan.¹⁹⁰ Thus, the risk of being deported after turning 18 is almost inevitable.

5.2.4 MAIN ACTORS

The Norwegian Government and the various Ministries suggest laws and regulations, while it is up to the Parliament, to adopt the laws, regulations and other agreements.¹⁹¹ The main actor responsible for the overall care for UAMs between 15 and 18 years is granted to the UDI. Having said that, the CWS simultaneously is responsible to act and to prevent all children under 18 years of age from, experiencing deficient care, as stipulated by the Child Welfare Act.

5.2.5 LONG TERM STAY IN A RECEPTION CENTRE

Children who are issued a temporary residence permit can live in a reception center for a maximum of 2 years if they are 16 years old when they are granted a temporary residence permit. It is crucial that the care provided to children in reception centers is adequate. Kohli emphasizes that if the care of UAMs is to be successful, it needs to include three principles:

¹⁸⁶ Haugli (*n* 182) Pp. 59

¹⁸⁷ Norwegian Constitution § 104 (*n* 130)

¹⁸⁸ Immigration Act § 38 (*n* 134)

¹⁸⁹ UDI, Immigration Regulation §8-8 (*n* 135)

¹⁹⁰ UDI, 'Asylum Decisions and Outcome 2017', (UDI, 2017) <<https://www.udi.no/statistikk-og-analyse/statistikk/asylvedtak-etter-statsborgerskap-og-utfall-2017/>> accessed 15 June 2017.

¹⁹¹ Norwegian Constitution (*n* 130)

safety, belonging, and success and within a framework of what he calls companionship.¹⁹² What he means by companionship is the necessity of having a personal relationship with the child. Moreover, Hilde Liden et al explains that companionship is when the employee's relationship with a child, is based on trust and connection. The employees need to see the child as an individual, and the emotional relationship between the employee and child is very important.¹⁹³ A close and personal relationship between a child and an employee can also be an important element in preventing a child from going missing.¹⁹⁴ Nevertheless, when a child knows that as soon as his or her 18th birthday is nearing, the fear of being forcibly deported out of Norway and back to (e.g.) Afghanistan increases. Thus, the three necessary requirements according to Kohli, which children need to have: safety, belonging and success, are highly difficult to fulfill for this particular group of children.

5.2.6 ANALYSIS OF DATA

When analyzing the graph below, it becomes evident how the use of the policy has increased significantly. In 2013, 2014 and 2015, not more than 10 UAMs from Afghanistan were granted temporary residence permit each year. 2016 statistics reveal how the number of UAMs from Afghanistan who were given a temporary residence permit rose to 295 children.¹⁹⁵ The use of §8-8 of Immigration Regulation continues to increase as well, in 2017. From January to June 2017 (6 months), as many as 341 UAMs were provided only a temporary residence permit out of the total number of 645 asylum decisions.¹⁹⁶ This is a stark contrast to the period between the years 2010 and 2015, where the total number of UAMs under the temporary policy was 221 overall.¹⁹⁷

¹⁹² Ravi K.S. Kohli, 'Working to Achieve Safety, Belonging and Success for Unaccompanied Asylum-Seeking Children' (2011) 20(5) 311

¹⁹³ Hilde Liden et.al (n 21) Pp. 56

¹⁹⁴ Missing Children Europe, 'Summit Report' (n 13)

¹⁹⁵ UDI, 'Asylum Decisions for Unaccompanied Minors by Citizenship and Outcome 2016' (UDI 2017) <<https://www.udi.no/statistikk-og-analyse/statistikk/asylvedtak-etter-statsborgerskap-og-utfall-2016/>> accessed 18 January 2017.

¹⁹⁶ UDI, 'Asylum Decisions for Unaccompanied Minors by Citizenship and Outcome 2017' (n 4)

¹⁹⁷ The Children's Ombudsperson (n 177)

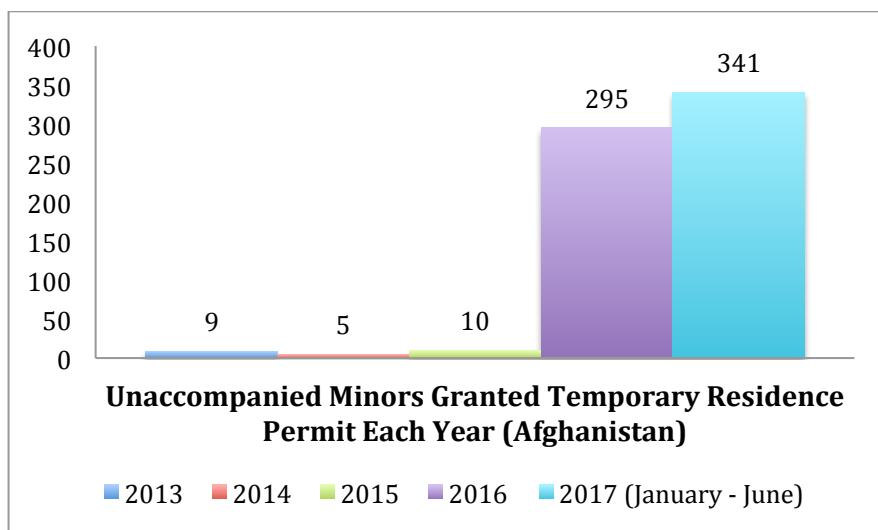


Figure 6: Temporary residence permit provided to unaccompanied minors from Afghanistan each year. Source: UDI 2013¹⁹⁸ 2014¹⁹⁹ 2015²⁰⁰ 2016²⁰¹ and 2017²⁰²

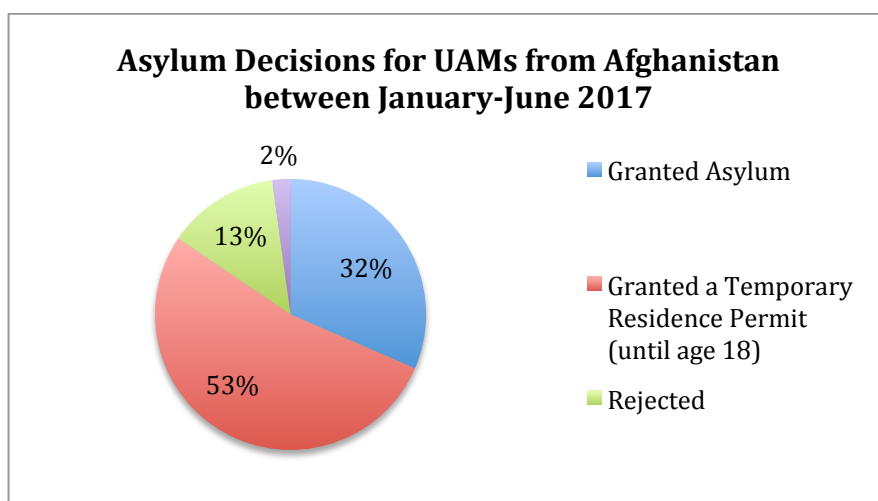


Figure 7: Source: UDI.²⁰³

There has been an increase in the number of asylum applications from UAMs with Afghan origin, which might explain the increase in the use of the policy. That said, the pie chart above indicates how 53 percent of the children from Afghanistan seeking asylum between January and June 2017 was placed under this policy. Thus, there is also a vast increase in the use of the

¹⁹⁸ UDI, 'Asylum Decisions for Unaccompanied Minors by Citizenship and Outcome 2013' (UDI 2017) <<https://www.udi.no/statistikk-og-analyse/statistikk/asylvedtak-etter-statsborgerskap-og-utfall-for-enslige-mindrearig-asylsoker-2013/>> accessed 10 January 2017.

¹⁹⁹ UDI, 'Asylum Decisions for Unaccompanied Minors by Citizenship and Outcome 2014' (UDI 2017) <<https://www.udi.no/statistikk-og-analyse/statistikk/asylvedtak-for-ema/>> accessed 10 January 2017.

²⁰⁰ UDI, 'Asylum Decisions for Unaccompanied Minors by Citizenship and Outcome 2015' (UDI 2017) <<https://www.udi.no/en/statistics-and-analysis/statistics/asylvedtak-etter-statsborgerskap-og-utfall-for-enslige-mindrearige-asylsokere-2015/>> (accessed 26th of December 2016).

²⁰¹ UDI, 'Asylum Decisions for Unaccompanied Minors by Citizenship and Outcome 2016' (n 195)

²⁰² UDI, 'Asylum Decisions for Unaccompanied Minors by Citizenship and Outcome 2017' (n 4)

²⁰³ Ibid UDI (n 4)

temporary residence permit in relation to the number of those seeking asylum. Another explanation for the increase in the use of the policy is a new retrenchment measure put in place on October 1, 2016, despite an outcry from many NGOs. From that day onward, it was allowed to send asylum seekers, including UAMs (among others), back to those areas of their countries of origin - which was perceived as safe.²⁰⁴ The UDI Directive states the following, in section 2.2.1:

‘If an UAM falls under the protection granted by the Immigration Act § 28 and after an evaluation for an internal return for the person at stake, the Norwegian authorities will make an assessment of the possibilities to avoid persecution if returned to another part of the country of origin.’²⁰⁵

The UAMs from these areas of a country, seeking asylum, might not be granted protection but instead given only a temporary residence permit until they risk being sent back to the so-called safe areas if perceived safe by the Norwegian Government.

5.2.7 CRITICISM TOWARDS THE POLICY

Several previous reports and scientific articles criticize the effect long-term stay in reception centers have on children. In a study on UAMs and health, Brit Oppedal et al (2010) argued that many UAMs seeking asylum in Norway suffered from depression. Several of the children the researchers interviewed also had post-traumatic symptoms. Their findings reveal how post-traumatic stress symptoms increased with age for these kids.²⁰⁶ Furthermore, Veronica Paulsen et.al (2015) shows how a number of UAMs continue to suffer from depression and anxiety after they have spent a long period of time in a reception center.²⁰⁷ Moreover, Liden et al also argue how extended stays in reception centers hampered UAMs’ psychological health and overall well-being.²⁰⁸ Finally, the ombudsperson for children, Anne Lindboe, also underscored that children with a temporary residence permit are children who have their lives put on hold and are just

²⁰⁴ UDI, ‘Memo on Practices and Procedures for Asylum-Applications for Unaccompanied Minors’ Section 2.2.1 Internal-Return (UDI, implemented 17 October 2012, last modified 13 June 2017) <<https://www.udiregelverk.no/en/documents/udi-memos-on-practices-and-procedures/pn-2012-011/>> (accessed 16.11.2016)

²⁰⁵ Ibid UDI Memo (n 204)

²⁰⁶ Brit Oppedal, Laila Jensen and Karoline B. Seglem, ‘When the daily day Become Normalized: Psychological Health and Social Relations among Young Refugees who arrive in Norway without Parents’ (*The Norwegian Institute for Public Health*, 2010) Pp. 16. <<https://www.fhi.no/globalassets/migrering/dokumenter/pdf/ungkul-rapport-nr.1-pdf.pdf>>

²⁰⁷ Veronica Paulsen (n 22)

²⁰⁸ Hilde Liden et.al (n 21) Pp. 46

waiting to be sent back. The outcomes are adverse effects on these children's psychological and physical health.²⁰⁹

The various researchers mentioned above noted how the mental health among asylum-seeking children does not seem to improve but rather deteriorate while staying in reception centers. Stress, worries, fear, sleep disturbances, lack of concentration, and so forth, is often experienced by children while waiting in reception centers. Unlike other asylum seekers, children granted only a temporary residence permit have put their lives on hold and wait not with hope but with the dread of having to go back to a highly uncertain future after turning 18 years old. In addition to the risk of increased mental illness, the causes of which are discussed above, the policy also hampers integration. Because, children under the temporary residence permit are not given the opportunity to settle in a municipality and is another ground for criticism.²¹⁰ Veronica Paulsen et al also emphasizes how the extended waiting period often results in a dramatic decrease in the quality of life as well as the chance of having a normal daily life, go to school and do after-school activities are often challenging.²¹¹ Furthermore, Line Ruud Vollebæk (2012) underlines her worries regarding certain groups that are extra vulnerable to recruitment and exploitation. These are unaccompanied asylum seekers with a temporary residence permit or children staying without legal permission.²¹² The lack of a meaningful occupation and very few possibilities to be granted a residence permit in Norway can often lead to contact with criminal groups, as well as the risk of exploitation and trafficking, Vollebæk argues.²¹³ Statements from various NGOs have also sharply criticized the temporary residence permit policy. A joint letter from NOAS (Norwegian Organization for Asylum Seekers) and other NGOs (2015) express their worries and argues it is impossible to create a safe and healthy environment for these kids, as their prospects following their 18th birthdays are perceived as a constant threat.²¹⁴ Save the Children asserted their relevant concerns:

²⁰⁹ Mads Fremstad, 'Record-wide use of Temporary Residence Permit for Unaccompanied Minors' *ABC News* (Oslo, 3 January 2017) <<https://www.abcnyheter.no/nyheter/2017/01/03/195267534/rekordhoy-bruk-av-midlertidig-opphold-enslige-asylbarn>> accessed 15 May 2017.

²¹⁰ Berit Aasen, (n 25) Pp.60

²¹¹ Veronica Paulsen (n 22)

²¹² Line Ruud Vollebæk, 'Human Trafficking of Children – The Child Welfare Service Work and Knowledge on Children Victims of Child Trafficking' (*Save the Children*, 2012) <<https://www.buudir.no/bibliotek/Dokumentside/?docId=BUF00002614>> accessed 3 December 2016.

²¹³ Vollebæk, 2012, (n 212) Pp. 59

²¹⁴ NOAS et.al. 'Joint Letter to the Norwegian Parliament: Necessarily Measures in order to Safeguard Unaccompanied Asylum-Seeking Children's Rights', (Legeforeningen, 5 October 2015) <<http://legeforeningen.no/Global/Fagmedisinske%20foreninger/Norsk%20barnelegeforening/Paidos/felles%20brev.pdf>> accessed 1 November 2016.

‘The situation for UAMs in Norway has worsened the last months. We hear about children who say they do not want to live any longer and we are of the opinion that the increased use of temporary residence permit is an important reason for why the situation has turned so bad.’²¹⁵

The vast increase of temporary residence permit given to Afghanis, and following the increase in internal returns to the country, cannot be legitimated by arguing the security reasons in Afghanistan, has improved. According to the Norwegian Refugee Council (2016), “the safety situation in Afghanistan has escalated and become worst, simultaneously forced deportation by Afghan asylum-seekers by the Norwegian Government are a record high.”²¹⁶ In a similar vein, NOAS writes in their annual report (2015) how the number of civilian casualties was the highest ever measured during 2015 in Afghanistan, and how during 2015, the number of internally displaced people has increased to around 70 per cent.²¹⁷ When turning 18 years and the temporary residence permit cease, these youngsters have to let go of their upper secondary education, their healthcare, social lives, and the prospect of staying in a safe country.²¹⁸ In a report conducted by Oslo Economics (2016), it was concluded there was a clear connection between forced deportation and adult asylum seekers who went missing from the same reception center.²¹⁹ Further to this, according to what my informants argued when analyzing the data on UAMs, there seems to be a clear link between the vast increase in UAMs going missing and the significantly increased enforcement of the temporary residence permit policy.

5.2.9 CRITICAL ANALYSIS – IMMIGRATION CONTROL VS. THE BEST INTEREST OF THE CHILD

We have seen how there has been a vast increase in the number of temporary residence permits granted to UAMs from Afghanistan. In this section, I will explore whether the temporary residence permit policy is in line with Article 3 of the CRC. Article 3(2) applies to the UDI and the CWS, which fall under the institutions enumerated in the Article, and where the best interest

²¹⁵ Jens Marius Sæther, ‘Young Asylum Seekers are facing Extreme Difficulties’ *Dagsavisen* 2017 (Oslo, 18 January 2017) <<http://www.dagsavisen.no/innenriks/unge-asylsokere-gar-til-grunne-1.914166>> accessed 20 January 2017.

²¹⁶ Norwegian Refugee Council, ‘Problematic Returns’, (*Norwegian Refugee Council*, Kabul 23 September 2016) <<https://www.flyktninghjelpen.no/nyheter/2016/september/norge-sender-flere-tilbake-til-afghanistan.-er-det-uproblematisk/>> accessed 5 January 2017.

²¹⁷ NOAS, ‘Annual Rapport 2015’ (NOAS, 2016) <<http://www.noas.no/wp-content/uploads/2016/04/NOAS-arsrapport-2015.pdf>> Pp.14 accessed 26 May 2017. Pp. 24

²¹⁸ NOAS, ‘Recommendations to the Norwegian Government’ (NOAS 2014) Pp. 19 <http://www.noas.no/wp-content/uploads/2014/03/EMA_web.pdf> accessed 3 January 2017.

²¹⁹ Asbjørn Englund, ‘The effects of Forced Deportation for Assisted Returns’, (*Oslo Economics* 2016) Pp. 46. <https://www.udi.no/globalassets/global/forskning-fou_i/retur/effekter-av-tvangsreturer-for-assistert-retur.pdf> accessed 2 April 2017.

of the child has to be a primary consideration in all actions taken concerning children.²²⁰ The policy is a prevention measure, aimed at stopping young children from fleeing and migrating on their own to seek asylum in Norway. However, a typical, relevant discussion concerns whether immigration policies can trump the best interest of the child. Various countries such as Australia and New Zealand have been harshly criticized for letting immigration regulations prevail.²²¹ There have also been relevant UN treaty bodies bringing to light the treatment towards UAMs and the temporary residence permit policy. For example, the Concluding Observation (2013) from the Committee on ESCR recommended that Norway enhance its effort in providing adequate care for UAMs and especially underscored the need for competent employees at reception centers.²²² The Committee on CERD (2011) stated their concerns about ‘conditions in the reception centers for children aged 16-18, including those affecting their physical and mental health.’²²³ Furthermore, the CRC Committee remarked on their worries about the Norwegian government’s failure to provide the same protection to all UAMs in their Concluding Observation (2010).²²⁴ In the Concluding Observation on Norway (2012), the CAT Committee expressed their concern on how the temporary residence permit policy can encourage children to leave reception centers in Norway.²²⁵ All of these recommendations are pointing in the same direction. The concluding remarks highlight concerns experts have on children staying in reception centers in Norway.

Recalling how Article 3(2) of the CRC obligates States to ensure that protection and care is necessary for the child’s well-being, it is important to note that the temporary residence permit policy hampers the welfare of the child. UAMs under this policy often have to stay in a reception center for years.²²⁶ For example, if they are 16 when arriving in Norway and they have no right to protection, they will stay in reception centers for two years until turning 18 and then be forced to return to their country of origin. Thus, the vast increase in the number of temporary residence

²²⁰ CRC Article 3

²²¹ Kirsten Sandberg, ‘Asylum seeking children’s rights’ in Njål Høstmælingen, Elin Saga Kjørholt and Kirsten Sandberg (eds.) *The Convention of the Child – Children’s Rights in Norway* (3. Edition 2016 Universitetsforlaget). Pp. 310

²²² United Nations Committee on Economic, Social and Cultural Rights, ‘Concluding Observations on the fifth periodic report of Norway’, (13 December 2013) E/C.12/NOR/CO/5

²²³ United Nations Committee on the Elimination of Racial Discrimination, ‘Concluding Observations on the Elimination of Racial Discrimination Norway’ (8 April 2011) CERD/C/NOR/CO/19-20, Para 13

²²⁴ United Nations Committee on the Rights of the Child, ‘Concluding Observations: Norway’ (29 January 2010) CRC/C/NOR/CO/4 Section (51)

²²⁵ United Nations Committee on the Convention Against Torture, ‘Concluding Observation of the Committee Against Torture - Norway’ (13 December 2012) CAT/C/NOR/CO/6-7 Para 22

²²⁶ Kristin Sandberg, (n 221) Pp. 328

permits granted to UAMs by the UDI is also in stark contradiction to the report to the Storting Nr. 30 (2015-2016), which underlines that '[t]he time children stay in reception and care centers shall be as short as possible.'²²⁷ The policy might even result in sending 18-year-olds back to their countries of origin with a health condition that had worsened since arrival in Norway. Additionally, it prevents hundreds of children from integrating into the society, and at the same time, as I have argued, the policy seems to serve as a push factor for UAMs to go missing and thus become extremely vulnerable.

The best interest of the child is not absolute but 'shall be a primary consideration'²²⁸ - meaning it can be trumped, legal scholar Michael Freeman argues. For example, if a child is taken away from his or her parents, it might not be in the child's best interest, but if the child experiences neglect and illicit care, the latter interest can carry more weight. Freeman also argues there are interests that are more disputed, and gives the example of immigration control.²²⁹ Concerning how the best interest of the child weighs against other interests, the Norwegian Supreme Court states the following: "The best interest of the child can be weighed against other conflicting interests. Immigration regulations can be weighty and can exceed the best interest of the child [...]." ²³⁰ In other words, immigration regulations and their importance in this particular situation always have to be balanced against how the best interest of the child goes in the other direction and thus has to be decided upon, on a case-by-case basis, by the UDI.

Nonetheless, if conflicting interests take precedence over the best interest of the child, the decision has to be explained and justified according to the CRC General Comment No. 14 Para 6 (c).²³¹ Although immigration regulations can take precedence over the best interest of the child, as underlined by the Supreme Court, the decision nevertheless has to be strongly justified. The only explanation provided by the Norwegian authorities on how they justify immigration regulations' taking precedence over the best interest of the child (e.g. the policy of granting only a temporary residence permit) is enshrined in the report to the Storting ('Meld.St.27 (2011-2012)), which states the following:

²²⁷ Ministry of Justice and Public Security, 'Report to the Storting - From reception centre to the labour market – an effective integration policy' Meld. St. 30 (2015–2016), Section 4.3.

<<https://www.regjeringen.no/no/dokumenter/meld.-st.-30-20152016/id2499847/sec1>> accessed 3 February 2017.

²²⁸ CRC Article 3

²²⁹ Michael Freeman, (*n* 183) Pp. 5

²³⁰ Norwegian Supreme Court Report, 'Immigration Law, Administrative Law – Asylum Seeking Children – The Supreme Court's Decision' (Rt. 2012-1985) (21 December 2012) Para 134. <<https://www.udiregelverk.no/no/rettskilder/hoyesterettsavgjorelser/HR-2012-2398-P/>> accessed 3 February 2017.

²³¹ CRC General Comment Nr. 14, Para. 6 (c) (*n* 185)

‘The overall, consideration of the best interests of the child may indicate that the child is granted a residence permit without restrictions, but strong immigration regulations can nevertheless be decisive. In this context, it also appears that out of consideration for protecting other children from ending up in a stressful and dangerous situation is among the considerations that, according to the Supreme Court, can legitimize restrictions on children’s rights in immigration law.’²³²

First, when arguing immigration measures can take precedence over the best interest of the child, does it not also indicate a certain type of values, subjectivity as well as control the authorities exercise on how Article 3 can be interpreted? To protect the States’ self-interest, rather than perhaps interpret the CRC Convention in ‘good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its objective and purpose,’²³³ as enshrined in the Law of the Treaties?

Second, the Norwegian Government justifies strong immigration regulations such as the policy of temporary residence permit to exceed the best-interest-of-the-child principle, by arguing in the report to the Storting how it serves as a warning message for other children not to embark on a dangerous journey and seek asylum in Norway. Freeman underscores the difference between future and current interests concerning the best interest of the child. What is in the best interests of a child at age five will most likely not be in his or her best interest at age 24.²³⁴ I will argue that the principle of the best interest of the child, when properly understood, takes into account the future interest of a child. However, only as long as it will not take precedence over the current best interests of the child, which in this case are the hundreds of UAMs to whom this policy applies. The Norwegian Government refrains from explaining how the principle of the best interest of the child takes a back seat to the tightening immigration policy and its consequences, given the many children who are suffering the consequences of this policy today. In an e-mail from the Ombudsperson for Children in Norway, the following was stressed: “As far as we know, there has not been any explanation of the consequences the policy has, which is also one of the most important arguments against the current regulation and practice.”²³⁵ Rather, the immigration regulation is justified by arguing the policy likely serves to be in the best interest of the child, as it will prevent children from taking a dangerous journey to Norway. The

²³² ‘Report to the Storting (Meld.St.27) section: 6.3.6 (n 28)

²³³ United Nations, Vienna Convention on the Law of the Treaties (Signed 23 may 1969, entry into force 27 January 1980) Article 31. UNTS 1155.

²³⁴ Michael Freeman, (n 183) Pp. 3

²³⁵ Email from Anders Prydz Cameron (The Office of the Ombudsperson) to author (16 June 2017).

CRC Committee's General Comment No. 6 also states that 'Non-rights-based arguments such as those relating to general migration control, cannot override best interests considerations.'²³⁶

Third, the best interest of one child might not be in the best interest of another child, as noted by Freeman.²³⁷ However, children, currently under the temporary residence permit policy, are residing on Norwegian territory and according to international law, States have, first and foremost, an obligation to protect children within its territory. Thus, should the best interest of the children who are already on Norwegian territory and seeking asylum not be given more weight than protecting other children who are not yet in Norway? Another interesting remark is that the temporary residence permit policy is not even successful in preventing children from coming to Norway and seek asylum.²³⁸

Michael Freeman stresses how budgetary constraints can hamper the best interest of the child.²³⁹ The fourth argument I want to stress is how the temporary residence permit policy was implemented as an immigration regulation due to the increase in the number of UAMs seeking asylum and also due to the financial costs related to this. In the report to the Storting, the following is stated:

'The increase in asylum-seekers resulted in considerable economic costs for reception centers, casework, etc. In 2009 Norway used 1.3 billion NOK on reception and care centers for unaccompanied minors. Which raises questions whether Norway from a refugee-political perspective spends disproportionate amount of resources in order to support a particular group, [...] many who left their country of origin for other reasons than the need of international protection.'²⁴⁰

The statement above indicates how there seem to be a great financial reason grounded in the implementation of the temporary residence permit policy. Having in mind how detrimental the policy is for children, and simultaneously the enormous amount of resources and prosperity the Norwegian Government has, does not justify implementation of the policy or indeed more prevalent use of Immigration Regulation §8-8. Bearing in mind asylum-seeking children's situations of vulnerability, as underlined in the CRC General Comment No. 6, the Government

²³⁶ CRC General Comment Nr. 6 (n 29) Para 85

²³⁷ Michael Freeman, (n 183) Pp. 63

²³⁸ NOAS 'No to Temporary Residence Permit to Unaccompanied Minors who are fleeing' (NOAS, Oslo 9 February 2016) <<http://www.noas.no/nei-til-midlertidige-tillatelser-til-enslige-barn-og-unge-pa-flukt>> accessed 12 January 2017.

²³⁹ Michael Freeman, (n 183) Pp. 43

²⁴⁰ Meld.St.27 (n 28) Pp.11

should be particularly careful with implementing and increasing the use of policies that are documented to be damaging to children's psychological health.

5.2.10 CRITICAL ANALYSIS – IN THE BEST INTEREST OF THE CHILD - THE UDI OR THE CWS RESPONSIBILITY?

'It was extremely hectic in 2015; we were between 2-7 adults on 200 UAMs. There are no requirements for education for employees working in transit centers for UAMs between 15-18 years. I experienced significant challenges a lack of educated staff and lack of staff in general. We spent much of the time teaching the other employers on how to work with unaccompanied minors.'²⁴¹

According to Article 3(3), the State of Norway has obligations to ensure and control standards on institutions such as reception and transit centers where UAMs live.²⁴² To provide adequate care for UAMs who are in a very challenging situation, requires a suitable number of employees as well as staff with relevant education and experience. The CWS in Norway normally assigns one adult to three UAMs. Around 50 percent of all the employees working in the CWS need relevant education and experience to work for the CWS. An entirely different situation is in the reception and transit centers for UAMs between 15 and 18 years, where the UDI is in charge. The amount of staff allocated to reception centers where the UDI has the responsibility is far lower compared to the number of employees working at care centers where the CWS is in charge.²⁴³ There are no available guidelines on how many employees shall be working in reception centers for UAMs between 15 and 18 years of age. Moreover, the requirements for education in reception or transit centers where UDI is in charge is that at least one employee shall have relevant education (Bachelor level) from a University College.²⁴⁴ Compared to the 50-percent requirement of skilled staff working in the CWS. During 2015, one transit center had as few as five employees assigned to 300 UAMs, and one reception center with only four employees responsible for 130 UAMs, according to a joint rapport from Save the Children et al.²⁴⁵ The service and rent of reception centers where the UDI has the responsibility fall under the government budget and is managed by the UDI in cooperation with the operators.²⁴⁶ Hilde Liden (2013) argues that this

²⁴¹ Interview with a professional social worker (11) from a transit center in Oslo (Oslo 3 December 2016).

²⁴² CRC Article 3(3)

²⁴³ Hilde Liden et.al (n 21)

²⁴⁴ NOAS and Save the Children 'Over or Below 18 years?' (*NOAS and Save the Children*, 2016) <<http://www.noas.no/wp-content/uploads/2016/03/Over-eller-under-18-Aldersvurderinger-av-enslige-mindreårige-asylsøkere.pdf>> accessed 10 January 2017. Pp. 26

²⁴⁵ NOAS et al. 'Joint Letter to the Norwegian Parliament' (n 214)

²⁴⁶ Hilde Liden et.al (n 21) Pp. 61

fact plays a role concerning the number of staff, the qualifications of the staff, and other resources the reception centers can provide.²⁴⁷

Many centers where UDI is in charge are not maintained properly. Run-down kitchens, rooms and living rooms can also be factors that can have an adverse impact on unaccompanied children's well-being, Liden argues.²⁴⁸ Employees working in reception centers for children between 15 and 18 years lack resources to be able to undertake the psychosocial work that is required, and to provide the necessary and adequate care needed by the children.²⁴⁹ An employee working in a reception center run by the UDI, emphasized the following: 'There is a lack of workers in the centers we have a lot to do, and in comparison with the CWS, we cannot provide as extensive care and consideration to UAMs, as what the CWS can.'²⁵⁰ UAMs are in a tough and challenging situation, overall - with their trauma and experience during transit and from fleeing or migrating, and without having any of their family members to support them. Additionally, their worry for family members in their home countries and the significant risk of deportation that is waiting for them when turning 18 years old highlights the need for professional childcare experts and follow-up. Legal scholar Heyerdahl (2016) also emphasizes:

'Because UAMs are under the primary responsibility of the Immigration Authorities (UDI) they are granted considerable less care, compare to those UAM below 15 years as well as compared with Norwegian children without guardians who falls under the protection of the Child Welfare Act.'²⁵¹

Furthermore, the Committee of the ICESCR recommends, in Para 12, 'that the coverage of the Child Welfare Services be extended to all unaccompanied asylum-seeking children, to ensure that all children without parental care are entitled to benefit from the services provided.'²⁵² The CERD Committee recommends Norway to enhance the conditions in reception centers in line with international human rights standards.²⁵³ Moreover, the General Comment No. 6 emphasizes how State parties need especially to take into consideration unaccompanied children's vulnerable

²⁴⁷ Hilde Liden et.al (n 21) Pp. 63

²⁴⁸ Hilde Liden et.al (n 21) Pp.87

²⁴⁹ Hilde Liden et.al (n 21) Pp.87

²⁵⁰ Hilde Liden et.al (n 21) Pp. 66

²⁵¹ Frøydis Heyerdahl, 'The Right not to be Discriminated' in Nils Høstmælingen, Elin Saga Kjørholt and Kirsten Sandberg (eds.) *The Convention on the Rights of the Child – Children's Rights in Norway* (3. Edition, 2016 Universitetsforlaget).

