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Deborah Caruana

# Securitising Children Rights: Victims and Heirs of Terrorism

## A Critical Analysis of France's Approach to Children of Foreign Terrorist Fighters

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EMA, The European Master's Programme  
in Human Rights and Democratisation

DEBORAH CARUANA

SECURITISING CHILDREN RIGHTS: VICTIMS AND HEIRS OF  
TERRORISM  
A CRITICAL ANALYSIS OF FRANCE'S APPROACH TO  
CHILDREN OF FOREIGN TERRORIST FIGHTERS

## FOREWORD

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Each year the EMA Council of Directors selects five theses, which stand out not only for their formal academic qualities but also for the originality of topic, innovative character of methodology and approach, potential usefulness in raising awareness about neglected issues, and capacity for contributing to the promotion of the values underlying human rights and democracy.

The EMA Awarded Theses of the academic year 2019/2020 are:

- Caruana, Deborah, *Securitising Children Rights: Victims and Heirs of Terrorism. A Critical Analysis of France's Approach to Children of Foreign Terrorist Fighters*. Supervisor: Heidi Riley, University College Dublin, National University of Ireland, Dublin.
- Catalão, Mariana, *Environmental Justice, Climate Change and Human Rights. Different Contributions, Different Consequences and Different Capabilities Should Equal Different Human Rights Obligations*. Supervisor: Jan Klabbers, University of Helsinki.
- Houssais, Olivia, *Democratic Deficit Theory: A Reversed Approach. Why Radical Political Changes in Member States Affect the Quality of Democracy in the EU*. Supervisor: Anna Unger, Eötvös Loránd University, Budapest.
- Monteiro Burkle, Eduardo. *When Forgetting Is Dangerous: Transitional Justice, Collective Remembrance and Brazil's Shift to Far-Right Populism*. Supervisor: Alice Panepinto, Queen's University Belfast.
- Stockhem, Ophélie, *Improving the International Regulation of Cybersex Trafficking of Women and Children through the Use of Data Science and Artificial Intelligence*. Supervisors: Maria López Belloso and Demelsa Beniso Sánchez, University of Deusto, Bilbao.

The selected theses demonstrate the breadth, depth and reach of the EMA programme and the passion and talent of its students. We are particularly proud of EMA's 2019/20 students: as teachers and students across the world can testify, the COVID-19 pandemic brought many different challenges for teaching and learning. It is fair to say that our students researched and wrote their theses in turbulent times. On behalf of the Governing Bodies of EMA and of all participating universities, we applaud and congratulate them.

Prof. Manfred NOWAK  
Global Campus Secretary General

Prof. Thérèse MURPHY  
EMA Chairperson

Dr Wiebke Lamer  
EMA Programme Director

This publication includes the thesis *Securitising Children Rights: Victims and Heirs of Terrorism. A Critical Analysis of France's Approach to Children of Foreign Terrorist Fighters* written by Deborah Caruana and supervised by Heidi Riley, University College Dublin, National University of Ireland, Dublin.

#### BIOGRAPHY

Before completing her Master's degree at the Global Campus of Human Rights, Deborah obtained her Doctor of Laws and worked as a human rights policy and law-maker in Malta. She also gained experience in communications at the European Parliament and is currently working at the International Commission of Jurists in Brussels.

#### ABSTRACT

The complex reality of children of ISIS foreign terrorist fighters stranded in inhumane camps in Syria presents an unprecedented phenomenon but one for which a rights-based approach exists under the international child protection framework. As children affected by armed conflict and terrorism, they are legally entitled to protection primarily as victims. Yet, their countries of origin are failing to respect their international obligations and lack the political will to repatriate, rehabilitate and (re)integrate these children back in a safe environment according to the children's best interests. A critical case-study analysis of France's approach reveals how a securitised response to these children is not allowing for a rights-based approach to even be considered. Through a dialectic relationship between political discourse, public opinion and media coverage, a climate of fear from exceptional terrorism threats and misinformed inflammatory discourse surrounding radicalisation led to dehumanising and exclusionary narratives which situate the terrorist outside the bounds of humanity or protection of law. These children are inheriting the effects of such narratives by being identified as terrorists themselves and being failed recognition of their dual victim status as children and child soldiers under international law.

*Keywords: child rights, discourse, foreign terrorist fighters, radicalisation, security.*

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*My loving parents for their unconditional love and support.*

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DEBORAH CARUANA

*To lost childhoods.*

TABLE OF ABBREVIATIONS

CNCDH	French National Consultative Commission on Human Rights
DDR	Disarmament, demobilisation and reintegration
ECtHR	European Court of Human Rights
EU	European Union
FTF	Foreign terrorist fighter
ICRC	International Committee of the Red Cross
ISIS	Islamic State of Iraq and Syria
LaREM	La République En Marche
FI	La France Insoumise
PACE	Parliamentary Assembly of the Council of Europe
PS	Socialist Party (Parti Socialiste)
RN	Rassemblement National
SDF	Syrian Democratic Forces
UK	United Kingdom
UN	United Nations
UNCRC	United Nations Convention on the Rights of the Child
UNICEF	United Nations Children's Fund
USA	United States of America

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1.

INTRODUCTION

Despite its final physical defeat in the Syrian city of Baghouz in February 2019, the legacy of the Islamic State of Iraq and Syria (ISIS) lives on in the children of its foreign terrorist fighters (FTFs) as its victims and heirs.<sup>1</sup> Since the Syrian conflict broke in 2011, over 40,000 FTFs travelled from over 100 different countries to join the ranks of ISIS, taking along with them thousands of children of tender ages who were introduced to a life of violence and armed conflict. Thousands of others were born to FTF parents during the caliphate. 18 months from its fall, these innocent children are still battling death amidst deplorable conditions in Kurdish-controlled Syrian Democratic Forces (SDF) refugee camps in northeastern Syria. Considering that these children have the right to citizenship from their country of origin, leaving them languishing in camps is arguably a violation of both international law and obligations under the international human rights framework and relevant international instruments on the rights of a child.

Overwhelmed Kurdish authorities in Syria have been pleading to governments to repatriate them and civil society organisations worldwide have been consistently calling for a child-rights approach to rehabilitate and (re)integrate these traumatised children in a safe environment.<sup>2</sup> United Nations (UN) High Commissioner for Human Rights, Michelle Bachelet, has urged countries of origin to regard them ‘primarily as victims (...) in a manner consistent with their rights,

<sup>1</sup> FTFs are persons who travel to a country other than their own with the objective of training or participating in terrorism, including an armed conflict.

<sup>2</sup> Reference to reintegration is being used in this form – (re)integration – to encompass the situation of those children born under or after the caliphate in Syria and Iraq and who have never lived in their country of origin.

dignity and best interests'.<sup>3</sup> Nonetheless, very few countries, including Western democracies, have shown any political will to do so and the public back home has been mainly in opposition to their return. The approach of governments has largely depended on a securitised perspective, depicting these children as radicalised, 'hate-filled', 'ticking time bombs' who would be a threat to national security if they were to be repatriated.<sup>4</sup> These depictions have serious implications on their rights as they are not protected as victims, both as children and as child soldiers, in terms of international law.

The Parliamentary Assembly of the Council of Europe (PACE) has recently attributed the political reluctance to repatriate to 'a lack of a real or perceived public support for the repatriation of these children, often rooted in ungrounded or overblown fears of terrorism (...) peddled by irresponsible actors', namely politicians and the media.<sup>5</sup> This thesis seeks to examine whether the latter is truly the case by investigating the following: Is the alleged discriminatory application of child rights by governments in this specific context influenced by a misinformed anti-repatriation public opinion fearful of terrorism, originating in and sustained by political and media discourse? In order to do so, the thesis locates the research within a qualitative case-study analysis of France's approach to its minors detained in the camps. France is a critical case to examine as the government has been highly criticised for an alleged U-turn in its initial decision to repatriate its children as a result of an opinion poll which revealed an anti-repatriation majority amongst French nationals.<sup>6</sup> France also makes for a very interesting case since it is the largest exporter of FTFs in Europe with around 1,900 citizens, and has suffered the most attacks by ISIS in Europe.<sup>7</sup> Finally, it exemplifies

<sup>3</sup> Office of the UN High Commissioner for Human Rights (OHCHR), 'Bachelet urges States to help their nationals stranded in Syrian camps' (OHCHR, 22 June 2020) <[www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25986&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25986&LangID=E)> accessed 23 June 2020.

<sup>4</sup> Romina McGuinness, "Children of hate-filled ISIS returnees are ticking time bombs" – French experts warn' *Express* (Berkshire, 13 December 2016) <<https://bit.ly/2QhBWZU>> accessed 13 May 2020.

<sup>5</sup> Council of Europe Parliamentary Assembly (PACE), 'Report on International obligations concerning the repatriation of children from war and conflict zones' (Doc 15055, Reference No 4489 27 January 2020) 6 <<https://bit.ly/2QlArO9>> accessed 3 August 2020 (PACE Report).

<sup>6</sup> Odoxa, 'Les Français approuvent massivement le jugement des djihadistes par l'Irak et ne veulent pas voir leurs enfants revenir' (*Odoxa*, 28 February 2019) <<https://bit.ly/2CSPo3z>> accessed 15 August 2020 (Odoxa Survey).

<sup>7</sup> Joana Cook and Gina Vale, 'From Daesh to "Diaspora": Tracing the Women and Minors of Islamic State' (International Centre for the Study of Radicalisation 2018) 17-18 <<https://bit.ly/3b4fPju>> accessed 21 April 2020.

how Western democratic countries which acclaim international human rights standards may nonetheless fail to uphold them with regards to their most vulnerable.<sup>8</sup>

French President Emmanuel Macron announced the government's decision to repatriate French adult FTFs and their children in early 2019, even before ISIS's final defeat in Baghouz shortly after, but it shifted to a hardened case-by-case approach just a few days after the said poll was published, described by French lawyers as 'cherry-picking of children'.<sup>9</sup> The results showed that 82% of respondents agreed with allowing Iraqi authorities to deal with adult French jihadists, even at the risk of imposing the death penalty on them, and 67%, or rather two-thirds, of the French respondents were also against the repatriation of their helpless and innocent children. Civil society in France has been unanimous in its condemnation of the government's inaction, putting their efforts in various initiatives for repatriation and filing complaints against France in front of both international and French courts for its inaction and violation of child rights.<sup>10</sup> Despite these consistent efforts, the judicial avenues have so far proven to be futile and the French authorities maintain their case-by-case approach and have only repatriated a total of 28 children out of an estimation of up to 300 children, most of the returnees being orphans.

Concerned by these seemingly immune violations, this research seeks to shed light on where the hostility among the public is stemming from and how it is being sustained in relation to political discourse and media coverage. Political discourse plays a direct role in shaping public opinion, which is in turn many times exploited to legitimise otherwise unpopular policies. This process is fulfilled by media discourse which not only reflects and reiterates political rhetoric but also creates and confirms public opinion itself. Acknowledging the implications of this relationship, this research analyses the narratives under which these children are being depicted and whether such frames reflect their reality and allow a rights-based approach to their repatriation, rehabilitation and reintegration. This analysis indeed finds that ingrained terrorism

<sup>8</sup> Cook and Vale (n 7).

<sup>9</sup> Alison Hird, 'Complaint filed with UN to force France to repatriate children of French jihadi brides from Syria' (*RFI*, 18 March 2019) <<https://bit.ly/2EpYG7S>> accessed 20 May 2020.

<sup>10</sup> PACE Report (n 5) para 12.

discourse is fuelled by a depiction of exceptionality of threat and a heavy misuse of radicalisation narratives, which has seeped into the discussion surrounding these innocent children. The language circulating consequently shifts the tone and focus from the need to protect these children to the need to protect the community from them. By mislabelling them as radicalised terrorists, it fails to recognise them as victims and denies them owed protection both as children and as child soldiers under international law. The result of this, this thesis argues, is the legitimisation of France's failure to act and protect these children according to its national and international obligations.

A case-study analysis was chosen to carry out this analysis as this method is relevant for a research question that seeks to explain a contemporary social phenomenon, that is the 'how' and the 'why', and one that necessitates an in-depth, extensive description of such phenomenon.<sup>11</sup> The methodology also makes use of the theory and tools of critical discourse analysis (CDA), which is 'a qualitative analytical approach for critically describing, interpreting, and explaining the ways in which discourses construct, maintain, and legitimize social inequalities'.<sup>12</sup> Since it is concerned with how power is exercised through language and views it as a form of social practice which becomes a power tool to implement change and shape behaviour, it is being employed for this research as it 'seeks to unveil the hidden web of domination, power, discrimination and control existing in language'.<sup>13</sup> The analysis focuses on a broad overview of political discourse and media coverage with regards to the issue of repatriation, in the context of terrorism and the phenomenon of FTFs more generally. It also analyses public expression through opinion polls as they are representations of contemporary ideologies 'deeply implicated in the structure of contemporary politics'.<sup>14</sup> In a context where a government seeks to gain public support, particularly when it is dwindling as in the case of President Macron, polls are very telling as

<sup>11</sup> Robert K Yin, *Case Study Research and Applications: Design and Methods* (6th edn, Sage Publications 2018).

<sup>12</sup> Dianna R Mullet, 'A General Critical Discourse Analysis Framework for Educational Research' (2018) 29(2) *Journal of Advanced Academics* 116 <<https://doi.org/10.1177/1932202X18758260>> accessed 13 June 2020.

<sup>13</sup> Mona Moufahim and others, 'Interpreting Discourse: A Critical Discourse Analysis of the Marketing of an Extreme Right Party' (2007) 23(5-6) *Journal of Marketing Management* 537, 542 <<https://doi.org/10.1362/026725707X212829>> accessed 17 June 2020.

<sup>14</sup> Justin Lewis, *Constructing Public Opinion: How Political Elites Do What They Like and Why We Seem to Go Along with It* (Columbia UP 2001) x.

governments tend to respond directly to them through policy. In this sense, polls are a powerful tool of the public legitimisation of policy.

The ongoing and evolving nature of this current issue provides some limitations to this research in terms of availability and precision of data, and acquiring such information has been further challenged by the ongoing COVID-19 pandemic. While a lot of literature can be found on child rights and counter-terrorism in general, literature with respect to this particular group of children, that is children who accompanied or were born to FTFs, remains insufficient and the larger part of information about them emerges from news reportage, debates and conferences. As a result, in order to acquire more recent data, this research often turns to statements from experts during reported settings. Furthermore, the sensitivity of this issue makes it hard to obtain reliable statistics and the complexity of the situation on the ground leads to different estimations of the citizens held in Syria. For the purpose of this thesis, the most official and recent data is taken into account but such statistics may change very quickly.

After this first introductory chapter, Chapter 2 provides an overview of the realities of these children, conceptualises their status and the rights that arise out of such status under international law. It also presents the dialectic relationship between political discourse, public opinion and the media in the context of terrorism. Chapter 3 then presents the political context of the research, analysing the French securitisation approach in relation to its citizens in Syria and Iraq and narratives relating to them, within a broader overview of the French history with counter-terrorism since 2014. Chapter 4 qualifies this analysis by putting it into the context of the public opinion and media coverage as to how they relate to terrorism narratives since 2014 and to this issue of repatriation more specifically. It also takes a look at civil society efforts and the advocacy channels being pursued. Chapter 5 brings these discussions together and comments on the implications of this case-study analysis.

2.

CONTEXTUALISING A RIGHTS-BASED APPROACH

INTRODUCTION

This chapter lays down the framework within which the analysis of this thesis is placed. Section 2.1 provides a contextual overview of the children detained in camps in Syria and sheds light on the complexity of their situation. Section 2.2 then discusses the status attached to this particular group of children and the access to protection that recognition of such status gives them. In doing so, it analyses the international child protection framework which impinges particular obligations on the states, including in the context of armed conflict and counter-terrorism. Finally, Section 2.3 brings these arguments together in an examination of the dialectic relationship between politicians, the public and the media, and the impact of such a relationship on the access of child rights under terrorism-related narratives.

2.1 'GUANTANAMO FOR CHILDREN'

The children concerned for the purposes of this thesis are those who were taken by FTFs to join ISIS or who were born to them under or after the caliphate, and who now sit in SDF camps in northeastern Syria. Many of these children have been detained for up to two years since ISIS started to lose its territory, but the major part of the population was taken there in early 2019 after the defeat of ISIS. These children are detained in three camps, Al-Hol, Roj and Ain Issa, either unaccompanied or with their mothers. A June 2020 report claims that an estimation of 70,000 women and children are detained in the camps, at least 12,000

of them being foreign nationals (not Syrian or Iraqi).<sup>15</sup> The majority of the population of the camp are children under the age of 12.<sup>16</sup> These children form part of an estimated 29,000 children who are reportedly being deprived of their liberty in Syria and Iraq due to their real or perceived links to ISIS.<sup>17</sup>

The living conditions of the camps are very harsh, a grim setting which many call a ‘Guantanamo for children’.<sup>18</sup> Only few services of primary healthcare are available, meaning that infectious diseases are a daily struggle against death for these children. Statistics show that 371 children died in the camps in 2019 alone.<sup>19</sup> International Committee of the Red Cross (ICRC) expert, Wanda Toso, who visited Al-Hol explained how despite her many years working in different humanitarian contexts, she had ‘never seen so many children with missing body parts’.<sup>20</sup> In the second week of August 2020 alone, eight children under the age of five reportedly died at Al-Hol due to malnutrition, dehydration, diarrhoea, internal bleeding, heart failure and hypoglycaemia.<sup>21</sup> ‘Any child’s death is tragic’ reported the United Nations Children’s Fund (UNICEF), ‘even more so when the death could have been averted’.<sup>22</sup> Most of the children are severely traumatised and with little to no educational and recreational activities on the ground for children, every day in the camp is a day of development and recovery lost from their childhood.<sup>23</sup>

Humanitarian organisations on the ground, such as the ICRC, work with the residents to restore familial links, as well as provide access to

<sup>15</sup> Al Jazeera, “‘Urgent need’ to repatriate, rehabilitate ISIL children in Syria’ (*Al Jazeera*, 18 June 2020) <<https://bit.ly/34w2P4Q>> accessed 12 July 2020.

<sup>16</sup> United Nations Children’s Fund (UNICEF), ‘Unwanted, exploited and abused: Tens of thousands of children in Al-Hol camp and several parts of Syria in limbo amid dire humanitarian needs’ (*UNICEF*, 17 July 2019) <<https://uni.cf/31tmsZx>> accessed 24 June 2020.

<sup>17</sup> UNICEF, ‘Protect the rights of children of foreign fighters stranded in Syria and Iraq’ (*UNICEF*, 21 May 2019) <<https://uni.cf/3aTVTQe>> accessed 3 April 2020.

<sup>18</sup> Franceinfo, ‘TRIBUNE. Des avocats plaident pour “le rapatriement en France” de tous les enfants de jihadistes français et de leurs mères retenus dans les camps en Syrie’ (*Franceinfo*, 23 June 2020) <<https://bit.ly/3aVNjOU>> accessed 6 July 2020.

<sup>19</sup> Al Jazeera (n 15).

<sup>20</sup> Geneva Academy of International Humanitarian Law and Human Rights, ‘Foreign Fighters and their Relatives (allegedly) affiliated with ISIS’ (16 July 2019) <[www.youtube.com/watch?v=8bZa2WuiL4&t=2065s](http://www.youtube.com/watch?v=8bZa2WuiL4&t=2065s)> accessed 14 August 2020 (Geneva Academy Panel).

<sup>21</sup> UNICEF, ‘Eight children die in Al Hol camp, northeastern Syria in less than a week’ (*UNICEF*, 12 August 2020) <<https://uni.cf/3aTVZHA>> accessed 13 August 2020.

<sup>22</sup> *ibid.*

<sup>23</sup> Geneva Academy Panel (n 20) comments by international expert Wanda Toso.

basic amenities such as meals, water trucking and garbage collection.<sup>24</sup> Fears of the spread of COVID-19, which would be incredibly hard to control in the camps' conditions, strengthened calls made by international civil society organisations for these children's urgent need to be repatriated and a preventive response has also been put in place.<sup>25</sup> The pandemic also raised security concerns due to the lack of control of the Syrian territory. Security issues however have long been a challenge in the camps as there are reportedly 'different degrees of radicalisation' among the women in the camps, with some holding on to their ideologies and putting in danger or even killing other detainees of the camp.<sup>26</sup> This climate is increasingly threatening for the well-being but also the psychological development of the children, who are already victims of ISIS's infamous systematic process of education and religious indoctrination, using children for propaganda and forcing them into physical military training at very early ages.

The complexity of the background which brought these children there also raises various challenges which allow them to remain in a limbo. Many of the children who were born in Syria may not have documents that provide them with a clear identity or ones which are recognised by their parents' country of origin.<sup>27</sup> Others may have lost their documents or had them confiscated throughout the different stages of the conflict.<sup>28</sup> This of course limits their access to basic rights and services and puts them at a very serious risk of statelessness under a legal vacuum. Many countries also claim to lack diplomatic ties in the region. To complicate matters further, some mothers in the camps refuse to be separated by their children through repatriation of the minors. All these factors raise serious obstacles to the protection of these children and may very easily play as justifications by governments who are reluctant to repatriate their citizens.

<sup>24</sup> International Committee of the Red Cross (ICRC), 'Syria: Al Hol field hospital introduces COVID-19 preventative measures' (*Reliefweb*, 3 April 2020) <<https://bit.ly/2ExShHp>> accessed 23 June 2020.

<sup>25</sup> *ibid.*

<sup>26</sup> Quentin Sommerville, 'Islamic State: The women and children no-one wants' (*BBC*, 12 April 2019) <[www.bbc.com/news/world-middle-east-47867673](http://www.bbc.com/news/world-middle-east-47867673)> accessed 23 May 2020.

<sup>27</sup> Conrad Nyamutata, 'Young Terrorists or Child Soldiers? ISIS Children, International Law and Victimhood' (2020) 25(2) *Journal of Conflict and Security Law* 237 <<https://doi.org/10.1093/jcsl/krz034>> accessed 30 July 2020.

<sup>28</sup> Geneva Academy Panel (n 20) comments by international expert Wanda Toso.

## 2.2 INTERNATIONAL CHILD PROTECTION FRAMEWORK

2.2.1 *Conceptualisations and implications*

The peculiarity of the situation of the children concerned in this thesis caused international debate as to how to frame their status; are they victims, child soldiers or young terrorists who inherited ISIS ideologies? The 2007 Paris Principles and Guidelines on Children Associated with Armed Forces or Armed Groups (the Paris Principles) define a child soldier, or a child associated with an armed force or armed group, as:

any person below 18 years of age who is or who has been recruited or used by an armed force or armed group in any capacity, including but not limited to children, boys and girls, used as fighters, cooks, porters, messengers, spies or for sexual purposes. It does not only refer to a child who is taking or has taken a direct part in hostilities.<sup>29</sup>

This definition very much covers the complexities of this group of children who found themselves in an armed conflict and not necessarily played a direct part in the conflict, but many of whom were nevertheless indoctrinated and military trained, amongst many other ways in which they were instrumentalised.

The way in which these children are conceptualised is crucial as to the implications that it has on their rights and access to protection under international legal frameworks. Indeed, under the Paris Principles, child soldiers must be treated as victims first, rather than as perpetrators. This means that children associated with FTFs are protected under a dual identity. They are protected as victims of armed conflict under international humanitarian law both for their status as children as well as for their status as child soldiers. The 1949 Geneva Conventions and their 1977 Additional Protocols protect children both if in a civilian or combatant role in armed conflict and irrespective of whether taking part or not in the hostilities.<sup>30</sup> This framework thus recognises the

<sup>29</sup> UNICEF, 'The Paris Principles. Principles and Guidelines on Children Associated With Armed Forces or Armed Groups' (February 2007) para 2.1 <[www.refworld.org/docid/465198442.html](http://www.refworld.org/docid/465198442.html)> accessed 13 August 2020.

<sup>30</sup> ICRC, Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention) (adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 287 <[www.refworld.org/docid/3ae6b36d2.html](http://www.refworld.org/docid/3ae6b36d2.html)> accessed 21 July 2020; Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (adopted 8 June 1977, entered into force 7 December 1979) 1125 UNTS 3 (Protocol I) <[www.refworld.org/docid/3ae6b36b4.html](http://www.refworld.org/docid/3ae6b36b4.html)> accessed 25 July 2020.

vulnerability of the child and the obligation to treat all children affected by armed conflict with special respect and protection.

Under the international rights framework, they are largely protected under the 1989 United Nations Convention on the Rights of the Child (UNCRC). Here, the children are recognised as a separate rights-bearing entity from their parents and, in this capacity, are protected from being discriminated or punished as a result of the actions or beliefs of their parents.<sup>31</sup> The principle of the best interests of the child is to be taken as a primary consideration in any decision or action affecting them and obliges states to take all appropriate legislative and administrative measures to this end.<sup>32</sup> They are also protected in terms of their survival and development, economic, social and cultural rights, such as the right to food, housing, education and health, and from all forms of violence.<sup>33</sup> States are also obliged to protect them from anything stopping their return to their country under the UNCRC and they have an absolute right to enter their country under the European Convention of Human Rights.<sup>34</sup> This framework also protects them against deprivation of liberty, which is reserved only as a temporary measure of last resort when all else fails, and as victims of armed conflict they are entitled to receive special support through physical and psychological recovery and social reintegration.<sup>35</sup> If connected to any crimes, these children would still be protected under this framework in promotion of their reintegration in society.

The Paris Principles also stress the important process of child reintegration for the child to access his or her rights, including education and development, psychosocial support, family unity and protection from harm. By being recognised as child soldiers, these children are given access to programmes such as disarmament, demobilisation and reintegration (DDR) which would allow them to heal from their traumas. Programmes such as DDR are not necessarily the answer to this very new and specific context of victims of armed conflict, especially

<sup>31</sup> UN General Assembly (UNGA), Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) UNTS 1577 art 2 <[www.refworld.org/docid/3ae6b38f0.html](http://www.refworld.org/docid/3ae6b38f0.html)> accessed 11 August 2020 (UNCRC).

<sup>32</sup> UNCRC art 3.

<sup>33</sup> UNCRC arts 6, 4 and 19 respectively.

<sup>34</sup> UNCRC art 11; Council of Europe, European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos 11 and 14 (adopted 4 November 1950, entered into force 3 September 1953) ETS 5 art 10 <[www.refworld.org/docid/3ae6b3b04.html](http://www.refworld.org/docid/3ae6b3b04.html)> accessed 28 June 2020.

<sup>35</sup> UNCRC arts 37 and 39.

since many of the children are infants and toddlers, and since DDR is usually conducted within the same post-conflict society and not outside of the country, as would happen if it was to be applied for these children in their country of origin. Nevertheless, the help that these children urgently require under similar programmes can only be given to them if they are recognised to be in need of it, that is if they are recognised as child soldiers.

In view of the above discussion, this thesis departs from the understanding that these children are victims of terrorism, both as children and as child soldiers.

### *2.2.2 Rights versus security*

The significance of a rights-based approach is also recognised in the context of recent counter-terrorism efforts. The UN's Global Counter-Terrorism Strategy requires states to ensure human rights for all as the basis of their fight against terrorism.<sup>36</sup> In 2017, the UN adopted Resolution 2396 addressing the FTF returnees phenomenon and for the first time acknowledged the need to distinguish accompanying family members, including children, from suspected individuals.<sup>37</sup> The UN member states also agreed upon developing tailored prosecution, rehabilitation and reintegration strategies which take into account the age of the children.<sup>38</sup> These measures are being reflected in the UN 'Guidance to States on human rights-compliant responses to the threat posed by foreign fighters'.<sup>39</sup> In practice, however, states are largely guided by a dichotomous perspective on security and human rights, where both ends of the relationship cannot coincide as they should, or rather, as international standards and legal obligations entail them to do. This is quite evidential from the reality on the ground in Syria, with children still struggling to survive in these camps years after they arrived.

<sup>36</sup> UNGA, 'The United Nations Global Counter-Terrorism Strategy' (20 September 2006) A/RES/60/288, paras 39, 77 <[www.refworld.org/docid/468364e72.html](http://www.refworld.org/docid/468364e72.html)> accessed 28 June 2020.

<sup>37</sup> UN Security Council, Resolution 2396 (2017) on Threats to international peace and security caused by terrorist acts – foreign terrorist fighters (21 December 2017) S/RES/2396(2017) paras 29-30 <[https://undocs.org/S/RES/2396\(2017\)](https://undocs.org/S/RES/2396(2017))> accessed 7 July 2020.

<sup>38</sup> *ibid* para 31.

<sup>39</sup> UN Counter-Terrorism Implementation Task Force, 'Guidance to States on human rights-compliant responses to the threat posed by foreign fighters' (United Nations 2018) <<https://bit.ly/34yteiz>> accessed 15 June 2020.

Indeed, countries of origin have adopted different attitudes and approaches towards repatriation of their citizens, with most being reluctant and citing security threats. Kazakhstan was the first country to tackle this complex dilemma and has been praised for reportedly repatriating around 600 citizens, including 406 children, and rehabilitating most of them. Considered an exception among European states, Kosovo also conducted a mass repatriation of 110 citizens, including 74 children. Others adopted stricter approaches, including the United Kingdom (UK), France and Germany, who are very slowly repatriating children only in certain cases, mainly when orphaned or unaccompanied. The European approach towards adult jihadists is more hardline, including the UK and Denmark stripping FTFs of their citizenship in some cases or France and Germany handing them over to the Iraqi authorities for prosecution despite facing unfair trials and execution. Ad-hoc cooperation for relocation of European citizens seems to exist between European countries, such as France having repatriated orphans of Belgian and Dutch nationality in 2019, but a coordinated approach is still lacking.<sup>40</sup>

As a result, countries of origin have been heavily criticised for their inaction and reluctance to repatriate their citizens back from these camps by the international community. Experts explain how states have given a lot of thought and action to this phenomenon in response to their citizens traveling to Syria and Iraq to join ISIS, ‘but are now are reluctant to actually come up with a common approach as to what to do with them now’.<sup>41</sup> The European Union (EU) has so far failed to take any significant action to repatriate these children, claiming that decisions on repatriation fall under member states’ competences.<sup>42</sup> From a security aspect, there seems to be an increasing understanding that ‘outsourcing’ this dilemma rather than bringing it home, that is not repatriating the children and exercising control through tailored rehabilitation and (re)integration measures, is counter-productive

<sup>40</sup> PACE, Resolution 2321 (2020) on International obligations concerning the repatriation of children from war and conflict zones (Doc 15055 2020) <<https://bit.ly/32sdhrz>> accessed 12 August 2020 (PACE Resolution 2321).

<sup>41</sup> Geneva Academy Panel (n 20) comments by international humanitarian law expert Émilie Max.

<sup>42</sup> Comments by Belgian MEP Saskia Bricmont during an online expert roundtable at the European Parliament on ‘Deprivation of Liberty is Deprivation of Childhood’ (8 July 2020).

to national and international security in the mid-long term.<sup>43</sup> This is because the children are in a particularly vulnerable breeding ground for radicalisation and child recruitment. French lawyer Marie Dosé claims that '[w]hatever political party or profession you're in, everyone working on these questions agrees that we're manufacturing terrorism by leaving those children over there'.<sup>44</sup>

From a humanitarian perspective, it is a serious failure on behalf of states who are not recognising the children as victims under a dual identity as explained above and, as a result, treat them on the basis of their affiliation to the FTFs rather than as individual rights-bearers. The above obligations are ignored and the children sit in a vacuum which does not allow them to access their rights and protection. In other words, the counter-terrorism framework replaces the child rights framework for considerations of these children's situation. These are also the same states, in many cases the same governments, which are failing to abide by the UN Resolution which they sustained into adoption, requiring them to repatriate, rehabilitate and (re)integrate their vulnerable children through established cooperation. As a result of this correlation, it becomes important to understand the wider narratives surrounding terrorism and counter-terrorism as it is through this perspective that these children are being denied protection.

## 2.3 SHAPING DISCOURSE INTO POLICY

### 2.3.1 *A dialectic relationship between political, public and media discourse*

In 1946, George Orwell famously wrote that political language is 'designed to make lies sound truthful and murder respectable and to give an appearance of solidity to pure wind'.<sup>45</sup> Language is power: words have the power to change thought. Even the most mundane of words can be

<sup>43</sup> PACE, 'PACE urgent debate on the occasion of International obligations concerning the repatriation of children from war and conflict zones' (*Council of Europe*, 30 January 2020) <<https://bit.ly/3jd8uAU>> accessed 23 June 2020.

<sup>44</sup> Alison Hird, 'Complaint filed with UN to force France to repatriate children of French jihadi brides from Syria' (RFI, 18 March 2019) <<https://bit.ly/2EpYG7S>> accessed 20 May 2020..

<sup>45</sup> George Orwell, *Politics and the English Language* (1946, reprinted in Orwell's Collected essays, journalism and letters 4.121-46, Secker & Warburg 1968).

crafted with the aim of shaping, and manipulating, thought. Politicians are known for manipulating meaning, ‘reinventing and reinterpreting it (...) in order to persuade us of, and indeed to construct, political realities’.<sup>46</sup> Indeed, political discourse holds the power of constructing public opinion, but the reality is that public opinion very often also ultimately dictates what policies politicians implement.

In the words of French political scientist, Alexis de Tocqueville, ‘the author and the public corrupt one another at the same time’.<sup>47</sup> In this dialectic relationship, political discourse influences public opinion in order to direct policy according to the politicians’ agenda, and in turn, the opinions developed by the public influence what agendas are set by politicians who seek to accommodate these opinions. In other words, on one hand, the public opinion develops into political policy in an effort to meet the public’s demands due to politicians’ fear of losing support and eventually elections, while on the other hand, through discursive strategies politicians shift the public’s opinions and preferences according to their own agendas in order to accommodate their own policy objectives without having to lose that public support or, ultimately, power.<sup>48</sup>

One cannot ignore the role of the media in this dynamic. Indeed, the media depicts the views of the public and is resorted to in order to understand public opinion even by government, politicians and legislative officials. Studies also show a direct link between media coverage and public concern; the more coverage there is on an issue, the more concerned the public grows about it.<sup>49</sup> But the media’s real influence comes also from the narratives it uses in its coverage. It is particularly important both for the issues it chooses to cover and the way in which it frames them. In doing so, the media also helps to both create and reinforce a public opinion and represent political discourse. Prominent French sociologist, Pierre Bourdieu, acknowledged the evident role that language plays in social realities:

<sup>46</sup> Nicola Woods, *Describing Discourse: A Practical Guide to Discourse Analysis* (1st edn, Hodder Arnold Publication 2006) 79.

<sup>47</sup> John Mueller, ‘Six Rather Unusual Propositions about Terrorism.’ (2005) 17(4) *Terrorism and Political Violence* 487 <<http://doi.org/10.1080/095465591009359>> accessed 27 May 2020.

<sup>48</sup> Tetsuya Matsubayashi, ‘Do Politicians Shape Public Opinion?’ (2012) 43(2) *British Journal of Political Sciences* 451 <<http://doi.org/10.1017/S0007123412000373>> accessed 24 July 2020.

<sup>49</sup> Justin Lewis, *Constructing Public Opinion: How Political Elites Do What They Like and Why We Seem to Go Along with It* (Columbia UP 2001) 79.

I sometimes want to change each presenters' word, as they often speak lightly, with absolutely no idea of how difficult and serious are the issues they raise and the liabilities they incur by raising them, before thousands of viewers, without understanding them and without understanding that they do not understand them. For these words do something, they create fantasies, fears, phobias or simply misrepresentations.<sup>50</sup>

This implies a direct correlation between political discourse and media coverage where the media has a direct impact on political agendas and policies implemented. How the public perceives a particular social matter is greatly impacted by the media's perception of it. This generated public opinion changes the course which political agendas take and this is very evident in the exercise of media polls. In such an exercise, 'the public is active, the media and the political elites responsive. The rhetorical core of this framework is an unsullied view of democracy, in which a rational public expresses its interests in a quantifiable form'.<sup>51</sup> Such a quantifiable outcome is then transformed qualitatively in policy-making.

### 2.3.2 *Implications of terrorism narratives*

This relationship may have serious implications in the context of discourse surrounding a very sensational topic such as terrorism. 'Since the terrorist attacks of September 11, 2001, the narrative of terrorism as an existential threat has dominated the political, media, and academic discourse on terrorism.'<sup>52</sup> The Bush administration in the United States of America (USA) dropped a discursive 'war against terrorism' which still resonates to this day. As a reaction to such narrative, many countries adopted a heavily securitised approach in order to counter terrorism while the public has in turn grown ever more anxious about the imminence of terrorist attacks. Literature shows that threats generate shifts towards more conservative tendencies, a so-called right-shift

<sup>50</sup> Pierre Bourdieu, *Sur la télévision* (Liber-Raisons d'Agir 1996), translated by Moana Genevey, 'Fears, Hatred, and the Limits of the Law: A Critical Analysis of French Political Discourse Following Terrorist Attacks' (awarded Master's Thesis, Queen University Belfast/Global Campus of Human Rights 2015) 20 <<https://repository.gchumanrights.org/handle/20.500.11825/226>> accessed 10 May 2020.

<sup>51</sup> Lewis (n 49) 78.

<sup>52</sup> Richard Jackson, *Routledge Handbook of Critical Terrorism Studies* (1st edn, Routledge, Taylor & Francis Group 2018) 248.

phenomenon.<sup>53</sup> It is ‘a well-established fact that threatening situations increase individuals’ adherence to their national identity, prejudice expression and support for anti-immigration policies’.<sup>54</sup> This means that restrictive, right-wing policies are increasingly informing securitised counter-terrorism laws focused on the threat of terrorism.

This securitised narrative is reflecting today in highly politicised, dehumanising and stigmatising terminology such as ‘terrorist’ and ‘radicalised’.<sup>55</sup> These terms, with ‘limited analytical purchase and significant implications’, are used ‘to indicate society’s disapproval and to highlight that an individual or group operates outside the norms of society’.<sup>56</sup> In other words, the terrorist or the radicalised individual becomes ‘the other’ in an exclusionary narrative. In the context of FTFs, the ICRC explains how such discourse dehumanises and demonises the perceived enemy and suggests that such a terrorist is ‘outside the bounds of humanity’ and can be treated ‘as if humanitarian law doesn’t apply’.<sup>57</sup> The implications of such narratives are as serious as potentially ‘signalling that there is no room for advocating for a particular cause’.<sup>58</sup>

Since 9/11, the narrative of radicalisation has dominated all aspects of discourse surrounding terrorism and security concerns.<sup>59</sup> Radicalisation became ‘a convenient term for European policymakers (...) to describe “home grown terrorism”’, who became obsessed with countering it at all costs, mainly through preventive, de-radicalisation and counter-radicalisation measures.<sup>60</sup> However, the concept of radicalisation is greatly underdeveloped and is yet to shed light on the ‘causes of causes’ of terrorism.<sup>61</sup> Similarly, de-radicalisation is said to be an ‘empirically and

<sup>53</sup> Jais Troian, Thomas Arciszewski and Themistoklis Apostolidis, ‘The dynamics of public opinion following terror attacks: Evidence for a decrease in equalitarian values from Internet Search Volume Indices’ (2019) 13(3) *Journal of Psychosocial Research on Cyberspace* <<https://doi.org/10.5817/CP2019-3-4>> accessed 17 July 2020.

<sup>54</sup> *ibid.*

<sup>55</sup> Siobhan O’Neil and Kato van Broeckhoven, *Cradled by Conflict: Child Involvement with Armed Groups in Contemporary Conflict* (United Nations University 2018) 238.