Pp. 41

²⁵² Committee ESCR/CO (n 222)

²⁵³ Committee CERD/CO Para 13 (n 223)

position and relevant difficulties.²⁵⁴ Section (40) gives some suggestions as to what such suitable care should entail and highlights the need for qualified staff to be able to provide the psychological support and companionship needed by UAMs.²⁵⁵ Having been temporarily or permanently deprived of his or her family environment, UAMs shall, according to Art. 20 of the CRC, be granted the special protection they need, with consideration of their situation of vulnerability. Art. 20 (3) underlines how a 'suitable institution' needs to be responsible for the care of children.²⁵⁶

The Immigration Authorities as the main responsible entity for the overall care for all UAMs between 15 and 18 years is not appropriate, as it is not a 'suitable institution' able to fulfill the needs and rights of children who flee and emigrate from war-torn countries and extreme poverty. Freeman argues how the word 'suitability of staff' in Article 3(3) is important. It includes proper training and qualification of staff working in these institutions.²⁵⁷ I have argued how there is a lack of quality in the care, as well as limited staff with proficiency in working with children, provided for UAMs between 15 and 18 years of age. This quality of care is, in fact, far worse than the quality of care given to all other kids under the CWS. UDI is primarily a bureaucratic institution, working as a control body of immigration for the authorities. UDI's mandate is to control immigration and simultaneously remain responsible for the overall safeguarding and care of UAMs between 15 and 18 years of age. This does not go hand-in-hand, and as I will argue, is not in line with the best interest of the child. All UAMs should be under the responsibility of the CWS. Furthermore, the CRC Concluding Observations to Norway (2010) expressed concerns and recommended Norway give the responsibility of UAMs between 15 and 18 years of age to the CWS, as planned. However, seven years later, this recommendation still has not been implemented.²⁵⁸

I have great difficulties in understanding how immigration control such as the ongoing and even increasing use of § 8-8 over the past two years - which grants UAMs only a temporary residence permit - can be justified. Since the best interest of the child shall be a primary consideration and in Norway in this context, we can see how general immigration regulations override the principle of the best interest of the child. Whether general immigration control can trump the principle of

²⁵⁴ CRC General Comment Nr. 6 Para. 44-45 (*n* 29)

²⁵⁵ Ibid Para. 40 (*n* 29)

²⁵⁶ CRC Article 20 (3)

²⁵⁷ Michael Freeman, (*n* 183) Pp. 72

²⁵⁸ CRC/ CO Norway, Para 52 (e) (*n* 224)

the best interest of the child is already disputed, and as the CRC General Comment states, it cannot be justified.²⁵⁹ Nonetheless, if it does take precedence, it needs to be carefully explained and the consequences justified - and the Norwegian authorities have not provided a justification of the consequences the policy has on those children affected by it, also underscored by the Ombudsperson for Children.²⁶⁰

Practicing and stepping up the use of a strict immigration policy, which is broadly documented to be hazardous to a child's well-being, and legitimizing the policy due to financial costs, in one of the world's wealthiest countries, is also difficult to vindicate. Further to this, arguing that strict immigration policies is legitimate when the underlying objective is for these policies to serve as a deterrence measure to "protect" other children from migrating and send a message to all parents not to send their children as an *anchor* in a wealthy nation, is also ethically wrong. The anchor-child theory does not have scientific support; often, many of these minors still make the decision to flee or migrate together with their parents, while others still choose to flee on their own. The temporary residence permit policy does not even allow family reunification.²⁶¹ The facts that the policy is detrimental to children's psychological health, and that it prevents integration and seems to be working as push factors for children to go missing, are all valid reasons for indicating how the system does not operate well and is clearly not in the best interest of the child. Additionally, having the immigration authorities having overall responsibility for children in an extremely vulnerable situation is absurd. Finally, the best interest of the child is enshrined in several legal frameworks Norway is bound by, such as the CRC, as well as the Norwegian Constitution. Thus, the best interest of the child is recognized as a paramount objective by the Norwegian government, which should be a strong argument for Norway to revoke the temporary residence permit policy immediately and shift the overall responsibility for all UAMs to the CWS. Article 3 of the CRC is not absolute, and because of this, it is not a violation of the Convention; however, I will argue that the current practice is undermining the normative meaning of Article 3 and is very close to a breach it, as well as the Norwegian Constitution § 104.²⁶²

²⁵⁹ CRC General Comment Nr. 6 (n 29) Para 85

²⁶⁰ Email from Anders Prydz Cameron (The Office of the Ombudsperson) to author (16 June 2017).

²⁶¹ The Ombudsperson for Children, 'Temporary Residence Permit to Unaccompanied Minors', (*The Ombudsperson for Children*, Oslo 2 February 2016) <<http://barneombudet.no/wp-content/uploads/2016/02/Barneombudet-mener-asylinnstramninger.pdf>> accessed 14 November 2016.

²⁶² Norwegian Constitution § 104 (n 130).

5.3 The Age Assessment Procedure

5.3.1 THE ISSUE

The Norwegian government suspects that a number of those who apply for asylum claim they are minors when they are not.²⁶³ Hence, after November 2015, every UAM who applied for asylum and declaring an age between 15 and 18 were offered an age assessment test with an X-ray of the hand undertaken by Unilabs.²⁶⁴ In 2016 alone, a total number of 1800 unaccompanied asylum-seekers underwent the test - a very high number. For many UAMs, one of the first things they are offered is an age assessment test. Determining the age of asylum-seekers is necessary for the government to know what type of care the person has the right to, while waiting for the asylum application to proceed. Age can affect the asylum application in itself; for example, it will not be the same procedure for a child as for an adult seeking asylum. Failure to identify a UAM as a child will have devastating consequences for the child at stake. Therefore, as argued by Terry Smith and Laura Brownlees, these consequences “[reinforce] the need for state parties to treat the subject of age assessment with due diligence and sensitivity.”²⁶⁵ If the outcome of the age assessment estimates the person to be above 18 years, and if the asylum seeker comes from a country such as Afghanistan or some other nationality rarely granted protection by the Norwegian government, the chances for being given a permanent residence permit are slim. Some UAMs are scared that the outcome of the age assessment will estimate them to be above 18 years old. Other children, who have already been determined to be over 18 years of age, are frightened of being forcibly deported from Norway, and as a result, many of them go missing. Thus, the policy of the age assessment and how it has been carried out in Norway seems to be working as a push factor for UAMs to go missing and thus become extremely vulnerable. Previous research from Jan-Paul Brekke (2013), V. Paulsen and H Michaelsen (2015), Hilde Liden et. al (2013) and Berit Aasen et.al (2017) also mention the outcome of the age assessment as one of many reasons for why children go missing, although not so explicitly as I have done in my research. The primary cause of this, I will argue, is because it has become even harder for UAMs with Afghan origin to be recognized as children after an age assessment test over the last year.

²⁶³ NOAS and Save the Children, ‘Over or Below 18 years?’ (n 244).

²⁶⁴ News Channel 2 ‘Doctors Protest Against the Age Assessment’ (Tv 2, 4 January 2017) <<http://www.tv2.no/v/1132515/>> accessed 5 January 2017.

²⁶⁵ Terry Smith and Laura Brownlees, ‘Age Assessment – A Technical Note’ (UNICEF, January 2013) 7. <<http://www.refworld.org/docid/5130659f2.html>> accessed 3 January 2017.

5.3.2 STATEMENTS FROM INFORMANTS

Eight of the 14 interviewees discussed the age assessment, and criticized the way it was carried out. Here are some of their comments:

- ‘15th November 2016, four UAMs were picked up in the reception center by the police at night. The outcome of the age assessment estimated all of them to be above 18 years old, although myself, and their teacher said they were below 18. Almost half of the UAMs who stayed in this reception center were estimated to be above 18 years old, according to the outcome of the age assessment.’²⁶⁶
- ‘The biological aspect is dominant, and the child's ethnicity, health condition, and diet are not taken much into consideration. The outcome of the age assessment is usually always over 18 years old, I have almost never so far experienced an age assessment where the outcome was below 18 years old, and if there is an antinomy between the x-ray of the tooth or hand, they will always take the highest age.’²⁶⁷
- ‘The procedures of the age assessment test were developed many years ago, and designed for white middle-class teenagers in the USA. The test can deviate from 4 years plus/ minus, which makes me highly skeptical regarding this procedure. We were regularly in disagreement with the UDI about the outcome of the test. We gave our professional child-age evaluations according to the child's mental development, but these assessments were rarely taken into consideration. It seems like the UDI want's to have all UAMs out as fast as possible.’²⁶⁸

Another informant, a professional social worker from a transit center in Oslo, also underlined her experience of a boy threatening to commit suicide after he knew the outcome of the age assessment and he was told to move to an ordinary reception center where he would share a room with five to six other adults.²⁶⁹

5.3.3 INTERNATIONAL STANDARDS AND DOMESTIC LAW

There are no international laws governing how the age assessment should be carried out, but CRC Articles 2 (non-discrimination), 3 (the best interest of the child), and 8 (the right to preserve one's identity) can be breached if a child is identified and treated as an adult. CRC Article 8, the right to maintain one's identity, was drafted because many children had been disappearing in the Latin American States. On account of these disappearances, a delegation from Argentina submitted a draft proposal for a new article to the open-ended working group with a focus on the right and need to preserve a child's identity as such. An interesting remark is how the Norwegian delegation (again) criticized the suggestion from Argentina and saw no need

²⁶⁶ Interview with informant (2) guardian for unaccompanied minors from Vesterålen, (Stavanger 10 December 2016).

²⁶⁷ Interview with a guardian for unaccompanied minors in Oslo (1) (Oslo, 19 November 2016).

²⁶⁸ Interview with a professional social worker (11) from a transit center in Oslo (Oslo 3 December 2016).

²⁶⁹ Ibid (n 265)

for a separate article protecting a child's identity with the reasoning that it was already safeguarded in Article 7 of the CRC.²⁷⁰ Article 8 has a core meaning, which Jaap Doek explains is “to create a legal basis for the obligation of State Parties to prevent disappearances of children [...]”.²⁷¹ Although Article 8 puts forward State obligations to prevent and protect children from illegal disappearances such as child abduction, it might not be so relevant to UAMs who, in the majority of cases, are not abducted but go missing from reception and transit centers on a voluntary basis. On the other side, one of the main reasons assumed to be behind children going missing is the outcome of the age assessment classifying them as adults.

Norwegian Immigration Act § 88 stipulates how an age assessment can be offered if there is any doubt regarding an asylum-seekers age of an asylum application.²⁷² The UDI Directive: Guidelines for the Age Assessment of Unaccompanied Minors, provide instructions on how the age assessment shall be carried out.²⁷³ Besides many international guidelines and resolutions exist on age assessment procedures; among others, there are the UNHCR Guidelines on International Protection (2009), article (75).²⁷⁴

5.3.4 MAIN ACTORS

Since the medical evaluation was implemented in Norway in 2003,²⁷⁵ the University of Oslo's Institute for Clinical Odontology has been responsible for performing X-rays of the teeth. Unilabs, a private company working with radiology, carried out hand X-rays of UAMs since 2013.²⁷⁶ The results were sent to Barnesak AS also a private company with doctors evaluating both the results and provided a conclusion of the persons age. The conclusions were forwarded to the UDI, which was, and still is, the institution that takes the final decision and will decide upon the age of the asylum seeker.

5.3.5 THE AGE ASSESSMENT PROCEDURE

²⁷⁰ Sharon Detrick, *A Commentary on the United Nations Convention on the Rights of the Child* (Kluwer Law International, Martinus Nijhoff Publishers 1999) Pp. 160

²⁷¹ Jaap Doek, *A Commentary on the United Nations Convention on the Rights of the Child – Article 8 The Right to Preserve your Identity* (Martinus Nijhoff Publishers 2006) Pp. 8.

²⁷² The Immigration Act § 88 (n 134)

²⁷³ UDI Directive on Age Assessment (n 142)

²⁷⁴ UNHCR, ‘Guidelines on International Protection: Child Asylum Claims’ (UNHCR, HCR/GIP/09/08) (22 December 2009) <<http://www.unhcr.org/50ae46309.pdf>> accessed 25 June 2017.

²⁷⁵ Guri Tyldum et.al, ‘Not Our Children’ (n 23)

²⁷⁶ NOAS and Save the Children ‘Over or Below 18 years?’ (n 244)

Three different factors are essential for the government to determine, according to Line Ruud Vollebæk (2014).²⁷⁷ These three elements are as follows: whether the UAMs in question are over or below 18 years old; whether they are over or under the age of 16; and what type of follow-up and care UAMs will get while their asylum application proceeds. There are two different phases of the age assessments in Norway. Usually, within the first few days, case officers from the Police Unit (PU) estimate the age of the asylum seeker after the first interview, and this result will determine what kind of care the asylum seeker will have during the asylum process. For example, it will determine whether or not she or he will be placed in an ordinary reception center together with adults or in a reception center for UAMs.²⁷⁸ So, for everyone under 18 years of age, the CRC and other legal instruments for children are applicable, and the age of an asylum seeker is crucial.

To acquire the correct age has, however, proved to be challenging. Some children may not know their age and/or lack legal documents. Others might be forced to lie and carry fake identification, and so on. For the second age assessment test, the outcome will affect the decision of the asylum application. When the outcome of the age assessment, estimated the asylum-seeker to be above 18 years old, an additional x-ray of the teeth was taken. The University of Oslo's Institute for Clinical Odontology, has since the medical evaluation started, been responsible for undertaking these X-rays (of the teeth) as well. Moreover, two independent dentists evaluated the results.²⁷⁹ The results from both the dental and hand x-rays were forwarded to Barnesak for evaluation and conclusions.²⁸⁰ After Barnesak AS gave their conclusions, the results was sent back to UDI, and after an interview with the UAM, the UDI provided the final conclusion, which again would affect the outcome of the asylum application.²⁸¹ Barnesak has operated in agreement with UDI and evaluated age assessments on UAM since the contract started in 2013.²⁸² However, due to the amount of criticism, Barnesak, Unilab and the University of Oslo's Institute for Clinical Odontology decided to drop the agreements, and Oslo's University Hospital took over the

²⁷⁷ Line Ruud Vollebæk, 'Social Work with Vulnerable Migrants', (2014). Oslo City Council, Pp. 135

²⁷⁸ NOAS and Save the Children 'Over or Below 18 years?' (n 244) Pp. 75

²⁷⁹ Randi Lillealteren, 'The Procedure of the Age Assessment' *Research.no* (Oslo, 13 October 2015) <<http://forskning.no/innvandring-biologi-barn-og-ungdom/2015/10/slik-foregar-alderessjekk-av-mindrearige-asylsokere>> accesses 27 December 2016.

²⁸⁰ UDI Directive on Age Assessment (n 142)

²⁸¹ NOAS and Save the Children 'Over or Below 18 years?' (n 244) Pp. 49

²⁸² NOAS and Save the Children 'Over or Below 18 years?' (n 244) Pp. 54

medical age assessment procedures, on January 27, 2017.²⁸³ The new procedures are still not in place, and the documents from UDI are being revised.²⁸⁴ With this in mind, I will examine only how the age assessment was carried out in Norway until the end of January 2017.

5.3.6 ANALYSIS OF DATA

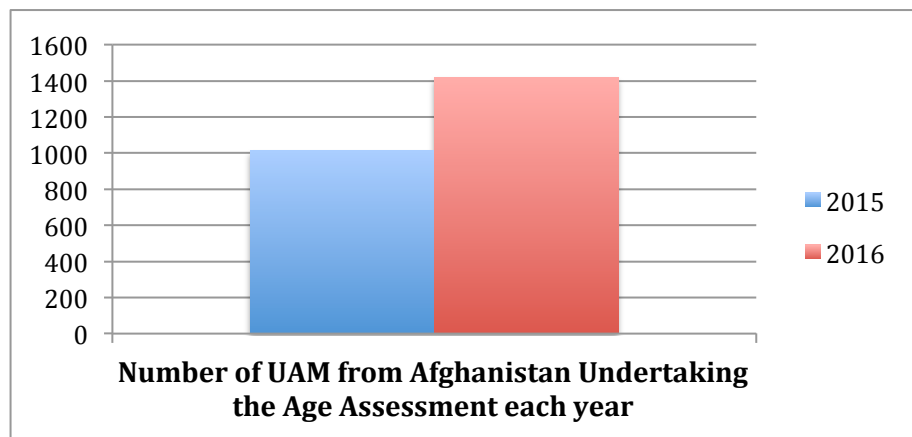


Figure 8: Source UDI.²⁸⁵

According to data provided by the UDI, 1013 asylum-seekers from Afghanistan underwent the age assessment in 2015; whereas in 2016, 1420 asylum-seekers of Afghan origin took the age assessment.²⁸⁶ From the graph above, it becomes apparent that there has been an increase in the number of UAMs undertaking the age assessment over the last year. What is perhaps more striking is when analyzing the graph below, it becomes evident how many more teenagers from Afghanistan were defined as above 18 years old after the age assessment in 2016, compared to 2015.

²⁸³ UDI, 'Practical Note - Proceedings of Asylum Applications from Unaccompanied Minors' (PN 2012-011) (UDI, 13 June 2017) <<https://www.udiregelverk.no/no/rettskilder/udi-praksisnotater/pn-2012-011/>> accessed 17 June 2017.

²⁸⁴ Ibid UDI Practical Note (n 283)

²⁸⁵ Ibid Thomas Mortensen (n 3)

²⁸⁶ Email from Thomas Mortensen (n 3)

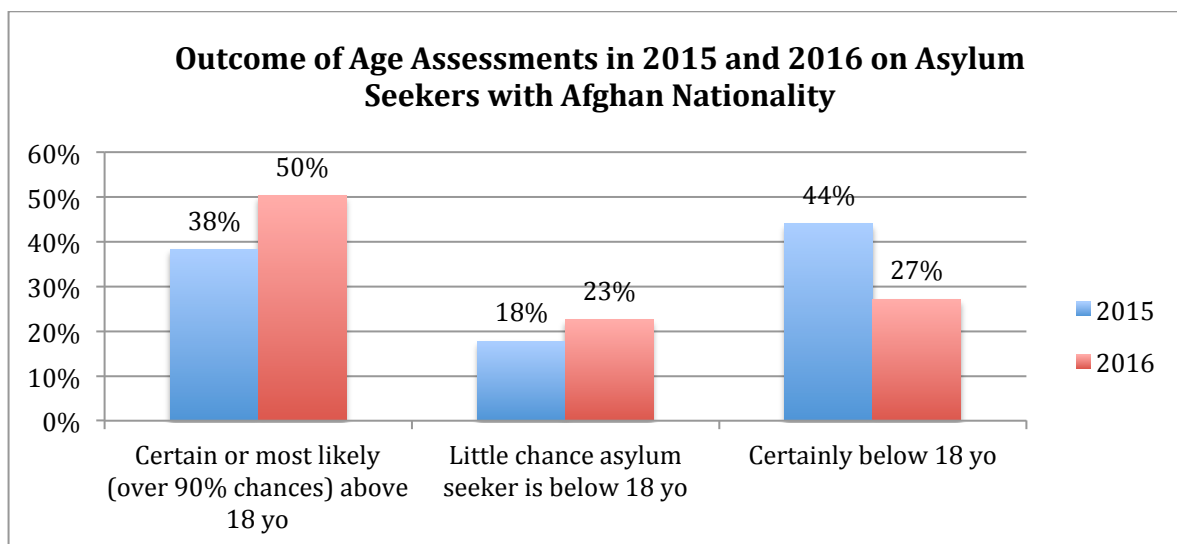


Figure 9: Outcome of age assessment for 2015 and 2016, source UDI.

By looking at the graph above, it reveals how 50 percent of all UAMs from Afghanistan, were estimated to be above 18 years of age in 2016, compared to 38 percent in 2015. Thus, the percentage determined as adults increased by 12 percentage points in 2016 compared to the year before. Simultaneously, fewer asylum seekers were classified as children in 2016, with only 27 percent of the total amount of 1420 defined as definitely being below 18 years of age, compared to the 2015 numbers – when 44 percent identified as definitely being below 18 years old.²⁸⁷ This means that the number of asylum seekers estimated to definitely or most likely be under 18 years of age decreased by 17 percentage points in 2016. In other words, there has been an increase in the number of unaccompanied asylum seekers classified as adults, and simultaneously, a decrease in asylum seekers identified as children after the medical age assessment, throughout 2016, compared to the previous year. We have seen how throughout 2016 alone, 176 unaccompanied minors went missing, and their whereabouts were still unknown by December 31, 2016, compared to 60 UAMs who were lost in 2015 and 42 UAMs in 2014. The statistic shows how there has been a steady increase in the number of children going missing each year. Furthermore, statistics also show how it has become harder over the past two years to be classified as a child as per the age assessment test. According to my findings, I will argue that here seems to exist a clear relation between the decreased chances of being categorized as a child through the age assessment, and the increase in the number of children who go missing. In the newly published study conducted by Berit Aasen et al (2017) when analyzing personal cases of

²⁸⁷ Email from Thomas Mortensen, Case Officer at the UDI Statistic Department (*n* 3)

missing children, among the children who went missing within the first six months of 2015, the study found that 60 percent of them had undergone the age assessment.²⁸⁸

5.3.7 CRITICISM TOWARDS THE AGE ASSESSMENT PROCEDURES

The medical procedures of the age assessment, and whether or not the methods are good enough, have been strongly criticized and debated. If the verdict of the age assessment is that the asylum seeker is over 18 years old, a number of consequences follow. Firstly, in June 2013 the CJEU gave its ruling - in cases where an UAM had applied for asylum in more than one State (and has no family member nor relatives legally present in the Member State where the last application was registered), the State is responsible for the application.²⁸⁹ Thus, the Dublin 3 regulation takes UAMs more into consideration and shall respect the best interest of the child. However, the ruling is not applicable to those asylum seekers who are deemed to be 18 or older based on the outcome of the age assessment, as they are not considered as children. Furthermore, the form of care and follow-up the person will be granted while waiting for the asylum application to proceed will differ by outcome. When the age assessment below 15 years old, the asylum seeker will be under the responsibility of the CWS and as argued previously, be granted better care and follow-up. Children who are estimated to be over 15 years old will be moved to a reception center only for UAMs and come under the responsibility of the UDI. Finally, those asylum seekers who are assessed to be over 18 years old will be placed in an ordinary reception center together with adults. In the latter reception centers, the conditions are the worst, as there is almost no follow-up, and the asylum seekers are more or less left to themselves.²⁹⁰ Additionally, asylum seekers estimated to be over 18 years old have no right to a guardian²⁹¹ and no rights to a lawyer.²⁹²

The joint report *Over or Below 18 years?* (2016), conducted by Save the Children and NOAS, underscore that no age assessment methods can be 100 percent sure of a person's chronological age.²⁹³ Many factors play a role, and a child's mental development cannot be determined through X-rays, the report argues. Besides, X-rays will not be able to take into consideration

²⁸⁸ Berit Aasen, (n 25) Pp. 54

²⁸⁹ *MA & Others v UK* (C-648/11) (ICJ, 6 June 2013)

<<http://curia.europa.eu/juris/document/document.jsf?text=&docid=138088&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=376937>> accessed 25 June 2017.

²⁹⁰ NOAS and Save the Children 'Over or Below 18 years?' (n 244) Pp. 26

²⁹¹ Cathrine Holst Salvesen 2014, (n 148) Pp. 41.

²⁹² UDI, Directive on Age Assessment (n 142) Section 6.3

²⁹³ NOAS and Save the Children 'Over or Below 18 years?' (n 244) Pp. 17

different backgrounds, ethnicities, or living and health conditions. Furthermore, a child's diet and health will also affect both the skeleton and the teeth. Children who have been suffering from malnutrition (which is the case for many UAMs) can have delayed skeleton maturation, according to the European Journal of Pediatrics (2015).²⁹⁴ The Journal underlines that “[i]n reality, age can only be estimated by measuring or observing features that are associated with chronological age. Features include height and weight measurement, signs of sexual maturity and observation of behavior.”²⁹⁵ Neither is one common standard fruitful enough to use on UAMs with many different backgrounds.²⁹⁶

The Norwegian Medical Association also strongly condemns the way the age assessment was carried out and justified in December 2016, and how the methods in use were uncertain.²⁹⁷ The President of the Norwegian Association for Doctors, Marit Hermansen, stated the following: “For the time being, too much uncertainty exists related to the age assessments when the consequences are so decisive for these young people, and the uncertainty of the test so high, we do not want doctors to carry out age assessment tests.”²⁹⁸ Hanne Jendal, Head of Department from UDI, admits the age assessment procedure is not a precise method, but nevertheless defended the process, as UDI always have a margin of safety.²⁹⁹ Skepticism also exists on the international level. Among others, GRETA has criticized the age assessment procedure in their two latest reports, stressing how a number of member states do not have a holistic approach to carrying it out, noting that a proper estimation would also account for the UAMs’ psychological maturity.³⁰⁰ In its sixth General Report (2017), GRETA underlined relevant concerns and used the example of case officers from the Immigration Authorities in the UK, who - due to the affiliated costs - were, in some occasions, reluctant to classify UAMs as under 18 years of age.³⁰¹ Furthermore, Professor in Health Studies Jacqueline Bhabha (2014) underscored her concerns and stated:

²⁹⁴ Sauer, P.J.J., Nicholson, A. & Neubauer, D. et. Al. ‘Age determination in asylum seekers: physicians should not be implicated’ [2015] 175(3) Web Springer Verlag 299 <<https://link.springer.com/content/pdf/10.1007%2Fs00431-015-2628-z.pdf>> accessed 24 June 2017.

²⁹⁵ Ibid, Sauer (n 294) Pp. 2

²⁹⁶ Ibid, Sauer (n 294)

²⁹⁷ The Norwegian Medical Association, ‘Criticism towards Doctor for carrying out the Age Assessment’. (*The Norwegian Medical Association*, 12 December 2016) <<http://legeforeningen.no/lokal/nordland/Nyheter/Kritikk-til-lege-for-aldervurdering-/>> accessed 28 December 2016.

²⁹⁸ Tv 2 News, ‘Doctors Protest Against the Age Assessment’ (January 2017) (n 261)

²⁹⁹ NOAS and Save the Children ‘Over or Below 18 years?’ (n 244) Pp. 57

³⁰⁰ Council of Europe GRETA, ‘6th General Report on GRETA’s Activities’ (*GRETA*, March 2017) Pp.51 <<https://rm.coe.int/1680706a42>> accessed 24 June 2017.

³⁰¹ Council of Europe GRETA, ‘6th General Report Pp. 52 (n 300)

‘An age determination is extremely difficult to do with certainty, and no single approach to this can be relied on. Moreover, for young people aged 15-18 years, it is even less possible to be certain about age...age determination is an inexact science and the margin or error can sometimes be as much as 5 years either side.’³⁰²

The uncertainty and lack of scientific support of the age assessment was also indicated in a decision provided by the Court of Appeal in Norway. In November 2016, many UAMs were picked up by the police at night across Norway and sent to Trandum, a detention center where irregular migrants are detained before they are forcibly deported out from the country. When *A* from Afghanistan came to Norway in 2016, the PU (who interviewed the boy first), as well as *A*'s guardian argued *A* was 16 years old. However, after the age assessment, Barnesak estimated his age to be around 20 years old.³⁰³ As a result of the age conclusions from Barnesak as well as the UDI, *A* was picked up by the police at night and sent to Trandum. Trandum is a detention center next to Gardemoen Airport in Oslo. It is covered in wires and strictly guarded doors and locks, and it looks like a prison. *A*'s guardian and lawyer took the case to court. On December 2, 2016, the second highest court in Norway, the Court of Appeal, ruled that *A* ought to be released from Trandum, because he was not an adult but in fact a child. The Court concluded the following:

‘The majority has come to a conclusion; it is not likely that A is above 18 years, especially taking into the consideration the uncertainty of the age assessment, combined with the lack of information on how much consideration is taken regarding the margin of error of the test. [...] A has been imprisoned much longer than 24 hours, which when following the main rule stipulated in the report to the Storting. 27 (2011-2012) should be the maximum [...]. The majority does not agree that it is ‘absolute necessary’ to keep A imprisoned. On these grounds, A shall be released.’³⁰⁴

Unfortunately, despite the strong effort from *A*'s lawyer and guardian to prevent the boy from being forcibly deported and the decision from the second-highest court, *A* was sent back to Kabul alone, only a day after the court ruled him to be released.³⁰⁵ Legal scholar Eirik Bjørge emphasized how the Immigration Authorities has shown strong contempt towards the principle of the rule of law in Norway.³⁰⁶

³⁰² Jacqueline Bhabha (*n* 30) Pp. 217

³⁰³ Court of Appeal LB-2016-191958 (2 December 2016) <<https://lovdata.no/dokument/LBSTR/avgjorelse/lb-2016-191958?q=Lagmannsretten%20desember%20fengsling%20alderstest>> accessed 28 December 2016.

³⁰⁴ Court of Appeal (*n* 303)

³⁰⁵ Thomas Olsen and Lene Li Dragland, ‘Forced Deported despite the Court of Appeal Ruled he was a Child’ Aftenposten (Kabul, 8 December 2016) <<https://www.aftenposten.no/norge/Sendt-ut-selv-om-retten-fastlo-at-han-er-et-barn-Vi-er-utrygge-her-i-Kabul-og-redde-for-a-ga-ut-610236b.html>> accessed 25 June 2017.

³⁰⁶ Anne Stine Sæther, ‘Law experts after the release of Wazir: UNE has shown contempt for court’ VG (Oslo, 8 December 2016) <<http://www.vg.no/nyheter/innenriks/alderstest-av-asylsoekere/juseksperter-etter-utsendelsen-av-wazir-une-har-vist-forakt-for-retten/a/23865289/>> accessed 25 June 2017.

5.3.8 CRITICAL ANALYSIS – PART 1

From the information my informants gave, and from the study conducted by Save the Children and NOAS (2016) as well as other criticism raised by medical professors concerning the procedure of the age assessment, two main factors can be considered. First, the degree of uncertainty of the test and the lack of a holistic evaluation with too much focus solely on the medical assessment. Second, the policy implemented in November 2015, which offered every child claiming to be a UAM between 15 and 18 years old to undertake an age assessment.

The UDI Directive's Guidelines for the Age Assessment of Unaccompanied Minors show, under Section (6.1), how the medical assessment is only one of several other factors taken into consideration before estimating an unaccompanied minor's age.³⁰⁷ The Directive encourages social workers at reception and transit centers to give their assessments on the age of the asylum seeker. However, the weight and value of these particular age estimations are not clearly outlined in the Directive.³⁰⁸ Case officers from the UDI or the PU can give their non-medical age estimations. On the other hand, they often have no relevant child-focused expertise to qualify them to estimate a child's age. Too much focus tends to be put on the physical appearance of the asylum seeker, according to Save the Children and NOAS (2016). The report states that "[t]o carry out a good non-medical age assessment, it is necessary with child competency of the psychosocial development of children. [...] there is no certainty that case officers at the UDI have the adequate skill to carry out such age assessments."³⁰⁹ Furthermore, the Children's Legal Centre in the UK states the following: "Within ethnic and national groups there are wide variations in young people's size, the age of puberty and so on."³¹⁰ Having too much focus solely on a person's appearance is problematic, as a result can be far from the person's actual chronological age. Thus, children might risk being sent to asylum centers for adults - which can be detrimental to a child for many reasons.

First, we have seen how various medical professors and experts argue, and how the X-ray of the hand and teeth are not foolproof methods of estimating a person's age. Some of my informants also criticized the deviation of the plus/minus four years of the test. This fact underlines the necessity of including a non-medical assessment conducted by professional child specialists in

³⁰⁷ UDI Directive on age assessment (n 142) section 6.1

³⁰⁸ UDI Directive on age assessment (n 142)

³⁰⁹ NOAS and Save the Children 'Over or Below 18 years?' (n 244) Pp. 78

³¹⁰ The Children's Legal Centre in UK, 'Seeking Support A Guide to the Rights and Entitlements for Young Refugees' (CORAM, 2009) Pp.55 <http://www.seekingsupport.co.uk/files/seeking_support031113.pdf> accessed 25 June 2017.

reception centers as well as teachers who closely follow up with UAMs and thus should be able to estimate their mental, cognitive and psychosocial development. Although the UDI Directive stipulates that social workers can send their age estimate to the UDI on a voluntary basis when UDI is uncertain about the UAMs' age, the UDI does not collect these systematically. This point was also stressed in the Norwegian authorities reply to GRETA's questioner in 2016.³¹¹ Moreover, according to several of my informants, although they submitted their non-medical child-professional age estimations to the UDI, these reports were seldom taken into consideration.³¹²

A number of my informants emphasized how they were often in disagreement with the UDI when the outcome of age was tackled. However, professional social workers from reception centers or teachers cannot provide their non-medical age estimations if the case officer from UDI or PU has no doubt on the asylum seekers age, although they are in disagreement with the outcome of the medical assessment.³¹³ Moreover, Save the Children and NOAS went through 50 cases of UAMs and not in one single case did they find non-medical estimations by skilled professionals from reception centers, teachers or guardians for UAM - which had affected the outcome of the age assessment.³¹⁴ They argue in the report:

‘The lack of qualified age assessments on an unaccompanied asylum-seeker psychosocial development from trained professionals, today result in the absence of a holistic approach to the age evaluation procedure.’³¹⁵

Thus, my findings from my informants, who argued that their non-medical child-professional age assessments were rarely taken into consideration by the UDI, and the lack of a holistic approach such as a medical assessment combined with estimations on behavior, are in line with the findings from Save the Children and NOAS. Furthermore, another interesting fact is how the report also reveals the UDI rather increased the estimated age of the UAMs, from one to several years, in 40 of the 50 cases.³¹⁶ In another research study conducted by Guri Tydlum et al (2015),

³¹¹ CoE GRETA, ‘Reply from Norway to the Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the parties’ GRETA(2016)4 (GRETA, Strasbourg 16 February 2016) Pp.7 <<https://rm.coe.int/16806321c3>> accessed 25 June 2017.

³¹² Interview with a professional social worker (11) from a transit center in Oslo (Oslo 3 December 2016).

³¹³ NOAS and Save the Children ‘Over or Below 18 years?’ (n 244) Pp. 80

³¹⁴ NOAS and Save the Children ‘Over or Below 18 years?’ (n 244) Pp. 89

³¹⁵ NOAS and Save the Children ‘Over or Below 18 years?’ (n 244) Pp. 86

³¹⁶ NOAS and Save the Children ‘Over or Below 18 years?’ (n 244) Pp. 91

it is noted that there is a lack of consistency and that it often depended on the case officer to what degree other aspects (apart from the medical assessment) were taken into consideration.³¹⁷

Two independent dentists at the University of Oslo's Institute for Clinical Odontology were in charge of evaluating the dental X-rays in Norway until the end of January 2017. They noted: "We are looking at wear and tear of the teeth, discolored teeth, teeth that have fallen out and for big holes."³¹⁸ Sigrid Kvaal, one of the dentists from the Institute, explained how they estimated the age of the asylum seekers. The second point I want to underscore is how, according to one of my informants, the age assessment was developed many years ago, on white middle-class teenagers from the United States.³¹⁹ Today, there are strong reasons to believe that the socioeconomic situation will affect the development of a child.³²⁰ A child's healthcare and diet naturally also play a significant role. Children who have been on the move for several months, who do not brush their teeth, use flour, or are undernourished as a result of being in transit, are all factors which have an impact, especially on the child's dental care. Besides this, different cultures might have different views and resources available on dental hygiene. Additionally, the European Journal of Pediatrics emphasizes the following: "As dental development is in most cases not finished at 18 years, it cannot be used to differentiate between ages below or above 18 years."³²¹ Having in mind that the majority of UAMs fleeing and migrating to Norway are most likely not given the same dental care as Norwegian children, it will thus not be a suitable comparison. I will argue that looking for damage, big holes, and discolored teeth to estimate a person's age is absurd. These children most likely do not obtain the same dental care standard as other kids living in wealthy countries. Thus, the age assessment procedure carried out in Norway for many years up until the end of January 2017, was neither a precise nor scientific method to use. This reinforces the importance of always including a non-medical age assessment component.

5.3.11 CRITICAL ANALYSIS – PART 2

Was the age assessment procedure in line with international standards? I have shown as many as 50 percent of all the UAMs who underwent the age assessment in 2016 were estimated to be over 18 years old. This means 50 percent of the UAMs in most of the cases were most likely also

³¹⁷ Guri Tydlum et al. (*n* 23) Pp. 70

³¹⁸ Randi Lillealteren (*n* 279)

³¹⁹ Interview with a professional social worker (11) from a transit center in Oslo (Oslo 3 December 2016).

³²⁰ Sauer (*n* 294)

³²¹ Sauer (*n* 294), Pp.299.

treated as adults. Some of these asylum seekers were probably over 18 years of age; however, taking into consideration the medical test's margin of error - often up to five years - as well as the lack of a holistic approach, there are strong reasons to believe that many of these asylum seekers were in fact children.

If a child is deemed over 18 by the Immigration Authorities after an age assessment test is carried out but the age estimation is erroneous, which the Court of Appeal argued was the case of *A* (above), it can violate certain rights. If a child is defined as an adult as a result of a medical age assessment test, and thus treated as such despite his or her being, in fact, a child, does this not amount to deprivation of a person's identity? Article 8 of the CRC stipulates the right for every child to preserve her or his identity. Now, although the Convention refrains from defining identity, in a commentary on the Convention, legal scholar Jaap Doek discusses the concept of identity: He states that identity can be defined as “the subjective feeling of continuously being the same person and it seems to be a consensus that identity is a concept that develops in the course of the child's development [...]”³²² The lists of elements on what constitute a child's identity are non-exhaustive in the Convention.³²³ In the Convention, it is noted how ‘State Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations.’³²⁴ Legal scholar Sharon Detrick argues the word *including* was added in order not to exclude other elements of identity.³²⁵ Detrick also underlines how Article 8 should be interpreted in a positive manner having the principle of the best interest of the child always in consideration.³²⁶

I will argue that a child's age is a crucial element in what forms a person's identity. A person's age indicates how long you have lived as well as which other individuals you will most likely identify yourself with, overall. Another important element of identity is birth and birth registration, which is also linked to a person's age. Age as a part of identity for children is of particular importance and often of more importance for children than for adults. Doek argues how the age group of a child says something about the expectations society has of the child and also which rights the individual has.³²⁷ What is of more importance the age or perhaps nationality for an individual, is probably subjective. However, children are very early in their

³²² Jaap Doek, (n 271) Pp. 10

³²³ Jaap Doek, (n 271)

³²⁴ CRC Article 8

³²⁵ Sharon Detrick, (n 270) Pp. 162

³²⁶ Sharon Detrick, (n 270) Pp. 163

³²⁷ Jaap Doek, (n 271)

childhood aware of their age and might not even know or care about their nationality, as listed as one of the protected grounds in Article 8. Moreover, Article 8 (2) states that “State Parties shall provide appropriate assistance and protection [...]”.³²⁸

Sending *A* back to Kabul because the Immigration Authorities had identified *A* as an adult with no rights to protection, was an act breaching Article 8 of the CRC. Because treating *A* (a child) as an adult deprived *A*’s right to preserve his identity as a child, it was an interference with the right to preserve your identity which cannot be justifiable and had devastating consequences for *A*. Also, Article 3 (on the best interest of the child) was breached in this case, because it was not in the best interest of *A* to be sent back to Afghanistan against his will, alone as a child.³²⁹ Treating a child as an adult and deprive him or her of all the fundamental rights a child has would also breach Article 2 of the CRC. For a case to qualify as discrimination, the differential treatment has to be grounded in race, color, etc., but can also be grounded in what is also called *other status*.³³⁰ The *other status* clause is partially open-ended, which means that it is not to say on ‘every possible ground’ that would be absurd, according to legal scholar Bruce Abramson. Rather, the *other status* clause needs to be read in association with the other listed characteristics, such as ‘social origin’ for example.³³¹ *Other status* means that the CRC Committee does not exclude the possibility for other grounds to be discriminated on apart from the ones mentioned above. *A* was discriminated against on the basis of his age when he was identified and treated as an adult. He was deprived of his rights as a child, which had significant consequences for him, as he was detained for over 24 hours and forcibly deported to Kabul by himself. Neither the Immigration Act, the Immigration Regulation or the Child Welfare Act mention how the benefit of the doubt should be respected in cases where the age of the asylum seeker is uncertain. However, the General Comment No. 6 section 31 A, dictates how the benefit of the doubt should be respected in cases where there is a possibility that the individual is a child, s/he should be treated as one.³³² In the case of *A*, the Immigration Authorities did not take the benefit of the doubt into consideration, which also undermines the General Comment No. 6.

³²⁸ CRC Article 8 (2)

³²⁹ CRC Article 3

³³⁰ Frøydis Heyerdahl, ‘The right not to be Discriminated’ (n 251)

³³¹ Bruce Abramson, *A Commentary on the United Nations Convention on the Rights of the Child – Article 2 – The Right of Non-Discrimination* (Martinus Nijhoff Publishers 2008) Pp. 28

³³² General Comment No. 6 Section 31 A (n 29)

The CRC Committee, they also expressed their concern and recommends Norway in Para 52(d) to “[e]nsure that age determination procedures are conducted in a scientific, safe, child and gender-sensitive and fair manner, avoiding any risk of violation of the physical integrity of the child.”³³³

Would *A* have any possibility to file an individual complaint? The Optional Protocol to the CRC on a Communication Procedure, which stipulates the right for children to submit a complaint about a human rights violation, is a significant effort of States to enhance children's access to justice. However, Norway has not ratified the procedure.³³⁴ When countries such as Norway are not willing to ratify this important mechanism for children's access to justice, it sends a signal to all other countries - that children's rights to access justice is not a matter of priority.³³⁵

Although there are no international laws on how an age assessment shall be carried out, many international guidelines exist, and all of them underline the necessity of always having a holistic approach and never relying solely on the medical assessment. These guidelines also generally assert that age assessment tests should be used only as a last resort.³³⁶ I have, in the section above, shown documentation from pediatrics, doctors, medical professors, my informants and the Court of Appeal opinions on the uncertainty of the method used concerning the age assessment procedure, and thus how doctors refrain from taking part in it.

I will argue how the lack of a holistic approach and the medical assessment's domination on the outcome of the age assessment test undermines a number of international guidelines, such as the CRC General Comment No. 6 Art. 31 (1),³³⁷ the CoE's Parliamentary Assembly Resolution: 1810 (2011) Para.5.10, UNHCR guidelines (1997) on ‘Policies and Procedures in dealing with Unaccompanied Asylum Seeking Children.’ Para. 5 (11), as well as UNICEF guidelines (2013). In all these international guidelines, resolutions and General Comments, it is explicitly stated that there exists a need for a holistic approach and that the medical age-assessment should not outweigh other age assessments such as the psychosocial evaluations. Although these guidelines are soft law and not legally binding, the mere fact that all of these instruments stipulate the same need for a holistic approach, they all point in the same direction. It is not only one international

³³³ UN CRC Committee C/O Para. 52(d) (n 224)

³³⁴ OHCHR, ‘Ratification Status for Norway’ (OHCHR 2017)

<http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=129&Lang=EN> accessed 25 June 2017.

³³⁵ Høstmælingen et al ‘*The Convention on the Rights of the Child - Children's rights in Norway*’ (n 26)

³³⁶ Terry Smith and Laura Brownlees (n 265)

³³⁷ CRC Committee, GC Nr. 6, Section 31 (n 29)

guideline, but many different instruments. When many various guidelines are pointing in the same direction, the message these international standards convey combined also proves the importance of the message being conveyed and ought to be followed by States.

In November 2015 a new police was implemented, which offered every child who informed he/she was a UAM between 15-18 years to undertake an age assessment.³³⁸ Save the Children and NOAS went through 50 cases in their research (2016) and found that UAMs also took the age assessment in cases where case officers from UDI were of the opinion that the age provided by the child was correct. Having a practice in over one year, where all UAMs claiming to be between 15 and 18 years are offered an age assessment, in contradiction of Norwegian Immigration Act § 88, which stipulates that an age assessment can be carried out in individual cases, when there is doubt of a UAM's age, with the consent of the asylum seeker - in other words, not for a whole group, which was the practice between 2015 and 2016.³³⁹ This practice was also acting in contradiction to the UNHCR Guidelines on International Protection (2009),³⁴⁰ and CoE's Parliamentary Assembly Resolution, 1810 (2011) where Para. 5.10 states that "age assessment should only be carried out if there are reasonable doubts about a person being underage."³⁴¹ Moreover, the UNICEF Guidelines (2013) stipulate that the "[a]ge assessment should only be initiated as a measure of last resort."³⁴² Offering an age assessment test to all declaring their age to be between 15 and 18 indicates how the practice was not only used when there was a shadow of a doubt but also became standardized over a long period of time. Thus, the government's practice was undermining all these international guidelines.

Finally, to carry out an age assessment test, the children have to provide their consent, as stipulated in the UDI Directive.³⁴³ Having said that, if the UAM does not give his or her consent to take the test, it will nonetheless affect the asylum decision and the trustworthiness of the asylum-seeker, according to UDI.³⁴⁴ NOAS and Save the Children raise the question of how certain we can be that children can give their consent to undertake the age assessment, without any form of pressure?³⁴⁵ How voluntary is the age assessment, really? The way the age

³³⁹ NOAS and Save the Children 'Over or Below 18 years?' (n 244)

³⁴⁰ UNHCR Guidelines 'Guidelines on International Protection' (n 274)

³⁴¹ Council of Europe Parliamentary Assembly Resolution 1810 (2011) 'Unaccompanied children in Europe: issues of arrival, stay and return' (15 April 2011) paragraph 5.10

³⁴² Terry Smith and Laura Brownlees (n 265)

³⁴³ UDI Directive on age assessment (n 142)

³⁴⁴ Ibid (n 142)

³⁴⁵ NOAS and Save the Children 'Over or Below 18 years?' (n 244)

assessment was carried out in Norway until end of January 2017 was undermining all these international guidelines. Moreover, the consent procedures left UAMs with few other alternatives apart from undergoing an age assessment.

5.4 Summary

In chapter 5 I have discussed the two most important policies according to my research, with relation to why UAMs goes missing. In the first part of Chapter 5, the tightening immigration policy and relevant items such as details of the temporary residence permit was discussed. 144 of those 226 unaccompanied minors, who went missing between January 2015 and December 2016, came from Afghanistan. We have seen how there was a vast increase in the number of children from Afghanistan who were granted only a temporary residence permit in 2016, and simultaneously, an increase of UAMs going missing from reception centers throughout 2016. I argued that the policy of temporary residence permit cannot be in the best interest of the child and serves as a push factor for children to go missing from reception and transit centers. Which again increases their vulnerability to exploitation and inadequate care. In the second part of the chapter, I provided a critical analysis of the age assessment procedure in Norway and argued how the age assessment process was acting in contradiction to Immigration Act § 88 as well as undermining various international standards. The increase in the number of UAMs undertaking the test and the uncertainty of the procedures enhances the risk for many children to be erroneously estimated as being over 18 years of age - leading to these children being deprived of their children's rights as such. Some of my informants emphasized the risk for suicidal attempts among UAMs after they know the outcome of the age assessment and the devastating feeling of not being believed when telling the truth. Finally, I argued how the outcome or the fear of the results of the age assessment also work as a push factor for UAMs to go missing. Many UAMs see no other course of action apart from running away, go underground and trying to survive on their own rather than being sent back to an extremely uncertain future.

Chapter 6: Research Findings - Follow up When Unaccompanied Minors go Missing

6.1 The Issue

‘Thousands of refugee children and youth arrives alone in Norway, Sweden and rest of Northern Europe. Many of these kids disappear without any State being willing to take the responsibility.

The children are registered as missing, but no one is trying to search for them, or find out where they are.’³⁴⁶

There is a vast increase of the number of unaccompanied children who have gone missing over the last years. What measures are put in place when a child is missing from reception or transit center? Is there anyone who tries to find the whereabouts of these children? The main objective of Chapter 6 is to analyze the follow-up from relevant stakeholders when children go missing in Norway.

6.1.2 STATEMENTS FROM INFORMANTS

Eight of my 11 interviewers who answered the question concerning the police work were highly concerned about the lack of investigations and searches for UAMs who have gone missing. Some of them said the following:

- ‘No one is searching or investigating when UAMs go missing [...]. The police have enough resources, it is more about our current government and the tightening asylum policy they implement, the political development is quite bad right now.’³⁴⁷
- ‘All the employees in the reception center is reporting to the police every time a child goes missing and always within 24 hours. However, the police are not doing anything about it, they are not searching to find the whereabouts of these children [...] the police say they do not have the capacity to search for them, but it seems like the police do not care, UAMs are second-rate.’³⁴⁸
- ‘Vi had precise routines whenever an UAM went missing, which was on a regular basis. When I called the police, they just forwarded me to another unit in the police, and these persons usually did not know how to handle the case and what to do. It took a long time before the police improved. It is shocking that the police in Oslo did not have any clear guidelines on how to handle cases where UAMs went missing. Still today the police are only registering the person missing in the national register, and that's all. Not even once did the police come to our transit center in Oslo and ask for information, they did not talk to the other children, nor the employees at the transit center to gather information about the missing child.’³⁴⁹

Only two of my informants, one of them a police officer, the other one a social worker from Kristiansand, were of the opinion that the police searched for the missing children, but they could only speak of the police work in Kristiansand,³⁵⁰ which is a small city in the south of Norway. The police officer also emphasized how the police depended on information on the

³⁴⁶ Katia Wagner, ‘On your Own Children who Disappear’, (n 19)

³⁴⁷ Interview with a guardian for unaccompanied minors in Oslo (1) (Oslo, 19 November 2016).

³⁴⁸ Interview with informant (2) guardian for unaccompanied minors from Vesterålen, (Stavanger 10 December 2016).

³⁴⁹ Interview with a professional social worker (11) from a transit center in Oslo (Oslo 3 December 2016).

³⁵⁰ Interview with a former professional social worker from a reception center for unaccompanied minors in Kristiansand and a current employee for the Child Welfare Service in Kristiansand (10) (Oslo, 25 November 2016).

missing child and that reception centers report to the police when children go missing in order to carry out an investigation or to search for the child.³⁵¹

6.1.3 LAWS AND DIRECTIVES

Currently, there are no laws explicitly stating that all UAMs who go missing shall be searched for. Having said that, Police Instruction Act § 12-4 dictates how “[t]he police are obliged to take care of and guide children who are lost so that they can be reunited with their parents or legal responsible as soon as this is practicable.”³⁵² Additionally, Police Law §12 section 3 states the following:

‘The police may force one’s way into homes, rooms or other places to search for missing persons or help sick, injured or others who are - or presumably perceived as unable to take care of themselves - when the circumstances create concern and the person's health or life might be threatened.’³⁵³

Furthermore, the Norwegian CWS has a responsibility to ensure that all persons below 18 who are ill-treated or experience inadequate care while staying on Norwegian territory are given support and help, regardless of their asylum status, as per Child Welfare Act § 1-1 and § 1-2.³⁵⁴ Besides, two directives on missing persons have been drafted. The first one, the UDI Directive for Reporting and Follow-up when Asylum-Seeking Children Go Missing from Reception and Transit Centers (2015), describes the stakeholders’ responsibility to follow up when UAMs go missing, and mentions briefly what each stakeholder ought to do.³⁵⁵ The second one is the Directive of the Director General of Public Prosecutions and concern how to follow up people who go missing in general in Norway.³⁵⁶ Directives are not legally binding, but the objective of these directives is to serve as guidelines on how to implement the laws.

6.2 Main Actors

According to the UDI Directive on follow-up when children go missing, three central institutions are responsible: UDI, the police, and the CWS. The Directive also stipulates how the reception center from which the child goes missing has a responsibility to report to the authorities

³⁵¹ Interview with District Sheriff and Police Officer from Kristiansand area (12) (Oslo, 2 December 2016).

³⁵² The Police Instruction Act § 12-4 (enforced 26 June 1990)

³⁵³ Ministry of Justice and Public Security, The Police Law §12 (3) (enforced 1 October 1995)

³⁵⁴ The Child Welfare Act 1993, §1-1 and §1-2 (*n* 129)

³⁵⁵ UDI Directive on Follow-up (*n* 141)

³⁵⁶ Tor-Aksel Busch, Director of Public Prosecution, ‘Directive for Investigations’, No. 5/2004 (Oslo 2004), Pp. 2
<<http://www.riksadvokaten.no/filestore/Dokumenter/2004/Rundskrivnr5for2004-Saknetmeldingeretterforsking.pdf>>
accessed 20 October 2016.

immediately after (no less than 24 hours after) there are reasons to believe a child has gone missing.³⁵⁷ If the child comes back or any other useful information appears, it should also be reported. According to my informants, most reception and transit centers are fulfilling their responsibility to report within 24 hours; in fact many of them report before the 24-hour limit passes. Thus, I have chosen not to look into this matter in detail. Having said that, a study carried out by Berit Aasen et al (2017) underlined how certain reception centers have been found to have waited several weeks before reporting a missing child to the police.³⁵⁸ This shows that there seem to be variations across reception and transit centers in terms of reporting a child missing - which should be of concern. Furthermore, when a UAM goes missing, his or her guardian and the lawyer shall be contacted and asked for any relevant information. The report and all information related to the missing child should be forwarded to the local police district and the local CWS. It is expected that the police takes action as soon as a child has been reported as missing.³⁵⁹

6.2.1 THE CHILD WELFARE SERVICE (CWS)

The CWS role is crucial in the context of children who go missing, because the CWS is obliged by the Child Welfare Act to ensure that all children who experience inadequate care and ill-treatment are provided help in Norway before it is too late and regardless of their status.³⁶⁰ When the local CWS receives a report of concern, is up to them to evaluate it, and decide on whether they should warn other local CWS in other cities, in alignment with Child Welfare Act Articles § 4-2 and § 4-3,³⁶¹ and the UDI Directive.³⁶² However, the Directive does not stipulate the next step the CWS ought to take – that is, when an UAM goes missing, apart from warning other offices. One of my informants - who is now working for the CWS - did not know what they could do if a child went missing and that it was the police who had to search for these children.³⁶³ Another informant, the skilled social worker from Uteskejsjonen in Oslo, argued the

³⁵⁷ UDI Directive on Follow-up (*n* 141)

³⁵⁸ Berit Aasen (*n* 25) Pp. 89

³⁵⁹ Berit Aasen (*n* 25) Pp. 37

³⁶⁰ The Child Welfare Act 1993, §1-1 and §1-2 (*n* 129)

³⁶¹ The Child Welfare Act 1993 (*n* 129) § 4-2 and § 4-3

³⁶² UDI Directive on Follow-up (*n* 141) Pp. 3

³⁶³ Interview with a former professional social worker from a reception center for unaccompanied minors in Kristiansand and a current employee for the Child Welfare Service in Kristiansand (10) (Oslo, 25 November 2016).

CWS does not take the responsibility they have, towards UAMs who go missing in Norway.³⁶⁴ A second informant from the CWS wrote the following in an e-mail:

‘What the local Child Welfare Service do, probably depends out from where the child goes missing, but in general, I would say very little. And it is not always the case that the CWS do not wish to do anything, but rather that there is not much they can do, as long as no information exists on where the whereabouts of the child/teenager can be’.³⁶⁵

Similar information to what my informants shared can be found in the previous study conducted by Veronica Paulsen et al (2015): “Some of my informants (from the CWS) states how no one wants to take responsibility for these children, reports of concerns are ignored, and in many of the cases, absolutely nothing is done.”³⁶⁶ Furthermore, in another study by Berit Aasen et al (2017), it was concluded that the local CWS often is reluctant to follow up on a concerning report about UAMs between 15 and 18 years of age (e.g. they go missing from care or reception/transit centers). As these children often travel out from the particular municipality, to where the local CWS are not in charge, and thus they often feel they do not have the responsibility any longer.³⁶⁷

6.2.2 THE DIRECTORATE OF MIGRATION (UDI)

We have seen how the UDI has the overall responsibility for the adequate care of all children between 15 and 18 years staying in reception centers, and the UDI Directive underlines how UDI shall follow up on cases where UAMs go missing. However, the only responsibility the UDI has when a child goes missing is to register the copy of the report of concern sent to the police and the CWS in DUF as a correspondence within the asylum case. The next step would be to send an internal report to the UDI Asylum Department (ASA) about information of the case being available. ASA in the UDI can decide whether or not the asylum application shall be dismissed and the information available can play a role in the outcome of the UAM’s asylum application. Following this, any new information available would have to be registered.³⁶⁸ The Directive does not mention any other responsibilities of the UDI when children disappear. In sum, UDI has a responsibility to forward information about the missing child to the Asylum Department within UDI and achieve the report of concern, which was sent to the police and the CWS.

³⁶⁴ Interview with a professional social worker from Uteseksjonen (3) (City Council of Oslo) (Oslo 21 December 2016).

³⁶⁵ Interview with representative from the Child Welfare Service, region Mid Norway (8) (Oslo, 17 January 2017).

³⁶⁶ Veronika Paulsen (n 22) Pp. 84

³⁶⁷ Berit Aasen (n 25) Pp. 104

³⁶⁸ UDI Directive on Follow-up (n 141)

6.2.3 THE POLICE

The police play a crucial role every time an unaccompanied child goes missing. The UDI Directive states how the local police station, when receiving a report of a missing child, shall register it in a file of missing person called ELYS II. Moreover, the Directive stipulates how a missing person alert shall make it possible so that the following can occur:

‘The police can explore whether or not the disappearance might be a result of a criminal act, carry out inquiries, report the person as missing and possibly carry out an investigation according to the Police Law and the Director General of Public Prosecutions nr. 5/2004.’³⁶⁹

The Prosecuting Authority of the police is the body, which decides whether or not an investigation should be carried out based on the information provided for in the report of the missing child. In an e-mail from the police, the assistant chief of police Mr. Rosebø wrote the following:

‘The police has also a responsibility when UAMs go missing from reception centers [...]. The information available related to the disappearance, at the time the police receive a missing person alert, will determine what actions the police will take.’³⁷⁰

In my research, I also requested the Norwegian National Police Directorate to provide data on how many investigations or searches were carried out on UAMs who went missing during 2016 and how the police were working on these cases, the question was avoided. Instead, a Senior Advisor in the National Police Directorate sent the following reply in an e-mail:

‘According to the evaluations done by the Police, the vast majority of UAMs do not disappear. The scale is uncertain especially because their status as missing often changes over time, and because there is uncertainty about their age. It is, unfortunately, a great job to find the number you are requesting, especially concerning our data system, and we cannot priorities it.’³⁷¹

An interesting remark is how the National Police Directorate argues that the vast majority of UAMs do not go missing; however, as we have seen, throughout 2016 alone, a total number of 176 children went missing, and their whereabouts were still unknown for the government as of December 2016. This, as I have previously emphasized, is a vast increase compared to all previous years, and must be noted in supplement to the fact that the total number of UAMs who

³⁶⁹ UDI Directive on Follow-up (n 141)

³⁷⁰ Email from Ernst Kristian Rossebø (Assistant chief of police, South-vest Regional Police Force) to author (10 June 2017).

³⁷¹ Email from Marte K. Ødegård Lund, Senior Adviser at the National Police Directorate, to author (24 January 2017).

applied for asylum throughout 2016 was only 320.³⁷² Thus, the number of children having gone missing is quite high considering the number seeking asylum, and the National Police Directorate's argument is not legitimate, as the statistic from UDI reveals the opposite. In a study ordered by the Ministry of Justice and carried out by Berit Aasen et al (2017) underlines how the police rarely investigate or search for these children, as they lack information and/or the information they have, reveals nothing criminal has taken place.³⁷³ If no new information has been provided, the case will be dismissed after three months.³⁷⁴

6.3 Critical Analysis

6.3.1 THE CHILD WELFARE SERVICE

From the statements and information my informants provided as well as previous research, and what is stipulated in the UDI Directive, three main issues can be identified: First, dissatisfaction towards how the CWS follows up when a UAM goes missing; second, the CWS' inability to act, as they rely on other stakeholders such as the police to search and investigate for the whereabouts of the missing child, because the CWS cannot act before the whereabouts of the child is identified;³⁷⁵ and third, the brevity of the UDI Directive - in the section where it describes the CWS's role, it states only how the CWS should evaluate whether or not they should warn other CWS in other cities about the missing child.

The local CWS is responsible for ensuring the protection and well-being of all children under 18 years of age who are residing in that municipality, regardless of their status, and are responsible when children go missing.³⁷⁶ However, when a UAM goes missing from a reception or transit center, the CWS does little apart from administrative work, which is warning other CWS in other cities. Recalling how it is the UDI who has the overall responsibility for the care of UAMs aged between 15 and 18 years and not the local CWS. One explanation for the CWS's lack of action when UAMs go missing and the lack of ownership towards UAMs between 15 and 18 years, might be because the CWS feels less responsible for this age group as it is also the UDI who has

³⁷² The Norwegian Directorate of Immigration, 'Asylum applications of unaccompanied minors lodged in Norway by nationality and month 2016' (UDI, 2017) <<https://www.udi.no/en/statistics-and-analysis/statistics/asylum-applications-of-unaccompanied-minors-lodged-in-norway-by-nationality-and-month-2016/>> accessed 14 July 2016.

³⁷³ Berit Aasen (n 25) Pp. 123

³⁷⁴ Berit Aasen (n 25) Pp. 88

³⁷⁵ Veronica Paulsen (n 22) Pp. 86

³⁷⁶ Guri Tyldum, 'The Following up of Potential Minors Victims of Human Trafficking in Norway' (2016) 9 *Fafo-notat* Pp. 12

the responsibility of the care of these children. It seems to be an issue of disavowal of responsibility among the different local CWS - as argued by previous research on how there exists a perception that the responsibility of the child is voided when the child goes missing and potentially moves out of the municipality to another region, where another local CWS is in charge.

On the one hand, it is important to acknowledge the difficulties faced by the CWS and their dependence on other stakeholders such as the police to search and investigate for the whereabouts of the missing child. On the other hand, the Norwegian Government explicitly states in reply to GRETA's questionnaire (2016): "When a minor is reported missing, the local Child Welfare Service is responsible to follow up the case."³⁷⁷ Child Welfare Act Articles § 1-1 and § 1-2 stipulate the CWS' responsibility in stepping in and providing help to all children on Norwegian soil when neglected or granted inadequate care. Simultaneously, the UDI Directive dictates that "when a UAM go missing from a reception center, there are reasons to believe that the child can be exposed to deficit care."³⁷⁸ The chance for a missing child to experience inadequate care should be a strong argument for more efforts and ownership to be put into place by the local CWS every time a child goes missing, as opposed to merely considering whether or not they should warn other services. After all, they are the primary institution responsible for the protection of every child in Norway, regardless of status, as set out by the Child Welfare Act.

6.3.2 THE UDI

It is the UDI's role to stipulate Directives that show each state agency's responsibility concretely. I will argue how the UDI Directive on the Report and Follow-up on Unaccompanied Minors who Disappear (2015) is far too vague. The Directive's name has the terms 'reporting' and 'follow-up' in it, but the overall focus of the Directive is solely how the various stakeholders shall report a missing child and refrain from elaborating how each stakeholder shall follow up and carry out the next steps after the missing alert is sent. Although the UDI Directive provides precise information on how to report a missing child for each institution, the next step on how it should be followed up on is not specified. This is also emphasized in the study carried out by and Paulsen et al (2015).³⁷⁹ Neither is it mentioned anywhere in the Directive what the role of the border guards should be. Information on how border guards should be informed could also be included. The Directive needs to be much more detailed in outlining what each stakeholder

³⁷⁷ GRETA Questionnaire Pp.9 (n 311)

³⁷⁸ UDI Directive on Follow-up (n 141) Pp. 3

³⁷⁹ Veronika Paulsen (n 22) Pp.22

ought to do after they have reported a child as missing, so each actor can fulfill their responsibility adequately and each institution's responsibility is clear to everyone.

6.3.3 THE POLICE

When a Norwegian child goes missing, the whole country is turned upside down to search for the child's whereabouts. There is media coverage, volunteers organizing the search, searches established by the local police, and sometimes investigations if there might be a chance for a criminal act involved - and everyone has their focus on the missing Norwegian child.³⁸⁰ Paulsen et.al (2015) argues the following:

‘When children in Norway go missing, there are always carried out searches and effort put in place to find these children. Compared with asylum-seeking children, where it is easier to explain the disappearances with the child leaving the reception center or traveled with a family member.’³⁸¹

When UAMs go missing, the country stays silent. There are rarely news stories or organized searches. The vast majority of my informants were very disappointed and concerned about the lack of effort the police put in place when a UAM goes missing from a reception or transit center, and strongly requested the police to strengthen their effort and work toward better supporting this particular vulnerable group of children. According to most of my informants (all but two), the police never investigated when a UAM went missing, and rarely even search for the children, which is also in line with the findings from previous studies. According to my research, the quality of the police work seem to differ from various police districts, it appears to be slightly better in the smaller towns such as Kristiansand, but that it is especially insufficient and not prioritized in the bigger cities such as Oslo and Bergen. Similarities are found in the study conducted by Paulsen et al (2015), which underlines that “[b]ehavior and competency concerning asylum-seeking children who goes missing vary between the different regional CWS as well as the various police districts.”³⁸² In another study by Hilde Liden et al (2013) they state the following: “As long as staying in a reception center is voluntary, no legal authority exist to investigate the case as long as the child leave the reception center voluntarily.”³⁸³ Due to this, organized search and/or investigations of children who go missing are often dropped, Liden

³⁸⁰ Karen Elise Espeland, (n 18) Pp. 23

³⁸¹ Veronika Paulsen (n 22) Pp. 87

³⁸² Veronika Paulsen (n 22) Pp. 87

³⁸³ Hilde Liden et.al (n 21) Pp. 196

argues.³⁸⁴ However, in order to be certain that every child leaves reception and transit centers on a voluntarily basis, there need to be some sort of preliminary investigations.