<sup>56</sup> *ibid.*

<sup>57</sup> See Niki Clark, ‘#ICYMI Weekly Roundup: Foreign Fighters’ (*ICRC*, 27 October 2017) <<https://bit.ly/34zVuRl>> accessed 16 June 2020; Ellen Policinski, ‘The power of words: the dangerous rhetoric of the “terrorist”’ (*ICRC*, 4 March 2020) <<https://bit.ly/31u56vz>> accessed 16 June 2020.

<sup>58</sup> O’Neil and Van Broeckhoven (n 55).

<sup>59</sup> Jonathan Githens-Mazer, ‘The rhetoric and reality: radicalization and political discourse’ (2012) 33(5) *International Political Science Review* <<https://doi.org/10.1177/0192512112454416>> accessed 12 May 2020.

<sup>60</sup> Jackson (n 52) 529.

<sup>61</sup> *ibid.*

theoretically dubious concept'.<sup>62</sup> While radicalisation is said to describe 'what goes on before the bomb goes off', literature echoes a lack of agreement among experts and policy-makers alike on its meaning and on how radicalisation actually occurs.<sup>63</sup> This implies a threat to human rights protection since counter-terrorism policies are heavily reliant on a concept which confuses policy-makers themselves and which has such an exclusionary and dehumanising perspective of its subjects.

The role of media coverage is crucial in how it represents and furthers such politicised narratives. Frames within the media are said to be 'interpretive structures that journalists use to set particular events within their broader context'.<sup>64</sup> Many times, this means that media coverage 'can reflect news frames developed by others' while at the same time 'influence the reactions of the public and the authorities'.<sup>65</sup> This is troubling in the context of terrorism when considering the highly securitised and dehumanising narrative which became so normalised and legitimised. Indeed, '[i]t is difficult to overstate the fraught complexity of the relationship between terrorism and the media (...) and perhaps no other [issue] has so challenged media professionals to maintain journalistic ethics and balance in their reporting'.<sup>66</sup>

In its Resolution 2321 of 2020 on the repatriation of these children from conflict zones, the PACE recognises the crucial role of the media and calls on it 'to ensure that media coverage does not place children at risk of physical or psychological harm', by appealing for standards, safeguards and codes of conduct in line with the Paris Principles.<sup>67</sup> This resolution echoes UNICEF's specific guidelines for journalistic reporting of children, guided by the principle of the protection of the best interests of the child as the primary consideration. These guidelines require 'an accurate context for the child's story or image' and to not further stigmatise children or categorise and depict them in ways

<sup>62</sup> Bart Schuurman and Liesbeth van der Heide, 'Foreign fighter returnees & the reintegration challenge' (*Radicalisation Awareness Network*, November 2016) 5 <<https://bit.ly/3hr2K mz>> accessed on 18 May 2020.

<sup>63</sup> Peter R Neumann and Michael LR Smith, *The Strategy of Terrorism: How it Works and Why it Fails* (1st edn, Routledge 2008) 4.

<sup>64</sup> Jean Paul Marthoz, *Terrorism and the media: a handbook for journalists* (UNESCO 2017) 34.

<sup>65</sup> *ibid.*

<sup>66</sup> Moez Chakchouk, UNESCO Assistant Director-General for Communication and Information, 'Foreword' *in* Marthoz (n 64).

<sup>67</sup> PACE Resolution 2321 (n 40).

which ‘expose a child to negative reprisals – including additional or psychological harm, or to lifelong abuse, discrimination or rejection by their local communities’.<sup>68</sup>

Scrutinising this dialectic relationship between politicians, the public and the media, in order to understand what discourse and narratives are being reinforced with regards to these children, is increasingly and urgently important in that such depiction directly affects their access to rights and protection under an inclusive rights-based approach.

#### WAY FORWARD

The discussion in this chapter highlights states’ inaction in the face of the repatriation, rehabilitation and (re)integration of their minor citizens in Syria, despite their obligations under international law and Resolution 2396 among others. It also stresses the importance of children to be recognised both as child soldiers and as victims in this context in order to access special protection under the international child rights framework. This discussion is contextualised within the exclusionary and dehumanising narratives of terrorism and radicalisation underlying it. It discusses the correlation between political, public and media discourse in sustaining such narratives under security and counter-terrorism to the exclusion of considerations of child rights and best interests.

The following two chapters will examine the implications of these correlations on the access to a rights-based approach towards the repatriation, rehabilitation and (re)integration of these minors, in the context of France’s approach. Chapter 3 will therefore critically analyse the French government’s approach to this phenomenon as well as its political discourse and narratives reserved to these children within a broader context of terrorism and counter-terrorism discursive strategies. This will be complemented by the discussion in Chapter 4 which contextualises this political discourse within the public opinion and the media coverage surrounding these children, again within a broader-context of terrorism and counter-terrorism in France.

<sup>68</sup> UNICEF, ‘Guidelines for journalists reporting on children’ (*UNICEF*) <[www.unicef.org/eca/media/ethical-guidelines](http://www.unicef.org/eca/media/ethical-guidelines)> accessed 14 July 2020.

3.

POLITICAL JUSTIFICATION

INTRODUCTION

The previous chapter has analysed how states' reluctance to repatriate children associated with FTFs violates their international child rights obligations and fails to recognise their status as victims both as children and as child soldiers. It has also shed light on the role of exclusionary narratives surrounding terrorism and radicalisation, pushed forward in an interplay between political, public and media discourse, in misrepresenting the children's status and blocking their access to their rights. This chapter delves deeper into that discussion through a critical discussion of the French case-study. Section 3.1 presents the context of the French securitisation approach towards the repatriation of its minor and adult citizens in Syria and Iraq and analyses it in light of the political discourse and narratives with which these children are framed and considered. Section 3.2 ties to this discussion by providing the broader context of the French political relationship with terrorism and counter-terrorism over the past years, in particular its efforts to combat an exceptional threat of radicalisation as a reaction to terrorist attacks in France.

3.1 REPATRIATION: A POLITICAL APPROACH

*3.1.1 The French context*

Recent statistics reflecting official estimations provide that up to 300 French children who accompanied or were born to French FTFs are currently detained in the Al-Hol and Roj camps in northeastern Syria, the majority of them being under the age of five and some having been

in the camps for over two years.<sup>69</sup> In 2017, a third of them were reported to have been born under the caliphate and since then many others have been born inside the camps.<sup>70</sup> These children are associated with the estimation of 1,900 French citizens who joined ISIS since 2014.<sup>71</sup> Official figures claim that 85 children, mostly under the age of 12, have returned to France since 2015 and before the final defeat and capture of ISIS in Syria in February 2019.<sup>72</sup> Out of these, 81 were the subject of an educational assistance procedure, while only a few were able to be reunited with family members, the rest being put in foster care or foster families.<sup>73</sup> French lawyers advocating the children's repatriation claim that the children all suffer from severe post-traumatic shocks and malnourishment, almost all have dysentery, and all lack 'any treatment worthy of its name'.<sup>74</sup>

The government's approach towards the repatriation of French FTFs and particularly of the children associated with them has been criticised for being very puzzling and unclear. This has left their families in France feeling ignored, with no information given to them by the authorities as to their relatives in the camps despite being informed of their registration.<sup>75</sup> Other families have even been stopped, by the Kurdish forces allegedly on orders of the French authorities, from entering the camps to visit their relatives after making arrangements and traveling to Syria for this purpose.<sup>76</sup> Under Subsections 3.1.2 and 3.1.3, an observation of the government's approach in the past years shows a shift towards a hardline securitised stance immediately after

<sup>69</sup> See CNCNDH, 'Opinion on the French under-age nationals detained in Syrian camps' (CNCNDH 24 September 2019) <<https://bit.ly/2OffDEq>> accessed 23 May 2020 (CNCNDH Opinion); *Collectif des Familles Unies* <[www.famillesunies.fr/](http://www.famillesunies.fr/)>.

<sup>70</sup> Linus Gustafsson and Magnus Ranstorp, *Swedish Foreign Fighters in Syria and Iraq: An Analysis of Open-Source Intelligence and Statistical Data* (Swedish Defence University 2017) 59.

<sup>71</sup> Joana Cook and Gina Vale, 'From Daesh to "Diaspora": Tracing the Women and Minors of Islamic State' (International Centre for the Study of Radicalisation 2018) 17-18 <<https://bit.ly/3b4fPju>> accessed 21 April 2020.

<sup>72</sup> Paule Gonzalès, '95 enfants de djihadistes rentrés en France depuis 2015' *Le Figaro* (Paris, 29 March 2019) <<https://bit.ly/2EmVDx7>> accessed 12 May 2020.

<sup>73</sup> *ibid.*

<sup>74</sup> Martin Pradel, (Twitter, 11:53 13 March 2019) <<https://bit.ly/3l9yij7>> accessed 29 June 2020 (my translation).

<sup>75</sup> Omar Shahla, "'I'll never abandon you": the French fight to bring ISIS-linked women and kids home from Syria' (*Rudaw*, 29 July 2020) <[www.rudaw.net/english/world/29072020](http://www.rudaw.net/english/world/29072020)> accessed 5 August 2020.

<sup>76</sup> Geneva Academy of International Humanitarian Law and Human Rights, 'Foreign Fighters and their Relatives (allegedly) affiliated with ISIS' (16 July 2019) <[www.youtube.com/watch?v=8bZa2WuIL4&t=2065s](http://www.youtube.com/watch?v=8bZa2WuIL4&t=2065s)> accessed 14 August 2020 (Geneva Academy Panel), comments by Executive Director, Arab Initiative for Reform, Nadim Houry.

the publication of a public poll revealing a major anti-repatriation sentiment in February 2019.<sup>77</sup> This led various experts and civil society organisations worldwide to claim that the French government, like many other European governments, is held hostage by the opinion of a public haunted by the traumas of terroristic attacks.<sup>78</sup> As a matter of fact, since the publication of the poll, the French authorities have only repatriated 28 children from Syria and Iraq; five in March 2019, 12 in June 2019, one in April 2020 and ten in June 2020, most of them being orphans or unaccompanied minors.<sup>79</sup>

As a state party to all frameworks protecting the rights of these children as victims and child soldiers and as a signatory to the legally binding UN Resolution 2396 of 2017 and the UNCRC, discussed in Chapter 2, France is obliged to uphold its legal obligations to protect the best interests of these children as the primary consideration, and to treat them differently than suspected terrorists in considerations and efforts for repatriation, rehabilitation and (re)integration. This would recognise their entitlement to special protection under international human rights and humanitarian law which affords them dual protection as children affected by terrorism and armed conflict. The rest of this section analyses the government's approach to repatriation of the children in the context of a broader repatriation approach of adult FTFs and by comparison of the approach before and after the poll concerned. This aims to provide a clearer picture of the influence of the poll on the government's repatriation position, as well as to allow observations as to whether the government is sufficiently differentiating between the children and the FTFs and, thus, whether it recognises their victim status.

### 3.1.2 *A fluctuating policy*

The French government has been very unclear and unsteady in its approach for years. As French right-wing politician, Samuel Lafont, pointed out in January 2019, 'the Macron government has gone back

<sup>77</sup> Odoxa, 'Les Français approuvent massivement le jugement des djihadistes par l'Irak et ne veulent pas voir leurs enfants revenir' (*Odoxa*, 28 February 2019) <<https://bit.ly/2CSPo3z>> accessed 15 August 2020 (Odoxa Survey).

<sup>78</sup> Pesha Magid, 'How Europe Is Handing Off Its ISIS Militants to Iraq' (*Foreign Policy*, 15 June 2019) <<https://bit.ly/2EjFOj>> accessed 4 July 2020.

<sup>79</sup> Alessio Dellanna, 'France repatriates ten children of French jihadists from Syria' (*Euronews*, 22 June 2020) <<https://bit.ly/2ExmgPW>> accessed 28 June 2020.

and forth on the subject. First, we were told that the FTFs could not come back to France, then we were told that they could come back on a case-by-case basis: women, children, adults, **we mixed everything up**.<sup>80</sup> Indeed, observing its approach, it is difficult to understand how the government was differentiating in its treatment of adults, women and children. As observed below, the mixed signals also reflected dilemmas within the same administration, with ministries on opposing sides on whether repatriation should take place or not. While politicians pondered on what they should do, advice by experts on whether the fate of the children bounced from extreme to another. France's internal intelligence chief, Patrick Calvar, warned that these children were 'ticking time bombs who hated democracy and the West (...) trained and brainwashed by Isis'.<sup>81</sup> On the other hand, French psychoanalyst, Eric Sandlarz, who assisted former child soldiers for over a decade, explained that it is for the same reason that these children have been brainwashed that they need serious psychological help.<sup>82</sup>

In November 2017, when the issue of ISIS returnees started to become more pressing on France as ISIS was being defeated, French President Emmanuel Macron advocated for a 'case-by-case approach' for the repatriation of both women and children and for recognition of the judicial authority of the Iraqi courts to try adult fighters on the ground where they allegedly committed crimes: in Syria or Iraq.<sup>83</sup> In March 2018, then Prime Minister Édouard Philippe issued ministerial instructions in preparation of the return of children associated with French ISIS fighters.<sup>84</sup> Up to this date, 77 French children had already returned from the battlefield, with 80% being under the age of eight.<sup>85</sup> The instructions laid down provision for specific support in consideration of the children's ages and individual circumstances, including somatic

<sup>80</sup> Edouard Chanut, 'Rapatriement des djihadistes: "ils se moquent de nous, ils se jouent de notre droit"' (*Sputnik*, 14 January 2020) <<https://bit.ly/3hmDiP2>> accessed 25 June 2020 (my translation) (emphasis added).

<sup>81</sup> Romina McGuinness, "Children of hate-filled ISIS returnees are ticking time bombs" – French experts warn' *Express* (Berkshire, 13 December 2016) <<https://bit.ly/2QhBWZU>> accessed 13 May 2020.

<sup>82</sup> *ibid.*

<sup>83</sup> Le Figaro, 'Retour de djihadistes: Macron prône le «cas par cas» pour les femmes et les enfants' (*Le Figaro*, 9 November 2017) <<https://bit.ly/3hjkyOu>> accessed 23 June 2020.

<sup>84</sup> Gouvernement, 'Prise en charge des mineurs à leur retour de zone d'opérations de groupements terroristes' (*Gouvernement*, 6 March 2018) <<https://bit.ly/32klo9f>> accessed 10 June 2020.

<sup>85</sup> *ibid.*

and medico-psychological assessments. These replaced and reinforced 2017 ministerial instructions, modifying the framework and procedures within which support was to be provided. This seemed to indicate that the government not only had intentions to repatriate the children but also had active plans to provide them with the necessary support for rehabilitation and (re)integration once repatriated.

The government's position was later hardened when in September 2018, French Foreign Affairs Minister Jean-Yves Le Drian held firm by the decision to let Iraqi authorities try French FTFs, but stated that children would be repatriated alone as their mothers would also be tried on the ground.<sup>86</sup> A month later, representatives from the Foreign Ministry visited the Roj camp in Syria to meet with the French mothers and children there.<sup>87</sup> The mothers were faced with a choice: to give up custody of their children for their repatriation with a possibility of never seeing them again, or to keep their children with them in a camp amidst ongoing conflict.<sup>88</sup> The ministry declared to be acting in the best interests of the child. Yet another change in tone came as ISIS was being cornered in its final territories. As American troops were planning to pull out of Syria in January 2019, French Interior Minister Christophe Castaner explained on national TV how once the USA troops are out, French FTFs might want to return to France, in which case France would immediately arrest them and put them on trial upon arriving.<sup>89</sup> He reminded the reporter that '[t]hey are French before being jihadists', in contradiction of their depiction by Le Drian as 'enemies'.<sup>90</sup>

Castaner's announcement came as a surprise to many particularly because previous and current administrations were adamant about trying adult FTFs in Syria or Iraq.<sup>91</sup> His comments drew charged backlash from opposition politicians. Far-right *Rassemblement National* (RN) leader, Marine Le Pen, urged the minister on Twitter to instead revoke

<sup>86</sup> Families Unies, 'Communiqué de presse du Collectif Familles Unies du 26 décembre 2018' (*Collectif des Familles Unies*, 27 December 2018) <<https://bit.ly/32nijW0>> accessed 9 June 2020.

<sup>87</sup> *ibid.*

<sup>88</sup> *ibid.*

<sup>89</sup> Zeenat Hansrod, 'Returning French jihadists have two options: prison or death' (*RFI*, 29 January 2019) <<https://bit.ly/32lYJcC>> accessed 7 July 2020.

<sup>90</sup> Sandrine Amiel and Vasco Cotovio, 'Jihadi fighters of French origin could be repatriated from Syria' (*CNN*, 29 January 2019) <<https://cnn.it/3hoWdJa>> accessed 7 July 2020.

<sup>91</sup> France 24, 'French rethink on repatriating jihadists stirs political storm' (*France 24*, 4 February 2019) <<https://bit.ly/32ryaT9>> accessed 4 July 2020.

their citizenship as ‘[t]hey are jihadists so they shouldn’t be French anymore’.<sup>92</sup> Similarly, French Republican politician Valérie Boyer called the government to stop such returns ‘under the pretence they once held a French passport, which they have burnt in the meantime anyway’.<sup>93</sup> Meanwhile, reports circled that massive repatriation plans were in line for 130 French FTFs and children within the following weeks, although government never confirmed any such reports.<sup>94</sup>

In an exclusive interview by *France 24* with a female French FTF in Syria published in that same week, the prisoner claimed that ISIS detainees’ choice was either to return to France and be imprisoned or to stay in Syria and die; she chose the former and was tried and sentenced in absentia in France.<sup>95</sup> The interview shed light on the government’s intentions and confirmed that it indeed was making arrangements, probably secretively, to allow a return of adult jihadists. Nevertheless, a month later, authorities announced news of 13 French FTFs that were handed over to the judicial authority of Iraqi courts. Macron reiterated support for the recognition of their sovereignty and explained that France would be providing French consular protection to the FTFs.<sup>96</sup> Despite claims of unfair trials and death sentences in Iraqi courts, Minister Le Drian described these trials as ‘fair’ and ‘just’, and this attracted wide criticism from human rights organisations and lawyers worldwide.<sup>97</sup>

The interview explained the government’s fear of public backlash over decisions of repatriation. Indeed, as Le Pen approved of the government’s controversial decision to try FTFs in Iraq, she was not alone; the public did too.<sup>98</sup> Just after news of the trials, right-wing newspaper *Le Figaro* published results of an online poll which revealed that 82% of respondents were adamantly against repatriating adult jihadists and in favour of the government’s recent decision to try them

<sup>92</sup> Amiel and Cotovio (n 90).

<sup>93</sup> *ibid.*

<sup>94</sup> *ibid.*

<sup>95</sup> France 24, ‘Exclusive: “Leave and go to prison or stay and die,” says French jihadi bride on the run in Syria’ (*France 24*, 29 January 2019) <<https://bit.ly/3jaUVSi>> accessed 7 July 2020. See also Hansrod (n 89).

<sup>96</sup> RFI, ‘French jihadists to stand trial in Iraq’ (*RFI*, 25 February 2019) <<https://bit.ly/2Eopvcd>> accessed 8 July 2020.

<sup>97</sup> Magid (n 78).

<sup>98</sup> Jacob Schulz, ‘France Makes a Play to Try Foreign Fighters in Iraq’ (*Lawfare*, 4 November 2019) <[www.lawfareblog.com/france-makes-play-try-foreign-fighters-iraq](http://www.lawfareblog.com/france-makes-play-try-foreign-fighters-iraq)> accessed 9 July 2020.

in Syria and Iraq, even in face of being subjected to the death penalty.<sup>99</sup> 67% were even against the return of children born to French FTFs.<sup>100</sup> While before this poll, the government's official position on repatriation of both adult and children returnees raised various unanswered questions as to how and on what basis repatriation would take place, the public's position on social media was reported to be 'unequivocal'.<sup>101</sup> Observations of the government's approach before the poll shows that the government was already very hesitant in considering repatriation of adult FTFs but was more open to repatriation of the children, albeit under a policy which was insufficiently explained. It also reveals that considerations were being made for the mothers' repatriation, despite changing in position on a regular basis. However, after the publication of the poll, the government's stance would be hardened.