According to the Norwegian authorities, every time a UAM has gone missing from a transit or reception center, “[t]he police are responsible for initiating a preliminary investigation in each case to determine whether to issue a missing person alert and whether a full investigation shall be initiated.”³⁸⁵ In other words, the police shall carry out a preliminary investigation every time a child has gone missing to find out if the disappearance was potentially caused by a criminal act - and if so, the police shall be obliged to act under the Criminal Procedure Act § 224.³⁸⁶ Nonetheless, according to my informants working in reception and transit centers, the police did not do anything when they were forwarded an alert about a missing child. The police never visited the receptions or transit centers where they worked, nor did the police talk with any of them or any of the friends of the missing child in the reception or transit centers, or requested any information from the professional social workers or guardians of the missing child. Although my informants represent only six reception and transit centers across Norway, we can still wonder how the police could carry out a preliminary investigation when they did not visit the reception/transit centers from which the children went missing and not even talk with the social workers stationed at these centers. How can the police be certain that every child went missing on a voluntary basis when there are few preliminary investigations, if any, conducted for these cases? Considering the extremely vulnerable situations these children finds themselves in while missing - which is also underscored by the police themselves in a report from the Criminal Police Centre (2016),³⁸⁷ I will argue that the police have to carry out preliminary investigations and to search for the whereabouts of these children. Police Law §12 section 3 states the following:

‘The police may force one’s way into homes, rooms or other places to search for missing persons or help sick, injured or others who are - or presumably perceived as unable to take care of themselves - when the circumstances create concern and the person's health or life might be threatened.’³⁸⁸

³⁸⁴ Hilde Liden (n 21)

³⁸⁵ CoE GRETA, ‘Reply from Norway to the Questionnaire’ Pp.7 (n 311)

³⁸⁶ Criminal Procedure Act § 224 (Enforced 1 January 1986)

³⁸⁷ National Bureau of Crime Investigations, ‘Trend Report - Organized Crime and other Serious Criminal Acts in Norway 2016’ (*National Bureau of Crime Investigations*, October 2015) Pp. 14.

<https://www.politi.no/vedlegg/lokale_vedlegg/kripos/vedlegg_3188> accessed 12 November 2016.

³⁸⁸ Ministry of Justice and Public Security, The Police Law §12 (3) (enforced 1 October 1995)

The Police Law concerns all persons in Norway, and in cases where an unaccompanied child has gone missing from a reception or transit center, there are also reasonable grounds to be concerned over the child's health and life. Furthermore, Police Instruction Act § 12-4 states how "[t]he police are obliged to take care of and guide children who are lost so that they can be reunited with their parents or legal responsible as soon as this is practicable."³⁸⁹ The police laws they use today is weakly formulated, nonetheless, according to the legal framework, the police are thus responsible to act as stipulated in the articles above, also in cases where UAMs have gone missing.³⁹⁰ Second of all, in the Directive of the Director General of Public Prosecutions, Tor-Aksel Busch underscores how the police must never assume the reasons behind a person's having gone missing. Following Busch uses the example of a Norwegian child gone missing in general and argues, even though there are no reasons to believe that there is a criminal act behind. 'If there are no special circumstances concerning the person missing, the police should concentrate on finding the missing person (...).' ³⁹¹ We can see although there might not be a criminal act causing the child to go missing, the Director General of Public Prosecutions nevertheless provides a strong recommendation to the police - to concentrate on finding the whereabouts of the person, something that is not mentioned in the UDI Directive on UAMs who go missing.³⁹²

When the police are searching and investigating every time a Norwegian child go missing, but refrain from doing the same when UAMs go missing, we can ask our selves why, and the question of whether the reason is grounded in these children's being asylum-seekers and whether the police is carrying out racial profiling becomes inevitable. It is also important to highlight how the report to the Storing, (2015–2016), stipulates the following:

'The UDI, the Police and the Child Welfare Service will continue its effort to ensure that cases, where UAM goes missing, are prioritized on an equal matter as other cases of persons who go missing, and will establish preventative measures to avoid children ending up in a criminal environment or be exposed to trafficking.'³⁹³

The report to the Storing underlines how UAMs who go missing shall be prioritized on an equal level to all other children who go missing. Thus, the argument by the National Police

³⁸⁹ The Police Instruction Act § 12-4 (enforced 26 June 1990)

³⁹⁰ Karen Elise Espeland (*n* 18)

³⁹¹ Tor-Aksel Busch, Director of Public Prosecution, 'Directive for Investigations', No. 5/2004 (Oslo 2004), Pp. 2 <<http://www.riksadvokaten.no/filestore/Dokumenter/2004/Rundskrivnr5for2004-Saknetmeldingeretterforsking.pdf>> accessed 20 October 2016.

³⁹² UDI Directive on Follow-up (*n* 141)

³⁹³ Meld. St. 30 Pp. 46 (*n* 227)

Directorate, which stated in an e-mail that the vast majority of UAMs do not go missing, is not valid, as the number of missing children missing should be irrelevant; even one missing child is one too many. Also, in the new Governmental Action Plan on Combating Trafficking, (2016), it is stipulated how the National Police Directorate shall ensure that the effort in investigating cases when asylum-seeking minors who have gone missing from reception centers are prioritized on an equal footing as other missing children.³⁹⁴ Thus, as highlighted in two governmental reports, the efforts put in place by the police and CWS for when a child goes missing should be emphasizing equality.

In the Concluding Observation from the CRC on Norway (2010), the Committee expressed their worries of "an increasing number of unaccompanied children that have disappeared from reception centers." In sections 52 (g) and (h), the Committee recommends Norway to "[m]ake sure that children do not disappear and fall into the clutches of traffickers and exploiters." In (h), it is noted that the Norwegian authorities should "[i]nvestigate cases of disappearances and find ways to make access available to hidden children."³⁹⁵ Moreover, the Concluding Observations from the CAT Committee (2012) highlight concerns over the high number of UAMs that go missing in Norway.³⁹⁶

The lack of preliminary investigations, searches and investigations carried out on UAMs who go missing contradicts what is stipulated in the Police Law and the Police Instruction Act, as well as the Directive of the Director General of Public Prosecution No. 5/2004, which explicitly mentions how the police should persist in searching for a missing child regardless of whether a criminal act has found to have taken place or not. It also contradicts the report to the Storting (2015–2016), the Governmental Action-Plan on Combating Trafficking (2016) and the Concluding Observations to Norway from the Committees of the CRC and CAT. Finally, it seems to be a disavowal of responsibility among the primarily responsible institutions - the Police, UDI, and the CWS - as well as a lack of ownership of unaccompanied children, and a lack of co-ordination. There seems to be a difference in what is written in the action plan on combating trafficking and the Report to the Storting, regarding the stakeholder's responsibility and what is happening in reality. It clearly exists a gap in the follow-up for when asylum-seeking children go missing. There is not one single institution that has the main responsibility, and this is also an issue. When responsibilities are shared among several stakeholders, it might be the

³⁹⁴ Governmental Action Plan Against Trafficking Pp. 18 (n 27)

³⁹⁵ CRC Concluding Observation, (n 224) Section 52 (g) and (h)

³⁹⁶ CAT Concluding Observation, Section 22 (n 225)

case that no one ends up taking the responsibility. The lack of investigations, searches, knowledge, and certainty also makes it highly difficult to understand whether every child having gone missing actually left the (e.g.) reception centers voluntarily. In the vast majority of these cases, no one seems to search for these children actively, and missing UAMs are systematically neglected in most of these cases.

6.4 Reflection – The Best Response from a Child’s Perspective?

I have so far identified shortcomings in relation to the lack of responsibility taken when UAMs go missing in Norway. What would be the best response to this issue from a child’s perspective? Every response on any action regarding a child should be taken from a child’s perspective. When discussing what would be the best response to this issue, I will argue that the right thing to do is, as usual, to address the root causes for why children go missing. In this context, addressing the root causes would be to change the age assessment procedure by following the many international standards and making it more holistic and scientific. When following these guidelines I believe the number of children categorized as adults after the test, will be reduced, thereby putting fewer children at risk of going missing. It would also be prudent to eliminate the temporary residence permit policy, which - as argued in previous chapters - is hazardous to children in many ways. Also, improving the guardianship system in Norway would also be a good prevention measure in perhaps helping reduce the number of children who go missing. According to the report from Missing Children Europe (2016), the role of the guardian was also identified as an essential element in preventing children from going missing.³⁹⁷ Guardians can play a significant role in talking with the child about the risks faced when being on their own on the streets and might encourage minors not to disappear. Informants from my research said they did this and also were in contact with many of the children after they had gone missing. They communicated over the phone, and at least there was someone with whom the child knew he or she could speak.³⁹⁸

Another important measure that should be taken by the authorities is to establish a missing-children unit, preferably in each police district, responsible for following up cases of missing children and to search for their whereabouts and whether these children are safe or not.

³⁹⁷ Missing Children Europe, ‘Summit Report’ (n 13)

³⁹⁸ Interview with informant (2) guardian for unaccompanied minors from Vesterålen, (Stavanger 10 December 2016).

Moreover, the authorities should also establish care houses for missing children. These houses should have a 24-hour child proficiency staff rotation. The houses should be made accessible in Oslo and other European capitals, and could be arranged by NGOs or outreach services - a safe place of which children are aware and could travel to, to stay, even if only for a few days. It would be a place to be safe and get advice on what to do next and have a chance to change their mind after some reflection. They should be informed about the risk of trafficking and their rights as children, especially since many UAMs are not aware of their rights. They should be assisted and helped if they wish to travel to family or friends in other countries, rather than have no choice but to take the journey alone. A similar project was initiated in the Netherlands in 2008, as an effort to prevent children from going missing in the first place, two protected reception centers was established.³⁹⁹

6.5 Summary

Chapter 6 is where I looked at the primarily responsible stakeholders and the follow-up for when UAMs go missing from reception and transit centers in Norway. In the critical analysis, I considered how the lack of searches, information gathering and investigations when UAMs go missing contradict various Police laws as well as directives, reports to the Storting and UN recommendations. Measures to prevent children from going missing are equally important, and all stakeholders involved need to know their responsibilities and what they should do every time a child goes missing. In the last section of the chapter, I briefly discussed what would be the most suitable responses to the issue of children going missing.

Chapter 7: Research Findings - Missing Children and Trafficking Risks

7.1 Issue

Missing unaccompanied children are in a particularly vulnerable situation. The lack of future perspectives and stability might enhance the risk to be recruited and engage in various criminal environments either by force, persuasion or even as a survival strategy, as a lack of other

³⁹⁹ Council of Europe GRETA, '5th General Report' Pp. 39 (*n* 46)

alternatives to survive. I will in the following chapter first elaborate on why these children are so vulnerable, and consider to what extent there is a risk of trafficking for missing UAMs in Norway; and in the two last sections, I will explore the response from the authorities, and whether or not the risk of trafficking is an issue of protection or prevention.

7.1.1 LAWS AND DIRECTIVES

Several international human rights instruments compel State Parties to carry out protection and preventative measures to combat trafficking and exploitation of children. Article 33 of the CRC states how State Parties shall take the necessary measures to protect and “prevent the use of children in the illicit production and trafficking of such substances.”⁴⁰⁰ Article 35 of the CRC obliges all State Parties to ensure they carry out all appropriate measures, both national and international to prevent child trafficking in any form.⁴⁰¹ Furthermore, the Palermo Protocol Article 4 and Article 9 (1),⁴⁰² as well as the CoE's Anti-trafficking Convention where Articles 5 (2) and 5 (5), Article 26 and Article 27 of the Convention are of particular relevance.⁴⁰³ Norway has ratified all of these various Conventions without any reservations. However, Norway does not seem to be willing to incorporate EU legislation on trafficking. Magne Holter, the representative from the Norwegian EU – Delegation, noted that Norway can cooperate with the EU on a practical level, but is not bound by and will not implement EU legislation or policies concerning trafficking.⁴⁰⁴

7.1.2 MAIN ACTORS

The Norwegian authorities are the main actors responsible for their positive obligations to prevent child trafficking. The CWS has the responsibility to prevent children from experiencing ill-treatment or inadequate care. The UDI is responsible for deciding whether a victim of trafficking will get a permanent permit or a temporary residence permit, or be sent back. The Police in each Police District has the responsibility of preventing trafficking, uncovering it and criminally prosecuting perpetrators.⁴⁰⁵ They shall evaluate the threat of trafficking and make sure

⁴⁰⁰ CRC Article 33

⁴⁰¹ CRC Article 35

⁴⁰² UN, The Palermo Protocol Article 4 and 9 (1)

⁴⁰³ CoE, Anti-Trafficking Convention Article 5 (5)

⁴⁰⁴ Emma-Lise Berghei Gårdvik, ‘Trafficking of Human Beings Increases in Europe’, (*The Office of the Prime minister*, 19 April 2013) <<https://www.regjeringen.no/no/aktuelt/menneskehandel-i-europa-oket/id723548/>> accessed 14 November 2016.

⁴⁰⁵ Police, ‘The Work to Combat Trafficking’, (The Police, 16 January 2017) <https://www.politi.no/strategier_og_analyser/strategier_og_tiltak/Tema_18.xml> accesses 1 January 2017

the victims get adequate protection. Finally, the Court of Law has a responsibility to prosecute perpetrators of trafficking.

7.1.3 CHILD TRAFFICKING IN NORWAY

Gathering hard facts on the number of missing children who have become victims of trafficking was not possible. This type of data is lacking and we do not know much about their situation. There is, on the other hand, published data on the number of suspected child victims of trafficking in Norway in general. By gathering statistics from the three latest publications from the Norwegian National Police Directorate, the Coordination Unit for Victims of Trafficking (KOM 2014, 2015 and 2016), it can help to provide a better understanding of the extent to which missing UAMs are at risk of trafficking, and what forms of trafficking these children can be exposed to in this context.

Child victims of trafficking are increasing in Norway and UDI suspects an underreporting of the number of suspected victims of trafficking.

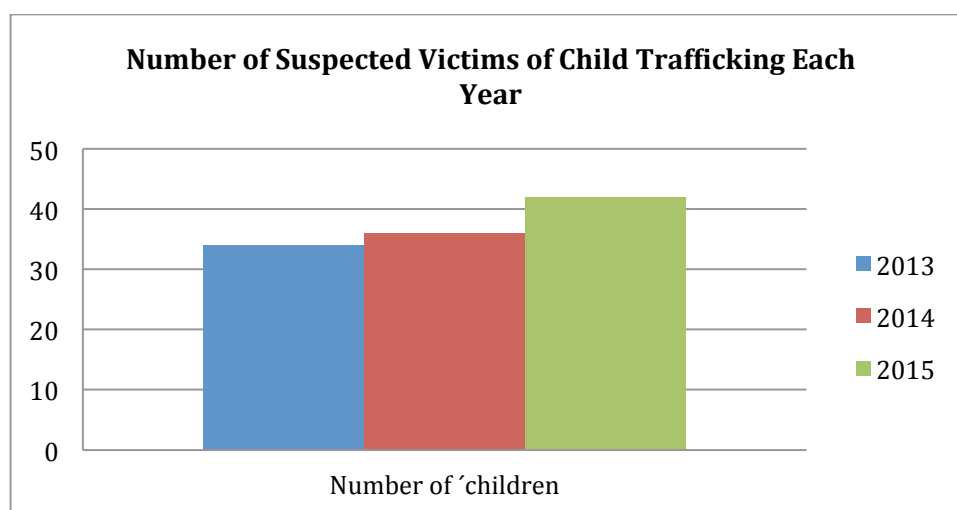


Figure: 10 Source: KOM 2013,⁴⁰⁶ KOM 2014,⁴⁰⁷ and KOM 2015.⁴⁰⁸

According to KOM, a total of 42 children were reported as suspected victims of human trafficking throughout 2015.⁴⁰⁹ This is an increase from 2013, when 34 children were identified,⁴¹⁰ and from 2014, when the authorities identified 36 children as suspected victims of

⁴⁰⁶ KOM, 'Report from the Coordination Unit on Victims of Trafficking 2013' (KOM, July 2014) <https://www.politi.no/vedlegg/lokale_vedlegg/politidirektoratet/Vedlegg_2665.pdf> accessed 5 February 2017.

⁴⁰⁷ KOM, 'Report from the Coordination Unit on Victims of Trafficking 2014' (KOM, July 2015) Pp. 27 <https://www.politi.no/vedlegg/lokale_vedlegg/politidirektoratet/Vedlegg_3034.pdf>

⁴⁰⁸ KOM published 2016 (n 49)

⁴⁰⁹ KOM published 2016 (n 49) Pp. 27

⁴¹⁰ KOM published 2014 (n 406)

trafficking and granted follow-up.⁴¹¹ Boys and girls made up 11 percent of the total amount of the reported victims of trafficking in Norway in 2014, which later increased to 14 percent, during 2015.⁴¹²

The typical child victims of trafficking are either asylum-seeking children or other children with no connection to Norway, according to Line Ruud Vollebæk (2012),⁴¹³ and Cathrine Holst Salvesen et al (2016).⁴¹⁴ KOM (2016) explains how the identification of victims is divided into two categories. The first group is verified victims of trafficking; these children are verified either by a police investigation, a court procedure or if the UDI gives the child a residence permit because there is clear evidence that he/she is a victim of trafficking. Due to lack of information and/or clear evidence that can verify whether or not the child is a victim, the majority of children will rather be identified as a suspected victim of trafficking. When a child is an alleged victim, he or she shall be given aid and protection until the process is clarified. The threshold of identifying a suspected victim of trafficking is lower than the actual verification done by the police, UDI or the CWS.⁴¹⁵ Children registered as suspected victims of trafficking in Norway comes from different countries and are exploited through various forms of trafficking, having said that; there are three different regions overrepresented. The first group is composed of girls from Africa, and most frequently Nigeria, which are exploited predominantly through prostitution. The second group is composed of boys from the Middle East and North Africa (MENA –region) - mostly exploited in forced criminality. The third group is composed of some boys and girls from Eastern Europe who are often exploited in either prostitution or criminality.⁴¹⁶ Additionally, there is a high number of suspected victims of child trafficking whose nationality is unknown or unclear - as illustrated in the graph below.

⁴¹¹ KOM published 2015 (n 407)

⁴¹² KOM 2015 Pp. 3 (n 49)

⁴¹³ Line Ruud Vollebæk, 'Human Trafficking of Children' Pp. 41 (*Redd Barna*, 2012)

⁴¹⁴ Cathrine Holst Salvesen and Hilde Liden, (n 24)

⁴¹⁵ KOM published 2016 (n 49)

⁴¹⁶ Guri Tyldum et.al (2015) Pp.42 (n 23)

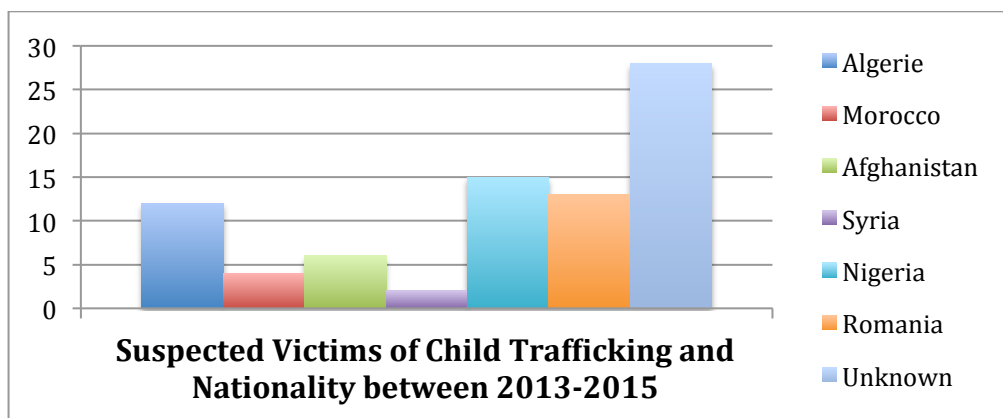


Figure: 11 Source: The three last reports from KOM combined. KOM (2014)⁴¹⁷, (2015)⁴¹⁸ and (2016)⁴¹⁹

7.1.4 MISSING CHILDREN AND VULNERABILITIES

‘Missing unaccompanied children has no possibilities to attend school. They are not given the opportunity to create a safe future, and they have no carrying adults who take care of them. They are not sleeping in a warm bed, nor are they guaranteed a meal every day, and they are 14 years old. It is not a good life to live in the streets of Oslo in November when you are only 14.’⁴²⁰

Missing children are in an extremely vulnerable position. Anneke Meyer, (2007) points out three types of vulnerabilities that follow being a child in general.⁴²¹ These are the *physical vulnerability*, which is due to the child’s being small/weaker; the *social vulnerability*, which is the connection to knowledge, social capital and experience not yet achieved. The last type of vulnerability is the *structural vulnerability*, which is the different power structure between an adult and a child. The *structural vulnerability* is created by the way we organize our societies, according to Meyer.⁴²² Children are raised to abide and follow advice from adults; the obedience, and submissiveness can enhance the risk of being ill-treated. In consultation with criminal gangs, smugglers, and other perpetrators, and without a parent or other relatives, a child becomes extra vulnerable.

Missing children cannot easily get a job legally, and if they do not have enough money, they need to find other ways to survive. Debt is another factor that often enhances the vulnerability,

⁴¹⁷ KOM (published 2014) (n 406)

⁴¹⁸ KOM (published 2015) (n 407)

⁴¹⁹ KOM (published 2016) (n 49)

⁴²⁰ Interview with two representatives from Save the Children Press (6) (Oslo, 23 November 2016)

⁴²¹ Anneke Meyer, ‘The Moral Rhetoric of Childhood’ [2007] 14(1) Web Sage Journals 85 <<http://journals.sagepub.com.uaccess.univie.ac.at/doi/pdf/10.1177/0907568207072532>> accessed 15 October 2016.

⁴²² Anneke Meyer, (n 421)

and it is not unusual that UAMs have debt, argues Jacqueline Bhabha.⁴²³ When a family or a child her or himself is saving money for the journey, they often have to borrow it. Money owed can be demanded back from smugglers or other people during the trip, or when the child is reaching her or his country of destination. Systems which operates underground, with no institution controlling, regulating, monitoring or making sure that the agreement between the smuggler and the child/family, is not breached or flawed, makes the possibility of exploitation, extremely latent. Structural vulnerability such as the asymmetric power relation, which is underlying when a child is indebted to an adult, can put the child at additional risk of various forms of exploitation and also at risk of becoming victims of trafficking.⁴²⁴ According to Europol, criminal networks assisted around 90 percent of all irregular migrants traveling to Europe in 2015.⁴²⁵ It is worth noting that the possibility of loaning money also makes it feasible to leave a war-torn country. It makes children fleeing war or leaving abusive conditions or extreme poverty, the chance to seek a better future. Julia O'Connell argues how the vulnerable position caused by indebtedness is a political construction. What O'Connell means is that the migrant-debt is a result of the migrants' and refugees' lack of access to rights and how the strict immigration regime is in itself a contributor to making UAMs vulnerable to debt.⁴²⁶ Early in the 1990s, European countries initiated their strict immigration regime by implementing the visa policy in an attempt to keep asylum seekers and migrants away.⁴²⁷ This agreement and others such as the current EU-Turkey deal made it almost impossible for a child without much money, travel documents or visa, fleeing extreme poverty and conflicts to seek asylum in a legal matter. As a result, UAMs often have no choice other than to cross these national borders without legal documents and valid visas - a situation that heightens the child's vulnerability.⁴²⁸

Unaccompanied children face exploitation and abuse, such as violence from the police, border guards and the risk of trafficking, both, on their journey to or as a missing child within Europe. Professor Nick Mai emphasizes how many children have to prostitute themselves or become

⁴²³ Jacqueline Bhabha (*n* 30)

⁴²⁴ Line Ruud Vollebæk, 'Social Work with Vulnerable Migrants', (2014) (*n* 277)

⁴²⁵ Europol, 'Europol-INTERPOL Report on Migrant Smuggling Networks 2016', (*Europol* May 2016) <<https://www.europol.europa.eu/newsroom/news/europol-and-interpol-issue-comprehensive-review-of-migrant-smuggling-networks>> accessed 23 August 2016.

⁴²⁶ Julia O'Connell Davidson and Catlin Farrow 2007 (*n* 48)

⁴²⁷ Leo Lucassen, 'Migration as a Killjoy' (Comenius Lecture at the Royal Netherlands Academy of Science and Art, 2 April 2016)

⁴²⁸ Jacqueline Bhabha, (*n* 30), Pp. 207.

involved in forced criminality, often as a survival strategy, to get some income.⁴²⁹ The lack of caring persons, money, other possibilities and options to survive for UAMs increases the risk to become involved in various dangerous environments and engage in activities that can be detrimental, either as a surviving strategy, or by persuasion or force. One of my informants, the representative from Utekontakten in Oslo, underscored the great need for other alternatives to survive, and the complete lack of sustainable solutions for these unaccompanied asylum-seeking children.⁴³⁰ Apart from this, racism and xenophobic attitudes in Europe are additional factors, which can make UAMs vulnerable. The language barrier is another disadvantage highlighted by UNICEF, and the fact that missing children do not know the language or environment very well can put them at additional risk.⁴³¹

7.1.5 UNCERTAINTY OF FUTURE PERSPECTIVES

What options do unaccompanied minors who go missing have, and do we know where they go next? According to Missing Children Europe, very few UAMs who go missing are found.⁴³² This seems to be the situation for the majority of children who go missing in Norway. As argued earlier, the authorities failed to find out the whereabouts of 226 of the total number of 367 unaccompanied asylum-seeking children who went missing between January 2015 and December 2016 meaning that the whereabouts of 62 % of these children remained unknown to the authorities.⁴³³ Through my qualitative research, I can draw some assumptions on the options UAMs have after they have gone missing. First, they might stay in Norway for a short or longer period of time. Second, or they can leave the country alone and travel back to the country of origin. Third, they can go to a third country, to live with families or friends and perhaps try to apply for a new residence permit and/or try to find a job. Fourth, some of these children might be recruited to criminal environments and risk of trafficking. These options have to be seen as highly general, fluid and interlinked with each other, as the situation for missing children is never really very straightforward, and no one option necessarily excludes another. In fact, we know very little about what happens to these children. There are very few alternatives for them, and while missing, they are left to themselves. There exists no research in Norway on what

⁴²⁹ Nicola Mai, 'Minors and Young Migrants Involvement in Errant Mobility and Sex Work with the EU' (2014) ISET Working Paper 2, London Metropolitan University

⁴³⁰ Interview with a professional social worker from Uteseksjonen (3) (City Council of Oslo) (Oslo 21 December 2016).

⁴³¹ Kerry Boland, Unicef (*n* 50)

⁴³² Missing Children Europe (2016) (*n* 13)

⁴³³ Email from Thomas Mortensen, UDI (*n* 3)

happens afterward to these children, and very few of my informants had anything to say for certain. Two of my informants made the following remarks:

- ‘I have been in contact with some of the asylum-seeking children after they went missing through the phone. They often keep together. Right now I know ten boys have traveled to France and two to Germany. The youngsters we talk to often travel out from Norway after they went missing.’⁴³⁴
- ‘I know several UAMs who goes missing in Norway travel to Sweden and vice versa. They continuously discuss which country is the best to travel to. They have great networks, and they use social media where they provide updates, advises and where they warn each other.’⁴³⁵

There are reasons to believe that children who go missing and are not found will most likely fall into the extremely vulnerable position they once were in during transit and before arriving in Norway. These children are extremely vulnerable because they fall out of the asylum system. Little is known about where these children are and whether or not they are safe. Those children who go missing before their asylum application has been processed and those who go missing just after they have received a negative outcome and/or the age assessment estimated them to be over 18 years, will be treated more or less as irregular migrants. In CRC General Comment No. 6, the Committee underlines the link between trafficking and the situation of UAMs. The Committee explicitly highlights UAMs’ extreme vulnerability and the risks these children face, in terms of potentially being exploited in trafficking or involved in criminal environments.⁴³⁶

7.1.6 EXPLOITATION THROUGH FORCED CRIMINALITY

As explained by Oliver Peyroux, the lack of future perspectives, combined with the lack of protection and care, can easily be manipulated by single adults or criminal gangs, boyfriend-pimps or madams who see an open niche, to take advantage of the vulnerable position in which the children find themselves.⁴³⁷ If unaccompanied children become involved in criminal environments and come into conflict with the law, they become even more vulnerable. Do we know to what forms of exploitation missing UAMs are most likely to be exposed? The graph below illustrates the two most common forms of exploitation of suspected child victims of trafficking in Norway.

⁴³⁴ Interview with informant (2) guardian for unaccompanied minors from Vesterålen, (Stavanger 10 December 2016).

⁴³⁵ Interview with Swedish author and journalist (13) (Oslo, 17 November 2016).

⁴³⁶ CRC/ CG No. 6. Para. 23-24 (n 29)

⁴³⁷ Oliver Peyroux (n 45)

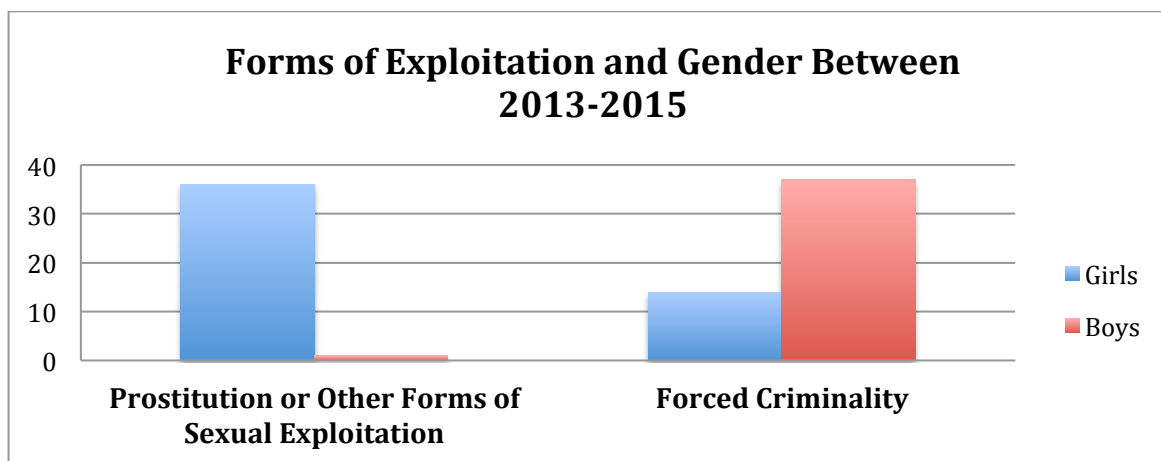


Figure: 12. Source KOM combined 2014, 2015 and 2016.⁴³⁸

The gendered aspect is apparent. Between 2013 and 2015 the vast majority of boys were exploited in forced criminality, and the majority of girls used in prostitution or other forms of sexual exploitation. These numbers are only those children who were identified as suspected victims of trafficking – the cases of many children go unreported. Thus, the statistic must be seen as a minimum number; moreover, it does not exclude the fact that boys exploited in forced criminality can also be used in prostitution, and vice versa.

Missing asylum-seeking children in Norway are almost exclusively boys (96 %). By analyzing the graph above, we can assume that the form of exploitation missing children are perhaps most exposed to is exploitation through forced criminality. Statements from my informants and previous research emphasize crimes for profit - more specifically drug sale - as the most common exploitation type for unaccompanied asylum-seeking boys in Norway. Legal scholars such as Damon Barrett and Philip E. Veerman describe how children who are poor and/or excluded from the society, such as street children, are especially exposed to the drug trade.⁴³⁹ Missing UAMs fall entirely within this category; they are often poor, and by denying them asylum, they are also excluded from the society and left for themselves to survive. Children - especially those in a vulnerable situation, such as missing children - are more often targeted by traffickers for exploitation in drug trade than adults. Barrett and Veerman note that as a child, they have better chances to avoid the penal system as compared to adults, and by using children, the perpetrators themselves can better avoid being caught by the police. Children in a vulnerable

⁴³⁸ Ibid KOM (n 406), (n 407) and (n 49)

⁴³⁹ Damon Barrett and Philip E. Veerman, *A Commentary on the United Nations Convention on the Rights of the Child – Article 33 - Protection from Narcotic Drugs and Psychotropic Substances* (Martinus Nijhoff publishers 2012). Pp. 40

and desperate situation without other alternatives can also accept dangerous working conditions and exploitation.⁴⁴⁰ Moreover, poverty and/or lack of other opportunities are only one side of the issue; the other element that leads to exploitation of children in a vulnerable situation is the demand from customers,⁴⁴¹ in wealthy countries such as Norway, for example.