Within a week after the publication of this poll, French Defence Minister Florence Parly explained on national news channels that it was 'very likely' that the government would be repatriating children 'who have been identified as orphans'.<sup>102</sup> However, mothers were to remain in the Syrian camps and with regards to children whose parents are present with them, there were no repatriation plans.<sup>103</sup> Shortly after, Macron declared that France continues to recognise the Iraqi courts' sovereignty to try French FTFs, and '[a]s far as children are concerned, it is a case-by-case humanitarian approach that is followed with great vigilance'.<sup>104</sup> Minister Le Drian later confirmed that such approach is with regards to children whose mothers have given up custody. Since then, Macron's words seem to have been memorised by him and his administration whenever they are asked or prompted about this issue, both in France and abroad. This is because they limit themselves to these few words as explanation, which in the face of such public opposition, may appear to form a discursive strategy using humanitarian justifications to repatriate only some children without losing public support.

<sup>99</sup> Odoxa Survey (n 77).

<sup>100</sup> *ibid.*

<sup>101</sup> Hansrod (n 89).

<sup>102</sup> Romina McGuinness, 'France open doors to ISIS orphans after jihadi parents die in Syria' *Express* (Berkshire, 8 May 2019) <<https://bit.ly/34qAkFD>> accessed 3 July 2020.

<sup>103</sup> Marianne Enault, 'Djihadistes: pourquoi la France ne rapatrie que les orphelins et "au cas par cas"' *Le Journal du Dimanche* (Paris, 18 March 2019) <<https://bit.ly/3hoYnsi>> accessed 8 April 2020.

<sup>104</sup> *Le Figaro*, 'Macron reste sur un retour "au cas par cas" des enfants de djihadistes' (*Le Figaro*, 13 March 2019) <<https://bit.ly/2OicXRF>> accessed 8 April 2020 (my translation).

Nowhere since has the government explained what it means by case-by-case or by its humanitarian criterion by which these children are supposedly being considered for repatriation, nor when, how or on what basis repatriation operations are conducted. The lack of information is reflected in each official short and concise statement of the government reporting any repatriation, where details are limited to the number and ages of the children repatriated and to their status, usually vulnerable orphans or unaccompanied minors. After the recent repatriation in June 2020, the statement read that '[t]he decision was taken in view of the situation of these particularly vulnerable young children', but details were not included as to what sort of situation it is referring to.<sup>105</sup> The statement also asserted that '[t]he children were handed over to the French judicial authorities and are now undergoing special medical follow-up and being looked after by social services', refraining from giving further explanation of the procedures to be followed or the fate of the children once in France.<sup>106</sup> Such lack of information leaves a lot open for interpretation.

The above observations shed light on the government's shift in policy after learning of the public's lack of support which seems to have consolidated the government's prior secretive and hesitant approach. One thing which emerges clearly is that the government's new policy not to repatriate their mothers affected the children's repatriation directly as only orphans and unaccompanied minors seem to be considered under this new position. This means that the French government's approach does not consider these children as victims and right-bearers of their own right, separate from and irrespective of considerations concerning their mothers. This implies that the government ignores the children's need and right to a tailored rights-based approach according to their age and vulnerabilities, in direct violation of its obligations. These implications are expanded upon in the coming subsection in the context of broader narratives under which the children are considered.

<sup>105</sup> France Diplomacy, 'Syria – Return of 10 young French children - Statement (22 June 2020)' (*France Diplomacy*, 22 June 2020) <<https://bit.ly/2JF2Z1G>> accessed 30 June 2020.

<sup>106</sup> *ibid.*

### 3.1.3 *Implications on a child rights-based approach*

An observation that emerges from analysing political discourse is that discourse dedicated to considerations of the children's repatriation is usually prevalent within a wider context on considerations of the adults' repatriation and not standing on its own. In addition, such discourse is equally dehumanising and inflammatory as it is misleading. During an interview in January 2020, RN leader Le Pen asserted that 'France has become a university for jihadism'.<sup>107</sup> She agreed with the government's case-by-case approach for children, explaining that these children, even as young as ten years old, 'have been trained to slaughter human beings'. She continued that others can be repatriated 'on the condition that their [parents] are stripped of their parental authority because otherwise, we will be bringing back ticking time bombs'. Le Pen appears to have offered more explanations than the government has done to date, but explanations like hers are a threat to a rights-based approach. Her explanations do not address the discussion from the perspective of the children's best interest but strictly from a security perspective and, once again, the protection of these children is dependent on the absence of their parents. This ignores their intrinsic individual rights as minors and victims of war, and directly violates their rights which must be upheld irrespective of their parents' actions and backgrounds. Unfortunately, statements like Le Pen's provide answers to an already misguided and anxious public who seeks reassurance about the government's back and forth policy changes.

Minister Parly also explained that when the children's parents are alive, 'they still have rights over the children. And regarding families being held in camps run by the SDF, the Kurds have decided to respect this right'.<sup>108</sup> The June 2020 statement in fact explained that the decision for repatriation was also taken 'within the framework of authorisations given by local officials'.<sup>109</sup> The French government has many times cited its lack of diplomatic ties in Syria and the fact that the camps are run by non-state Kurdish forces as an obstacle to repatriation, but officials on the ground argue that French authorities have more control over the

<sup>107</sup> Romina McGuinness, 'France has become "university for jihadism" warns Le Pen as Isis soldiers seek return home' *Express* (Berkshire, 16 January 2020) <<https://bit.ly/3aS0DWv>> accessed 13 June 2020.

<sup>108</sup> McGuinness, 'France open doors to ISIS orphans' (n 102).

<sup>109</sup> France Diplomacy (n 105).

situation than what they want the public to know as the French presence is indeed there and in constant dialogue with the Kurdish authorities.<sup>110</sup> Leader of Parisian think-tank Arab Reform Initiative, Nadim Houry, explained that France is conveniently putting the blame on the Kurds when in practice, it is the ultimate decision-maker with regards to its citizens in the camps.<sup>111</sup> For instance, despite ordering the Kurds not to allow French citizens to enter the camps and visit their detained relatives, France explains that it is not within its authority to make such decisions.<sup>112</sup>

The challenges which France faces in order to repatriate these children are not to be undermined, especially considering the entirely new phenomenon it is facing and the uncertainties that come with the reality in practice. Speaking in September 2019, Minister Le Drian explained the difficulty of repatriating children and the need ‘to negotiate each time’.<sup>113</sup> Omitting further details, he added that officials engaged by the ministry who travelled to the camps ‘even risked their lives to repatriate these children’, omitting further details.<sup>114</sup> For instance, in 2019 a story circulated in the media of an orphan young boy detained in Roj with his very radicalised grandmother, whose repatriation was planned but failed due to her refusal to be separated from him.<sup>115</sup> One could argue that France’s initial intention to operate a massive repatriation perhaps undermined the complex and ever-changing dynamics on the ground, the complexity which it now uses to justify its case-by-case approach, and was forced to adopt a different approach. But challenges still do not suffice to justify its failure to repatriate. Two French lawyers representing the families in Syria and Iraq, William Bourdon and Vincent Brengarth, explained that ‘no one can underestimate that this situation is new, unprecedented, thorny, but complexity cannot be the refuge or the alibi of cynicism and inaction’.<sup>116</sup>

<sup>110</sup> Le Monde, ‘Les plaintes de familles d’enfants de djihadistes classées sans suite’ (*Le Monde*, 6 January 2020) <<https://bit.ly/2Eu681H>> accessed 14 June 2020.

<sup>111</sup> Geneva Academy of International Humanitarian Law and Human Rights, ‘Foreign Fighters and their Relatives (allegedly) affiliated with ISIS’ (16 July 2019) <[www.youtube.com/watch?v=8bZa2WuiL4&t=2065s](http://www.youtube.com/watch?v=8bZa2WuiL4&t=2065s)> accessed 14 August 2020 (Geneva Academy Panel).

<sup>112</sup> *ibid.*

<sup>113</sup> Le Monde, ‘Le Drian “intraitable” sur le sort des femmes et enfants de djihadistes en dépit des plaintes’ (*Le Monde*, 19 September 2019) <<https://bit.ly/3gjt4gZ>> accessed 3 June 2020.

<sup>114</sup> *ibid.*

<sup>115</sup> Eric Pelletier, ‘Syrie: Ismaël, 2 ans, orphelin et toujours retenu dans un camp’ (*Le Parisien*, 1 April 2019) <<https://bit.ly/3j7llit>> accessed 3 May 2020.

<sup>116</sup> William Bourdon and Vincent Brengarth, ‘TRIBUNE. “Emmanuel Macron, vous devez rapatrier les enfants de djihadistes en Syrie”’ (*Le Journal du Dimanche*, 23 March 2019) <<https://bit.ly/3gnspLH>> accessed 4 April 2020.

The government has claimed that it cannot repatriate accompanied children as it cannot separate the children from their parents or guardians if they do not give up their rights to custody.<sup>117</sup> By implication, this means that by adopting a policy of non-repatriation of their mothers or guardians, the government is willingly choosing to leave these children in a limbo at the risk of dying. Dosé, who represents around 20 families of children associated with French FTFs detained in Syria, described such position as ‘saddening’ and ‘repugnant’, one that seems to say to these children; ‘You are lucky enough to be an orphan, so we will bring you back to France and your life is saved’, while saying to the others ‘You are unlucky to have your mother still alive, so you will stay in this camp, exposed to tuberculosis, cholera and risking death’.<sup>118</sup> In April 2020, the government urgently repatriated a seven-year old girl with a heart condition from Al-Hol but left behind her mother and her siblings stranded in the camp.<sup>119</sup> If this is what the government means by its humanitarian basis for repatriation, being at the brink of death, then all children must be warranted repatriation. Information as to whether the mother waived custody was not divulged, but in either case, such repatriation goes on to show that the government had the will and ability to separate the child when it deemed it fit to do so. Why are other cases not equally urgent when they are all entitled to the same rights of repatriation, rehabilitation and (re)integration?

Indeed, the government’s justification of lack of powers in custody-related matters is not valid. While international law recognises the right to family unification, the overriding principle under the UNCRC is the principle of the best interests of the child. The French National Consultative Commission on Human Rights (CNCDH) believes that in this context, ‘the best interests of the child should be the only consideration’, meaning that the children should be repatriated as their interest is certainly not allowing them to perish in humanitarian conditions, whether accompanied or not.<sup>120</sup> Indeed, France has an obligation to protect its children from deprivation of liberty, which

<sup>117</sup> See for instance McGuinness, ‘France open doors to ISIS orphans’ (n 102).

<sup>118</sup> Céline Martelet, ‘Rencontre avec Marie Dosé, l’avocate qui défend les enfants français retenus en Syrie – L’Union – 28/04/2019’ (*L’Union*, 28 April 2019) <<https://bit.ly/3jdIvJL>> accessed 3 June 2020 (my translation).

<sup>119</sup> Wladimir van Wilgenburg, ‘France repatriates sick French child from camp in northeast Syria’ (*Kurdistan 24*, 25 April 2020) <<https://bit.ly/3gvWMjif>> accessed 30 April 2020.

<sup>120</sup> CNCDH Opinion (n 69) 8.

should only be a temporary last resort measure and not the opposite. Its argument is also invalid under its national law. Under the French Civil Code, the court can indeed judge for parental authority to be ‘totally withdrawn’, without the need for parents’ consent, when it ‘clearly endangers the safety, health or morals of the child’.<sup>121</sup> The conditions they are being detained in have already well proven to be a threat to these children’s safety, health and morals, and they have arrived to the camps carrying all forms of wounds and traumas of an armed conflict. With the parents themselves having put their children in danger, if the parents’ objection is the only hurdle for the children’s repatriation, French authorities have legal authority to supersede this parental authority and withdraw custody.<sup>122</sup>

Furthermore, France’s secretive and vague repatriation approach may indicate another good reason other than obstacles; that it ‘does not intend to generalize this type of repatriation’.<sup>123</sup> Coalition spokesperson, USA Colonel Sean Ryan, explained America’s efforts in encouraging European states, including France, to repatriate its citizens, saying that while many do not want to do it, ‘if they do it, they want to keep it entirely quiet’.<sup>124</sup> While official government webpages are dedicated to information about France’s position and engagement in Syria, including its provision of humanitarian assistance to the civilian populations, it does not mention its detained citizens or its children, nor does it acknowledge their situation or mention any assistance being provided to them.<sup>125</sup> Statistics about the actual numbers of returnees and detainees in Syria, whether adults or minors, are also sporadic in authorities’ statements throughout the years and not officially confirmed.

The securitisation and uncertainty in the government’s approach also reflect the heightened perception of threat which the government attaches to these children. Under the right-shift phenomenon, discussed

<sup>121</sup> Code Civil 2016, Ordinance No 2016-131 art 378-1.

<sup>122</sup> Will Christou, ‘Is the EU obligated to repatriate its children from northeast Syria?’ (*Syria Direct*, 16 July 2020) <<https://bit.ly/34taaSO>> accessed 30 July 2020.

<sup>123</sup> Elise Vincent and Nathalie Guibert, ‘La France a rapatrié de Syrie cinq enfants orphelins de djihadistes’ *Le Monde* (Paris, 15 March 2019) <<https://bit.ly/3leYx7G>> accessed 31 April 2020.

<sup>124</sup> Pilar Cebrian, ‘They Left to Join ISIS. Now Europe Is Leaving Their Citizens to Die in Iraq.’ (*Foreign Policy*, 15 September 2019) <<https://bit.ly/3j4zHpp>> accessed 14 April 2020.

<sup>125</sup> See for instance France Diplomacy, ‘War in Syria: Understanding France’s position’ (*France Diplomacy*, last updated June 2020) <<https://bit.ly/3lcARBA>> accessed 3 July 2020; France Diplomacy, ‘Post-Daesh: France’s engagement’ (*France Diplomacy*) <<https://bit.ly/32dUj7O>> accessed 3 July 2020.

in Section 2.3, a threatening climate leads to right-wing arguments and policies becoming more tolerated and easily justified by politicians with the aim of reducing the risk at any cost. The government's failure to placate the sense of threat, in addition to highly prevalent and usually sensational media coverage of terrorism, may easily lead the public to adhere more with right-wing ideologies. This is analysed further in the context of the opinion poll in Section 4.1.1. With mainstream politicians themselves, let alone far-right politicians, categorising these innocent children as potential threats, it is not surprising that the result is a dehumanising rhetoric which does not recognise the children's rights under their status as child soldiers and victims of terrorism and which leads the same policy-makers towards an exclusionary, hostile response.

Indeed, the political discourse and government actions and inaction are guided by a misleading understanding of who these children are and what their status entails in terms of rights, better understood in the coming discussion on terrorism radicalisation in France under Section 3.2. When faced with protecting its minors, the French government seems to be doing the bare minimum, if at all, instead of itself being the advocate for protection of these innocent lives. A failure to hold a debate of its own on these children's need for protection means leaving an open door for the public to form its own opinion, and a misinformed and exclusionary one especially since inflammatory and hostile far-right discourse is flying around everywhere filling in these gaps. Such public opinion has a direct impact on what policies are implemented because a massively upheld public opinion equals less debate and resistance by politicians to exclusionary measures which reflect such opinion. While Macron's government, representative of the centre *La République En Marche* (LaREM) party, holds a mainstream political ideology, the far-right's influence may indeed be felt creeping into its counter-terrorism agenda to the detriment of a child rights-based approach.

These observations may be better understood when considering President Macron's loss of public support evidenced particularly through the nation-wide protests of the yellow vest movement, which started in November 2018 and are still taking place today.<sup>126</sup> Adopting an anti-repatriation approach which represented the majority of the will of the French public and which fails to inform or reduce the perception

<sup>126</sup> Lara Marlowe, 'Macron's credibility was dented by more than the yellow vests' *The Irish Times* (Dublin, 29 December 2018) <<https://bit.ly/3aSDOBP>> accessed 12 May 2020.

of threat surrounding these children was perhaps what the Macron administration believed, and still does, to be instrumental to regain public support, specifically when it is an issue of such top priority to its citizens as analysed in Section 4.1.1.

To sum up, by being considered within a broader discourse of adult FTFs rather than meriting a much larger debate of their own than there is in France, these children are inheriting narratives attributed to FTFs and considerations as to their situation are made in light of these narratives rather than on the basis of their rights and need for protection. As a result, it becomes imperative to analyse the broader context of what these narratives attributed to FTFs are and what they imply on a rights-based approach. This is done throughout Section 3.2 in the broader context of terrorism and counter-terrorism in France.

### 3.2 COUNTER-TERRORISM: ACTIONS AND REACTIONS

#### 3.2.1 *A shift to securitisation*

##### A series of events

While France does not apply the same definition of terrorism as the USA, its depiction of terrorism has shifted in rhetoric in the past years towards a more hardline American post-9/11 conception. A decade ago, French officials still rejected American ‘war on terrorism’ rhetoric but it was introduced under the administration of then President François Hollande in 2013.<sup>127</sup> This shift was strengthened in the wake of the 2015 attacks in Paris, when Hollande declared a state of emergency, describing the attacks as ‘acts of war’ and declaring that ‘France [was] at war’.<sup>128</sup> This shift reflected a move towards a hardline, securitised counter-terrorism logic, which has extended to current political discourse as well.<sup>129</sup> Prior to 2014, the foundation of French counter-terror measures

<sup>127</sup> See Europe 1, ‘La France est en guerre contre le terrorisme’ (*Europe 1*, 13 January 2013) <<https://bit.ly/34q0GYe>> accessed 13 May 2020; Alice Pannier and Olivier Schmitt, ‘To fight another day: France between the fight against terrorism and future warfare’ (2019) 95(4) *International Affairs* 897, 905 <<https://academic.oup.com/ia/article/95/4/897/5492774>> accessed 5 April 2020.

<sup>128</sup> Pannier and Schmitt (n 127).

<sup>129</sup> See Charles Rault, ‘The French Approach to Counterterrorism’ (2010) 3(1) *CTC Sentinel* 22 <<https://bit.ly/2CRvVjC>> accessed 23 April 2020; Le Figaro, ‘Macron: il faut “gagner” la guerre contre le terrorisme au Sahel’ (*Le Figaro*, 13 December 2017) <<https://bit.ly/2EaKWxR>> accessed 23 April 2020.

was a hardline ‘cultural assimilation campaign’ based on the French pride and identity of *laïcité*, meaning secularism.<sup>130</sup> Today, however, the definition of terrorism at the basis of counter-terrorism logic is ‘the violent expression of extremism, which is sometimes motivated by religion and other times motivated by different factors’.<sup>131</sup>

This change came after traditional repressive measures proved inadequate in the face of ‘homegrown radicalisation’ realities emerging from the 2012 Merah shootings, a series of Islamic terrorist attacks in France which left seven people dead, and cases of French citizens being recruited in ISIS ranks in Syria.<sup>132</sup> In 2014, the French government launched its new counter-terrorism strategy with a particular focus on fighting radicalisation, including developing specialised de-radicalisation prison wings and launching a counter-terrorism narrative campaign.<sup>133</sup> This is also when the concept of radicalisation was truly consolidated in French political and media discourse.<sup>134</sup> However, the authorities were soon to learn that this strategic shift was not adequate in light of renewed challenges.

A series of terrorist attacks on the French over the past years led to even more rigid counter-terrorism policies. In January 2015, two terrorists murdered 12 people during the infamous *Charlie Hebdo* attack, while another five were killed in related attacks over the following days.<sup>135</sup> The biggest blow to the country came in November of the same year, when three organised groups of ISIS attackers orchestrated simultaneous attacks around Paris, killing 130 people and wounding 413 others. The *Charlie Hebdo* attacks led 3.7 million people to march across France in anti-terrorism demonstrations, while the November attacks were coined as ‘France’s 9/11’ for being the deadliest in French history.<sup>136</sup>

<sup>130</sup> Khaled A Beydoun, ‘Beyond the Paris Attacks: Unveiling the War Within French Counterterrorism Policy’ (2016) 65(6) *American University Law Review* 1273 <<https://bit.ly/2OgzZs7>> accessed 25 April 2020.