7.1.7 CONCERNS FROM INFORMANTS, ACADEMIA AND THE AUTHORITIES

The vast majority of missing UAMs are presumably not involved in criminality, but that does not mean that these children are safe. As long as children are left for themselves with little money, no legal document of a permanent residence permit and lack of future perspectives and other alternatives, the risk for exploitation is always high. When I asked my informants to what extent there could be a risk of trafficking for children who goes missing, all of them were concerned, and this is what some of them said:

- ‘We know that especially boys from North Africa who goes missing are at risk of being recruited to North African criminal groups which operate in Oslo and Bergen who recruit minors to sell drugs and similar narcotics.’⁴⁴²
- ‘I believe that the chance for being exploited by perpetrators and criminal groups is great both while staying in reception centers and after they have gone missing in Norway. Many of these asylum-seekers are young boys, and they are extremely vulnerable.’⁴⁴³
- ‘There was an increase in UAMs from North Africa, mostly from Morocco, who appeared in the heavy drug criminal environments in Bergen in 2013-2014, these minors were systematically placed out, and came to Bergen from transit centers in Oslo to sell drugs. During these two years, the situation was quite bad, and I am of the opinion that several of these children were victims of trafficking.’⁴⁴⁴
- ‘One of my greatest concern for those unaccompanied asylum-seekers who goes missing is their health situation, especially their mental health. Many of the UAMs we meet in the streets of Bergen, during our outreaching work, suffer from self-injuring, and many of them are addicted to drugs. They do not get the psychological help they need. Which again makes them vulnerable to exploitation.’⁴⁴⁵

In line with my informant's concerns, some previous academic studies, NGOs, the authorities, as well as some newspapers, have raised their worries about UAMs who go missing and the risk of trafficking these children face. A joint report from Save the Children and the Red Cross et.al

⁴⁴⁰ Barrett and Veerman, (n 439)

⁴⁴¹ Sharon Detrick, (n 270) Pp. 601

⁴⁴² Interview with a guardian for unaccompanied minors in Oslo (1) (Oslo, 19 November 2016).

⁴⁴³ Interview with District Sheriff and Police Officer from Kristiansand area (12) (Oslo, 2 December 2016)

⁴⁴⁴ Interview with representative from Utekontakten (part of the City Council in Bergen) (4) (Stavanger, 15 November 2016).

⁴⁴⁵ Interview with representative from Utekontakten (part of the City Council in Bergen) (4) (Stavanger, 15 November 2016).

(2011), stress how missing asylum-seeking children are exposed to drug addiction as well as to the possibility of becoming 'low-level' drug sellers in the streets, especially in Oslo and Bergen. There are also reasons to believe that a number of these children work as child prostitutes, the report highlights.⁴⁴⁶ Researchers such as Veronica Paulsen et al (2015) have argued that we do not know what happens to UAMs who go missing, but how the risk of exploitation and trafficking cannot be excluded. Line Ruud Vollebæk (2012) discussed a number of North African children observed selling illegal drugs on the streets of Oslo - these kids was either asylum-seekers or paperless. The children had come in contact with the police concerning drug sales, or other forms of forced criminality, and a big part of these activities is suspected to be organized crimes. Vollebæk underlines how some of the boys could be victims of trafficking.⁴⁴⁷

‘Uteseksjonen (Outreaching Service) in Oslo have experienced adult drug sellers, with the same background, preventing the minors for coming in contact with us, sometimes adults have even physically placed themselves between the child and the social worker. Or they send the children a clear message not to talk with us.’⁴⁴⁸

In a similar vein, Katia Wagner (2014) underlines how “[i]t is not unusual that young asylum-seekers who arrive in Oslo, are forced to sell drugs for men that fully control their lives. The problem is well known in the society.”⁴⁴⁹ Concerning the vast increase of UAMs going missing, newspapers and news channels have, on occasion, highlighted the issue. For example, NRK, Norway's national news channel, published a recent article stating that 143 UAMs have gone missing between January and April 2017, and that they still have not been found by the authorities.⁴⁵⁰ This also underlines a high number of children continuing to go missing from reception and transit centers in 2017. The police and other authorities have also expressed concerns over the risk of trafficking for this particular group of children. KOM's report (2016) stresses the high number of cases of missing children and the risk they face in becoming victims of various forms of trafficking, especially because many of the minors go missing without aid or protection.⁴⁵¹ Also, in a recent report conducted by the United States Department of State (2016), the report emphasizes: ”Some children who had disappeared or had been recruited from

⁴⁴⁶ Save the Children, et.al ‘Alternativ NGO rapport innspill til Stortingsmelding om barn på flukt’, (Save the children, 2011) Pp. 13-14

⁴⁴⁷ Vollebæk, 2012, (n 212) Pp. 59

⁴⁴⁸ Vollebæk, 2012, (n 212) Pp. 59

⁴⁴⁹ Katia Wagner, Pp. 4 (n 19)

⁴⁵⁰ Vilde Helljesen, ‘143 Children has gone missing from Norwegian Reception Centers’ (NRK, 20 May 2017) <<https://www.nrk.no/norge/143-barn-er-forsvunnet-fra-norske-asylmottak-1.13523492>> accessed 20 June 2017.

⁴⁵¹ KOM (published 2016) Pp. 40 (n 49)

asylum centers were subsequently subjected to trafficking by organized trafficking groups.”⁴⁵² The Norwegian Immigration Authorities are also worried, Christine Wildberg, Head of Department of the UDI, raised her concern and stated the following: “We are of course concerned in those cases where youth goes missing, and it can be a risk of trafficking.”⁴⁵³ The annual police report on Child and Youth Criminality in Oslo (2016) emphasizes how UAMs were particularly vulnerable in contexts of criminality, both as victims as well as perpetrators.⁴⁵⁴ Another report from the Criminal Police Centre (2016) stipulates the following:

‘There has for several years been a challenge, that UAMs disappear from asylum centers and that they perhaps are exploited in trafficking. Many UAMs still go missing, but our report shows that these children are less visible for the police today.’⁴⁵⁵

The fact that missing children are less visible today compared to before does not mean that children are at lesser risk of exploitation. As argued earlier, there has been an increase in child trafficking in Norway, which can indicate that many missing unaccompanied asylum-seekers are going underground. Historian and Sociologist Michel Foucault were famous for his interpretation on how power and abuse play out in our societies. Centuries ago, the abuse of power was visible for everyone by public executions, punishment and the broad acceptance of exploitation in the community; for example, by having slaves. Today, the power abuse is hidden and occurs behind locked doors, in basements, across institutions, and through the Internet. Although power abuse and exploitation is still very much present in our societies, it is legally prohibited and has to play out in new forms and find its way through new open venues.⁴⁵⁶

7.1.8 REFLECTION - MISSING CHILDREN AND THEIR VULNERABILITIES FOR EXPLOITATION

The fact that the Government does not know the whereabouts of 62 percent of the children who went missing over the last two years should raise concerns. Simultaneously we have seen an increase in child trafficking in Norway. 218 of the total number of 226 who went missing were boys. One nationality is overrepresented - which is Afghanistan. During 2015, there was also an

⁴⁵² United States Department of State, ‘Office for Monitor and Combat Trafficking in Persons – Report’ (*United States Department of State*, 2016) 30 <<http://www.state.gov/j/tip/rls/tiprpt/countries/2016/258835.htm>> accessed 13 October 2016.

⁴⁵³ UDI, ‘Unaccompanied Minors who Disappear’ (*UDI*, 24 January 2014) <<https://www.udi.no/aktuelt/enslige-mindrearige-som-forlater-mottak/>> accessed 12 March 2017.

⁴⁵⁴ Police and Oslo’s Municipality ‘Child and Youth Criminality in Oslo’ (*The Police and Oslo’s Municipality*, 2016) Pp. 34 <https://www.politi.no/vedlegg/lokale_vedlegg/oslo/Vedlegg_4522.pdf> accessed 2 March 2017.

⁴⁵⁵ National Bureau of Crime Investigations, ‘Trend Report - Organized Crime and other Serious Criminal Acts in Norway 2016’ (*National Bureau of Crime Investigations*, October 2015) Pp. 14.

<https://www.politi.no/vedlegg/lokale_vedlegg/kripos/vedlegg_3188> accessed 12 November 2016.

⁴⁵⁶ Foucault, M, *Discipline and Punish: the birth of a prison* (London, Penguin Publisher 1991).

increase in Afghan children identified as victims of trafficking in crimes-for-profit, or more precisely, in this case, drug sales.⁴⁵⁷ The second was Syria, with 18 missing children; and third, 17 children from Morocco. The Middle East and Northern Africa was also one of the three regions from which most suspected and verified child victims of trafficking in Norway came. My informants pointed to Morocco as one of the states with most potential child victims of trafficking. Morocco was also the nationality of most of the children who went missing came from, in relation to the number that applied for asylum between January 2015 and December 2016. The largest group of those who went missing was between 16 and 17 years of age, simultaneously, according to KOM (2016), children between 16 and 17 years of age was the largest reported age group of suspected victims of trafficking in Norway.⁴⁵⁸ . Uteseksjonen (outreaching service) met more UAMs in the streets of Oslo throughout 2015 than earlier, (this is also related to the increased number of unaccompanied asylum seekers who arrived in Norway during 2015). While Uteseksjonen previously met mostly North African minors in the centrum of Oslo, they have during the past two years also seen an increased number of UAMs from Afghanistan.⁴⁵⁹

Information and understanding is lacking on the actual number of missing children exploited as victims of trafficking in Norway. However, from the number of studies and reports conducted during the past three years, there seems to be consensus across the board (authorities, academia, NGOs, media as well as from my informants) about how missing children are extremely vulnerable and at risk of trafficking even within Norway. Nonetheless, a life on the street without any caring adults around often becomes a reality for these children, as going back to a conflicted-affected country such as Afghanistan might not be an alternative. I will in the next two parts of Chapter 7, discuss and analyze the authorities' response to the risk of trafficking in Norway.

7.2 Response: The Risk of Trafficking as a Child Protection Issue?

Every State, which has ratified the CRC and the CoE Anti-Trafficking Convention and other human rights treaties, are obliged by law to protect all children residing on its territory from human rights violations. These measures are called positive actions, which means that the State

⁴⁵⁷ KOM (published 2016) Pp. 28 (*n* 49)

⁴⁵⁸ KOM (published 2016) Pp. 31 (*n* 49)

⁴⁵⁹ Police and Oslo's Municipality, Pp. 42 (*n* 454)

has to act and implement mechanisms that will protect children and prevent trafficking. In General Comment No. 6 Para 24, the CRC Committee suggests a number of priority measures that should be implemented to protect children from trafficking - including the need to identify UAMs, and the right to a guardian and assistance to children facing a particular set of risks.⁴⁶⁰ There exist more protection measures such as granting children residence permits when they have been victims of trafficking or compensation and so on. Nonetheless, the three elements - identification, guardianship, and assistance to children at heightened risk - are the matters I have chosen to look closer into, because these are most relevant for my study, with a special emphasis on the identification part, which stood out from my qualitative research.

7.2.1 IDENTIFICATION MEASURES

One very crucial element and starting point in order to protect children from exploitation is the identification work, which is necessary to save children from living in abusive and exploitative conditions; to provide protection, as well as psychological support; and to prevent exploitation from taking place in the future. The identification work is crucial also in that it prevents child victims of trafficking from being punished when they are, for example, exploited in forced criminality.⁴⁶¹ However, challenges exist around identification. There is not one particular body which has the overall responsibility for identifying child victims of trafficking in Norway, but every institution working with UAMs - such as the UDI, the CWS, reception centers as well as the police - are responsible for this task. If there are reasons to be concerned, it shall be reported to the police or the CWS.⁴⁶² Cathrine Holst Salvesen (2014) argues the action taken in each case will vary according to which entity is handling it.⁴⁶³ UDI has developed a directive that entails guidelines for employers at reception and transit centers on how to identify victims of trafficking.⁴⁶⁴ Additionally, at every reception center, one person shall be responsible for follow-up if there are grounds for believing a child might be a victim of trafficking.⁴⁶⁵

The pie chart below indicates the total number of children identified as suspected victims of trafficking (42 children) in 2015, divided by gender. When analyzing the graph, it becomes evident that more than twice of those identified as suspected victims of trafficking were girls.

⁴⁶⁰ CRC General Comment Nr. 6 Para. 24 (*n* 29)

⁴⁶¹ Council of Europe GRETA, '5th General Report' Pp. 36 (*n* 46)

⁴⁶² Cathrine Holst Salvesen, 2014, pp. 36 (*n* 148)

⁴⁶³ Cathrine Holst Salvesen, 2014, pp. 36 (*n* 148)

⁴⁶⁴ UDI, Directive on Identification (*n* 140)

⁴⁶⁵ The Government Action plan on combating trafficking, Pp. 11 (*n* 27)

Scholars have raised concerns about the number of children not given support, and Guri Tyldum et al (2015) argues how the current method of identification in Norway is not working in practice as it should.⁴⁶⁶

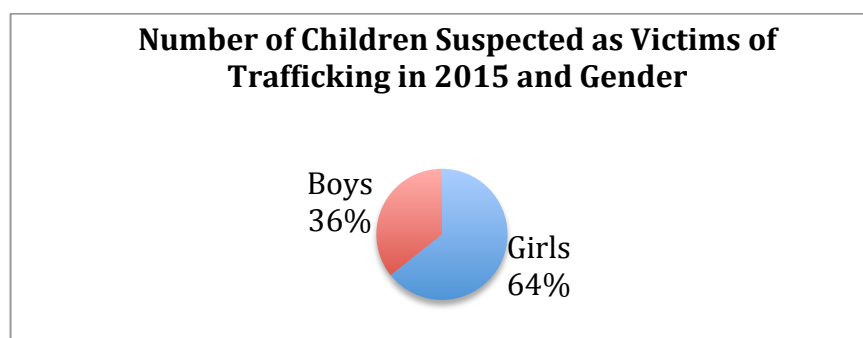


Figure 13: Total number of suspected victims of trafficking (42 children) during 2015 divided by gender. Source: KOM.⁴⁶⁷

Guri Tyldum et al (2015) looked at child trafficking in Norway between 2012 and 2015, and found in total 139 children suspected and verified victims of trafficking. Nonetheless, the authors argue, these numbers have to be seen as a minimum amount, because many children are never identified.⁴⁶⁸ In the research conducted, they also found that of the children verified almost two-thirds were girls. Only six boys from the MENA-region were verified as having been victims of trafficking, out of the total number of 30 boys suspected to have been victims between the years 2012 and 2015.

‘Only one out of five unaccompanied children from North Africa or the Middle East suspected of being exploited in crimes for profit was verified as child victims of trafficking. In this group the vast majority were boys.’⁴⁶⁹

Guri Tyldum et.al (2015) also carried out a survey with the objective to find out which cases of trafficking would most likely be followed up on by the police and the CWS. The first example was a 16-year-old girl living with her boyfriend (who was two years older than her) in Oslo. She prostituted herself and shared the money between them. 75% of all the police officers participating in the survey said they would have followed up on it, and 82 % of the representative from the CWS would do the same. The other scenario was a 17-year-old boy from Algeria, who had his asylum application rejected but lived in Oslo together with an older friend. The friend gave the boy drugs, and the boy sold the drugs in the streets of Oslo, and he shared the income with his friend. Only 25% of the police officers would have followed up on this case,

⁴⁶⁶ Guri Tyldum et.al 2015 (n 23) Pp. 40

⁴⁶⁷ KOM published 2016 (n 49) Pp. 31

⁴⁶⁸ Guri Tyldum et.al 2015 (n 23) Pp. 42

⁴⁶⁹ Guri Tyldum et.al 2015 (n 23) Pp. 42

and only 28% of the representative from the CWS saw this as a potential case of trafficking. These answers were only given from a small fraction of the police and representatives from the CWS in Norway. Nonetheless, it provides a picture of the types of cases that would most likely be followed up by the various stakeholders.⁴⁷⁰ According to the findings of the study, children involved in forced criminality such as drug sale had less chance for being perceived as potential victims of trafficking and thus less chance for being granted the follow-up and protection to which the child was entitled. A report from the UK also stresses how only 20% of all victims of human trafficking identified in 2013 were male or boys in the UK.⁴⁷¹ Additionally, researchers such as Cathrine Holst Salvesen and Hilde Liden (2016) and my informants expressed their unease on the lack of concern regarding boys being potential victims of trafficking:

- ‘Our data shows that boys are exposed to complex and numerous forms of pressure/coercion, aversion and manipulation over longer and changing periods of time, and with several different men behind, who makes the profit of the exploitation.’⁴⁷²
- ‘The suspicion of boys being victims of trafficking in forced labor or services is less, and rather considered as criminality, compare to the suspiciousness of girls-victims in child prostitution, which is almost per definition is seen as human trafficking.’⁴⁷³
- ‘A girl who tells a heart-breaking story during the asylum interview and who is crying is much easier believed to be speaking the truth, compared to boys. Boys might appear tougher and refuse to see him selves as a victim. It is often also a taboo to talk about exploitation in many cultures.’⁴⁷⁴

7.2.2 GUARDIANSHIP

CRC General Comment No. 6 Para 33 outlines that States should ensure a guardian to all UAMs until the child reaches the age of 18 or has left the country.⁴⁷⁵ In Norway, all UAMs shall be granted a representative or a guardian when applying for asylum. The guardian shall represent the child, make sure that in all decisions taken, the best interest of the child has been considered, as well as provide assistance and support when the child are placed in a reception center, in terms of ensuring access to education, language training and health services. Additionally, the

⁴⁷⁰ Guri Tyldum et.al 2015 (n 23) Pp. 60

⁴⁷¹ Andrew Boff, ‘Shadow City: Exposing Human Trafficking in Everyday London’, [2013] 2 Revision CLA Conservatives Web <<http://glaconservatives.co.uk/wp-content/uploads/2013/10/Shadow-City.pdf>> Pp.9

⁴⁷² Salvesen and Liden 2016, Pp. 68. (n 24).

⁴⁷³ Interview with a professional social worker from Uteseksjonen (3) (City Council of Oslo) (Oslo 21 December 2016).

⁴⁷⁴ Interview with a guardian for unaccompanied minors in Oslo (1) (Oslo, 19 November 2016).

⁴⁷⁵ CRC General Comment Nr. 6 Para 33 (n 29)

guardian is responsible for making sure the UAM is granted council, understands the process and has access to all the documents regarding him or herself.⁴⁷⁶

7.2.3 SPECIAL PROTECTION MEASURES

All victims have a right to get council and the right to special assistance, as stipulated in both CRC Article 20,⁴⁷⁷ as well as the CoE's Anti-Trafficking Convention - applicable to children identified as potential victims as well as verified victims of trafficking.⁴⁷⁸ Victims of child trafficking in Norway are offered special protection. Some victims continue to live in reception centers, while others such as children exploited in prostitution might live in care centers organized by Rosa, an organization working with victims of trafficking. If needed and when there is a potential risk that the child might go missing and the risk of re-trafficking, some children can be placed in one of the two closed governmental institutions, as per Article 20 of the CRC, and this can be done without the consent of the child, for a shorter or longer period, based on Child Welfare Act § 4-29. These children are granted professional follow-ups tailored to their needs, and since 2012, 44 children have been placed in such a closed institution/protection house in Norway.⁴⁷⁹ The CoE's Anti-Trafficking Convention Article 13 gives a minimum requirement for a 30-day reflection period for victims of trafficking, and Norway fulfills this obligation by giving a six-month reflection period.⁴⁸⁰

7.2.4 CRITICAL ANALYSIS – AN ISSUE OF PROTECTION?

Identification

Statistics from KOM (2016) indicates over twice as many girls compared to boys identified as suspected victims of trafficking throughout 2015 (figure 13). Additional research from Guril Tyldum et.al (2015) shows that out of the total number of verified and suspected victims of child trafficking between 2013 and 2015, two-thirds were girls. Furthermore, only six boys were verified as a victim of trafficking of the total 30 identified as suspected victims. The great differences indicate how the element of identification as a protection measure is a challenge. What can be the reason behind the gender gap relating to the identification of suspected and verified victims of trafficking in Norway? Is the gender gap an indication of boys' being less

⁴⁷⁶ Berit Berg and Kristian Rose Tronstad, 'Living Conditions for Children during the Asylum Process' [2015] NTNU Samfunnsforskning Pp. 147 <https://samforsk.no/Publikasjoner/Dokumentasjonsrapport_2015.pdf> accessed 12 November 2016.

⁴⁷⁷ CRC Article 20

⁴⁷⁸ CoE Anti-Trafficking Convention Article 12

⁴⁷⁹ GRETA Questionnaire, (n 311) section. 18

⁴⁸⁰ The Government Action plan on combating trafficking, (n 27) Pp. 14

vulnerable to exploitation and trafficking than girls? Are boys less trusted or believed speaking the truth or perhaps various forms of exploitation, causes the gender gap? To understand these questions, it can be fruitful to start by looking at court procedures.

The CoE's Anti-Trafficking Convention Article 4 Paragraph C states how children are excepted from the means such as the use of force, violence and coercive actions that need to be present for an adult to be identified as a victim of trafficking.⁴⁸¹ The term *coercion* as used in forced labor or forced services, according to the Norwegian Government, means that a person who has been exploited, did not voluntarily accept the working conditions and/or could not get voluntarily out of the exploitative situation.⁴⁸² In one of the few judgments on child trafficking in Norway, four children from Lithuania was trafficked in forced services, and the Supreme Court stated the following:

‘In this context, even though the claim for coercion has to exist, it cannot be applied too strictly, after the view of the Supreme Court, it would be sufficient as long as there is some sort of pressure acted out by the perpetrator.’⁴⁸³

If a minor is involved in forced criminality, some sort of pressure has to be present, although ‘it cannot be applied too strictly’, for the case to amount to trafficking the Supreme Court states. If this were not required, it would be extremely challenging for prosecutors to differentiate between criminal acts carried out on a voluntary basis and those performed by coercion. Therefore, due to the requirement of a certain form of pressure in cases of forced criminality, it becomes more difficult to categorize children as victims of trafficking, in forms of exploitation other than prostitution. Children observed in prostitution are almost unanimously perceived as having been trafficked by the UDI, the Police and the CWS, as the aspect of coercion or pressure, does not need to have taken place; it needs to be proven only that the child prostitute her or himself to be defined as trafficking.⁴⁸⁴ This is one explanation for why girls between 2013 and 2015 were, to a greater extent, identified as verified victims of trafficking compared to their male counterparts. I will argue that the low threshold for identifying a child as a confirmed or potential victim of trafficking through prostitution, is crucial and the right approach. What is concerning, however, is how difficult it is to identify victims of trafficking in other forms of exploitation, such as

⁴⁸¹ CoE's Anti-Trafficking Convention Article 4 (C)

⁴⁸² Ministry of Justice and Public Affairs, *Amendment of the Criminal Code*, (Ot.prp. nr. 50) (2005-2006) section 3.1.1 <<https://www.regjeringen.no/no/dokumenter/otprp-nr-50-2005-2006/id401675/?ch=3>> accessed 12 October 2016.

⁴⁸³ Norwegian Supreme Court, HR-2013-00104-A, (sak nr. 2012/1464) Section 24, (January 18 2013), <<https://www.domstol.no/globalassets/upload/hret/avgjorelser/2012/saknr2012-1464anonymisert.pdf>> accessed 12 October 2016.

⁴⁸⁴ Guri Tyldum et.al 2015 (n 23) Pp. 50

through forced criminality. KOM's report (2016) underlines the challenge and states the following:

‘Social workers have often experienced how potential victims, involved in drug criminality, tend to meet a greater mistrust by the police and prosecutors, compare to victims suspected to be exploited through other forms of trafficking. In addition to the juridical challenges, victims of criminal exploitation, also faces greater challenges in relation to aid and protection.’⁴⁸⁵

Cathrine Hols Salvesen et.al (2016) stresses the variations in knowledge of various forms of exploitation, as well as what differentiates smugglers from traffickers, among state officials. Salvesen et al argues how this affects how serious case officers perceived the child's situation to be, and following this, how the case will be handled.⁴⁸⁶ The researchers highlight how stakeholders involved with UAMs fail to give the protection these children need.⁴⁸⁷ Guri Tyldum et al (2015) also concludes in their research that employees in the police and the CWS themselves felt they lacked knowledge on what trafficking is as well as on which routines exist to follow up on, for cases of trafficking.⁴⁸⁸ Only one in four employees from the police and the CWS had participated in information seminars on trafficking, according to their research.⁴⁸⁹

As we have seen by analyzing data, boys are frequently more exploited through forced criminality than girls. Boys are also in fewer cases identified as either verified and suspected victims of trafficking. The main reasons I will argue is first of all, due to the legal challenges in proving a case of trafficking in criminal offenses especially when exploited in crimes for profit. Secondly, it also seems to exist a lack of training among those responsible for identifying victims of trafficking within the CWS, the police, UDI or social workers, which often results in a lack of knowledge and perception of the various forms of trafficking. The lack of awareness and understanding can create stereotypes such as a child victim of trafficking is typical a girl exploited in prostitution and might ignore other forms of trafficking. The new Governmental Action Plan on Combating Trafficking (2016) also reveals shortcomings within the different stakeholder's work with child victims of trafficking. The action plan underscores the need to strengthen the knowledge and competence on migration and trafficking among public health workers.⁴⁹⁰ The action plan also emphasizes how many representatives for the CWS have no experience with child trafficking, and how overall knowledge and understanding of the concept

⁴⁸⁵ KOM published 2016 (n 49) Pp. 26

⁴⁸⁶ Salvesen and Liden 2016 (n 24) Pp. 45

⁴⁸⁷ Salvesen and Liden 2016, (n 24) Pp. 68

⁴⁸⁸ Guri Tyldum et.al 2015 (n 23) Pp. 57

⁴⁸⁹ Guri Tyldum et.al 2015 (n 23) Pp. 58

⁴⁹⁰ The Government Action plan on combating trafficking, (n 27) Pp. 11

have to increase. Additionally, knowledge and awareness on trafficking within the police and the prosecuting authorities also have to increase, according to the action plan.⁴⁹¹ Guri Tyldum et al (2015) criticizes the current situation in Norway regarding follow-up on victims of trafficking and concludes:

‘There are to a certain extent no communication between the different institutions, lack of information sharing and lack of transparency, results in only a few given follow up as victims of trafficking by the police, the CWS and the UDI. [...] There are no grounds to say that one particular institution is failing, all of them are insufficient and suffer from shortcomings.’⁴⁹²

I will argue that there seems to be an issue when it comes to the element of identification of child victims of trafficking and the need to strengthen the work on this important aspect to protect vulnerable children such as UAMs. It seems that the follow-up and actual protection a child gets often seems to be personal, depending on who is dealing with the case, the person’s level of knowledge, engagement, willingness and courage to take the case further. Many employees in these institutions are very capable and aware of how different types of trafficking can happen, but it also seems that a high number of them are not. The follow-up on UAMs at risk of becoming or already identified as suspected victims of trafficking has to be standardized. Hilde Liden and Cathrine Holst Salvesen (2016) argue there is also uncertainty related to who has the overall responsibility to make sure that the follow-up on a child victim of trafficking is assured, given that several entities such as the police, the CWS, reception centers, UDI, lawyers and/or guardians are involved.⁴⁹³ When the responsibility to identify is divided among so many different stakeholders, a problem might be that in the end, no one takes the responsibility because they might think another institution will do it.⁴⁹⁴ Thus, I suggest there is a need of a centralized expert team in addition to all the other entities - one which has the overall responsibility for the identification and follow up on child victims of trafficking. In the Concluding Observation to Norway, the CRC Committee recommends the Norwegian authorities to “[d]evelop and implement measures to systematically identify victims of trafficking in the country, enforce the laws that criminalize the sale, trafficking, and abduction of persons and make sure that victims are competently treated.”⁴⁹⁵ Additionally, the first report on Norway by GRETA (2013) highlights how the “Norwegian government should pay more

⁴⁹¹ The Government Action plan on combating trafficking, (n 27) Pp. 23

⁴⁹² Guri Tyldum et.al 2015 (n 23) Pp. 73

⁴⁹³ Salvesen and Liden 2016 (n 24) Pp. 75

⁴⁹⁴ Salvesen and Liden 2016 (n 24)

⁴⁹⁵ CRC Concluding Observation, (n 224) Section 54 (c)

attention to child trafficking.⁴⁹⁶ GRETA also recommended Norway to establish National Referral Mechanism to identify possible victims of trafficking.⁴⁹⁷

Moreover, I have emphasized the need to increase training on the concept of trafficking, which should be provided to all persons involved with UAMs. To comply with CoE Anti-Trafficking Convention Article 10, which obliges States to have qualified and competent staff,⁴⁹⁸ as well as the recommendations from the CRC General Comment No.6 Para 95. The latter emphasizes the need for training case officers, guardians and legal representatives who are involved and work with UAMs, to provide better protection to UAMs as victims of trafficking.⁴⁹⁹ Moreover, Norway should follow GRETA's recommendation to establish National Referral Mechanisms to better identify possible victims of trafficking - which is still not in place.⁵⁰⁰ I will also argue that the role of the CWS has to be more present in cases of trafficking; after all, according to the Child Welfare Act, they are responsible for stepping in, acting and preventing children in Norway - regardless of status - from having to endure illicit care.

Guardianship

The right to a guardian is important to ensure for all UAMs, but previous research has shown that the guardian procedure in Norway does not function as well as it should. Berit Berg Tronstad et al (2015) interviewed a number of UAMs in their study, and many did not know they had a representative or guardian, while others said their guardian was never able to meet them or did not pick up the phone when they tried to reach them.⁵⁰¹ Although it was only one of my informants stressing the issue, she explained that there is an issue of guardians having way too many children to take care of.⁵⁰² Also, the CRC Committee in their Concluding Observations to Norway in Para 50 (c) stress their concerns “[a]t the fact that guardians are often overburdened and thus cannot adequately exercise their role.”⁵⁰³ Following the Committee recommends Norway to enhance the system of guardianship and make clear the responsibilities of being a guardian.⁵⁰⁴ This underscores the need to strengthen the guardianship procedure to ensure every

⁴⁹⁶ CoE GRETA, ‘Report Concerning the Implementation of the Council of Europe Convention on Action Against Human Trafficking by Norway’ GRETA(2013)5 (Strasbourg 7 May 2013), Pp. 7

⁴⁹⁷ Ibid (n 496)

⁴⁹⁸ CoE Anti-Trafficking Convention Article 10

⁴⁹⁹ CRC General Comment Nr. 6 (n 29) Para 95

⁵⁰⁰ GRETA Questionnaire, (n 311) Pp. 15.

⁵⁰¹ Berg Tronstad and Rose 2015 (n 476) Pp. 147

⁵⁰² Interview with a guardian for unaccompanied minors in Oslo (1) (Oslo, 19 November 2016).

⁵⁰³ CRC Concluding Observations Para 50 (c) (n 224)

⁵⁰⁴ CRC Concluding Observations Para 52 (b) (n 224)

UAM is granted support, and can understand and access information as well as be assured that CRC Article 12, the right to be heard, is not violated.

Special Protection Measures

All children identified as suspected or verified victims of trafficking have a right to special assistance and protection, but the Action Plan in Combating Trafficking (2016) outlines a challenge related to how UAMs identified as suspected victims of trafficking may choose not to receive the help, or they are not granted it.⁵⁰⁵ The Government's effort to provide extra protection to children identified as victims of trafficking and for those children where there is a risk of re-trafficking, the child can be placed in a closed institution for up to six months. On the one hand, this might be the right thing to do for some kids; but on the other hand, it can also result in a violation of freedom of movement.⁵⁰⁶ It is a protection house, but the child might be deprived of his or her liberty when he or she is placed there without his or her consent; thus, the government needs to pay particular attention to the follow-up on these children. Additionally, the reflection period given to children placed in one of these closed institutions cannot be renewed, nor does it guarantee a permanent residence permit.⁵⁰⁷ This is why many children worry what will happen to them if they are being sent back, as set out in Catherine Holst Salvesen et al. (2016).⁵⁰⁸ Since the perpetrator is often unknown or there is a lack of evidence, the CWS often does not know what to do with children placed in these closed institutions. Thus, after the reflection period is over, children are often sent back to reception centers, and a number of these kids go missing after only a short time, Guri Tyldum (2016) notes.⁵⁰⁹ Also, the authorities argue in their reply to GRETA that there is a need for enhanced cooperation between the UDI, the police and the CWS on this matter.⁵¹⁰

Second, the government has decided in the new action plan on combating trafficking (2016) to enhance the control of who will be granted the reflection period, to avoid misuse by persons not entitled to it.⁵¹¹ I think this is a misguided focus; instead, the government should rather

⁵⁰⁵ The Government Action plan on combating trafficking, (n 27) Pp.14

⁵⁰⁶ Maria Grazia Giammarinaro, (n 125) Pp. 235

⁵⁰⁷ GRETA Questionnaire, (n 311) Pp. 19

⁵⁰⁸ Salvesen and Liden 2016 (n 24) Pp. 61

⁵⁰⁹ Tyldum G, 'Follow up on Human Trafficking' (2016) 9 Fafo-notat Pp. 18 (n 376)

⁵¹⁰ CoE GRETA, 'Report submitted by the Norwegian authorities on measures taken to comply with Committee of the Parties Recommendation CP(2013)6 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings' (CP(2015)9) Section 18 (received 8 June 2015) <<https://rm.coe.int/16806321c0>> accessed 13 June 2017.

⁵¹¹ The Government Action plan on combating trafficking, (n 27)

concentrate and be concerned about all the potential child victims of trafficking never identified and hence not given protection at all. As there are a high number of unreported cases of child trafficking in Norway, this, in my opinion, should be the first priority of the Norwegian Government (to reduce the number), instead of focusing on people who could potentially abuse the system.