<sup>131</sup> Rault (n 129).

<sup>132</sup> Beydoun (n 130).

<sup>133</sup> Daniel Koehler, *Understanding Deradicalization. Methods, Tools and Programs for Countering Violent Extremism* (1st edn, Routledge, Taylor & Francis Group 2016) 249.

<sup>134</sup> Francesco Ragazzi, ‘Towards “Policed Multiculturalism”? Counter-radicalization in France, the Netherlands and the United Kingdom’ (*Les Etudes du CERI*, Report 206 bis, December 2014) <<https://bit.ly/315Td6C>> accessed 12 June 2020.

<sup>135</sup> CNN Editorial Research, ‘2015 Charlie Hebdo Attacks Fast Facts’ (CNN, 21 January 2015) <<https://edition.cnn.com/2015/01/21/europe/2015-paris-terror-attacks-fast-facts/index.html>> accessed 24 April 2020.

<sup>136</sup> Ashley Fantz, ‘Array of world leaders joins 3.7 million in France to defy terrorism’ (CNN, 12 January 2015) <<https://cnn.it/31rpbCs>> accessed 24 April 2020; Beydoun (n 130) 1276.

Other sporadic attacks followed along the years, the most deadly being 86 fatalities in Nice in 2016.<sup>137</sup>

When information emerged after the November 2015 attacks revealing that the majority of the attackers were French home-grown terrorists or returnees, the ‘discovery came as a blow to authorities who hadn’t realised the magnitude of France’s radicalisation problem’.<sup>138</sup> In seeking to reassure an anxious and terrified public, President Hollande promised that ‘the Republic will be inflexible and impacable’ in leading ‘a war which will be pitiless’ in order to ‘eradicate the terrorists’.<sup>139</sup> Immediately after the November attacks, he adopted what was characterised as ‘a militaristic framework of control and punishment’ through a broad range of security measures.<sup>140</sup> He declared a nationwide state of emergency and introduced law ‘containing derogatory and exceptional measures that denatured traditional criminal law’. These suspended some of France’s human rights obligations and exercised exceptional powers, including applying administrative control measures for suspects without charging or prosecuting them for a criminal offence.<sup>141</sup> In total, over 4,600 warrantless raids were carried out by 2017, out of which only 23 cases resulted in terror-related prosecutions.<sup>142</sup>

### An exceptional threat

The left condemned President Hollande’s hardline approach, himself coming from the left Socialist Party (PS), who was ready to severely impact human rights in the name of security.<sup>143</sup> Indeed, one of the dangers of such a hardline response is the inherent justification and legitimisation of necessary exceptions until ‘the exception has become

<sup>137</sup> BBC, ‘Nice attack death toll rises to 86 as injured man dies’ (*BBC*, 19 August 2016) <[www.bbc.com/news/world-europe-37137816](http://www.bbc.com/news/world-europe-37137816)> accessed 6 July 2020.

<sup>138</sup> Louise Nordstorm, ‘How France was forced to reassess its ideas about radicalised youth’ (*France 24*, 12 November 2018) <<https://bit.ly/32ifPbE>> accessed 14 June 2020.

<sup>139</sup> Beydoun (n 130) 1277.

<sup>140</sup> Ariane Bogain, ‘Security in the name of human rights: the discursive legitimisation strategies of the war on terror in France’ (2017) 10(3) *Critical Studies on Terrorism* 476 <<https://bit.ly/3aUSu3t>> accessed 20 June 2020.

<sup>141</sup> Gouvernement, ‘State of emergency in France: what are the consequences?’ (*Gouvernement*, 23 November 2015) <<https://bit.ly/3j9yux6>> accessed 18 June 2020.

<sup>142</sup> Louise Nordstorm, ‘In numbers: Behind France’s two-year state of emergency’ (*France 24*, 7 November 2017) <<https://bit.ly/3ljT0x1>> accessed 15 June 2020.

<sup>143</sup> Anne Chemin, ‘Sécurité ou libertés publiques: faut-il choisir?’ (*Le Monde* (Paris, 26 November 2015) <<https://bit.ly/32dZ9lu>> accessed 14 July 2020.

the norm'.<sup>144</sup> The authorities created a language of 'exception', with Hollande repeatedly quoted saying that '[t]errorism can strike anywhere' and that 'the risk is always there' and constant.<sup>145</sup> Scholars of critical terrorism studies, amongst others, argue that the ever-evolving nature of terrorism can 'indirectly lead to an expansion of the use of exceptional and derogative legal instruments' to the detriment of human rights and freedoms.<sup>146</sup> In this case, it disproportionately violated the rights of the Muslim community through discriminate exercises of such measures.<sup>147</sup>

This exceptionality became normalised in a climate of fear. While the state of emergency established in 2015 was lifted by President Macron in 2017, various restrictive measures which gave exceptional powers to the executive under the state of emergency were incorporated into common law with some judicial safeguards.<sup>148</sup> Macron even justified this incorporation in the name of security in front of the European Court of Human Rights (ECtHR) in 2017, declaring that [s]ecurity is the top priority of the State' and that it 'is the prerequisite for our freedoms to be upheld and to flourish'.<sup>149</sup> Under this rationale, security must come first for rights to follow. His justification for 'growing threats (...) which oblige us to invent new legal and political balances' is a perfect representation of how such measures could be justified in front of such an institution. Research indeed shows 'how peril metaphors make exceptional measures appear logical and how appealing to exceptionality supports the argument that exceptional times demand exceptional measures'.<sup>150</sup>

In fact, the adoption of both of these measures in 2016 and 2017 were passed by a 'resounding majority in both parliamentary assemblies'.<sup>151</sup> A 2018 report discussed 'the weakness of the parliamentary debates and shed light on the reluctance of the legislature to discuss technical

<sup>144</sup> Bogain (n 140).

<sup>145</sup> *ibid.*

<sup>146</sup> Roxane De Massol De Rebetz and Maartje Van Der Woude, 'Marianne's liberty in jeopardy? A French analysis on recent counterterrorism legal developments' (2019) 13(1) *Critical Studies on Terrorism* 1, 2 <<https://doi.org/10.1080/17539153.2019.1633838>> accessed 19 May 2020.

<sup>147</sup> Nordstorm, 'In numbers: Behind France's two-year state of emergency' (n 142).

<sup>148</sup> De Massol De Rebetz and Van Der Woude (n 146) 9.

<sup>149</sup> Emmanuel Macron, 'Speech by Emmanuel Macron, President of the French Republic, at the European Court of Human Rights on 31 October 2017' 6 <<https://bit.ly/34A95sq>> accessed 12 May 2020.

<sup>150</sup> Bogain (n 140).

<sup>151</sup> De Massol De Rebetz and Van Der Woude (n 146) 8.

and complex questions related to terrorism'.<sup>152</sup> This is a very dangerous effect of exceptionality where law-making becomes politicised, and in doing so, bigger political voices block out channels through which a rights-based approach can be advocated for and implemented. In both reforms, the executive was said to have been 'triggered by the necessity to fight terrorism with so-called more "effective tools"'.<sup>153</sup> The CNCNDH reported the perils of consensus, as the mere prospect of better ways to counter terrorism 'justifies directly the adoption without discussion about the detrimental effects of the measures on fundamental rights'.<sup>154</sup> This dynamic then shows how exceptional measures can indeed become permanent. Such consensus is better understood in the context of the influence of a major hostile public opinion in the following chapter.

The exceptionality narrative clearly created a counter-terrorism response which prioritises security over human rights considerations, justified by the exceptional need for safety. The above discussion is very relevant to the context of the children concerned as this is the political thinking and policy-making rationale that has infiltrated into considerations of any potential terrorism threat, and these children are very much being considered as a terrorism threat. Indeed, when asked about repatriation by USA President Donald Trump in December 2019, Macron was prompt to shift the focus to France's 'number one priority' of stabilising the Middle East and eradicating ISIS on the ground, claiming that European FTFs were only 'a tiny minority of the overall problem'.<sup>155</sup> He then added that a case-by-case approach was carried out for the adults just as a case-by-case humanitarian approach is organised for the children, clearly conflating the considerations of the two.

With the exceptionality of terrorism threats having become so normalised, a securitised approach was and remains the number one priority to respond to potential threats and the end result is the exclusion

<sup>152</sup> Jean-Eric Callon and others, 'État D'urgence, Terrorisme Et Sécurité Intérieure Comment Trouver La Sortie?' (*Terra Nova*, 29 March 2018) <<https://bit.ly/3hp2x3k>> accessed 3 June 2020.

<sup>153</sup> De Massol De Rebetz and Van Der Woude (n 146) 9.

<sup>154</sup> CNCNDH, 'Avis Sur Le Projet De Loi Renforçant La Lutte Contre Le Crime Organisé, Le Terrorisme Et Leur Financement, Et Améliorant L'efficacité Et Les Garanties De La Procédure Pénale.' (CNCNDH 17 March 2016) <<https://bit.ly/3honTh3>> accessed 8 June 2020.

<sup>155</sup> Madeleine Carlisle, "Let's Be Serious." Trump and Macron Hold Tense Meeting At NATO Summit in London' (*Time*, 3 December 2019) <<https://time.com/5743042/trump-macron-nato-summit/>> accessed 20 June 2020.

of a rights-based approach. By focusing on ‘effective tools’ to combat terrorism within a framework of securitisation, the authorities fail to make important considerations and hold healthy debates which may inform an inclusive, more productive and effective approach through a comprehensive overview of the multi-faceted complex phenomenon of terrorism. In securitising these children, through a narrative which identifies them with terrorists and based on a perception of threat that they pose, the French authorities are failing to protect them and are closing the door to an inclusive perspective which acknowledges the children as victims. The latter is better understood when considering the heavy focus on radicalisation underlying France’s counter-terrorism logic, detailed in Subsection 3.2.4.

### ‘The other’

Another legacy of the post-2015 counter-terror shift relates to the creation of ‘the other’ in political narratives as a reaction to fear and threats. A later-abandoned proposal to strip nationality from French dual-nationals convicted of terrorism after the 2015 attacks caused a furious debate, even within the PS.<sup>156</sup> This proposal echoed the rhetoric and the pleas which far-right leader Le Pen had long been making to authorities as a response to terrorist attacks. However, critics described it as being ‘un-French’ and accusations of discrimination rose, with the French being ‘suspicious of other French people’.<sup>157</sup> Such fear led to an increasingly exclusionary rhetoric which distinguished between French citizens and French terrorists, perceiving the latter as second-class citizens, if at all, who are too evil to be entitled to a humane consideration. Politicians are therefore driven to distinguish between the perpetrator and the victim, stripping the former’s rights in order to protect the rights of the latter.

The shift to a securitised approach to counter-terrorism appears to adhere to a pattern of anxious responses. The socialist administration’s hard-line stance shows how when faced with threats and an anxious public, politicians willingly abandon long-held values and ideals of human rights to far-right, exclusionary ideologies in the name of

<sup>156</sup> Adam Nossiter, ‘French Proposal to Strip Citizenship Over Terrorism Sets Off Alarms’ *The New York Times* (New York, 8 January 2016) <<https://nyti.ms/2CWIN8i>> accessed 23 May 2020.

<sup>157</sup> Lucy Williamson, ‘What do liberty, equality, fraternity mean to France now?’ (*BBC*, 14 July 2016) <[www.bbc.com/news/world-europe-36775634](http://www.bbc.com/news/world-europe-36775634)> accessed 14 June 2020.

security. A recent study analysing the impact of the attacks in France on its equalitarian values indeed confirmed a direct correlation between the attacks and a resulting prevalence of right-wing ideologies and non-equalitarian rhetoric.<sup>158</sup> Literature argues that the role of far-right parties weighs more through their impact on mainstream and other political parties rather than through direct impact on policy.<sup>159</sup> As a result, literature argues, far-right parties ‘are not a normal pathology of European democracy, unrelated to its basic values, but a pathological normalcy, which strives for the radicalisation of mainstream values’.<sup>160</sup> Analysis of political discourse demonstrates how such ideologies have indeed permeated mainstream narratives in France in the form of normal opposition.

Such patterns of fears and discriminatory responses have been passed down to the current administration, finding their way into government policy. Today, the question of potential ISIS returnees regenerates heightened fears especially since terrorism-related havoc in France has mostly been wreaked by attacks orchestrated by French returnees themselves. Since the children concerned have for years been wrongly put under the shadow of adult FTFs, even in terminology depicting them always as the ‘children of jihadists’ or the ‘children of ISIS’, the threat perceived from a potential repatriation of these children is equivalent to that of adult returnees. These narratives easily exclude them as ‘the other’ in a narrative of ‘the French citizens versus the French terrorists’. This makes it easier for politicians to disassociate themselves from the humanity of the ‘terrorists’ and to justify restricting their rights for the common good of society. Indeed, even Minister Castaner’s remarks that FTFs were French before anything else were passionately criticised across the political spectrum and contradicted by his own administration’s approach in trying FTFs in Iraq with the risk of being executed.

Moreover, with authorities wanting to reassure an anxious public on the one hand, and, on the other, to appear to be doing their utmost for

<sup>158</sup> Jais Trojan, Thomas Arciszewski and Themistoklis Apostolidis, ‘The dynamics of public opinion following terror attacks: Evidence for a decrease in equalitarian values from Internet Search Volume Indices’ (2019) 13(3) *Journal of Psychosocial Research on Cyberspace* <<https://doi.org/10.5817/CP2019-3-4>> accessed 17 July 2020.

<sup>159</sup> Cas Mudde, *On Extremism and Democracy in Europe* (1st edn, Routledge, Taylor & Francis Group 2016) ii.

<sup>160</sup> Cas Mudde, ‘Three Decades of Populist Radical Right Parties in Western Europe: So What?’ (2013) 52(1) *European Journal of Political Research* 1, 19 <<https://doi.org/10.1111/j.1475-6765.2012.02065.x>> accessed 30 June 2020.

the citizens' security, the resulting unapologetically securitised counter-terror responses further fuel the public's belief that the threat is high. In other words, the politicians validate their fear. A securitised approach which does not integrate a human-rights perspective, or at least a debate about it, is one which is blinded by the terrorism threat. The end result is a misinformed and anxious public which is ready to accept any measure which protects it, irrespective of the cost to the rights of those perceived as the risk, even when such persons are close to home.

### 3.2.2 *The perils of radicalisation*

At the heart of the shift in counter-terror framework in France was the state's adoption of a counter-radicalisation strategy to detect, prevent and de-radicalise who the government depicted as 'clearly destabilised' and 'disoriented' radical youths, both in and outside prison.<sup>161</sup> A recent study found that French prisons currently monitor 1,458 prisoners for radicalisation, with its 2014 statistic of 90 terrorist detainees having increased fivefold to a present population of 522 jihadists.<sup>162</sup> With France accounting for the highest number of terrorism-related detainees in Europe, the study turns to its tough securitised policies. An analysis of French counter-terrorism in fact argues that 'the concept of radicalization serves as an effective discourse to legitimise the extension of police action beyond its usual purview'.<sup>163</sup>

As a reaction to the 2015 attacks, the first state run de-radicalisation centre in France, was opened in 2016 but closed after only ten months when its nine participants failed to complete the process.<sup>164</sup> It was a pilot site operating on a voluntary system where radicalised youth could offer to undergo the process of de-radicalisation under a ten-month state-run programme. In the centre, the participants underwent a so-called collective de-radicalisation programme where they discussed religious and jihadi ideologies with teachers, psychologists and imams

<sup>161</sup> See Ministère de l'Intérieur, 'Assistance aux familles et prévention de la radicalisation violente' (*Ministère de l'Intérieur*, 21 November 2019) <<https://bit.ly/3hrMJgm>> accessed 23 June 2020; Nordstorm, 'How France was forced to reassess its ideas about radicalised youth' (n 138).

<sup>162</sup> Rajan Basra and Peter R Neumann, 'Prisons and Terrorism: Extremist Offender Management in 10 European Countries' (International Centre for the Study of Radicalisation 2020) <<https://bit.ly/31njpBW>> accessed 15 July 2020.

<sup>163</sup> Ragazzi (n 134) 2.

<sup>164</sup> Leela Jacinto, 'France's "deradicalisation gravy train" runs out of steam' (*France 24*, 1 August 2017) <<https://bit.ly/32oiNex>> accessed 23 May 2020.

and were expected to adhere to secular activities, such as eating halal food, studying French history and singing the national anthem.<sup>165</sup> This raised questions surrounding France's inadequacy in implementing an effective counter-radicalisation strategy. Centre-right politicians called the government's plan a 'total fiasco' while left politicians claimed that de-radicalisation in France was not possible.<sup>166</sup> Criticism of France's inadequacy to counter radicalisation was not limited to political divisions.

Yet, experts were not surprised. An expert on jihadist groups, Wassim Nasr, stated that closing the centre was the result of 'what happens when you start with the wrong diagnostics and then figure out the wrong solutions'.<sup>167</sup> El Difraoui, who worked with the government on de-radicalisation, explained one of the biggest challenge in France was that 'policy makers do not even have consensus on how to define radicalisation and what facilitates it' and as a result 'tend to miss the point and implement the easiest strategy which is to tackle the issue collectively'.<sup>168</sup> French psychiatrist Guillaume Monod also analysed his encounters with radicalised inmates and criticised and disproved prevailing political discourse in France wrongly depicting and diagnosing a radicalised person.<sup>169</sup> Former Secretary General of the French Interministerial Committee on Crime Prevention, Muriel Domenach, admitted how in 2015, 'the shock was so big that [they] looked for reassuring, ready-made answers that were monocausal'.<sup>170</sup>

But France has learned a lot since then, or so it seemed. A new counter-terrorism plan in 2018 showed a complete U-turn in the government's approach to radicalisation. Then Prime Minister Philippe ended his launching speech by addressing the need to understand the causes of radicalisation, to the contrary of former Prime Minister Valls' statements that understanding meant 'justifying'.<sup>171</sup> He explained

<sup>165</sup> Elena Souris and Spandana Singh, 'Want to Deradicalize Terrorists? Treat Them Like Everyone Else.' (*Foreign Policy*, 23 November 2018) <<https://bit.ly/2QffJqS>> accessed 14 March 2020.

<sup>166</sup> HJ Mai, 'Why European Countries Are Reluctant To Repatriate Citizens Who Are ISIS Fighters' (*NPR*, 10 December 2019) <<https://n.pr/3hpP0bE>> accessed 10 May 2020.

<sup>167</sup> Jacinto (n 164).

<sup>168</sup> Amir Nateghpour, 'Deradicalisation Programme. The Case of France' (MSc International Relations thesis 2018) <[www.grin.com/document/465431](http://www.grin.com/document/465431)> accessed 30 June 2020.

<sup>169</sup> Guillaume Monod, *En prison, paroles de djihadistes* (Gallimard 2018).

<sup>170</sup> Monod (n 169).

<sup>171</sup> France 24, 'French prime minister unveils new deradicalisation programme' (*France 24*, 23 February 2018) <<https://bit.ly/3glYO5m>> accessed 3 May 2020.

how rather than talking about de-radicalisation, one should talk about disengagement, that is the process by which a radicalised person withdraws from violent expression. However, what this research finds is that while the country has since moved on to a different path on fighting radicalisation by ‘learning from a rushed, political’ response, the misunderstood perspectives in national debate are still prevalent due to years of this radicalisation being thrown around at every opportunity.<sup>172</sup> For instance, just three months before this launch, President Macron was still speaking about the difficulty of controlling ‘crazy’, ‘stupid’ terrorists ‘just because something happens in their minds’, in direct contrast to experts’ findings.<sup>173</sup> This discourse is still very much present today as seen in Section 3.1.