7.3 Response: The Risk of Trafficking - an Issue of Prevention?

Prevention measures are positive obligations that States have in combating trafficking, and I will use this section to explore whether the risk of trafficking for missing UAMs is an issue of prevention. The risk of trafficking for missing children in Norway clearly exists, and I have shown how various stakeholders such as social workers, guardians, the UDI and the police have all raised their concerns. In one of the commentaries on the CRC, Sharon Detrick explains how the CRC Committee lists several elements that should be taken into consideration within the scope of work for preventing child trafficking. These are pieces of legislation, awareness and information campaigns, allocation of resources, national strategies and special units to deal with combating trafficking.⁵¹² To what extent does Norway fulfill its positive obligations to prevent child trafficking? I will in the next section look into these elements as well as other measures such as investigations and prosecutions, along with multilateral action Norway is taking to prevent child trafficking.

7.3.1 LEGISLATIONS

Examples of positive measures are various laws and policies implemented to protect as well as prevent trafficking.⁵¹³ Exploitation through forced criminality, especially drug sales, seems to be the most common type of exploitation faced by boys in Norway, according to data from the latest three reports from KOM as well as statements from my informants. Several international human rights conventions compel States to protect children from exploitation through criminality - such as ICESCR Article 10 (3), ICCPR Article 24 (1), UDHR Article 4 and ECHR Article 4. The most comprehensible convention regarding children's rights is the CRC, and Damon Barrett and Philip E. Veerman explain how article 33 of the CRC consist of two

⁵¹² Sharon Detrick, (n 270) Pp. 603

⁵¹³ Manfred Nowak, 'Implementation of Human Rights' Nowak M, Januszewski K, Hofstatter T (eds), *All Human Rights for All – Vienna Manual on Human Rights* (NWV Wien 2012) Pp. 270.

substantive protections: The first one concerns State obligations to protect children from the illegal use of narcotic drugs; and the second one, the responsibility to prevent the use of minors in the sale or production of it.⁵¹⁴ Both paragraphs are connected, the author stresses, as many of the children exploited through crimes-for-profit such as drug trade might also be users themselves. The first protection measure is also closely related to CRC Article 24, the right to health. The second clause compels states to take appropriate steps to prevent children engaging in production or the sale of narcotic drugs both on a large as well as small scale Barrett and Veerman argue.⁵¹⁵ The second clause of Article 33 is about exploitation of children and is thus closely connected to CRC Article 32, freedom from economic exploitation. Children can be involved in the drug trade in multiple ways. Some kids might participate in the low-level drug sale, and if they are not coerced or controlled by adults, but involved of their own free will, it has to be distinguished from those children who are there against their will and cannot get out of the exploitive conditions. On the other hand, if a child is working with drug trade or other illegal activities, although not coerced to do so and no forms of pressure exists and the child can stop whenever she or he wants, Barrett and Veerman still argue that this type of work has to be regarded as the worst form of child labor - because it is hazardous to the child's well-being, development, and health, as well as it has a status that is illegal.⁵¹⁶ CRC Articles 32, 33, 35 and the ILO Convention 182 are thus closely connected.

7.3.2 NATIONAL STRATEGIES AND MONITORING MECHANISMS

National strategies to combat trafficking is crucial, although Norway currently has an action plan, it took the Government two years before a new strategy on the fight against trafficking was established after the previous was canceled. The last action plan expired in 2014, and the new strategy was not in place before December 2016, which means that Norway had no plan through the exceptional year of 2015, where 32 000 refugees applied for asylum, and many children went missing. Besides, the authorities decided not to evaluate the last action plan from 2014.⁵¹⁷ However, an evaluation is needed to better understand whether or not the plans and actions set out in the previous action plan were implemented in practice. Additionally, there have been very few evaluations, if any, of police work on trafficking in Norway. Thus, the Norwegian Police Colleague has initiated as a Ph.D. project, to evaluate the police work on trafficking in Norway.

⁵¹⁴ Damon Barrett (*n* 439) Pp. 91

⁵¹⁵ Damon Barrett (*n* 439) Pp. 47

⁵¹⁶ Damon Barrett (*n* 439) Pp. 71

⁵¹⁷ GRETA, 'Report submitted by the Norwegian authorities CP' (*n* 510)

⁵¹⁸ Early warning systems are another element essential to preventing children from trafficking. GRETA (2016) requested information from the Norwegian authorities on early warning systems for missing children - such as a national phone number, cooperation with other States or cooperation relating to the search for missing children. Norway replied by arguing since Norway is not an EU member, it is not connected to the European phone number for children who have gone missing.⁵¹⁹ There are, in other words, no hotlines in Norway that UAMs could try to contact while missing.

7.3.3 ALLOCATION OF APPROPRIATE RESOURCES

Another step in the work of preventing trafficking is the allocation of resources. The Norwegian Government has established a grant scheme to support voluntary organizations working with victims of trafficking mostly in prostitution, but also other forms of exploitation. 20 Million NOK has been earmarked for this cause.⁵²⁰ Besides, for the 2015 annual budget, the Government granted 15 million NOK to the police to enhance their work in the fight against trafficking. The financing continued in 2016 and was earmarked to the five largest police districts in Norway, with the aim of establishing special units specializing on trafficking.⁵²¹

7.3.4 INFORMATION CAMPAIGNS AND RESEARCH

In the report to the Storting (2015–2016), it is stipulated how preventative measures shall be established to avoid children from ending up in criminal environments or be exposed to trafficking.⁵²² When I asked my informants on the procedures put in place to prevent the risk of trafficking of UAMs, the social workers who worked directly with these children in reception and transit centers said they always informed the children on the potential risk of trafficking that exists if they go missing. As discussed earlier, the guardians of UAMs also told children about the dangers of exploitation and trafficking.⁵²³ Since 2007, the Norwegian government has engaged in and supported various projects to raise awareness on and combat trafficking. For example, KOM works to promote cooperation between NGOs and the authorities, and arranges seminars.⁵²⁴ KOM also publishes annual reports on trafficking statistics in Norway each year.⁵²⁵

⁵¹⁸ The Government Action plan on combating trafficking, (n 27) Pp. 19

⁵¹⁹ GRETA Questionnaire, (n 311) Pp. 25

⁵²⁰ The Government Action plan on combating trafficking, (n 27) Pp. 12

⁵²¹ KOM 2016 (n 49) Pp. 52

⁵²² Report to the Storting 30 (n 227) Pp. 46

⁵²³ Interview with a guardian for unaccompanied minors in Oslo (1) (Oslo, 19 November 2016 and Interview with informant (2) guardian for unaccompanied minors from Vesterålen, (Stavanger 10 December 2016).

⁵²⁴ Vollebæk, 2012, (n 212) Pp. 12

⁵²⁵ The Government Action plan on combating trafficking, (n 27) Pp. 7

During 2015, the Norwegian Government also supported several scientific studies. One of the research studies was ordered by the Ministry of Justice and Public Security, and carried out by Berit Aasen et al (2017). Additionally, the Ministry of Children, Equality, and Social Inclusion ordered a study on child trafficking in Norway, carried out by Guri Tydlem et al (2015).⁵²⁶ It should be noted that the Action Plan on Combating Trafficking has emphasized the need for enhanced understanding and knowledge of trafficking within all institutions. Moreover, there have not been many public campaigns to prevent child trafficking, so the Ministry of Justice and Public Security will support information campaigns to be carried out to enhance the knowledge and awareness of human trafficking in Norway. It is hoped that these efforts will also contribute to strengthening the identification of child victims.⁵²⁷ These measures are essential elements in the work of preventing and combating child trafficking.

7.3.6 SEARCHING FOR CHILDREN AS A PREVENTATIVE MEASURE

There are two different types of investigations the law enforcement agencies, such as the Police, are in charge of: First, the responsibility for follow-up for when UAMs go missing; however, as previously discussed, my qualitative research highlights how the police seldom start investigations or even search for UAMs who have gone missing. Despite the Governmental Action Plan on Combating Trafficking (2016), and the report to the Storting,⁵²⁸ that underlines how the National Police Directorate shall ensure investigations of UAMs are “prioritized on an equal matter as any other disappearance.”⁵²⁹ Simultaneously we have seen how stakeholders in Norway have raised their concerns about the lack of knowledge on why children go missing, as there are barely any police searches or investigations, we cannot know if all kids leave on a voluntary basis. There was also broad agreement among stakeholders on the possibilities for exploitation and even trafficking for missing children. I have previously discussed how the police ought to search for the whereabouts of missing UAMs, as they do when Norwegian children go missing, and as strongly recommended in the Directive of the Public Prosecutor.⁵³⁰ Searching for the children who are missing could be an essential element in preventing these kids from falling into the hands of traffickers and exploitation.

⁵²⁶ The Government Action plan on combating trafficking, (n 27) Pp. 11

⁵²⁷ The Government Action plan on combating trafficking, (n 27) Pp. 23

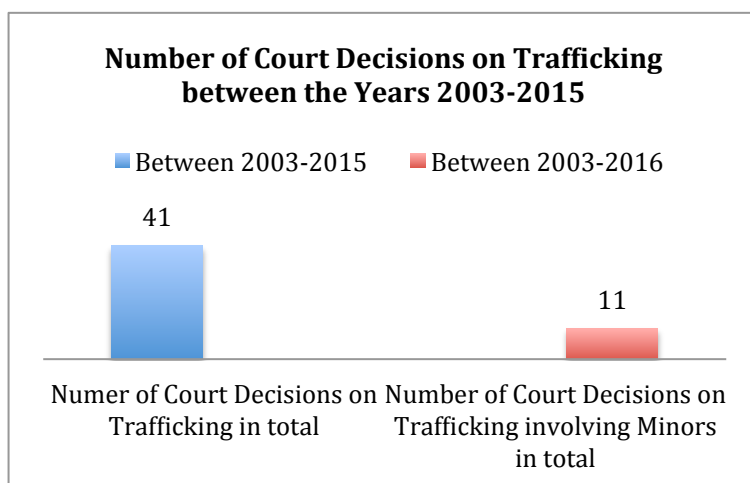
⁵²⁸ Report to the Storting 30 (n 227) Pp. 46

⁵²⁹ The Government Action plan on combating trafficking, (n 27) Pp. 18

⁵³⁰ Director of Public Prosecution, Busch (n 356)

7.3.7 PROSECUTIONS

In 2010, the ECtHR, under ECHR Article 4, made a landmark decision on trafficking, compelling State Parties to ensure measures to investigate, prosecute perpetrators, as well as to ensure the protection of victims and the prevention of future exploitations.⁵³¹ Hence, the Court listed three positive obligations every State Member have, regarding their responsibility to combat trafficking. First, every state needs to have laws that prohibit trafficking, and Norway is fulfilling this requirement through Criminal Acts § 257 and §258. The second positive obligation the Court listed is how every State needs to take “measures to punish traffickers”. A significant deterrent measure taken in order to help prevent trafficking is the prosecution of perpetrators. Between 2006 and 2015, a total of 512 cases was reported to the police concerning trafficking in general (both adults and children) across Norway.⁵³² However, there have been few criminal proceedings regarding trafficking in Norway, and even fewer relating to child trafficking in particular. Since 2003, 41 Court decisions was carried out on trafficking in general, and only 11 of these judgments involved children - with none of the unaccompanied asylum-seeking children from the MENA-region (from where the vast majority of missing unaccompanied minors come).⁵³³ Six of the 11 convictions concerned exploitation through prostitution or sexual services and four concerned forced labor or crimes for profit and the last judgment involved both forms of exploitation.⁵³⁴ KOM (2016) informs that the threshold to prove a case of trafficking after the Criminal Code is high, and it is demanding to fulfill the conditions set out by law.⁵³⁵



⁵³¹ *Rantsev V. Cyprus and Russia* App no. 25965/04 (ECHR, 7 January 2010).

⁵³² KOM 2016 (n 49) Pp. 48

⁵³³ KOM 2016 (n 49) Pp. 60

⁵³⁴ *Ibid*

⁵³⁵ KOM 2016 (n 49) Pp. 61

7.3.8 THE PRINCIPLE OF NON-PUNISHMENT - CRIMINALS OR EXPLOITED CHILDREN?

In a study carried out by Save the Children (2013), a variety of perceptions of UAMs who go missing are revealed. Some case officers from the UDI and the police were of the opinion that many children leave reception centers to travel to Oslo or Bergen, to engage in criminal activities. Others were of the view that if missing UAMs were involved in illegal activities, they were also at significant risk of being exploited.⁵³⁷ Between 2013 and 2014 in Bergen, Norway's second largest city had several migrants, mostly boys and young men from Morocco, engaging in drug sales and criminality. The boys looked very traumatized, and many of them suffered greatly from self-injury and drug addiction, as one of my informants from the Outreaching service in Bergen explained. She was of the opinion that several of these youngsters were victims of trafficking.⁵³⁸

In Norway, every police district is responsible for preventing, uncovering and criminally prosecuting traffickers, as well as taking into consideration the aspect of coercion every time a criminal act has found to have taken place. Criminal Code § 224 states that an investigation shall be carried out when there are reasonable grounds to believe that a criminal offence is involved.

⁵³⁹ The *principle of non-punishment* is a difficult yet crucial aspect. Article 26 of the Anti-Trafficking Convention states the following: "Each Party shall, in accordance with the basic principles of its legal system, provide for the possibility of not imposing penalties on victims for their involvement in unlawful activities, to the extent that they have been compelled to do so."

⁵⁴⁰ The article enshrines obligations to State Parties to have legislative measures that will refrain from criminalizing children in conflict with the law, were there are reasons to believe that the child have been forced or pressured to commit the crime. Criminalizing victims of trafficking violates the victim's right to protection, and State Parties compliance with the principle of non-

⁵³⁶ KOM 2016 (n 49) Pp. 57-60

⁵³⁷ Karen Elise Espeland (n 18)

⁵³⁸ Interview with representative from Utekontakten (part of the City Council in Bergen) (4) (Stavanger, 15 November 2016).

⁵³⁹ The Penal Code, § 224

⁵⁴⁰ Anti-Trafficking Convention Article 26

punishment is also very important in order to encourage victims to report and to seek help and later investigate and prosecute perpetrators, as applicable.⁵⁴¹

When GRETA asked in their questionnaire (2016) whether or not the principle of non-punishment was incorporated into domestic law, the Norwegian authorities replied by saying that the “Criminal Code (2005) contains a new provision allowing the court the possibility not to impose a penalty when there are special reasons for this, even when guilt is proven.”⁵⁴² This means that Norwegian legislation is in line with Article 26 of the Anti-trafficking Convention on the paper. Nonetheless, Guri Tyldum et al (2015) argues how, in practice, it is not always that the local police will consider a criminal act as a case of trafficking when a UAM is arrested by the police.⁵⁴³ The study emphasized UAMs caught by the police for crimes-for-profit, but how no one investigated the type of care these youngsters had - and whether or not adults could be behind the crimes.⁵⁴⁴ Normally, if a UAM has committed a crime, he or she will be arrested and when released, the police have a responsibility to bring the child to Tandum transit center where it is suggested that he or she apply for asylum.⁵⁴⁵ During the UPR session, Canada recommended Norway to “[r]evis[e] its system of detention to reduce the use of police custody for children, and ensure that police custody of children is a measure of last resort and for the shortest period possible.”⁵⁴⁶

When I asked my informants for their perception on the effort of police handling cases where UAMs engaged in, for example, drug sale, this is what some two of them said:

- ‘I would say that it is not every case where the aspect of coercion is considered by the police when an unaccompanied minor commits a criminal act. [...] There has so far not been any Court procedures of an UAM as victim of trafficking, neither in Norway nor in Sweden.’⁵⁴⁷
- ‘I cannot say that we (the police) are particularly good in always taking fully into consideration the possible aspect of coercion, that might exist behind a criminal act. Due to this, there has now

⁵⁴¹ Council of Europe GRETA, ‘4th General Report on GRETA’s Activities’ (*GRETA*, March 2015) Pp. 52 <<https://rm.coe.int/16805aa45f>> accessed 24 June 2017.

⁵⁴² GRETA Questionnaire (n 311)

⁵⁴³ Guri Tyldum et.al 2015 (n 23) Pp. 51

⁵⁴⁴ Guri Tyldum et.al (2015) (n 23) Pp.41

⁵⁴⁵ UDI, *Guidelines for how to work with unaccompanied minors in the asylum process* (RS 2005-049) (last modified 20 June 2014) <<https://www.udiregelverk.no/no/arkiv/udi-rundskriv/rs-2005-049/>> accessed 3 January 2017.

⁵⁴⁶ Universal Periodic Review, ‘2RP: Responses to Recommendations & Voluntarily Pledges - Norway’ (adopted in the plenary 18 September 2014) section 131.146 <https://www.upr-info.org/sites/default/files/document/norway/session_19_-_april_2014/recommendations_and_pledges_norway_2014.pdf> accessed 27 June 2016.

⁵⁴⁷ Interview with Swedish author and journalist (13) (Oslo, 17 November 2016).

just recently been established several human trafficking units in the police, which will work with these cases.⁵⁴⁸

In 2013-2014 Bergen experienced a heavy drug environment and a series of criminal acts. The police investigated the drug criminality, where a number of UAMs were involved, and one of the responsible police officers, Tone Loftnes Kornli, stated: "This was a smaller group, but a group that acted out many crimes, including attempted murder, theft but most of all drug sales."⁵⁴⁹ Kornli explained how the police investigated whether or not it could have been a case of trafficking, but how the investigation was not successful. She emphasized the police's satisfaction with eliminating this criminal group, and how they hope this could serve as a signal: "It is okay to be in the park, but not to commit criminal acts."⁵⁵⁰ The way various institutions view missing unaccompanied children either as a threat or as children in an unsafe situation will affect the follow-up on UAMs who go missing, as argued in Berit Aasen et.al (2017).⁵⁵¹ The statement above indicates the ambivalent perception the police has towards UAMs engaging in criminality, the authorities is aware of the help these children need, but nonetheless, some of them commit crimes and might thus also be criminals. The dilemma illustrates exactly what Professor Jacqueline Bhabha points out: "Official responses are ambivalent, mired between the pressure to protect rights and the obligation to punish juvenile offenders."⁵⁵² Oliver Peyroux (2015) argues in his paper how the main reasons that European governments are not able to tackle the issue of trafficking because begging and drug sales are primarily perceived as juvenile crimes. Oliver Peyroux highlights how child trafficking will continue to persist when only a few of these kids are perceived as victims of trafficking, and when the primary focus of the authorities is to eliminate crime and criminalize victims of exploitation, rather than providing the protection to which they are entitled.⁵⁵³ Berit Aasen et al (2017) use the term crime-migration, which features how the need to control migration (by the authorities) and criminalization often overlaps. In other words, it reflects two different forms of control, the control over the Other / the stranger and the criminal.⁵⁵⁴ The term crime-migration explains the current perceptions among the authorities - which often believe that migrants arrive in the country to carry out criminal activities or that many UAMs are sent to Norway by cynical parents, to serve as anchors

⁵⁴⁸ Interview with District Sheriff and Police Officer from Kristiansand area (12) (Oslo, 2 December 2016)

⁵⁴⁹ Otto Von Münchow, 'North Africans Missing from Bergen', *Rus & Samfunn* (Bergen, 9 July 2015)

<<http://www.rus.no/id/982.0>> accessed 3 June 2016.

⁵⁵⁰ Ibid Otto Von Münchow, (n 549)

⁵⁵¹ Berit Aasen (n 25) Pp. 44

⁵⁵² Jacqueline Bhabha, (n 30), Pp. 13

⁵⁵³ Oliver Peyroux, (n 45) PP.14

⁵⁵⁴ Berit Aasen (n 25) Pp. 44

in a wealthy nation (the so-called anchor-child theory). Viewing children in this ambivalent way affects the way stakeholders follow up on cases of missing children.

7.3.9 TARGETED MEASURES

‘The authorities are fully aware of criminal groups who recruit young UAMs who are missing, both in Sweden and in Norway. Outreaching services working in the streets warn the authorities about this all the time. The big question is not so much if these criminal groups exist and recruit youngsters; rather the question is why the authorities are not doing anything about it.’⁵⁵⁵

GRETA has, many times, spoken of the need for Member States to focus on all forms of trafficking, including the risk of trafficking through forced criminality. Salvesen and Liden (2016) argue how understanding of the vulnerability of UAMs has to be holistic, and follow-up is not only for those already deemed victims of trafficking but also those at risk of exploitation.⁵⁵⁶ In other words, the law enforcement agencies ought not to wait until the harm is already done, but has to be active and uncover criminal environments where children might be at risk of being exploited.

Missing children are as argued above extremely vulnerable to various forms of exploitation, what measures have the Norwegian State implemented to protect children in a vulnerable situation from trafficking? There seems to be almost a consensus on how UAMs who go missing are in danger of trafficking. However, there is not much information available on specific measures implemented to address this vulnerable group of children in Norway. In reply to the questionnaire for the evaluation of the implementation of the CoE Anti-Trafficking Convention, the Norwegian authorities acknowledge that children are vulnerable to exploitation and have also been recruited after they came to Norway:

‘Consider Norway as a destination country for all forms of trafficking, rather than a country of origin, measures to reduce children's vulnerability to recruitment has not been emphasized. Nevertheless, we suspect there has been some recruitment of children by traffickers after arrival in Norway.’⁵⁵⁷

From the statement given above, it becomes obvious that targeted prevention measures to avoid children being recruited in Norway seem, to a great extent, to have been excluded by the authorities. Outreach services such as Utekontakten in Oslo and Bergen are doing an essential job, but their mandate is limited, and they cannot intervene and bring a child they are concerned

⁵⁵⁵ Interview with Swedish author and journalist (13) (Oslo, 17 November 2016).

⁵⁵⁶ Salvesen and Liden 2016 (n 24) Pp. 82

⁵⁵⁷ GRETA Questionnaire, (n 311) Pp. 7

over with them, if observed in a criminal environment.⁵⁵⁸ This is the role of the police, as stipulated in Police Law.⁵⁵⁹

7.3.9 INTERNATIONAL COOPERATION

To combat and prosecute traffickers, international cooperation and investigations across national borders are needed. Norway has enhanced its support to Europol and Eurojust as a measure to prevent and investigate trafficking as well as they continue its support to UNODC's work in researching and combating transnational crime and trafficking.⁵⁶⁰ Furthermore, Norway will continue financing projects by local governments in combating trafficking in countries of origin and transit countries, with a particular focus on those countries from where victims of trafficking come from in Norway.⁵⁶¹ Moreover, the country currently provides earmarked support and cooperation through the EEA financial mechanisms to combat trafficking within the EU. Finally, the Nordic Council of Ministers initiates collaboration and projects with a particular focus on strengthening the academic environment and understanding of trafficking.⁵⁶²

7.3.10 CRITICAL ANALYSIS

The rights stipulated in the CRC does not only apply to Norwegian citizens but every child on the territory of the State or under its jurisdiction - which means that UAMs are granted equal protection under the Convention, like any other Norwegian child.⁵⁶³ Article 27 of the Vienna Convention on the Law of the Treaties ensures that if the rights provided for in the CRC infringe upon any domestic law, the CRC should always have superiority.⁵⁶⁴ The four core principles of the CRC are also enshrined in the Constitution and Norway has made no reservations of the CRC.⁵⁶⁵ The CRC has, in other words, a high position in Norwegian domestic law. I have described several preventative measures the Norwegian Government carries out to prevent trafficking both within and across national borders. Despite the Norwegian Government's effort in promoting and protecting children's rights, there are also shortcomings, which are of concern.

⁵⁵⁸ Interview with a professional social worker from Uteseksjonen (3) (City Council of Oslo) (Oslo 21 December 2016).

⁵⁵⁹ Police law §12

⁵⁶⁰ The Government Action plan on combating trafficking, (n 27) Pp. 16

⁵⁶¹ The Government Action plan on combating trafficking, (n 27) Pp. 26

⁵⁶² The Government Action plan on combating trafficking, (n 27) Pp. 26

⁵⁶³ CRC Preamble

⁵⁶⁴ United Nations, Vienna Convention on the Law of the Treaties (Signed 23 may 1969, entry into force 27 January 1980) Article 27 UNTS 1155.

⁵⁶⁵ Njål Høstmælingen, 'The Convention of the Rights of the Child' (n 26) Pp.19

Norway, as all other States, has human rights obligations to the treaties ratified. The ECtHR ruling emphasizes the accountability, which applies to law enforcement agencies in investigating cases of trafficking and thus how they can be held accountable if they are not fulfilling these obligations.⁵⁶⁶ Furthermore, Norway has positive obligations according to the CRC and Article 35 of the CRC as listed above. According to various reports published by the authorities as shown earlier, the government seems to be aware of the risks of trafficking faced by UAMs who are missing. My informants and (among others), police reports stated their concern on the increase of child trafficking since 2015 in Norway, and how UAMs are at an especially high risk due to their vulnerable situation. Several of my informants also underscored how they were of the opinion that several UAMs were recruited to criminal environments in Oslo and Bergen in 2013-2014, especially North African children.

First of all, because Norway has traditionally not been perceived as a country where children are recruited from, the Norwegian Government acknowledged in the questionnaire to GRETA that they have not focused on implementing measures that reduce the risk for recruitment into trafficking within Norway. However, the government nevertheless suspects children have become victims of recruitment to criminal groups also within Norway.⁵⁶⁷ Bearing in mind how Norway is one of the world's wealthiest countries, a lot of money is circulating, and the demand for drugs and so on is without doubt present. Second of all, in the study carried out by Guri Tyldum et al (2015), they find that of the total number of 137 minors identified as victims of trafficking, between 2012 and 2015 in Norway, 48 unaccompanied children were verified as victims of trafficking. 15 of these children were exploited abroad; however, 34 of the 48 in total were identified as having been exploited in Norway.⁵⁶⁸ This means that over 70 percent of the verified victims of child trafficking, over the given period, was in fact exploited within the Norwegian borders. According to Tyldum, none of the verified victims of trafficking were verified through court procedures, and for the vast majority of the cases, there have been insufficient investigations.⁵⁶⁹ In another study conducted by Hilde Liden and Cathrine Salvesen (2016), it was argued that most of the cases reported to the police are dismissed,⁵⁷⁰ often due to lack of information and evidence - which results in many cases of children identified as suspected as well as verified victims of trafficking being dismissed before they reach the court.

⁵⁶⁶ *Rantsev V. Cyprus and Russia* App no. 25965/04 (ECHR, 7 January 2010).

⁵⁶⁷ GRETA Questionnaire, (n 311) Pp. 7

⁵⁶⁸ Guri Tyldum et.al 2015 (n 23) Pp. 41

⁵⁶⁹ Guri Tyldum et.al 2015 (n 23) Pp. 45

⁵⁷⁰ Salvesen and Liden 2016 (n 24) Pp. 83

Additionally, KOM (2016) underscore how previous research shows that investigations of UAM victims of trafficking is weak and often fail.⁵⁷¹ Despite the relatively high number of children identified as potential or confirmed victims of trafficking over the last years, as well as the overall 512 reported cases of trafficking to the police since 2006, only 11 criminal proceedings with convictions after Penal Codes § 257 and §258 have been carried out on child trafficking since 2003. Besides, none of them concerned asylum-seeking children. Additionally, the fact that 70 percent of the number of confirmed victims of child trafficking between 2012 and 2015 were exploited within the Norwegian borders should be of concern. Having this in mind, I think it is concerning that the Norwegian Government chose not to emphasize prevention measures to prevent children from being recruited into various forms of trafficking. There are no legitimate reasons for not investigating each case and prosecute perpetrators. When such a large number of children are exploited in Norway, it should make it easier for the law enforcement agencies to investigate these cases. The Director of Public Prosecutions issued a guideline in 2015 for the prosecution authorities and stated the following:

‘The public prosecutor must ensure that combating serious drug crimes and trafficking in human beings has the necessary priority in the police districts. They must ensure the necessary coordination so as to avoid cases not being investigated due to disagreement or uncertainty about which district should be responsible.’⁵⁷²

The fact that the Public Prosecutor has to underline this, also shows shortcomings in the investigation work by the police. Article 5 (5) of the Anti-Trafficking Convention, are of particular relevance when it comes to state obligations to protect children in a vulnerable situation. Article 5 (5) dictates how “Each Party shall take specific measures to reduce children’s vulnerability to trafficking, notably by creating a protective environment for them.”⁵⁷³ Article 27 of the Anti-Trafficking Convention is also important and dictates how each State Party shall investigate, and that it shall not depend on the report of a victim, especially not when the victim is exploited within the border of the territory.⁵⁷⁴ In order not to undermine Article 5 (5) and 27 the police cannot wait until a victim has reported a case of trafficking, but has a responsibility to uncover criminal environments engaging in trafficking.⁵⁷⁵

⁵⁷¹ KOM 2016 (n 49) Pp. 32

⁵⁷² The Director of public Prosecutions, ‘Goal and Priorities for Criminal Proceedings’ (Directive Nr. 1/2015, Oslo 9 March 2015) Pp. 9 <<https://rm.coe.int/16806321b1>> accessed ‘ November 2016.

⁵⁷³ CoE Anti-Trafficking Convention Article 5 (5)

⁵⁷⁴ CoE Anti-Trafficking Convention Article 27

⁵⁷⁵ The Director of public Prosecutions (n 572)

However, the low number of child trafficking cases that went all the way to the court illustrates the insufficiency and shortcomings. Thus, we can ask ourselves whether or not this is accountability? I will argue that Norway, considering the resources and the wealth the country possess need to enhance their effort in preventing child trafficking, in order not to undermine their legal human rights obligations. The US State Department report on Norway also underlines that “child victims of exploitation received incomplete police investigations.”⁵⁷⁶ The report concludes by noting that “[t]he Norwegian government maintained modest prevention efforts’ in 2016.”⁵⁷⁷

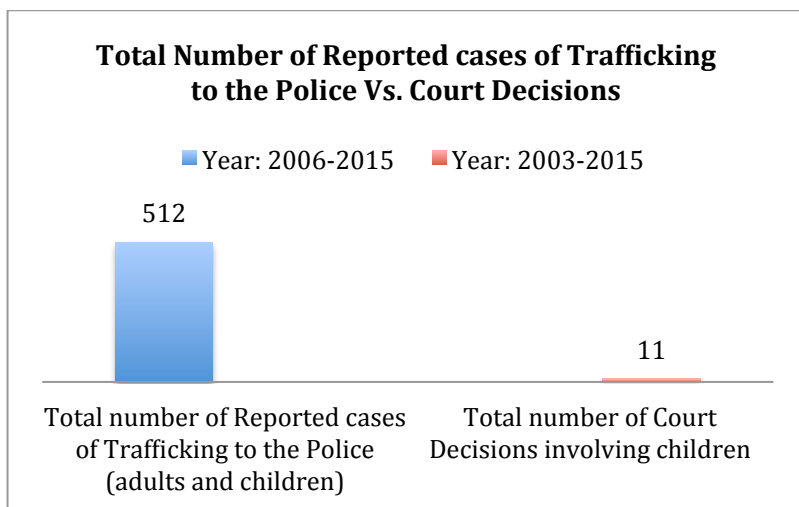


Figure: 15. Source: KOM 2016.⁵⁷⁸

Moreover, the new Governmental Action Plan on Combating Trafficking (2016) also stressed that “Norwegian authorities need to strengthen its effort to ensure that all forms of trafficking are investigated and criminally prosecuted in an efficient way.”⁵⁷⁹ The legal scholar, Ragnhild Hennum, argues the following,

‘There has been very few sentences of child trafficking [...]. One reason for this can, of course, be that very few criminal acts are committed concerning this, but it can also be due to lack of investigations and criminal prosecutions of this types of serious crimes.’⁵⁸⁰

Third, statements from my informants indicate how the police does not always take the potential aspect of coercion, which might be behind a criminal act, into consideration. In order not to undermine Article 26 of the CoE Anti-Trafficking Convention, I will argue that the authorities

⁵⁷⁶ US Department of State (n 452)

⁵⁷⁷ US Department of State (n 452)

⁵⁷⁸ KOM 2016 (n 49) Pp. 48-60

⁵⁷⁹ The Government Action plan on combating trafficking, (n 27) Pp. 16

⁵⁸⁰ Ragnhild Hennum (n 131) Pp. 354

has to strengthen their work on this matter and avoid criminalization of UAMs who might actually be victims of forced criminality. In the CRC Concluding Observations on Norway (2010), the Committee recommends the Norwegian authorities do the following: “Focus on child victims of sale and trafficking and allocate the necessary human and financial resources to the units mandated to combat these crimes.”⁵⁸¹ Furthermore, the Committee expressed its worries and noted: “The Committee is further concerned that information about child victims of trafficking is fragmentary and that sellers and traffickers and persons who exploit trafficked children are not effectively brought to justice.”⁵⁸² Additionally, GRETA had the following recommendation - that “the Norwegian authorities should take further steps, in particular by adopting a proactive approach to detecting trafficking of children, including of Roma children, for all types of exploitation.”⁵⁸³

Fourth, according to my informants and previous research, the police did not follow-up when children went missing and few searches and investigations was carried out to find out what happened to these children - in the vast majority of the cases, no actions are carried out. Despite how important it is to know the whereabouts of these children in order to protect and prevent them from being exploited or trafficked. I have also identified the authorities’ acknowledgment and concerns about the risk of trafficking these children face when missing. The lack of searches and investigations undermines the report to the Storting which outlines that “[i]t is also important to prevent that young people comes in contact with criminal environments and engage in selling drugs or other forms of crime.”⁵⁸⁴ As supplement, the General Comment No. 6 Para 52, which states that measures to prevent trafficking of children should include “regularly inquiring as to their whereabouts.”⁵⁸⁵

Fifth, the lack of investigation of child trafficking in Norway, especially considering 70 percent of the verified victims of child trafficking between 2013 and 2015, was exploited in Norway, and there was an extremely low number of criminal proceedings with only 11 judgments since 2003. Finally, taking into consideration the resources one of the world's richest countries have, as well as the children’s rights obligations Norway have to comply with, both in the CRC Article 35 and the Anti-Trafficking Convention and the Constitution, there are strong arguments that Norway needs to significantly strengthen the accountability and effort in preventing child trafficking

⁵⁸¹ CRC Concluding Observation, (n 224) Section 54 (b)

⁵⁸² CRC Concluding Observation, (n 224) section. 53

⁵⁸³ GRETA, ‘Report submitted by the Norwegian authorities’ (n 510) Para 4

⁵⁸⁴ Report to the Storting 30 (n 227) Section 4.3.4

⁵⁸⁵ CRC General Comment Nr. 6 (n 29) Para 52

within its own borders. After my critical analysis, it becomes apparent that there are shortcomings - and how there needs to be a push to strengthen the work in combating child trafficking in Norway and especially enhance the investigations in order to comply with its human rights obligations.

7.4 Summary

In Chapter 7, I explored my last research question and examined to what extent there is a risk of trafficking for children who go missing from reception and transit centers in Norway. After my qualitative analysis, I found that the risk of trafficking is both an issue of protection as well as a matter of prevention. Hence, I decided to focus on the three protection measures most relevant to my study, and I found shortcomings especially with the identification of victims of trafficking but also in the guardian system. The last section of Chapter 7 is where I explored what type of actions the Norwegian authorities carry out to prevent child trafficking. I identified many promising practices. However, I also discovered that very few of the reported cases of trafficking go all the way to the court. Finally, I concluded that the Norwegian government has to strengthen their effort in combating and preventing trafficking within its own borders so as not to breach the CRC and the CoE Anti-Trafficking Convention.

Chapter 8: Conclusion, Findings and Policy Recommendations

The aim of this thesis was to explore and shed light on the issue of UAMs who go missing from reception and transit centers across Norway and investigated Norway's effort in safeguarding these children's rights and safety while staying in Norway.

8.1. Findings and Conclusion

The study started with a brief description of the research context and the political landscape. How the Conservatives (Høyre) and the right-wing Party (Frp) is forming the Government in Norway and thus also affect the current asylum policy in the country. Chapter 2 starts with a general description on how UAMs take the decision to flee or migrate and make the dangerous journey to Europe with a high risk of various forms of exploitation and even trafficking. Following this, I provided information on the phenomenon of UAMs missing in Europe - to

provide a picture that UAMs have gone missing across Europe and that it is rather a global phenomenon than only a Norwegian issue. However, to understand why children go missing and what actions are taken to protect them, I chose to confine it to my own country, Norway. I proceed to provide unpublished statistics on the children who went missing between January 2015 and December 2016. By analyzing the data provided from by the UDI, I found some essential characteristics. The data shows how 367 UAMs went missing during this period - and some of them eventually found their way back to the reception centers or settled in a private address, whereas others were forcibly deported from Norway by the police. Nonetheless, 62 percent of these children had not been found by the government as of December 2016. The statistic also shows a vast increase in children going missing where the whereabouts was still unknown, from 42 children in 2014 to 60 children in 2015, rising to 176 children in 2016. As in line with what previous studies found, the data I collected also revealed how the vast majority of these minors came from the MENA-region and how 96 percent of the missing children were boys mostly between 16 and 17 years. Furthermore, in Chapter 3, a general overview of the legal framework applicable for UAMs was provided, and Chapter 4 is where the methodology was described and the findings from my qualitative research illustrated.

Moreover, in Chapter 5, I move to my first research question, *what are the main reasons behind unaccompanied minors going missing from reception and transit centers?* From my qualitative research, I found out how the main reasons for UAMs going missing was the outcome or the fear of the results of the age assessment as well as the fear of forced deportation when turning 18 for those children only granted a temporary residence permit. It is important to be aware that my informant's assumptions cannot be generalized, as they only represent a small number of people. My second research question was *how well has the Norwegian State protect these children's rights and safety?* When the age assessment and temporary residence permit policy have proven to be so important and the root causes for why UAMs go missing, I decided to explore these two practices in detail also to see if they are in line with international standards. In my research, I found that there has been a vast increase in the use of the policy given to UAMs from Afghanistan, by the Government. Some years ago, only a few children were granted a temporary residence permit. From 9 UAMs being granted a temporary residence permit in 2013, down to 5 children in 2014, and up to 10 UAMs again in 2015. However, in 2016 the authorities increased the use significantly, and as many as 299 children from Afghanistan were granted only a temporary residence permit. The increase in the use of the policy continues in 2017, and between January and June 2017, as many as 341 children were granted only a temporary residence permit

- which in the first six months of 2017, was more than half (53 per cent) of the total (645 UAMs) seeking asylum in Norway with Afghan origin during that period. In other words, it is not only an increase in the policy because there has been an increase in asylum-seeker, but it is also a vast increase concerning the percentage of UAMs seeking asylum with Afghan nationality. The hundreds of minors granted only a temporary residence permit are deprived of being integrated into Norwegian society, and many of them suffer from depression and anxiety while staying in Norway, waiting to be sent back. When the temporary residence permit expires, 18-year-olds are deprived of their access to a safe future and to fulfill high school. I have argued how this particular group of children is at a greater risk of exploitation and trafficking, as many of these children go missing and the lack of alternatives and hopes for the future, increases the risk for exploitation and recruitment. I argue how the temporary residence permit granted cannot be in the best interest of the child and how the policy undermines the meaning of Article 3 of the CRC and contradicts the report to the Storting and recommendations given to Norway by various UN Committees. Furthermore, the division of responsibility for UAMs between the CWS and the UDI is extremely unfortunate. UAMs between 15 and 18 years in Norway are granted less adequate care, there are fewer adults on each child in these reception centers, and the requirements for professional staff is much lower compared to those at the CWS. Moreover, there are fewer financial resources and the psychological care provided to these children is not sufficient. I claim that the current practice towards UAMs under the temporary residence permit policy is clearly not in the best interest of the child - and the policy should be revoked.

By examining the age assessment procedure in Norway, one of my research findings shows how challenging it has become for UAMs from Afghanistan to be categorized as children, and how 50 % was estimated to be over 18 years in 2016, as compared to 38 % in 2015. In 2015, 44% was determined to be certainly below 18 years, down to 27 % in 2016. The data shows how it has become harder and harder to be considered as a child in Norway and following less chance to be granted protection. I subsequently argue how the age assessment procedure carried out in many years up until the end of January 2017, has had too much focus on the medical aspect and did not often take into consideration the holistic approach such as the psychosocial estimation of the UAM's age, as required by various international guidelines. It is necessary to give assessments based on a person's behavior and psychosocial performance an equal place when deciding on an asylum seeker's age. The lack of a holistic approach and the medical evaluation's dominance on the outcome of the age assessment test undermines many international Guidelines and recommendations. Additionally, I argued when the government offered age assessments to

all children declaring their ages to be between 15 and 18, it also contradicted the Immigration Act § 88, which states that in cases where the age of the asylum seeker is uncertain an age assessment can be offered individually and not collectively - which was the practice during 2015 and 2016.

I also questioned how voluntary the age assessment is when the UDI Directive explicitly states how refraining from taking the test might affect the asylum application and creates a perception of lack of trust. I also briefly analyzed a court procedure in Norway where *A*, a 16-year-old boy from Afghanistan, had been defined and treated as an adult, when he was, in fact, a child argued by the Court of Appeal. I argued that *A* had been deprived of his identity as a child, and that Articles 3 and 8 of the CRC had been breached - it was not in the best interest for *A* to have been detained for over 24 hours and then forcibly deported to Kabul by himself. I also claim it was a violation of Article 2, the right not to be discriminated against since being treated as an adult when you are in fact a child is discrimination on the protected grounds of *other status*, as it is age discrimination and cannot be justified.

The development and enhanced immigration restrictions - such as the increased number of children being estimated to be adults based on the (medical) age assessment, as well as the increase in the use of the temporary residence permit - have to be viewed in relation to the political landscape. Although the age assessment procedure as well as the temporary residence permit policy was implemented years ago, statistics show that over the last two years, it has become very challenging for UAMs from Afghanistan to be granted a permanent residence permit, and a safe and dignified future in Norway. I conclude that tightening asylum policies work as a push factor for UAMs to go missing and become extremely vulnerable to various forms of exploitation and even trafficking.

In Chapter 6, I explored how various stakeholders follow up when children go missing and looked into their responsibilities. I found that none of the three primary stakeholders - the CWS, the UDI, and the police - were doing enough when UAMs went missing from reception or transit centers. I argue it is an issue of lack of responsibility among all the primary stakeholders. The UDI Directive on how to follow up when UAMs go missing is also vague because it does not explain what each of the institutions ought to do after they have reported a child missing. Hence, little is done with missing children, apart from the standard procedure to report the child. Investigations or searches are rarely carried out when children go missing. On account of this, we also lack concrete information on why children go missing, where they go and what happens

to them. I argue that the lack of investigations and searches for missing children contradicts various police laws, the report to the Storting as well as the new governmental action plan on combating trafficking (2016).

Both of these two Governmental reports explicitly state how all children who go missing shall be investigated with equal effort. Additionally, Child Welfare Act § 2 stipulates that the CWS has a responsibility to help all children who live in conditions that can be harmful to them and to contribute so that every child gets an adequate upbringing. I have shown children who go missing are extremely vulnerable and do not have any caring adults around them face various risks - and the UDI Directive states that “when an unaccompanied child disappear from reception centers, there are reasons to believe that the child can be exposed to deficit care.”⁵⁸⁶ I highlighted how this obligation should be a good argument for why the CWS needs to strengthen its effort, feeling of ownership towards UAMs and cooperation with the police as well as all other relevant stakeholders. In the last section of the chapter, I discuss what would be the most suitable responses to the concern of children who go missing. I argue that the most important element is to understand and tackle the root causes behind the reasons UAMs go missing - because otherwise, children will continue to be motivated to leave reception and transit centers.

Missing children are in an extremely vulnerable situation, and Chapter 7 explores *to what extent missing children are at risk of trafficking in Norway*. I started by describing the vulnerable situation UAMs are in, and what kind of options children who go missing have in Norway. Due to the lack of information and data on how many of these kids are exploited and recruited to become victims of trafficking in Norway, I choose to look at the limited facts we have on child trafficking in general. By comparing the three last reports from KOM, I found that there has been an increase in child trafficking, and that the MENA region is one of the three primary regions from which victims of trafficking in Norway come. Moreover, between 2013 and 2015, boys were, to a large extent, mostly exploited in forced criminality. Considering that 96 percent of the children who go missing in Norway are boys, we can assume that they would also be most at-risk of exploitation through forced criminality, which was also noted by my informants.

After my qualitative analysis, I also found that the risk of trafficking is both an issue of protection as well as a matter of prevention. I thus discussed the three main protection measures most relevant to my study. It was especially the identification procedure, which seemed to be of

⁵⁸⁶ The Norwegian Directorate of Immigration (n 141) Pp. 3

significant concern in my informants' views as well. I found that boys were less likely to be perceived as victims of trafficking compared to girls. In 2015, over twice as many girls were identified as suspected victims of trafficking in Norway - and other studies also emphasized how girls were in a higher percentage verified as victims of trafficking compared to boys. I believe the reason behind the gender gap is because boys in Norway were, in most of the cases, involved in forced criminality - Which, I illustrated, is more difficult to show as a case of trafficking, compared to - for example - prostitution. Because in crimes for-profit, as the Supreme Court stated, it needs to be shown that the child could not voluntarily leave the abusive situation. I also claimed that among case officers and police, there still seemed to be stereotypes and lack of knowledge of all types of forms of trafficking.

The last section of Chapter 7 is where I discussed and looked into what type of measure Norway put in place to prevent children becoming victims of trafficking. I found that there was a significant lack of investigation by the police on child trafficking in Norway. According to previous research, it showed how 70 percent of the children who were identified as suspected and verified victims of trafficking had been exploited in Norway over the past few years - which should be a legitimate reason for why the police cannot neglect to investigate each case. I also found that an extremely low number of reported cases on trafficking in general reach the court in Norway. 512 cases were reported to the police between 2006 and 2015, but of these, only 40 cases reached the court, and only 11 of these court procedures involved children - none of them UAMs from the MENA-region. In light of CRC Article 35 as well as Anti-trafficking Convention Article 5 (5), 26 and 27 Norway has to strengthen its accountability, start searching for missing children, investigate all cases of child trafficking and step up the prosecution of traffickers. Missing children are at risk of trafficking as they have little money; they are in a desperate situation, and they can become easy targets for (e.g.) recruitment to criminal groups. The risk to be perceived as irregular migrants by the authorities and the lack of other alternatives increases the chance of exploitation, either through a form of survival strategy or against their will.

Children who go missing should be of great concern to the government and not only because of a potential risk of trafficking, but also because the situation these youngsters find themselves in, when being on their own, are precarious in every way. It is not easy to be an unaccompanied child in Norway today, especially not if you come from a war-torn country such as Afghanistan. As a final remark, I will underline how the Norwegian Government is not doing enough to protect the most vulnerable group in our society - the children who need us the most are

systematically neglected. When the door to the Kingdom closes and all hope is lost, these children are left with few other possibilities than to go missing as a desperate search for safety and for a dignified future, a reprehensible reality every child should be without.

8.2 Policy Recommendations

I would like to highlight the following recommendations for the Norwegian Government to implement, to better protect unaccompanied minors in Norway:

1. All age assessment procedures need to have a holistic approach. This means, a psychosocial assessment needs to be conducted as supplement to the medical age assessment conducted by skilled teachers and child experts. Terry Smith and Laura Brownlees underline how the child's social background, family, her or his history, travel, interest, participation in previous activities, education, ability to take care of him or herself, independence and the mental and cognitive development shall be factored into the assessment.⁵⁸⁷ A good combination is where the psychosocial age assessment is first carried out by educated professionals, and if there are doubts about the asylum-seeker's age, the person should be offered a medical age assessment. The two age evaluations combined would also be more in line with the CRC Article 3 (the principle of the best interest of the child). Furthermore, the age assessment test should be given only if there is doubt of the asylum seeker's age, and cannot be a standardized procedure. The Norwegian authorities should follow the international guidelines and be a good example; after all, the Norwegian State has all the reasons and conditions to do so.
2. There has been a vast increase in the government's use of temporary residence permits, which expire when the asylum-seeker has just turned 18 years of age. The policy seems to be used as a deterrence instrument to avoid having UAMs seek asylum in Norway, and it is extremely detrimental toward a child's well-being. Besides this, the policy also prevents integration as well as it seems to be working as a push factor for children to go missing. I will thus recommend the Norwegian Government eliminate the policy, because it is not in the best interest of the child to be subject to this policy.
3. The police should set priorities to search for the whereabouts of missing children as stipulated by the Prosecutor as well as in the report to the Storting and the Governmental Action Plan on Combating Trafficking (2016). An ad hoc group within each police District should have the primary responsibility to search every time go missing, and if concerned about a crime being involved, investigate these cases.
4. The UDI Directive on how to follow up when UAMs goes missing should indicate which steps should be taken also after the child has been reported as missing. Today this is not mentioned in the Directive.

⁵⁸⁷ Terry Smith and Laura Brownlees (*n* 265)

5. The CWS has to take their responsibility and feel more ownership over UAMs between 15 and 18 years of age as the CWS is also compelled by the Child Welfare Act to act and prevent all children in Norway from experiencing deficient care. A missing child is at risk of exposure to deficient care, according to the UDI Directive; thus, missing children have to become a bigger priority for the CWS.
6. It is not in the best interest of the child to have the UDI, the Immigration Authorities, as responsible for UAMs between 15 and 18 years of age. I suggest amending the law and making the CWS primarily responsible for the child's protection, and also overall, for this particular vulnerable group of children. A shift in responsibility could work as a good preventive measure, to avoid children going missing. After all, the statistic shows that very few UAMs go missing from care centers where the CWS has the overall responsibility.⁵⁸⁸
7. Norway should join the common EU phone number that children can call to get advice and support while being on their own.
8. Bearing in mind international law as well as the New York Declaration (2016), where heads of states including Norway, met and gave their political commitment to protect migrant and refugee children, the NY Declaration should also be taken as a good argument for how the Norwegian government has shown the political will to protect minors on paper and should implement them - starting first of all with their own country.
9. Many children are never identified as suspected or verified victims of trafficking. The identification work has to improve, and one important element to strengthen this is to have more training and awareness-raising on child trafficking among case officers in the UDI, the CWS as well as in the police, and also among social workers in reception and transit centers. There is no one single body that has the overall responsibility of identifying potential victims of trafficking, and I believe establishing such an entity to in addition to the others - a centralized ad hoc group which works explicitly on identification and child trafficking in Norway - is essential. Apart from cooperation and coordination among the UDI, the CWS and outreach services, and the Police have to improve. In particular, the relations between outreach services such as Uteseksjonen in Bergen and Oslo and the police have to be fostered - currently basically non-existent.⁵⁸⁹

⁵⁸⁸ Berit Aasen (*n* 25)

⁵⁸⁹ Interview with a professional social worker from Uteseksjonen (3) (City Council of Oslo) (Oslo 21 December 2016).

10. An independent body should evaluate the Governmental Action Plan on Combating Trafficking from 2014. An evaluation is necessary to see positive development and shortcomings in the fight to prevent trafficking.
11. The Guardianship also has to be strengthened. There should be a maximum number of children each person can be a guardian for.
12. When a country such as Norway, being one of the richest countries in the world, is not able to investigate all cases of trafficking and have had only had 11 court procedures on child trafficking since 2003, it is an indication of weakness in the law enforcement agencies. The authorities have to step up their efforts, prioritize UAMs, always take into consideration a potential aspect of coercion and investigate each case, as well as to give protection and compensations to the victims.
13. Safe houses for missing children should be established so these children, while missing, have a safe place to go to and where they can get counseling, food and sleep.

Bibliography

Table of Legislation

Domestic Legislation

Ministry of Children and Family, Barnevernsloven (entry into force 1 January 1993)

Ministry of Justice and Public Security, Grunnloven (entry into force 17 May 1814)

Ministry of Justice and Public Security, Menneskerettighetsloven 1999 (entry into force 21 May 1999)

Ministry of Justice and Public Security, Politiloven (entry into force 1 October 1995)

Ministry of Justice and Public Security, Politiinstruksen (enforced 26 June 1990)

Ministry of Justice and Public Security, Straffeloven (entry into force 7 March 2008)

Ministry of Justice and public Security, Straffeprosessloven (entry into force 1 January 1986)

Ministry of Justice and Public Security, Utlendningsloven (entry into force 1 January 2010)

Ministry of Justice and Public Security, Utlendingsforskriften (entry into force 1 January 2010)

International Legislation

Council of Europe Convention on Action against Trafficking in Human Beings (open for signature 16 May 2005, entered into force 1 February 2008) CETS No.197

Convention for the Protection of Human Rights and Fundamental Freedoms (Opened for signature 4 November 1950, entered into force 3 September 1953) ETS No.005

United Nations, International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3

United Nations, International Covenant on Political and Civil Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171

United Nations, International Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1537 UNTS 3

United Nations, International Convention for the Protection of All Persons from Enforced Disappearance (adopted 20 December 2006, entry into force 23 December 2010) UNTS 2716

United Nations, Vienna Convention on the Law of the Treaties (Signed 23 May 1969, entry into force 27 January 1980) UNTS 1155

International Labor Organization, Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor (adopted 17 June 1999, entry into force 19 Nov 2000) No. 182

Table of Cases

Court of Appeal LB-2016-191958 (2 December 2016)

<<https://lovdata.no/dokument/LBSTR/avgjorelse/lb-2016-191958?q=Lagmannsretten%20desember%20fengsling%20alderstest>> accessed 28 December 2016.

MA & Others v UK (C-648/11) (ICJ, 6 June 2013)

<<http://curia.europa.eu/juris/document/document.jsf?text=&docid=138088&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=376937>> accessed 25 June 2017.

Norwegian Supreme Court, HR-2013-00104-A, (sak nr. 2012/1464) Section 24, (January 18 2013) <<https://www.domstol.no/globalassets/upload/hret/avgjorelser/2012/saknr2012-1464anonymisert.pdf>> accessed 12 October 2016.

Rantsev V. Cyprus and Russia App no. 25965/04 (ECHR, 7 January 2010).

International Guidelines and General Comments

Council of Europe Parliamentary Assembly Resolution 1810 (2011) ‘Unaccompanied children in Europe: issues of arrival, stay and return’ (15 April 2011) paragraph 5.10

European Economic Area, ‘Agreement on the European Economic Area’ (EEA, January 1994) Art. 7 <<http://www.efta.int/media/documents/legal-texts/eea/the-eea-agreement/Main%20Text%20of%20the%20Agreement/EEAAgreement.pdf>> accessed 21 April 2017.

United Nations Committee on the Rights of the Child ‘General Comment No. 6 Treatment of unaccompanied and separated children outside their country of origin’ (17 May – 3 June 2005) UN Doc CRC/GC/2005/6.

United Nations Committee on the Rights of the Child ‘General Comment No. 14 on the Right of the Child to Have his or her Best Interests taken as a Primary Consideration’ (29 May 2013) UN Doc CRC/C/GC/14.

United Nations High Commissioner for Refugees, ‘Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum’ (UNHCR, February 1997), <<http://www.refworld.org/docid/3ae6b3360.html>> accessed 21 April 2017.

United Nations High Commissioner for Refugees, ‘Guidelines on International Protection: Child Asylum Claims’ (UNHCR, HCR/GIP/09/08) (22 December 2009) <<http://www.unhcr.org/50ae46309.pdf>> accessed 25 June 2017.

Organization for Security and Co-operation in Europe (OSCE) ‘Action Plan in Combating Trafficking in Human Beings’, (OSCE December 2003) <<http://www.osce.org/odihr/23866>> accessed 2 November 2016.

[Table of Concluding Observations and Recommendations](#)

Council of Europe, GRETA, ‘Report Concerning the Implementation of the Council of Europe Convention on Action Against Human Trafficking by Norway’ GRETA(2013)5 (Strasbourg 7 May 2013).

United Nations Committee on the Convention Against Torture, ‘Concluding Observation of the Committee Against Torture - Norway’ (13 December 2012) CAT/C/NOR/CO/6-7

United Nations Committee on the Convention of Economic, Social and Cultural Rights, ‘Concluding Observations on the fifth periodic report of Norway’, (13 December 2013) E/C.12/NOR/CO/5

United Nations Committee on the Elimination of Racial Discrimination, ‘Concluding Observations on the Elimination of Racial Discrimination Norway’ (8 April 2011) CERD/C/NOR/CO/19-20

United Nations Committee on the Rights of the Child, ‘Concluding Observations: Norway’ (29 January 2010) CRC/C/NOR/CO/4

Universal Periodic Review, ‘2RP: Responses to Recommendations & Voluntarily Pledges - Norway’ (UPR, adopted in the plenary 18 September 2014) section 131.146 <https://www.upr-info.org/sites/default/files/document/norway/session_19_-_april_2014/recommendations_and_pledges_norway_2014.pdf> accessed 27 June 2016.

[Norwegian Supreme Court Reports](#)

Norwegian Supreme Court Report, ‘Utlendingsrett. Forvaltningsrett. Asyl. Barn. Domstolenes kompetanse’ (Rt. 2012-1985) (21 December 2012) Para. 134. <<https://www.udiregelverk.no/no/rettskilder/hoyesterettsavgjorelser/HR-2012-2398-P/>> accessed 3 February 2017

Norwegian Command Papers and Directives

Busch T-A, Director of Public Prosecution, 'Directive for Investigations', No. 5/2004 (*The National Police Directorate*, Oslo 2004), Pp. 2

<http://www.riksadvokaten.no/filestore/Dokumenter/2004/Rundskrivnr5for2004-Saknetmeldingeretterforsking.pdf>> accessed 20 October 2016.

Director of public Prosecutions, 'Goal and Priorities for Criminal Proceedings' (Directive Nr. 1/2015, Oslo 9 March 2015) <<https://rm.coe.int/16806321b1>> accessed ' November 2016.

Ministry of Justice and Public Security, *Regjeringens handlingsplan mot menneskehandel* (1 December 2016)

<https://www.regjeringen.no/contentassets/2b3b502659e348189abd086306ef0d19/jd_regjeringens-handlingsplan-mot-menneskehandel.pdf> accessed 4 February 2016.

Ministry of Justice and Public Security, *Meld.St.27 2011-2012– Barn på flukt*

<<https://www.regjeringen.no/contentassets/6f71e355918d4927966dd93019fa711a/no/pdfs/stm201120120027000dddpdfs.pdf>> accessed 13 April 2017.

Ministry of Justice and Public Security, *Meld. St. 30 (2015–2016) Fra mottak til arbeidsliv – en effektiv integreringspolitikk*

<<https://www.regjeringen.no/no/dokumenter/meld.-st.-30-20152016/id2499847/sec1>> accessed 3 February 2017.

Ministry of Justice and Public Security, *Om lov om endringer i straffeloven 1902*

(Ot.prp. nr. 50) (2005-2006) section 3.1.1 <<https://www.regjeringen.no/no/dokumenter/otprp-nr-50-2005-2006/id401675/?ch=3>> accessed 12 October 2016.

National Police Directorate, *Rapport fra Koordineringsenheten for Offre for Menneskehandel 2015* (The National Police Directorate's Annual Report from KOM Coordination Unit for Victims of Trafficking, July 2016)

<https://www.politi.no/vedlegg/lokale_vedlegg/politidirektoratet/Vedlegg_3727.pdf> accessed 24 June 2017

National Police Directorate, 'Rapport fra koordineringsenheten for offer for menneskehandel 2015' (*KOM*, July 2016) Pp. 27

<https://www.politi.no/vedlegg/lokale_vedlegg/politidirektoratet/Vedlegg_3727.pdf> accessed 15 November 2016.

National Police Directorate, 'Rapport fra koordineringsenheten for offer for menneskehandel 2013' (*KOM*, July 2014)

<https://www.politi.no/vedlegg/lokale_vedlegg/politidirektoratet/Vedlegg_2665.pdf> accessed 5 February 2017.

National Police Directorate, 'Rapport fra koordineringsenheten for offer for menneskehandel 2014' (*KOM*, July 2015) Pp. 27

<https://www.politi.no/vedlegg/lokale_vedlegg/politidirektoratet/Vedlegg_3034.pdf>

The Norwegian Directorate of Immigration, *Varsling og oppfølging når enslige mindreårige forsvinner fra asylmottak* (UDI Directive, RS 2015-009)

<<https://www.udiregelverk.no/no/rettskilder/udi-rundskriv/rs-2015-0091/>>

The Norwegian Directorate of Immigration, Utlendingsforvaltningens ansvar for å legge til rette for å identifisere og gi oppfølging til mulige ofre for menneskehandel (UDI Directive, RS 2011-007, 2011)

The Norwegian Directorate of Immigration, *Retningslinjer for aldersundersøkelser av enslige mindreårige asylsøkere, jf. utlendingsloven § 88* (2014) (RS 2010-183)

<<https://www.udiregelverk.no/no/rettskilder/udi-rundskriv/rs-2010-183>> accessed 25 June 2017.

The Norwegian Directorate of Immigration, *Retningslinjer for arbeidet med enslige mindreårige asylsøkere i ankomstfasen* (RS 2005-049) (last modified 20 June 2014)

<<https://www.udiregelverk.no/no/arkiv/udi-rundskriv/rs-2005-049/>> accessed 3 January 2017.

The Norwegian Directorate of Immigration, 'Praksisnotater - Behandling av asylsaker fra enslige mindreårige søkere - særlig om aldersvurdering' Section 2.2.1 Internal-Return (UDI, implemented 17 October 2012, last modified 13 June 2017)

<<https://www.udiregelverk.no/en/documents/udi-memos-on-practices-and-procedures/pn-2012-011/>> (accessed 16.11.2016)

[Books](#)

Abramson B, *A Commentary on the United Nations Convention on the Rights of the Child – Article 2 – The Right of Non-Discrimination* (Martinus Nijhoff Publishers 2008)

Barrett D, and Veerman P E, *A Commentary on the United Nations Convention on the Rights of the Child – Article 33 - Protection from Narcotic Drugs and Psychotropic Substances* (Martinus Nijhoff publishers 2012).

Bhabha J, *Child Migration & Human Rights in a Global Age*, (Princeton University Press 2014).

Detrick S, *A Commentary on the United Nations Convention on the Rights of the Child* (Kluwer Law International, Martinus Nijhoff Publishers 1999)

Doek J, *A Commentary on the United Nations Convention on the Rights of the Child – Article 8 The Right to Preserve your Identity* (Martinus Nijhoff Publishers 2006)

Freeman M, 'A Commentary on the United Nations Convention on the Rights of the Child – Article 3 The Best Interest of the Child', (Martinus Nijhoff Publishers 2007)

Foucault, M, *Discipline and Punish: the birth of a prison* (London, Penguin Publisher 1991)

Høstmælingen N, Kjørholt E S og Sandberg K (red.) *Barnekonvensjonen Barns Rettigheter i Norge* (3. Utgave 2016 Universitetsforlaget)

Kilkelly U, *The Child and the European Convention on Human Rights* (Ashgate Dartmouth 1999)

Kvale S, *Interview – An introduction to the Qualitative Research Interview*, (Hans Reitzels Publishing House, 1997)

Nowak M, Januszewski K, Hofstatter T (eds), *All Human Rights for All – Vienna Manual on Human Rights* (NWV Wien 2012).

Nowak M, *U.N. Covenant on Civil and Political Rights – CCPR-Commentary*, 2nd ed. Kehl am Rhein, Germany Arlington, VA: N.P. Engel Publishers, 2005.

Peyroux O, *Fantasies and Realities, Fueling Child trafficking in Europe* (Ecpat France 2015)

Journal Articles

Castles S, 'Towards a Sociology of Forced Migration and Social Transformation' [2003] 37(1) Web SAGE Publications 13
<<http://journals.sagepub.com.uaccess.univie.ac.at/doi/pdf/10.1177/0038038503037001384>>
accessed 25 June 2017.

Gill N, Caletrio J, & Mason V, 'Introduction: Mobilities and Forced Migration' [2011] 6(3) Web Routledge 301 <<http://dx.doi.org/10.1080/17450101.2011.590032>> accessed 25 June 2017.

Hopkins P, & Hill M, 'Pre-flight experiences and migration stories: the accounts of unaccompanied asylum-seeking children' [2008] 6(3) Web Routledge 257 <<http://www-tandfonline-com.uaccess.univie.ac.at/doi/pdf/10.1080/14733280802183981?needAccess=true>>
accessed 25 June 2017.

Kohli R, 'Working to Achieve Safety, Belonging and Success for Unaccompanied Asylum-Seeking Children' (2011) 20(5) 311

Meyer A, 'The Moral Rhetoric of Childhood' [2007] 14(1) Web Sage Journals 85
<<http://journals.sagepub.com.uaccess.univie.ac.at/doi/pdf/10.1177/0907568207072532>>
accessed 15 October 2016.

O'Connell Davidson J, 'Moving Children? Child Trafficking, Child Migration and Child Rights' [2011] 31(3) Web SAGE Journals 454
<<http://journals.sagepub.com.uaccess.univie.ac.at/doi/pdf/10.1177/0261018311405014>>
accessed 25 June 2017.

Sauer, P.J.J., Nicholson, A. & Neubauer, D. et. Al. 'Age determination in asylum seekers: physicians should not be implicated' [2015] 175(3) Web Springer Verlag 299
<<https://link.springer.com/content/pdf/10.1007%2Fs00431-015-2628-z.pdf>> accessed 24 June 2017.