Wrong diagnostics of radicalisation in France meant wrong remedies and missed opportunities to provide the effective measures necessary, but it also meant an increasingly inflammatory and misinformed understanding of who the ‘enemy’ is. As a matter of fact, France is still wrongly diagnosing these children today, failing to recognise the fact that they are victims of indoctrination forced upon them. As seen from the discussion above, inflammatory discourse in France is not identifying the children neither as children nor as child soldiers, but instead, at worst, as radicalised ticking time-bombs, and at best, as damaged goods which in **some cases** necessitate humanitarian intervention. The misleading assertions that such sensational narrative hinges upon do not allow other considerations to seep into the debate. By characterising these children as a product of radicalisation, which has been pictured as the enemy of France for years, they are immediately wrongly labelled as a threat, ignoring that they are minor victims ‘capable of resilience’ and in need of help to recover.<sup>174</sup>

Experts argue that a successful response to radicalisation process would consider a radicalised person as a complex, multi-faceted individual and not as a collective problem to solve as France still

<sup>172</sup> Jean-Luc Marret, ‘Terrorisme islamiste: “La radicalisation ne saurait se résumer à une liste d’indices faibles ou forts”’ *Le Monde* (Paris, 12 October 2019) <<https://bit.ly/2EnwO4j>> accessed 20 June 2020.

<sup>173</sup> Time, ‘Emmanuel Macron On Russian Interference, The Threat Of Terrorism, The Paris Agreement & More’ (*Time on YouTube*, 9 November 2017) <[www.youtube.com/watch?v=M\\_rFdcubtmw](http://www.youtube.com/watch?v=M_rFdcubtmw)> accessed 13 June 2020.

<sup>174</sup> UNICEF, ‘Kurdistan Syrien: “D’abord et avant tout des enfants”’ (*UNICEF*, 4 November 2019) <[www.unicef.fr/article/kurdistan-syrien-dabord-et-avant-tout-des-enfants](http://www.unicef.fr/article/kurdistan-syrien-dabord-et-avant-tout-des-enfants)> accessed 21 June 2020.

seems to believe.<sup>175</sup> ‘That means analysing their needs, narrative, and network, and redirecting those desires toward more positive goals such as meaningful jobs or community roles through therapy, education, and networking.’<sup>176</sup> Such a policy, the Aarhus model which is a soft approach towards de-radicalising returning Danish ISIS fighters and has been dubbed as the ‘hug a terrorist’ policy, has been internationally praised for its individualistic approach.<sup>177</sup> It shows the point that the French government is missing about the de-radicalisation process: to treat the radicalised like everyone else and include them in society. To the contrary, France’s approach has created a degrading understanding of the individual which is different than what a rights-based approach entails, particularly in identifying these children primarily as terror threats. The rhetoric in itself is exclusionary and frames the individual in itself as another, different than us, one who is too dangerous to merit protection.

By not understanding the children’s needs and realities, a child rights-based approach is hindered in various ways. Firstly, more effective tools and measures necessary for their repatriation, rehabilitation and (re) integration are being blocked. The implications of the latter are serious in this debate since repatriation is essentially opposed because of a misinformed fear of what would happen once these children return. Instead of understanding and acting, the government is closing its eyes and expecting the problem to go away. Secondly, the government’s failure to recognise the children as child soldiers also shows its lack of understanding and readiness to conduct necessary tailored-made programmes on the French territory. Such political narrative instead makes it even harder for the French community to be well-informed, capable and ready to open its arms to these children for a real (re) integration process. Without the support of a community which eases their transition, these children cannot heal their wounds. After all, the path to (re)integration and rehabilitation is ‘about not only a change in individual mindset, but also a shift in social relationships and personal circumstances’.<sup>178</sup> But most of all, without such show of support from

<sup>175</sup> Souris and Singh (n 165).

<sup>176</sup> *ibid.*

<sup>177</sup> Jacinto (n 164).

<sup>178</sup> Georgia Holmer and Adrian Shtuni, ‘Returning Foreign Fighters and the Reintegration Imperative’ (United States Institute of Peace Special Report 402, March 2017) 5 <<https://bit.ly/31kdkGq>> accessed 2 May 2020.

the get-go, repatriation would perhaps continue to be entirely blocked as it currently is.

In the specific context of these young and vulnerable victims, but also more generally, the most productive and inclusive step in French political discourse then would be to refrain entirely from using the inflammatory and misused term of ‘radicalisation’, not refraining only from de-radicalisation programmes. The use of this word has reportedly become ‘tricky in its political and media uses’ in France and observing the political narrative throughout this thesis, it is not hard to understand how.<sup>179</sup> Such narrative has become ingrained in the discussion surrounding terrorism and justifies securitised measures to combat an invisible enemy, radicalisation, which poses exceptional threats to daily life. As UN expert, Sharon Riggle, explains, in this very particular context the term radicalisation is being used ‘as a convenient political brush which ends up stigmatising the children and reducing their safety’.<sup>180</sup> Such stigma prohibits them from accessing the proper resources and from following a successful re(integration) process. Refraining from using the word entirely and recognising the children for their complex realities, needs and traumas, including focusing on the fact that they are first and foremost victims of war, violence and indoctrination, would open up the door to correct resources, tools and responses for their well-being.

## CONCLUSION

Section 3.1 draws attention to an unclear and ambiguous pattern in the French government’s response to the phenomenon of its FTFs and children associated with them. It observes how after the publication of a poll representing a major anti-repatriation public opinion, the government adopted a harsh anti-repatriation stance towards its adult FTFs and a secretive, case-by-case humanitarian approach with regards to the children that it failed to explain or justify. It finds that French

<sup>179</sup> Marret (n 172).

<sup>180</sup> Extraordinary Meeting of the EP Sub-Committee on Human Rights on ‘Children of Al-Hol: why the protection of Children’s rights matters?’ (26 June 2020), comments by Sharon Riggle, Chief of Staff of the UN Office of the Special Representative of the Secretary-General for Children and Armed Conflict <[www.europarl.europa.eu/doceo/document/DROI-OJ-2020-06-26-1\\_EN.html](http://www.europarl.europa.eu/doceo/document/DROI-OJ-2020-06-26-1_EN.html)> accessed 17 July 2020 (EP DROI Meeting).

authorities are blurring the lines between their treatment of the adult FTFs and of the children and ignoring their entitlement to a dual identity as victims and child soldiers. As a result, by securitising the children and not repatriating them, France is violating the children's rights under its international obligations.

This is better understood in the context of Section 3.2 which shows how it reflects the broader narrative of terrorism in France as a result of a pattern of attacks and securitised responses through inflammatory discourse which lead to sympathising and tolerating right-wing restrictive measures to the detriment of human rights. It analyses how the effects of years of abusing radicalisation narratives are being inherited by these children through dehumanising narratives which treat them as terrorists and excludes their rights and protection through a securitised approach. The following chapter informs these findings by analysing them in the context of the narratives underlying the public opinion and media coverage, both of the repatriation issues as it pertains to these children and adult FTFs, as well as of terrorism in France more generally.

4.

PUBLIC LEGITIMISATION

INTRODUCTION

The previous chapter has analysed the French government's approach towards repatriation of FTFs, namely a strict anti-repatriation approach towards the adults and a case-by-case basis with regards to the children, and observed that this position was hardened following the publication of the 2019 opinion poll whereby the French public majorly opposed repatriation of both adults and children. This chapter compliments the discussion in the previous chapter by placing the analysed political approach and discourse, which does not distinguish between the children and the terrorists, in the context of public opinion and media coverage. Section 4.1 adopts a quantitative and qualitative analysis of public opinion through polls data, namely polls relating to terrorism from 2014 through the 2019 opinion poll, as well as expressions of public opinion through judicial actions, lobbying and petitions. Section 4.2 then enhances the analysis of the political discourse in Chapter 3 and the public discourse in Section 4.1 within the context of the media in France. It analyses the narratives and frames with which the media covers these issues and highlights its role in creating, representing and reproducing public opinion which aids political agendas and legitimises government policies in violation of these children's rights. This discussion is made in the context of the media's ethics and responsibilities to protect children's rights.

## 4.1 THE PUBLIC VOICE

4.1.1 *Opinion polls: A pattern of fear and hostility*

Looking back at the discussion of Chapter 3, the increase in the French government's counter-terrorism arsenal appears to run parallel to an increase in the perception of threat of terrorism. While political rhetoric focused on and inflated such a threat, an analysis of public opinion throughout the years arguably implies where such rhetoric comes from and how it is legitimised. An examination of polling data gathered since 2014, the year when counter-terrorism policy shifted towards a securitisation approach, reveals that the French public 'has long viewed Islamist-based extremism as one of its greatest threats'.<sup>181</sup> A 2014 public poll showed that 52% of French respondents considered the fight against Islamist extremism as a top priority, while 30% of respondents felt that the government was not using enough resources to combat extremism, calling for action against countries which allow Islamist extremism to grow within European borders.<sup>182</sup> In the weeks following these results, France was the first state to join the USA in airstrikes against the Islamic State and within three months, the government adopted its highly securitised and restrictive counter-terror strategy, discussed in Subsection 3.2.1.<sup>183</sup>

Understandably, fears were seriously elevated after the devastating impact of the 2015 attacks in Paris. Polling data reveals that in comparison to 52% in 2010, the portion of the population which considered terrorism as being a high risk increased to 93% after the *Charlie Hebdo* attack in January 2015 and 98% after the November 2015 attacks.<sup>184</sup> This majority was overwhelmingly shared by respondents by every political divide.<sup>185</sup> 59% of the polled French public in 2015 also expected the

<sup>181</sup> Counter Extremism Project, 'France: Extremism & Counter-Extremism' (Counter Extremism Project 2020) 16 <[www.counterextremism.com/countries/france](https://www.counterextremism.com/countries/france)> accessed 25 July 2020.

<sup>182</sup> *ibid.*

<sup>183</sup> *ibid.*

<sup>184</sup> Ariane Bogain, 'Security in the name of human rights: the discursive legitimisation strategies of the war on terror in France' (2017) 10(3) *Critical Studies on Terrorism* 476 <<https://bit.ly/3aUSu3r>> accessed 20 June 2020.

<sup>185</sup> Dominique de Montvalon, 'Le terrorisme fait peur à 85% des Français' *Le Journal du Dimanche* (Paris, 20 June 2017) <<https://bit.ly/2YsNoGB>> accessed 12 April 2020.

government to respond through ‘exceptional measures’.<sup>186</sup> It was after the publication of these polls that the socialist government launched its discursive war on terrorism and adopted exceptional measures justified by the exceptional times faced, including the proposals to strip citizenship. Interestingly, with such terrorism narrative of exception, socialist supporters too sympathised with the stripping of citizenship, despite the furious political debate that the proposals generated within the same PS party. A poll in December 2015 in fact revealed that 86% of French respondents widely supported the proposals, with three-quarters of socialist supporters even endorsing them as compatible with socialist ideals.<sup>187</sup> Both socialist supporters and their leader seemed to sympathise with right-wing measures in the face of such a threat.

The French public’s fear remained a constant. In 2016, 91% of French citizens considered ISIS to be a major threat to France, and in 2017, the slightly reduced majority of 88% in France was still higher than the majority of the American and European public that considered ISIS to be a significant threat.<sup>188</sup> Hence, the ‘predominance of the political rationality’, that is the government’s needs to adopt its restrictive post-emergency state laws and the parliamentary members’ display of little to no resistance, ‘can be better understood with a look at the opinion polls’ in the context of France as the worst hit country by Islamist terrorism in Europe.<sup>189</sup> The main findings of the 2019 opinion poll in question also reflect how two years after the state of emergency was lifted in France, the imminence of the threat was still fresh among the public and the issue of returning FTFs revives fears of further attacks.

Indeed, 86% admitted being worried about a potential return and 54% of them even being ‘very worried’.<sup>190</sup> While all supporters from across the political spectrum were reportedly worried, it was only a majority of supporters of the right and far-right parties who reported

<sup>186</sup> Roxane De Massol De Rebetz and Maartje Van Der Woude, ‘Marianne’s liberty in jeopardy? A French analysis on recent counterterrorism legal developments’ (2019) 13(1) *Critical Studies on Terrorism* 1, 10 <<https://doi.org/10.1080/17559153.2019.1633838>> accessed 19 May 2020.

<sup>187</sup> RFI, ‘9 out of 10 French support stripping bi-national of citizenship’ (RFI, 30 December 2015) <<https://bit.ly/3leifR2>> accessed 4 May 2020.

<sup>188</sup> Jacob Poushter and Dorothy Manevich, ‘Globally, People Point to ISIS and Climate Change as Leading Security Threats’ (*Pew Research Centre*, 1 August 2017) <<https://pewrsr.ch/32yzEM3>> accessed 14 June 2020.

<sup>189</sup> De Massol De Rebetz and Van Der Woude (n 186) 9.

<sup>190</sup> Odoxa, ‘Les Français approuvent massivement le jugement des djihadistes par l’Irak et ne veulent pas voir leurs enfants revenir’ (*Odoxa*, 28 February 2019) <<https://bit.ly/2CSPo3z>> accessed 15 August 2020 (Odoxa Survey) (my translation).

being very worried. 82% of French people were contrary to repatriation and approved the government's decision to let Iraqi authorities judge French jihadists, announced that same week, even at the cost of being handed down the death penalty. Political values differing between left and right did not weigh very heavily on this opinion. In fact, not only was this approved by 89% of far-right RN, 90% of centre-right LR and 89% of the central party in government LaREM sympathisers, but also by 72% of centre-left PS and 61% of left-to-far-left *France Insoumise* (FI) sympathisers. Just as in political discourse, when it comes to fear and security concerns relating to adult FTFs, political values differing between left and right parties do not seem to weigh very heavily on the respondents.

The issue of the children associated with FTFs is what seems to provoke somewhat more compassion, but 'then again, the subject is so sensitive in public opinion that even when it comes to children, the French do not want their return'.<sup>191</sup> The study reported extremely polarised opinions on the issue. 67% of respondents want authorities in Iraq and Syria to be responsible for the French children and allow them to grow up there, while 33% expect France to do its utmost to bring them back to national territory. When looking at the opinions on repatriating children in more detail however, they seem to diverge politically with an evident political left-right division. A massive anti-repatriation sentiment on the right side emerges amongst 88% of far-right RN and 78% of centre-right LR supporters, decreasing to a 63% amongst supporters of the central party LaREM. On the other hand, left sympathisers expressed an overall, albeit marginal, pro-repatriation sentiment amongst 58% of centre-left PS and 50% of left-to-far-left FI supporters. Even among the public, the children are not spared from a securitised perspective associating them with the implications of terrorism threats.

In order to understand the implications of this data, it is also important to place its generation and formation. Conducted on behalf of daily right-wing newspaper *Le Figaro* by Dentsu Consulting, the poll captured a representative sample of 1,001 French respondents on social media between 27 and 28 February 2019, a week after the French government's decision to hand over 13 French fighters to Iraqi authorities. The study reported how only 27,100 mentions relating to

<sup>191</sup> Odoxa Survey (n 190) (my translation)..

FTFs were recorded throughout that week, explaining how not enough debate was mobilised by such matter. The terms used most in these engagements were ‘nationality’, ‘no’, ‘horror’, ‘children’, ‘women’, ‘attacks’ and ‘kill’, and while not surprising amongst a public which was so directly affected by extremist returnees themselves, these negative terms reflected the public’s hostility towards potential repatriation.<sup>192</sup> Moreover, the prevalent use of the word ‘nationality’ reflects how deprivation of nationality, a long-standing debate since 2015, was highly raised among the possible sanctions against French FTFs. With children and women returnees being on top of media mentions, the study concluded that that their repatriation was the only issue which raised somewhat of a real debate, despite a majorly overall opposition.

With the hostility and high levels of concern expressed, this poll data suggests that approval of unfair trials for French FTFs and opposition towards the children’s return to safety mainly stem from security concerns of potential risks from their return.<sup>193</sup> The outcome also implies how the highly opposed discourse towards the adults, in this case on social media, does not allow an appropriate consideration of the children’s needs and realities but instead overshadows them by associating the children with the FTFs. The separate implications of adult and children returnees are therefore being improperly conflated in public debate as well, albeit not entirely but nevertheless significantly so. In other words then, concerns for child rights are being replaced by concerns for security usually reserved for terrorists. The study of this poll indeed concluded that:

In view of the perceived risks, the main principles of law, liberty and even the question of the death penalty do not weigh heavily in the balance for our fellow citizens. As long as they believe it will reduce the risk, the French approve any measure towards more security.<sup>194</sup>

This reflects the right-shift phenomenon observed in the French political approach towards terrorism. The above examination of opinion polls data since 2014 is important in that it sheds light on a pattern of fear and perception of threat generated by terrorism and of calls to

<sup>192</sup> Odoxa Survey (n 190) (my translation).

<sup>193</sup> Franceinfo, ‘Deux tiers des Français souhaitent que les enfants de jihadistes français restent en Irak et en Syrie’ (*Franceinfo*, 28 February 2019) <<https://bit.ly/2EbBn1G>> accessed 3 June 2020.

<sup>194</sup> Odoxa Survey (n 190) (my translation).

the authorities for restrictive action of right-tendency. Just as in 2015 the public seemed to be massively in favour of stripping citizenship of convicted French terrorists, the present public is seemingly massively in favour not only of allowing its FTFs to be executed without a fair trial in Iraq, but also of abandoning its own vulnerable innocent minors to their own devices in war-torn Syria. In the face of a security threat, ‘people are accepting of quite far-reaching security policies that would have been unacceptable a few years [before]’.<sup>195</sup>

Such a pattern seems to imply that the public opinion does not simply reflect the political discourse it feeds into, but it is also informing and triggering the government into a securitised form of action – or in this case of the children’s repatriation – inaction. The end result today is the exclusion of the rights of these children whose protection did not seem to weigh very heavily on the majority of the French respondents. A lack of understanding of these children’s realities and misinformed narratives surrounding terrorism and radicalisation are thus reflected and legitimised in public opinion. The government’s reaction through securitised measures further validates the public’s convictions that such children are a threat and should be depicted as radicalised terrorists rather than indoctrinated victims, especially when repatriation intentions are kept secretive and treated on a ‘case-by-case’ basis. It only further fuels and legitimises the political hostile narrative which makes it easier for these children to be dehumanised and discriminated as ‘the other’.

#### 4.1.2 *Civil society: Blocked efforts*

While the above opposing opinion is being widely taken as the French public’s position, civil society organisations in France have been tirelessly mobilised to show the other facet of the public opinion, condemning the government’s inaction and advocating for the children’s repatriation. An online petition calling for repatriation was launched shortly after the publication of the 2019 poll as a collective initiative of civil society actors including magistrates, politicians, writers, intelligence officials, child experts, as well as a father of a victim of the November 2015 attacks.<sup>196</sup>

<sup>195</sup> Lucy Williamson, ‘What do liberty, equality, fraternity mean to France now?’ (BBC, 14 July 2016) <[www.bbc.com/news/world-europe-36775634](http://www.bbc.com/news/world-europe-36775634)> accessed 14 June 2020.

<sup>196</sup> ‘Appel pour le retour des enfants français détenus au Kurdistan’ <<https://bit.ly/3xii39p>> accessed 20 August 2020.