Shelton D L, 'Soft Law' in HANDBOOK OF INTERNATIONAL LAW [2008] Routledge 68. Web <http://scholarship.law.gwu.edu/cgi/viewcontent.cgi?article=2048&context=faculty_publications> accessed September 14 2016

Turton D, 'Conceptualising Forced Migration' [2003] 12 Web RSC
<<https://www.rsc.ox.ac.uk/files/publications/working-paper-series/wp12-conceptualising-forced-migration-2003.pdf>> accessed 25 June 2017.

Wagner K, 'På egen hand – Om barn som forsvinner', (2014) 1 Samtiden 3

Reports

Aasen B, Dyb E, and Lid S, 'Forebygging og oppfølging av enslige mindreårige asylsøkere som forsvinner fra mottak og omsorgssentre' [2017] 17 Web NIBR 1 <<http://www.hioa.no/Om-HiOA/Senter-for-velferds-og-arbeidslivsforskning/NIBR/Publikasjoner/Forebygging-og-oppfoelging-av-enslige-mindreaarige-asylsoekere-som-forsvinner-fra-mottak-og-omsorgssentre>> accessed 25 June 2017.

Aarset F M, Engebritsen A, and Aamodt H A, 'Barn og familie i mottak – samarbeid mellom asylmottak og kommunalt barnevern' [2016] 1 Web NOVA <<https://www.buudir.no/en/Bibliotek/Dokumentside/?docId=BUF00003425>> accessed 25 June 2017.

Berg B, Tronstad K, 'Levekår for barn i asylsøkerfasen - Dokumentasjonsrapport' [2015] NTNU Samfunnsforskning Pp.123 Web <https://samforsk.no/Publikasjoner/Dokumentasjonsrapport_2015.pdf> accessed 5 February 2017.

Brekke JP, 'Missing – Asylum Seekers who Leave Reception Centers in Norway' [2012] 2 Web ISF <https://www.udi.no/globalassets/global/forskning-fou_i/asylmottak/missing-asylum-seekers-who-leave-reception-centres-in-norway.pdf> accessed 25 June 2017.

Brekke JP, and Aarset F M, 'Why Norway? Understanding Asylum Destinations' [2009] 12 Web ISF <https://www.udi.no/globalassets/global/forskning-fou_i/beskyttelse/why-norway.pdf> accessed 25 June 2017.

Boff A, 'Shadow City: Exposing Human Trafficking in Everyday London', [2013] 2 Revision CLA Conservatives Web <<http://glaconservatives.co.uk/wp-content/uploads/2013/10/Shadow-City.pdf>>

Engebritsen A, 'Forlatte barn, ankebarn, betrodde barn...' [2002] 7(2) Web NOVA, Pp. 78 <http://www.nova.no/asset/3088/1/3088_1.pdf> accessed 20 November 2016.

Englund A, 'Effekter av tvangsreturer for assistert retur', (*Oslo Economics* 2016) Pp. 46 <https://www.udi.no/globalassets/global/forskning-fou_i/retur/effekter-av-tvangsreturer-for-assistert-retur.pdf> accessed 2 April 2017.

Liden H, et.al. 'Levekår i mottak for enslige mindreårige asylsøkere' [2013] 3 Web ISF <https://brage.bibsys.no/xmlui/bitstream/handle/11250/177431/R_2013_3_web.pdf?sequence=3&isAllowed=y> accessed 25 June 2017.

Mai N, 'Minors and Young Migrants Involvement in Errant Mobility and Sex Work with the EU' (2014) ISET Working Paper 2, London Metropolitan University.

Holst Salvesen C, and Liden H, 'De sa du må – mindreåriges erfaringer fra menneskehandel' [2016] 9 Web

https://brage.bibsys.no/xmlui/bitstream/handle/11250/2442437/Rapport_9_16_FINALweb.pdf?sequence=1&isAllowed=y>.

Paulsen V, Michelsen H, and Brochmann M, 'Barnevernets arbeid med barn i asylsøkerfasen Faglige utfordringer og barrierer i mottaksapparatet' [2015] Web NTNU's Samfunnsforskning <<https://samforsk.no/Publikasjoner/Barnevernets%20arbeid%20med%20barn%20i%20asylsøkerfasen%20WEB.pdf>> accessed 25 June 2017.

Staver A and Liden H, 'Unaccompanied Minors in Norway, Policy Practice and data' [2014] 14 ISF <https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/unaccompanied-minors/29_norway_national_report_unaccompanied_minors_en.pdf> accessed 25 June 2017.

Tyldum G, et.al, 'Ikke våre barn, identifisering og oppfølging av offer for menneskehandel i Norge, [2015] 45 Web Fafo <<http://www.fafo.no/images/pub/2015/20550.pdf>> accessed 20 November 2016.

Tyldum G, 'Oppfølging av mulige mindreårige ofre for menneskehandel i Norge' (2016) 9 Fafo-notat Pp. 12

Vollebæk L R, 'Menneskehandel med barn – Barnevernets kunnskap om og arbeid med barn utnyttet i menneskehandel' (*Redd Barna*, 2012) <<http://www.bufdir.no/bibliotek/Dokumentside/?docId=BUF00002614>> accessed 3 December 2016.

Vollebæk L R, 'Sosialt arbeid med sårbare migranter – Mindreårige og voksne asylsøkere, papirløse, EØS-borgere og mulige offere for menneskehandel', (2014) Oslo Kommune Velferdsstaten, Februar 2014.

Øien C, 'Underveis - En studie av enslige mindreårige asylsøkere' [2010] 20 Web Fafo <https://www.udi.no/globalassets/global/forskning-fou_i/beskyttelse/underveis-en-studie-av-enslige-mindrearige-asylsokere.pdf> accessed 25 June 2017.

Intergovernmental Reports

Europol, 'Europol-INTERPOL Report on Migrant Smuggling Networks 2016', (*Europol* May 2016) <<https://www.europol.europa.eu/newsroom/news/europol-and-interpol-issue-comprehensive-review-of-migrant-smuggling-networks>> accessed 23 August 2016.

National Bureau of Crime Investigations, 'Trend Report - Organized Crime and other Serious Criminal Acts in Norway 2016' (*National Bureau of Crime Investigations*, October 2015) Pp. 14. <https://www.politi.no/vedlegg/lokale_vedlegg/kripo/vedlegg_3188> accessed 12 November 2016.

Oppedal B, Jensen L and Seglem K, 'When the daily day Become Normalized: Psychological Health and Social Relations among Young Refugees who arrive in Norway without Parents' (*The Norwegian Institute for Public Health*, 2010) <<https://www.fhi.no/globalassets/migrering/dokumenter/pdf/ungkul-rapport-nr.1-pdf.pdf>> accessed 2 March 2017.

Police and Oslo's Municipality, 'Child and Youth Criminality in Oslo' (*Police and Oslo's Municipality*), 2016) Pp. 34
<https://www.politi.no/vedlegg/lokale_vedlegg/oslo/Vedlegg_4522.pdf> accessed 2 March 2017.

The Children's Ombudsperson, 'Temporary Residence Permit to Unaccompanied Asylum-Seeking Children' (*The Children's Ombudsperson*, 2 February 2016)
<<http://barneombudet.no/wp-content/uploads/2016/02/Barneombudet-mener-asylinnstramninger.pdf>> accessed 25 June 2017.

United States Department of State, 'Office for Monitor and Combat Trafficking in Persons – Report' (*United States Department of State*, 2016) 30
<<http://www.state.gov/j/tip/rls/tiprpt/countries/2016/258835.htm>> accessed 13 October 2016.

Council of Europe

Council of Europe GRETA, '4th General Report on GRETA's Activities' (*GRETA*, March 2015)
<<https://rm.coe.int/16805aa45f>> accessed 24 June 2017.

Council of Europe GRETA, '5th General Report on GRETA's Activities' (*GRETA*, February 2016) <<https://rm.coe.int/168063093c>> accessed 24 June 2017.

Council of Europe GRETA, '6th General Report on GRETA's Activities' (*GRETA*, March 2017)
<<https://rm.coe.int/1680706a42>> accessed 24 June 2017.

Council of Europe GRETA, 'Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Hungary', (*GRETA*, (2015) 11 Section 154) <https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/greta_report_on_hungary.pdf> accessed 10 September 2016.

Council of Europe GRETA, 'Reply from Norway to the Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the parties' GRETA(2016)4 (*GRETA*, Strasbourg 16 February 2016) Pp.7
<<https://rm.coe.int/16806321c3>> accessed 25 June 2017.

Council of Europe, 'Explanatory Report to the Council of Europe Convention on Action against Trafficking in Human Beings' (*Council of Europe*, CETS No. 197, Warsaw 2005) 10
<<https://rm.coe.int/16800d3812>> accessed 24 June 2017.

Council of Europe GRETA, 'Report submitted by the Norwegian authorities on measures taken to comply with Committee of the Parties Recommendation CP(2013)6 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings' (CP(2015)9) Section 18 (received 8 June 2015) <<https://rm.coe.int/16806321c0>> accessed 13 June 2017.

United Nations

Boland K, 'Children on the Move - A Report on Children of Afghan Origin Moving to Western Countries' (*UNICEF* February 2010)
<https://www.unicef.org/infobycountry/files/Book_children_on_the_move.pdf> accessed August 12 2016.

Smith T, and Brownlees L, 'Age Assessment – A Technical Note' (*UNICEF*, January 2013) 7
<<http://www.refworld.org/docid/5130659f2.html>> accessed 3 January 2017.

UNHCR 'Refugee/Migrant Emergency Response' (UNHCR, 2016)
<<http://www.unhcr.org/576408cd7.pdf>> accessed 2 July 2016.

UNHCHR, 'Human Rights and Human Trafficking - Fact Sheet No.36' (UNHCHR, 2014) 5
<http://www.ohchr.org/Documents/Publications/FS36_en.pdf> accessed 20 September 2016.

European Union

European Commission, 'Missing Children in the European Union Mapping, Data Collection and Statistics' (European Commission, 2013) <http://ec.europa.eu/justice/fundamental-rights/files/missing_children_study_2013_en.pdf> accessed 20 August 2016.

The European Migration Network (EMN), 'Policies, practices and data on unaccompanied minors in the EU Member States and Norway' (European Commission (EMN), May 2015)
<http://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/emn_study_2014_uams.pdf> accessed 22 October 2016.

Non-Governmental Reports

Espeland K E, 'Missing – a report on unaccompanied children that goes missing from reception centers in Norway' (Save The Children Youth, 2013)

Human Rights Watch, 'EU: Abuses Against Children Fuel Migration' (Human Rights Watch June 2015) <<https://www.hrw.org/news/2015/06/22/eu-abuses-against-children-fuel-migration-0>> accessed 24 July 2016.

Missing Children Europe, 'Annual Review 2015', (Missing children Europe, 2016) Pp. 2
<<http://missingchildreneurope.eu/Portals/0/Docs/Annual%20and%20Data%20reports/Missing%20Children%20Europe%20Annual%20Review%202015.pdf>> accessed 17 September 2016.

Missing Children Europe, 'Summit Report - Best practices and key challenges on interagency cooperation to safeguard unaccompanied children from going missing' (Missing Children Europe, February 2016)
<<http://missingchildreneurope.eu/Portals/0/Docs/Best%20practices%20and%20key%20challenges%20for%20interagency%20cooperation%20to%20safeguard%20unaccompanied%20migrant%20children%20from%20going%20missing.pdf>> accessed 10 November 2016.

NOAS, 'Annual Rapport 2015' (NOAS, 2016) <<http://www.noas.no/wp-content/uploads/2016/04/NOAS-årsrapport-2015.pdf>> Pp.14 accessed 26 May 2017.

NOAS and Save the Children 'Over or Below 18 years?' (NOAS and Save the Children, 2016)
<<http://www.noas.no/wp-content/uploads/2016/03/Over-eller-under-18-Aldersvurderinger-av-enslige-mindreårige-asylsøkere.pdf>> accessed 10 January 2017.

NOAS, 'Recommendations to the Norwegian Government' (NOAS 2014) Pp. 19
<http://www.noas.no/wp-content/uploads/2014/03/EMA_web.pdf> accessed 3 January 2017.

Norwegian Refugee Council, 'NRC Annual Report 2016' (Norwegian Refugee Council 2016)
<https://www.flyktninghjelpen.no/globalassets/pdf/flyreg/nrc-flyreg-screen_final.pdf> accessed 23 June 2016.

O'Connell Davidson J, and Farrow C, 'Child Migration and the Construction of Vulnerability' (*Save the Children* 2007),
<http://www.childtrafficking.com/Docs/savechild_07_cmcv_0108.pdf> accesses 9 July 2016.

Save the Children, et.al 'Alternativ NGO rapport innspill til Stortingsmelding om barn på flukt', (Save the children, 2011) Pp. 13-14

The Children's Legal Centre in UK, 'Seeking Support A Guide to the Rights and Entitlements for Young Refugees' (*CORAM*, 2009)
<http://www.seekingsupport.co.uk/files/seeking_support031113.pdf> accessed 25 June 2017.

The Separated Children in Europe Programme, 'Statement Of Good Practice 4th Revised Edition', (*The Separated Children in Europe Programme*, 2009) <<http://www.separated-children-europe-programme.org/images/18/219.pdf>> accessed 20 July 2016.

News Papers

Fremstad M, 'Rekordhøy bruk av midlertidig opphold for enslige asylbarn' *ABC News* (Oslo, 3 January 2017)

Helljesen V, '143 barn er forsvunnet fra norske asylmottak' (*NRK*, 20 May 2017).

Haugsbø F, and Bach D, 'Varsleren' *VG* (Oslo, 11 November 2016)

Münchow Otto Von, 'Unge nordafrikanere borte fra Bergen', *Rus & Samfunn* (Bergen, 9 July 2015).

Nordland R, 'A Deported Afghan Boy Returns to a Land Nothing Like Home', *New York Times* (New York 12 November 2016)

Olsen T and Dragland L, 'Sendt ut selv om retten fastslo at han er et barn' *Aftenposten* (Kabul, 8 December 2016)

Savage M, 'Swedish Town Report 1000, Missing Children' *The Local* (Trelleborg, 15 October 2015)

Sæther A, 'Juseksperter etter utsendelsen av Wazir: UNE har vist forakt for retten' *VG* (Oslo, 8 December 2016)

Sæther J M, 'Unge asylsøkere går til grunne' *Dagsavisen* 2017 (Oslo, 18 January 2017)

Vergeforeningen, 'Betydelige innstramninger er allerede innført for enslige mindreårige asylsøkere' (*Vergeforeningen*, Oslo 5 June 2016)

Press Release, Tv News, Letters and New Media

Gårdvik E, 'Menneskehandel i Europa øker', (The Government, 19 April 2013)
<<https://www.regjeringen.no/no/aktuelt/menneskehandel-i-europa-okar/id723548/>> accessed 14 November 2016.

Jensen I, 'Lege gir se getter kritikk for alderstesting' *Tv 2 News* (30 December 2016)
<<http://www.tv2.no/a/8821167/>> accessed 30 December 2016.

Lillealteren R, 'Slik foregår alderssjekk av enslige mindreårige', *Forskning.no* (Oslo, 13 October 2015) <<http://forskning.no/innvandring-biologi-barn-og-ungdom/2015/10/slik-foregar-alderssjekk-av-mindreareige-asylsokere>> accessed 27th of December 2016)

Löfgren K, 'Qualitative Analysis of Interview Data – A Step by Step Guide', (Youtube, 19 May 2013), <<https://www.youtube.com/watch?v=DRL4PF2u9XA&t=194s>> accessed 19 December 2016.

News Channel 2 'Leger protesterer mot alderstesten' *Tv 2 News* (4 January 2017) <<http://www.tv2.no/v/1132515/>> accessed 5 January 2017.

Norwegian Refugee Council, 'Problematisert retur' (*Norwegian Refugee Council*, Kabul 23 September 2016). <<https://www.flyktninghjelpen.no/nyheter/2016/september/norge-sender-flere-tilbake-til-afghanistan.-er-det-uproblematisk/>> accessed 5 January 2017.

Save the Children et.al. 'Nødvendige tiltak for å ivareta enslige mindreårige asylsøkere', (Legeforeningen, 5 October 2015) <<http://legeforeningen.no/Global/Fagmedisinske%20foreninger/Norsk%20barnelegeforening/Paidos/felles%20brev.pdf>> accessed 1 November 2016.

The Ombudsperson for Children, 'Midlertidig oppholdstillatelse til enslige mindreårige', (*The Ombudsperson for Children*, Oslo 2 February 2016) <<http://barneombudet.no/wp-content/uploads/2016/02/Barneombudet-mener-asylinnstramninger.pdf>> accessed 14 November 2016.

Uldall Rikke, 'Fate of 10,000 missing refugee children debated in Civil Liberties Committee' *European Parliament* (Brussels, 21.April.2016)

Websites

Council of Europe

CoE - GRETA, 'Chart of signatures and ratifications of Treaty 197', (*CoE* April 2017) <http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/197/signatures?p_auth=C8VCXTSf> Accessed 21 April 2017.

CoE, 'Press Country Profile – Norway', (*CoE* June 2017) <<http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/signatures>> accessed 24 June 2017.

European Union

European Commission 'EU-Turkey Agreement: Questions and Answers' (*European Commission*, Brussels 19 March 2016) <http://europa.eu/rapid/press-release_MEMO-16-963_en.htm> accesses 20 July 2016.

European Union Fundamental Rights Agency, 'March 2016 Highlights' (*FRA* March 2016) <<http://fra.europa.eu/en/theme/asylum-migration-borders/overviews/february-2016>> accessed 7 October 2016.

NGOs

Amnesty International, 'Disappearances – Overview', (*Amnesty International* 2017) <<https://www.amnesty.org/en/what-we-do/disappearances/>> accessed 26 February 2017.

Missing Children Europe, 'Where are they? The Need for Better Tracing of Unaccompanied Children in the EU', (*Missing Children Europe*, June 2016) <<http://missingchildreneurope.eu/news/Post/963/Where-are-they-The-need-for-better-tracking-of-unaccompanied-migrant-children-in-the-EU>> accessed 15 April 2017.

Norwegian Organization for Asylum Seekers, 'Norge bryter folkeretten' *NOAS*, (Oslo, 3 December 2015) <<http://www.noas.no/norge-bryter-folkeretten/>> accessed 23 June 2017.

UDI

The Norwegian Directorate of Immigration, 'Asylum Decisions and Outcome 2017', (*UDI*, 2017) <<https://www.udi.no/statistikk-og-analyse/statistikk/asylvedtak-etter-statsborgerskap-og-utfall-2017/>> accessed 15 June 2017.

The Norwegian Directorate of Immigration, 'Asylum Decisions for Unaccompanied Minors by Citizenship and Outcome 2017' (*UDI*, 2 June 2017) <<https://www.udi.no/statistikk-og-analyse/statistikk/asylvedtak-etter-statsborgerskap-og-utfall-for-enslige-mindrearige-asylsokere-2017/>> accessed 2 June 2017.

The Norwegian Directorate of Immigration, 'Asylum Decisions for Unaccompanied Minors by Citizenship and Outcome 2016' (*UDI* 2017) <<https://www.udi.no/statistikk-og-analyse/statistikk/asylvedtak-etter-statsborgerskap-og-utfall-2016/>> accessed 18 January 2017.

The Norwegian Directorate of Immigration (UDI), 'Asylum applications of unaccompanied minors lodged in Norway by nationality and month 2015' (*UDI*, 2016) <<https://www.udi.no/en/statistics-and-analysis/statistics/asylsoknader-enslige-mindrearige-asylsokere-etter-statsborgerskap-og-maned-2015/>> accessed 14 July 2016.

The Norwegian Directorate of Immigration, 'Proceedings of Asylum Applications from Unaccompanied Minors' (*UDI*, 13 June 2017) <<https://www.udiregelverk.no/no/rettskilder/udi-praksisnotater/pn-2012-011/>> accessed 17 June 2017.

The Norwegian Directorate of Immigration, 'Asylum applications of unaccompanied minors lodged in Norway by nationality and month 2016' (*UDI*, 2017) <<https://www.udi.no/en/statistics-and-analysis/statistics/asylum-applications-of-unaccompanied-minors-lodged-in-norway-by-nationality-and-month-2016/>> accessed 14 July 2016.

The Norwegian Directorate of Immigration (UDI), 'Asylum Applications After Nationality, Age and Gender 2015' (*UDI*, 2016) <<https://www.udi.no/statistikk-og-analyse/statistikk/asylsoknader-etter-statsborgerskap-aldersgruppe-og-kjonn/>> accessed 15 March 2017.

The Norwegian Directorate of Immigration (UDI), 'Asylum Applications After Nationality, Age and Gender 2016' (*UDI*, 2017) <<https://www.udi.no/statistikk-og-analyse/statistikk/asylsoknader-etter-statsborgerskap-aldersgruppe-og-kjonn-2016/>> accessed 15 March 2017.

The Norwegian Directorate of Immigration ‘Unaccompanied Minors who Disappear’ (*UDI*, 24 January 2014) <<https://www.udi.no/aktuelt/enslige-mindrearige-som-forlater-mottak/>> accessed 12 March 2017.

United Nation

International Organization of Migration, ‘Key Migration Terms’, (*IOM* 2017)
<www.iom.int/key-migration-terms#Forced-migration> accessed 11 July 2016

UNHCHR ‘Ratification Status for Norway’ (*UNHCHR Treaty Body Internet*)
<http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=129&Lang=EN> accessed 7 September 2016.

UNICEF, ‘Note on the definition of child trafficking’ (*UNICEF* 2007)
<https://www.unicef.org/southafrica/SAF_pressrelease_notetrafficking.pdf> accessed 15 November 2016.

UNICEF, ‘Unaccompanied Refugee and Migrant Children in Urgent Need of Protection’ (*UNICEF* May 2016). <https://www.unicef.org/media/media_91069.html> accessed 10 July 2016.

Others

Norwegian Dictionary, ‘Høyre’ (*Great Norwegian Dictionary*, 6 June 2017)
<<https://snl.no/Høyre>> accessed 10 June 2017.

Norwegian Dictionary, ‘Stoltenberg Regjeringen 11’ (*Great Norwegian Dictionary*, 28 April 2015) <https://snl.no/Regjeringen_Stoltenberg_II> accessed 10 June 2017.

The Norwegian Medical Association, ‘Criticism towards Doctor for carrying out the Age Assessment’. (*The Norwegian Medical Association*, 12 December 2016)
<<http://legeforeningen.no/lokal/nordland/Nyheter/Kritikk-til-lege-for-aldervurdering-/>> accessed 28 December 2016.

The Police, ‘The Work to Combat Trafficking’, (The Police, 16 January 2017)
<https://www.politi.no/strategier_og_analyser/strategier_og_tiltak/Tema_18.xml> accesses 1 January 2017.

Theses

Holst Salvesen C, ‘You Can’t See it Before you Believe it – Identifications of Child Victims of Trafficking,’ (Master Thesis, University of Bergen, 2014).

Emails

Email from Anders Prydz Cameron (The Office of the Ombudsperson) to author (16 June 2017)

Email from Ernst Kristian Rossebø (Assistant chief of police, South-vest Regional Police Force) to author (10 June 2017).

Email from Marte K. Ødegård Lund, Senior Adviser at the National Police Directorate, to author (24 January 2017).

Email from Thomas Mortensen (Statistical Department, UDI), to author (26 January 2017)

Email from Tove Eriksen, Senior Adviser at The National Police Directorate to author (4 January 2017).

Personal Interviews

Interview with a guardian for unaccompanied minors in Oslo (1) (Oslo, 19 November 2016).

Interview with informant (2) guardian for unaccompanied minors from Vesterålen, (Stavanger 10 December 2016).

Interview with a professional social worker from Uteseksjonen (3) (City Council of Oslo) (Oslo 21 December 2016).

Interview with representative from Utekontakten (part of the City Council in Bergen) (4) (Stavanger, 15 November 2016).

Interview with two representatives from Save the Children Press (6) (Oslo, 23 November 2016)

Interview with professional social worker from Kristiansand employed at Den Skreddersydde Enhet (7) (Stavanger 14 July 2016).

Interview with representative from the Child Welfare Service, region Mid Norway (8) (Oslo, 17 January 2017).

Interview with a former professional social worker from a reception center for unaccompanied minors in Kristiansand and a current employee for the Child Welfare Service in Kristiansand (10) (Oslo, 25 November 2016).

Interview with a professional social worker (11) from a transit center in Oslo (Oslo 3 December 2016).

Interview with District Sheriff and Police Officer from Kristiansand area (12) (Oslo, 2 December 2016)

Interview with Swedish author and journalist (13) (Oslo, 17 November 2016).

Conferences and Speeches

Dr. Juris Bårdsen Arnfinn, 'Fundamental Rights in EEA Law – The Perspective of a National Supreme Court Justice' (EFTA Court Spring Seminar, Luxembourg 12th of June 2015).

High Commissioner for Human Rights, Mr. Zeid Ra'ad Al-Hussein, 'Migration: Why human rights matter' (Seminar at Palais Harrach, Vienna April 29, 2016).

Lucassen L, 'Migration as a Killjoy' (Comenius Lecture at the Royal Netherlands Academy of Science and Art, 2 April 2016)

The Office of the Prime Minister, 'Tightening Asylum Policies – in the Best Interest of the Child' (Speech delivered by Minister of Integration Sylvig Listhaug to the Parliament, Oslo, 5 April 2016) <<https://www.regjeringen.no/no/aktuelt/innstramming-til-barnas-beste/id2482065/>> accessed 25 June 2017.

ZUSAMMENFASSUNG

Ziel der vorliegenden Studie ist in erster Linie zu untersuchen, weshalb in Norwegen so viele unbegleitete asylsuchende Kinder aus Transit- und Aufnahmezentren verschwinden. Zweitens wird erforscht, inwieweit verschwundene Kinder Gefahr laufen, Opfer von Menschenhandel zu werden und drittens wird analysiert, in welcher Form die norwegische Regierung die Rechte dieser Kinder geschützt hat. Zwischen Januar 2015 und Dezember 2016 sind in Norwegen 375 unbegleitete Kinder aus Transit- und Aufnahmezentren verschwunden. Von 226 dieser Kinder war den Behörden der Aufenthaltsort im Dezember 2016 unbekannt. Die grosse Mehrheit der verschwundenen Kinder kam aus Afghanistan. In der gleichen Periode wurde es für Minderjährige aus Afghanistan sehr schwierig, in Norwegen eine dauerhafte Aufenthaltsbewilligung und damit eine sichere und würdevolle Zukunft zu erhalten. Ich komme daher zur Schlussfolgerung, dass eine Verschärfung der Asylpolitik wie striktere Verfahren zur Altersbestimmung und die vermehrte Praxis, einzig temporäre Aufenthaltsbewilligungen zu gewähren, ein Faktor darstellt, welcher zu einer grösseren Anzahl von verschwundenen Kindern führt. Diese laufen ein erhebliches Risiko ausgebeutet oder sogar Opfer von Menschenhandel zu werden.

Schlüsselwörter: Unbegleitete Minderjährige, Vermisste Kinder, Asylpolitik, Menschenrechte, Norwegen.

Abstract

The purpose of this study is first, to investigate why so many unaccompanied asylum-seeking minors go missing from transit and reception centers in Norway. Second, explore to what extent missing children are at risk of trafficking and third, analyze how the Norwegian Government has protected these children's rights. Between January 2015 and December 2016, 375 unaccompanied minors went missing from transit and reception centers across Norway, and per December 2016, the authorities did not know the whereabouts of 226 of these children. The vast majority of the missing children came from Afghanistan. During the same period, it has become very challenging for minors from Afghanistan, to be granted a permanent residence permit and a safe and dignified future in Norway. My conclusion is that tightening asylum policies such as stricter age assessment procedures and an increase in granting only temporary residence permit is working as a push factor for children to go missing. When missing, these children are at great risk of exploitation and even to become victims of human trafficking.

Key words: Unaccompanied Minors, Missing Children, Asylum Policies, Human Rights, Norway.

APPENDIX

List of Informants:

- 1) A guardian for unaccompanied minors from Oslo.
- (2) A guardian for unaccompanied minors from Vesterålen (North of Norway).
- (3) A social worker with child proficiency and one of the leaders from Uteseksjonen, which is an outreaching service and part of the Agency for Social and Welfare Services in Oslo (City Council of Oslo). She has published many reports and journals on the situation for unaccompanied minors in Norway and had plenty of years of experience.
- (4) A social worker with child proficiency from Utekontakten, which is an outreaching service and part of the Agency for Social and Welfare Service in Bergen (City of Bergen Council). She is also working in the unit of combating trafficking in Bergen.
- (5) The representative from Save the Children in Oslo. He has worked many years in Save the Children.
- (6) Two representatives from Save the Children PRESS (youth organization in Oslo).
- (7) A social worker with child proficiency and has been working for many years with refugee policy and came to Norway as a refugee herself in the 1990's. Is now working for Den skreddersydde enhet in Kristiansand (a child service agency)
- (8) Representative from the Child Welfare Service (Region: Mid-Norway)
- (9) He is the leader of a reception center for unaccompanied minors outside Oslo.
- (10) A Social worker with child proficiency from reception center in Kristiansand, she worked with unaccompanied minors for several years. She is now working for the Child Welfare Service in Kristiansand.
- (11) A Social worker with child proficiency from a transit center in Oslo.
- (12) A police officer in Kristiansand area. He has been working as a District Sheriff for several years.
- (13) The National Police Directorate, two short replies by emails, from two different Senior Advisors from the National Police Directorate.
- (14) Swedish author and journalist who has previously published books and articles on asylum-seeking children who goes missing.

Questionnaire:

1. Can you elaborate on whether or not you know about or have experienced yourself that children go missing?
2. What do you think are the main reasons for why UAMs go missing in Norway?
3. Children who go missing are extremely vulnerable, can you tell a little bit about why these kids are so vulnerable in your opinion?
4. Can you elaborate a little bit on the options these children have when missing, in your opinion?
5. How does your reception/transit center work to prevent children from going missing?
6. Can you elaborate on how you think the authorities such as the police, the UDI and the CWS are following up when UAMs disappear?
7. (Follow-up question) What needs to be done, in your opinion, for the authorities to take these disappearances more seriously?
8. To what extent do you think that there is a risk of trafficking for children when missing in Norway?
9. Can you elaborate a little bit about various protection measures, which are important to protect children from trafficking and how in your opinion this is working in practice?
10. Can you elaborate a little bit about various prevention measures, which are important to protect children from trafficking and Norway's effort here?
11. Can you name any targeted measures implemented by the authorities to prevent UAMs in becoming involved in criminal environments?
12. What do you think is the best response to the issue of children going missing from the best interest of the child?
13. In general, what are your main concerns when it comes to UAMs and how their human rights are respected in Norway?

Emails and statistics from UDI case officer Thomas Mortensen (*n* 3):

NB! Alder er alder ved forsvinning

Tabell 1 Forsvunnet 2015/2016 (per 31.12) og status nå	
Alder ved forsvinning	15-17
Status nå	Antall
Bosatt	20
Mottak/privat adr	31
Mottatt Dublin-anmodning / Reist med IOM/politi	90
Ukjent oppholdssted	226
Totalsum	367

Tabell 2 Forsvunnet 2015/2016 (per 31.12) - Fordeling kjønn	
Alder ved forsvinning	15-17
Status nå	Ukjent oppholdssted
Kjønn	Antall
K	8
M	218
Totalsum	226

Tabell 3 Forsvunnet 2015/2016 (per 31.12) - Fordeling alder	
Status nå	Ukjent oppholdssted
Alder	Antall
15	26
16	71
17	129
Totalsum	226

Tabell 4 Forsvunnet 2015/2016 (per 31.12) - Fordeling statsborgerskap	
Alder ved forsvinning	15-17
Status nå	Ukjent oppholdssted
Statsborgerskap	Antall
Afghanistan	144
Syria	18
Marokko	17
Somalia	10
Egypt	5
Eritrea	5
Etiopia	9
Andre	18
Totalsum	226

Tabell 5: Antall EMA som forsvant fra mottak 2015 og 2016		
	Etter forsvinning	Ukjent oppholdssted
	2015	2016
Antall av DUFNR	60	176
Totalsum	236	

STATSBORGERSKAP	Afghanistan
	Summer av Antall
2015	1013
A - Over 18 (100/0 %)	134
B - Svært lite sannsynlig at søkeren er under 18 (90/10 %)	199
C - Lite sannsynlig at søkeren er under 18 (70/30 %)	155
D - Tvil (50/50 %)	142
E - Under 18 (mer enn 50 % sannsynlig)	383
2016	1420
A - Over 18 (100/0 %)	186
B - Svært lite sannsynlig at søkeren er under 18 (90/10 %)	405
C - Lite sannsynlig at søkeren er under 18 (70/30 %)	265
D - Tvil (50/50 %)	215
E - Under 18 (mer enn 50 % sannsynlig)	319
Resultat foreligger ikke	30