It has gathered over 8,400 signatures and stresses how the government cannot let its innocent children perish because of the choices of their parents. Contrary to the government's lack of information in this regard, the petition claims that French institutions are ready for the return of the children, 'whether it is the Social Assistance for Children, child psychiatrists, educators, and foster families specially trained for this purpose'. Former President Hollande has also urged the immediate repatriation of these children, while the CNCDH published a detailed opinion in 2019 calling for a rights-based approach to repatriation with primary consideration of the best interests of the child.<sup>197</sup>

In 2019, the 'Defender of Rights' Mr Jacques Toubon passed a decision finding that the detention of French children in Syria violates national and international child rights law and urged the French government to provide them with assistance and support.<sup>198</sup> However, other judicial avenues have not had any success. A coalition of families whose relatives are in Syria and Iraq, 'Collectif des Familles Unies', came together and seized the French courts various times to no avail. On their behalf, their lawyers filed cases against the French government in front of the French Council of State, denouncing its inaction and requesting the repatriation of their citizens.<sup>199</sup> The cases were refused on all occasions on the basis that the decision was an act of government, 'fait du prince', upon which the court cannot adjudicate.<sup>200</sup> They took their cases in front of the Court of Justice of the Republic against the Foreign and Justice Ministers, the only judicial institution that can adjudge their acts, and accused the head of the French diplomatic service of deliberately and intentionally refusing to repatriate citizens in danger. This court however agreed with the government's decisions and found no abuse of authority as the lawyers claimed in the case.<sup>201</sup>

Dosé argued that this 'is neither a legal decision nor a judicial decision, it is a political decision', as when France wanted to repatriate

<sup>197</sup> CNCDH, 'Opinion on the French under-age nationals detained in Syrian camps' (CNCDH 24 September 2019) <<https://bit.ly/2OffDEq>> accessed 23 May 2020 (CNCDH Opinion).

<sup>198</sup> Défenseur des Droits, Décision 2019-129 (22 May 2019) <[https://juridique.defenseurdesdroits.fr/doc\\_num.php?explnum\\_id=18912](https://juridique.defenseurdesdroits.fr/doc_num.php?explnum_id=18912)> accessed 11 May 2020.

<sup>199</sup> Conseil d'Etat, Ordonnances n° 429668, 429669, 429674 et 429701 (23 April 2019).

<sup>200</sup> RFI, 'French Council of State rejects appeals to allow jihadist families to come home' (RFI, 24 April 2019) <<https://bit.ly/39ftb3g>> accessed 14 July 2020.

<sup>201</sup> Le Parisien, 'Femmes et enfants retenus en Syrie : des plaintes contre Le Drian classées sans suite' (*Le Parisien*, 6 January 2020) <<https://bit.ly/3v7JPUi>> accessed 4 August 2020.

people, it simply did and ‘it never explained that it could not repatriate these people’,<sup>202</sup> She also explained how the case-by-case approach reflects the hypocrisy of the state in its discriminatory selection of who to save.<sup>203</sup> The cases also requested the repatriation of the mothers, and Dosé explained how important it is to repatriate them as they are the children’s ‘only refuge’ and with whom they are united by a bond marked with the indescribable experiences and survival.<sup>204</sup> By refusing to repatriate the mothers, ‘the state takes the children hostage and risks sacrificing them to what must be described as state cynicism, which itself sacrifices our international obligations’,<sup>205</sup> This is why various lawyers have called on the government to ‘[h]elp these children to understand and take ownership of their story’.<sup>206</sup> They argue that by leaving their mothers and potentially siblings behind, the children cannot imaginably transition and (re)integrate serenely and without guilt into society. ‘What are they going to understand from this country, their country, which has agreed to save them by leaving their mother to suffer where they suffered with her? What will be their history in France?’ they ask.<sup>207</sup>

‘When you have a legal right, the question is where is your legal remedy? [In this case], the court of public opinion is far more important than the court of law.’<sup>208</sup> Civil society actions are blocked even through judicial avenues when there are clear and evident violations of law. This is an illustrative and clear testament of how bigger political voices, generating a misinformed public opinion and in turn being legitimised by it, are directly blocking a rights-based approach for these children. In various of her pleas and interventions, Dosé criticises the misinformed public opinion, which is not surprising considering how many times they were told to be ticking time bombs. Contrary to such misinformation, she explains, France is ‘repopulating’ ISIS by leaving the children there

<sup>202</sup> Le Monde, ‘Les plaintes de familles d’enfants de djihadistes classées sans suite’ (Le Monde, 6 January 2020) <<https://bit.ly/2Eu681H>> accessed 14 June 2020.

<sup>203</sup> *ibid.*

<sup>204</sup> Franceinfo, ‘TRIBUNE. Des avocats plaident pour “le rapatriement en France” de tous les enfants de jihadistes français et de leurs mères retenus dans les camps en Syrie’ (Franceinfo, 23 June 2020) <<https://bit.ly/3aVNjOU>> accessed 6 July 2020.

<sup>205</sup> Marianne Enault, ‘Enfants de djihadistes en Syrie : pourquoi Ismaël, Français et orphelin, n’est pas rentré avec les autres’ *Le Journal du Dimanche* (Paris, 1 April 2019) <<https://bit.ly/2YA1qGO>> accessed 11 May 2020 (my translation).

<sup>206</sup> Franceinfo, ‘TRIBUNE’ (n 204).

<sup>207</sup> *ibid.*

<sup>208</sup> Will Christou, ‘Is the EU obligated to repatriate its children from northeast Syria?’ (*Syria Direct*, 16 July 2020) <<https://bit.ly/34taaSO>> accessed 30 July 2020.

and manufacturing and feeding terrorism and radicalisation that France is so concerned about.<sup>209</sup> The implications of the latter on France's child rights violations as well as its security concerns are serious because it is such hostile and misinformed narrative which is being reflected in policies and judicially upheld. With such a direct hindrance to justice and a rights-based approach, politicians are truly getting away with murder. After exhausting all domestic remedies, French lawyers are taking their cases to international courts and tribunals, namely the UN Committee on the Rights of the Child, the UN Committee against Torture and the ECtHR.<sup>210</sup> However, the government's reaction, if at all, to the courts' findings remains to be seen.

## 4.2 THE MEDIA: ALLY OF POLITICS OR OF THE CHILD?

### 4.2.1 *Media's place in terrorism*

The media has a direct role to play through the frames within which it portrays terrorism threats, reproduces political discourse on terrorism and legitimises responses to it. After the January 2015 *Charlie Hebdo* attacks in Paris which shook France in 2015, head of BBC Arabic, Tarik Kafala, claimed that his reporting would not depict the attackers as terrorists because it is a 'loaded word' and did not depict factual and value-free language.<sup>211</sup> The criticism that this announcement caused was said to 'encapsulate many of the problems in media coverage of terrorism'.<sup>212</sup> Claims by critics that such decision results 'in **less** accurate and **less** informative reporting to its audiences' indicate that the way terrorism is covered in the media 'makes a difference' in politics and in public understandings.<sup>213</sup> In other words, 'it makes a difference to what counterterror policies those publics will find legitimate and desirable,

<sup>209</sup> France 24, 'Marie Dosé: "On est en train de repeupler l'État islamique"' (*France 24 on YouTube*, 15 October 2019) <[www.youtube.com/watch?v=D-KQndXxgCc](https://www.youtube.com/watch?v=D-KQndXxgCc)> accessed 2 June 2020.

<sup>210</sup> UN Committee on the Rights of the Child, Communication Nos 79/2019, 109/2019 and 77/2019; ECtHR, *HF and MF v France* (Communicated case no 24384/19) <<https://bit.ly/3eoc6Ya>> accessed 8 July 2020.

<sup>211</sup> Richard Jackson, *Routledge Handbook of Critical Terrorism Studies* (1st edn, Routledge, Taylor & Francis Group 2018) 581.

<sup>212</sup> *ibid.*

<sup>213</sup> *ibid* 581-82.

and it makes a difference to the role journalists should play in signifying the moral nature of incidents they report upon'.<sup>214</sup> The media's reaction to terrorism and counter-terrorism plays a significant part in how society is impacted by terrorism. In the context of the discussion on political discourse surrounding terrorism in Section 3.2, this means that the media may, consciously or unconsciously, use certain aspects or angles, like the element of exceptionality and the focus on radicalisation, to describe, discuss or morally interpret terrorism.<sup>215</sup>

Yet, despite the significance of terrorism and high recurrence in recent times, 'the media often struggles to find its footing'.<sup>216</sup> French journalist at left-wing newspaper *Le Monde*, Christophe Ayad, explained that in media coverage '[o]ften questions are asked and matters settled only in an emergency, at the risk of incoherence and blunder', adding that '[e]veryone fumbles around, advancing on a case-by-case basis'.<sup>217</sup> French lawyer, Antoine Garapon, explains the 'infernal dilemma' that the media are caught in, by not wanting to feed into the terrorists' search for glorification by covering their victims and attacks and at the same time, not wanting to pass a message of surrender through self-censorship.<sup>218</sup> Such a confused approach has worrying implications considering the high priority that the public attaches to terrorism and the answers that an anxious public seeks in the media, particularly when they do not arrive from official authorities.

In seeking to clarify their position within society in relation to terrorism, some media outlets in France have 'dared to set up a code of conduct', what Ayad described as 'perilous'.<sup>219</sup> The French state-owned channel, *France 24*, is one of the latter. In 2014, its director, Marc Saïkali, ordered his staff to be careful in every word and shot they use in order to openly take sides against terrorists, 'the bad guys' who are 'the worst enemies of our civilization'.<sup>220</sup> When this information was leaked

<sup>214</sup> Jackson (n 211) 582.

<sup>215</sup> Jean Paul Marthoz, *Terrorism and the media: a handbook for journalists* (UNESCO 2017) 34.

<sup>216</sup> *ibid* 9.

<sup>217</sup> Christopher Ayad, 'Les médias face à l'"Etat islamique"' *Le Monde* (Paris, 19 August 2019) <<https://bit.ly/32pMX15>> accessed 2 June 2020, translation provided in Marthoz (n 215) 9.

<sup>218</sup> Antoine Garapon, 'Que nous est-il arrivé?' *Eurozine* (25 February 2015) 7 <[www.eurozine.com/que-nous-est-il-arrive/?pdf](http://www.eurozine.com/que-nous-est-il-arrive/?pdf)> accessed 15 July 2020.

<sup>219</sup> Ayad (n 217).

<sup>220</sup> See Ayad *ibid*; Anne Demoulin and Anaëlle Grondin, 'France 24: Le directeur appelle à "prendre parti contre ces barbares" djihadistes' (20 minutes, 19 September 2014) <<https://bit.ly/34AiTmi>> accessed 14 June 2020.

into other media outlets, *France 24* came up against strong reactions. The Society of Journalists of Radio France International (RFI), another state-owned news outlet, condemned the comments as going ‘completely against the basic rules of ethics’ while France Médias Monde reminded the need for media coverage to be without bias according to basic journalistic principles.<sup>221</sup> Despite the controversy it raised, incidents such as that of *France 24* show how easily the threat of terrorism can permeate media coverage resulting into sensational frames and further drive and legitimise the inflammatory and biased narrative of terrorism in French political discourse. It is easy to imagine how media frames of children affected by the FTFs may end up being engulfed by a broader hostile narrative reserved for terrorism in media coverage, as analysed throughout this section.

It is the right and the duty of the media to thoroughly cover and inform the public of sensitive subjects that directly affect their security, but when there is no longer an exceptional emergency, ‘journalists have a right and a duty to take stock, and particularly to wonder about the responsibilities and the actions of the authorities, civil society and the political sphere’.<sup>222</sup> While this was the case in France to a particular extent in the aftermath of the 2015 attacks, for instance with the media reporting the failure of authorities’ de-radicalisation policy, the picture painted today is heavily biased on securitisation.<sup>223</sup> Indeed, an analysis of media headlines shows how coverage surrounding French minors detained in Syria is largely insufficient, but when it exists, it is mainly descriptive; reporting policies and reiterating official statements and political reactions to them. When sporadic debates on the specific situation of the children are held, usually with guest experts and lawyers advocating for their return, they are largely part of a broader discussion tainted by security and terrorism concerns, and most reporters are more motivated by this lens rather than the humanitarian one which sheds light on children’s needs and the government’s violations. It also reflects the lack of distinction made between the repatriation of adult FTFs and children associated with them which this thesis analyses in political discourse and public opinion.

<sup>221</sup> Ayad (n 217).

<sup>222</sup> Marthoz (n 215) 99.

<sup>223</sup> See for instance Leela Jacinto, ‘France’s “deradicalisation gravy train” runs out of steam’ (*France 24*, 1 August 2017) <<https://bit.ly/32oiNex>> accessed 23 May 2020; Jean-Luc Marret, ‘Terrorisme islamiste: “La radicalisation ne saurait se résumer à une liste d’indices faibles ou forts”’ *Le Monde* (Paris, 12 October 2019) <<https://bit.ly/2EnwO4j>> accessed 20 June 2020.

Coverage of terrorism is ever more perilous today through an increasingly influential reliance on social media platforms which have blurred the tasks of amateur and professional reporting and where information is easily and constantly shared.<sup>224</sup> Social media has played a pivotal role in ISIS propaganda and dissemination of fear, affecting the user's perceptions directly through its personalised experience. This personalisation also offers a sense of power in the hands of the user and makes it easier to fuel hostile and misinformed opinions. Such was the case of the 2016 'Stop Jihadism' campaign by the French government, which incorporated social media platforms through which the citizen could identify and stop terrorism, such as by reporting propaganda videos or suspicious websites.<sup>225</sup> In its own words, it puts the user 'on alert to take action'.<sup>226</sup> Such personalisation of communication makes the user the gatekeeper of the information that he or she receives, and makes it very easy for misinformed public opinion to circulate under the guise of reliable information, without anyone needing to necessarily carry out fact-checking or follow any code of conduct which professional journalists are bound by. With a diffusion of communication power, '[i]nstead of watching the media, the people can do the media'.<sup>227</sup> In the context of a rights-based approach, this also means that users are not bound by ethical considerations prioritising the protection of the child and as a result, social media influence may easily lead towards hostile and misrepresenting narratives of the children's context.

#### *4.2.2 Creation, interpretation and reinforcement of public opinion*

Considering the crucial role which the media plays in creating and reinforcing public opinion, the narratives in which it depicts these children may determine whether they are protected or not, not simply in media coverage but as a result of generated opinions. In abiding by UNICEF ethical guidelines on media reporting on children, reporting in this context would mean a healthy, inquisitive and inclusionary media representation on the entire context of the children and of what

<sup>224</sup> Jackson (n 211) 584.

<sup>225</sup> Gouvernement, '#StopJihadism: everyone on alert and taking action against Jihadism' (*Gouvernement*, 28 January 2015) <<https://bit.ly/3b0lhmm>> accessed 28 June 2020.

<sup>226</sup> *ibid.*

<sup>227</sup> Jackson (n 211) 583.

is holding them in deadly camps. This would also be in line with the PACE 2020 Resolution on the repatriation of children from armed conflict which recognises and stresses the importance of inclusionary and protective media coverage surrounding children in these specific situations.<sup>228</sup> This subsection sheds light on how media coverage of these children in France is not reflecting such guidelines but is instead doing what these guidelines call on the media not to do: furthering stigmatisation by wrongly identifying the children with radicalisation narratives prevalent in French political discourse and sustaining a hostile public opinion which leads to their discrimination and reprisal by society by not wanting their repatriation.

Firstly, the French media creates public opinion or exercises influence on it through the terminology itself with which it refers to the children concerned. An analysis of French media coverage across the political spectrum reveals how references revolve mainly around the phrases ‘children of jihadists’ or ‘children of foreign fighters’. The ICRC avoids such terminology and insists on these children’s status as child soldiers and victims of armed groups and armed conflict according to IHL.<sup>229</sup> The UN Office for Counter-Terrorism explains that its adopted definition of ‘children affected by the foreign-fighter phenomenon’ in its handbook on this issue ‘affirms the principle that international standards for child rights should apply to all children, regardless of their situation or age’.<sup>230</sup> By contrast, while perhaps the simplest and most self-explanatory to refer to this particular group of children, the phrases used in the media themselves arguably imply a statement about these children as information to explain their complex situation lacks in coverage.

This sheds light on how the media is wrongly categorising the children and depicting them in negative frames against ethical guidelines. Indeed, when media frames focus on these children’s direct association with ‘the

<sup>228</sup> PACE, Resolution 2321 (2020) on International obligations concerning the repatriation of children from war and conflict zones (Doc 15055 2020) <<https://bit.ly/32sdhrz>> accessed 12 August 2020 (PACE Resolution 2321) para 7.

<sup>229</sup> See for instance UNICEF, ‘Protect the rights of children of foreign fighters stranded in Syria and Iraq’ (UNICEF, 21 May 2019 <<https://uni.cf/3aTVTQe>> accessed 3 April 2020; Ellen Policinski, ‘The power of words: the dangerous rhetoric of the “terrorist”’ (ICRC, 4 March 2020) <<https://bit.ly/31u56vz>> accessed 16 June 2020.

<sup>230</sup> UN Office of Counter-Terrorism (UNOCT), ‘Handbook Children affected by the foreign-fighter phenomenon: Ensuring a child rights-based approach’ (UNOCT 7 October 2019) 19 <<https://bit.ly/2EuwyQS>> accessed 29 July 2020.

enemy’, to some extent they inevitably conceal their vulnerable victim status in need of empathy and protection and pass an opportunity to create a discussion on the children’s real situation when, as analysed, information about it in political discourse lacks or is distorted. Instead, these children are associated with the inflammatory and charged discourse reserved to terrorists who are deemed to be ‘outside the bound of humanity’ and as a result, are similarly stigmatised under frames of radicalisation and are dehumanised and excluded from a rights-based consideration, discussed in Chapter 3.<sup>231</sup> A degree of culpability is implied and guilt is attributed when there is none.

Secondly, in carrying out public opinion polls, the media becomes a direct source of power in creating an opinion and also in sustaining and representing it. The hostile 2019 opinion poll is still, 18 months later, cited domestically and internationally as the French public position to repatriation of its FTFs and children associated with them, so much so that there is a wide consensus amongst experts and scholars on the claim that the government’s anti-repatriation approach seeks to accommodate French public opinion.<sup>232</sup> In this particular context, amidst a climate of confusion as to the government’s plan in relation to these persons, such a poll became an answer that was not otherwise being given. A public poll in fact simplifies complex issues into ready-made answers in quantifiable forms. In other words, an opinion poll is a mechanism which ‘deliver[s] public opinion in a form that can be packaged and sold as “news”’.<sup>233</sup> The way in which this generated opinion is interpreted and represented by the media thus has direct implications on how that opinion goes on to inform and legitimise political policies.

Indeed, reliance on data generated this way may be misleading and possibly dangerous. One of the reasons for this is that ‘the relationship between media representation and public opinion polls is complicated

<sup>231</sup> See Niki Clark, ‘#ICYMI Weekly Roundup: Foreign Fighters’ (*ICRC*, 27 October 2017) <<https://bit.ly/34zVuRI>> accessed 16 June 2020; Policinski (n 229).

<sup>232</sup> For instance, reiterated in the Geneva Academy of International Humanitarian Law and Human Rights, ‘Foreign Fighters and their Relatives (allegedly) affiliated with ISIS’ (16 July 2019) <[www.youtube.com/watch?v=8bZa2WuiL4&t=2065s](http://www.youtube.com/watch?v=8bZa2WuiL4&t=2065s)> accessed 14 August 2020 (Geneva Academy Panel); and Extraordinary Meeting of the EP Sub-Committee on Human Rights on ‘Children of Al-Hol: why the protection of Children’s rights matters?’ (26 June 2020), comments by Sharon Riggle, Chief of Staff of the UN Office of the Special Representative of the Secretary-General for Children and Armed Conflict <[www.europarl.europa.eu/doceo/document/DROI-OJ-2020-06-26-1\\_EN.html](http://www.europarl.europa.eu/doceo/document/DROI-OJ-2020-06-26-1_EN.html)> accessed 17 July 2020 (EP DROI Meeting).

<sup>233</sup> Justin Lewis, *Constructing Public Opinion: How Political Elites Do What They Like and Why We Seem to Go Along with It* (Columbia UP 2001) 78.

by a kind of discursive misfit' as the two are different forms of discourse which cannot translate simply one into the other.<sup>234</sup> While media coverage is 'descriptive rather than overtly evaluative or propagandist (...) polls tend to focus less on the way people describe the world and more on their value judgments, or "opinions"'.<sup>235</sup> This means that while the 2019 opinion poll is significant for indicating an ideology being represented, as explained in the introductory chapter, it does not describe where such ideology comes from or explain why it is being held. Neither does it allow a deeper analysis of the various opinions presented in order to represent a healthier debate of such opinions. The latter aspects are crucial for the media to evaluate if it is to carry out its duties of both representing and serving the public in a democracy. A lack of debate or information is particularly dangerous considering that the public opinion which emerged is largely misinformed. By redistributing it as a clear quantifiable position, the media reinforces this misinformation and ignores the complexity of the situation to the detriment of the children's best interests which it is supposed to protect through its reporting.

Another limitation to such generation of opinion is a possibly biased interpretation of data. The 2019 poll's results reflect a wide anti-repatriation consensus. Yet, evidence for a consensus in a public poll is normally 'based on a highly selective reading of the opinion poll data'.<sup>236</sup> The fact that the opinion poll in question was conducted by a right-wing newspaper might in fact shed light on how this poll was conducted and interpreted and explain its end result. For instance, one media report asserted that the question on the children's repatriation which was posed was biased, namely: 'Regarding the children of French jihadists in Syria and Iraq, do you want France to let Iraq and Syria take care of them or do the maximum to bring them back?'.<sup>237</sup> With such polarised options, it is not surprising the 'polarised opinions' that resulted, as the study claims.

Furthermore, the analysis in Section 4.1.1. which delves deeper into the statistics of the poll, revealed a left-right division in opinions with regards to the children. This is a very interesting perspective for the media

<sup>234</sup> Lewis (n 233) xii.

<sup>235</sup> *ibid.*

<sup>236</sup> *ibid* 71.

<sup>237</sup> Marianne Enault, 'Djihadistes: pourquoi la France ne rapatrie que les orphelins et "au cas par cas"' *Le Journal du Dimanche* (Paris, 18 March 2019) <<https://bit.ly/3hoYnsi>> accessed 8 April 2020.

to evaluate and create a healthy debate on the origins of such division with the aim of informing a misinformed public. Nevertheless, in most coverage, an overall opposition percentage is taken as a simplified united voice. Indeed, when the results of the opinion poll were published by *Le Figaro* and Dentsu Consulting, their reporting was heavily focused on representing the major opposition in a way that failed to represent the other expressed opinions. *Le Figaro*'s headlines from the day of the publication reported that the French are speaking 'overwhelmingly against the return' of jihadists and their children, describing the results as a 'punch'.<sup>238</sup> This was reflected on Dentsu Consulting's website, where headlines claimed that the French 'do not want their children to return'.<sup>239</sup> This was similarly reproduced by various news outlets, with *Franceinfo* reporting that '[t]wo-thirds of French people want children of French jihadists to stay in Iraq and Syria' and *RFI* stating that the French are 'massively against' repatriation.<sup>240</sup>

This discussion falls in line with literature that argues that media representation of public opinion poll 'suppresses or ignores the left side of the broad opinion data text' by 'suppressing the progressive or social democratic tendencies expressed in opinion surveys and thereby pushing public opinion (...) to the right'.<sup>241</sup> This allegation has crucial implications in this context since '[m]edia polls (...) can (...) give the public a chance to help set the agenda of campaigns and define the meaning of elections'.<sup>242</sup> In other words, the media representation of the public response as being massively against repatriation was a generation by choice of the media, whether a conscious or unconscious choice, which communicated a policy preference to the government. This arguably means that the media's representation of the poll has played a direct role in legitimising an anti-repatriation policy to the detriment of children's rights.

Indeed, literature argues how the mass media is the other culprit alongside mainstream political parties which legitimises far-right

<sup>238</sup> Jean-Marc Leclerc, 'Les Français se prononcent massivement contre le retour des djihadistes' (*Le Figaro*, 1 March 2019) <<https://bit.ly/3hvou0K>> accessed 2 April 2020 (my translation).

<sup>239</sup> Odoxa Survey (n 190) (my translation).

<sup>240</sup> Franceinfo, 'Deux tiers des Français' (n 193) (my translation).

<sup>241</sup> Lewis (n 233) 70.

<sup>242</sup> Thomas E Mann and Gary R Orren, *Media Polls in American Politics* (Brookings Institution Press 1992) vii.

agendas. An increase in impact of far-right agendas is made possible through ‘the tabloidisation of political discourse’.<sup>243</sup> This is attributed to the various similar attitudes and issues between far-right parties and the media’s ‘logic’ dominating political discourse, such as sensationalism which is triggered in terrorism discourse.<sup>244</sup> In other words, even exaggerated media coverage on terrorism or on angles highlighting it as an exceptional threat serve political agendas. This interaction ‘provides at the very least a more favourable “discursive opportunity structure” for [far-right parties] and their policies’.<sup>245</sup> But the influence of right-wing ideologies in media coverage does not come only directly from far-right politicians or affiliations but is integrated throughout mainstream media itself, which makes it equally, if not more, dangerous. A clear example is a recent coverage by *Le Monde* of the story of Dosé, a very active and passionate lawyer and advocate for the French children detained in the camps. While the story brought to light the children’s realities that drove Dosé to defend them, the headline of the report referred to her as ‘the devil’s advocate’ with ‘a taste for lost causes’.<sup>246</sup> The narrative being implied here, by a left-wing newspaper itself through a headline seeking sensationalism, is that the children are nothing other than devils and lost causes.

It is well-established that politicians benefit from an excessive amount of coverage in comparison to other actors in society. The media is said to ‘tend to rely upon and overrepresent the discourses and interests of political and economic elites’.<sup>247</sup> Scholars argue that ‘much of political language is highly stage-managed for and by the media’.<sup>248</sup> In this context, the media acts somewhat as a messenger between the politician and the public opinion, creating an even stronger link between the two. This happens even through a simple reproduction of political statements, debates or positions, as mentioned in Subsection 4.2.1. However, this

<sup>243</sup> Cas Mudde, ‘Three Decades of Populist Radical Right Parties in Western Europe: So What?’ (2013) 52(1) *European Journal of Political Research* 1, 19 <<https://doi.org/10.1111/j.1475-6765.2012.02065.x>> accessed 30 June 2020.

<sup>244</sup> See Cas Mudde, *Populist Radical Right Parties in Europe* (CUP 2007); Gianpietro Mazzoleni, ‘Populism and the Media’ in Daniele Albertazzi and Duncan McDonnell (eds), *Twenty-First Century Populism* (Palgrave Macmillan 2008).

<sup>245</sup> Mudde, ‘Three Decades of Populist Radical Right Parties in Western Europe’ (n 243).

<sup>246</sup> Stéphanie Marteau, ‘Marie Dosé, l’avocate du diable’ *Le Monde* (Paris, 15 June 2020) <<https://bit.ly/31vyYrs>> accessed 25 July 2020.

<sup>247</sup> Lewis (n 233) 79.

<sup>248</sup> Nicola Woods, *Describing Discourse: A Practical Guide to Discourse Analysis* (1st edn, Hodder Arnold Publication 2006) 79.

also means that inflammatory or misleading political discourse is quoted under the guise of ‘news’ and reiterated amongst the public with no control over how the public will perceive or interpret such information. The less the public knows about an issue, the more anxious it grows about it in search for answers and reassurance, such as with regards to the government’s ambiguous stance towards repatriation. With the media supposedly offering the correct answers, a regenerated hostile discourse easily becomes internalised by the public as the correct stance.

It is also very worrying that the accessibility of social media in delivering instant, bite-sized answers is nowadays known to be instrumentalised by politicians for their political agendas, in particular far-right ones. Literature argues that ‘right-wing populists need the mass media to provide them with a stage from where they can convey their ideas to the public’, and social media provides the most personalised manner to get to such public. Far-right leader Le Pen, for instance, is very active and unapologetically sensational on social media platforms, to the extent of having faced charges in court for having tweeted gruesome photos of ISIS atrocities.<sup>249</sup> With social media allowing users to get caught in an echo chamber, that is when users largely follow sources that normally reflect and reinforce their own beliefs, it is hard to be well informed by a healthy debate on an issue. Social media thus becomes an active agent in furthering a shift to right-wing policies.<sup>250</sup> This is important to consider in order to understand better where the public opinion behind the 2019 poll conducted entirely online may be coming from.

#### 4.2.3 *The power of information*

The role of the media to influence political power is limited if awareness among the public is not raised and public opinion is not well-informed. The increased executive, legislative and judicial powers in relation to counter-terrorism and the resulting decrease in political debate on the necessity of exceptional measures allow little room for advocacy channels, including media coverage, to be successful. For instance, when exceptional and restrictive measures were put in place in 2015 under a state of emergency, alarm calls raised in the media by

<sup>249</sup> Agence France-Presse, ‘Marine Le Pen charged for posting violent Isis images on Twitter’ (*The Guardian*, 1 March 2018) <<https://bit.ly/3hSD6YO>> accessed 17 April 2020.

<sup>250</sup> Wouter Van der Brug, Cees van der Eijk and Mark Franklin, *The Economy and the Vote: Economic Conditions and Elections in Fifteen Countries* (CUP 2007).

civil society, including nine organisations and around 300 scholars, ‘were dismissed by the executive and the majority of the legislature’.<sup>251</sup> Similarly, the many pro-repatriation appeals being made by the civil society discussed in Section 4.1.2, a significant portion of which are made through media avenues, are not leading to significant political mobilisation. If channels are being blocked on the judicial level due to political agendas themselves, it is not surprising that the media remains defeated in the face of efforts to influence political will.

Nevertheless, with the media being so closely implicated in political agenda-setting through the representation of the public opinion, it is a duty of the media to work towards influencing the political will, or lack thereof, in order to adopt inclusive policies which protect these children. This entails influencing public opinion directly by informing it of the complexity of the issue and seeking to undo the years of damage through inflammatory and dehumanising discourse which has led to the public disassociating from the pains of its most vulnerable citizens. If government’s way of dominating communication surrounding national security is by creating a general climate of unease, anxiety or uncertainty, the media’s role then becomes to better inform the public and fills in the gaps of that uncertainty.<sup>252</sup> As explained by French MEP and AFET Rapporteur for Syria, Nathalie Louiseau, ‘information is the best antidote to fear’.<sup>253</sup> She emphasised the importance of getting as much media coverage as possible on the realities being faced by the children, in terms of their political, legal and day-to-day challenges.<sup>254</sup> The ultimate goal of informing the public, Director for Defence for Children International Belgium, Benoit Van Keirsblick, explains, is to change the public perspective on these children from a narrative of terrorist to one as children and as victims that need protection.<sup>255</sup>

## CONCLUSION

<sup>251</sup> De Massol De Rebetz and Van Der Woude (n 186) 9.

<sup>252</sup> Jackson (n 211) 583.

<sup>253</sup> Extraordinary Meeting of the EP Sub-Committee on Human Rights on ‘Children of Al-Hol: why the protection of Children’s rights matters?’ (26 June 2020), comments by Sharon Riggle, Chief of Staff of the UN Office of the Special Representative of the Secretary-General for Children and Armed Conflict <[www.europarl.europa.eu/doceo/document/DROI-OJ-2020-06-26-1\\_EN.html](http://www.europarl.europa.eu/doceo/document/DROI-OJ-2020-06-26-1_EN.html)> accessed 17 July 2020 (EP DROI Meeting).

<sup>254</sup> *ibid.*

<sup>255</sup> Comments by Belgian MEP Saskia Bricmont during an online expert roundtable at the European Parliament on ‘Deprivation of Liberty is Deprivation of Childhood’ (8 July 2020).

This chapter places the anti-repatriation public opinion within a broader context of public and media rhetoric surrounding terrorism in France. Under Section 4.1, an analysis of public opinion on terrorism in France reveals a pattern of fear and hostility leading the public to legitimise and trigger tolerant of restrictive, right-sympathising measures in the name of security. It finds that just like in political discourse and policy, a hostile anti-repatriation public opinion surrounding the issue of returnees blurs the line between adult FTFs and children associated with them as it does not adequately consider the children as victims. This section also puts to light the incessant work of the civil society against the inaction of the government and in favour of repatriation, which voice is however blocked by the bigger anti-repatriation voice even in the judicial channels.

Section 4.2 then argues that the media in France acts as a catalyst in the dynamic between politicians and public opinion and in doing so, plays an active role in legitimising the political securitised and exclusionary approach which blurs the lines between considerations of adult French FTFs and children associated with them. The analysis indeed notices a right-shift element also when it comes to media coverage of this sensational topic. This is against its ethical guidelines requiring it to represent an accurate context of the children's story and not to further stigmatise them through wrong categorisations. The role of social media in this interaction is crucial. It ends by highlighting the clear duty and power which the media holds in informing and dismantling misinformed narratives surrounding these children in order to influence repatriation policies.

## 5.

## CONCLUSION

This thesis has sought to analyse whether public sentiment opposing the repatriation of vulnerable helpless minor citizens from Syria played a direct role in the adoption of the government's exclusionary repatriation policy. It delved deeper into the origins of that public sentiment by analysing it in relation to political discourse and media coverage in a broader context of terrorism in France. Indeed, this thesis argues for an evident correlation. Firstly, the analysis finds that within a dialectic relationship between the politicians, the media and the public, all three actors act and react to terrorism threats according to the other's action and reaction, generating and reinforcing an anxious and misinformed narrative of terrorism threats relating to the repatriation of these children. Secondly, it finds that as a result, behind the government's policy is an increasingly securitised approach to terrorism through which it is failing to recognise the children as victims but conflates them within the narrative of adult FTFs. Finally, such considerations are not allowing a child rights-based approach to inform the government's repatriation policy and thus, blocks the children's access to their rights in violation of France's international obligations under human rights and humanitarian law frameworks.

The role of the public opinion was evident, with the government going from preparing for a massive repatriation of children to suddenly hardening its approach as soon as an opinion poll revealing a hostile anti-repatriation majority was published. It now refuses to repatriate its adult FTFs while approving of their sentencing in unfair Iraqi trials, and has adopted a case-by-case humanitarian approach towards its children, which it fails or avoids to this day to explain. It also refuses to separate the children from their mothers in the camps if the latter do not give up custody for repatriation, even though it is within its power to revoke

parental authority in the face of such imminent danger. Uncertainty and refraining from giving a platform to this topic have been characteristic of the government since then, but inflammatory and misleading right-wing narratives as to who these children really are and what their situation truly entails have permeated to fill in those gaps, both in political discourse as well as in media coverage. In such a sensational news topic, the media is always there to give a platform to these dangerous opinions and to answer the questions of an uncertain public, particularly through social media, while at the same time failing to a significant degree to inquire more deeply into and represent the reality of the complex phenomenon. Through this dynamic, an exclusionary opinion is generated and validated, and then legitimised and sustained. In this sense, a political justification leads to a public legitimisation and vice versa.

The wider context in France provided an understanding of where these narratives were stemming from. The analysis observed a pattern since 2014 of an anxious public growing fearful from terrorist attacks or threats of radicalisation, and a pattern of reaction from the government through increasingly securitised counter-terror measures. The measures and discursive strategy against terrorism seeking to reassure the public heightened the sense of threat by normalising exceptional measures to counter such exceptional threat, the public's fear in turn validated and legitimised increasingly restrictive measures, even at the cost of human rights. A discourse of otherness also emerged whereby the French showed little to no mercy to French citizens who posed threats to their security. The invisible enemy in radicalisation underlying such efforts was clouding the political agenda and driving policies too far. Time showed that highly politicised narratives of radicalisation and wrong diagnosis of it led to faulty responses which mislabelled suspects and blocked more effective and productive counter-terror responses. The legacy of such framework is seeping into narratives of these children today.

As a matter of fact, the children associated with FTFs are being wrongly identified as radicalised terror suspects rather than recognised as victims of indoctrination who need rehabilitation and (re)integration. Fuelled narratives surrounding radicalisation, which have been normalised for years, are dehumanising the children and legitimising exceptional measures against them, excluding them as non-French who do not deserve to return home, even if they are on the brink of death in Syria. Humane considerations do not weigh when security takes the lead. By

failing to be treated as children and child soldiers, they are being denied additional and special protection under a dual identity in the context of armed conflict, even if they were in some way instrumentalised or trained by ISIS. This also means that France is not prepared to seriously consider programmes similar to DDR, and the French community within which such programmes would be carried out is anything but prepared to welcome them back and provide them with a safe environment where a serene (re)integration and rehabilitation can take place. What France, as many other countries, is failing to understand is that in the long term, its approach has even worse implications on the security of France and the wider community as children are being left in a climate which breeds radicalisation and internalising the message that their own home country abandoned them when they most needed it, rendering retaliation very plausible.

Indeed, the implications of the above analysed dialectic relationship are not confined to the French territory but are particularly dangerous in the wider European and international community led by similarly prioritised securitisation against the repatriation of their minor citizens. Liberal democracies are openly allowing terrorism to justify a suspension of their international child rights obligations and knowingly and willingly fail to save helpless vulnerable children under their responsibility from death. The implications of such dialectic relationship also mean a hindrance to a healthy debate whereby a rights-based approach can be defended and upheld. As exemplified in the case of France, a wide public majority calling for restrictive measures throughout the years led to a consensus and very little need for debate even in the parliamentary chambers where measures which violate human rights were being passed in the name of security. The same measures were even justified by Macron directly in front of the ECtHR, the beacon defender of human rights, with no repercussions. Moreover, as exemplified in the decision of the French Court of Justice, when terrorism and narratives of radicalisation have become so highly politicised and misused, even justice for these children through the judicial avenue is crippled since disproportionate consideration given to the need of securing the country leads to understandings that restricting rights is a justified legal balance.<sup>256</sup>

<sup>256</sup> RFI, 'French Council of State rejects appeals to allow jihadist families to come home' (RFI, 24 April 2019) <<https://bit.ly/39fth3g>> accessed 14 July 2020.

The EU today remains stagnant in the face of European national inertia tainted with injustice, taking the backseat and hoping for states to change their political will. With France supposedly being a leading democracy and defender of human rights with a very active diplomatic presence in the Middle East, it has a very significant role in leadership to play on the fate of these children. Nevertheless, international obligations and agreements, namely UN Resolution 2396 drawn up by these same states, are being violated without anyone being held accountable. The gravity of such political behaviour is telling when it is the most vulnerable and voiceless who suffer as a result. It is yet to be seen what the European and UN institutions seized with cases against France will have to say, and yet, what change, if any, this will generate in political will to repatriate and (re)integrate the children.

But the urgency of this injustice should not have to allow for time to tell. The harm being done to these children is not waiting. This thesis shows that the power lies with the people, and it is on raising awareness and informing the public that the EU and institutions should be directing their efforts rather than attempting to influence political powers who would not dare to defy public opinion. Little can be done unless a shift is made towards a better understanding of the realities of these children and undo the damage done along the years through misinformation depicting them as ticking time bombs. It is the media's duty, not only its role, to find spaces to truly represent these children and it is also upon the civil society to do its utmost to take any opportunity of such spaces. It is also on the same platform where hostile discourse is flourishing that awareness must be raised for it to be most effective, such as on social media. Such a campaign would particularly need to focus on dismantling established narratives on radicalisation and refrain from using terminology alluding to it, in an attempt to slowly reverse the damage inherited and create informed opinions in the place of misinformed ones. Perhaps one of the most damning proofs of the perils of using such politicised and dehumanising narratives is the fact itself that these vulnerable young children, citizens of leading world democracies, are struggling to survive in inhumane conditions in Syria while these words are being written and read.

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The present thesis - *Securitisating Children Rights: Victims and Heirs of Terrorism. A Critical Analysis of France's Approach to Children of Foreign Terrorist Fighters* written by Deborah Caruana and supervised by Heidi Riley, University College Dublin, National University of Ireland, Dublin - was submitted in partial fulfillment of the requirements for the European Master's Programme in Human Rights and Democratisation (EMA), coordinated by Global Campus Europe.



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